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**REPORT OF INVESTIGATION AND FINDINGS
Allegations of a Sexually Hostile Environment
Residential and Student Service Programs
December 2011**

I. BACKGROUND

[REDACTED] is an [REDACTED] [REDACTED] contacted the Campus Climate and Compliance Office on November 14, 2011 to register her concerns about inappropriate behavior from two [REDACTED] superintendents, Frank Narvaez and Chuck McCartney. [REDACTED] expressed specific concerns about remarks that Narvaez and McCartney had allegedly made about her during a conversation in which she was not present, and about how the content of that conversation had been shared with numerous [REDACTED] [REDACTED]

The CCAC investigation included interviews with the [REDACTED], Narvaez and McCartney. The following [REDACTED] employees were also interviewed¹: [REDACTED]

[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]

II. JURISDICTION

The Title IX Compliance Officer has campus-wide responsibility for initially responding to sex discrimination complaints and implementation of the University Policy on Sexual Harassment and Complaint Resolution Procedures, which includes the investigation and resolution of complaints received from faculty, staff and students.

III. APPLICABLE POLICY [complete text available: <http://ccac.berkeley.edu/>]

The University is committed to creating and maintaining a community in which all persons who participate in University programs and activities can work together in an atmosphere that is free from all forms of harassment, exploitation, or, intimidation, including sexual harassment. Thus, sexual harassment is prohibited by law and University policy.

Definition of Sexual Harassment:

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's

¹ [REDACTED], an [REDACTED] and direct witness to the incidents described in this report, refused my request for an interview. A record of this refusal is attached.

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work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. In the interest of preventing sexual harassment, the University will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, housestaff, students, and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the University community are subject to other University policies, for example, those governing faculty-student relationships are detailed in the Faculty Code of Conduct. While romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

IV. ISSUES PRESENTED

The Telephone Conversation

██████████ reported that she received a call on Thursday, November 10, 2011 from longtime friend and colleague ██████████, who was calling on behalf of ██████████. ██████████ explained that ██████████ was 'too embarrassed to call ██████████ directly. ██████████ told ██████████ "something bad had happened" and said she "would be really upset and that it was "really bad." ██████████ asked ██████████ for more details. ██████████ responded that he couldn't share details, but that it was "terrible" and "sick" and that ██████████ was "not going to be happy." ██████████ informed ██████████ that Frank Narvaez and Chuck McCartney had engaged in a phone conversation that ██████████ had received on his work cell phone from Narvaez. ██████████ explained that the conversation between Narvaez and McCartney may have been recorded during a "pocket call" from Narvaez's phone to ██████████ phone. ██████████ said she could imagine how this could have happened, since she was aware that Narvaez had had to call ██████████ following a conversation she had had with Narvaez ██████████ the day before about a ██████████ assignment. ██████████ told ██████████ that the phone conversation contained inappropriate language and references to her. ██████████ said she asked ██████████ for details about the recorded conversation. He replied again that he couldn't give her more details. In the course of talking to ██████████ ██████████ learned that another female employee at ██████████ had heard the recording and had become so upset by its contents that she had to go home. ██████████ also learned that ██████████ and his ██████████ had also listened to the recording, and that several other employees, whose names ██████████ could not recall during our interview, had either heard the recorded call or knew about its contents. ██████████

[REDACTED] She recalled asking [REDACTED] if he had heard the recording and he said that he had. She asked again that he share the recording with her or give her more information, and once again [REDACTED] refused to share it with her at that moment. He stated that [REDACTED] was with him, and offered to let him speak to [REDACTED] on the phone.

██████████ remembered ██████████ apologizing multiple times to her during their conversation. ██████████ asked ██████████ to send her the voicemail message, but he said he couldn't do that. ██████████ asked to talk to ██████████ again and "begged" for more details. She recalled saying to ██████████ "...just give me something." ██████████ then shared that the phone recording contained references to "bedbugs²" in ██████████ "vagina." ██████████ recalled being completely shocked at this point. She asked ██████████ for a copy of the recording for a fourth time and ██████████ again refused, explaining that ██████████ was going to take it to his union, so ██████████ would "have to wait." ██████████ ██████████ ██████████ ██████████ at not to being able to know exactly what had been said about her, while numerous other employees seemed to have known. Further, she realized that she had no idea how many others would gain access to this information before she was able to do so. She said it seemed that ██████████ and ██████████ wanted to use the information to address their own (as opposed to her) issues with Narvaez and McCartney and thus withheld the information when they easily could have given it to her.

