

In Strict Confidence

TO: Wendi Delmendo, Chief Compliance Officer
FROM: Wendy Lilliedoll, University Investigator
DATE: December 8, 2017
RE: HDAC170436, [REDACTED] matter

I. INTRODUCTION

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

On October 30, 2017, you appointed me to investigate an allegation of actions that, if substantiated, may violate the UC system-wide policy on Sexual Violence and Sexual Harassment (SVSH Policy). Specifically, it is alleged that Respondent, an employee, engaged in the behaviors outlined below in Section II toward Complainant, [REDACTED] student.

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

Brief Summary of How Case Came to Title IX Office:

On October 17, 2017, a [REDACTED] representative informed an official from the Harassment & Discrimination Assistance and Prevention Program (HDAPP) about alleged behavior by Respondent toward Complainant. On October 23, 2017, an HDAPP representative reached out to the Complainant via electronic mail to provide information about support resources and summarize the allegations received from the [REDACTED] representative. The Complainant replied via electronic mail on October 23, 2017 and confirmed that the summary was accurate. HDAPP informed the complainant on October 26, 2017 via electronic mail that a Title IX investigation was going to be charged. Complainant received written notice of the present investigation by electronic mail on October 30, 2017. The notice letter to Complainant is attached here [REDACTED]

Written Notice of Charges to Respondent:

Respondent was notified of the allegations against him by electronic mail on October 30, 2017. The notice letter to Respondent is attached here [REDACTED]

Summary of Investigation Structure

I interviewed each party and all witnesses in person. During the investigation, I received and reviewed copies of correspondences from Respondent to Complainant [REDACTED] video evidence and door swipe logs [REDACTED] and an [REDACTED] system record created by Complainant's Resident Advisor (RA) [REDACTED]. I reviewed and considered all information provided.

I gave each party an opportunity to review the summary of their own interview, as well as the summary of their statement regarding the [REDACTED] video. Complainant affirmed the accuracy of the summaries with no corrections. Respondent asked that I remove a reference to one of his [REDACTED] that accurately

reflected his interview statement but that he indicated did not come across as he had intended. I removed the statement as he requested.

I considered speaking to two additional colleagues of Respondent—his supervisor and the individual who was working with him the day he met Complainant. I ultimately determined that neither interview would change the outcome of my review, so I did not pursue the interviews. Neither Complainant nor Respondent described significant interactions between them the day they met. Respondent stated that he did not say anything to his colleague about Complainant. I have assumed that is true for purposes of this analysis. If he did make comments about Complainant to the coworker, it would not change my conclusions. Similarly, I would have interviewed Respondent's supervisor if Respondent indicated there was a business reason for him to be in [REDACTED], but he did not.

II. SUMMARY OF ALLEGATIONS

Complainant alleges:

- (1) Respondent left Post-It notes on Complainant's door on two occasions in October 2017
- (2) Respondent sent Complainant an unsolicited and unwanted friend request via Facebook
- (3) Respondent appeared in several locations in the [REDACTED] residence hall where Complainant lives.

III. EXECUTIVE SUMMARY OF FINDINGS

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

- (1) Respondent left Post-It notes on Complainant's door on two occasions in October 2017: **Substantiated.** Respondent acknowledged leaving the Post-Its.
- (2) Respondent sent Complainant an unsolicited and unwanted friend request via Facebook: **Substantiated.** Respondent acknowledged sending the friend request, and there was documentary evidence that Respondent contacted Complainant over Facebook. Complainant credibly described being uncertain whether the message was appropriate but ultimately accepting the request after consulting with her mother. Complainant indicated that she "un-friended" Respondent later the same day when she realized that he likely was the person who had been leaving her anonymous Post-It messages.
- (3) Respondent appeared in several locations in the [REDACTED] residence hall where Complainant lives: **Substantiated.** Video evidence and door swipe records confirm that Respondent visited Complainant's Residence Hall several times, including multiple times per day on some occasions although Respondent's work assignment was in a different building.

The weight of the evidence supports that Respondent's conduct met the definition of Stalking under University policy.

In addition, the same conduct was sufficiently severe or pervasive that it impacted Complainant's benefit from University housing services and created an environment that a reasonable person would find to be intimidating or offensive.

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

IV. INVESTIGATIVE BACKGROUND

A. **Relevant Policy Provision:** *UC Sexual Violence and Sexual Harassment policy (Effective January 1, 2016 to present)*

B. **Prohibited Conduct**

1. **Sexual Violence:**

...

d. Stalking: Repeated conduct directed at a Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress....

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: ...

ii. *Hostile Environment:* such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.

b. Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents:

i. between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients);

ii. in hierarchical relationships and between peers; and

iii. between individuals of any gender or gender identity.

