

Confidential Investigation Report

August 24, 2017

TO: UC Davis Title IX Compliance Officer (Wendi Delmendo)

FROM: University Investigator (Carl L. Reed II)

SUBJECT: Report of Investigation – Case No. HDAC170215

I. Introduction

The University of California (UC) is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work 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 or about May 31, 2017, you appointed me in your capacity as the Title IX Compliance Officer to investigate the above referenced allegations under the UC system-wide policy on Sexual Violence and Sexual Harassment Section II. B. 2. (Sexual Harassment).

Complainant alleges Respondent, a co-worker, engaged in the unwelcome behaviors identified below in Section II. You directed me to submit a written report to you containing facts sufficient to enable you to determine based on a preponderance of the evidence whether the allegations against Respondent are substantiated and whether the policy provision in Section IV below has been violated. The following report summarizes the scope and results of my review.

Brief Summary of How Case Came to Title IX Office:

On May 1, 2017 Complainant sent an email to her supervisor reporting a co-worker was constantly subjecting her to "inappropriate jokes" and asked her for advice. The following week, after speaking to several individuals, the supervisor arranged to meet with Complainant, the [REDACTED] Human Resources to discuss Complainant's concerns. During the meeting, Complainant revealed Respondent as the person that was subjecting her to the unwanted conduct. On May 15, 2017 the conduct was reported to the HDAPP Program Manager at UC Davis Health. On May 24, 2017 the HDAPP Program Manager at UC Davis Health forwarded the complaint to the Title IX Office. Complainant received written notice of the present investigation by electronic mail on May 31, 2017. The notice letter to Complainant is attached here as Attachment 2.

Written Notice of Charges to Respondent:

Respondent was notified of the allegations against him by electronic mail on May 31, 2017. Prior to the August 11, 2017 interview of Respondent, I notified Respondent of additional allegations that arose during the investigation and that I intended to investigate these allegations. I informed him of the substantive nature of the allegations and gave him the option to postpone the interview with me until he received the amended allegations from the Title IX Officer in writing. Respondent elected not to postpone the interview and agreed to discuss the additional allegations during the interview. Respondent was notified that the scope of the investigation was increased, to include the additional allegations, via electronic mail on August 14, 2017¹. Both notice letters to Respondent are attached here as Attachment 3.

II. Summary of Allegations and Findings

Allegation 1: That beginning in 2013² Respondent repeatedly made inappropriate remarks of a sexual nature to Complainant in violation of the University's sexual violence and sexual harassment policy, including: (*Substantiated*)

- Calling Complainant "pretty" or "gorgeous" or words to that effect, (*Substantiated*)
- Making statements about Complainant's body in a bathing suit; and (*Substantiated*)
- Suggesting that Respondent would like to watch Complainant through her home security cameras. (*Substantiated*)

Allegation 2: That Respondent engaged in sexually harassing behavior towards Complainant in violation of the University's sexual violence and sexual harassment policy, and specifically the following: (*Substantiated, in part*)

- [REDACTED] (*Not substantiated*)
- On April 19, 2017 Respondent referred to Complainant as, [REDACTED] (*Substantiated*)

[REDACTED]

- On April 19, 2017 Respondent asked Complainant for the IP address for her computer at home so he could observe her through the computer's camera. *(Substantiated)*
- On May 1, 2017 Respondent told Complainant that his [REDACTED] witnessed her husband and another man engaged in anal intercourse. *(Substantiated, in part)*
- On May 1, 2017 Respondent suggested that Complainant go to [REDACTED] so that she "can be in [her] thong bikini". *(Substantiated)*
- [REDACTED] *(Not substantiated)*
- On an unspecified date, Respondent bragged to Complainant about his [REDACTED] sexual activities in his [REDACTED] room with different women *(Substantiated)*
- [REDACTED] *(Not substantiated)*

III. Executive Summary of Findings

- *The preponderance of the evidence does support that beginning in 2013 Respondent repeatedly made inappropriate remarks of a sexual nature towards Complainant:*
 - Respondent acknowledged that he would refer to Complainant as "pretty" or "gorgeous" or words to that effect since around 2013. Most recently, he acknowledged calling Complainant "Hot [Complainant]" in April 2017. *(See Findings of Fact 2 and 7)*
 - Beginning in or around 2016, Respondent made multiple statements to Complainant and others about wanting to see Complainant in a bikini or bathing suit. Although Respondent denied or was unable to recall several specific instances, percipient witnesses to the conversations corroborated Complainant's allegations. *(See Finding of Fact 4)*
 - Respondent also suggested that he would like to watch Complainant through her home security cameras. Again, although Respondent denied or was unable to recall this specific instance, percipient witnesses to the conversation corroborated Complainant's allegation. *(See Finding of Fact 6)*

- The preponderance of the evidence does support that Respondent made numerous other inappropriate comments of a sexual nature towards Complainant as follows:
 - As stated above, in April 2017 while Respondent was alone with Complainant in her office he referred to Complainant as [REDACTED] or “[REDACTED]”. During that same conversation, Respondent also asked Complainant for her home IP address so he could watch her through her cameras at home. Respondent acknowledged both of these comments. (See Findings of Fact 7 and 8)
 - In May 2017, during another conversation while Respondent was alone with Complainant in her office, Respondent suggested she take a trip to [REDACTED] so she could wear her thong bikini. During that same conversation, he initiated and told Complainant a story about his [REDACTED] getting caught with another man who was naked and oiled up. (See Findings of Fact 9 and 10)
 - Respondent acknowledged that on an unspecified date on or around 2016 while alone with her in her office, he initiated and told Complainant an inappropriate story concerning his [REDACTED] sex life and said to her “My [REDACTED] is sitting there on the bed, and the girl said ‘so are you going to fuck me or what’ and his [REDACTED] responded to the girl ‘Yeah that is going to happen’.” (See Finding of Fact 5)
- The preponderance of the evidence does support that Respondent’s conduct towards Complainant Violated the University’s Sexual Violence and Sexual Harassment Policy.

The weight of the evidence supports that Respondent’s conduct, under the totality of the circumstances, created a hostile working environment for Complainant.

The weight of the evidence supports that Respondent’s conduct more likely than not was sufficiently “severe or pervasive” that it “adversely limit[ed]” and/or “interfere[d] with” Complainant’s participation in or benefit from her employment.

Moreover, the weight of the evidence supports that Respondent’s conduct towards Complainant has created a work environment that a reasonable person would find to be intimidating or offensive. Respondent’s decision to make sexually suggestive comments to Complainant on numerous occasions over several years, many of which he acknowledged, created an intimidating and offensive working environment. Also considered were (1) the fact that she previously attempted to unsuccessfully resolve the problem in 2013, (2) that several co-workers were either aware of Respondent’s conduct by witnessing it first hand, or were made aware of Respondent’s conduct through Complainant, and (3) that Respondent’s comments were of such a nature that they made not just Complainant feel uncomfortable, but several co-workers who overheard those comments feel uncomfortable as well. Taken as a whole, it is more likely than not that

Respondent's conduct created an environment that a reasonable person would find intimidating and offensive.

As a result of the above, and taking the totality of circumstances into consideration, I find by a preponderance of the evidence that Respondent engaged in sexual harassment towards Complainant

IV. Methodology

A. 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" as defined in the relevant policy is "[a] standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not."

B. Applicable Policy Provisions

The following policy statements and sections from *University of California's Sexual Violence and Sexual Harassment Policy* (SVSH Policy), effective 1/1/16, are applicable to this investigation:

"The University of California is committed to creating and maintaining a community free of sexual violence and sexual harassment. Sexual violence and sexual harassment violate both law³ and University policy. . . .

. . .

II B. 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

³ Although some of the behaviors addressed in the SVSH policy are prohibited by law, the present report analyzes Respondent's conduct under the University's policy and does not purport to conduct a legal analysis.

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 . . . ;
 - ii. in hierarchical relationships and between peers; and
 - iii. between individuals of any gender or gender identity. . . .”

C. Witnesses Interviewed

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

	Name/Role	Referenced Title in Report	Date Interviewed
1	UC Davis Health: [REDACTED]	Complainant	July 24, 2017 & August 11, 2017
2	UC Davis Health: [REDACTED]	Respondent	August 9, 2017
3	UC Davis Health: [REDACTED]	Witness A	July 27, 2017
4	UC Davis Health: [REDACTED]	Witness B	July 27, 2017
5	UC Davis Health: [REDACTED]	Witness C	July 31, 2017

6	UC Davis Health: [REDACTED]	Witness D	August 2, 2017
7	UC Davis Health: [REDACTED]	Witness E	July 31, 2017
8	UC Davis Health: [REDACTED]	Witness F	August 1, 2017
9	UC Davis Health: [REDACTED]	Witness G	August 1, 2017

D. Other Evidence Considered

Attachment	Description	Number of Pages
1	[REDACTED]	2
2	[REDACTED]	2
3	[REDACTED]	4
4	[REDACTED]	2
5	[REDACTED]	4
6	[REDACTED]	3

V. Summary of the Evidence

A. Complainant Interview Summary

[Initial Interview on July 24, 2017]

[REDACTED]

Complainant's and Respondent's immediate supervisor is Witness A. Respondent is a co-worker and a group "lead" for several of his co-workers. However, Respondent does not act as a "lead" for the work Complainant performs. Respondent and Complainant's job responsibilities cause them to interact on occasion because the [REDACTED] each is responsible for overlaps.

Beginning in 2013 Respondent began referring to Complainant's looks

Beginning in 2013, Respondent made unwelcome remarks and comments of a sexually suggestive nature to Complainant that made her feel uncomfortable. The Respondent's comments towards Complainant at that time were more general about how pretty she was, and Respondent repeatedly telling her how "gorgeous" she was, or words to that effect. She added that in 2013 the comments were much milder in nature. She stated "He just commented on my looks, not about bikini or thongs." She also did not like the way Respondent would stare and smile at her while at meetings.

Complainant stated that because she was relatively new to the department at that time she did not want to make a complaint against Respondent. She also stated that she could not tell if Respondent was joking around or whether he meant the comments he made to her. She stated she did not know how to take Respondent's comments towards her at that time.

However, Complainant met with Witness A and informed her that a department member was making comments to her and she requested sexual harassment training be given to the department. Complainant did not tell Witness A who it was that was making comments to her or what the specific comments were. Instead, Complainant requested Witness A to set-up a live training session for the department on sexual harassment to remind her co-workers how to act appropriately while at work. As a result [REDACTED] conducted in-person sexual harassment training for the entire department in 2013.

Complainant stated that with the sexual harassment training "the hope was that he would stop, but it continued and it got worse and worse as the years went by." Complainant also stated "I don't see him

every day, but when he sees me and we are alone, he makes comments.” Complainant stated she did not say anything to Respondent about the inappropriate comments because she was afraid of him.

In 2016 Respondent’s comments to Complainant “get worse” and are more suggestive

Complainant stated that in 2014 and 2015 Respondent’s comments stopped for a while. She stated “There were a few comments in between, but not so often and I ignored them.” However, in 2016 Complainant stated the comments “got worse” and more suggestive and eventually led to Respondent commenting on her in a bikini, thong, and underwear.

She stated she only interacted with Respondent during the weekly departmental meeting. However, Respondent would show up at her office once or twice a month and make inappropriate comments to her when he was alone with her.

