

In Strict Confidence

TO: Wendi Delmendo, Chief Compliance Officer
FROM: Wendy Lilliedoll, University Investigator
DATE: August 7, 2017
RE: HDAC170183 Sexual Harassment Allegations, [REDACTED]

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.

On May 18, 2017, you appointed me to investigate an allegation of actions that, if substantiated, may violate the UC system-wide policy on Sexual Violence and Sexual Harassment (SVSH Policy). Specifically, it is alleged that Respondent, a supervisory employee, engaged in the behaviors outlined below in Section II toward Complainant, a [REDACTED] employee.

You asked that I investigate these allegations under the SVSH Policy and submit a report indicating my findings with respect to whether these allegations have been substantiated. The following report summarizes the scope and results of my review.

Brief Summary of How Case Came to Title IX Office:

On May 9, 2017 a Human Resources Representative informed an official from the Harassment & Discrimination Assistance and Prevention Program (HDAPP) about alleged behavior by Respondent toward Complainant. On Monday, May 15, 2017, Complainant spoke with an official from HDAPP about her concerns. Complainant received written notice of the present investigation by electronic mail on May 18, 2017. The notice letter to Complainant is attached here as Attachment A.

Written Notice of Charges to Respondent:

Respondent was notified of the allegations against him by electronic mail on May 18, 2017. The notice letter to Respondent is attached here as Attachment B.

Summary of Investigation Structure

I interviewed each party and all witnesses in person. Each party provided documents and suggested witnesses for my consideration. I reviewed and considered all information provided.

II. SUMMARY OF ALLEGATIONS

Complainant alleges:

- (1) Respondent frequently visited Complainant at her work station to engage in non-work related conversation for up to an hour at a time, which prevented Complainant from completing her work assignments
- (2) Respondent commented on Complainant's appearance. For instance:
 - o "Why do you always look so good?"
 - o "You're so cute."

- “I like seeing you in the [REDACTED] because you look so fresh from all the sweat off your face.”
 - “You know how the charger is built into the [REDACTED]? It’s like how your [REDACTED] is built into your body.”
 - “When I see you, you motivate me.”
- (3) Respondent referred to Complainant as “girl” when texting her
- (4) Respondent requested to be allowed to tie Complainant’s shoe and, after being rebuffed, replied, “Come on, let me do something for you.”
- (5) Respondent told Complainant that employees at UC Davis give each other sexual favors and “If you want a job at UC Davis, it’s called, ‘no blow job, no job.’”
- (6) Respondent put his hands on Complainant and hugged her
- (7) Respondent invited Complainant to lunch outside of her assigned lunch break time
- (8) After learning that she was already in a dating relationship, Respondent asked Complainant if she was interested in dating two men at the same time
- (9) Respondent made inappropriate comments to Complainant about the appearance, behavior, and work performance of some of her co-workers

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) Respondent frequently visited Complainant at her work station to engage in non-work related conversation for up to an hour at a time, which prevented Complainant from completing her work assignments: **Substantiated in part.** (See pages 61-62).

Respondent frequently visited Complainant’s work station. Some of his visits were long and included non-work related conversations. However, the weight of the evidence did not support that Respondent’s visits prevented Complainant from completing her work assignments.

- (2) Respondent commented on Complainant’s appearance. For instance:

- “Why do you always look so good?”
- “You’re so cute.”
- “I like seeing you in the [REDACTED] because you look so fresh from all the sweat off your face.”
- “You know how the charger is built into the [REDACTED]? It’s like how your [REDACTED] is built into your body.”
- “When I see you, you motivate me”: **Substantiated in part.** (See pages 62-64).

The weight of the evidence supports that Respondent made the alleged comments and that the comments except for the comment regarding Complainant motivating Respondent relate to Complainant’s physical appearance or body.

- (3) Respondent referred to Complainant as “girl” when texting her: **Substantiated.** (See page 64).

The evidence supports that Respondent called Complainant “girl” in text on one occasion. The text messages provided by Respondent confirm the statement and Respondent acknowledged it.

- (4) Respondent requested to be allowed to tie Complainant’s shoe and, after being rebuffed, replied, “Come on, let me do something for you”: **Substantiated.** (See page 64).

Complainant credibly described the events of April [REDACTED], 2017, which included Respondent visiting her in the basement of a building to look at a piece of equipment, making the comment regarding the charger for the equipment being built into the machine like her [REDACTED] was built into her body, offering to tie her shoe when she tripped while backing away from him, then texting later the same night that he was looking for her.

- (5) Respondent told Complainant that employees at UC Davis give each other sexual favors and “If you want a job at UC Davis, it’s called, ‘no blow job, no job’”: **Substantiated in part.** (See page 65).

Respondent and Witness B acknowledged that Respondent made the related statement “It’s not who you know, it’s who you blow.” Although Respondent stated that he did not recall the context of the conversation and Witness B indicated that Respondent was talking about a past practice that no longer exists, the evidence supports that Respondent was talking about hiring at UC Davis. Respondent stated that he made the comment soon after Witness B noted that not a lot of people were being hired.

- (6) Respondent put his hands on Complainant and hugged her: **Substantiated.** (See page 65).

Complainant alleged that Respondent hugged her on one occasion and touched her arms and shoulders on other occasions. Respondent described that he commonly greets people by patting their shoulders. Although Respondent denied hugging Complainant, her description of the event and context was credible. She stated that he hugged her when he notified her that she was being made a [REDACTED].

- (7) Respondent invited Complainant to lunch outside of her assigned lunch break time: **Substantiated.** (See pages 65-66).

Complainant’s allegation was supported by a detailed description of the event and corroboration from three other witnesses who described similar requests from Respondent over time.

- (8) After learning that she was already in a dating relationship, Respondent asked Complainant if she was interested in dating two men at the same time: **Substantiated.** (See page 66).

Complainant’s account was supported by her overall credibility, her detailed account of the conversation, Respondent’s corroboration of the surrounding context, and a witness’s corroboration of the comment itself.

- (9) Respondent made inappropriate comments to Complainant about the appearance, behavior, and work performance of some of her co-workers: **Substantiated.** (See pages 66-67).

Respondent made negative comments to Complainant about one colleague’s performance that included calling her lazy and a bitch. In talking about a second employee, he made negative

comments about her appearance (including relative to Complainant's) and suggested that she performed sexual favors.

The preponderance of the evidence supports that Respondent's conduct toward Complainant was unwelcome and that some, but not all, of the above conduct was sexual in nature. (See pages 68-71).

Looking at the sexual conduct alone, the weight of the evidence supports that the conduct was sufficiently severe or pervasive that it impacted Complainant's employment and created an environment that a reasonable person would find to be intimidating or offensive. The totality of the circumstances reflect that Complainant often worked alone; that Respondent's comments that her peers did not like her served to isolate Complainant from her nearest coworkers; that because she worked [REDACTED] her encounters with Respondent often happened [REDACTED] when fewer people were in the area; that some of Respondent's comments were expressly sexual; that Respondent was a supervisor and Complainant was [REDACTED]; that one of Respondent's comments suggested opportunities for advancement based on performing sexual favors; and that Complainant raised the present complaint despite legitimate concern that it would adversely impact her opportunity for [REDACTED] employment given Respondent's past support of her. (See pages 72-73).

The preponderance of the evidence therefore supports that the conduct violated the University's Sexual Violence and Sexual Harassment policy.

IV. INVESTIGATIVE BACKGROUND

A. **Relevant Policy Provision:** *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.

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.

Witness	Role	Interview Date
Complainant [REDACTED]	[REDACTED]	June 1, 2017
Respondent [REDACTED]	Supervisor	June 2, 2017 August 1, 2017
Witness A [REDACTED]	[REDACTED]	June 21, 2017
Witness B [REDACTED]	[REDACTED]	June 22, 2017
Witness C [REDACTED]	[REDACTED]	June 22, 2017
Witness D [REDACTED]	[REDACTED]	June 23, 2017
Witness E [REDACTED]	[REDACTED]	July 14, 2017
Witness F [REDACTED]	[REDACTED]	July 14, 2017
Witness G [REDACTED]	[REDACTED]	July 14, 2017
Witness H [REDACTED]	[REDACTED]	July 19, 2017
Witness I [REDACTED]	[REDACTED]	July 19, 2017
Witness J [REDACTED]	[REDACTED]	July 20, 2017
Witness K [REDACTED]	[REDACTED]	July 20, 2017
Witness L [REDACTED]	[REDACTED]	Did not appear ²

1 [REDACTED]

2 [REDACTED]

[REDACTED]	[REDACTED]	
Witness M [REDACTED]	[REDACTED]	July 21, 2017
Witness N [REDACTED]	[REDACTED]	July 21, 2017
Witness O [REDACTED]	[REDACTED]	July 26, 2017
Witness P [REDACTED]	[REDACTED]	July 27, 2017
Witness Q [REDACTED]	[REDACTED]	Not interviewed, identified for reference
Witness R [REDACTED]	[REDACTED]	Not interviewed, identified for reference
Witness S [REDACTED]	[REDACTED]	Not interviewed, identified for 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]

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 THE EVIDENCE

A. Interview of Complainant (6/1/17, in person, [REDACTED])

Complainant [REDACTED]
[REDACTED] During her June 1, 2017 interview, Complainant provided the following information:

Respondent's Alleged Visits to Complainant's Work Station

Complainant started at UC Davis on March [REDACTED], 2017. She was assigned to a [REDACTED] [REDACTED] Respondent supervises. Three weeks into her employment, Respondent pulled her aside and told her he was promoting her to work at [REDACTED]

[REDACTED]

Respondent frequently visited Complainant at [REDACTED]. He usually visited before she went to lunch at around [REDACTED]. Sometimes he would come twice [REDACTED], and he came as often as five times a week. He has been visiting her at her station ever since he promoted her to [REDACTED]. Complainant asked a member of the [REDACTED], [REDACTED] who stated that Respondent rarely visits them.

On one occasion, Respondent came to visit Complainant right before Complainant's lunch. Respondent brought [REDACTED], and they stayed for a little over an hour. Respondent told Complainant that he needed to meet her in the lobby, so she met him there. When she got there and asked what it was about, Respondent said "nothing," and that they had just wanted to hang out with Complainant. Complainant said she did not know they could do that.

While Respondent and [REDACTED] were there, they were making joking comments about [REDACTED] looks.

[REDACTED] Respondent also told Complainant that [REDACTED] did not like her. Complainant said, "She doesn't? Why?" [REDACTED] they had always been friendly. Respondent replied that [REDACTED] did not like Complainant because Complainant was prettier and [REDACTED].

Complainant estimated that Respondent came to her work station to visit with her three to five days a week from the time that he promoted her through the date of her complaint.

Respondent's Alleged Comments about Sexual Favors

[REDACTED] Complainant said that she needed to go to lunch. Respondent told her to walk him and [REDACTED] out. She went to where they were parked. During that walk, Respondent and [REDACTED] started talking about a special way people get positions at UC Davis. Complainant asked what they meant. Respondent said, "It's not who you know, it's who you blow." That made Complainant really uncomfortable, but Respondent and [REDACTED] started laughing hysterically. Respondent also made a similar comment with different words, "No blow job, no job." Complainant said, "That's horrible. Why would people do that?" Respondent said, "You can only imagine what people do to get in." Respondent was the main person making the comments, [REDACTED]

[REDACTED] Respondent said [REDACTED] "You know she gives happy endings, right?" Then he added, "I'm serious bro. I know for a *fact* that she gives happy endings."³ Complainant felt very uncomfortable. She was with two male supervisors and cannot believe she had to be in that conversation. She added that it did take over an hour, and during that time they were

³ [REDACTED]

just sitting joking and not doing any work. She thinks Respondent expected her to laugh and go along with what he was saying. [REDACTED]

[REDACTED] She did not understand why he felt comfortable talking to her like a friend, but she thinks maybe her response made him think it was okay to be unprofessional with her. But, when he made the sexual comments, she was disgusted. She did not believe what they were saying about [REDACTED]

[REDACTED]

With respect to the comment about blow jobs, Respondent knew that Complainant really wanted a job at UC Davis. The day before he promoted her, she had told him she really wanted a [REDACTED] job. Respondent had said that he would do his best to get her in. She thought he might be thinking that she wanted a job so badly that she would do that. She was not willing to do that for a job, but she felt that was what he was leaning toward.

Another reason Complainant thought Respondent might be proposing sexual activity in return for a job is because before she was promoted she and [REDACTED] were doing online training and filling out paperwork. Respondent asked Complainant if she was ever interested in seeing two men at once. Complainant leaned back in her seat like she was surprised at the question. Respondent said that it was just a question. Right before that, Complainant had mentioned her [REDACTED] to Respondent in the context of saying that she was sending a cover letter to Respondent and would be sending it through her [REDACTED] email account.

Respondent Asking Complainant to Lunch

Respondent never directly asked Complainant on a date or to be his girlfriend. He did ask her to go out to lunch with him. One day, he came to her work station three times. The second time he asked her to go to lunch. She was [REDACTED], and Respondent called Complainant to meet him. At the end of the conversation, he asked what her favorite food was. She felt it was going to be an uncomfortable conversation, so she tried to keep it short and said that she liked fruit. He kept bugging her that fruit could not be her favorite, so she said, "I don't know, pizza." Then he asked if she would ever want to go to lunch with him. She said, "[REDACTED]" He said that they could go earlier, that he could pick her up and they could go somewhere in Davis. Complainant felt that was really inappropriate and she wanted to tell him that, but she was upset and did not say anything. The next [REDACTED] when they were [REDACTED] Respondent said in front of the whole [REDACTED] that Complainant had offered to take everyone to pizza. Complainant wondered if Respondent was trying to "trap" her so that if she said anything about him asking her out to lunch, he would point back to the pizza conversation with the whole group.

Additional Alleged Sexual Immuendo and Comments on Physical Appearance

Respondent consistently called Complainant “cute girl” instead of her name. She estimated he used “cute girl” instead of her name nine times out of ten. On April [REDACTED] 2017⁴ Respondent referred to her as “girl” in a text when he said that he was looking for her. She thinks that was the only time he referred to her as “girl” in writing, though it was common for him to call her that in person. Complainant was feeling “freaked out” by Respondent at that point because of an interaction they had earlier in the day. The first time he had come to her station [REDACTED] he had told her to meet him in the basement where the machine was because there was something wrong with it. Respondent said to Complainant that the machine has a built-in charger. He commented that the charger was built into the machine in the way that her [REDACTED] was built in to her body. She took it very sexually. He kept getting closer to her, close enough to kiss her. She was backing up to move away from him and tripped over a box. Her shoe was untied and Respondent asked if he could tie them. Complainant said that she could tie her own shoes. He asked her to let him do something for her because it would make him feel good. She bent down and tied them herself. Then, he asked her to walk out to the car with him, so she did.

That same day, as soon as she got back from lunch, she got a message from Respondent saying “I’m looking for you girl.” She was getting scared, so she called a friend and explained what happened. She said she did not know what to do because she did not want to see him but he was her supervisor.

[REDACTED] Respondent commented, “I like seeing you in the [REDACTED] because you look so fresh from all the sweat off your face.” He was smiling and he winked after he said it. Complainant felt it was really weird and that he was not saying those comments to anyone else. Seeing the smiles felt really “creepy.” Sometimes he would smile without saying anything. His smile is stuck in her head and it “sucks” to think about it.

On another occasion, Respondent came to Complainant’s station and was talking to her in one of the [REDACTED] rooms. Respondent was asking her how she was doing at UC Davis and how she liked it. She said she thought she was getting the hang of it and did not need the map anymore. Respondent was talking about [REDACTED] whom Complainant had replaced at [REDACTED]. Respondent said that he wanted to see Complainant succeed. He said that when he saw [REDACTED] “she unmotivates” him whereas when he saw Complainant, she motivates him. It bothered Complainant the whole night. It felt like he was talking about her looks motivating him to be at work because he often commented on her looks.

Respondent often talked about Complainant doing well. [REDACTED]

[REDACTED] He was there about forty-five minutes and [REDACTED] saw him there. [REDACTED]

[REDACTED] When he [REDACTED] the machine and grabbed Complainant’s shoulder looking happy. Complainant did not like that he would put his hands on her and make a “creepy smile.” [REDACTED] She was hoping the interaction would end, but she did not feel she could tell her supervisor to leave. [REDACTED]

⁴ [REDACTED]

⁵ [REDACTED]

[REDACTED]

Alleged Unprofessional Language

In addition to the circumstances described above, Complainant also highlighted that Respondent made inappropriate comments about coworkers more broadly. He called [REDACTED] a “bitch” or a “fucking bitch” as often as he called Complainant “cute girl.” [REDACTED]

Alleged Touching

Respondent has never touched Complainant in any sexual areas like her breasts or “private areas.” The first time he touched her was when he promoted her. She got in at [REDACTED] and Respondent told everyone what they were doing [REDACTED] then asked Complainant to stay after when he released everyone else to work. He started telling Complainant [REDACTED] he was removing [REDACTED] and was going to promote Complainant. When Complainant stood up, she thought that Respondent was going to give her a handshake but instead he grabbed her and forced a hug without asking her first. Complainant did not put her arms around Respondent. That was the only time Respondent hugged her. Other than that he would get close to her and touch her arms and shoulders when he was telling a joke. There were times when Respondent noticed that she was uncomfortable and would ask if something was wrong. She felt she was “blowing [her] cover.” On the one hand, she felt she should have told him to leave her alone. But, she did not want to upset him.