The following day, Friday November 11, 2011, [REDACTED] called her friend and colleague, [REDACTED], who was on vacation. [REDACTED] she shared the information [REDACTED] and [REDACTED] had relayed to her the day before. On Sunday, November 13, 2011 [REDACTED] called [REDACTED] and told her that [REDACTED] [REDACTED] had contacted him and told him about the recording. [REDACTED] said that [REDACTED] told him that the information about [REDACTED] was "terrible." [REDACTED] for the remainder of the weekend, knowing that increasing numbers of people knew about the contents of phone message [REDACTED]

On Monday, November 14, 201 [REDACTED] decided to come to work late so that she could skip a morning meeting where Narvaez and McCartney would be present. She came in at about 11 am. [REDACTED] called her on her office phone to see if she was in, and informed her that [REDACTED] would call. [REDACTED] called right after, and asked to come to her office [REDACTED] said ok. [REDACTED] came to her office, played the recording from his phone, and then transferred it directly to [REDACTED] phone. He also said he would send it to her as an email attachment, which he did later that day.

██████████ said that she was particularly shocked to hear Narvaez and McCartney talking about her in such a graphic and derogatory way. Prior to this incident she believed she had a good relationship with both superintendents. She could not recall ever having a dispute with either of them, and described their interactions as professional and friendly.

2 [REDACTED] stated that this reference was most likely connected to a bedbug infestation that she Narvaez and McCartney had been addressing in some of the [REDACTED]

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██████████ knowing that she had been the subject of a conversation about her that she considered to be "downright pornographic," and that others in the workplace had had to hear such things said about her. She said she wished ██████████ and ██████████ had "handled things differently." When asked to elaborate, she explained that both ██████████ and ██████████ had their own problems with both Narvaez and McCartney, and taking the recording to either ██████████ or sharing it with other employees who shared their views was a "means to an end" for them. ██████████

██████████ went directly to ██████████ with the information. ██████████ recalled ██████████ indicating that she had already been made aware of the existence of the recording. ██████████ said she distinctly recalled wondering once again how so many people, including managers, had knowledge of this inappropriate behavior that involved her but that no one had come to her directly to share it with her. In the past few days she had learned of at least six other people who had either knew about the recording, and guessed that by now dozens of staff had been discussing the matter.

The recording

On November 15, 2011 ██████████ provided me with a copy of the recorded conversation. The message is very garbled and parts of it are almost impossible to understand. Two voices that appear to be male are talking. There are background sounds that indicate the conversation is taking place while driving in a vehicle. The main speaker, later identified as Narvaez, makes comments about not wanting to participate in a rollout of a required program that ██████████ had presented in an earlier meeting. The remarks are laden with profanity, and Narvaez's disdain for the upcoming project is clear. McCartney makes comments in agreement. A short silence follows, and then both men make negative and crude comments about the appearance of an unidentified woman who they see while driving along. The conversation quickly shifts to ██████████, with Narvaez making statements critical of ██████████ weight, followed by a remark about "bedbugs" in her "pussy." McCartney is heard laughing in the background.

In his interview Narvaez listened to a copy of the recorded phone message. When asked if he recognized his voice on the recording, he initially responded that he wasn't sure, then acknowledged that his was one of the two voices, and that "it seemed like" McCartney's was the other. He said he did not specifically remember having the conversation. He acknowledged making the comments about ██████████ and specifically the ones about "bedbugs in her pussy," as well as the negative remarks about her weight. Narvaez said he was deeply sorry, and that he has recently been "██████████" at work, given his increased responsibilities. He said he has not been himself, and has recently communicated that he needs time off to address his ██████████. When I asked how his work-related ██████████ would lead to the conversation we'd just listened to, Narvaez did not provide a coherent answer. I pointed out that the conversation appeared to be lighthearted; both he and McCartney could be heard laughing at several points during and after the comments about ██████████ body. Narvaez responded that he had the "utmost respect" for ██████████, and wanted to apologize to ██████████ and to ██████████.

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Narvaez said that, although he did not specifically remember the conversation, it was clear to him that no one else was present, and that he had no idea that the conversation had been recorded in a voice message to [REDACTED].