B. **Witnesses**

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

Witness	Role	Interview Date
Complainant [REDACTED]	Student	[REDACTED] 2017

Respondent [REDACTED]	[REDACTED]	November 13, 2017
Witness A [REDACTED]	[REDACTED]	November 6, 2017
Witness B [REDACTED]	[REDACTED]	November 7, 2017
Witness C [REDACTED]	[REDACTED]	November 7, 2017
Witness D [REDACTED]	[REDACTED]	November 7, 2017
Witness E [REDACTED]	[REDACTED]	November 6, 2017

C. Other Evidence Considered

Attachment A: [REDACTED]

Attachment B: [REDACTED]

Attachment C: [REDACTED]

Attachment D: [REDACTED]

Attachment E: [REDACTED]

Attachment F: [REDACTED]

Attachment G: [REDACTED]

Attachment H: [REDACTED]

Attachment I: [REDACTED] map

D. Standard of Review

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

V. SUMMARY OF THE EVIDENCE

A. Interview of Complainant ([REDACTED] 2017, accompanied by CARE advocate)

[REDACTED]

[REDACTED] Complainant did not think anything was noteworthy about that first interaction. Within a day or so, Complainant was walking through the halls

and saw Respondent lofting another bed with his coworker, and she thanked them again for [REDACTED] [REDACTED]

The following [REDACTED] Complainant went to do [REDACTED]. As she was waiting with [REDACTED] [REDACTED] Respondent came in to get a drink out of the vending machine. Complainant thanked him again for lofting her bed. She was waiting for [REDACTED] and couldn't leave. Respondent started talking to her. Everything seemed fine at that moment. He was talking about things like where he had traveled. She estimates that he was talking to her for twenty or thirty minutes. He complimented her smile saying, "You have such a nice smile" or something along those lines. She looked at the clock after they had been talking for a bit, and she asked if she was keeping him. He said he got off work at [REDACTED] p.m. But, he talked to her until past [REDACTED]. Eventually, at around [REDACTED], he decided to go. As he walked out, he paused then came back in. He asked if it was okay for him to keep talking to her even though he had a [REDACTED]. Complainant did not think anything was weird at the time and said sure.

Around a week later, Complainant was leaned over locking her bike near her building. She heard, "Hey [REDACTED]," and when she looked up, it was Respondent. She said, "Oh hi." Respondent parked his cart in front of the entrance to her building and went into the dorm building where she was headed. She asked, "What are you doing today?" He said he was [REDACTED] stuff, and she responded, "Very cool." That was the end of that conversation. Complainant also saw Respondent in her dining hall. Complainant and Respondent just said hi to each other.

The last time Complainant saw Respondent, she was helping a friend [REDACTED] [REDACTED]. Later that day or the next day, she received a Facebook friend request from Respondent. Complainant was confused by the October 12, 2017 friend request because she did not tell Respondent her last name and did not know how he found her. She did not accept the request until she talked to her mom the next day. She and her mom decided that maybe Respondent just connects with lots of students on Facebook and it was not a big deal, so she accepted the request.

Sometime after meeting Respondent and before receiving the Facebook request, someone left a Post-It note on Complainant's door telling her to have an awesome weekend. [REDACTED] [REDACTED]. She did not know who it was and initially just thought it was a nice gesture. A friend left a second Post-It note as a joke, and Complainant wrote "Who are you??" on the bottom of that note. [REDACTED] [REDACTED]

On October 13, 2017 Complainant's mom dropped her off back at the dorms at around 4:00 p.m. When Complainant got back to her room, she found third Post-It note on her door that said "Have a great weekend [REDACTED]. FB?" When she saw FB on the door, she thought Respondent likely had written that note and the first one. She asked one of her neighbors if she had seen anyone walking on the floor, and the neighbor said she had seen a [REDACTED] worker walking with a [REDACTED].

After realizing that Respondent had been on her floor and leaving notes for her, Complainant unaccepted his Facebook request. She started looking back on their interactions and realizing that some of the things had been "a little weird." Most of their interactions were brief. In the [REDACTED] though, Complainant was just talking to Respondent because she needed to wait for her [REDACTED]. As she looked back on it, his smile compliment and comment about his [REDACTED] were a little weird. He also had not mentioned his [REDACTED] until she asked what took him to [REDACTED]. He paused and then said his [REDACTED]. Complainant had been surprised Respondent had seen her when she was locking her bike because she was bent over and was not in plain sight, but it did not seem more than a little weird. Likewise, he seemed "a

little too enthusiastic” when he saw her while she was helping her friend on the stairs. But, nothing concerned her until she realized that he had been coming up to her [REDACTED] floor to leave her messages. Then she got “really uncomfortable.”

In response to a question about whether she found any of Respondent’s actions intimidating or offensive, Complainant said, “No.” However, she then said that she had been crying after learning that he wrote the Post-Its. She said that “definitely freaked [her] out a little bit.” She knew that he had access to her room or could get it because he was in a [REDACTED] role. She also “freaked out” after talking to her parents because they were worried too. As a result, she “broke down” for a few minutes.

B. Interview of Respondent (November 13, 2017, in person)

[REDACTED]

On move-in weekend (September 23, 2017), Respondent’s role was to respond to work orders that would come in. He and a work partner¹ would change the [REDACTED] at students’ requests. Complainant was one of the students whose room they rearranged. Respondent and Complainant had small conversations and she seemed like a nice person, but nothing stood out about her, and Respondent does not remember what they talked about that day. Respondent did not say anything about Complainant to the person he was working with that day.

Complainant’s room was in [REDACTED]. The [REDACTED] in that building on the first floor. In response to a question about his work assignments since move-in weekend, Respondent said that he has been working in [REDACTED]. He and Witness B also have done

[REDACTED]

Respondent and Witness B normally were joined at the hip. At the end of the day, Witness B liked to wait until the last minute to go [REDACTED], and Respondent liked to leave earlier [REDACTED]. Otherwise, they were together.

Respondent saw Complainant approximately a couple of weeks after he lofted her bed. He was [REDACTED] and she saw him and said, “Oh hey, you stacked my bed.” She said her name, and Respondent said that was his [REDACTED] name and pulled up the leg of his pants to show her his tattoo. She asked if he had ever traveled, and he said that he went to [REDACTED] who is from [REDACTED].