Impact

On April [REDACTED] 2017, Complainant lied to Respondent and told him she had a family emergency because he wanted to meet with her and she was really afraid of him and did not want to meet with him. There were times she got so scared of Respondent that she started shaking. On May [REDACTED] 2017, she decided that she needed mental health help because she was having a lot of anxiety attacks at work, she could not sleep when she was supposed to, and her eating had changed. She told the doctor that at times she would get so emotional that her heart would be pounding, her hands would get sweaty and she had so much adrenaline felt she was going to explode. Her doctor prescribed medication. (Attachment I).

Sometimes, when Respondent came to her work station, he would not say anything and she would not know he was there. She would see him standing outside a door staring at her and smiling. She was working by herself [REDACTED] and started getting scared to be at work because she was picturing him being at the end of the hallway watching her.

Complainant reported Respondent to HR after a time when he came to her station to look at her machine because there was something wrong with it. [REDACTED]

[REDACTED] After they passed her, Respondent got very aggressive, which really scared Complainant. He said, “What did she say to you?” Complainant made something up [REDACTED] Respondent said, “I told you not to be talking to her.” [REDACTED] Respondent had told Complainant not to talk to [REDACTED]

or [REDACTED] During the same conversation, Respondent asked Complainant if she had ever told anyone the things he said to her.

About a week before she reported Respondent, she told [REDACTED] that she felt Respondent was harassing and sexually harassing her and that she did not know what to do. She said she was worried that if she told another supervisor, they would protect him. [REDACTED] suggested that she tell someone in the union or HR.

Complainant believes the incident in which Respondent was aggressive during a conversation about [REDACTED] took place on a Friday. On Monday, as soon as the office opened, Complainant called and reported. By that time, the behavior had been going on for about two months and she felt she could not take it anymore. She did not want Respondent to come to her station and say anything sexual or say bad things about anyone. She could not sleep because she was stressed, so she was really tired, and she was worried that she would lose her temper and “go off on” Respondent when he did something. She also worried that he might have done the same thing to others and that they might have “felt the same kind of scared.”

Complainant had not said something earlier because she felt Respondent had her job in his hands. She worried that the only way to get a [REDACTED] job at UC Davis might be through him, and he had said he would do his best to get her in here. Eventually, though, she decided that her job was not that important and she “just can’t deal with it emotionally.”

After the incident related to [REDACTED] Complainant talked to [REDACTED], who said that she had never done anything wrong to Respondent and she did not know why he would say she had. Later, when Complainant was moved to [REDACTED] following her complaint, [REDACTED] mentioned that she had gone to the union about Respondent, so Complainant wondered if Respondent might have thought it was [REDACTED]

Complainant hopes that Respondent does not come back to UC Davis because she does not want other people to experience what she has. She does not enjoy the same things she enjoyed before.

Performance Issues

In response to a series of questions regarding performance, Complainant reported that Respondent had never alleged any issues with her performance. He said that her work looked so much better than what [REDACTED] had been doing. She also did not receive any complaints from [REDACTED] about her work. She never received any write-ups or counseling.

At times, Respondent told Complainant that he moved [REDACTED] out of the [REDACTED] role “for” Complainant. That made Complainant feel Respondent was favoring her. She told Respondent that he should be moving people for performance reasons not for Complainant. Respondent replied that [REDACTED] did not even like Complainant because Complainant was prettier and [REDACTED] was jealous (which Complainant identified as a statement Respondent made about a number of the female [REDACTED] in the context of telling Complainant not to talk to them).

On one occasion, [REDACTED] had come from the [REDACTED] to work with Complainant at [REDACTED]. They finished late and [REDACTED] went to the break room. Complainant would take her break in a [REDACTED]. Her phone had died so she did not realize [REDACTED] was trying to contact her. She was sitting in the [REDACTED] and [REDACTED] came in. He said that he had found [REDACTED] [REDACTED]. He also said

that it probably would be better for Complainant to take her lunch in a break room rather than in the [REDACTED]. Complainant said that she did not know where to go and did not want to disturb the staff in their break rooms because she was fairly new.

Later, Respondent and [REDACTED] were making fun of [REDACTED] and Respondent asked Complainant if she [REDACTED]. Complainant said no, [REDACTED] she did not [REDACTED] and get fired. She asked why he asked and Respondent and [REDACTED] giggled. She asked if [REDACTED] had told Respondent she [REDACTED]. Respondent said he didn't, but [REDACTED] said, "Yeah I did." She said she [REDACTED]. The next day when they were [REDACTED], Respondent made a comment to the group about changing the schedule so that Complainant could [REDACTED], then said that she already [REDACTED] at work. Everyone was laughing at her. She was really angry and upset. Later, when Respondent came to her station, Complainant asked why [REDACTED] would say she [REDACTED]. Respondent said it was just a joke and that nobody said she [REDACTED].

Others' Knowledge According to Complainant

[REDACTED] About a week into Complainant's time at [REDACTED], she started to get a weird vibe from Respondent. She asked [REDACTED] if Respondent did or said anything to make her uncomfortable. [REDACTED] said she was strong enough to tell him not to say inappropriate things, but he has been making comments since she has worked there and she knows that "he is a perv." [REDACTED] told Complainant that after Complainant made her complaint, Respondent's [REDACTED] asked [REDACTED] if she knew what was going on with Respondent and whether it was "something the 'cute girl' did." Complainant told [REDACTED] some of her concerns about Respondent over time. [REDACTED] also told Complainant that her supervisor [REDACTED] said that she hoped Respondent did not get fired because he did not deserve that.

[REDACTED] When they were talking about [REDACTED] complaint, [REDACTED] mentioned that an employee named [REDACTED] had said that Respondent made her uncomfortable and she had asked not to be left alone with him but she did not want to say anything because she needed the job.

[REDACTED] When [REDACTED] was working with Complainant, Respondent came to check on them and commented that Respondent was "kind of a perv" after Respondent stopped talking and stared at a female [REDACTED] "up and down" as she was walking by. Afterwards, Respondent just walked away even though they had been in the middle of a conversation.

[REDACTED]

During her interview, Complainant occasionally referred to notes she had taken. She agreed to provide a copy. [REDACTED]

B. Interview of Respondent (June 2, 2017, in person)

Respondent is a [REDACTED] supervisor. At all relevant times, Respondent supervised Complainant. During his June 2, 2017 interview, Respondent provided the following information:

[REDACTED]

Respondent highlighted over email that he wanted me to consider his history at the University as compared to Complainant's [REDACTED]. He said that he would like me to interview all of the people he has supervised to ask what kind of supervisor he is. [REDACTED] who he felt could speak to his character and what kind of supervisor he is. The three former employees would have had limited if any opportunity to observe his interactions with Complainant, but [REDACTED] would have seen them interact. According to Respondent, none of the four have information relevant to sexual harassment. He stated that there have been no past complaints about him and [REDACTED] has gotten "Exceptional" on his performance appraisal. He has never had a supervisor come to him with a complaint, has never sat with managers, and the union has not raised complaints about him.

Respondent's Alleged Visits to Complainant's Work Station

Complainant was one of [REDACTED] employees who started on a special project in Respondent's [REDACTED]. [REDACTED] is a critical area that the unit wants [REDACTED], and the person responsible for that area was not performing well. Respondent went to [REDACTED] and got permission to move someone else into that role. [REDACTED] covers Respondent most of the time when he is out, so Respondent asked whether [REDACTED] thought any of the [REDACTED] employees would be good at [REDACTED]. Complainant's name came up because you could see that she had good morale, was motivated, and was detail-oriented. Complainant said she would be happy to take the role, so Respondent went back to [REDACTED] and got approval. After that, Complainant was Respondent's only employee at [REDACTED].

Respondent only checked on Complainant regularly when she first started at [REDACTED]. During that time, Respondent made frequent visits to [REDACTED]. He would visit maybe once a [REDACTED] and would stay for fifteen or twenty minutes, depending on what Complainant needed from him. Three or four times, [REDACTED] went with Respondent and can corroborate that they went to train Complainant. The reason [REDACTED] went too was because he was involved in the transition, and they needed to make sure that things were done right and that she learned all of the equipment. One of the pieces of equipment had been borrowed from [REDACTED]. In addition, [REDACTED] would cover for Respondent when he was out, so Respondent wanted to make sure [REDACTED] knew what was going on. Later on, Respondent would not visit Complainant unless she called him for something. Usually she would say she was having a problem [REDACTED], so Respondent would go check it.

Respondent estimated that he had only gone to [REDACTED] after [REDACTED] twice without Complainant calling him. The first time, he was in the building for an estimate and he went to check on her but it took him thirty minutes to find her [REDACTED]. Soon before he was put on leave, he visited her about a timesheet that she had not submitted.

[REDACTED]

[REDACTED]

Respondent is a super-busy supervisor and does not have time to chit chat with anyone. He highlighted that he has done a lot of good things for the department and brings in a lot of revenue for the department. He does not have time to waste Complainant's time with personal conversations. Other supervisors could corroborate that he is always working.

Respondent's Alleged Comments about Sexual Favors

Respondent said that he and [REDACTED] were outside the [REDACTED] walking Complainant to another building. She was a little ways away from them. Respondent and [REDACTED] were talking about work-related things that he does not remember now. They were whispering and not talking directly to Complainant, but she overheard what Respondent described as "man's talk" between two supervisors. [REDACTED] mentioned that not a lot of people were being hired.⁷ Respondent said that one of his buddies had mentioned "it's not who you know, it's who you blow" as a joke, and he repeated it to [REDACTED]. Respondent does not know how Complainant heard them or whether someone told her. It was entirely between Respondent and [REDACTED]. In response to a question, Respondent stated that he did not say "If you want a job at UC Davis it's called 'no blow job, no job.'" Complainant must have said it wrong.

Respondent denied making a comment about [REDACTED] giving out "happy endings." In response to a question, Respondent stated that he understood "happy endings" to be sexual favors, not specific to massage parlors. He was not aware of any rumors along those lines related to [REDACTED] and does not know where that allegation would have come from.

Respondent never made any comment to Complainant about her [REDACTED]. He never even asked if she had a [REDACTED]. In response to a question, Respondent acknowledged there was an instance where Complainant applied for a job using her [REDACTED] email and Respondent was helping her in the [REDACTED] office. Respondent thinks another [REDACTED], was around as well.

Respondent never asked Complainant if she was interested in dating two men. During his interview, he rhetorically asked whether I thought that he, as a responsible supervisor previously involved in the union, could not know the consequences of a comment like that. He did not make that kind of comment. Likewise, he did not make a comment about the charger on a piece of equipment being built into the equipment like Complainant's [REDACTED] was built into her body. He had already explained all about the charger when she started. [REDACTED], and he may have mentioned that the charger was built in, but he is "not that kind of fast-minded person" that would make a comment like that. He does not remember what he did say.

Respondent Asking Complainant to Lunch

In response to a question about whether he invited Complainant to lunch outside her assigned break time, Respondent stated that one time Complainant brought donuts for the [REDACTED]. The next day, the [REDACTED] was back in the office and someone [REDACTED] mentioned food or a potluck. Respondent said that Complainant "could treat us food." She said she was not going to do that. That was the only time they

[REDACTED]

talked about food. Initially, Respondent thought they had never talked about pizza, but he then recalled that he thinks they did talk about pizza the same day. Respondent said that if she did not bring them other food, they could have pizza. Respondent never asked Complainant what kind of food she liked. On another day, when Respondent was explaining that Complainant's machine was working fine, they talked about her lunch box and what she had for lunch. That was the extent of that conversation. He did not ask her to lunch.

Additional Alleged Sexual Immuendo and Comments on Physical Appearance

Respondent did not make the alleged comments about Complainant's physical appearance such as calling her "cute" or saying that he liked seeing her in the [REDACTED]

[REDACTED] Complainant asked if the way she was dressed was okay, and Respondent said, "Yes, it looks good." That was the extent of the conversation. Respondent has never told Complainant she was cute or called her "cute girl." He owns the fact that he called her "girl" in a text message (which he provided). In his email regarding that incident, Respondent stated, "texting her GIRL was legit and I did that but I used it before that I didn't thought someone will get offended. MY BAD and I'm SORRY." [REDACTED]

In response to a question about the alleged comment, "I like seeing you in the [REDACTED] because you look so fresh from all the sweat off your face," Respondent stated that he never said anything like that to Complainant. [REDACTED] As was mentioned above, Respondent believes he only went to [REDACTED] twice without Complainant calling him.

When he talked about Complainant motivating people, he was saying that she motivated [REDACTED], not that she motivated him directly. As a supervisor, he talks all the time about keeping the morale of the team up. He noted that [REDACTED] employees could speak to his style in that regard. He wants [REDACTED] to be motivated, and sometimes he will treat them to pizza because of their hard work. One day, Respondent came into the office and asked [REDACTED] how they were doing. Few people answered, and Respondent noted that they should be energized at the start of the day. He noted to the rest of [REDACTED] that Complainant was smiling and had "that motivation going" and that was how it needed to be. He did not tell Complainant that [REDACTED] "unmotivates" him. [REDACTED]

Respondent never told Complainant that [REDACTED] or [REDACTED] did not like her or that they resented her because she was pretty and they were ugly. He added that as a supervisor he would never say something like that. Respondent also never told Complainant that he thought [REDACTED] had complained about him or said something about him.

In response to a question about the allegation that Respondent asked to tie Complainant's shoes and said he wanted to do something for her, Respondent said that he had walked himself through and tried to figure out the origin of that allegation. One day, Complainant called Respondent [REDACTED] Respondent stopped by to show her how the machine needed to be run. Complainant was on a big machine and her shoelace was loose and about to get stuck on a pedal. Respondent told her to watch out because she was about to trip and hurt herself.

Alleged Unprofessional Language

Respondent acknowledged that he told Complainant that he was moving [REDACTED]

[REDACTED] He also did not tell Complainant that he moved [REDACTED] to make room for Complainant. He did not call [REDACTED] a bitch or a fucking bitch to anyone. He did say that Complainant was doing better than [REDACTED] but that was in the context of Complainant asking how she was doing and Respondent replying that he could see a lot of improvement over the previous employee and that she was getting into detail.

Alleged Touching

On the day that Respondent made the decision to convert Complainant to [REDACTED] at [REDACTED], when he [REDACTED], he asked Complainant to stay back to talk. He told her he had good news and that he was going to convert her to [REDACTED]. She was really excited and thanked him. Respondent said not to thank him, that [REDACTED] and [REDACTED] also were involved in the decision. She shook hands with him and said, "Thank you very much for the help." At that time, he tapped her on the shoulder, but he did not hug her.

Impact

Respondent noted that typically when he went to Complainant's work site it was because she had called him there.

Performance Issues

Respondent had talked to Complainant's predecessor, [REDACTED] about performance issues a couple of times. He noted that those issues were all documented. When Respondent would call [REDACTED], she would not answer her phone, so his only choice was to go check on her. He would check on her maybe once to twice a week. Sometimes, [REDACTED] would call Respondent and say that [REDACTED] was not there and the day was almost over, so Respondent would go to check on her.

Toward the end of the time that Respondent supervised Complainant, Complainant started to have performance issues too. [REDACTED] said he was looking for Complainant to bring her equipment. He found her [REDACTED] sitting down. She said she was taking a break, but he had been looking for her for thirty minutes. After that, Respondent had to go to [REDACTED] to talk to Complainant about her timesheet because she had told him her phone was not working. He looked for her for 45 minutes before he found her. [REDACTED]. He said he had looked for her for 45 minutes and needed to find her in the [REDACTED] when he was looking for her because he had no time to look. She apologized. He documented the issue either that night (a Friday) or the following week.

After these two issues and another instance where it took Respondent more than thirty minutes to find Complainant, he started making random visits at least twice a week. Complainant did not like that he was making visits. This is documented on [REDACTED] daily report.

In response to a question about whether anyone else complained about Complainant as he had described happening with [REDACTED] Respondent noted that on one occasion [REDACTED] called and asked if Complainant was coming in [REDACTED]. Respondent had Complainant covering a station in [REDACTED] at the time.