McCartney

In his interview McCartney acknowledged that his voice was one of those on the recording. He said he didn't specifically recall the conversation, but was appalled by what he heard on the recording. He commented that the tone and content of the conversation was inappropriate at work, whether or not he was talking privately to Narvaez at the time. McCartney mentioned that Narvaez had come to him the previous week, noting that he (Narvaez) regretted making earlier derogatory comments about [REDACTED] and saying [REDACTED].

[REDACTED] McCartney said he had heard rumors about the "pocket call" from at least three other employees who had let him know the recording was being discussed widely. He said he was extremely sorry and humiliated at his behavior, and said there was "no excuse" for that kind of language at work, in any context.

The Dissemination of the Telephone Conversation

[REDACTED] explained that on Wednesday afternoon, November 9, 2011, he saw a voice message on work cell phone from [REDACTED], Narvaez. He said listened to the recording but could not decipher the message clearly. He recognized the voices of Narvaez and McCartney, and recalled hearing lots of profanity, mostly iterations of the word "fuck." He also heard comments about a woman's weight, and thought he heard [REDACTED] first name, but wasn't sure. When he got home, he listened to the message again more carefully, and clearly heard [REDACTED] name and some "very graphic" descriptions of her body. [REDACTED] said he was extremely disturbed, and shocked that Narvaez and McCartney would say such things about [REDACTED], a colleague that he and everyone else liked and respected. That evening, he phoned [REDACTED], his [REDACTED], to get his advice. [REDACTED] advised him to forward him the recording so that he [REDACTED] could talk to their [REDACTED] about what to do. The following day [REDACTED] said he went to work at [REDACTED] where he had a [REDACTED]. He revealed that he subsequently shared the information with [REDACTED], [REDACTED] and [REDACTED]. [REDACTED] explained that he trusted these individuals and wanted their advice. I asked why it wasn't sufficient to simply notify [REDACTED], who would work with the union representative to report the phone call. [REDACTED] explained that many [REDACTED] had been treated badly by both Narvaez and McCartney for many years, and he had recently had specific problems with Narvaez. He said that numerous individuals had complained about Narvaez's and McCartney's inappropriate behavior toward staff, with little response from [REDACTED] management. [REDACTED] said the recording was "proof" of their complaints against both superintendents, and thus he wanted to get the opinions of a few colleagues before taking action. He said he also believed [REDACTED] should be notified, but was too embarrassed to confront her himself. Since [REDACTED] was also a longtime personal friend of [REDACTED], [REDACTED] believed he was the right person to tell [REDACTED] about the phone call. [REDACTED] said he also asked [REDACTED] for advice about what to do, but could not recall exactly what [REDACTED] told him. He said he also shared a copy of the recording with employee [REDACTED]. I

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asked him why he would share a further copy of the recording with yet another employee. [REDACTED] replied that he shared it because [REDACTED] asked him to."

[REDACTED] said he informed [REDACTED] about the situation on Friday, November 11, 2011. On Monday November 14th, [REDACTED] said he met with [REDACTED] and played the recording for her. He recalled her being upset. When asked if he told any other employees directly about the phone call he had received, [REDACTED] said he was pretty certain he had not. I also asked him whether or not he advised anyone he told not to share the information further. He replied that he had not done so. He reiterated again that the contents of the phone call were "proof" of their ongoing and longstanding complaints about the inappropriate behavior of the two superintendents, and in particular, Narvaez. [REDACTED] was asked why he shared this information with [REDACTED] and other employees after being informed by [REDACTED] not to do so. [REDACTED] said he did not remember [REDACTED] instructing him not to forward the recording.

[REDACTED]

[REDACTED] confirmed that [REDACTED] phoned him to notify him about the phone message he had received, and that he had advised [REDACTED] to send him a copy so that he could approach their [REDACTED] for help bringing the matter to [REDACTED] management's attention. [REDACTED] also said he received a phone call at home from [REDACTED] who played the phone message for him. [REDACTED] said he advised [REDACTED] not to erase the message, but to give it to [REDACTED] who would handle the matter through official channels. [REDACTED] recalled [REDACTED] telling him about the incident on Thursday, November 10, 2011 at [REDACTED]. He said he recommended [REDACTED] talk to [REDACTED] but [REDACTED] was not in that day, so [REDACTED] later spoke to [REDACTED]. He said [REDACTED] and he discussed whether or not [REDACTED] should know about the phone call, and decided that [REDACTED] was the right person to tell her. [REDACTED] admitted discussing the matter with his [REDACTED]. He explained that he was especially offended by the cruel remarks about [REDACTED] and other women, and wanted his [REDACTED] feedback. She agreed with him that those remarks would be particularly hurtful to any woman. All three employees stated that within days it was apparent that many employees had learned about the phone message.