[REDACTED] That was it.

Then, maybe a couple of weeks later she yelled out something to him, like a question or something. Respondent thinks she asked what time he got off work. Then she wandered off. Another time she said, “Hey, [REDACTED] Both of those times were in the common area by the elevator. The only other time

[REDACTED]

Respondent saw Complainant was when he was [REDACTED] and she saw him and said hi. Respondent thinks Witness B was there each time he ran into Complainant after the [REDACTED]. Each encounter was just quick. Respondent was on the go, and he thinks Complainant was too, although she made an effort to stop and say hi.

In response to a question about how many times he went to [REDACTED] during the period from move-in weekend through being placed on leave, Respondent said, "a couple of times." During the summer when the students were gone, they had [REDACTED]. Respondent has a particular place where he parks his buggy so it is out of the way. There is a door into the [REDACTED] shop from outside so that you can go in without going through the building. Often, that door sticks, so Respondent would go around. [REDACTED].

[REDACTED]. In response to a clarifying question about his visits to [REDACTED], Respondent said he thought he only went to the building a couple of times total after move-in weekend, but he honestly doesn't know.

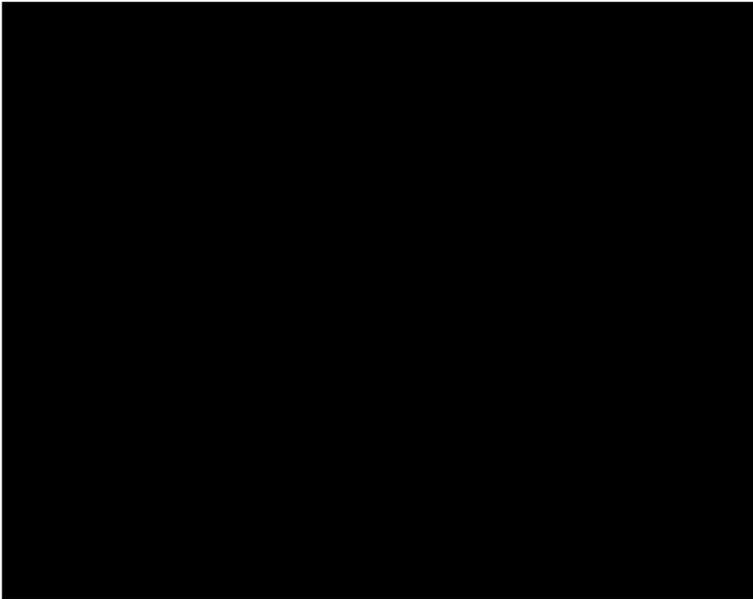
Usually when Respondent went to [REDACTED] he was with Witness B. Witness B was not there, though, when Respondent left Post-Its on Complainant's door. That was at the end of the day on a Friday. A couple of days earlier Complainant had said "hey" to him, and Respondent decided to leave her a note telling her to have a good weekend. The next week, Respondent went back and saw that Complainant had put up a note responding and saying something like, "Next time knock on the door."

That Friday, Respondent went on the internet and typed "[REDACTED], UC Davis." Her name popped up, and Respondent decided to send her a Facebook request. When he got home, he saw that she had accepted his Facebook request. That was the extent of that.

Complainant lives on the [REDACTED]. Respondent just left her the notes as a friendly gesture. He never told any of his coworkers that he was going to [REDACTED] to talk to a girl. He just said he was heading back to [REDACTED]. He waited until Friday to leave her a second note.

I showed Respondent [REDACTED] a copy of the Post-It notes. He confirmed that he wrote the first and last note. The second one was written by Complainant or her roommate. Respondent doesn't know who wrote that one.

[REDACTED]



Respondent knew that Complainant was a [REDACTED] because he is a [REDACTED] and he saw her birthday on Facebook. Respondent added that he thinks about those kinds of things because he has [REDACTED] and is [REDACTED]. He is around girls all the time, but not in the way people think. Not in a sexual way.

When Respondent came to work the Monday after the Facebook exchange, he didn't even have coffee before he was told that the locks were changed, and he was asked to give up his keys and his phone. He was not even thinking of "hooking up with anyone" or "doing anything crazy." But, he got called into a meeting and told he was in trouble. During the meeting with his supervisors, they said it was brought to their attention that he had reached out to a student, and Respondent said he knew what they were talking about. He had only reached out to one student and it was the prior Friday. Witness E, Respondent's supervisor, his supervisor's supervisor, and a Student Housing director were in the meeting. They asked, "How would you feel if it were your daughter?" Respondent said, "I'd be pissed."² The meeting made Respondent feel like a predator and a sicko. But, he was just friendly. It was not like he wanted to hook up. [REDACTED].

In response to a question about whether there was any romantic or sexual attraction behind his actions, Respondent said no. If he brought in pictures of his exes, they would show that Complainant is not his type. [REDACTED]. [REDACTED]. She said, "Oh, [Respondent], you idiot. Why did you want to be friends with anyone at the school? Just go to work." Respondent was just looking to be friends, but it was a mistake. Respondent also thought that some of the students might be able to help him [REDACTED]. [REDACTED].

In response to questions, Respondent stated that he did not leave notes for any male students and did not send Facebook requests to any students except Complainant. Most of his conversations with students are just a couple of minutes long—just enough so that they feel comfortable having him around while he is



working in the dorm areas. He was in property management for [REDACTED] and had keys to people's homes and never had problems like this.