Other Bias/Motive Issues

Respondent thinks that Complainant “gets offended easily.” For instance, [REDACTED]

Respondent thinks she gets offended when people look at her. [REDACTED]

Respondent also noted that Complainant might be complaining because she wants a [REDACTED] job at UC Davis and thinks this will help her get one. Once, when [REDACTED] was present, Complainant commented that she would do anything to get a [REDACTED] job at UC Davis. They had been talking about a job opportunity in [REDACTED] or the hiring process generally, [REDACTED]. Respondent had said he would help her as he does anyone. He told her that if she had no [REDACTED] issues and no complaints, he would help her out, just as he does everyone. He never told her anything to suggest that he would keep her from getting a [REDACTED] job. In response to a question about why he believed Complainant might have felt this complaint would help her get a [REDACTED] job, Respondent noted that maybe she believed in this situation the University would not have a choice but to hire her.

At the end, when Respondent or [REDACTED] did not find Complainant three times and had to visit her once or twice, she did not like it. She thought he was sneaking or checking on her. In reality, he was there for a reason or in the building but she thought he was checking on her. He thinks she started not liking it even though it was just a normal thing, “not someone who is constantly sneaky checking.”

Respondent highlighted that Complainant was “comfortable talking to coworkers.” Before she moved to [REDACTED], Respondent had to remind her that it was “University time” because she was talking very closely to coworkers, especially [REDACTED]

Others’ Knowledge According to Respondent

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent indicated that he would like to make a closing statement. After referring to a set of notes, he said that he thought we had covered everything. He encouraged me to check his background because he thinks that might give me “positive things to think” about who Respondent is, which he thinks does count. He stated that I could talk to as many employees as he has supervised as well as management members. He reiterated that he is the only [REDACTED] supervisor that got exceptional two years in a row. During his interview and in reference to his “closing statement,” Respondent occasionally referred to notes he had taken, but he declined to provide a copy.

After reviewing the above summary, on July 20, 2017, Respondent sent the following message:

I have reviewed the document and looks like everything is being covered but I have missed an information that I think should be added.

[Complainant] had mentioned in her list of accusations that she could not finish her task on time because I was there on her station chit chatting with her and wasting her work time but that's absolutely incorrect because she mentioned to me couple of times that she have finished her task before time and wanted to know from me what else she can do to complete her day since she gets bored if she don't have anything to do.

I would appreciate if you could add this information.

I indicated that I would add the requested information.

C. Interview of Witness A (June 21, 2017, in person)

Witness A [REDACTED]

[REDACTED]

[REDACTED]

She described a “standard supervisor relationship” with Respondent. She never needed to talk to him about any issues before this. He got an “Exceptional” on his last evaluation and does a more complicated job than the other supervisors. Witness A has met Complainant in the office and on job [REDACTED] but not many times.

Witness A’s first involvement in the complaints that led to the present investigation took place at what she called a [REDACTED] on May 4, 2017 at 7:00 p.m. The meeting was attended by union

organizers, represented employees, and [REDACTED] management. After an otherwise typical meeting, at the end, the union said that they wanted management to take Respondent off duty until further notice because of a sexual harassment complaint. Management told them to stop talking about that allegation in that forum. Then, they asked everyone else to leave the room and continued the conversation with the union. The union said they wanted Respondent gone the next day. They suggested there were more than five complainants, but they declined to identify them. Management said they would call HR but without more information, HR was just going to call the union for a statement. The next [REDACTED] Witness A contacted HR to identify the union's complaint and express concern about the way it was raised. Later that day, the union organizer identified complainant as the person who filed a complaint about Respondent. The organizer highlighted that Complainant was concerned about retaliation.

The day after the union meeting, Witness A had someone else open Respondent's [REDACTED] and called him in to tell him what had happened in the meeting. There had been a lot of people in the meeting and Witness A did not want him to hear something. Respondent was "pissed off." Witness A told him that for now he was still on work. Respondent said that the allegations could only have come from Complainant. Witness A did not have any idea why he thought it had to be Complainant. He mentioned her being female, and Witness A said that he should not assume it was a female employee, that it could be anyone. A day or two later, she took him off work. [REDACTED] It was a quick meeting.

Visiting Work Stations

Respondent moved Complainant to [REDACTED] and into a [REDACTED] role because the previous employee, [REDACTED] was not working well with the people there and Respondent was having a hard time finding her. Respondent thought it would be a better fit to have [REDACTED] working where people could see her. [REDACTED]

[REDACTED] Respondent picked Complainant for the [REDACTED] role. He did not say why he chose her in particular.

In response to a question about the allegation that Respondent frequently visited Complainant's job site, Witness A said that Respondent's office is in [REDACTED], but she "had no idea he was walking [REDACTED] all the time." They were having issues at [REDACTED], and Witness A was "on" Respondent and [REDACTED] to make sure [REDACTED] were doing what needed to be done there. But, those issues were just a couple of weeks here and there. It would be reasonable to check on her more there than other sites, but it would not need to be a daily check-in situation. Witness A highlighted that she does not know how long Respondent was watching Complainant or what she was doing. With respect to Respondent's opportunity to visit Complainant, Witness A said that she sits near the computers in the [REDACTED] where Respondent would come to do paperwork. He has a lot of paperwork because he leads the [REDACTED]. Witness A estimated that he would be at the office computer for a couple of hours

out of his shift. The rest of the time she assumed he was at the [REDACTED] office or at sites [REDACTED]

The times that Respondent and Complainant have interacted in Witness A's presence they were discussing work that needed to happen. There was never chatting.

Comments Regarding Appearance

Witness A was "super shocked" by the allegation that Respondent made comments about Complainant's appearance. Respondent did not say anything about Complainant's appearance to Witness A, and no one had ever mentioned that to Witness A as an issue. Witness A did not hear Respondent talking about Complainant motivating him or [REDACTED] as a whole. She also did not hear him talking about "motivation" generally.

With respect to the allegation that Respondent commented to Complainant that the charger was built into [REDACTED] the way her [REDACTED] was built into her body, Witness A said, "Who says stuff like that? What does that even mean?" She had never heard anything like that.

No one said anything to Witness A to suggest that Respondent was telling Complainant that others did not like her. [REDACTED] Complainant seems very quiet.

Referring to Complainant as "Girl"

Although Witness A did not have a specific recollection of hearing Respondent call employees "girl," she said he probably did because she could hear him saying that. However, she did not hear him call Complainant the "cute girl."

Sexual Favors Among Employees

With respect to the allegation about sexual favors at UC Davis, Witness A noted that she is "super new" and has never heard that about sexual favors here. [REDACTED]

[REDACTED] Since coming here, though, Witness A has never heard anything like that outside of the email containing the allegations in this matter.

Touching/Hugging

Witness A has not seen Respondent hug or otherwise touch Complainant.

Lunch Invitations

Witness A knows about this allegation from the present complaint but had not heard about it otherwise.

[REDACTED] Witness A does not know anything about Respondent asking Complainant to lunch.

Asking Complainant if She Was Interested in Dating Two Men

Witness A is not aware of any circumstances where Respondent asked Complainant if she was interested in dating two men at the same time.

[REDACTED]

In terms of his

D. Interview of Witness B (June 23, 2017, in person)

[REDACTED]

Visiting Work Stations

Complainant became a [REDACTED] because Respondent was having issues with the [REDACTED] who used to be at [REDACTED].

[REDACTED]

Witness B also tracked what Respondent's employees were doing in the [REDACTED] so that he would be ready to take over for Respondent if necessary. He would estimate that he went to [REDACTED] two or three times with Respondent when Complainant was working there. One or two occasions were because Complainant's equipment broke down and Witness B needed to take his over there.

Another time Witness B went over with Respondent to discuss what Complainant should be doing in [REDACTED] versus others' duties. Witness B went because he did not personally know what Complainant did versus what [REDACTED] and [REDACTED] did and he wanted to know what Respondent's [REDACTED] should be doing. They started in the lobby then walked around for maybe thirty to forty-five minutes. Witness B thinks that occurred about two weeks into Complainant working at [REDACTED]. The first week, someone who previously was in that role had gone over things with her, but the following week there was confusion.

[REDACTED]

Respondent has not really said anything to Witness B about how people felt about Complainant.

[REDACTED] but Respondent did not say anything about how they felt about Complainant. Respondent also did not say anything about [REDACTED] appearance.

[REDACTED]

Witness B volunteered that Respondent pretty much stays in the office all night. [REDACTED]

[REDACTED]

[REDACTED] There are times when he opens the [REDACTED] office. If there is a high priority project, Respondent will check on that at least twice [REDACTED]. Witness B knows that Respondent checks on [REDACTED] at least two or three times a

[REDACTED]

week to make sure they are getting things done. But, most of the time he stays in the office. Although Witness B is often at his own project sites, he knows Respondent is always in the office because every time Witness B went to the office, Respondent was there and when they talked and he asked Respondent where he was, Respondent answered that he was in the office.

In response to a question about high priority projects, Witness B indicated that it depends on the [REDACTED] and the task. [REDACTED]

[REDACTED] is a high priority, but as long as there are no complaints, Respondent pretty much lets the employees do whatever they need to do. He does not check on people “just because.” Witness B estimated that in the six or seven weeks he was covering for Respondent during his leave, he probably went to [REDACTED] three times.

Comments Regarding Appearance

Witness B did not hear Respondent comment on Complainant’s physical appearance. No one called her “cute girl.” Respondent also does not say things about people motivating him or [REDACTED]. Witness B added that Respondent is “someone who goes the extra mile” to make people feel appreciated by celebrating events and holding potlucks.

Referring to Complainant as “Girl”

In response to a question about whether Respondent used the term “girl” in referring to people, like, “Where are you girl?” Witness B said that Respondent does not use that language.

Sexual Favors Among Employees

Witness B [REDACTED] and Respondent had a conversation about sexual favors at UC Davis. He stated that Respondent was telling him a story about something and “that was it.” Witness B does not remember what they were talking about. Respondent said that some people used to say that if you wanted a job at UC Davis you needed to do sexual favors. Respondent does not remember what words Respondent used or where they were when they were having the conversation. They might have been in the office and might have been in the field. Witness B does not remember if anyone else was there, but he does not think so because he does not think they would have talked like that with anyone else there.

In response to a series of questions, Witness B stated that they may have been in the [REDACTED] parking lot. He cannot think of how Complainant would have learned of the conversation without being there. The statement “It’s not who you know, it’s who you blow” sounds familiar, but “no blow job no job” does not. Witness B denied any recollection of the background context of the conversation. Respondent was not suggesting UC Davis was like that now. [REDACTED]

They were talking quietly but in a normal tone for the distance apart that they were.

Touching/Hugging

Witness B does not think he has ever seen Respondent touching Complainant. He also has not seen them interact much beyond the few times they went over to [REDACTED] together and when Respondent [REDACTED]. Witness B releases [REDACTED] at the same time as Respondent in a different location. He has never seen Respondent interacting with Complainant alone in the office. Nothing stands out from the times he has seen Complainant and Respondent interacting.

Asking Complainant if She Was Interested in Dating Two Men

Witness B does not know if Complainant has a [REDACTED] and is not aware of any comments Respondent allegedly made about her [REDACTED] including about whether she would be interested in dating more than one man.

Inappropriate Comments about Coworkers

Respondent did not say anything about “happy endings” to Witness B. Witness B does not know if Respondent knows [REDACTED] outside of work. He did not say anything about [REDACTED] giving “happy endings.” Witness B understands that term to refer to a sexual favor following a massage.

[REDACTED] Respondent did not call [REDACTED] a “bitch.” He does not curse. Witness B clarified that he does not want to say that Respondent never curses, but that is not the way he talks.

Impact

Witness B volunteered that he hates it because it seems like people get offended all the time when someone says something. If you don’t know Respondent, you might get offended by what he says or does. [REDACTED]

[REDACTED] Witness B recognizes that Respondent goes out of his way to make people feel appreciated and “it sucks a lot of people get easily offended.” At the same time, Witness B acknowledged needing to be careful as supervisors. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Other Bias/Motive Issues

Witness B also volunteered that when he and Respondent first talked to Complainant about transferring to [REDACTED], she said she would do anything to get a [REDACTED] job. Witness B does not know what she meant. At the time, Respondent and Witness B told her that was good and that she should let them know what she needs and they would help her to be successful. Witness B does not believe Respondent ever

suggested that he was not going to help Complainant anymore. In terms of performance, Witness B does not see why Respondent would not have recommended Complainant for a [REDACTED] job.

Past Complaints Involving Either Party

Witness B is not aware of any similar allegations involving either Complainant or Respondent. He also stated that he does not know the nature of the allegations involving Respondent. [REDACTED]

E. Interview of Witness C (June 23, 2017, in person)

[REDACTED]. During her interview, Witness C provided the following information:

Witness C knows Respondent through work, but he has never been her supervisor. Complainant does the [REDACTED] in the [REDACTED] during the same shift as Witness C works. Witness C would give Complainant advice about what is expected of them because they do not want complaints.

[REDACTED] learned of the matters at issue in this investigation in a conversation with Complainant. [REDACTED] believes that conversation took place the week before Complainant ultimately reported her complaint. Complainant came to [REDACTED] and asked if she could talk. She told [REDACTED] about a number of things that Respondent had allegedly done and said to her. [REDACTED] told her to write it down. Any time someone is harassing you, [REDACTED] thinks that is important. [REDACTED] also told Complainant to go to HR not to her supervisors because the supervisors would be likely to "protect their own." [REDACTED] thinks her conversation with Complainant was on a Wednesday or a Thursday, and she advised Complainant to wait until Monday to report because it would be a fresh new week and people would be ready to listen.

Visiting Work Stations

After Complainant started working at [REDACTED], Witness C would see Respondent come over more than he had when [REDACTED] was there or when the male employee who worked there before [REDACTED] was there. [REDACTED] When [REDACTED] was working at [REDACTED], [REDACTED] would just see Respondent "pissed off" because he could not find her. Complainant [REDACTED] they mostly see each other if they catch each other in a hallway.

The only times Witness C saw Respondent and Complainant together, they were walking in the hallway and he was teaching her about the machines.

Comments Regarding Appearance

Respondent never said anything about Complainant to Witness C, including about her appearance. He just said "hi." He also did not talk to Witness C about others' appearance. [REDACTED]

[REDACTED]

Sexual Favors Among Employees

During the same conversation between Complainant and Witness C, Complainant said that Respondent had talked about sexual favors at UC Davis.

Touching/Hugging

Complainant also said something about Respondent hugging her at the same time as she told Witness C about the other issues with Respondent, around the week before she complained. Witness C never saw hugging or touching.

Lunch Invitations

Complainant told Witness C about this during the same conversation as the other allegations.

Asking Complainant if She Was Interested in Dating Two Men

During the same conversation regarding Respondent's conduct, Complainant told Witness C about comments Respondent had made related to Complainant's [REDACTED]

Inappropriate Comments about Coworkers

One time, [REDACTED] passed Respondent and Complainant in the hall and held up her hand to her ear to tell Complainant to call her. Respondent turned around quickly and gave [REDACTED] a dirty look. After he left, [REDACTED] asked Complainant what happened and why Respondent turned around so quickly. Complainant said that Respondent asked what [REDACTED] was telling Complainant and said "that fucking bitch is out to get me." Witness C had always thought they were cordial and did not know that he did not like her.

According to Witness C, [REDACTED] knows Respondent through [REDACTED] used to work together at [REDACTED]. Complainant told Witness C about comments Respondent allegedly made about [REDACTED] giving out "happy endings" during the same conversation. Complainant had hoped that Witness C would tell [REDACTED] about the things Respondent was saying about her, but Witness C said Complainant needed to tell her directly. Witness C was there for the conversation when Complainant told [REDACTED] what Respondent had said.

In response to a question about whether Witness C heard Respondent use language like Complainant said he used when they passed in the hall, Witness C said that she did not speak to him much, but [REDACTED] did. When Witness C and Respondent talked, Witness C's supervisor [REDACTED] was typically there as well, so Witness C would not expect Respondent to use foul language.

Performance Issues

[REDACTED]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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[REDACTED]

also heard information that she volunteered was “all gossip” about “other girls.”

F. Interview of Witness D (June 23, 2017, in person)

[REDACTED]

[REDACTED] has submitted a statement through the union. (Attachment F). Complainant and a couple of union representatives approached [REDACTED] and asked if he could give a statement. He filled out the form and mailed it [REDACTED]

[REDACTED] described his relationship with Respondent saying that Respondent was his supervisor and they never talked outside of work. [REDACTED]. They worked on the same project for two or three weeks until Respondent reassigned her to do [REDACTED]. Since then, [REDACTED] sees her at the beginning and end of the shift and rarely in the middle of the shift unless he is sent to assist her. They never see each other outside of work.