All three men individually indicated that while they were shocked at the remarks targeted at [REDACTED] they were not at all surprised at the tone of the conversation in general. Like [REDACTED] they expressed that the recorded phone call illustrated their complaints about the way Narvaez and McCartney regularly behaved. When asked if all or some of the conversation was typical of the way they talked in front of other staff, they responded that the tone of the conversation and the constant use of profanity common characteristics of verbal interactions with both Narvaez and McCartney at work. When asked, they all individually stated conversations similar to the training portion of the recorded message had been frequently conducted in their presence. They stated that the latter remarks about [REDACTED] body would likely not have been shared in front of them.

They individually described that Narvaez, in particular, had a reputation among many staff for being insensitive, indiscreet and unfair in his management of others. They claimed that there is widely-held belief among non-supervisory staff that unless one "pleases" Narvaez, less desirable

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assignments, aggressive treatment and even retaliatory behavior will follow. Further, Narvaez has made it known to numerous staff that he "has the support of the folks on the [redacted] floor³." Narvaez reportedly stated on several occasions that he was "untouchable," and frequently reminded staff that he socialized with senior managers, e.g. playing golf with them or entertaining them at parties with his guitar playing. They expressed that McCartney is reputed to talk poorly to and about his staff, but not as badly as Narvaez. One employee stated, "Let's put it this way, McCartney is bad, but Narvaez is worse." Another stated that he believed McCartney may have been called on the carpet for his constant use of profanity, because in the last his year behavior seems to have improved.

[redacted] recalled that [redacted] came to his office on Thursday morning, November 10, 2011 to seek his advice. [redacted] said he had received an accidental phone message from Narvaez that was disturbing, but did not know what to do. [redacted] explained the nature of the phone message, and played some of it for [redacted]. He said he wanted to send it to his union representative. [redacted] said he advised [redacted] to also contact "the compliance office," referring to Campus Climate and Compliance, which handles sexual harassment complaints. [redacted] recalled stating that he believed that reporting the matter to a compliance office would be a better path than going to through union, or that at least [redacted] should pursue both avenues. The conversation continued, and [redacted] said it became evident that, at that point, [redacted] was not aware of the comments Narvaez had made about her. [redacted] told [redacted] that he had been one of Narvaez's "targets" for a long time, and that now he [redacted] "had the goods on" Narvaez, which could help him with his own problems with management. [redacted] said he advised [redacted] again to contact the compliance office as soon as possible. After about 10 minutes, [redacted] said [redacted] knocked on his door and entered to ask [redacted] a question about work. It quickly became clear that that [redacted] had already listened to the recorded phone call, and was extremely upset about the content of the message and the focus on [redacted]. It was also apparent from listening to [redacted] and [redacted] talking to each other that [redacted] had already initiated the process of approaching his union. [redacted] remembered being slightly surprised, as he'd had the mistaken impression that he was one of the first people [redacted] had consulted about how to proceed with reporting the incident. He wrapped up his conversation with [redacted] by repeating that he should pursue the compliance office avenue. [redacted] left his office to go to a class on campus.

Several hours later he returned to [redacted] was surprised to see [redacted] still there, talking to other employees, though he didn't hear specifically what [redacted] was saying to them. He recalled being curious as to why [redacted] was still at the [redacted] site, as his job should have finished long ago. [redacted] said he wondered whether [redacted] was using the [redacted] as "the HQ" for sharing information about the phone message.

Concerned that someone in a compliance role had not been contacted, [redacted] left a message with [redacted] of the Campus Climate and Compliance Office, explaining that in incident of

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possible sexual harassment had been revealed to him and that he wanted advice on how to follow up the report. [REDACTED] said that "within days" he had the impression, from listening to people around him talking, that "everyone at the [REDACTED] knew about the Narvaez phone call and the comments about [REDACTED]"

[REDACTED] and [REDACTED]

[REDACTED] confirmed [REDACTED] account of his conversations with her on November 11 and 13, 2011. He recalled hearing her [REDACTED] during their first phone call, which is why, once he'd spoken to [REDACTED] about the disturbing contents of the phone call, he felt obliged to contact [REDACTED] and share what he had learned with her. [REDACTED] had communicated that she was extremely upset that she "had to wait for the information" from [REDACTED] and [REDACTED]. [REDACTED] stated that [REDACTED] had known [REDACTED] for many years, and interpreted her decision to call him about the Narvaez matter as an indication of its seriousness. He felt that, as [REDACTED] friend, he needed to "prepare her" so that when she eventually heard the recording she wouldn't be completely shocked.