Respondent added that he built relationships with the student helpers and they liked him. This situation is killing a lot of Respondent's personality, but he is friendly. He was not Facebook friends with the student helpers. He thinks younger people tend to do Snapchat and stuff like that. He added that his [REDACTED] can see his posts on Facebook. It's also not like Respondent portrayed himself as [REDACTED] on Facebook.

When he talked to Complainant, Respondent was very up front about having a [REDACTED] [REDACTED]. That is all he talked about in the [REDACTED] was his [REDACTED]. In response to a question, Respondent initially said he never asked Complainant if it was okay for him to talk to her given that he was [REDACTED].³

No one ever confronted Respondent about checking out anyone who was living in or visiting the dorms. He does not believe he worked in any dorms that housed [REDACTED] participants. He worked at [REDACTED] during the summer. He did a couple of [REDACTED] in dorms, but there was no one there but RAs and [REDACTED] staff. My mentioning it reminded him that there were [REDACTED] in the quad area. But, there were not situations where anyone accused him of checking out any of them or where he told any coworkers that something like that had happened. His coworkers have not suggested that he should talk to his supervisor about anything that happened related to a girl.

In closing, Respondent noted that he wondered why Complainant would ask him questions or say "hey" if she felt he was stalking her or engaging in sexual harassment. Why did she accept his Facebook request? None of the language he used in [REDACTED] and [REDACTED] is threatening or romantic. He showed it to his [REDACTED]

[REDACTED]
[REDACTED]. He understands that the fact Complainant lives where he works changes the dynamics, and he understands where his supervisors are coming from. But, he does not think he should lose his job for this. There will never be another incident of any sort. This has been extremely stressful [REDACTED]. Everyone talks about his positive personality at work, and his goal is to leave a trail of smiles. He just wants to go back to work.

C. Interview of Witness A (November 6, 2017, in person)

Witness A reviewed the [REDACTED] report [REDACTED] and confirmed that she had prepared it and that it was accurate and complete.

Witness A had not seen Respondent on the floor herself. She noted that she is at the end of the hallway. Complainant came to talk to Witness A when Witness A was setting up a program. Complainant showed Witness A the sticky notes and Witness A took a photo of them and put the incident into the [REDACTED] system. Witness A saw Complainant when she had already been crying and upset. [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Witness A checked on Complainant every day for a week and every two or three days since. Complainant was worried about Respondent having access to her room. Once Complainant knew that his cards had been deactivated and that he could not show up at her dorm, she seemed completely relieved.

D. Interview of Witness B (November 7, 2017, in person)

Witness B has been a [REDACTED]. He has worked with Respondent for almost [REDACTED]. They are assigned to a lot of jobs together and typically work in the same area. They each have their own [REDACTED], although they often leave one behind and ride together.

Witness B did not work during move-in weekend. All that Respondent said about the weekend was that he enjoyed it but it was a lot of work. He mentioned one student who had the same name as his [REDACTED] but that was all he said about her. He said she noticed the tattoo on his [REDACTED] that had his [REDACTED]. He did not say anything about her physical appearance.

Respondent must have met Complainant at [REDACTED] because Respondent said, "Hi, [Complainant]" at one point around a couple of weeks after opening week. They probably were getting materials from a storeroom in [REDACTED] at the time. Most of the work Respondent and Witness B have been doing is in [REDACTED].

Respondent and Witness B go together to [REDACTED] for the most part, although Respondent usually [REDACTED]. There probably were times when Respondent went to [REDACTED] and Witness B went to [REDACTED] but Witness B does not know anything about why. Unless Respondent went to [REDACTED] to [REDACTED], Witness B would not know what he was doing. Respondent did not say anything about checking on a girl or anything similar. All he ever told Witness B is that he met someone with Complainant's name. He never said anything about going to see her. That would be extremely inappropriate in Witness B's mind because they are supposed to be there as a service and to protect the students, not looking for girlfriends.

For the most part when Witness B and Respondent went to [REDACTED] it was to use the storage area, but there also was an empty office next to the storage area where they sometimes took breaks. After the facts here they were asked not to take breaks there. But that never came up before.

In response to a question about whether Witness B saw Respondent interacting with a female student in [REDACTED], Witness B said that Respondent was an outgoing guy. He would say hello and good morning to people, but nothing stood out.

Witness B heard a little from Witness C and Witness D about a supposed incident from the summer where Respondent was supposedly checking out a girl and got caught looking. Witness B thinks "everybody tends to look a little," and he did not notice Respondent doing it more than anyone else. Now, Witness B tries to turn a blind eye because it is good not to check people out. In response to a question about whether there was any difference between Respondent's conduct when he would check people out and others' conduct when they would check someone out, Witness B said Respondent "got a little carried away" and was "a little too intent on getting a look." If someone caught his eye a bit he would go out of his way, not to follow her, but to follow her with his eyes more or less. Occasionally, he actually would follow the person a short distance or would go up and start chatting with her. Witness B did not see any

interactions between Respondent and Complainant in particular, though. Likewise, Respondent would occasionally comment about a student, “She’s hot” or that kind of stuff, but Respondent never made a statement like that about Complainant to Witness B. Other than the first time he mentioned her name, Respondent never talked about Complainant again.

In response to a question about what was upstairs in [REDACTED], Witness B said that if there was no work order, they had no business going upstairs. With all his coworkers, there would be times when Witness B would not be sure where they went. Sometimes Respondent would tell Witness B where he was going if he was going to be gone for a long time, but there were times Respondent would take off and Witness B did not know where he was. The same would be true of any coworkers. Witness B does not think he had a sense that Respondent was going to [REDACTED].