Visiting Work Stations

[REDACTED]

A couple of times, Complainant asked [REDACTED] if Respondent visited the [REDACTED]. Other than seeing Respondent when he opened and closed [REDACTED], [REDACTED] estimated that he saw Respondent maybe three times during the work day between March 8 when [REDACTED] started and May when Respondent went out on leave. Generally, the whole [REDACTED] is in the same place and [REDACTED] would expect to see Respondent if he visited anyone on the [REDACTED]. [REDACTED] did not notice that Respondent visited the [REDACTED] when Complainant was on [REDACTED] either.

When [REDACTED] covered for Complainant for a few days when she was out, Respondent walked him around to show him what to do then never checked on him again.

Comments Regarding Appearance

Witness D does not remember any comment related to a charger being built into [REDACTED]. Initially, Witness D stated that he did not hear Respondent say anything about motivation or motivating [REDACTED]. But, in response to a question about whether Respondent made a comment about how Complainant looked in the [REDACTED] with sweat on her face, Witness D said that Respondent said that a couple of times and also commented that Complainant motivated him [REDACTED] by being sweaty from working hard.

Respondent also overly complimented Complainant. Complainant is objectively a “nice looking girl,” but there is a difference between saying “that looks nice” and “Hey, you are looking nice today.”¹³ [REDACTED] described Respondent’s approach as the latter style, and he estimated that he heard Respondent comment

¹³ [REDACTED] spoke in a different tone of voice when he made each of these statements. The first tone reflected a lighter, more off-hand comment whereas the second was framed as a come-on.

on Complainant's appearance at least once a week. Respondent's approach was too familiar and more like he was hitting on Complainant than just paying her a compliment.

[REDACTED] did not hear Respondent say anything negative or positive about how other employees felt about Complainant. Others started teasing Complainant [REDACTED] when Respondent did. [REDACTED] did not hear anything from Respondent about how [REDACTED] or [REDACTED] allegedly felt about Complainant. [REDACTED] told [REDACTED] that Complainant was respectful and a good worker. He did not hear anything about others resenting Complainant because she was pretty and they were ugly.

Witness D observed Respondent "leer" at Complainant several times in the [REDACTED]. Witness D described the look as a "lustful dog looking at a bone stare." Witness D also covered [REDACTED] when Complainant was out, and when Respondent showed him around and told him what he was supposed to do, Respondent checked out cute [REDACTED] by looking them from head to toe then back up.

Sexual Favors Among Employees

Witness D said Respondent usually held back the [REDACTED] employees for more detailed instructions. He never asked [REDACTED] to stay except Complainant. He would ask Complainant to stay at least once a week and usually two or three times a week. After Complainant voiced concerns about Respondent, Witness D started hanging back outside the door when Respondent held Complainant back. Often, the [REDACTED] employees would leave and Complainant would still be there.

Sometimes it seemed Respondent was talking to Complainant about work. Other times it seemed unprofessional, especially coming from a supervisor. He asked Complainant if she would ever date two men at the same time. He also made a comment about "it's not who you know, it's who you blow."

Witness D cannot remember if Respondent made that comment in the [REDACTED] (Respondent's office). Witness D initially said he thought it was in the [REDACTED] when he had to stay behind to do his mandatory training, but he then said he actually thought that was the question about dating two guys and the "who you know, who you blow" comment was later at [REDACTED]. For the latter comment, Respondent and Complainant were alone and Witness D was outside the door. Witness D did not hear the rest of the conversation.

I asked Witness D about the fact that his written statement did not mention the "who you know, who you blow" comment. Witness D said that he eventually remembered that through digging through his memory. [REDACTED]

[REDACTED] He vividly remembers hearing that comment but although he remembers the audio, he cannot place the visual.

Touching/Hugging

In response to a question about whether Witness D had observed Respondent hugging any employees, Witness D said that he had seen Respondent hug Complainant. When he promoted her to [REDACTED] [REDACTED] she went to give him a handshake and he went to hug her. She looked visibly uncomfortable

and as though she was trying to push away.¹⁴ In contrast, Witness D has seen Respondent have little contact with anyone else. Respondent barely shook Witness D's hand when he first arrived.

Lunch Invitations

As far as Witness D knows, Complainant is the only person Respondent has offered to take to lunch or buy anything. Witness D knows Respondent asked Complainant to lunch because she asked if Respondent had invited him out too. When a [REDACTED] leaves, they do potlucks.

Asking Complainant if She Was Interested in Dating Two Men

Witness D was aware Complainant had a [REDACTED] because she was clear about that in the first couple of weeks. Witness D knows Respondent was aware of her [REDACTED] because she mentioned her [REDACTED] in the same room as Respondent. Early in their employment Witness D and Complainant were called to the [REDACTED] for mandatory training. Complainant was sitting at a computer two or three feet from Witness D, and Respondent was sitting at another computer two or three feet past Complainant. Respondent asked Complainant if she would ever date two men at the same time. Witness D thinks she just chuckled and shook it off as a joke. Within the next day or two, Witness D asked Complainant what Respondent's statement was about. She said he was being a "perv." Witness D thought Respondent was talking about Complainant's [REDACTED] and Respondent because of the context and body language, including "lustful staring" and being too close to Complainant.

Inappropriate Comments about Coworkers

Witness D has not heard anything about an employee giving out happy endings.

In response to a question about whether he heard Respondent make comments about other employees' appearance, Witness D stated that he had overheard Respondent calling [REDACTED] a "fat bitch." Witness D was around the corner and did not know or want to know who Respondent was talking to. [REDACTED] is the only person Witness D has heard Respondent make negative comments about. [REDACTED]

Impact

Witness D urged Complainant to make a complaint to HR or [REDACTED] after he witnessed a few of the things that happened with Respondent. When Complainant told Witness D that she was uncomfortable about two weeks or a month before she ultimately complained, Witness D encouraged her to report Respondent.

Performance Issues

Respondent would tease Complainant in front of the group. [REDACTED]

[REDACTED] Respondent would tease her.

[REDACTED]

[REDACTED]

[REDACTED]

The first couple of weeks of Complainant's employment she had a hard time with [REDACTED], but everyone does. Overall, Witness D perceived her performance as "above standard." When he has gone and helped her at [REDACTED], she does excellent work, is very thorough, and goes out of her way to help other [REDACTED].

[REDACTED]

[REDACTED]

Past Complaints Involving Either Party

Witness D is not aware of any past complaints about Respondent. No one has complaints about Complainant. She has always been professional, kind, and helpful.

G. Interview of Witness E (July 14, 2017, in person)

Witness E has been at UC Davis around [REDACTED]. During his interview, Witness E provided the following information:

A lot of what Witness E knows about this situation is rumor about "hearsay stuff" involving Respondent and a [REDACTED].

[REDACTED] The three of them rotate as leads on [REDACTED] Witness E described having a pretty good relationship with Respondent and everyone else in [REDACTED]. There is no one he does not get along with. Likewise, all of the supervisors seem like pretty good friends, although Witness E typically only sees them at the beginning of shifts.

Visiting Work Stations

At times, Witness E would see Respondent in the middle of the shift a couple of times in a week. Other times, Witness E would not see him for a week.

Witness E understood that Complainant took over at [REDACTED] because Respondent could not find [REDACTED] when she was supposed to be there. For some reason, they want a [REDACTED] at [REDACTED], and Complainant was the [REDACTED], so she would have the longest to work at [REDACTED] after they trained her if they put her in that role. Witness E held the [REDACTED] position at one point. At first, Respondent came by about every other day to make sure Witness E was doing things right because the director was nitpicky. Once Respondent saw that Witness E knew what he was doing, Respondent stopped coming by and also started pulling Witness E to help the [REDACTED].

Comments Regarding Appearance

Witness E has not heard Respondent make comments about any employee's appearance, including about an employee being attractive or an employee [REDACTED]. Witness E also has not seen Respondent looking at employees in a way Witness E felt was inappropriate. He has not heard

Respondent talking about people motivating [REDACTED]. Although he has seen interactions between Complainant and Respondent, nothing stood out.

Referring to Complainant as "Girl"

Witness E also has not heard Respondent calling female employees "girl" as in "Where are you, girl?"

Sexual Favors Among Employees

Witness E did not hear any discussion by supervisors about sexual favors playing a role in employment at UC Davis. He volunteered that "we do the guy talk thing," but clarified that the discussion is not really sexual, just cussing, and it does not include conversations about women. He has not heard comments along the lines of "it's not who you know, it's who you blow" or "no blow job, no job." He has heard a rumor that Respondent made the "who you know and blow" comment to Complainant. Witness E heard that from [REDACTED] in the context of a discussion about whether Respondent was coming back.

Touching/Hugging

At the beginning of the shift, Respondent hands out keys to the [REDACTED] and sends them to their [REDACTED]. Then, he gives the [REDACTED] employees work orders on what he wants done. Sometimes he holds the [REDACTED] person back to speak to that person as well. Respondent has not hugged Witness E, and Witness E has not seen Respondent hugging other employees. He will just give a pat on the back to say that you have done a good job.

Lunch Invitations

The [REDACTED] usually just takes lunch when they can take it in [REDACTED]. Witness E has never been to lunch with Respondent.

Asking Complainant if She Was Interested in Dating Two Men

Witness E knows that Complainant has a [REDACTED] but not from Respondent or from any conversation that included Respondent. When they first started, it seemed Witness D was attracted to Complainant and would sit and talk to her. A week or two later, Witness E noticed Witness D was not talking to Complainant as much anymore. Witness D said Complainant had a [REDACTED]

Inappropriate Comments about Coworkers

Witness E also has not heard any comments or rumors about anyone giving out "happy endings." Respondent has mentioned to Witness E that he needed to talk to Witness G and could not find her. But, he has not called any employee a bitch or anything similar.

Performance Issues

Witness E does not know how Complainant's performance has been. It seems like she needs help quite a bit. People have been sent over to help her. Witness E is not aware of complaints about Complainant's performance.

Other Bias/Motive Issues

[REDACTED]

[REDACTED]

H. Interview of Witness F (July 14, 2017, in person)

[REDACTED]

[REDACTED] During his interview, Witness F provided the following information:

Respondent and Witness F get along. Witness F also gets along with the rest of the team, but it is work and they are not that close. He has not noticed any conflicts among the supervisors, and he does not see them enough to know if any are social friends because the [REDACTED] typically is not with the supervisors during their shift.

Visiting Work Stations

At the beginning of the day, the [REDACTED]. People would have short conversations. If they got complaints, Respondent would let them know what they missed or did wrong or that they had done a good job. Then he would give them any additional would send them to their work sites. Witness F thinks Respondent held Complainant back once or twice after he excused everyone but her. Witness F does not know why. When he has seen them interact in a group, the conversations are all about work.

Witness F does not know why Complainant replaced [REDACTED] at [REDACTED]. Respondent did not share that with anyone or say anything about [REDACTED] performance. There was no discussion about who would take over [REDACTED] or who was interested. One day, he just handed Complainant the keys and said she would be doing [REDACTED] from now on. Witness F thinks that was a good opportunity for Complainant to learn [REDACTED].

Comments Regarding Appearance

Respondent occasionally talks about motivating people. Because he is working with [REDACTED], he talks about motivating them so they can learn. He has not made comments about anyone's physical appearance to Witness F. Witness F reiterated that he does not see Respondent after he leaves the [REDACTED].

Sexual Favors Among Employees

Witness F has not heard any conversations about sexual favors playing a role in employment at UC Davis and has not heard comments about "no blow job, no job" or "it's not who you know, it's who you blow."

Touching/Hugging

Respondent has not ever hugged Witness F, and Witness F is not aware of him hugging others.

Lunch Invitations

The project crew just takes lunch whenever they can based on the type of work they are doing. Respondent has not invited Witness F to have lunch with him.

Asking Complainant if She Was Interested in Dating Two Men

Witness F also did not hear any discussion about Complainant having a [REDACTED] He has not heard any sexual jokes at work.

Inappropriate Comments about Coworkers

Witness F has not noticed any differences in how Respondent treats [REDACTED] compared to others. Their conversations also are all about work. Witness F has not heard Respondent say anything about [REDACTED] and has not heard him call any employee a bitch. Likewise, Witness F has not heard anything about any employee giving out "happy endings."

Performance Issues

Witness F never worked in [REDACTED] with Complainant. Complainant mentioned issues with certain [REDACTED], but Witness F does not know if the [REDACTED] were the problem or she was. He does not remember hearing any complaints about her performance. When Complainant first joined UC Davis and was on the [REDACTED], Witness F worked with her and thought she was good. She asks a lot what to do next.

Past Complaints Involving Either Party

Respondent is good. He really listens to what you need. He is a good supervisor and will give you what you want. Witness F does not know about any past complaints involving either party.

[REDACTED]

[REDACTED]

I. Interview of Witness G (July 14, 2017, in person)

[REDACTED]

During her interview, Witness G provided the following information:

Complainant first talked to Witness G after she already raised issues to HR.

Visiting Work Stations

Complainant told Witness G that Respondent was coming to [REDACTED] every day and taking her away from her work to talk to her about everyone. When [REDACTED] worked at [REDACTED], she only saw Respondent on Thursdays for fifteen or twenty minutes. Even when she started at [REDACTED], Witness G only saw Respondent once a week checking that everything was going smoothly.

[REDACTED]

Witness G did not ever hear Respondent hold back Complainant when he sent the rest of the crew to their worksites. Respondent always held back [REDACTED], but that was all. Witness G did not see Complainant and Respondent interact except when the whole group met up in the office.

Once Witness G moved to the [REDACTED], she rarely saw Respondent during the workday. He would come and check on them and leave maybe once a week.

Comments Regarding Appearance

Witness G did not hear Respondent say anything about motivating the core. She also did not hear him comment on employees' appearance, including by calling Complainant cute. Complainant told Witness G that Respondent made a comment about the charger being built into [REDACTED]. Respondent had another employee train Witness G at [REDACTED], and he never said anything like that to her. The charger for the [REDACTED] is a heavy thing that plugs into the battery. The [REDACTED] just plugs into the wall.

Sexual Favors Among Employees

Witness G only heard from Complainant that Respondent had talked about sexual favors at UC Davis.

Touching/Hugging

Witness G did not see Respondent hug or touch any employees.

Asking Complainant if She Was Interested in Dating Two Men

Witness G is not sure if Complainant had a [REDACTED] [REDACTED]. She also never heard Respondent say anything disrespectful like asking if Complainant was interested in dating two men.

Inappropriate Comments about Coworkers

Similarly, Witness G only heard alleged comments about an employee giving out happy endings from Complainant in the context of talking about her complaint.

Witness G added that her issue was that Respondent wanted things done his way and that he was disrespectful to [REDACTED].

One day, Complainant told Witness G about the situation with Complainant and Respondent, including about things he had said related to Witness G. [REDACTED]

[REDACTED] Complainant said that Respondent was calling [REDACTED] "all types of bitches." Respondent apparently called [REDACTED] a lazy bitch. Complainant also said that Respondent said he took [REDACTED] from the [REDACTED] station for Complainant because he liked her. Witness G also heard people talking about [REDACTED] being lazy and getting hired because she knew [REDACTED], which is not true. Complainant also told Witness G about the comments Respondent made about [REDACTED].

Impact

Complainant told Witness G that Respondent was making her uncomfortable.

Performance Issues

Witness G does not know of any concerns about Complainant's performance. One day there was not enough work for [REDACTED] so Witness G was sent to help at [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In closing, Witness G noted that she never saw Respondent do anything inappropriate. All she knows is what Complainant told her the day that she reported to HR.

J. Interview of Witness H (July 19, 2017, in person)

[REDACTED] Witness H has had only limited interactions with Respondent, all of them related to work. Witness H knows Respondent's [REDACTED] but does not interact with them much. She spoke to Complainant the week before her interview, but otherwise she had only seen Witness H when she opened Respondent's [REDACTED] for him.

During her interview, Witness H provided the following information:

Comments Regarding Appearance

Respondent did not make any comments to Witness H about Complainant.

Sexual Favors Among Employees

In response to a question about whether she was aware of rumors about sexual favors leading to career employment at UC Davis, Witness H said a non-witness employee who had concerns about Respondent and [REDACTED] was upset about hiring practices. That employee did not talk about sexual favors but did say that if you know someone, UC Davis will keep you. She cited [REDACTED] as an example, saying that [REDACTED] had done a sloppy job but had been hired and had said that her "friend" [REDACTED] fought for

her. Witness H tried to stay out of that gossip but was aware that there were a lot of complaints about [REDACTED]

Touching/Hugging

Witness H only saw Respondent interacting with Complainant in a group when he [REDACTED].
Witness H did not observe Respondent touch Complainant.

Inappropriate Comments about Coworkers

Respondent did not make any sexual jokes or comments to Witness H.