Complainant described Respondent as [REDACTED]

[REDACTED] Complainant added “I don’t know if he told me this to intimidate me, harass me, or bully me. I just know that I couldn’t protect myself against him and it made me afraid.” Complainant stated that every time Respondent is around her she gets afraid. She said “I just don’t want to have to deal with that anymore.” She added that she feared reporting Respondent because she understood that it is hard to prove sexual harassment cases because Respondent’s comments often occurred while they were alone in her office.

Although Complainant was not able to recall the specific dates, she stated that over the last couple of years Respondent made several comments to her of a sexual nature that made her feel uncomfortable.

Unspecified date: Respondent talked about cameras in Complainant’s office

On one occasion while Respondent was in her office, Respondent said to her “who knows there might be a camera here in your room” and pointed to the holes and vents in her office wall. [REDACTED] She stated that it is now always in the back of her mind that there are cameras in her wall at work and that he is watching her.

Unspecified date: Respondent “bragged” about college [REDACTED] sexual activities

On a couple of other occasions she stated Respondent began to brag to her about his [REDACTED] sexual activities in college with two different women at the same time. She thought to herself “Why is he telling me this?” and ignored Respondent. She stated “He told me personally ‘look at this, these are the girls my [REDACTED] doing at the same time’” or words to that effect. She stated “on multiple occasions he would show

me pictures of the girls, just their faces, on his cell phone.” She stated Respondent would pull up his Facebook page to show her and that it made her feel uncomfortable. She stated Respondent would make sexually inappropriate comments when doing this and she thought to herself “I don’t need to know this.”

Complainant stated she has never confronted Respondent when alone with him about his comments and will always act like she is working. “I don’t understand why he tells me these things, I don’t know what to do. I don’t understand why I feel this way, I wish I was stronger but I get paralyzed.”

Complainant was able to provide several dates of Respondent’s conduct by referring to some notes she had taken around the time the events occurred.

September 9, 2016

[REDACTED]

April 19, 2017

In April 2017, Complainant recalled Respondent showed up at her office on the [REDACTED] floor of the hospital. Complainant has her own office and when Respondent came to her office he would always close the door behind him. This made Complainant feel very uncomfortable. On this particular occasion, Respondent called her “[REDACTED]” and asked her “What is your IP address for your camera at home?” According to Complainant, Respondent said that he would be able to watch her while she was at home in her bedroom. Complainant stated she ignored Respondent and kept working at her computer. Respondent “just laughed.” Complainant stated it caused her to fear that Respondent would try to look at her through her computer camera while she was at home. She also stated that this was the first and only time that he referred to her as “[REDACTED]” and that Respondent normally refers to her as “gorgeous” or words to that effect.

May 1, 2017

[REDACTED] According to Complainant, Respondent also told her that day that his [REDACTED] caught her [REDACTED] with another man having anal intercourse and stated the man’s genitals “were hard and oiled up”. She stated Respondent was laughing when he told her this. Also, Respondent told Complainant that he was going on a trip to [REDACTED] and stated “You should go there so you can be in your bikini/thong.” Complainant stated she ignored Respondent and continued to work.

Complainant stated the May 1, 2017 interaction with Respondent is the event that prompted her to finally report his conduct. She stated Respondent got very specific as to what the two men were doing sexually and acted as if it was a joke and normal to tell her the details. She stated that the story about the two men having sex combined with him previously asking for her IP address at home so he could spy on her in her bedroom was the impetus for her reporting Respondent's conduct.

Unspecified dates: Respondent's comments about her in a bikini in 2016 or 2017

Complainant stated that not all of the comments Respondent made to her were without witnesses. She stated that sometime in 2016, she and Witness C were in the [REDACTED] breakroom when Respondent made a comment about wanting to see her in a bikini. She stated then Respondent went over to Witness C and shook Witness C's hand which appeared to make Witness C uncomfortable. She stated Witness C did not say anything at that time.

On a different occasion in 2016 or 2017, Complainant stated Respondent, Witness D, and Witness E were in the [REDACTED] breakroom and Respondent again began to make comments to her about seeing her in a bikini. She believed Witness D and Witness E both overheard the comments Respondent made to her. She stated she looked over to Witness D and asked if he had heard what Respondent had said to her and Witness E instead said "Yes, because he's a pervert."

Complainant stated that over the years the repeated theme from Respondent towards her was to comment on and talk about how she looked in a thong, bikini, or underwear.

Impetus for reporting Respondent's conduct towards her

Complainant stated that after the interaction she had with Respondent on May 1, 2017 she confided in Witness B, a co-worker and member of [REDACTED]. She stated that after the story about the two men having sex and the Respondent inviting her to his house and not tell her [REDACTED] "That was it, I didn't want to hear it anymore." When she spoke to him, Witness B told her she needed to report Respondent's conduct to their supervisor. Complainant stated "I don't know if I would have reported it but for [Witness B]."

Complainant reported Respondent's conduct to her supervisor, Witness A, in May 2017. Complainant stated she reminded Witness A of the sexual harassment training she requested in 2013 and told her that the person she requested the training for had not stopped his sexual harassment of her.

When asked if she had heard of any other inappropriate conduct of a sexual nature by Respondent in the past, Complainant stated that Witness B told her that he had heard that Respondent had touched nurses on their legs in the past. Complainant also stated that Witness F, another co-worker, had told her that a long time ago she sat across from a woman that Respondent made inappropriate comments to which made her feel uncomfortable overhearing them.

Self-reported impact on working environment

When asked about what impact Respondent's conduct has had on her, Complainant stated that although Respondent has never threatened her, the sexual stories he tells her frighten her. She is afraid to be alone with Respondent. She also stated "I am afraid to go to my car. I am always looking behind my shoulder" for Respondent. Complainant stated that she recently got a peep hole installed in her office door at work because she is afraid it will be Respondent on the other side of the door when she opens it. She stated she is also worried about hidden cameras in her office and in the bathroom at work as well. She stated "I am afraid [Respondent] might do something and I cannot protect myself."

Complainant stated "I have my own office. He does not need to come to my office, and when he knocked, I would open door and he would come in for no reason and close the door." According to Complainant, Respondent works in the [REDACTED] of the hospital and there is no need for the two of them to interact in her office.

Complainant stated that in 2015, she and Respondent did have an argument over work related issues. She stated it was resolved shortly thereafter. She stated the argument was about a misunderstanding about a project. The next day they were both called into talk with their supervisor and Respondent acknowledged to them that he had not handled the situation well. Complainant said "The meeting went well and he apologized and it never happened again." She stated there were no other work related disagreements between them that she could recall.

[Follow-up Interview on August 11, 2017]

Complainant agreed that she and Respondent did interact when Respondent needed [REDACTED]

[REDACTED] She stated most of the professional interaction occurred over email and when Respondent did come to her office to speak with her it was not usually work related.

Complainant stated Respondent would come to her office and talk about family and other personal matters. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

She described her relationship with Respondent as “a co-worker”. She stated they had a normal co-worker relationship at times and would joke around with each other from time to time. She stated “I am cordial. What am I supposed to do? I was trying to make the best of it.” She added “I just didn’t know how else to handle it.” She said “The moment [Respondent] goes to underwear, bikini, or his pool, I become scared and I just want him to stop it and stay away from my office.” She added “I am normal to him otherwise.” She stated she had asked Respondent “Why do you have to go there?” She also told him “it’s not funny” when he talked about her in a bikini, thong underwear, or his pool. She stated he would reply “It was just a joke.”

Complainant was asked whether or not Respondent called her “pretty” or “gorgeous” or “Hot [Complainant]” in response to her putting herself down about her looks. Complainant replied “Absolutely not. If that is what [Respondent] said that is not true.”

Complainant was shown an email between her and Respondent discussing donuts and was asked to comment on it. She stated “He leaves donuts in my office. I would come in and he would leave a doughnut on my desk.” She stated she always told Respondent that she was on a diet, but will eat a donut from time to time. [REDACTED]

[REDACTED]. She added “I am cordial. I don’t have to be enemies with [Respondent]. I just want [the sexual comments] to stop.”

Complainant was asked whether or not it was possible that Respondent suggested to her that Witness A was watching her when he pointed to the vents and holes in her office, suggesting cameras were placed there. Complainant stated “Definitely not. That was not the context.” She stated Respondent said this to her in her office after he told her about [REDACTED]. Complainant stated that was also the day that she told Respondent that she had both indoor and outdoor cameras installed at her house.

Complainant was asked if she recalled a time when Respondent and Witness B were present at an [REDACTED] meeting at the medical center, and Witness B approached her shortly afterwards telling Complainant he had overheard Respondent make a statement to her. Complainant stated “I do recall that, but I don’t recall exactly what was said.” She added “I remember [Respondent] said something about a bathing suit.” She stated the meeting occurred in a Davis [REDACTED] conference room about three to four years ago. She said “I remember [Witness B] saying he had overheard [Respondent’s] comment to me and told me what Respondent had said was not right.” She said “We had already taken the [sexual harassment] class and it did not stop. I did not think anything was going to change.” Complainant did not recall if Respondent said anything about her “hard body” or going to Respondent’s pool at his house.

Complainant was asked about the incident that she alleged happened at the [REDACTED] breakroom with Respondent, Witness D, and Witness E present. She stated Respondent was sitting at the same table as both she and Witness D. She stated Respondent was present from the beginning and did not walk up later and join in on the conversation. She stated it definitely occurred in the breakroom on the second floor of the [REDACTED]. Complainant did recall Witness D jokingly saying to her to turn my in house camera around so that Respondent would not be able to see her.

Complainant acknowledged that she and Respondent had discussed her upcoming trip to [REDACTED] with [REDACTED], but has no recollection of them discussing bikinis during that conversation. She stated she has told him that [REDACTED], but never mentioned to him that she is not allowed to wear bikinis or that he makes her stay covered to her neck. She stated her vacation to [REDACTED] occurred in [REDACTED] and that several people she worked with were aware of it.

Complainant was asked about the context in which Respondent asked her to come over to his pool and wear her bikini. When asked if it was in the context of Respondent offering his pool to her when he and his [REDACTED] were away for the weekend, her response was "If that is what he said, that is a total lie." She added "I don't know what is going on in his brain. That is not what I heard."

Complainant was asked about a conversation she had with Respondent about his vacation to [REDACTED]. She said Respondent suggested to her that she should come [REDACTED] while he and his [REDACTED] were on vacation and she could wear a bikini then. When asked if the conversation continued after discussing her wearing a bikini, she stated "He said this about me wearing a bikini as [Respondent] was standing up on the way out and that was his last statement about that. We did not continue to talk about [REDACTED] anymore."

Complainant was asked about her prior statement concerning Respondent's [REDACTED] [REDACTED] having sex with a man. Complainant stated "[Respondent] definitely said anal sex and described the genitals as hard and oiled up. He is lying if he said otherwise." [REDACTED]

[REDACTED] Complainant responded by telling Respondent that the [REDACTED] was her friend and her favorite [REDACTED]. She stated that is when Respondent told her the story about his [REDACTED] [REDACTED] being caught with a man.

Complainant stated she had the peephole in her office door installed after filing a complaint against Respondent. She also stated that she no longer attends the weekly meetings where Respondent is present because it makes her uncomfortable. She stated Witness A gave her permission to not attend the meetings.

Complainant ended and stated "I don't want to work with him or have interaction with him. I want him to stop period. I don't want him to get in trouble or fired and I just want it to stop."

B. Respondent Interview Summary⁴

Respondent has been with the University for [REDACTED]. He oversees the [REDACTED]. One of his primary responsibilities is the [REDACTED] which he has been in charge of for the last [REDACTED]. [REDACTED] has been part of the [REDACTED] department for approximately the last [REDACTED]. Currently, Respondent's supervisor is Witness A.