In response to a question about whether there was anything else I should know, Witness B said that Respondent is just a very outgoing person. He can be very flirtatious sometimes and may go over the top with saying good morning and asking students if school is going okay, that sort of thing.

E. Interview of Witness C (November 7, 2017, in person)

Witness C is a [REDACTED]. He has known Respondent for approximately [REDACTED]. Initially the two of them had a strictly professional relationship but they became friends. They talked about things like fantasy football, prior work, and [REDACTED]. Witness C thought Respondent was a good guy. He was nice and likeable.

In response to a question about whether his impressions of Respondent ever changed, Witness C said that they never had any conflicts. But, around the time that they started to get more comfortable around each other, Witness C started seeing some things that he did not think were cool. Nothing Respondent did was ever crazy enough that Witness C felt he needed to say something. But Witness C had a negative response to some of the behaviors he saw from Respondent.

There also came a time where Witness C heard something from Respondent that concerned him. Witness C did not see anything himself, but about a month before Respondent got walked out of work, Respondent said something about a student telling another student that Respondent was looking at her. Witness C does not remember the exact details, but it was something like that Respondent was [REDACTED] something low to the ground, a girl in a skirt walked by, and a second student told the girl, “Hey this guy’s looking at your butt.” Witness C didn’t see anything himself, but he was worried about what Respondent told them and told Respondent he should tell their supervisor. Respondent laughed it off, and Witness D told Witness C that they hadn’t seen anything, and maybe Respondent had just made up the story. But, Witness C was concerned that something seemed wrong and that Respondent might do something to “shoot himself in the foot,” so Witness C told their supervisor.

With respect to whether he saw anything personally that concerned him, Witness C noted that he thinks men have a natural response to seeing a beautiful woman, which he described as a short glance. With Respondent, it was more than that all the time. He wouldn’t just look over at a woman, it was like he would get really excited. Respondent did not say things about women that upset Witness C. Witness C noted that all of them have [REDACTED] and that stuff does not fly around most of them. But, Respondent did not need to say anything because of how he acted. His outward physical appearance was almost like words. He did not touch anyone or even talk to them that Witness C saw, but where other people might just quickly note that a beautiful woman had walked by and go about their business, Respondent often

would get up and move to where he could see better. He would create a better vantage point for himself. Whatever he had been doing would be abandoned and his business would become to follow up in a sneaky way.

During the school year, Witness C and Respondent work in different areas. The person who works most closely with Respondent is Witness B. Witness C noted that Witness B and Respondent are “buddies” and Witness B is “probably in the middle of an emotional decision” in deciding what to say about Respondent. Witness C has never seen respondent interact with any female student from [REDACTED].

F. Interview of Witness D (November 7, 2017, in person)

[REDACTED]. Witness D volunteered that the [REDACTED] interact with the students but they know where there’s a line and they know that the students are just young kids. When he started, he was told about a three-second rule to limit interactions with the students. Witness D always asks people about school and work.

[REDACTED] They worked together right before opening [REDACTED] and maybe a week [REDACTED] at the housing office. In terms of their relationship, Witness D thought Respondent “was awesome” and a good guy. They both have [REDACTED] and had a lot in common. They did have conflicts because both of them were eager to debate things. They would argue about things like how a football game was called or the union or prevailing wage. They didn’t have any conflicts that Witness D thought were significant. [REDACTED] Witness D thinks Respondent would say the same thing about him—that he was a good guy who always wanted to debate.

Witness D never saw Respondent interact with any students, including a female student in [REDACTED]. The situation with Respondent that scared Witness D and raised a red flag was something Respondent told Witness C and Witness D himself. During the summer, there were [REDACTED] squads on campus. Respondent commented on one of the girls. Other people would comment that a girl was cute without raising a flag. But, Respondent commented on a girl then “split left” to try to catch a look at her. Witness C and Witness D froze. Respondent came back and told them that he was looking at her and was going to talk to her but then another student said, “Hey you were staring at her.” They told Respondent that he needed to tell the boss. That did freak them out, and Witness D thinks Witness C went to the supervisor after that because they were scared about the way it had happened. First, they thought it was pretty wild that he would chase a girl into the dorm to get an extra look at her. [REDACTED]

Respondent went to [REDACTED] after that, and there weren’t other instances that concerned Witness D. Other than that, Respondent was an awesome guy. [REDACTED]

G. Interview of Witness E (November 6, 2017, in person)

Witness E is [REDACTED]. He noted that it was concerning to him that Respondent was visiting [REDACTED] because there is a [REDACTED] in [REDACTED], which was closer to the job site where Respondent was working at the time. There was no work scheduled at [REDACTED]. [REDACTED]. All of the work was on the other side of [REDACTED]. Respondent also was using an empty office as a break room even though the

[REDACTED] had been told not to use it. Witness E noted that other [REDACTED] likely were using the office as well.

Even if Respondent had a business reason to be in [REDACTED], he did not have a reason to go upstairs without work orders sending him there. Witness E confirmed that there were no such orders. The only thing upstairs is dorm rooms. Likewise, there is video of Respondent walking into the back of the [REDACTED] and looking around the corner, but the only thing back there is [REDACTED].