Performance Issues

[REDACTED]
[REDACTED], Witness H asked if she had asked her current supervisor about her performance. Complainant said Witness B had said everything was okay [REDACTED]

[REDACTED] Witness H told Complainant not to worry if she did not have performance or attendance issues.

Other Bias/Motive Issues

On [REDACTED] July [REDACTED], Complainant came to talk to Witness H. Complainant expressed concern about whether she would be let go at the end of her [REDACTED] and asked if she should be looking for another job. She mentioned fear that she would be let go in retaliation for reporting Respondent [REDACTED]

[REDACTED] Witness H guaranteed there would be no retaliation.

Witness H also told Complainant she had done the right thing to raise any concerns she had. [REDACTED]

[REDACTED]

[REDACTED]

No one told Witness H that they were angry about Complainant's complaints or about Respondent being on leave.

Past Complaints Involving Either Party

[REDACTED]
[REDACTED]
She mentioned that she wanted a supervisor who did not favor certain employees and did not hit on people like Respondent had. [REDACTED] did not go into details, but Witness H had the impression

Respondent had been asking out [REDACTED] when he was their supervisor¹⁶ and that she was feeling really uncomfortable. This took place before Witness H was working there, and [REDACTED] said she already had reported it to Witness H's supervisor, so Witness H did not take action.

[REDACTED]

One other issue that came up related to Respondent came from [REDACTED] on the [REDACTED]. She asked Witness H about the possibility of staying on [REDACTED] and also seemed a little concerned about how Respondent was approaching her. It sounded like she was afraid of him, but she did not say much. Another employee mentioned something odd to Witness H about Respondent asking [REDACTED] for food.

Others' Knowledge According to Witness H

K. Interview of Witness I (July 19, 2017, in person)

[REDACTED]. During her interview, Witness I provided the following information:

Witness I does not know who made the complaint that led to the present investigation. [REDACTED]

[REDACTED] Initially, [REDACTED] and Respondent were coworkers and friendly, but not friends by any means. She would talk to him and they would eat [REDACTED] as a group, but never one-on-one. [REDACTED]

Visiting Work Stations

Respondent and [REDACTED] did not work in the same building, but he would show up at her building. It started to be "creepy friendly." One of his [REDACTED] was near hers. He would show up and say that he was walking by [REDACTED]. He would ask if she needed anything, and she said she did not. He would bring her [REDACTED]. His attention got to the point where other workers told [REDACTED] that Respondent was married. It got "creepy creepy" with Respondent showing up in the back of her building [REDACTED]. [REDACTED] would avoid him and make sure she was not near the doors so that she could not see him. [REDACTED] had a good friend who was a male in the [REDACTED], and Respondent would "stare him down" when he came to visit.

[REDACTED]

Ultimately, it came to a point where Respondent's [REDACTED] showed up and asked [REDACTED] what was going on with her [REDACTED] and [REDACTED]. [REDACTED] said nothing was going on. His [REDACTED] asked if Respondent made [REDACTED] food, and [REDACTED] said "I guess" but that she never ate it. His [REDACTED] also asked if Respondent cooked for [REDACTED] in the [REDACTED] kitchen. She was mad. But, [REDACTED] had not done anything.

Comments Regarding Appearance

Witness I perceived Respondent as very aggressive with women and said that he "gives you the heebie-jeebies as if he's undressing you with his eyes."

Lunch Invitations

When they would go out as a group to eat, Respondent would buy dinner for just [REDACTED]. She never asked him to buy her food. Respondent also kept offering to bring Complainant food. She said that [REDACTED] she did not need anything, but Respondent would bring her food anyway. He would hide it in weird locations because he did not want their coworkers to know he had brought it. For example, his area included the [REDACTED], and he told her that he hid food for her [REDACTED]. She would not go and get it, then he would get mad even though she did not ask him for the food. She estimated that happened a couple of times then Respondent saw that she was not eating the food and stopped bringing it.

Respondent also told [REDACTED] "we should go out dancing sometime." She said she did not really dance, but he kept asking her to go to the club or to dinner with him. She always said no.

Inappropriate Comments about Coworkers

Respondent did not make any sexual jokes or comments to [REDACTED]. He was saying "we should go dancing, we should go on a date" but was not using sexual language. When he talked to his friends, they usually talked in their language, which Witness I does not understand, so she did not know what they were saying.

Past Complaints Involving Either Party

After Respondent's [REDACTED] showed up at work, [REDACTED] told her supervisor what had happened and said Respondent needed to go. She said that he had been showing up at her building and asking her to go out dancing. She wrote up a report, and Respondent was moved.¹⁷ [REDACTED]

Witness I said she also is aware of at least one other person who had related issues with Respondent. It seems issues are coming up with young girls who are [REDACTED]. Every once in a while, Witness I would work with [REDACTED]. Respondent was [REDACTED] supervisor. Around this spring [REDACTED] told Witness I that Respondent was always asking her to bring him food and giving her guilt trips about not bringing him something to eat. She mentioned saying that it was not her lunch break and having Respondent reply that she could take a little extra time if she was

[REDACTED]

going to bring him something to eat. [REDACTED]

According to [REDACTED], Respondent was texting her a lot. He also said that she should come give him another hug. [REDACTED] seemed a little uncomfortable, so Witness I suggested that she should report what was happening, but [REDACTED] said she was trying to get [REDACTED] and did not want to report for that reason. She said that Respondent had told her she could not call in sick, have complaints or use her phone. It seemed strange, like Respondent was on a power trip. It seemed Respondent had become more aggressive than what she had experienced. One night, Witness I was working with [REDACTED], and Respondent drove up. He pointed at [REDACTED] and said, "You. Get in the car!" Witness I does not know what happened but it was strange.

Witness I added that she does not know if [REDACTED] will be willing to talk [REDACTED]

[REDACTED]. She was telling [REDACTED] that they have rights, but [REDACTED] seemed nervous. [REDACTED]

L. Interview of Witness J (July 20, 2017, in person)

[REDACTED] During his interview, Witness J provided the following information:

Respondent has supervised Witness J for over a year. They have a good relationship. [REDACTED]. Witness J pretty much just wants his supervisor to give him his work, then he wants to mind his own business. He does not hang out with anyone from work. [REDACTED]

Visiting Work Stations

Witness J would see Respondent between [REDACTED] depending on how smoothly a project was going. When Witness J was working alone, Respondent would not check on him because he did not have any complaints. When Witness J was working with [REDACTED], he would see Respondent more often because a bunch [REDACTED] did not know what they were doing. Witness J does not know how often Respondent visited other employees' work stations.

Comments Regarding Appearance

Witness J does not remember Respondent saying anything about any employees motivating [REDACTED]. Respondent also did not comment on Complainant's appearance in front of Witness J. Witness J did not hear Respondent say anything about how other employees felt about Complainant.

Respondent jokes around a lot, but Witness J has not heard sexual joking. Likewise, Respondent makes fun of people, but not about their physical appearance in Witness J's experience. Witness J has not heard Respondent say anything about [REDACTED]. Witness J also has never seen Respondent look at an employee in a way that Witness J thought was inappropriate.

Sexual Favors Among Employees

Witness J heard from a former coworker, [REDACTED], that Respondent said something to Complainant about sex or something like that. When Witness J heard that, he was in disbelief. He cannot imagine something like that happening. [REDACTED]

Touching/Hugging

Witness J only sees Respondent and Complainant interact when Respondent gives out work. Usually Respondent released the [REDACTED]. Witness J does not know if there were times Complainant was the last to be released. Respondent has never hugged Witness J, and Witness J does not recall Respondent hugging any men. He has patted Witness J on the arm. Witness J has seen Respondent hugging other people, including [REDACTED]. Witness J does not remember seeing Respondent hugging either Complainant or [REDACTED]. Respondent does seem to like hugging.

Lunch Invitations

Respondent has never asked Witness J to lunch.

Asking Complainant if She Was Interested in Dating Two Men

Although Witness J thinks he heard something about Complainant having a [REDACTED] he thinks it was [REDACTED] and did not have anything to do with Respondent.

Inappropriate Comments about Coworkers

Witness J is not aware of any rumors about anyone giving out happy endings. Witness J has not heard Respondent call anyone a bitch. [REDACTED]

Performance Issues

Witness J is not aware of complaints about Complainant's performance, but he does not think the [REDACTED] position is a good one for her because she really cannot [REDACTED]. Once Witness J and a coworker were sent to take Complainant [REDACTED], and she asked where [REDACTED] so they told her to call the supervisor. Witness J also worked with Complainant the first few days when [REDACTED]. Witness J does not know why Complainant was selected for the [REDACTED] position. He thinks any of the [REDACTED] should have been given that role before her. Witness J thinks Complainant must have gotten the [REDACTED] position over others because she had been hired as a [REDACTED]

Past Complaints Involving Either Party

Witness J is not aware of Respondent or Complainant having any similar issues with anyone else, although he noted that he does not know whether either of them had something happen before Witness J knew them.

M. Interview of Witness K (July 20, 2017, in person)

[REDACTED]

During her interview, Witness K provided the following information:

In response to a question about her relationship with Respondent, Witness K said that he is nice but sometimes does things that make her uncomfortable. She described Respondent asking her to lunch and making inappropriate comments, which will be discussed below. She added that she is old enough that she knows “how to shut him off.”

Visiting Work Stations

Witness K barely saw Respondent at [REDACTED] when “the guys” were there who preceded Complainant. Respondent also did not show up when [REDACTED] G was there right before Complainant took over the station. With Complainant, Respondent is there “almost all the time.” Witness K said that she has no idea why but that Respondent would sit down with Complainant for a long time. Sometimes Witness K would stand nearby and Respondent would move away. She does not know if Respondent was telling Complainant something confidential or if he was telling her [REDACTED]. But, she perceived Complainant as uncomfortable. Witness K volunteered that forty-five minutes is a long time to sit with a [REDACTED] to tell her something to do, but Witness K saw them sitting that long.¹⁸

Before Complainant made a complaint, she told Witness K and [REDACTED] that she did not know what to do because Respondent was making her uncomfortable and scared. Complainant mentioned that Respondent was always on her, looking for her, sitting with her, and sometimes he would touch her. Every time Respondent showed up at [REDACTED], Witness K thought “here we go again.” When Respondent disappeared, Witness K thought maybe Complainant had talked to someone.

Comments Regarding Appearance

Witness K did not hear any comments about Complainant’s appearance from Respondent. Complainant told Witness K that Respondent always was saying that she looked so pretty. Witness K does not remember when Complainant first mentioned that. Complainant also said that Respondent had told Complainant not to talk to [REDACTED]. According to Complainant, Respondent said [REDACTED] were mad at Complainant because she was prettier than they were. That came up after Complainant told them that she was having a problem with Respondent but before he was gone on leave. Witness K thinks Respondent did not want Complainant to talk to [REDACTED] because he did not want them to ask her why Respondent was at [REDACTED] with her all the time.

[REDACTED]

[REDACTED]

[REDACTED]

In response to a question about whether Witness K observed Respondent looking at anyone in a way that she felt was inappropriate, Witness K said that when the [REDACTED] pass in front of him he would look them up and down. That was normal for him. He did not do that to Witness K in front of Witness K. Witness K thinks Complainant mentioned seeing Respondent do that, but Witness K does not remember to whom. It was “just normal” to Witness K because he does that often [REDACTED].

Telling Complainant Employees Give Each Other Sexual Favors

Witness K has heard Respondent make sexual jokes “a lot of times.” It is hard to recall specific sentences because she thinks that she thinks are just jokes do not stay in her mind in the same way. Witness K has heard rumors that people get jobs at UC Davis because they know people, but she has not heard that it is linked to sexual favors. Respondent did not say “It’s not who you know, it’s who you blow” to Witness K.

Touching/Hugging

Witness K’s [REDACTED] meets at a different location than Respondent’s, so she has not seen him meeting with his employees. Witness K has not seen Respondent hugging employees, and he has never hugged Witness K.

Lunch Invitations

Respondent used to ask Witness K out to lunch at times, but she felt like she knew how to put him off. She thought you were not supposed to ask people out to lunch during work. It may have been a joke, Witness K does not know why he asked her out, but she thought that it was not right to try to go out to eat lunch during work hours. [REDACTED]

Asking Complainant if She Was Interested in Dating Two Men

Witness K did not hear Respondent talking about Complainant’s [REDACTED] but Complainant did tell Witness K that Respondent had asked her if she was interested in dating two men. Witness K thinks Complainant had real concerns. It is probably true that Respondent made Complainant uncomfortable because Respondent asked Witness K out once or twice and he is not Witness K’s boss. Complainant might not have known what to do because she was scared because he was her boss.

Inappropriate Comments about Coworkers

In response to the above question about whether she had heard the comment “it’s not who you know, it’s who you blow,” Witness K noted that one thing that bothers her is that according to Complainant, Respondent said he knew for sure that [REDACTED] gives people blow jobs or something like that. In response to a later question about “happy endings,” Witness K said what Complainant actually said was that Respondent said he knew “for a fact” that [REDACTED] “gives a happy ending.” [REDACTED]

[REDACTED]

Respondent never made comments about employees' appearance in front of Witness K's face.

[REDACTED]

[REDACTED]

Respondent also called [REDACTED] a "bitch." He said "I hate this bitch." [REDACTED]

[REDACTED] Witness K noted that was probably a joke too, but Respondent said it.

Performance Issues

Respondent has not raised similar concerns about Complainant to what he said about [REDACTED]. He has not said that he could not find her and never called her a bitch. [REDACTED]

[REDACTED] When Complainant first started, she did not know where to start and everything to do, so Witness K would tell Respondent if there were [REDACTED]. Since then, there have been no issues with Complainant's performance. In contrast, [REDACTED] "was horrible the whole time."

Past Complaints Involving Either Party

Witness K knows that there are people who do not like Respondent, but she is not aware of any sexual harassment complaints raised by others related to him. She has not really talked to anyone about this matter and does not know who supports either Complainant or Respondent.

Other Bias/Motive Issues

Witness K does not know [REDACTED] well but knows that he and Respondent are "very close" and are "always together." She knows they are together off campus because when Respondent bought jet skis, [REDACTED] was with him.

Others' Knowledge According to Witness K

Witness K attended the staff appreciation event. She noticed that [REDACTED] went behind Complainant and was standing there. Witness K does not know what [REDACTED] was doing, but she could see her there. Witness K's friend [REDACTED] mentioned to Witness K later that [REDACTED] was looking at Witness K and seemed mad, [REDACTED]

[REDACTED]

N. Interview of Witness M (July 21, 2017, in person)

[REDACTED]

[REDACTED]

[REDACTED]

O. Interview of Witness N (July 21, 2017, in person)

[REDACTED] During his interview, Witness N provided the following information:

Respondent was Witness N's supervisor and would tell him which project to go to and which building. Witness N thought Respondent was a "pretty good guy." Right now, Witness B is Witness N's supervisor. Witness N has heard stories that make him think Respondent and [REDACTED] are pretty good friends, like that they both went to get jet skis for Respondent.

[REDACTED]

[REDACTED] Witness N noted that he and Complainant had only worked together two times or so.

[REDACTED]

Visiting Work Stations

Usually Witness N works with the [REDACTED]. Witness N estimated that Respondent came out probably two to three times a month to check on the [REDACTED]. Now that Witness B is supervising, he comes out and checks on the [REDACTED] a little more often.

Comments Regarding Appearance

Witness N does not remember hearing Respondent make any comments about Complainant's physical appearance. He also does not think Respondent commented in front of Witness N about how other employees felt about Complainant. Respondent did stare at Complainant, though. Sometimes Witness N would be sitting there and he would notice that Respondent was looking down staring at Complainant.

When Witness N first started the job, he was sent to work with Complainant at [REDACTED]. Respondent was talking to Complainant and Witness N about getting another [REDACTED]. A [REDACTED] was coming toward them, and when she walked by, Respondent stopped talking and looked down at her butt. He completely stopped in the middle of his sentence. After a bit he said he was going to [REDACTED] and he walked away. Witness N thinks Respondent initially came in because Complainant told him in the office that [REDACTED] was broken.

Witness N has not seen anything else between Complainant and Respondent.

Sexual Favors Among Employees

Witness N is not aware of any rumors about sexual favors playing a role in getting a [REDACTED] at UC Davis. Complainant mentioned that to Witness N and said that she had a five-page list of things Respondent had said.

Touching/Hugging

Respondent would [REDACTED] and would close it [REDACTED]. Sometimes, when he [REDACTED] he would hold back the three permanent employees. Witness N does not think he held back the [REDACTED] because the [REDACTED] knew where to go. He heard from Complainant that when Respondent promoted Complainant, she went to shake his hand and he hugged her. But, Witness N did not see that.

