CONFIDENTIAL

OFFICE FOR THE PREVENTION OF HARASSMENT AND DISCRIMINATION FORMAL INVESTIGATION REPORT

Complainant(s):

Date of Incident(s):					
Reported to OPHD:	February 7, 2				
Investigator:	Andrea LaCa	aCampagne, Complaint Resolution Officer, OPHD			
Date of Report:	October 2, 2015 Violation of the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence (2/25/14 version)				
Finding:					
I. Background	and Allegation	ns			
The Complain	nants are		These Complainants brough	it forth	
different issues under	r the UC Policy	on Sexual Harassment	and Sexual Violence ("the Po	licy")	
against the Responde	ent. The	identified as Com	plainants 1 and 2 throughout t	his	
report.					
Complainant		Identity	Status		
Complainan	t l		31132		
Complainan	t 2				
South East Asian Stu	dies ("DSSEA!	S.") Over 20	nember of the Department of 3 14 and 2015, that the contact was unwelcome and ma	e	
uncomfortable.			ssue to OPHD on February 7,		
		·			
			After Complaina	nt 1's	
	ed by OPHD, (sexual harassment prevention		
training			On April 2015, a follow-u	p	
session was held			After the trainings, other	93	
came forwar Complainant 2.	rd to OPHD to	share concerns about the	e Respondent's behavior, inclu	ıding	
Of the total	who car	ne forward after the OP	HD trainings, only those		
who had concerns that	at could potenti	ally rise to the level of	a violation of the UC Policy or	n	

Sexual Harassment and Sexual Violence will be analyzed in this report. This report will focus on the potential sexual harassment issues of the two Complainants as these are under OPHD's invitable to an advertise to the two Complainants as these are under OPHD's

jurisdiction and subject matter expertise.

II. Interim Remedies



D. Complainant 2 requested that the Respondent not enter into unless he had official business there. The Respondent agreed not to enter throughout the investigation period.

III. Jurisdiction

The Office for the Prevention of Harassment and Discrimination (OPHD) has campuswide responsibility for stopping, preventing and remedying sexual harassment and sexual violence. The OPHD responds to and investigates potential violations of the UC Policy on Sexual Harassment and Sexual Violence, including, reports of sexual harassment, sexual violence, domestic violence, dating violence, stalking, and sexual assault brought forward by students, staff, and faculty.

IV. Applicable Policy

The conduct complained of occurred in 2014 and 2015, therefore, the applicable policy for this investigation is the University of California Policy on Sexual Harassment and Sexual Violence, effective February 25, 2014 (hereinafter, "the Policy.")¹

The Policy states: "Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive."

"Sexual Harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, student employees, students... Sexual harassment may occur in hierarchical relationships between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and the totality of the circumstances, including the context in which the conduct occurred."

V. Summary of Findings

Based upon a preponderance of the evidence, the Respondent violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence due to his behavior with Complainant 2. A detailed discussion of this finding is included in the Fact Finding and Analysis section of this report.

¹ The new Interim Policy on Sexual Harassment and Sexual Violence is in effect as of June 17, 2015 through December 31, 2015.

VI. Investigation of Sexual Harassment Complaints

A. Complainant 1 Issues: Summary and Response

1. Complainant 1

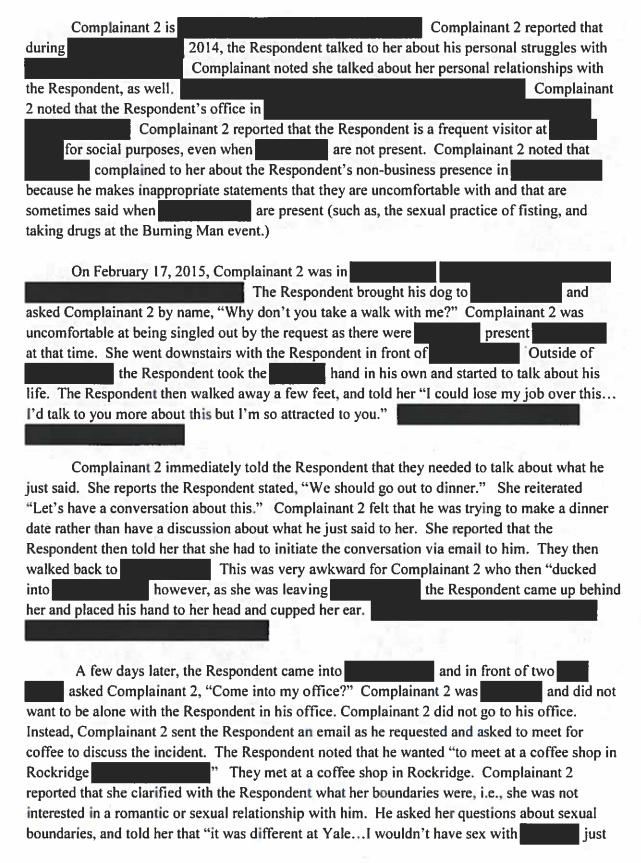








- B.
 - Complainant 2 1.