Respondent's supervisor and second-level supervisor suggested some witnesses to Witness E: Witness B is Complainant's current [REDACTED] partner. They have worked together since Respondent started working at UC Davis. For a while they were very close, and they are usually protective of each other. Witness E heard from the supervisor that Witness B would be willing to talk about some of the things that Respondent had said. Witness C and Witness D also have said they would be willing to talk.

Witness E participated in the meeting where Respondent was placed on leave. The meeting was unusual. Respondent did not seem surprised at all. He said, "This is about that girl in [REDACTED], isn't it?" He said that he did not think it was a problem to talk to her. He mentioned having [REDACTED] and that one had the same name as Complainant. One of the supervisors asked Respondent how he would feel if a [REDACTED] started talking to his [REDACTED] and Respondent said he would be furious and he understood why they needed to do what they were doing.

H. [REDACTED] Video

I showed both parties video of the [REDACTED] to ask if it refreshed their recollections regarding the interaction.

Complainant's Observations of the September [REDACTED], 2017 [REDACTED] Video

Complainant noted that she had been [REDACTED] and that Respondent could see her from the door. She noted that the video showed he was looking over at her multiple times before they started talking. They were pointing out the window talking about some work being done on the buildings. Watching the video, Complainant noted that she thought Respondent closed the space gap between them really fast at the beginning of the conversation. He introduced himself by name and Complainant responded by saying her name. Respondent commented that his [REDACTED] had the same name, and he showed Complainant a tattoo on his leg.

Complainant had drawing supplies with her, and she wanted to start coloring, so she was standing close to her things, but Respondent kept talking. He said that he had gone to [REDACTED]. They also talked about a trip to [REDACTED] and he told her to wait until she was [REDACTED] because [REDACTED] is more fun then. They also talked about [REDACTED] and a trip Complainant had taken to [REDACTED].

Respondent did not initially say anything about his [REDACTED] but Complainant asked what had taken him to [REDACTED] and he said that he was visiting his [REDACTED]. Complainant thinks that might have sparked his later action in coming back to ask if he could talk to her even though he was [REDACTED].

Toward the end of the conversation, Complainant pointed up at the clock and asked if she was keeping him. He said no, that he liked talking to her because she had such a nice smile. She realized how long they had been talking so she kept looking at the clock. They shook hands and he walked out, but he turned around and came back in and asked if he could talk to her even though he had a [REDACTED].

Respondent's Observations of the September [REDACTED], 2017 [REDACTED] Video

Respondent expressed surprise upon seeing in the video that he was not [REDACTED] when he saw Complainant in the [REDACTED]. He noted that it has been a while and that he guesses he had gone to get a drink. [REDACTED]

When they looked out the window, they were looking out on the quad and talking about the construction. He showed her his tattoo. Mostly they engaged in small talk. He talked about traveling and his [REDACTED]. He was about to be off work and they talked about that at the end of their conversation.

He explained that he was a [REDACTED] man and made sure she knew that and that he was not hitting on her. When he left, he wanted to make sure that it was clear that he was just being friendly, so he went back and said, "You know I'm [REDACTED] right?" He didn't want her to have the wrong impression about his intentions.

I. Video Generally

An [REDACTED] watched select video of [REDACTED] based on the logs of Respondent's access card swipe activity. [REDACTED]

Below in my findings, I have included some stills from the video to illustrate my descriptions. I will retain the video itself in the event that it is needed for further review. Although Respondent appears at a distance through glass in some of the stills, I was able to look at other cameras in the building from the same time, in conjunction with door swipe activity, to confirm that the person in the video was Respondent.

VI. FINDINGS AND ANALYSIS

A. Factual Findings

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

(1) Respondent left Post-It notes on Complainant's door on two occasions in October 2017.

Respondent acknowledged having left the two Post-It notes Complainant attributed to him. (See [REDACTED])

(2) Respondent sent Complainant an unsolicited and unwanted friend request via Facebook.

Respondent acknowledged sending Complainant the Facebook friend request and the message at [REDACTED] which reads:

[REDACTED]

How's the transition to the dorms going? [REDACTED] makes sense. Easy to talk to. Any time you want to talk or have some free time feel free to message me. Or you could leave a post in my work cart I drive around in.

No witness suggested that Complainant solicited the friend request. She did not mention Facebook to him and did not tell him her last name. Respondent stated that he found her Facebook profile through an internet search using her first name, hometown and UC Davis. During his interview, Respondent highlighted that Complainant accepted the friend request, which he stated suggested that the request was not "unwanted." However, Complainant credibly stated that she went back and declined the request as soon as she realized that Respondent had left the Post-It notes on her dorm door. She stated that she delayed accepting the request even when she did not know the extent of Respondent's conduct and she declined it once she learned about other behavior that he acknowledges, namely the Post-Its. In that circumstance, the preponderance of the evidence supports that the request was unwanted as well as unsolicited.

(3) Respondent appeared in several locations in the Student Housing residence hall where Complainant lives.

Although Respondent estimated that he only went to [REDACTED] twice after move-in weekend, his own description of events identified additional visits, including the meeting in the [REDACTED] the first Post-It, the day Respondent found the Post-It he did not write and mistakenly interpreted it as a message from Complainant, and his second Post-It. In addition, card swipe and video evidence shows that Respondent visited [REDACTED] numerous times during the two and a half weeks between when he met Complainant in the [REDACTED] and the day he was placed on leave. Although Respondent did not have work orders in that building, he often walked through [REDACTED] multiple times in a single day. [REDACTED]

B. Policy Findings

1. Stalking

Conduct qualifies as stalking in violation of University policy when it entails (1) repeated conduct, (2) directed at a complainant, (3) of a sexual or romantic nature or motivation, (4) that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress. In the present case, Respondent's conduct meets that standard.

a. Repeated Conduct

The quantity of Respondent's visits to [REDACTED], his actions while in the building, and his contacts with Complainant over Facebook and through notes are relevant to whether Respondent engaged in repeated conduct under the stalking policy.