Lunch Invitations

Witness N is not aware of Respondent inviting people to lunch. Witness N typically only sees Respondent when he [REDACTED], so Witness N does not know if he goes to lunch with anyone.

Asking Complainant if She Was Interested in Dating Two Men

Witness N was not at UC Davis yet when Respondent supposedly asked Complainant if she was interested in dating two men. She did tell him that story, but not until after.

Inappropriate Comments about Coworkers

Respondent was pretty serious when he was with [REDACTED]. He wanted everything perfect. Witness N does not know if Respondent made sexual jokes when he was with other people. Witness N did not hear any rumors about any employee giving out "happy endings."

Witness N is aware of statements Respondent made about Witness G. He told a group of people that included Witness N that he basically hated [REDACTED] and that she does not work. Respondent would cuss when he talked about [REDACTED], and Witness N thought Respondent should not have been saying those things to other workers. Specifically, Respondent would call [REDACTED] a “stupid bitch” and a bad worker.

Past Complaints Involving Either Party

Witness N is not aware of any complaints about Complainant. He has heard that Respondent has sexually harassed others, but he thinks he heard that from Complainant.

Others' Knowledge According to Witness N

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Interview of Witness P (July 27, 2017, in person)

[REDACTED] During her interview, Witness P provided the following information:

While she was a [REDACTED], Witness P was on the [REDACTED] working for Respondent. [REDACTED]

Witness P would interact with Respondent, often over text, every time he came onto his shift [REDACTED]. She and her work partner, [REDACTED] would text Respondent whenever they had questions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sexual Favors Among Employees

[REDACTED]

[REDACTED] Witness P never personally heard Respondent make any sexual jokes or comments.

Touching/Hugging

[REDACTED] She has not seen him hugging anyone else.
She can only think of handshakes.

[REDACTED]

Lunch Invitations

[REDACTED]

[REDACTED]

[REDACTED]

A coworker, Complainant, later told Witness P and others about Respondent texting her and trying to go out with her. Witness P did not want to get into the details with Complainant about what Respondent had said to her.

Inappropriate Comments about Coworkers

During the time Witness P was in Respondent's core, [REDACTED] [REDACTED] have been the women on his team. Respondent would talk negatively about [REDACTED]. He would tell Witness P not to be like her [REDACTED].

Impact of Conduct

Witness P asked [REDACTED] not to leave her alone with Respondent after he said that she was looking good. It made her feel weird, so she asked [REDACTED] to be sure she was always around, and [REDACTED] agreed.

[REDACTED]

[REDACTED]

[REDACTED]

In closing, Witness P volunteered that Complainant had told Witness P her whole story, that Respondent would take her to different buildings and would meet up with another supervisor [REDACTED]. She felt worried about being raped. [REDACTED]

[REDACTED]

R. Follow-Up Interview of Respondent (August 1, 2017, in person)

Respondent estimated that he spends about 80% of his time during his shift in the main [REDACTED], including going in and out and checking on employees. He spends a maximum of thirty minutes to an hour at his office in the [REDACTED], organizing for the next day, or grabbing something. His personal laptop stays there, but his UC Davis computer is in the [REDACTED]. When he meets with people about potential projects he comes in early that day. His regular schedule is [REDACTED].

Union Meeting

Respondent did not attend the union meeting where sexual harassment allegations first came up because it was during a shift that he was not working. But, he learned about the meeting later [REDACTED]. Witness A, Witness H and their supervisor met with Respondent and told him that his name was brought up in connection with a sexual harassment complaint. In addition to supervisors, some [REDACTED] were attending the meeting, and Respondent was stressing out, frustrated, and mad about how [REDACTED] handled the situation.

Respondent did not tell Witness A that the allegations could only have come from Complainant. He cannot think of any reason for Witness A to say that he tied the allegations to Complainant.

Visiting Work Stations

In response to a question about whether it would be accurate if someone said he visited the [REDACTED] on their work site two or three times a month, Respondent said that it depends on needs. Also, if he is in the area, he stops by to check in.

Witness B did not go with Respondent to check on [REDACTED] during the spring except when they went together to talk to Complainant. Prior to that, Witness B went with Respondent for a walkthrough when Respondent took Witness A around to show her the project.

Respondent estimated that he checked on [REDACTED] twice a week, though it would depend on if they had a complaint, such as a complaint from [REDACTED] was not doing her work. At most, Respondent would check on her twice a day when they were having problems finding her. The three previous employees ([REDACTED]) knew how to use [REDACTED] experience.

[REDACTED] covered for Complainant at [REDACTED] once for about a couple of days and helped Complainant a second time. [REDACTED] did not use the [REDACTED] because he was not a [REDACTED]. When [REDACTED] was working with Complainant, Respondent took them keys they needed. When Witness D covered for Complainant, Respondent thinks he checked on [REDACTED] once.

Respondent reiterated that he, Witness A and Witness B decided together to move Complainant based on the fact that she was newest, was doing well, had morale, and was detailed. They decided to convert her to [REDACTED], and she was really happy. [REDACTED]

[REDACTED] Respondent thinks he asked [REDACTED] about his impressions of Complainant's work. The feedback was positive.

Complainant had some experience with [REDACTED]. She needed to be trained on [REDACTED], but even people with [REDACTED] needed more training on the UC Davis [REDACTED]. Complainant needed more training because of her lack of experience. Respondent visited her once a night for around the first two weeks she was in the [REDACTED] role. Then, he slowed down and started leaving her alone unless she called or said she needed something.

Comments Regarding Appearance

Respondent did not comment on any of his spring 2017 employees' appearance, for example by telling them that they looked good. In response to a question about [REDACTED], Respondent noted that one time he saw [REDACTED] all dressed up to go somewhere and he commented that they were "all dressed up" and "looking awesome." That was just a compliment, though. He did not say anything about anyone losing weight. He does not interact with [REDACTED] often and has not made weight jokes about her, including comments about her having difficulty getting up the stairs.

Sexual Favors Among Employees

In response to a question about an instance where Respondent and Witness B met Complainant in the [REDACTED] lobby, Respondent said that was the instance where Witness B brought [REDACTED] and wanted to explain it to Complainant. Witness B had forgotten the [REDACTED], so they got a [REDACTED] in the basement. Respondent estimated that they were there for twenty to thirty minutes showing Complainant [REDACTED]. That was not the same [REDACTED] visit where Respondent made the "it's not who you know, it's who you blow" comment to Witness B.

Respondent does not know whether the visit where the comment was made occurred on the same day as the [REDACTED] situation described above. During the visit related to the comment, Respondent and Witness B met Complainant in the lobby on the first floor. [REDACTED]

[REDACTED] Respondent does not remember why he and Witness B were there at that time. He added that since Witness B was there it must have been about equipment. Maybe Witness B brought the [REDACTED] back. Respondent made the "It's not who you know" comment when they were outside the building walking Complainant from one building to another to show her another area where she needed to do some work.

Touching/Hugging

Respondent has not hugged any of his spring 2017 employees. [REDACTED] used to hug coworkers, and it is possible that she hugged Respondent because she was "being so nice and socializing." Respondent reiterated that he did not hug Complainant when she was promoted to [REDACTED]. He indicated that he tapped her shoulder. He demonstrated a pat on the top of the shoulder. That is a common way that Respondent greets people.

Lunch Invitations

Respondent does not think he has invited any of his employees from spring 2017 to lunch. He also has not asked [REDACTED] out to lunch. One time [REDACTED] and Respondent talked about getting lunch when she and [REDACTED] converted to [REDACTED] and were moving out of [REDACTED]. But, they ended up having a potluck instead.

Respondent may have exchanged non-work-related texts with coworkers, but nothing in particular came to mind. He did text Witness P about picking up pizza for [REDACTED] potluck. In response to a follow-up question about whether he texted her asking about going out for food or bringing food, Respondent looked through his texts and said that she had texted him offering to bring food, specifically chicken

tamales. But, he said he did not like tamales so she should bring Mexican food with cheese on another day. He said he did not see any more texts about going out.

Asking Complainant if She Was Interested in Dating Two Men

Respondent said Complainant and [REDACTED] came in two or three times to do safety training [REDACTED]. There were other supervisors in the building, but not in Respondent's office. Respondent does not recall who sat at which computer each time. Wherever they were, the space was small, so [REDACTED] would have been able to hear anything Respondent said to Complainant. Respondent has not talked to Complainant about dating at all, and he does not know what he could have said that [REDACTED] would have interpreted as being about whether Complainant would date two people.

Inappropriate Comments about Coworkers

Respondent jokes around a lot, but it is all appropriate jokes. He added that management could confirm that.

Other Alleged Complaints

I noted Respondent's request that I compare his employment history with Complainant's and his statement that no supervisor had ever talked to him about a complaint. I asked whether he expected I would have learned about issues with Complainant's performance. He said there were no problems because she was brand new and in the learning process.

In response to questions about other situations raised elsewhere, Respondent stated:

- [REDACTED]
- [REDACTED] Respondent was a [REDACTED] at the time and was working with Witness I. They were friends, along with a group of other people. The whole group used to text and talk on the phone every day. Everything was good and they were texting and calling as normal. Then, one day, [REDACTED] and another boss came to Respondent at his station and asked to meet with him. They said they had a complaint about him from [REDACTED]. Respondent does not remember the specific words that they used to describe her complaint, but she said something like that he had bothered her and there was a thing she was not feeling comfortable about. They said they needed to move him. He said that was fine, though he did not know what had happened because they were friends. He got moved to another area. After that, he waited to see what was next, but nothing ever happened. HR and the Department never asked him about it. About three years later, they hired him as a supervisor. Later on, he heard that [REDACTED] "pulled the case away because she didn't want to pursue it." He thought someone else was using her to accuse him of something. But, he knew it must not be in his file because he got the supervisor job.²⁰

[REDACTED]

- Respondent and [REDACTED] did not work in the same building, but they worked in nearby buildings. He would sometimes go by and visit her building. Often she was outside [REDACTED] so he would stop and say hello.
- He did not ask just her to dinner one-on-one. The whole group would go out.
- If he invited her to go dancing or to the clubs, it would have been an invitation to the whole group, not just [REDACTED].
- He brought her food because she wanted to [REDACTED] and was asking. He offered to bring lunch for her then left it at one of his buildings.
- They would share cigarettes. He does not know if he got her a pack.
- Respondent does not know if his [REDACTED] had any interactions with [REDACTED]. Neither of them ever mentioned that to him.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Performance Issues

Respondent never told Complainant that he was not going to recommend her for a permanent position. For one thing, it was too soon. He also does not discuss that with employees. He has never told anyone that they would or would not get hired.

Respondent reviewed the [REDACTED]. He indicated that they generally appeared complete and accurate. In response to a follow-up question about Complainant saying a [REDACTED] was looking at her, Respondent says he knows he documented that, but it may have been in his [REDACTED] feedback file if it was not in the Reports.

With respect to the August [REDACTED] notation, Respondent said that it was a Friday so he was scheduled to leave early. In the beginning of the shift, Complainant asked Respondent if he was leaving early and if he would be coming back to [REDACTED] first. He said he was leaving early. She said her phone was not working so she would not see if he called. He went back to finish timesheets, and he saw Complainant had not submitted one, so he went back looking for her since her phone was not working. He could not find her. [REDACTED] suggested that she check a particular lobby where she hangs out. He said that it was too early for her break, but he checked anyway and did not find her there. [REDACTED], but she was not there. Eventually he saw her in the hallway. He said he had been looking for her for forty-five minutes and that she needed to submit her timesheet. When he was talking to her, he saw [REDACTED] standing at the end of a breezeway watching him and then hiding when he looked.

Other Knowledge/Bias/Motive Issues

Of the individuals he worked with during March-May 2017, Respondent reported that he had no issues with most individuals, including [REDACTED]. A few individuals had issues that might have influenced their view of Respondent:

- [REDACTED]

Although he does not work with them directly, Respondent reported that he has not had conflicts or issues with [REDACTED]

[REDACTED] had access to Respondent's email account at the time the notice letter was sent in this matter. [REDACTED] never talked to him about the letter, and Respondent does not know if he saw it. Their relationship has not changed since the last interview. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

After reviewing the above information, Respondent sent an email with the following clarifications and additions:

Under Union Meeting:

[REDACTED]

I strongly believe that this should have been dealt under closed doors only with HR and [REDACTED] upper management.

Also I didn't had any information about this case at the time witness A discussed this with me so how would I know who made the allegations against me on day one.

Closing Statement:

Being a supervisor is not an easy task, we have to deal with different and many employees new and old, interact with them on daily basis vs just working in an office. We can't know sometimes how people can get offended even though giving them positive feedbacks like shaking hands and patting them for their work well done, some of them might think different and feels inappropriate but it wasn't the way they think rather a compliment or appreciation from a supervisor This is just one example but we supervisors do all different types of things to make our University safe, proud and fun place to work at. I'm requesting the university to please take this into consideration.

VI. FINDINGS AND ANALYSIS

A. Credibility Findings

Complainant

I found Complainant generally credible. There were areas in which the evidence suggested that an allegation was exaggerated or that Complainant was incorrect about specific wording. Those circumstances will be discussed below in the context of the individual allegations. However, the investigation identified key corroboration for her overall account and the lack of a clear motivation to fabricate the account.

Complainant's motive to fabricate her account was limited. Respondent suggested that Complainant may have raised the present complaint because of her desire to be hired into a [REDACTED] position. I did not find that purported motivation compelling: Respondent had supported Complainant in the past, and witnesses (including Respondent) did not describe him as threatening to withhold support for a [REDACTED]. According to [REDACTED], Complainant voiced concern that her complaint itself would jeopardize her opportunity for career employment. (See Attachment H). Given the lack of complaints about Complainant's work, the evidence better supports Complainant's argument that she reported *in spite of* her desire for [REDACTED] than Respondent's suggestion that she reported *because of* that desire. Complainant's motive to fabricate statements by Respondent about third parties was particularly limited given that they would have only tangential relevance to her complaint.

Some of Complainant's allegations were corroborated by individuals and documents that Complainant would expect to support her version of events, like [REDACTED], and the text exchanges between the parties. More importantly, several allegations were corroborated by individuals that Complainant would not have known would support her account. [REDACTED] provided evidence of parallel experiences that Complainant would not have expected given that [REDACTED] had not confided in her and she did not know [REDACTED]. Similarly, Complainant would not have known that Respondent and [REDACTED] would acknowledge key elements of her allegation that they discussed sexual favors. I found this corroboration particularly informative regarding Complainant's overall credibility. Similarly, Complainant identified [REDACTED] as a witness to several inappropriate comments. Given that [REDACTED]

was implicated in some of the conduct and that Complainant perceived him to be a friend of Respondent, one would not expect her to fabricate an account that placed him at the event as a witness, because she would expect him to support Respondent.

Respondent suggested that Complainant may have been motivated to complain because she was starting to have performance issues and he was increasing his oversight of her as a result. Complainant did take issue with Respondent's level of oversight, though she framed her concern in terms of fear and harassment. But, the evidence did not support that Complainant made a false complaint because Respondent was starting to identify performance deficiencies. Respondent's supervisor was aware of Respondent's concerns about Complainant's predecessor [REDACTED], but she had not heard concerns about Complainant from Respondent or others. In his [REDACTED], Respondent tracked [REDACTED] complaints and instances where he could not find individuals or where individuals were doing things like [REDACTED]. The first such note related to Complainant's performance came the day after the May [REDACTED], 2017 meeting where the union raised an anonymous sexual harassment allegation against Respondent. (Attachment D). Even if Respondent truly did not suspect Complainant of making the complaint (which his supervisor said he did), Complainant had already raised issues at that point, so her concerns were not invented in response to his criticism that day.

Respondent

A number of factors supported Respondent's credibility. He acknowledged certain unfavorable conduct and provided a set of texts that Complainant confirmed was complete, despite the fact that some texts supported Complainant's account. Most importantly, Respondent acknowledged making the "It's not who you know, it's who you blow" comment, despite the fact that it was not favorable to him and it was not made in writing. Although there was a non-party witness to that encounter [REDACTED] that witness was supportive of Respondent overall and provided other statements that were not credible (as will be discussed below), so it is not clear that Respondent acknowledged that comment solely because he expected an admission from [REDACTED].

At the same time, Respondent has a motive to downplay his behavior in that it involves a risk of discipline and in that it involves sexual harassment and [REDACTED]. There is evidence that Respondent acted on that motive to downplay his conduct. For example, the context that he described surrounding the "It's not who you know" comment was not credible, for example in that he stated that he made the comment "silently" to [REDACTED]. Likewise, he stated that although he jokes at work, his jokes are appropriate. However, his admission about the "It's not who you know, it's who you blow" comment and his text to Complainant containing profanity suggest that Respondent at times made inappropriate comments. Likewise, multiple witnesses corroborated that Respondent made negative comments about [REDACTED] performance to her peers.