Work and Relationship with Complainant

Respondent has known Complainant through work for approximately the last [REDACTED] years when she joined [REDACTED]. Complainant's and Respondent's [REDACTED] overlap and require interaction between the two of them on occasion. In addition to other overlapping, he stated he would sometimes request assistance from Complainant when a [REDACTED]. Respondent stated this would prompt him to go to her office on the [REDACTED] of the hospital on occasion. He stated they both attend a weekly meeting and interacted maybe once or twice every two weeks.

Respondent said he believed he and Complainant were friends until he learned of the complaint against him. He stated they often times had casual "two-way" conversations and she invited him into her office when he visited her there. He described the two of them discussing work, family, and other "normal conversation" that he believed was between two friends. He added "We talked about family.

Calling Complainant "pretty" or "gorgeous" or words to that effect

In response to the question about whether since 2013 he would often refer to Complainant as "pretty" or "gorgeous" and make sexual jokes in her presence, Respondent said "The jokes were later on when we became closer friends." When explaining his comments about how Complainant looked, he stated that Complainant had a habit of putting herself down. As an example, he recalled most recently where Complainant had referred to herself as being a "[REDACTED]" or saying "[REDACTED]" and Respondent said to her "No, you are more like a [REDACTED]." Respondent stated he would say these things to her to "bring her up." He added "I probably did say '[Complainant] you are pretty'. There was no intention in any way that was bad. I was a caring person and I was trying to bring

[REDACTED]

Respondent was asked if he installed cameras as a part of his job. Respondent replied “I do not install cameras, [REDACTED] I don’t install them. [REDACTED]”

September 9, 2016

April 19, 2017

Respondent was asked if on April 19, 2017 he referred to Complainant as “[REDACTED]” He replied “I did refer to her as [REDACTED]” when she was putting herself down as [REDACTED]. [REDACTED] That is correct, I did say that.”

Likewise, Respondent was asked if on April 19, 2017 he asked Complainant for her IP address on her home computer so he could watch her through her computer's cameras. He answered "That did happen, jokingly." He explained that he had just put a camera in his [REDACTED] and was showing Complainant pictures of the landscaping and said something to the effect that he was lucky to get such a [REDACTED]. Respondent stated that Complainant responded by telling him that [REDACTED]. Respondent asked Complainant why they installed cameras, and according to Respondent she replied "I guess so he could watch me while he is not there." Respondent said "That is

when I said ‘What’s the IP address?’” That was the extent of that, I was just joking because we had a joking relationship.”

May 1, 2017

Respondent was asked whether or not on May 1, 2017 he told Complainant his [REDACTED] witnessed [REDACTED] and another man engage in anal intercourse. Respondent replied “That is not true.” He explained that the story he told Complainant was about an interaction between [REDACTED] [REDACTED]. According to Respondent, when his [REDACTED] returned home her [REDACTED] was in his bedroom and when she tried to enter she saw someone go into the bathroom. His [REDACTED] then started to yell at the person in the bathroom to open the door and [REDACTED] heard a man’s voice say “Let me just get my clothes on.” [REDACTED]

[REDACTED] When asked if he ever described to Complainant the man’s genitalia being hard and oiled up, he replied “No, I said their bodies were oiled up. No one knew if this was a massage, no one knew what was going on. [REDACTED] [REDACTED] It was shocking.”

When asked if Complainant had a reaction to his story, Respondent stated she did not have any reaction. He added “There was a little bit of a laugh, like you are kidding or something like that.”

Respondent was then asked if on that same day he suggested to Complainant to go to [REDACTED] so that she can be in her thong bikini. Respondent replied “Yes, that did occur. That was another joking thing.” As background, Respondent stated the talk about a bikini arose when Complainant told him she and her [REDACTED] were going on a trip to [REDACTED] Respondent stated he then said “I bet your [REDACTED] has a little bikini for you to wear.” According to Respondent, Complainant replied [REDACTED]

[REDACTED] Respondent was asked when that conversation took place. He replied that it took place well before May 1, 2017, but could not recall exactly when it happened.

Respondent then stated “On [May 1, 2017] we were talking about going to this place in [REDACTED] that took good care of my [REDACTED] and I told her she ought to go there and ‘you can wear your bikini there’. It all stemmed from what she told me about [REDACTED]” He added “At that point, she stuck her tongue out. If she was offended by that at that time, I thought she would have said something, but instead she asked me ‘do you have pictures of the place’ and ‘what is the name of it’ and I showed her pictures of the resort. It is kind of weird that she was offended by the comment but she continued the conversation.” Respondent stated “We were always engaged in a two way conversation.”

[REDACTED]

[REDACTED]

Conversation with Complainant about [REDACTED] sexual activities

Respondent was then asked if he had bragged to Complainant about his [REDACTED] sexual activities [REDACTED]. Respondent replied "I did not brag about my [REDACTED] activities. What I said was I was shocked at how the girls were these days." He added "There were some comments that I made that probably were not appropriate." Respondent was said he was telling Complainant how surprised he was at how forward the girls were. He stated he did tell Complainant what one the girls said to his [REDACTED] and his [REDACTED] response. He said "My [REDACTED] is sitting there on the bed, and the girl said 'so are you going to fuck me or what' and his [REDACTED] responded to the girl 'Yeah that is going to happen'." Respondent said the conversation between he and Complainant likely occurred in September 2016.

Respondent stated Complainant did not react in a negative way to him telling her this story. Respondent said "I did tell her that and it may have been inappropriate, but if she had let me know that I offended her I would have told her I was sorry and stopped."

Cameras in Complainant's office

Respondent was asked if he recalled being in Complainant's office and saying to Complainant "who knows there might be a camera in your office" while pointing to small holes and vents in the room, and suggesting he was watching her. Respondent replied "I do not believe that occurred. I don't believe I said anything like that. I do remember having a conversation when I said 'you never know maybe [Witness A] is watching you.' [Witness A] is our boss and [REDACTED]

[REDACTED]

[REDACTED] breakroom with Witness C

Respondent was asked if he recalled an instance over the last couple of years when he, Complainant, and Witness C were the [REDACTED] break room and he mentioned how good Complainant's legs would look in a bikini. Respondent stated he did not recall saying that, and that he has never seen Complainant's legs. When asked if he recalled shaking Witness C's hand in the breakroom, he stated he always shakes Witness C's hand when he sees him. He added "I don't remember ever making a comment to her in the [REDACTED] breakroom at all ever. We only see each other before meetings. That is when I would see her." Respondent was asked if he recalled Complainant asking him to stop talking

about bikinis and him replying “I don’t recall her asking me to stop. I would have said ‘I am sorry’ and ‘I apologize’ and that would be the end of that.”

██████████ with Witness D and Witness E

Respondent asked if he recalled riding over to the ██████████ in the last year via the shuttle with Complainant and Witness D in the van while making comments about Complainant’s bikini. He stated “No. I don’t recall that at all.”

Respondent was then asked if he recalled being in the ██████████ break room sometime during the last year or two and suggesting to Complainant that he wanted to look through the cameras at her home and watch her in her bedroom. Respondent said “I absolutely do not. Like I said, I don’t know how to get into camera systems. As far as I know, that never happened.”

Respondent was then asked if he recalled sitting at a table in the breakroom with Complainant and Witness D and telling Complainant that she needed to turn the cameras in her bedroom outward to look at Respondent. Respondent said “I remember something at the ██████████ being said that I walked up on, in the hallway. [Complainant] said something to [Witness D], and he said “Don’t get me involved, I didn’t say anything” and “Don’t draw me into this”. Respondent stated this occurred in front of the ██████████. He added “I walked up on it and was not involved in the conversation.”

Respondent stated that when that did occur, he was having a lot of issues with other people at the ██████████ so he was left out of the group. He recalled Witness E being there, as well as a couple of other people, but stated he walked up on that conversation.

When asked, Respondent stated he had a good relationship with Witness B. He added “I have worked with him ██████████ or so. I was in the shop when [Witness B] first came in and I get along fine with him.”

When asked, Respondent stated at one point Witness E had an issue with him because Witness E believed Respondent was undermining him at work. Respondent stated “We got it all worked out and have a fantastic relationship.”

Respondent stated he also has a good relationship with Witness D. He said “I have a very good relationship with him. He is straight up, quiet, and does not say a whole lot.”

██████████ meeting with Witness B

Respondent was asked if he recalled being at a meeting at an ██████████ meeting at the hospital with Complainant and Witness B being present and saying to Complainant “Why don’t you get your hard body into a bathing suit and come over to my pool.” Respondent replied “Hell no! Absolutely not!”

Possible motivation for Complainant to lie about allegations towards him

Respondent was asked if he knew of any reason for Complainant to falsely accuse him of sexual harassment allegations. Respondent stated “I would go and sit and talk with Complainant and she vented to me about hating this department. This is where I think this is coming from.” Respondent continued “We vented about [Witness A]. She said she hated her [REDACTED] and she said she is doing everything she can to get out of this department.” He stated he talked to Complainant about retiring in two to four years and “we both have talked about getting out of here as soon as possible”. Respondent said “Our boss, I don’t feel she is truthful. There are a lot of things, but she always takes credit for what you do. We always talked about this.”

He added “The only thing I can think of is she is saying she can’t work with me. I have not done anything to offend her intentionally. I have never made a pass at her. I have never done anything”. Respondent stated Complainant was upset that Witness A would take Complainant’s work and make it her own and take credit for it. He said “The last real thing we talked about was everything about how she hated it here and would do anything she can to get out of this department. All of a sudden this came up.” Respondent stated that was the only possible motivation he could think of for Complainant to make up allegations against him.

Visiting Complainant’s office

Respondent was asked to describe his visits to Complainant’s office. He said “I would go by her office, she would pop up and say ‘hey what’s up come on in’. I would sit down and we would talk. We would vent about work. We were always joking back and forth. She would call me ‘big [REDACTED] all the time.’” Respondent described their back and forth as friendly banter and provided the investigator an email between them as an example. Respondent stated he looked for additional similar emails to provide showing the type of relationship they had, but was not able to find any more.

Respondent stated that he did close the door to her office sometimes because they were talking about [Witness A] and were worried she may walk by the door and overhear them. Respondent stated that Complainant never asked him to leave the door open when he closed it. He added that Complainant never gave him an indication that she may be afraid of him. He said “I never had a sense she was in any sense afraid of me. No way. I thought we were friends.” Respondent continued “There was no hitting on her or any of that stuff at all. I never had any sense, or did anything that gave her a reason to be afraid of me.”

Respondent was asked if he and Complainant ever argued or did not get along. He recalled one instance several years ago where they had a misunderstanding. The matter was resolved shortly thereafter and they moved forward.

Disclosure of prior accusation

Respondent was asked whether in the [REDACTED] of employment with UC Davis whether or not he had ever been accused of sexual harassment. Respondent stated approximately four years ago a manager of his made accusations against him, but he was not told who it was at the time. He said “I was shocked” upon learning who made the allegation. He recalled the day after the purported event that he had walked into her office and she had thrown a ball which hit him in the genitals. He said “Again, it was kind of a joking relationship and didn’t know it was her. They spoke to me and that was it.” Respondent denied any additional allegations being brought to his attention.⁵

Respondent acknowledged attending the in person sexual harassment training conducted for the [REDACTED] staff in early 2014.