Card swipe and video records reflect that Respondent visited [REDACTED] on at least seven of the twelve work days between his [REDACTED] interaction with Complainant and when he was placed on leave. Some days he visited the building multiple times. For example, on October 5, Respondent visited the common areas of [REDACTED] repeatedly throughout the day. Respondent acknowledged that he did not have work orders for projects in that building at the time.

Respondent's visits to [REDACTED] were not limited to visiting the shop area. Rather, he frequently walked out to the lobby and looked around, usually without doing any evident work-related tasks. [REDACTED]

)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] He looked in the back area, which Witness E stated only contains [REDACTED] :

[REDACTED]

Taken as a whole, Respondent's behavior was sufficiently frequent to establish repeated conduct for purposes of the stalking policy.

b. Directed at Complainant

The preponderance of the evidence supports that Respondent's conduct discussed above was directed toward Complainant. The Post-It notes and Facebook message were clearly for Complainant. The close proximity between that conduct and Respondent's actions in walking around [REDACTED] evidently looking for someone supports that he was looking for Complainant. Respondent stated in his interview that he was

not Facebook friends with any other students and did not leave notes for anyone else, which suggests his attention was all focused on Complainant. In addition, he repeatedly returned to the [REDACTED] [REDACTED] which was the location where he had his first long conversation with Complainant on September [REDACTED], 2017.

c. Sexual or Romantic Motivation

Respondent [REDACTED] and that Complainant is not his type because she is not a [REDACTED]. He noted that his Facebook page through which he sent Complainant his message highlights his [REDACTED] is one of his friends and can see his posts. He stated that he just wanted to be friends with Complainant and that he may have been interested in finding college students who could act as role models for his [REDACTED].

Nonetheless, the weight of the evidence supports that Respondent's conduct was sexual or romantic in nature. His behavior in connection with the September [REDACTED], 2017 [REDACTED] conversation was not in line with pursuing a simple friendly relationship with Complainant he suggested. Although he said he went to the [REDACTED] to get a [REDACTED],⁵ before Complainant noticed him, Respondent twice moved away from the drink machine and appeared to be looking over at Complainant. At the end of the conversation, he left the room and appeared to be weighing whether to come back, turning around twice before ultimately returning to the room. Complainant credibly stated that when Respondent came back into the room he asked her whether it was okay for him to talk to her even though he was [REDACTED]. When he walked through the lobby after the conversation with Complainant, he appeared to do a little skipping step as though he was happy.

Complainant lives on the [REDACTED] floor of [REDACTED], and there was general agreement that Respondent had no reason to go upstairs in the building after move-in weekend. Nonetheless, he went upstairs on at least five occasions between October 5, 2017 and October 13, 2017 based on video of the dorm. On two of those occasions, he left notes for Complainant on her dorm door.

Respondent's actions in sending Complainant a Facebook friend request and message also suggest a sexual or romantic motivation. Complainant had not told Respondent her last name and had not mentioned Facebook to him. He went on the internet and used the information he had about her [REDACTED] and Facebook profile. When he wrote to her, he mentioned her astrological sign, commented that she was easy to talk to, and invited her to talk to him if she ever had time or wanted to talk. Although Respondent presented the interaction as casual, the means by which he found her profile, the message he sent her, and the fact that he was an employee rather than a classmate all support that the motivation was romantic rather than casual. Furthermore, Respondent acknowledged that he did not send friend requests to other students or post messages on others' doors. Respondent stated that he had good relationships with student [REDACTED], but he nonetheless did not behave comparably toward any male students.

Respondent's behavior as reflected in the [REDACTED] video also is more in line with repeated romantic pursuit than with a casual interest in friendship as Respondent suggested. Respondent returned again and again to the [REDACTED] where he had his first long conversation with Complainant, often just looking in the window then turning around. In addition, Respondent downplayed his visits to [REDACTED] during his interview. He estimated that he only visited the building approximately twice between move-in

⁵ [REDACTED]

weekend and his placement on leave. In fact, Respondent often went to the building multiple times in a single day.

In his interview with me and in his meeting with his supervisors, Respondent acknowledged that he would be upset if a man were behaving toward his [REDACTED] as he behaved. That statement supports that he understood his behavior reasonably appeared romantic or sexual in motivation. Finally, each of his coworkers that I interviewed credibly described Respondent going out of his way to check out women that he thought were attractive, which is in line with his apparent conduct in repeatedly returning to [REDACTED] and looking around the building for Complainant. Although Respondent denied engaging in such conduct, I do not find that the witnesses who reported this conduct had a motive to be dishonest.

d. Conduct Would Cause a Reasonable Person Fear or Substantial Emotional Distress

Complainant expressed that she was not concerned about Respondent's conduct throughout most of their interactions. However, the weight of the evidence supports that Respondent's conduct would cause a reasonable person to fear for their safety and/or would cause them substantial emotional distress. Notably, Complainant was not aware of the extent of Respondent's conduct at the time that she interacted with him or initially accepted his Facebook request. When she realized that Respondent had left Post-It notes on her door, she described crying and feeling concerned that he might have access to her room as a result of her job.