[REDACTED] confirmed that she contacted [REDACTED] over the Veteran's Day weekend to let him know that she had learned about the Narvaez phone call from [REDACTED] and other [REDACTED] staff. She said that many staff were outraged at the contents of the phone message. [REDACTED] had heard the actual message, but she was not sure now many others had. [REDACTED] mentioned that [REDACTED] involvement was not a surprise. She explained that [REDACTED] is not only a longtime friend of [REDACTED] but is also known as a kind of "spokesperson" for staff who object to Narvaez's and McCartney's behavior. She stressed her belief that the intent behind [REDACTED] actions was to bring to management's attention a concrete example of the very behavior from these two superintendents about which numerous staff have complained for months.

[REDACTED]

[REDACTED] reported that on Wednesday, November 10, 2011 at about 2:00 pm a [REDACTED] staff member called him to report that [REDACTED] was playing a phone recording for some unknown number of staff. The recording featured Narvaez's voice making disparaging remarks about [REDACTED]. It appeared that a number of staff had heard the remarks and were quite upset, and one staff member had gone home because she was so upset. [REDACTED] said he called [REDACTED] cell phone a few minutes later and left him a voice message asking [REDACTED] to call him before leaving for the day. [REDACTED] recalled indicating on the phone message to [REDACTED] that he was aware of the existence of the phone recording and wanted to hear it first hand so as to take appropriate action. At about 3:00 pm [REDACTED] left [REDACTED] another message. [REDACTED] and [REDACTED] missed calls and exchanged voice messages again during the next hour. In each message that he left for [REDACTED] [REDACTED] said he indicated that he wanted [REDACTED] to send him a copy of the recorded message from Narvaez. [REDACTED] then left a similar message on [REDACTED] home phone. In total, [REDACTED] said he left 4 phone messages for [REDACTED] asking him to forward the recording so that he could take appropriate action.

[REDACTED] got a phone message from [REDACTED] at about 3:45 pm that same day notifying him of the existence of the phone recording. [REDACTED] said that [REDACTED] had played part of it for him. [REDACTED]

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recalled that [REDACTED] said the recording contained a number of inappropriate and offensive remarks made about other staff by Narvaez. [REDACTED] said he had recommended that [REDACTED] notify "compliance."

[REDACTED] said he spoke with [REDACTED] several times over the weekend. On Friday, November 11, 2011 [REDACTED] told [REDACTED] that he would forward the message, but [REDACTED] did not receive it. [REDACTED] said he then provided instructions for forwarding the message from one phone to another, and recalled assuring [REDACTED] that forwarding the message would not delete it from [REDACTED] voice mail. [REDACTED] said he asked [REDACTED] not to talk with others about the call and not to forward it to others. [REDACTED] indicated that his phone was low on power. After he had charged the phone [REDACTED] called [REDACTED] back and said he would send the message to [REDACTED] phone, and added that if forwarding it did not work, he would email it to [REDACTED]. [REDACTED] told [REDACTED] that he [REDACTED] and [REDACTED] would be meeting with Campus Labor Relations on Monday morning, November 14, 2011. [REDACTED] did not say what the meeting was about, but [REDACTED] assumed it had to do with the recording. [REDACTED] said he did not receive a copy of the recording that day.

On Saturday, November 13, 2011 [REDACTED] spoke with [REDACTED] who stated again that he would forward the recording and that if he could not make that work, he would email a copy of the recording to [REDACTED]. [REDACTED] sent an email message to [REDACTED] and [REDACTED] letting them know that he had not heard the recording yet, despite numerous attempts to get [REDACTED] to forward it.

V. DISCUSSION OF THE ISSUES

Sexually Hostile Environment for [REDACTED]

[REDACTED] alleged that both the sexualized content of Narvaez's and McCartney's phone conversation and the apparent widespread distribution of their remarks created a hostile environment for her. To explore these assertions, it is necessary to examine them in relation to the relevant definitions of hostile environment sexual harassment.

The University Policy defines sexual harassment as "...unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment..."

Corresponding federal and state guidelines contain similar language to describe hostile environment in the context of sexual harassment, i.e., one in which sexual conduct exhibited toward the complainant is unwelcome, and severe or pervasive enough to alter the conditions of the complaint's employment and create an abusive working environment.