Respondent stated that when he was first informed of the allegations he did not realize they were from Complainant. His first thought was that it was a male co-worker in which they were both joking around with each other the day before. He said when the Manager mentioned [REDACTED], he thought immediately of a co-worker whose name ended in a “[REDACTED]”. This person was also takes care of [REDACTED], so when he was told about cameras, he assumed it was the co-worker, not Complainant. He said “I was shocked.”

Respondent stated it was only later that he realized “Holy crap this is [Complainant] saying this.” He stated he later went to his Manager and told him what he had said to Complainant, and reiterating it was what he had just said during the interview.

Respondent was asked if he anything else he would like to say before ending the interview. He stated “We got to where we talked about family. You get to the point where you think your friends with someone. I never intended to offend her. I looked at this as casual conversation between two friends engaged in a conversation. I would never want to offend someone.”

C. Witness A Interview Summary

[REDACTED]

Witness A stated that around 2013 Complainant came to speak to her and stated there was some inappropriate sexual jokes going on and Complainant thought it was a good idea to have a sexual

⁵ The existence of a prior allegation was not relevant or considered in any adverse manner in this investigation. Rather, the voluntary disclosure of the allegation weighed favorably on Respondent when making a credibility determination in this case.

harassment training for the team. Complainant never mentioned to her the name of person making the inappropriate jokes and Witness A arranged to have the training for the entire team as a whole.

In May 2017, Complainant told her the harassment started again after it had gotten better for a while. Complainant sent an email to Witness A and a meeting was arranged. At the meeting was Witness A, the [REDACTED] Human Resources and Complainant.

At the meeting Complainant appeared reluctant to tell them who she was complaining about. However, she eventually did identify Respondent. According to Witness A, Complainant generally discussed the things that Respondent said to her over time. Witness A was not able to recall if Complainant told her if Respondent was the same person that had harassed her in 2013. However, she stated Complainant did bring up her previous request for sexual harassment training and Witness A understood it to mean that Respondent was the same person she had previously complained about.

When asked about Complainant's emotional state when reporting Respondent's conduct to her, Witness A stated "Absolutely she was emotional in the meeting. I had never seen her like that before. She is sensitive, but nothing like that."

Witness A stated [REDACTED] reported the complaint to Human Resources, Employee and Labor Relations, and the Sexual Harassment office. On their direction, Respondent was called in and the manager read to Respondent from a script. Witness A was at the meeting.

According to Witness A, Respondent's response at the meeting informing him of the sexual harassment complaint against him was that "He seemed very shocked, he said he was absolutely shocked and stated he did not know where the hell this was coming from and was blown away."

Witness A stated that it was not shared with Respondent at that time who made the complaint against him. A couple of weeks later Respondent found out it was Complainant. Witness A stated "The gist of the meeting was that he was shocked. The script was fairly detailed about some of things he said to [Complainant], but he seemed very shocked and acted as though he did not recall making any such statements."

Witness A was not aware of any other instances of behavior by Respondent of a sexual nature towards other employees. [REDACTED]

Witness A stated she did not know if Respondent had any prior sexual harassment type of complaints in the past. [REDACTED]

Witness A stated that she was not aware Complainant had a peephole installed in her office door. Witness A stated “She never spoke to me about that. Since the investigation I have allowed her to work over here in the [REDACTED].”

When asked whether or not she was aware of any animosity or conflict between Complainant and Respondent, Witness A stated that she was aware that Complainant had previously made a complaint about Respondent and his [REDACTED]. She added “No threats had been directed towards [Complainant].” Also, she noted one instance where Respondent snapped at Complainant and they had a conversation which seemed to clear up the situation. Witness A also noted that both Complainant and Respondent were good performers at their respective jobs, [REDACTED]

D. Witness B Interview Summary

[REDACTED]

Witness B stated he has worked with Complainant since [REDACTED] and are co-workers. They do not have a social relationship or a relationship outside of work. He described Complainant as [REDACTED]

Witness B stated that Complainant spoke to him approximately 6-8 weeks ago after they [REDACTED] meeting in her office. After he got up to leave the meeting and opened her door she asked Witness B if she could trust him with something. Witness B stated “I then shut the door, and she told me what was going on.” Witness B stated that Complainant told him that Respondent was making inappropriate statements to her. Witness B stated one of the statements was “why don’t you get your thong on and come over to my pool” or words to that effect. Complainant also told Witness B that Respondent had asked her to leave her webcam on when she was at the house. Witness B assumed this was so Respondent could watch Complainant get dressed while she was at the house. Complainant told Witness B that Respondent wanted her to leave the camera on so he could watch her.

Complainant also reminded him of the sexual harassment training they had received as a group three to four years prior and said it was because Respondent was harassing her then.

Witness B stated “I had never seen her this emotional or crying before that time. When she told me, I told her let me think about it, and I went back to my office and typed in sexual harassment on the website.” Witness B stated the website provided a lot of resources for her and a week later Witness B told her to go online and look up the places to go. Witness B stated “I was not going to intervene between her and [Respondent], and it would be best to stay out of it, but he will make it bad on her. I encouraged her

to seek out resources, she told me her [REDACTED] and told her to go to Human Resources.” Witness B stated he replied “That sounds right to me.” Witness B told her that she would need to handle the complaint herself.

When asked if he had ever witnessed any inappropriate sexual conduct, statements, or innuendo by Respondent towards Complainant, Witness B said he had. Witness B stated that he directly overheard Respondent say to Complainant “why don’t you get your hard body into a bathing suit and come over to my pool” or words to that effect, while over at the [REDACTED] during a weekly [REDACTED] meeting. Witness B said “I did not say anything to [Respondent]. It was shocking, but everyone from the [REDACTED] was in there and no one said anything.” He does not remember when the meeting occurred, but stated it was long before Complainant spoke to him about Respondent in May 2017.

Witness B stated that later that day he told Complainant “I heard him say something.” Witness B then told her what he had heard Respondent say. Complainant then confirmed to Witness B that Respondent told her to get her bathing suit on to go over to his house. Witness B stated that Complainant was upset and said to him “[REDACTED].”

When asked why he believed no one said anything to Respondent when he made the comment to Complainant, Witness B stated Respondent has talked like that for over the [REDACTED] + years that he has worked with him. Witness B explained “[Respondent] kind of intimidates people at [REDACTED] pounds.” [REDACTED]. Witness B stated that over that period of time he has known him to say these types of things to people before. [REDACTED]

Witness B stated he did not believe Respondent would physically do anything to anyone as a result of the complaint made against him. He stated “he knows a lot of people and is well connected so he could make trouble for you.”

Witness B stated that Respondent is not well respected in the [REDACTED]. He stated Respondent has good institutional knowledge because he has been around over [REDACTED], but that “he hassles everyone, especially new guys. There are a couple of people in the [REDACTED] that won’t even talk to him.”

Witness B stated that Respondent talks about his [REDACTED] girlfriends while at work. “[Respondent] has a million pictures that he shows of his [REDACTED] girlfriends. Always on Facebook saying ‘look at this one’ and these are 18-19 year old girls he is commenting on. [REDACTED]

Witness B stated that Respondent “routinely comments on their physical features in an explicit manner”. Witness B has never noticed Complainant nearby when this occurred.

When asked whether or not Respondent had a reason to go to Complainant's office Witness B stated [REDACTED] so two to three years ago they had to work together, but since then there is no reason for him to go to her office that I know of."

E. Witness C Interview Summary

When asked if he had any idea why he was contacted, Witness C replied that Complainant asked him if it was alright for the investigator to contact him about a situation that he had witnessed where Respondent had made Complainant feel very uncomfortable.

Witness C was not able to recall the date, but stated it could have been last year or even two years ago. He recalled an instance in the break room at the [REDACTED] when Complainant, Respondent, and Witness C were present. He stated "I don't recall what we were talking about then, but then [Respondent] started talking about how [Complainant] would look in a swimsuit that showed her legs. She was very uncomfortable with this. She asked him to stop and he continued to talk." Witness C described her as visibly upset by Respondent's comments. Respondent kept talking about her legs and what she would look in a swimsuit with her legs exposed. Witness C stated Respondent did not change his dialogue when Complainant asked him to stop. "He continued on the same theme more than several sentences perhaps about how she would look in a swimsuit. I don't recall the exact dialogue between them."

Witness C stated that Complainant then turned to him and asked me if he was going to say anything about Respondent started talking about her physical appearance. Witness C stated he did not reply or say anything at all. He added that then when he was done making comments to her, Respondent came over to him and shook his hand. Respondent never said he was sorry or felt bad for making her feel so uncomfortable.

Witness C stated he did not know why Respondent shook his hand before leaving. He said "When he shook my hand it threw me off guard." Witness C again reiterated that Respondent "talked about her physical appearance in a bikini, and she asked if I was going to say something and I did not say anything at that time." After Respondent shook Witness C's hand both Complainant and Respondent left to go to a meeting.

Witness C stated that he has worked with Complainant for quite some time and could tell she was uncomfortable. He described her as tense with a different voice during the interaction with Respondent. Witness C stated "She was stressed and upset." Witness C stated that later when he spoke to her about it, Complainant confirmed to him that she was upset. Complainant told Witness C later that day that she was afraid of Respondent and that he has talked this way before to her about this. Witness C stated "I told her to report it and she felt afraid that he would do something if she reported it. I don't know why she felt this way."

Witness C stated he did not say anything because "I wanted to see how it was going to play out, or what was going on. My first thought was what does she want me to do, kick him out." Witness C added that Respondent knows people, [REDACTED]

When asked, Witness C stated "I have not heard anything of a sexual nature from or about [Respondent] before, just that one time, but I don't work with him."

Witness C stated that sometimes he goes to Complainant's office and talk to her. [REDACTED] He stated he also talks to her about [REDACTED] because she is from there and he has thought about retiring there.

Witness C stated that Complainant told him that she did not want to go to the [REDACTED] at the UC Davis Health because she did not want to see Respondent. Witness C also stated that Complainant recently had a peephole installed in her office door because she did not want to answer her door if it was Respondent on the other side.

When asked if he had anything else to add, Witness C stated "I vividly remember the interaction with [Respondent] and [Complainant] and thought [Respondent] is going off the deep end and is going to get himself in trouble. I did not know how to react in that situation, because he talks all the time [REDACTED] He's intimidating and I thought, what does she want me to do?"

F. Witness D Interview Summary

[REDACTED]

In response to a question about whether or not he had any question concerning confidentiality, retaliation, or providing honest and complete answers, Witness D stated "I will do the best to be honest

and as complete as I can, but certain conversation I do not pay attention to. Unfortunately, I think I remember enough to tell you what you want. As for retaliation, you are going after the [REDACTED] man.”

When asked if he had a sense of why he was contacted for an interview, Witness D stated “The usual stuff of [Respondent] making comments to [Complainant].”

Witness D was then asked to explain what he meant by his comment. He explained that the last thing that he was aware of happening occurred a few months or so ago. On that day Complainant, Respondent, and Witness D were waiting at the [REDACTED] at the hospital to go over to the [REDACTED] for their Monday meeting. Respondent started to make inappropriate comments towards Complainant. Once on the [REDACTED] Respondent continued making the comments all the way over to the [REDACTED]. When they all arrived at the [REDACTED], the three of them went to the break room [REDACTED] to wait for the meeting. Witness D stated that in the breakroom, he sat at one of the tables with Respondent and Complainant. He recalled hearing Respondent say things to Complainant about “pictures, bathing suits, cameras, and something about her [REDACTED]” Witness D stated “I just remember thinking I can’t believe this conversation is going there.”