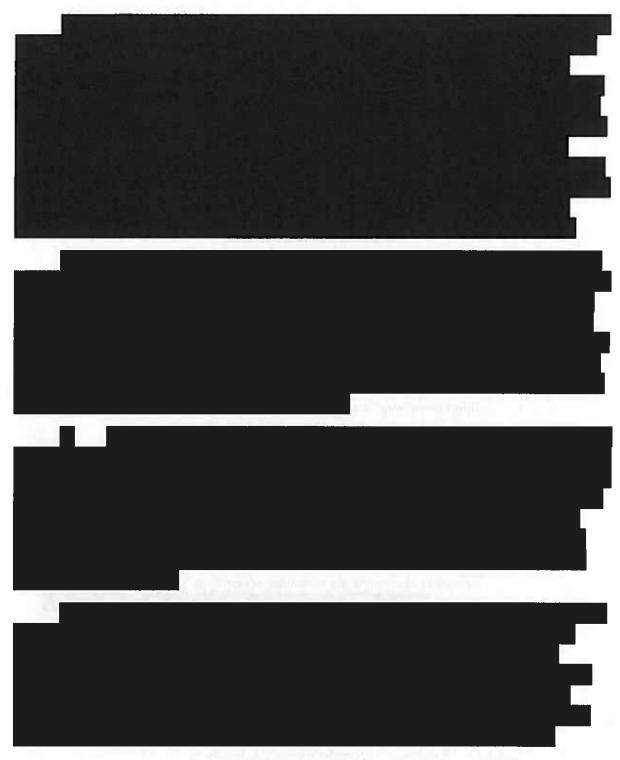
noid their hand and cup their ear." Complainant 2 interpreted the	•
	onplace at Yale than at
Berkeley. They stayed at the coffee shop and talked about "life q	uestions. She stated that he
hinted gently that he could be "helpful with"	
Complainant 2 reported that at that time she was	after
this interaction with the Respondent. Complainant 2 is	around [the Respondent]
and avoids him," which is difficult to do because he comes into	often
_	
	ame forward after
in 2015 ³ to	
Complainant 2 met with	2015 Complement 2 told
The in a common page and the common page and t	2015. Complainant 2 told asked
about her interaction with the Respondent on February 17, not to report the issue to OPHD or anyone else because she	
the incident. reached out to OPHD after the April 15.	
	confirmed that Complainant 2
had discussed the February 17 th interaction with him after	2015.
had discussed the reordary 17 interaction with thin after	2013.
After Complainant 1 and Complainant 2 came forward with	th their concerns, on April 7,
2015, met with the Respondent. On April 14, 2015,	wrote a "written
summary of the points we covered [at the meeting.]" In the letter,	, wrote, "Concerns
about your behavior have arisen in two broad areas: concerns about	
review under the Faculty Code of Conduct, and concerns about as	pects of academic performance
that are subject to academic review." Referenced in the letter is the	
section 015 regarding harassment and discrimination, and OPHD.	wrote that he has
	that he already spoke with the
Respondent in 2014 about "the importance of	
	that he "observed you
touching on several occasions."	noted that "In our most
recent conversation, I have again cautioned you against touching	positioning yourself in
close proximity and closing your office door	I have also
asked you not to discuss your intimate, or sexual life with	or make comments on
personal lives or attributes	
1 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	and must comport yourself
accordingly."	