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Based on the above, and central to this discussion, is the question of whether the alleged conduct was sexual in nature or based on [REDACTED] gender; whether it was unwelcome, severe or pervasive, or whether it had the purpose or effect of unreasonably interfering with her work performance or creating an intimidating, abusive or offensive environment for her. According to UC policy and related state and federal standards, assessments of potential violations should be made in consideration of the totality of circumstances, including the context in which the conduct occurred.

The Phone Call

I listened to the original phone message on [REDACTED] work cell phone, and well as a copy sent to me by [REDACTED]. Both versions are of poor quality, but the audible comments made by Narvaez about [REDACTED] specifically about the size of her "pussy" and the remark that bedbugs would "have a feast" in her large vagina are, to any reasonable person, highly sexualized and objectively offensive. McCartney is clearly heard laughing at Narvaez's comments. The comments by both men about the weight of an unidentified woman that immediately preceded the remarks about [REDACTED] point more strongly to a context that is derogatory and hostile toward women.

The Dissemination of the Phone Call

The accounts of Narvaez, McCartney and [REDACTED] all support the idea that the conversation between the two superintendents was not meant to be shared with others. However, the circumstances of its dissemination, i.e., an accidental redialing of [REDACTED] phone number and subsequent deposit of the message in [REDACTED] voice mailbox, is not substantially different than a circumstance where two employees engage in similar conversation in the workplace break room and, unbeknownst to them, other staff overhear their remarks and are offended. Some level of responsibility lies with the originators of the conversation for its lewd and thoroughly inappropriate tone and content.

The actions of [REDACTED], [REDACTED] and others connected [REDACTED] with the inflammatory and sexualized remarks made about her. [REDACTED] explained that her concern was not that [REDACTED] and [REDACTED] initially notified her about the phone message, but rather *that she had to wait for* detailed information about it. Even before she was notified as well as while she waited over the Veteran's Day weekend, numerous staff – who were not directly connected to the negative comments about her – were made privy to exactly those comments. [REDACTED] argued that if she had been given more details or a copy of the recorded phone message, she could have alerted [REDACTED] Human Resources sooner and perhaps stopped the tide of dissemination.

For his part, [REDACTED] expressed his individual outrage at hearing the sexualized comments about [REDACTED] as well as the generally inappropriate tone of Narvaez's and McCartney's comments in the phone call. He pointed out that he had been advised by [REDACTED] a [REDACTED] to work through the union to bring the issue to management's attention. Further, he said he believed that, as the (albeit unintentional) recipient of the information from Narvaez, he had the right to use this information to support his own claims of mistreatment by Narvaez. [REDACTED] is in the process of grieving disciplinary action taken against him by Narvaez, and believed that pointing out Narvaez's inappropriate behavior is directly relevant to his ongoing management dispute. He

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claimed that until he was able to confer with his union representative, he did not feel comfortable releasing the information to [REDACTED]

It is difficult to assess the motivations and intentions behind [REDACTED] involvement in this matter, given his refusal to participate in the investigation process. [REDACTED] said her impression was that [REDACTED] was actively involved in advising [REDACTED], and in informing other staff about the contents of the phone message. Like [REDACTED] and [REDACTED], [REDACTED] commented that [REDACTED] is known to stand up for staff who are discontented with the management decisions and conduct of Narvaez and McCartney.

Impact on [REDACTED]

As stated above, Narvaez and McCartney stated that they did not intend to target their offensive and sexualized comments to [REDACTED] or any other staff member. [REDACTED] (and probably [REDACTED]) did not intend to cause distress by alerting her to their conduct, nor by sharing it with other staff. Nevertheless, collective impact of the Narvaez's and McCartney's behavior and the actions of [REDACTED], [REDACTED] and numerous other staff regarding the dissemination of information about the superintendent's behavior, resulted in a negative impact on [REDACTED]

VI. CONCLUSION

I evaluated the record of the allegations as a whole and gave consideration to the totality of the circumstances, including the context in which the alleged incidents occurred. Based on the information gathered I determine that the University of California Policy on Sexual Harassment was violated. I find that the collective impact of the conduct of Frank Narvaez and Chuck McCartney, coupled with the actions of [REDACTED] [REDACTED] and numerous other employees regarding the dissemination of information about the superintendent's behavior, created a hostile, offensive and intimidating environment for [REDACTED].