Witness D said “[Respondent] said something about cameras at Complainant’s house so he could watch her.” Witness D stated he told Complainant at that time “You need a camera on your bedroom window looking out.” When asked what he meant by that, Witness D stated “I said that to mean the camera would be looking out to watch for [Respondent] to catch him looking into her bedroom window.”

Witness D stated that is when Witness E started to say something at another table, like I had said something wrong and I was like “No, No, No, don’t get me involved in this. Don’t even start that with me.” Witness D stated “I knew [Respondent’s] conversation was inappropriate.” By “inappropriate” Witness D stated he meant Respondent would say things with sexual innuendo to Complainant such as she could come swim in his pool and bring her bikini. Witness D stated “He is definitely suggestive.”

Witness D did not recall Complainant saying anything to Respondent during the interaction. He said “I don’t believe it’s in her personality to tell him to stop it.” Witness D did not recall whether or not Witness E said anything to Respondent, but said it was possible. He said “I just don’t remember all of the conversation.” Witness D stated “I do remember [Respondent] was saying things that made me feel uncomfortable. I know there were inappropriate comments to [Complainant].”

Witness D added “I don’t think this was the first time he said something to her like this.” Witness D then said that during the conversation in the [REDACTED] “I don’t remember, but [Respondent] said something like [Complainant] could come out and hang out at his swimming pool in a swimsuit.”

[REDACTED] and [Complainant] is a nice lady. She is quiet. Nothing negative about her but she is not one of those people to be kidding around with.”

Witness D stated that he could tell that by the way she acted, Complainant appeared uncomfortable around Respondent at all times. He added “She just tries to get through it.”

Witness D stated he has overheard these types of comments before from Respondent towards Complainant in the past. He stated the comments were the “same type of comments, bikini. Over the last several years, nothing major, but little comments. I don’t recall them exactly, but I would not say those things to people. She is quiet, easy going, a reserved person. She’ll joke some, but it is limited.”

Witness D was asked if Respondent had reason to go to Complainant’s office. He answered “He may have reason to go to her office [REDACTED]. In general no, but they have [REDACTED], so there is an occasional reason to go up there.”

Witness D was asked if he ever witnesses Respondent show pictures of Respondent’s girlfriends to Complainant and make sexual comments. Witness D stated he had not seen that. However, he stated that Respondent did pull up his Facebook page at work and talk about [REDACTED] girlfriends at high school. Witness D stated “He would say to me and [Witness E], hey check out these girls. We both thought it was inappropriate. He is moving on with his [REDACTED] to college girls now.” Witness D stated the remarks about his [REDACTED] girlfriends were “sexually inappropriate remarks, crude remarks, explicit, guy stuff.”

[REDACTED]

Witness D recalled that Witness E told him about a conversation he had with Complainant about Respondent showing up at her office and about how uncomfortable it made her feel. Witness D stated Witness E told her leave her office door open when Respondent was there, or shut the door and don’t answer it when Respondent came to her office.

Witness D was asked why he had referred to Respondent as the “[REDACTED]” guy at the beginning of the interview. Witness D stated he had previously complained about Respondent concerning an [REDACTED] matter and nothing happened. He described Respondent as a manipulator of management. He also stated that when Respondent does not get his way about something, he will retaliate against his co-workers. Witness D stated “He manipulates every situation and harasses people. There are so many examples of

him doing that. Some of it is not wrong, but it is how he handles it. He manipulates management. It is personal, so many times for so long, always retaliating in some form or another, small stuff. He uses the rules to his advantage.” Witness D added “I’ve never kept notes on anyone in my life, but I have kept notes on [Respondent] because he is always retaliating.” He also stated “[Respondent] does it to everybody. He is a typical bully. By talking to you, I need to watch my back now.”

Witness D stated that Respondent has never shown any violence or even talked about violence in the work place.

When asked if he had anything to add before the interview ended, Witness D stated “the only thing I say is believe what you hear about him because a lot of it is true. Unfortunately, he will continue to get away with it.”

G. Witness E Interview Summary

[REDACTED]

Witness E stated that a few months ago Witness B came to him asking for advice on what to tell Complainant about her question to him about Respondent’s sexual harassing conduct towards her. Witness E advised Witness B to tell Complainant to go online and read what her options were about reporting Respondent. [REDACTED]

Witness E stated Witness B told him that when Complainant approached him with the problem she was distraught. He stated Witness B was also distraught when he asked Witness E for advice. [REDACTED]

Witness E stated Witness B informed him that the sexual harassment class that was conducted for the department a few years ago was because Complainant had gone to management. Although at the time she did not want to say who it was that was harassing her, Witness B informed Witness E it was Respondent who was harassing her at that time.

Witness E was asked if he recalled a conversation in the breakroom between Respondent and Complainant where Respondent brought up Complainant wearing a bikini. Witness E stated “It could have happened, but I don’t remember.” Witness E was asked whether he recalled calling Respondent “a pervert” at the meeting. Witness E stated “It possibly could have happened that I called him a pervert.”

Witness E stated that what he recalled was one day about a year ago Respondent was talking about security cameras and placing one outside Complainant's house. Witness E described the conversation as "background noise" stating he was in the breakroom sitting at different table than the one Witness D, Complainant and Respondent were sitting at. Witness E recalled that Witness D "did not want to be associated with the comments because there is a feeling that [Respondent] crosses the line about what he says." Witness E further recalled that the conversation entailed Respondent saying that he could install security cameras at Complainant's home and then turn the cameras to look inside her house. Witness E stated "[REDACTED]", so not sure what was brought up or how it was brought up."

When asked whether or not Respondent makes sexually explicit comments in the workplace, Witness E stated that behind closed doors the guys in the [REDACTED] joke around with people they know, but nothing too vulgar. Witness E stated "I always watch what I say around females and people I don't know."

[REDACTED]

Witness E was asked whether or not Respondent ever made sexually explicit comments at work about Respondent's [REDACTED] girlfriend when pulling up pictures on Facebook. Witness E stated "[Respondent] does pull up his [REDACTED] girlfriends on Facebook and makes comments about them. Yes sexually explicit comments on their bodies and how they look. I sort of ignore it and think it is a little strange." Witness E stated he has not seen Respondent do this at meeting or in front of Complainant.

Witness E stated Respondent is not well like among his co-workers. Witness E stated "[Respondent's] personality is that he is vindictive and malicious. He has done that in the past." He added "I am uncomfortable because [Respondent's] nature is being malicious. I am worried he is going to come and get me. I think he has a few years left and most likely [management] doesn't do anything."

H. **Witness F Interview Summary**

[REDACTED]

Witness F stated that over the last couple of years Complainant would come to her to discuss and get her advice on things that Respondent said to her that made her feel uncomfortable. Witness F stated that she was never present to witness the statements.

Witness F stated a couple of times Complainant asked her about comments that Respondent made to her about seeing her in a bathing suit. Witness F recalled another instance where Complainant told her they were in a conference room and Respondent picked up a cord and commented that that was how Complainant's bathing suit would look. Witness F recalled another time Respondent jokingly said to her that he had placed a camera in her office.

Witness F stated "I think she told me he said 'I wonder what we would be like together.'" Witness F stated that Complainant would bounce things off her. She said "I don't get offended easily, but I told [Complainant] if it made her feel uncomfortable she needs to go with her gut feeling. My advice was that she needed to say something and it has been going on long enough."

[REDACTED]

Witness F stated Complainant's approach a few years ago was to get Witness A to arrange for the group to have sexual harassment training together. Witness F stated that Complainant was concerned about retaliation. Witness F added "The final impetus for the complaint was the comment about watching her on camera. She took that comment of [Respondent's] seriously."

Complainant has told Witness F in the past that she does not even like to log into her [REDACTED], because Respondent has told her that he can find her that way. This made Complainant feel uncomfortable and sometimes she did not log into the [REDACTED] because of this.

Complainant has also told Witness F that Respondent would come to her office and she would try to make sure the door was open, but Respondent would close it. Witness F stated she believed that Respondent does have a work reason to go to Complainant's office because of the [REDACTED].

When asked whether or not Witness F had anything to add before the interview ended, she stated that there is a lot of animosity between Respondent and his co-workers. Witness F stated there is a lot of mistrust among them towards him. Witness F clarified and stated that all of the mistrust was work related where Respondent would say one thing and then do another. She said "It seems to be a general consensus. I don't have an opinion about his truthfulness, but the team seems to consider him untrustworthy. Saying something that did not necessarily happen. I personally have never had a problem."

I. Witness G Interview Summary

[REDACTED]

Witness G stated if he had overheard a comment of a sexual nature by Respondent towards Complainant he would have said something immediately. He added “I don’t talk to [Respondent] that often. I hardly ever see [Complainant]. I do not remember the instance.” Witness G further added that “I multi-task and am listening to something in my ear. I don’t even recall being in a room with them on September 9, 2016.” Witness G was asked to look at his calendar, which he did and he replied “I don’t have anything on my calendar with them concerning that day, but that does not mean it didn’t happen.”

VI. Analysis

A. Credibility Findings

1. **Complainant.** I found Complainant generally credible. On the one hand, Complainant noted that she did have difficulty remember details of many of the encounters she had with Respondent over the last several years. On the other hand, specific instances of Respondent’s inappropriate conduct towards Complainant were corroborated in part by Witness B, Witness C, Witness D and Witness E. Moreover, Complainant was reluctant to disclose Respondent’s name when she did come forward with a complaint, as noted by Witness A and Attachment 4. Just as important, Complainant’s original discomfort with Respondent began in 2013 and instead of reporting his name to management, she elected to try to alleviate her concerns through additional sexual harassment training for her department, which management supported. It was not until the May 1, 2017 interaction with Respondent that prompted her to report his conduct even though she feared Respondent and his possible retaliation towards her for reporting him. Finally, on a follow-up interview, Complainant did not agree to details provided by other witnesses when she did not recall them, even though it would have made Respondent’s conduct more egregious. This occurred at least twice. For example she did not

recall Respondent commenting on what her legs would look like in a bathing suit in one conversation, or Respondent referring to her “hard body” in another conversation.

Respondent suggested a possible motivation for Complainant making up false allegations against him was because she hated her job and wanted to leave it. Taking the above into account, and also taking into account Respondent’s own admissions concerning inappropriate conduct towards Complainant closely aligning with Complainant’s allegations, I do not find the suggested motivation for Complainant to fabricate her story plausible. Moreover, it would have required considerable foresight on her part given Witness F stated Complainant had been going to her for advice about Respondent’s inappropriate comments for years.

As a result, I find Complainant generally credible and her lack of memory for more specific details of the numerous instances that occurred over a period of years understandable and consistent with human nature.

2. **Respondent.** The reliability of Respondent’s statement was mixed. On the one hand, Respondent did acknowledge many of the instances alleged by Complainant, including some that were not witnessed by anyone other than Complainant. He also admitted to a past accusation against him for sexual harassment of which I became aware of early on in the investigation. On the other hand, he only acknowledged the allegations where no one else was present and in which he was able to place the events into a more favorable context for him. Additionally, he believed Complainant made false accusations against him and her motivation for making the complaint against him stemmed from her desire to leave her job because she hated her supervisor. However, with the exception of one allegation where he is alleged to have referred to a wire or thin piece of plastic as her “thong”, Respondent did, in part, corroborate the remaining allegations in that he admitted he raised the specific subject matter of the particular allegation to Complainant. Additionally, Respondent tended to minimize his own conduct and placed it in the context of “I was joking around” and “I thought we were friends”. He also stated he never intended to offend Complainant and would have apologized to her if he had known she was offended. While the latter can be mitigating, it does not address the veracity or accuracy of the allegations against him.