Furthermore, the performance factors that Respondent asked me to consider did not provide meaningful support for his perspective. Multiple witnesses, including Respondent's supervisor, supported that Respondent is an exceptional performer and that his work is particularly valuable among individuals in similar positions. However, his overall strong performance provides limited insight into the specific allegations at issue here.

Respondent also asked that I compare his employment record against Complainant's, and he stated that he has never had a supervisor speak to him about a complaint. However, Complainant's performance appears to have been generally solid, although her tenure was short. And, Respondent's statement that he never had a supervisor talk to him about a complaint did not withstand scrutiny. Moreover, when Respondent learned that I was aware of [REDACTED] previous complaint, his response suggested that he had believed

the matter was not visible in his file or he would not have been promoted to a supervisory role. This suggests that his statement that no supervisor had talked to him about a complaint was motivated by an expectation that the matter involving [REDACTED] would not be uncovered rather than because he was not aware that there had been a complaint.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Factual Findings

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

1. Respondent frequently visited Complainant at her work station, including to engage in non-work related conversation for more than a half-hour at a time.

Complainant alleged that Respondent visited her job site three to five days a week, sometimes multiple times [REDACTED]. She also said that he stayed for up to an hour. She identified specific instances where Respondent came more than one time in [REDACTED], including the date when Respondent said over text that he was looking for her (April [REDACTED], 2017). (Attachment C). Respondent replied that he visited Complainant's job site for training purposes or at her request and that the trips were short.

The evidence supports that Respondent visited Complainant's job site frequently, including for some extended periods, and that parts of some visits were social. However, the weight of the evidence did not establish that Complainant was unable to complete her work assignments as a result.

On the one hand, [REDACTED] described a work-related purpose for the two to three visits when he joined Respondent at [REDACTED].

[REDACTED] provided different reasons for the visit during which they acknowledge Respondent ultimately made a comment about sexual favors. Complainant described a social visit in which they called her to the lobby to talk. Respondent acknowledged meeting in the lobby but said that the visit must have [REDACTED], since [REDACTED] was there. [REDACTED] also described meeting in the lobby but said that they were walking around discussing the division of duties between various [REDACTED] for thirty to forty-five minutes.

Despite the fact that Respondent acknowledged he did not receive complaints about Complainant's performance, the evidence supports that Respondent visited Complainant's work site more frequently than other work sites during the same time period and that he visited [REDACTED] more often when Complainant was there than he did previously. [REDACTED]

[REDACTED] indicated that she only saw Respondent on Thursdays for fifteen or twenty minutes and when [REDACTED] both noted a significant increase in Respondent's visits to [REDACTED] when Complainant took on that assignment. [REDACTED] said that she had seen Respondent and Complainant sitting and talking for as long as forty-five minutes. Whereas Complainant described Respondent visiting her at [REDACTED] three to five times a week, [REDACTED] estimated that he went to three times in six or seven weeks of covering [REDACTED].²³ In contrast, [REDACTED] indicated that there were times when Respondent did not visit them [REDACTED] for several days.

Although the context was distinct in that Respondent did not supervise [REDACTED] description of Respondent's visits to her building provided some support for Complainant's account. [REDACTED] described Respondent showing up in the back of the building [REDACTED] without notice, which she described as "creepy creepy." The conduct led her to avoid doorways where they would see each other.

[REDACTED] and Respondent both provided statements to support that Respondent visited Complainant more often than others because she was less experienced and required more support. However, that does not explain visiting Complainant more often than [REDACTED]. Respondent said that he was too busy a supervisor to engage in non-work-related chit chat. His performance evaluations support that he was an effective employee. However, his supervisor indicated that he was in the office on the computer approximately [REDACTED], which would not preclude frequent visits to Complainant's work site. And, Respondent acknowledged one meeting that involved "chit chat" about sexual favors.

Although the evidence supports that Respondent visited Complainant's work site more frequently than others and that he engaged in non-work related conversation for extended times, the evidence does not support that Respondent routinely prevented Complainant from completing work assignments. Respondent noted that Complainant at times finished her work ahead of schedule, a statement supported by Complainant's interview. Furthermore, she was not criticized for failing to complete her work.

2. Respondent commented on Complainant's appearance.

Positive comments about Complainant's appearance

With the exception of [REDACTED] no third-party witnesses described hearing Respondent comment about Complainant's physical appearance. [REDACTED]

[REDACTED] Other witnesses who were generally supportive of Complainant did not identify Respondent making comments about Complainant's appearance in their presence. Further, Complainant did not allege

[REDACTED]

that [REDACTED] or others were present when Complainant made comments about her appearance. [REDACTED]

Witnesses did provide evidence to corroborate Complainant's statement that Respondent looked at her in a way that she described as "creepy": [REDACTED] described inappropriate looks as a pattern of behavior she saw Respondent display toward [REDACTED] employees (which [REDACTED] and Complainant witnessed on one occasion). [REDACTED] (who does not know Complainant) described experiencing looks that gave her the "heebie jeebies." Witness D and Witness N both described witnessing Respondent checking out Complainant. This evidence provides limited support for Complainant's contention that Respondent commented on her appearance when others were not present. But, it was not a significant factor in my analysis given the number of witnesses who did not see Respondent look at anyone in a way that they deemed inappropriate, the difficulty of precisely conveying this pattern of behavior in an interview, and the resultant challenge with giving Respondent a fair opportunity to respond.

Despite the lack of third-party witnesses, the weight of the evidence supports that Respondent commented positively on Complainant's physical appearance. Given that no one else [REDACTED] heard the comments and that Complainant saw Respondent in groups at the beginning and end of each shift, the evidence suggests that Complainant's estimate that Respondent called her "cute girl" instead of her own name nine times out of ten is an overstatement. However, the evidence supported Complainant's statement from her notes that Respondent "said numerous times 'you're so cute,'" and asked "'why do you always look so good?'"²⁴ (Attachment E). First, I found Complainant generally credible, as discussed above. Respondent acknowledged more innocuous comments about female employees' physical appearance, including telling Complainant that the way she was dressed looked good when she was concerned and telling [REDACTED] that they looked "awesome" when he saw them dressed up to go out.

Other witnesses' statements supported instances of Respondent making inappropriate comments about female employees' physical appearance: [REDACTED] stated that Respondent made jokes about [REDACTED] weight. [REDACTED] described Respondent saying "Are you losing weight? You're looking good" on one occasion and "You look good. When you first started you were big" on another. [REDACTED] did not perceive Respondent's comments as innocent in that his overall conduct led her to ask her coworker not to leave her alone with him. [REDACTED]

[REDACTED] Respondent did not describe a conflict with either [REDACTED] that would lead them to provide false information about him.

In addition, if [REDACTED] were motivated to fabricate a story to harm Respondent, one would expect her to directly allege that Respondent made positive comments about Complainant's appearance, but she acknowledged that Respondent never made such comments to her. Likewise, [REDACTED] volunteered that Respondent's negative comments were probably a joke, so she did not overstate his intent. I found [REDACTED] credible in describing Respondent's comments about [REDACTED] appearance. [REDACTED] statement that Respondent made negative comments about [REDACTED] appearance supports the credibility of Complainant's specific allegation that Respondent told her that [REDACTED] did not like her because she was pretty and they were ugly.

²⁴ Because Complainant's notes were taken just before her complaint rather than at the time of the underlying event, I did not consider them as corroborating evidence. Likewise, many of Complainant's statements to coworkers about her experiences were of limited corroborative value because they were made near in time to the complaint rather than immediately after the relevant events themselves.

Stating that Complainant “motivated” Respondent

The evidence also supports that Respondent commented that Complainant motivated him. However, the evidence does not establish that the comment was directed towards Complainant’s appearance rather than her performance. Complainant described Respondent directly comparing her to [REDACTED] and saying that the latter “unmotivates” him whereas Complainant motivates him. Complainant perceived the comment as relating to her looks because Respondent frequently commented on her looks. However, she described the comment being made in the context of her saying that she felt she was getting the hang of the work. In addition, Respondent’s comments about [REDACTED] to many witnesses generally criticized her performance rather than her appearance. Complainant and Respondent both described Respondent making favorable comparisons between Complainant’s work at [REDACTED] and [REDACTED]. As a result, the motivation comment more likely referred to job performance than to appearance.

“Sweat” and “charger” comments

Complainant described Respondent making two distinctive statements related to her body or appearance: “I like seeing you [REDACTED] because you look so fresh from all the sweat off your face” and that the [REDACTED] the way her [REDACTED] was built into her body. Complainant was credible in describing the statements and their effect on her. She described Respondent smiling and winking and making her feel “creepy” as he commented on how she looked [REDACTED]. She also stated that she was “freaked out” after the [REDACTED] comment, which she said Respondent made when the two of them were alone in the basement at [REDACTED]. Although Respondent denied both statements, the weight of the evidence supported them. First, I found Complainant generally credible. In this instance, she provided detailed and plausible descriptions of the context behind the statements and her response to them. In addition, Respondent acknowledged that the [REDACTED] that he may have mentioned that the [REDACTED], so the alleged statement is in line with the design of the [REDACTED].

3. Respondent referred to Complainant as “girl” when texting her

It is undisputed that Respondent called Complainant “girl” in one text message, which Respondent provided and acknowledged immediately at the start of the investigation. The content of the message was that Respondent told Complainant, “I’m looking for you girl.”

4. Respondent requested to be allowed to tie Complainant’s shoe and, after being rebuffed, replied, “Come on, let me do something for you.”

Complainant stated that Respondent made the comment about the [REDACTED] earlier in the [REDACTED] as his text about looking for her, which the text messages place on April [REDACTED], 2017. (Attachment C). Complainant also alleged that Respondent was standing too close to her during the [REDACTED] and that she tripped while moving away from him, which led him to ask if he could tie her shoes. According to Complainant, when she said that she could do it herself, he said that he wanted to do something for her because it would make him feel good. Respondent denied the event as described by Complainant but said that he did tell her to watch out because she was about to trip and hurt herself when her shoelace was loose and she was on a machine.

The weight of the evidence supports Complainant’s account. In addition to the general credibility findings above, Respondent acknowledged a conversation about shoelaces. He also described a concern that Complainant would trip, which parallels the context Complainant described (where she was backing away from him and did trip). Complainant also provided a detailed account of the events [REDACTED].

5. In discussing employment at UC Davis, Respondent said to Witness B and Complainant that “It’s not who you know, it’s who you blow.”

The preponderance of the evidence substantiates that Complainant commented to [REDACTED] and Complainant that “It’s not who you know, it’s who you blow,”²⁵ in reference to performing oral sex in order to get a job at UC Davis.

Although Respondent and [REDACTED] both stated that Respondent made the comment to [REDACTED] alone, that contention is not credible. [REDACTED] suggested Complainant was not present for the comment at all, but Respondent acknowledged she was, and [REDACTED] provided no logical means for Complainant to have learned about the comment without being present. Respondent suggested that he made the comment “silently” to [REDACTED] but clearly Complainant heard the comment and [REDACTED] suggested Respondent was talking in a normal tone. Given the nature of the comment, Complainant’s contention that Respondent and [REDACTED] were laughing hysterically was more plausible. Similarly, although Respondent and [REDACTED] suggested that they were not talking about current employment practices at UC Davis, Complainant’s impression that they were is more credible given that (1) Respondent stated that he and [REDACTED] started out talking about work-related things that he does not remember, (2) neither Respondent nor [REDACTED] were able to clearly identify the context of the conversation and (3) Respondent stated that he made his comment after [REDACTED] said that not a lot of people were being hired. Although [REDACTED] denied that it was current practice, he said that Respondent told him that some people used to say that if you wanted a job at UC Davis, you needed to perform sexual favors.

6. Respondent patted Complainant’s shoulder, and on one occasion he hugged her

Complainant alleged that Respondent hugged her when he promoted her and touched her arms and shoulders on other occasions. The evidence strongly supports that Respondent would have patted Complainant on the shoulder, because he identified that as a common way that he greets people.

Although Respondent denied hugging Complainant at the time of her transition to [REDACTED] at [REDACTED], the evidence supports Complainant’s account. In addition to her general credibility, she provided a plausible account of the context in which Respondent hugged her. She acknowledged that Respondent never engaged in more explicitly sexual touching such as touching her breasts or “private areas.” [REDACTED] also corroborated the hug. Although I found his corroboration to be of limited value for the reasons described above, he did include the alleged hug in his written statement, and there was greater basis for him to be in the area at the time of the hug since Respondent had just released [REDACTED]. (See Attachment F). Although most individuals had not seen Respondent hug others, [REDACTED] (who did not support Complainant overall) said that he had seen Respondent hugging people. Respondent also stated that [REDACTED] may have hugged him because she was so friendly. [REDACTED] held a comparable position to Complainant, so the fact that Respondent was uncertain whether they hugged suggests that he does not have an absolute opposition to hugging employees.

7. Respondent invited Complainant to lunch outside of her assigned lunch break time

Although Respondent denied inviting Complainant to lunch, the evidence supports that it occurred. Complainant provided a detailed description of the context of the conversation. Other female [REDACTED] described Respondent inviting them to eat: [REDACTED] all described similar

[REDACTED]

requests from Respondent. Complainant did not know [REDACTED] stated that she did not talk to Complainant about her experience, so there would have been limited opportunity for Complainant to coordinate her account with theirs. [REDACTED] provided a text that corroborated that Respondent had asked her to bring him food on a different occasion. Although Respondent acknowledged the text string, he presented it as an affirmative offer by [REDACTED] whereas the text is clear that Respondent initiated the communication by asking [REDACTED] when she was going to treat him. (Attachment G).

8. After learning that she was already in a dating relationship, Respondent asked Complainant if she was interested in dating two men at the same time

The preponderance of the evidence supports Complainant's allegation that Respondent asked her if she was ever interested in seeing two men at once. Although Respondent denied making the comment and initially stated that he never even asked if she had a [REDACTED] he acknowledged the detailed background context that Complainant described: That she was in Respondent's office doing training, that she was working on a job application, and that she mentioned her [REDACTED] because she was sending Respondent a cover letter through her [REDACTED] account. He also indicated that [REDACTED] was present at the time. [REDACTED] corroborated the statement. Although I found the overall value of his corroboration limited as discussed above, it was more meaningful here where the event was described in his written statement and both parties said he was present at the relevant location and time. (Attachment F). Although Respondent argued that he would not have made the comment because he was a responsible supervisor previously involved in the union, the same could be said of his acknowledged statement that "it's not who you know, it's who you blow." As a result, the inadvisability of the statement does not undermine Complainant's allegation.

9. Respondent made inappropriate comments to Complainant about the appearance, behavior, and work performance of some of her co-workers

The evidence supports that Respondent made negative comments about [REDACTED] performance and [REDACTED] appearance and behavior.

[REDACTED] Performance

Respondent denied calling [REDACTED] a "bitch," commenting that she would not get a [REDACTED], or commenting on her performance to Complainant beyond saying that he could see a lot of improvement over the previous employee and that Complainant was really getting into detail. However, the investigation provided strong corroboration that Respondent made negative comments about [REDACTED] performance as Complainant alleged.

Complainant alleged that Respondent called [REDACTED] a "bitch" and variations on that language and that he said she was lazy and worthless and he was sending her to a different site because she needed to "work her ass off." Respondent provided corroboration for Complainant's allegation that he called [REDACTED] lazy: He stated that when Complainant took over [REDACTED], she commented to Respondent that [REDACTED] and he told her that the previous employee was not performing and was lazy. [REDACTED] also acknowledged that Respondent called [REDACTED] lazy.

[REDACTED] supported Respondent's statement that did not call [REDACTED] a bitch. Other employees, including [REDACTED], stated that Respondent did not call [REDACTED] a bitch to them. In contrast, [REDACTED] described Respondent calling [REDACTED] a bitch, and [REDACTED] also said that Respondent called [REDACTED] a "stupid bitch" and a bad worker. On balance, the evidence supported

Complainant's allegation. [REDACTED] initial contention that Respondent did not call [REDACTED] a bitch because he does not curse was an overstatement as reflected by Respondent's texts with Complainant (Attachment C) and [REDACTED] clarification that did not mean to say that Respondent never curses but that he does not talk "like that." Contextually, it makes sense that Respondent would have made the most negative comments about [REDACTED] to [REDACTED] because [REDACTED] appears to have been calling Respondent routinely to complain about [REDACTED] performance. Respondent described both Complainant and [REDACTED] making negative comments about the [REDACTED] under Witness G, so it likewise is logical that Respondent would have made the most frequent and strongest negative comments about [REDACTED] to the two of them. Even employees with little or no connection to [REDACTED] reported that Respondent expressed frustration to them about [REDACTED] performance.