2. Respondent's Statement and Response to Complainant 2

I interviewed the Respondent on June 6, 2015. The Respondent reported that on November 29, 2014, he had a conversation with multiple complaints against him, and complained of harassment. talked to the Respondent about keeping stronger personal boundaries
The Respondent stated that he asked Complainant 2 in , "Can I speak to you outside?" They walked outside. He did not touch her hand, and stated, "at most I patted her shoulder." They had an abstract conversation about whether marriage as a social construct was workable. Then Complainant 2 started to talk about "intimate details of her personal life." The Respondent told Complainant 2, "I can't talk to you about this because you're an attractive woman."
The Respondent stated that he and Complainant 2 often discussed personal matters with each other. He stated she wanted to meet with him to talk, and he told her, "If you want to meet with me you would have to initiate." He said he told her she'd have to initiate the meeting because of his previous talk with who had told him about having stronger personal boundaries
The Respondent denied there was any quid pro quo conversation. He stated that he thought "doesn't do much and he simply told her, "If you need help, I can help."
The Respondent expressed that he has had a tumultuous year. He stated that since spoke with him in 2014 and in April of 2015, he goes to his office, deals with only his leaves. He is staying out of and will now only take
VII. Witness Information
The Respondent provided me with the names of three were women) that could speak to the relationship he had with them. None of the witnesses were direct witnesses to the Complainants' concerns, nor were they indirect witnesses, i.e., people he discussed the allegations with close in time, etc. I declined to interview them because they were not relevant to the investigation. Just because other people may state that the Respondent never engaged in any behavior that could be construed as inappropriate, unprofessional or of a sexual nature, does not tend to show whether or not the particular allegations with the two Complainants are true or not.
Complainants expressed that other would likely be willing to talk to me. However, rather than breach the privacy of the parties, I spoke only to who came

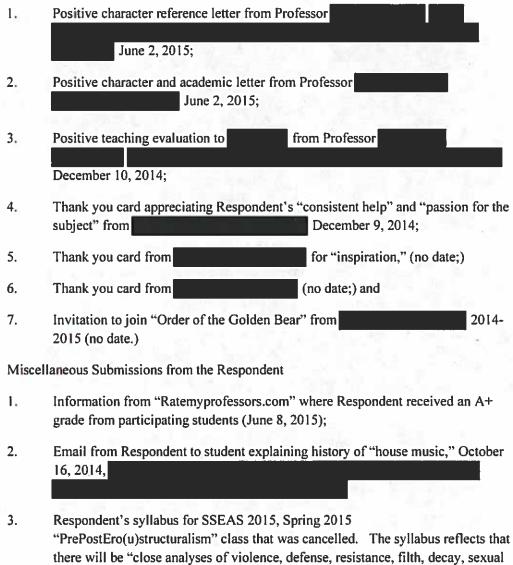






VIX. Documentary Evidence Reviewed

A. Positive Character and Academic Reference Letters/Notes for the Respondent



obsession, excess, and manifestations of numinous Sacred can kindle bright flames"

X. Factual Findings and Analysis

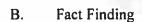
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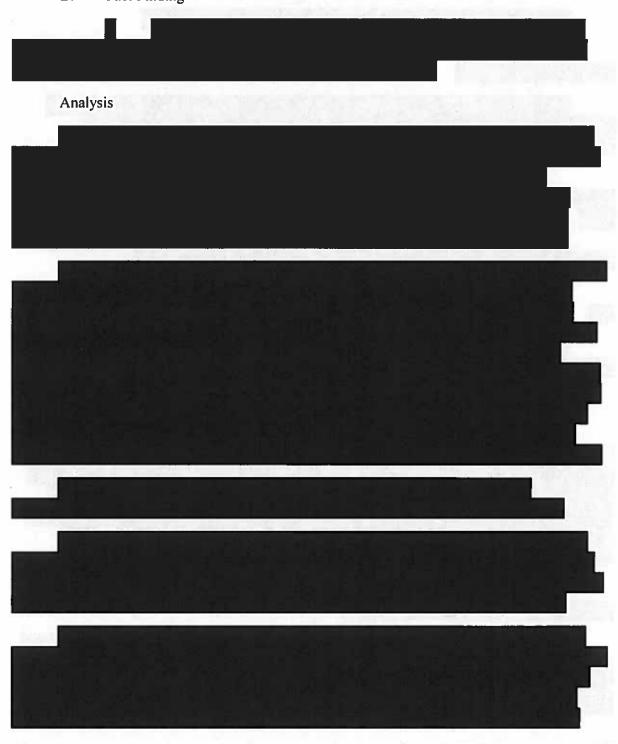
B.

Standard of Evidence: Preponderance of the Evidence A.