I did not find Respondent credible with respect to his denials of three separate instances where witnesses overheard him make comments towards Complainant about her looks, about her wearing a bikini, and about him making comments about watching her through her home cameras. In these instances, not only was Complainant present when these statements were made, but witnesses were also present, each of whom were to one degree or another reluctant to get involved in this investigation. In one instance, there are two additional witnesses that corroborate the general conversation occurring, as well as the subject matter of the

conversation. However, Respondent adamantly denied any of the instances occurring, and stated he did not recall speaking to Complainant in the [REDACTED] breakroom, not just on the two occasions at issue, but “ever”. Given that I do find the witnesses to these specific events generally credible, and that their statements are in direct contradiction with Respondent’s own statements, I do not give much weight to Respondent’s denials to these particular events.

3. **Witness A.** This investigation did not raise substantial concerns about Witness A’s credibility. Witness A is not a percipient witness to any of the alleged conduct, but rather both parties’ supervisor. She took a neutral position on each party and described them both as good performers at their jobs. Witness A provided background on Complainant’s 2013 request for sexual harassment training for the department after she reported being the subject of some inappropriate comments. Likewise, she provided information about the Complainant’s initial complaint in May 2017 and the process to inform Respondent.
4. **Witness B.** This investigation did not raise substantial concerns about Witness B’s credibility. Witness B is a coworker of both Complainant and Respondent and has been with UC Davis [REDACTED]. Complainant approached him and asked for his advice about Respondent a few months before the interview. Witness B stated that when she spoke to him he had decided he did not want to “intervene between her and [Respondent], and it would be best to stay out of it”. He eventually encouraged her to seek out resources after thinking about her situation for a week. Witness B told her that she would need to handle the complaint herself. Witness B appeared to take a neutral approach to the situation at hand rather than take sides.

Witness B was a percipient witness to a comment Respondent made towards Complainant in the last year or two over at the medical center during [REDACTED] meeting when he overheard Respondent say to Complainant “why don’t you get your hard body into a bathing suit and come over to my pool” or words to that effect. Witness B said he did not say anything at the time, but recalled approaching Complainant later to verify what Respondent had said to her. Complainant recalled Witness B talking to her about Respondent’s comment sometime after the meeting, but did not recall the conversation including the “hard body” comment, only the bikini comment. Witness B said he was not a witness to any other comments Respondent made towards Complainant.

When asked, Respondent stated he had a good relationship with Witness B. He added “I have worked with him [REDACTED]. I was in the [REDACTED] when [Witness B] first came in and I get along fine with him.”

As a result of the above, including observing his demeanor during the interview, and given Witness B’s initial response to her seeking his advice and his single recollection of a comment

while at a meeting that Complainant corroborated did occur, I did not have any substantial concerns about Witness B's credibility.

4. **Witness C.** This investigation did not raise substantial concerns about Witness C's credibility. Witness C does not work very often with either Respondent or Complainant and has been with UC Davis for over [REDACTED].

Witness C recalled an instance within the last two years in the break room at the [REDACTED] when Complainant, Respondent, and Witness C were present. He stated "I don't recall what we were talking about then, but then [Respondent] started talking about how [Complainant] would look in a swimsuit that showed her legs. She was very uncomfortable with this. She asked him to stop and he continued to talk." Witness C described her as visibly upset by Respondent's comments. Respondent kept talking about her legs and what she would look in a swimsuit with her legs exposed. Witness C stated Respondent did not change his dialogue when Complainant asked him to stop. "He continued on the same theme more than several sentences perhaps about how she would look in a swimsuit. I don't recall the exact dialogue between them."

Witness C stated that Complainant then turned to him and asked me if he was going to say anything about Respondent talking about her physical appearance. Witness C stated he did not reply or say anything at all. He added that then when he was done making comments to her, Respondent came over to him and shook his hand.

Complainant corroborated that the incident occurred and that she had asked him whether or not he was going to say anything. She only recalled Respondent's statement about a "bikini" and not about her legs.

Given the lapse of time between the event and the interview, Witness C's lack of detail about the exact conversation and statements is reasonable. Also given the opportunity to report additional incidents, Witness C stated "I have not heard anything of a sexual nature from or about [Respondent] before, just that one time, but I don't work with him." Therefore, it does not appear that he had any motive to fabricate or falsely state more than what he had witnessed in the breakroom.

Moreover, Witness C seemed genuinely remorseful and embarrassed about his lack of reaction to Complainant in essence asking for his help during this incident. Witness C stated "I did not know how to react in that situation, [REDACTED]. He's intimidating and I thought, what does she want me to do?"

As a result of all of the above, including observing Witness C's demeanor during the interview, I did not have any substantial concerns about Witness C's credibility.

5. **Witness D.** Witness D appeared to be a reluctant witness. The investigation did initially raise some concerns about the reliability of Witness D's statement, but ultimately the relevant facts pertaining to what he had witnessed were corroborated by two others, Complainant and Witness E. Witness D initially appeared reluctant to speak to the investigator and stated "I will do the best to be honest and as complete as I can, but certain conversation I do not pay attention to. Unfortunately, I think I remember enough to tell you what you want. As for retaliation, you are going after the [REDACTED] man." Referring to Respondent as the "[REDACTED] man" did raise concerns about Witness D's bias towards him and he explained that he had previously made a complaint against Respondent because Respondent was giving him problems about the [REDACTED]. Witness D did not believe management did anything about it in the end. Respondent stated he had a good relationship with Witness D. He said "I have a very good relationship with him. He is straight up, quiet, and does not say a whole lot." Despite this belief by Respondent, Witness D stated he now feared he was going to be subject of retaliation by Respondent for providing information for the case.

With these concerns in mind however, the incident in which Witness D overheard Respondent make a comment that he wanted to watch Complainant through the cameras at her house while in the [REDACTED] breakroom was corroborated in part by both Witness E and Complainant. Respondent denied the incident occurred in the breakroom, and offered a scenario where he walked up on the conversation in the hallway.

As a result of the above, including observing Witness D's demeanor during the interview, even though Witness D did initially raise some concerns about the potential reliability and bias of his statement, ultimately the relevant facts pertaining to what he had witnessed occur between Respondent and Complainant are credible in light of Witness E and Complainant's corroborating statements.

6. **Witness E.** Witness E appeared to be a reluctant witness. The investigation did initially raise some concerns about the reliability of Witness E's statement, but ultimately the relevant facts pertaining to what he had witnessed were corroborated by two others, Complainant and Witness D. Witness E stated he had an issue with Respondent in the past because he believed Respondent had made him look bad when he reported an issue to Human Resources. When asked, Respondent stated at one point Witness E had an issue with him because Witness E believed Respondent was undermining him at work. Respondent stated "We got it all worked out and have a fantastic relationship."

Witness E acted reluctant to provide information concerning an incident in the [REDACTED] breakroom in which both Complainant and Witness D were present. Witness E was asked if he recalled a conversation in the breakroom between Respondent and Complainant where Respondent brought up Complainant wearing a bikini. Witness E stated “It could have happened, but I don’t remember.” Witness E was asked whether he recalled calling Respondent “a pervert” at the meeting. Witness E stated “It possibly could have happened that I called him a pervert.”

Witness E stated that what he recalled was one day about a year ago Respondent was talking about security cameras and placing one outside Complainant’s house. Witness E described the conversation as “background noise” stating he was in the breakroom sitting at different table than the one Witness D, Complainant and Respondent were sitting at. Witness E recalled that Witness D “did not want to be associated with the comments because there is a feeling that [Respondent] crosses the line about what he says.” Witness E further recalled that the conversation entailed Respondent saying that he could install security cameras at Complainant’s home and then turn the cameras to look inside her house.

Although Witness E’s recollection of when the event occurred differed from Witness D’s recollection, the limited memory that Witness E did have coincided with the statements of both Complainant and Witness D. Moreover, the statement by Witness E that Witness D did not want to be associated with Respondent’s statements seems to coincide in part with the version provided by Respondent where he stated Witness D stated something similar in the hallway when he purportedly walked up on the conversation.

Witness E’s reluctance to make a statement is summarized with the following: He said “I am uncomfortable because [Respondent’s] nature is being malicious. I am worried he is going to come and get me. I think he has a [REDACTED] and most likely [management] doesn’t do anything.”

As a result of the above, including observing Witness E’s demeanor during the interview, I found Witness E credible despite my initial concerns about Witness E’s reliability due to his bias against Respondent. Witness E was reluctant to provide details, but the details he did provide about the [REDACTED] breakroom incident were corroborated by both Complainant and Witness D.

7. **Witness F.** This investigation did not raise substantial concerns about Witness F’s credibility. Witness F was not a percipient witness to any of the alleged conduct by Respondent towards Complainant. She spoke in a neutral manner and did not display any apparent bias toward either party despite being someone with whom Complainant would seek advice from over the last several years when Respondent would purportedly say something to

Complainant that offended Complainant. Having observed Witness F's demeanor during the interview, as well as the restraint of her own opinions when given opportunity to insert them, I found her statement to be credible.

8. **Witness G.** This investigation did not raise substantial concerns about Witness G's credibility. Witness G did not recall an event that allegedly occurred in September 2016. He had no recollection of being in a room alone with Complainant and Respondent and overhearing Respondent make a comment to Complainant about her thong after seeing wires or thin plastic hanging in the corner of the room. Having observed Witness G's demeanor during the interview, and watching his attempts to refresh his memory of the event he was being asked about, I found his statement and lack of recollection credible.

B. Factual Findings

The preponderance of the evidence supports each of the following findings of fact (in bold):

1. **Complainant and Respondent have worked together for approximately the last [REDACTED] years as co-workers in the [REDACTED] department at UC Davis Health.** (Agreed)⁶
2. **Respondent has repeatedly called Complainant "pretty" or "gorgeous", or words to the effect, starting in 2013.** Complainant stated Respondent began referring to how she looked as early as 2013. In response to a question to Respondent about whether since 2013 he would refer to Complainant as "pretty" or "gorgeous" and make sexual jokes in her presence, Respondent said "The jokes were later on when we became closer friends." Respondent did acknowledge referring to Complainant's appearance as "pretty" and stated he may have starting calling her that during that time. As late as April 19, 2017 he referred to Complainant as "[REDACTED] or [REDACTED]". See Factual Finding paragraph 7 below.
3. **In December 2013, Complainant requested Witness A arrange sexual harassment training as a result of Respondent's conduct towards Complainant even though Complainant did not disclose Respondent's name to Witness A at that time.** (Complainant, Witness A, Witness F and Attachment 4.) During her interview, Complainant stated the 2013 request for training was due to comments of a general nature made by Respondent towards Complainant about how pretty she was and how she looked. Witness A stated that in May 2017 when Complainant came forth to make a sexual harassment complaint against Respondent, Complainant raised the sexual harassment training she had previously requested in 2013. This led Witness A to believe that Respondent was the same person she had previously complained about years earlier. Additionally, over a period of the last couple of years, Complainant went to Witness F on numerous occasions to seek advice on how to deal

⁶ The parenthetical reflects the source or sources of the information in the preceding statement.

with Respondent's sexually suggestive comments towards Complainant. As a result, Witness F was aware Complainant had arranged previously for the group of people she worked with to attend sexual harassment training together because of Respondent's conduct. Taking the totality of these circumstances into consideration, the greater weight of the evidence is that Respondent's conduct in 2013 is what caused Complainant to seek sexual harassment training for the group at that time.