[REDACTED] Appearance and Behavior

Complainant alleged that Respondent commented in her presence that [REDACTED], [REDACTED], and gave "happy endings." Respondent denied the allegations and stated that although he jokes around a lot it is all appropriate jokes.

The evidence does not support that Respondent's comments are "all appropriate jokes." Complainant described the conversation about [REDACTED] occurring the same night as the "It's not who you know, it's who you blow" comment, which was clearly inappropriate. At the same time, [REDACTED] and Respondent both acknowledged Respondent's "It's not who you know" comment and both denied the alleged comments about [REDACTED]. The [REDACTED] witnesses generally agreed that Respondent had not made comments to them about [REDACTED] and [REDACTED]. Similarly, [REDACTED] and [REDACTED] whose experiences were similar to Complainant's in some respects, stated that they had not heard Respondent make sexual jokes or comments. As a result, the question of whether Respondent made the latter comments is a close one. Nonetheless, the evidence narrowly supports that he did.

First, Complainant was generally credible, as described above. Her motive to fabricate the alleged comments about [REDACTED] was limited given that they are less directly relevant to her sexual harassment complaint than the comments about her. She also provided a detailed and plausible description of the comments and their context: With respect to [REDACTED] appearance, she identified Respondent commenting on the [REDACTED] in the [REDACTED] lobby and saying that [REDACTED] must feel at home there because she [REDACTED]. With respect to the "happy endings" comment, Complainant described Respondent saying, "You know she gives happy endings, right? I'm serious bro. I know for a *fact* that she gives happy endings."²⁶ The reference to "bro" is in line with [REDACTED] statement that Respondent refers to [REDACTED] as "brother." Although it is a close question, the evidence supports that Respondent made the alleged comments.

C. Policy Findings

Conduct qualifies as sexual harassment in violation of University policy when the conduct (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 the Sexual Violence and Sexual Harassment policy.

²⁶ Although there was no evidence to support that Witness K worked in a massage parlor, because Respondent understood "happy endings" to refer to sexual favors in any context, that fact did not weigh on the likelihood of Respondent's statement.

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.”

In the present case, the preponderance of the evidence supports that some, but not all, of the conduct addressed above constituted conduct of a sexual nature.

A reasonable person familiar with the totality of the circumstances (including Respondent’s conduct toward others) would not perceive the following actions as sexual in nature:

- *Respondent’s visits to [REDACTED] to train Complainant or to respond to her requests for supplies*

The text exchanges between the parties support that there were instances where Respondent visited [REDACTED] to respond to something Complainant needed. In addition, Respondent credibly described needing to provide Complainant extra training and support early on in her time at [REDACTED] because of her lack of relevant experience. [REDACTED] corroborated that Complainant needed extra guidance early on at [REDACTED] but not later. The visits that were limited to the type of training and assistance Respondent would provide to other employees he supervised were not sexual in nature.

- *Respondent’s comment that Complainant motivates him whereas Witness G “unmotivates” him*

As was discussed above, given the broad evidence that Respondent made negative comments about [REDACTED] performance, it is more likely that Respondent’s comments comparing [REDACTED] to Complainant related to their relative performance than to their physical appearance.

- *Respondent telling Complainant “I’m looking for you girl” in a text message*

Respondent acknowledged that he had used “girl” in the past and did not realize someone would get offended. [REDACTED] described Respondent referring to [REDACTED] as “brother.” Although Respondent’s use of these terms appears to be sex-based and “girl” is not a preferred way to reference female employees, the language does not appear to have been used in a sexual or romantic context in the text.

- *Respondent patting Complainant on the shoulder*

Respondent described patting people on the shoulder as a common greeting. [REDACTED] a male permanent employee corroborated that Respondent will pat people on the back as a way of saying that you have done a good job. Complainant described Respondent patting her on the shoulder after successfully getting marks off a floor. Overall, the context of the shoulder pats supports that the conduct was not sexual in nature.

- *Respondent’s negative comments to Complainant about Witness G and her performance*

Respondent used gender-based language in referring to [REDACTED] as a “bitch.” However, the thrust of his comments were related to her performance, and Respondent made negative comments about [REDACTED] performance to many employees of both genders. As a result, the evidence does not support that his comments to Complainant about [REDACTED] were sexual in nature.

In contrast, the weight of the evidence supports that, viewing the totality of the circumstances, a reasonable person would experience the following as conduct of a sexual nature:

- *Respondent's comments about Complainant's appearance and body*

Complainant reasonably perceived the positive comments about her appearance as an unwelcome sexual advance. No witnesses described Respondent making comments to male employees about their physical appearance or being cute. [REDACTED] described two instances in which Respondent made positive comments about her physical appearance in the same timeframe, and her response supports that she perceived the behavior as unwelcome sexual conduct: She speculated that Respondent stopped because he [REDACTED] and she asked not to be left alone with Respondent.

- *Respondent's comment that the charger was built into the [REDACTED] like her [REDACTED] was built into her body*

Similarly, Complainant stated that she took Respondent's comment that the charger was built into the [REDACTED] the way her [REDACTED] was built into her body "very sexually." That impression of the comment was reasonable given the language of the comment and its context. Comparing the built-in charger to Complainant's [REDACTED] being built in to her body suggests a reference to male and female genitalia. Complainant described being alone with Respondent, having him move close enough to kiss her, and backing away from him until she tripped over a box.

- *Respondent's request to tie Complainant's shoe*

The evidence supports that Respondent's request to tie Complainant's shoe happened during the same interaction as the charger comment, after Complainant tripped. Given that context, the evidence supports that the request to tie Complainant's shoe was also sexual in nature.

- *Respondent's comment that "It's not who you know, it's who you blow"*

On its face, Respondent's comment was a reference to exchanging oral sex for employment at UC Davis. The comment was inarguably sexual in nature. Although Respondent suggested that Complainant simply overheard "man's talk" between Respondent and [REDACTED] the context—in which Respondent states that he and [REDACTED] were knowingly walking with Complainant outside [REDACTED]—supports that Complainant was part of the intended audience of the comment. In the context of saying that he thought he and Respondent had been alone during the conversation, [REDACTED] stated that he does not think they would have talked like that with anyone else there, which further supports that the communication was inappropriate.

In addition, Regardless of Respondent's actual intent, Complainant reasonably perceived the comment as a sexual advance given the context. As Respondent and [REDACTED] both described, Complainant had made it clear that she wanted [REDACTED] at UC Davis. Respondent previously had asked Complainant about her interest in dating more than one person and had made positive comments about Complainant's physical appearance. Respondent's comment suggested a link between providing sexual favors and securing [REDACTED] at UC Davis.

- *Hugging Complainant*

Unlike the shoulder pats, witnesses did not describe Respondent having a pattern of hugging employees of both sexes. On the one hand, the hug was a one-time incident linked to a significant employment event. However, the surrounding context of Respondent's comments about Complainant's appearance and sexualized comments supports the conclusion that the hug was physical conduct of a sexual nature.

- *Respondent inviting Complainant to lunch*

The evidence supports that Respondent's request for Complainant to go with him to lunch was a sexual advance. Other female [REDACTED] described Respondent inviting them to eat: [REDACTED] all described similar requests from Respondent. All three described the request making them uncomfortable. [REDACTED] stated that she deleted messages in which Respondent asked her when she was going to take him out because she did not want [REDACTED]. Witness I credibly indicated that the requests to go out to eat were accompanied by Respondent making her food, stopping by her workplace unexpectedly, and inviting her out dancing. These events and [REDACTED] description of Respondent's [REDACTED] appearing at her workplace to ask what was going on between her and Respondent support that the requests were sexual advances in that case. Respondent's three [REDACTED] employees, all of them male, indicated that they had never been to lunch with Respondent.

- *Respondent asking Complainant if she was interested in dating more than one person*

Complainant reasonably believed that when Respondent asked if she was interested in dating more than one person it was a sexual advance. On its face, the question inquired into her dating plans. Contextually, it came just after Complainant told Respondent that she had a [REDACTED]

- *Respondent's frequent and extended visits to [REDACTED] that were not limited to providing training or materials.*

The evidence supports that Respondent visited Complainant more frequently than her predecessors and peers, that some of the visits included non-work related conversations, and that Complainant reasonably perceived these visits as sexual in nature.

As was discussed above, not all of Respondent's visits to [REDACTED] were strictly work related. Some of Respondent's visits to Complainant's area included inappropriate comments, including comments about Complainant's appearance, [REDACTED] appearance, Complainant's and her [REDACTED] sexual anatomy as compared to a [REDACTED], and sexual favors at UC Davis. In addition, Complainant credibly described looking up and seeing Respondent watching her and smiling when she had not expected him to be in the building. Respondent's supervisor, Witness A, agreed with Respondent that [REDACTED] required extra attention when there were issues for a week here and there, but (1) Witness A did not identify complaints during the period when Complainant worked at [REDACTED] and (2) Witness A noted that it would not need to be a daily check-in situation and she "had no idea he was walking [REDACTED] all the time."

There also was a questionable basis for Respondent to visit Complainant at [REDACTED] with [REDACTED] three times given that (1) he did not visit other job sites with [REDACTED] in the same timeframe, (2) With the prior three [REDACTED] employees, [REDACTED] and Respondent did not visit [REDACTED] together, (3) [REDACTED] only joint visit to [REDACTED] with Respondent during the spring also appears to have been to talk to Complainant, and (4) the evidence supports that at least some of the time [REDACTED] and Respondent spent with Complainant at [REDACTED] was spent talking about non-work-related topics.

Looking at the situation as a whole, including Respondent's comments about Complainant's appearance and non-work-related comments to Complainant, the weight of the evidence supports that Respondent's visits to [REDACTED] that were not strictly to provide training, comparable oversight to others, or needed materials constituted conduct of a sexual nature.

- *Respondent's comments about Complainant's coworkers that compared her appearance to theirs and tended to isolate her from them*

As was discussed above, the evidence supported that Respondent commented to Complainant that [REDACTED] did not like her because she was prettier than they were. The weight of the evidence supports that Respondent's comment tended to isolate Complainant from her peers and was sexual in nature.

First, the comment expressly referenced Complainant's physical attractiveness. In addition, Complainant credibly described an interaction the Friday before she reported her complaint to the University in which Respondent got "aggressive" with Complainant when [REDACTED] mouthed something to Complainant in the hall when she was talking to Respondent. According to Complainant, Respondent asked what [REDACTED] said to her, told Complainant that she had told Complainant not to talk to [REDACTED] and asked Complainant if she had ever told anyone the things he said to her.

Looking at the evidence as a whole, it appears that the conversation between Respondent and Complainant occurred on Friday May [REDACTED], 2017, the day after [REDACTED] notified the University that there was a sexual harassment complaint against Respondent. Respondent stated that he learned about those allegations when he arrived at work on Thursday May [REDACTED] or Friday May [REDACTED]. He also said he was angry, as other witnesses noted was reasonable given the context in which [REDACTED] reported the complaint. Respondent's [REDACTED] for the day supports Complainant's contention that Respondent expressed hostility toward [REDACTED] and suspicion toward Complainant that day. Respondent wrote a long note about looking for Complainant and being unable to find her for forty-five minutes. It was the first negative note he wrote in the report regarding Complainant's performance throughout her employment. (Attachment D). In the log entry he also described [REDACTED] and [REDACTED] "sneaking on" Respondent and Complainant while they were talking, which supports her version of events. The timing of the conversation relative to [REDACTED] meeting explains why Respondent would have asked Complainant if she told anyone what he had said, as she alleged. Notably, Complainant did not appear to realize [REDACTED] meeting had occurred involving her complaints, because she speculated in her interview that [REDACTED] may have complained.

Respondent's conduct was unwanted

The evidence supports that the above sexual conduct was unwanted. On the one hand, the tone of some of Complainant's texts to Respondent suggest a friendly, joking relationship. On April 18, 2017, she sent a text with multiple smiling emojis after Respondent sent a text about his condition after dental surgery that contained several instances of profanity. Likewise, on April [REDACTED], 2017, she sent a text joking that Respondent was late and it was "unacceptable." However, multiple witnesses described instances where they saw Complainant with Respondent and she appeared uncomfortable. Likewise, the fact that she submitted the present complaint soon after the behavior occurred supports that his conduct was unwanted. In addition, one significant incident occurred on or about April [REDACTED], 2017, and there are no texts between the parties after that date that suggest a joking relationship. Finally, Respondent was Complainant's supervisor, she was a [REDACTED], and she was hoping to secure [REDACTED] with his help. She reasonably described that relationship influencing the way that she communicated with him even when he was making her uncomfortable.

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 ... employment ... 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 toward Complainant was sufficiently severe or pervasive that it interfered with Complainant's participation in and benefit from her employment and created an environment that a reasonable person would find to be intimidating or offensive.

On the one hand, multiple employees expressed appreciation for Respondent's leadership and stated that they felt appreciated. Respondent has created positive traditions like potlucks when [REDACTED]. Respondent's closing statement correctly noted that supervising employees can be challenging and that people can be offended by conduct that was not intended as it was received. In addition, as was discussed above Complainant sent Respondent texts in which she used a casual tone and appeared to have a friendly relationship with him as recently as a couple of weeks before her complaint.

Nonetheless, the preponderance of the evidence supports that Respondent's conduct at issue here was sufficiently severe or pervasive that it impacted Complainant's work environment and created an environment that a reasonable person would experience as intimidating or offensive. Specifically, the totality of the circumstances reflect that Complainant often worked alone; that Respondent's comments about [REDACTED] and [REDACTED] served to isolate Complainant from her nearest coworkers; that because she worked [REDACTED], her encounters with Respondent often happened [REDACTED]; that some of Respondent's comments were expressly sexual; that Respondent was a supervisor and Complainant was a [REDACTED]; that one of Respondent's comments suggested opportunities for advancement based on performing sexual favors; and that Complainant raised the present complaint despite legitimate concern that it would adversely impact her opportunity for permanent employment given Respondent's past support of her.

[REDACTED] identified instances where Complainant appeared uncomfortable around Respondent. Complainant stated that at around the same time she filed her HR complaint, she saw a doctor and received anxiety medication in connection with these events. (See Attachment I). [REDACTED] request not to be left alone with Respondent²⁷ supports that Complainant was reasonable in feeling more intimidated by Respondent's conduct because much of it occurred when she was working alone. For example, Complainant emphasized the April [REDACTED] interaction related to [REDACTED], which occurred in a basement without a third person consistently present. She also credibly described Respondent coming to her work station without her realizing he was there, so that she would see him standing outside the door staring at her and smiling. She indicated that when she was working alone [REDACTED], she started getting scared to be at work because she was picturing Respondent standing at the end of a hallway watching her even when he was not present. [REDACTED] who did not know Complainant, described a similar situation, where she started avoiding working near doors because Respondent was showing up at her work site

without notice and she experienced it as “creepy.” After previously having a friendly work relationship, [REDACTED] did not talk to Respondent for several years after the interactions with him that led to her complaint.

The reporting relationship between the parties also is relevant to the totality of the circumstances here. [REDACTED] and [REDACTED] independently volunteered that although Respondent’s conduct made them uncomfortable, they felt it was more manageable because he was not their supervisor. Respondent’s request that I examine the parties’ relative track records at the University also supports that Respondent’s conduct would feel more intimidating to a [REDACTED]. Furthermore, in this case, Respondent had shown support for hiring Complainant previously, and she reasonably felt that he held her job in his hands. [REDACTED] reluctance to report Respondent’s conduct despite the fact that it made her uncomfortable further supports that the parties’ relative positions reasonably made Respondent’s conduct more intimidating. That is particularly true given Respondent’s comment suggesting that there are opportunities for advancement in the University based on sexual favors. Respondent stated that he made the comment in response to a statement by [REDACTED] that not a lot of people were being hired. Complainant knew that Respondent was aware that she wanted [REDACTED]. As a result, it was reasonable for her to view the comment as signaling an opportunity to improve her chances of being hired into a career position, even if Respondent did not intend the comment that way.

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 also create concerns about possible *quid pro quo* harassment. On the one hand, Respondent’s comment that “it’s not who you know, it’s who you blow” was made to [REDACTED] and Complainant, not to Complainant alone, and it did not expressly reference Complainant’s employment. In addition, Respondent had previously offered support for Complainant and provided support for her that was not contingent on sexual activity. He had not since indicated that he would not support her in the future without sexual activity. At the same time, the context of the comment is concerning in that Respondent made the statement in the presence of an employee that he knew wanted [REDACTED] and who understood that he had authority to make a recommendation regarding [REDACTED].

VII. CONCLUSION

For the foregoing reasons, the preponderance of the evidence substantiates that Respondent violated the sexual harassment policy in the context of his interactions with Complainant.

Respectfully submitted,



Wendy Lilliedoll
University Investigator