Moreover, Complainant did not have access to the swipe records and video that I was able to access in the context of the present investigation. As a result, she was not aware of how frequently Respondent was visiting her building and looking for her throughout the first floor and even up on her floor. A reasonable person with knowledge of that conduct and awareness that Respondent had access to her dorm building would reasonably experience significant emotional distress, including fearing for their safety.

Based on Respondent's interview, I did not believe that Respondent intended to hurt or frighten Complainant. Respondent's coworkers described an impression that Respondent was generally a friendly person who went too far in pursuing his efforts to check out women he thought were attractive. However, Respondent's persistence in visiting areas of Complainant's dormitory—her home—when he had no business reason to be there would cause a reasonable person in Complainant's position to fear for her safety and to experience substantial emotional distress.

2. Sexual Harassment

Conduct qualifies as sexual harassment in violation of University policy when the conduct (1) constitutes unwelcome conduct of a sexual nature and (2) creates a hostile environment.⁶ In the present case, the preponderance of the evidence supports that Respondent's conduct constituted sexual harassment in violation of the Sexual Violence and Sexual Harassment policy.

a. Respondent engaged in sexual conduct as defined by University policy.

University policy defines sexual harassment to include "unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature."

⁶ The present case does not raise issues of *quid pro quo* harassment.

In the present case, Respondent's conduct in communicating with Complainant over Facebook, leaving messages on her door, and repeatedly visiting her residence looking for her establishes sexual conduct under University policy. (See Section (B)(1)(a)-(c), above).

b. Respondent's conduct was unwanted.

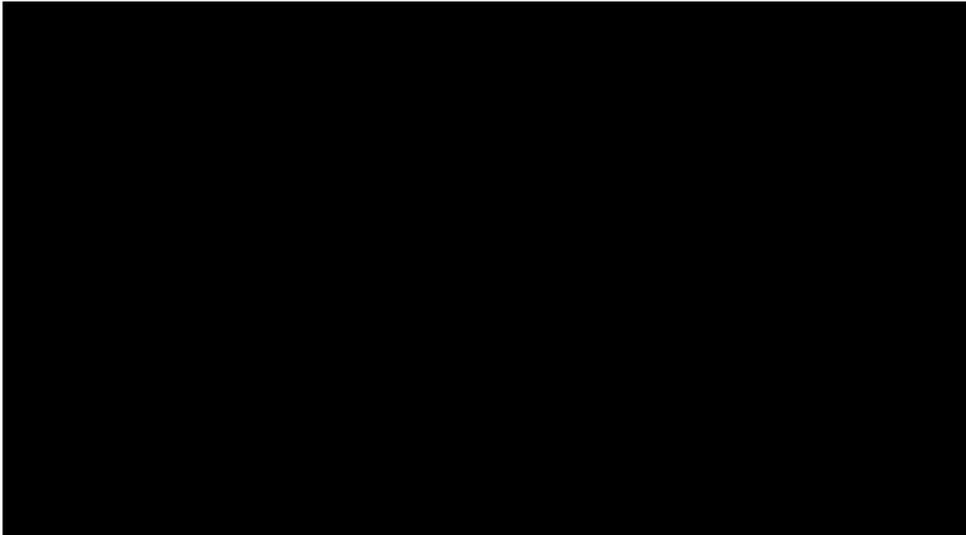
As was discussed above, Respondent's conduct also was unwanted. Complainant originally accepted Respondent's Facebook friend request and was generally friendly to him when they saw each other. However, at the time, she did not know about his other conduct. For example, she declined the Facebook request upon learning that he also had been on her dorm floor and left her notes. She also reported the conduct to her RA, who described Complainant being upset and worried that Respondent may have access to her room.

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

Unwelcome sexual conduct violates University policy when it creates a hostile environment. Hostile environment harassment occurs where unwelcome sexual conduct "is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, ... or other programs or services of the University and creates an environment that a reasonable person would find to be intimidating or offensive."

In the present case, Respondent's repeated visits to Complainant's residence establish pervasive conduct. A reasonable person in Complainant's position who was aware of the conduct would find the conduct to be intimidating or offensive: Respondent was walking around Complainant's dorm building, including on her floor, when he did not have a business reason to be there. In addition, he used his position as a [REDACTED] to provide an apparent reason for him being in [REDACTED] even when he did not have work orders there. For example, on one occasion when he went up to Complainant's room, he appeared to carry [REDACTED] [REDACTED] although he walked in and out of the building with the [REDACTED] and did not appear to use it while there:

[REDACTED]



In defining hostile environment harassment, the policy looks at whether any severe and/or pervasive behavior (1) actually interfered with the Complainant's ability to benefit from University education or other programs and services and (2) "created an environment that a reasonable person would find to be intimidating or offensive."

Here, Respondent's conduct did not have as great an impact on Complainant's University experience as it likely would have if Complainant had been aware of its full scope. Nonetheless, the weight of the evidence supports that Respondent's conduct that Complainant knew of interfered with Complainant's enjoyment of her University housing in that Respondent's conduct was directed at Complainant in that space and reasonably led her to worry about whether he may have access to her room. As indicated above, she reported being upset when she learned Respondent had been leaving her notes at her room and her RA corroborated Complainant's emotional reaction. For the same reason and as discussed above in the context of the stalking analysis, a reasonable person would find Respondent's conduct to be intimidating or offensive.

VII. CONCLUSION

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

Respectfully submitted,

[REDACTED]

Wendy Lilliedoll
University Investigator