4. Over approximately the last year or two, Respondent has made repeated, unwanted, and inappropriate statements to Complainant of a sexual nature when he commented on her wearing a bikini. (Complainant, Respondent, Witness B, Witness C, and Witness D)

1. Respondent stated that he began to tease Complainant about wearing a bikini after Complainant purportedly told him her and her [REDACTED] were going on a trip [REDACTED]. Respondent stated he then said to her "I bet your [REDACTED] has a little bikini for you to wear." According to Respondent, Complainant told him [REDACTED]. Respondent stated "After that I joked with her about wearing a bikini because I knew [REDACTED]." Respondent was asked when that conversation took place. He replied that it took place sometime before May 1, 2017, but could not recall exactly when it happened. [REDACTED] so Respondent's comments would have occurred before that time. Complainant also stated Respondent's comments to her about bikinis began sometime in 2016 when Respondent's comments "got worse" and more suggestive and led to Respondent commenting on her being in a bikini, thong, or underwear.
2. Complainant requested I speak to Witness B about his knowledge concerning unwanted statements by Respondent towards her. Witness B stated that sometime prior to May 2017 he directly overheard Respondent say to Complainant "why don't you get your hard body into a bathing suit and come over to my pool" or words to that effect, while over at the hospital during a weekly [REDACTED] meeting. Witness B did not recall when the meeting occurred, but stated it was long before Complainant spoke to him about Respondent in May 2017. Complainant recalled the meeting Witness B referenced and a bikini comment by Respondent, but did not recall the reference to the "hard body". Witness B stated that he later approached Complainant to tell her that he overheard Respondent's statement and he described her as upset and reported she said to Witness B [REDACTED] Respondent denied making the comment reported by Witness B.

3. Complainant requested I speak with Witness C about the following incident. Witness C was not able to recall the date, but stated it could have been last year or even two years ago when the following incident occurred. He recalled an instance in the break room at the [REDACTED] when Complainant, Respondent, and Witness C were present. He stated “I don’t recall what we were talking about then, but then [Respondent] started talking about how [Complainant] would look in a swimsuit that showed her legs. Witness C described Complainant as very uncomfortable with the comments and asked Respondent to stop, but he continued with the comments. Complainant asked Witness C if he was going to say something to Respondent at the time, but he did not. Complainant recalled the incident with Witness C, but did not recall Respondent discussing her legs. Witness C stated “I vividly remember the interaction with [Respondent] and [Complainant] and thought [Respondent] is going off the deep end and is going to get himself in trouble. Respondent does not recall the incident and denied ever speaking to Complainant in the [REDACTED] breakroom when he stated “I don’t remember ever making a comment to her in the [REDACTED] breakroom at all ever. We only see each other before meetings. That is when I would see her.”
4. Complainant requested I speak to Witness D about the following incident. Witness D stated he had overheard Respondent make comments to Complainant over the last several years about seeing her in a bikini. According to Witness D, the most recent time he witnessed Respondent say this to her was a few months before Complainant made a sexual harassment complaint against Respondent. He recalled being over at the Cannery breakroom, with Respondent, Complainant, and Witness D sitting at a table alone. At another table was Witness E, as well as others that he did not recall. He said “I just don’t remember all of the conversation.” Witness D stated “I do remember [Respondent] was saying things that made me feel uncomfortable. I know there were inappropriate comments to [Complainant].” Witness D stated “I don’t remember, but he said something like [Complainant] could come out and hang out at his swimming pool in a swimsuit.” Witness E did corroborate a meeting in the [REDACTED] breakroom where Complainant, Respondent, and Witness D all sat at the same table. Witness E recalled inappropriate remarks by Respondent, but could not recall any specifics. Respondent denied ever being at a table with Complainant and Witness D in the [REDACTED] breakroom, and stated he does not recall ever having a conversation with Complainant in the breakroom.

As a result of the above, and taking the totality of circumstances into consideration, including Respondent’s own acknowledgement that he is the one that made an initial comment to Complainant about a “little bikini” and then “teased” her about it afterwards, as well as multiple corroborating witnesses to the multiple statements of this nature

towards Complainant over time, I find the preponderance of the evidence supports that Respondent repeatedly made unwanted and inappropriate statements of a sexual nature towards Complainant when he repeatedly commented on her wearing a bathing suit, swimsuit, or bikini over a period of years.

5. **On or about September 2016, Respondent made inappropriate and unwanted comments of a sexual nature to Complainant about his [REDACTED] sex life.** (Agreed) Respondent was asked if he had bragged to Complainant about his [REDACTED] sexual activities while at college. Respondent replied “I did not brag about my [REDACTED] activities. What I said was I was shocked at how the girls were these days.” He added “There were some comments that I made that probably were not appropriate.” Respondent said he was telling Complainant how surprised he was at how forward the girls were. He stated he did tell Complainant what one the girls said to his [REDACTED] and his [REDACTED] response. He said “My [REDACTED] is sitting there on the bed, and the girl said ‘so are you going to fuck me or what’ and his [REDACTED] responded to the girl ‘Yeah that is going to happen’.” Respondent said the conversation between he and Complainant likely occurred in September 2016. Respondent also said “I did tell her that and it may have been inappropriate, but if she had let me know that I offended her I would have told her I was sorry and stopped.”
6. **Between on or about August 2016 and May 2017, Respondent made inappropriate and unwelcome comments of a sexually suggestive nature to Complainant about wanting to arrange to watch her through her home security cameras.**

Witness D recalled being in the [REDACTED] breakroom with Complainant, Respondent and Witness E several months before the interview. He recalled sitting at one of the tables with Respondent and Complainant. He recalled hearing Respondent say things to Complainant about “pictures, bathing suits, cameras, and something about her [REDACTED]” Witness D stated “I just remember thinking I can’t believe this conversation is going there.”

Witness D said “[Respondent] said something about cameras at Complainant’s house so he could watch her.” Witness D stated he told Complainant at that time “You need a camera on your bedroom window looking out.” Witness D stated “I said that to mean the camera would be looking out to watch for [Respondent] to catch him looking into her bedroom window.”

Witness D did not recall the entire conversation and stated “I do remember [Respondent] was saying things that made me feel uncomfortable. I know there were inappropriate comments to [Complainant].”

Witness D stated that is when Witness E started to say something at another table, like I had said something wrong and I was like “No, No, No, don’t get me involved in this. Don’t even start that with me.”

Witness E was asked about the incident as described by Witness D. He stated that what he recalled was one day about a year ago Respondent was talking about security cameras and placing one outside Complainant's house. Witness E described the conversation as "background noise" stating he was in the breakroom sitting at different table than the one Witness D, Complainant and Respondent were sitting at. Witness E recalled that Witness D "did not want to be associated with the comments because there is a feeling that [Respondent] crosses the line about what he says." Witness E further recalled that the conversation entailed Respondent saying that he could install security cameras at Complainant's home and then turn the cameras to look inside her house. Witness E stated [REDACTED]

Respondent denied the conversation occurring as described by Witness D and Witness E. Respondent stated "I remember something at the [REDACTED] being said that I walked up on, in the hallway. [Complainant] said something to [Witness D], and he said "Don't get me involved, I didn't say anything" and "Don't draw me into this". Respondent stated this occurred in front of the [REDACTED]. He added "I walked up on it and was not involved in the conversation."

However, based on the facts provided by Respondent, it appears that the conversation Witness E and Witness D are describing is the same one that Respondent said he walked up on. That said, both Witness D and Witness E corroborate each other's statements that the conversation with Respondent and Complainant did involve security cameras at Complainant's home and having them turned inwards for Respondent to watch her.

As a result, the greater weight of credible evidence supports that in approximately the last year, Respondent made inappropriate and unwelcome comments of a sexually suggestive nature in the presence of Complainant about wanting to watch her through her home security cameras.

7. **On April 19, 2017, Respondent called Complainant "[REDACTED] or [REDACTED]" while the two of them were alone in her office.** (Agreed) Respondent acknowledged "I did refer to her as [REDACTED] when she was putting herself down as a [REDACTED], [REDACTED]. That is correct, I did say that."
8. **Also on April 19, 2017, while the two were alone in her office, Respondent asked for Complainant's IP address and told her it was so he could watch her while she was at home through her cameras.** (Agreed) Respondent was asked if on April 19, 2017 he asked Complainant for her IP address on her home computer so he could watch her through her computer's cameras and he answered "That did happen, jokingly." Respondent stated that after learning that day that Complainant had security cameras installed in her home

Respondent asked Complainant why her [REDACTED] had them installed and according to Respondent she replied "I guess so he could watch me while he is not there." Respondent replied "That is when I said 'What's the IP address?' That was the extent of that, I was just joking because we had a joking relationship."

Complainant stated she ignored Respondent and kept working at her computer in her office and Respondent "just laughed" when he said it. Complainant stated it caused her to fear that Respondent would try to look at her through her cameras while she was at home because she believed he had the knowledge to look through her cameras.

9. **On May 1, 2017 Respondent suggested that Complainant go to [REDACTED] so that she can wear her thong bikini.** (Agreed) Respondent acknowledged suggesting to Complainant that she should go to [REDACTED] so that she can wear her thong bikini. Respondent was asked about this statement directly and he replied "Yes, that did occur. That was another joking thing."

10. **Also, on May 1, 2017 Respondent made to Complainant unwanted and inappropriate comments of a sexually suggestive nature about his [REDACTED] and another man who was naked and oiled up in the [REDACTED] and [REDACTED] bedroom.** Respondent denied telling Complainant about another man and his [REDACTED] husband having anal intercourse and describing one of their penises being "hard" and "oiled up" as Complainant alleged. However, Respondent did recall telling Complainant a story on that day about his [REDACTED] and another man where one man was naked and oiled up. He stated the wife caught the husband with another man when she opened their bedroom door and someone entered the bathroom. He stated she initially thought it was a women, but a naked man came out of the bathroom oiled up. He denied describing their penises or saying they had anal intercourse. He said he told Complainant "their bodies were oiled up". Respondent said "No one knew if this was a massage, no one knew what was going on. My [REDACTED] thought she caught her [REDACTED] cheating with a girl and a guy came out. It was shocking."

Complainant was asked about her allegation concerning Respondent's [REDACTED] husband having anal intercourse with a man. Complainant stated "[Respondent] definitely said anal sex and described the genitals as hard and oiled up. He is lying if he said otherwise." She added that conversation started in her office when one of her managers who is [REDACTED] walked by and Respondent made what she believed was a derogatory remark about him. Complainant responded by telling Respondent that the [REDACTED] was her [REDACTED] and her [REDACTED]. She stated that is when Respondent told her the story about his [REDACTED] husband being caught with a man.

Additionally, Complainant stated the May 1, 2017 interaction with Respondent is the event that prompted her to finally report his conduct. She stated Respondent got very specific as to what the two men were doing sexually and acted as if it was a joke and normal to tell her the details. She stated that the story about the two men having sex combined with him previously asking for her IP address at home so he could spy on her in her bedroom was the impetus for her reporting Respondent's conduct.

While the stories do differ in substantive graphic details, Complainant and Respondent corroborate that Respondent did tell a story to Complainant of a sexually suggestive nature that involved a naked man in another man's bedroom, and that was oiled up. Moreover, Respondent told Complainant this story while in her office at work.