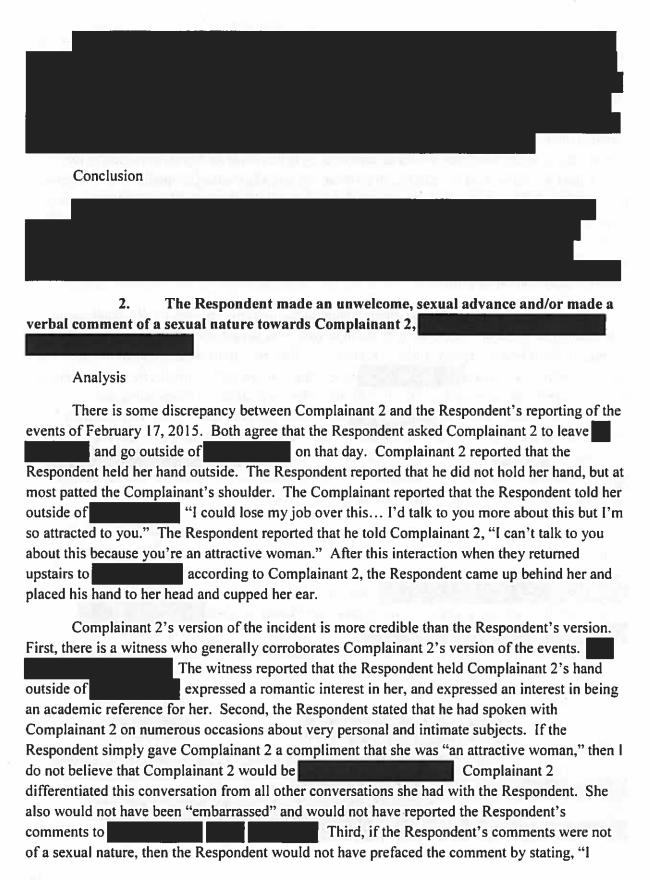
Findings in this investigation report are based on a "preponderance of the evidence" standard. In other words, after reviewing all the evidence, including the relative credibility of the parties and their statements during interviews, whether it is more likely (or probable) than not

that the conduct occurred. If the conduct did occur as alleged, then an analysis is completed to determine whether the conduct violated University policy. Please note: the report's findings do not reach conclusions whether conduct violated state or federal laws, but instead address whether the University's policies were violated.









	the Respondent's reasoning for telling Complainant 2 that liscuss his comments, does not make sense if the comment
	nature. Complainant 2 insisted that they had to talk about
the comments he just made. The Respo	
	Respondent told Complainant 2 that she had to initiate
	ne matter. This twisted procedure requiring Complainant
	be unnecessary if there was no sexual innuendo to the
	did not cross a boundary with Complainant 2. It is more
•	o create a documentation trail to reflect that he was simply
	coffee, if the ever brought a complaint forward.
	dent over coffee that she was not interested in a sexual or
	espondent did not correct her that she misinterpreted his
words or intentions at this time.	
	terpretation of the incident between the Respondent and
	nade an unwelcome, sexual advance to Complainant 2 by
stating, "I could lose my job over this	. I'd talk to you more but I'm so attracted to you." He
invited Complainant 2 out	to engage with her alone outside, he made a pass at
her, and hoped that she would positivel	y respond. Moreover, after the Respondent and
Complainant 2 returned inside	the Respondent came up behind Complainant 2
and placing his hand to her head and cu	apped her ear. This was an intimate physical touch, and
there was no rationale for this	s physical touch
In conjunction with his prior stateme	ent, it was reasonable for Complainant 2 to believe that
Respondent's was making an unwelcon	ne, sexual advance.
The Respondent's comment to 0	Complainant 2 meets the first two requirements of the
•	espondent comment is an "unwelcome, sexual
	a sexual nature." Complainant 2 revealed the incident to
	She did not come forward at that time to report the
matter formally because she was too en	<u> </u>
	The Complainant's reaction reflects that the
	e to Complainant 2, as she rejected a sexual or romantic
relationship with him when they met fo	
Complainant 2 described how the	he Respondent's behavior impacted her. Complaint 2
noted that she was	she tried to avoid because
the Respondent's	she refused to meet with him when he asked her to
come into his office;	
7	The impact on Complainant 2 reflects
that the Respondent's behavior	

Therefore, the evidence reflects that by a preponderance of the evidence, the Respondent made an unwelcome, sexual advance (or alternatively a verbal comment), sufficiently severe to constitute behavior of a "sexual nature," that affected and interfered with Complainant 2's and thereby violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence.

XI. Conclusion

By a preponderance of the evidence, the Respondent violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence.

Therefore, this formal investigation report is being referred to the Vice Provost for the Faculty for review.