However, the preponderance of the evidence does not support making the following findings of fact (in bold):

11. [REDACTED]

As a result of the above, and without additional evidence to support it, I do not find the greater weight of evidence supports making a finding that Respondent made the alleged statement to Complainant. However, this is not to infer that the conduct did not occur, but rather that the evidence did not meet the threshold level required for such a finding.

12. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As a result of the above, and without additional evidence to support it, I do not find the greater weight of evidence supports making a finding that Respondent made the alleged statement to Complainant. However, this is not to infer that the conduct did not occur, but rather that the evidence did not meet the threshold level required for such a finding.

13. [REDACTED]
- [REDACTED]



That said, as a result of the above, and without additional evidence to support it, I do not find the greater weight of evidence supports making a finding that Respondent made these alleged statements to Complainant. However, this is not to infer that the conduct did not occur, but rather that the evidence did not meet the threshold level required for such a finding.

C. Policy Analysis

Based on the factual findings detailed above, I conclude that Respondent engaged in sexual harassment in violation of *University of California's Sexual Violence and Sexual Harassment Policy*. I analyzed the policy under its plain text meaning and not under the law of sexual harassment, the latter of which is not within my purview.

The University policy on Sexual Violence and Sexual Harassment prohibits sexual harassment. Conduct violates the sexual harassment policy when it (1) constitutes unwelcome conduct of a sexual nature and (2) was sufficiently severe or pervasive to impact the complainant's participation in or benefit from employment or other programs and services of the University and create an environment a reasonable person would find to be intimidating or offensive.

1. Did Respondent's behavior toward Complainant constitute unwelcome sexual conduct?

Answer: Yes.

Sexual harassment includes "unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature." Respondent emphasized that he did not intend any of his conduct to be taken as sexual. However, for purposes of evaluating sexual conduct under University policy, the critical question is not a respondent's internal intent. Likewise, the central issue is not whether a complainant subjectively viewed the conduct as sexual. Rather, the critical focus of the inquiry is the nature of the conduct itself: Would a reasonable person experiencing the conduct in a comparable context view it as conduct of a sexual nature? Then, if a reasonable person would view the conduct as sexual, we consider whether the conduct was subjectively unwelcome to the complainant.

Consideration is also given to the totality of the circumstances in which the conduct occurred.

In the present case, Respondent made numerous comments to his co-worker, Complainant, which a reasonable person would view as sexual in nature:

- He began to refer to Complainant as “pretty” or “gorgeous” or words to that effect, and as late as April 2017 told her he viewed her as a “Hot [Complainant]” (*See Findings of Fact 2 and 7*).
- Also over the last couple of years he made repeated and multiple comments about her wearing a bikini, both while alone with her and in front of others. It began when he learned she was going on vacation in [REDACTED] and he said to her “I bet your [REDACTED] has a little bikini for you.” Respondent acknowledged that after this, he would “joke” to her about her wearing a bikini. He also commented on how her body and legs would look in a bikini in front of others at work. (*See Finding of Fact 4*)
- On another occasion when alone with her in her office, he decided to tell Complainant about his [REDACTED] sex life. He said “My [REDACTED] is sitting there on the bed, and the girl said ‘so are you going to fuck me or what’ and his [REDACTED] responded to the girl ‘Yeah that is going to happen’.” (*See Finding of Fact 5*)
- Additionally, at a different time, in front of other co-workers Respondent suggested to Complainant that he wanted to watch her while she was at home through her home security cameras. (*See Finding of Fact 6*)
- Moreover, in April 2017, while alone with her in her office, Respondent asked for her IP address so he could watch her through her cameras at home. (*See Finding of Fact 8*)
- In May 2017, again while alone with her in her office, he suggested she go to [REDACTED] so she could wear her “bikini”. During that same conversation, Respondent tells Complainant a sexually suggestive story about his female [REDACTED] husband being caught with another man who was naked and oiled up. (*See Findings of Fact 9 and 10*)

Considering the totality of circumstances in which the conduct occurred, including but not limited to: the comments persisted over an extended period of time, the comments included subjects such as thong bikinis, naked men, his own [REDACTED] sexual activities, and the repeated suggestions that he wanted to watch her at home on her computer cameras, I find that more likely than not a reasonable person would find Respondent’s verbal statements as inappropriate conduct of a sexual nature, both direct and through innuendo, towards his female co-worker.

The preponderance of the evidence also supports that Respondent’s conduct towards Complainant was unwelcome. In addition to Complainant’s statements that Respondent’s conduct towards her was unwanted, the following supports this conclusion as well:

- In 2013, Respondent’s conduct towards her prompted Complainant to request sexual harassment training. (*See Attachment 4*)

- Witness F stated that over the last couple of years Complainant would come to her to discuss Respondent and get her advice on statements that Respondent said to her that made her feel uncomfortable.
- After overhearing Respondent's comments towards Complainant, Witness B approached Complainant and stated that Complainant was upset and said to him [REDACTED]."
- Witness C stated that when Respondent mentioned he wanted to see Complainant's legs in a bathing suit, Complainant asked Respondent to "stop" but he did not. Witness C stated that she then turned to Witness C and asked him if he was going to say anything to Respondent, but Witness C did not reply. Witness C described Complainant as visibly upset during this interaction.
- Witness D stated that Complainant was always uncomfortable around Respondent. He added "She just tries to get through it."
- Complainant told both Witness B and Witness E that Respondent's conduct made her feel uncomfortable.
- In reference to him referring to her as "pretty" or "gorgeous" Respondent stated "Only one time did she tell me to stop."

As a result of the above, I find a preponderance of the evidence supports that Respondent's behavior toward Complainant constituted unwelcome sexual conduct.

2. Was Respondent's conduct sufficiently severe or pervasive to impact the complainant's participation in or benefit from employment or other programs and services of the University and create an environment a reasonable person would find to be intimidating or offensive? Answer: Yes.

The final step of a sexual harassment inquiry under UC sexual harassment policy considers whether a respondent's conduct was sufficiently severe or pervasive that it (1) "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 (2) "creates an environment that a reasonable person would find to be intimidating or offensive." The policy explicitly asks that the University consider the totality of the circumstances under which the conduct occurred.

I do find that Respondent's conduct towards Complainant was sufficiently severe or pervasive to interfere with her participation in or benefit from her employment. In making this finding I considered the following:

- Respondent began making comments about Complainant's physical looks in 2013 and Complainant attempted to deal with these unwanted comments through training.

However, beginning in 2016 Complainant found Respondent's comments became more persistent and more offensive to her and she made a complaint.

- On multiple occasions over a period of years, others observed Respondent's conduct towards Complainant.
- Respondent's statements over a period of years included, but are not limited to, multiple comments on how Complainant looked, how she would look in a bikini, that he wanted to watch her through cameras, gratuitous stories about his [REDACTED] sex life, as well as about naked men being caught in a bedroom oiled up.
- Since filing the complaint against Respondent, she had a peephole installed in her office door so she could look out and not answer her door in case Respondent was on the other side wanting in her office.
- Witness B stated Complainant was emotional and crying when she sought advice from him on how to deal with Respondent's unwanted conduct.
- Witness C stated he was aware that Complainant feared Respondent and that she did not attend the UC Davis Health staff [REDACTED] last year because she did not want to run into Respondent.
- Witness D stated that Complainant always appeared uncomfortable around Respondent. He added "She just tries to get through it."
- Witness F stated that over the last couple of years Complainant would come to her to discuss and get her advice on things that Respondent said to her that made her feel uncomfortable.
- Witness F also stated "The final impetus for the complaint was the comment about watching her on camera. She took that comment of [Respondent's] seriously."
- Complainant stated in the past she has been fearful of going to her car and was constantly looking over her shoulder for fear of running into Respondent.
- Complainant has told Witness F in the past that she does not even like to log into her [REDACTED], because Respondent has told her that he can find her that way. This made Complainant feel uncomfortable and sometimes she did not log into [REDACTED] because of this.

Respondent's conduct towards Complainant has been going on in one form or another since 2013. Since 2016, Respondent's comments became more offensive and more sexually suggestive to Complainant. Even though Respondent described them as being friends, she described their relationship as merely co-workers. She stated she attempted for years to be cordial to Respondent, but after the comments Respondent made to her in May 2017 about him wanting to watch her through her cameras, she had enough.

Currently, Complainant remains uncomfortable at work because of Respondent's conduct. Even though they ordinarily interact only a couple of times a week at most, she is uncomfortable

working with him and having him come to her office uninvited. Respondent's conduct has been over an extended period of time and has resulted in her work experience at UC Davis Health to be negatively impacted.

As a result, I find the weight of the evidence, as stated above, supports that Respondent's conduct more likely than not was sufficiently "severe or pervasive" and that it "adversely limit[ed]" and/or "interfere[d] with" Complainant's participation in or benefit from her employment.

I also find that Respondent's conduct did create a working environment that a reasonable person would find to be intimidating or offensive. In making this determination, I considered the totality of the circumstances in which the conduct occurred, including but not limited to the following:

- On multiple occasions over a period of years, other co-workers became aware of Complainant feeling uncomfortable around Respondent because of his sexual comments towards her.
- Complainant's co-workers, Witnesses B, C, D and E stated that the comments Respondent made in their presence about Complainant, while Complainant was present, were inappropriate and also made them feel uncomfortable.
- The sexual nature of Respondent's statements over the last two years. The statements included, but are not limited to, comments on how Complainant physically looked ("Hot [Complainant]"), how she would look in a bikini, that he wanted to watch her at home through cameras, a story about his [REDACTED] sex life, as well as a story about naked men being caught in a bedroom oiled up.
- Respondent is [REDACTED]. Complainant is [REDACTED]. [REDACTED] Complainant credibly reported feeling intimidated by Respondent. Other witnesses shared they were also intimidated by him.
- Many of the comments were made to Complainant while Respondent was visiting Complainant's office with the door closed behind him, leaving the two of them alone.
- It was Respondent and not the Complainant that inserted comments of a sexual nature into their conversations.
- Respondent has a reputation among several of his co-workers as someone who will hassle his co-workers. Complainant was fearful of reporting Respondent's conduct towards her because she did not know how he would react and did not want to be retaliated against.

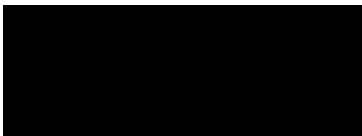
As a result of the above, and taking the totality of circumstances of Respondent's conduct into consideration, I find that Respondent's conduct towards Complainant created a work environment that a reasonable person would find to be intimidating or offensive. This is supported in part by the following: (1) the fact that Complainant previously attempted to unsuccessfully resolve the

problem in 2013, (2) that several co-workers were either aware of Respondent's conduct by witnessing it first hand, or were made aware of Respondent's conduct through Complainant, and (3) that Respondent's comments were of such a nature that they made not just Complainant feel uncomfortable, but several co-workers who overheard those comments feel uncomfortable as well. Taken as a whole, it is more likely than not that Respondent's conduct created an environment that a reasonable person would find intimidating and offensive.

VII. Conclusion

As a result of the above, and taking the totality of circumstances into consideration, I find by a preponderance of the evidence that Respondent engaged in sexual harassment towards Complainant in violation of University of California's Sexual Violence and Sexual Harassment Policy.

Respectfully submitted,



Carl L. Reed II
University Investigator
Office of the Provost and Executive Vice Chancellor