

**FINDINGS OF THE
OFFICE OF EQUAL OPPORTUNITY AND DIVERSITY (OEOD)**

COMPLAINANT 1: Michelle Herrera, Graduate Student, Ecology & Evolutionary Biology

COMPLAINANT 2: Kathleen Treseder, Professor and Chair, Ecology & Evolutionary Biology

COMPLAINING WITNESS 1: Jessica Pratt, Assistant Teaching Professor, Ecology & Evolutionary Biology

COMPLAINING WITNESS 2: Benedicte Shipley, Assistant Dean, Ayala School of Biological Sciences

RESPONDENT: Francisco Ayala, University Professor and Bren Professor, Ecology & Evolutionary Biology

BASIS OF COMPLAINT: Sexual Harassment
Discrimination based on Sex

POLICIES: *UC Policy on Sexual Violence and Sexual Harassment and UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment as implemented by the UCI Guidelines for Reporting to and Responding to Reports of Discrimination and Harassment and the UCI Guidelines for Reporting and Responding to Reports of Sex Offenses*

INVESTIGATORS: Erik Pelowitz, Senior Investigator
Karen Bell, Interim Deputy Title IX Officer

DATE: May 16, 2018

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FINDINGS OF THE OFFICE OF EQUAL OPPORTUNITY AND DIVERSITY (OEOD)

I. INTRODUCTION

Respondent is a faculty member in the Department of Ecology & Evolutionary Biology in the Ayala School of Biological Sciences, and Complainant 1 is a first-year graduate student within the same department. On November 7, 2017, the Office of Equal Opportunity and Diversity (OEOD) was notified by Complainant 1 that Respondent had allegedly harassed Complainant 1. On November 17, 2017, an investigation was initiated by OEOD.

Complainant 2 is the Chair of the Department of Ecology & Evolutionary Biology. On November 17, 2017, OEOD was notified by Complainant 2 that Respondent had allegedly harassed Complainant 2 since 2003. Complainant 2 submitted a written complaint of harassment (Exhibit C).² On November 20, 2017, the parties were notified that these allegations were joined with the formal investigation that had been initiated against Respondent based on Complainant 1's report of alleged harassment.

On January 9, 2018, OEOD interviewed Complaining Witness 1 as a potential witness regarding the allegations made by Complainants 1 and 2. Complaining Witness 1 alleged that Respondent had harassed Complaining Witness 1 when she was a graduate student and as a faculty member. On February 23, 2018, OEOD amended the investigation to include Complaining Witness 1's allegations and extended the investigation to March 23, 2018.

On February 16, 2018, OEOD interviewed Complaining Witness 2 as a potential witness regarding the allegations made by Complainants 1 and 2. Complaining Witness 2 alleged that Respondent had harassed Complaining Witness 2 since approximately 2014. On February 23, 2018, OEOD amended the investigation to include Complaining Witness 2's allegations.

The allegations at issue in this investigation are as follows:

Complainant 1

1. That on October 27, 2017, at a rooftop reception at Steinhaus Hall, Respondent stood behind, and leaned up against, Complainant 1 while she was sitting at a picnic table, on two occasions, such that the front of his body was touching the back of her body; that, on one of these occasions, he placed his hands on her bare shoulders; and that this conduct was unwelcome.
2. That on numerous occasions, between 2014-2017, Respondent made comments to Complainant 1 regarding her physical appearance; that Complainant 1 overheard Respondent making such comments to other female students; that she heard from others that Respondent had made unwelcome comments; and that this conduct was unwelcome to Complainant 1.

² The complaint refers to 2013 as the date the unwelcome conduct began; Complainant 2 clarified that the alleged conduct began in 2003.

Complainant 2

1. That during Complainant 2's employment, Respondent has repeatedly kissed her when greeting her and that this conduct was unwelcome.
2. That during Complainant 2's employment, Respondent has repeatedly made unwelcome comments on her appearance, stating that she is "pretty" or "beautiful" or words to that effect; and that one notable example is when Complainant 2 was pregnant and Respondent allegedly told her, "I have never seen you look more beautiful. You're so huge, though. I can't believe how huge you are. But you look beautiful."
3. That during social events during Complainant 2's employment, Respondent has repeatedly focused his attention on Complainant 2 and engaged in unwelcome conversation with her.
4. That on or about August 25, 2012, Respondent told Complainant 2 that she was so enthusiastic in talking about her research during a lecture that he thought she would "have an orgasm" in front of everyone and that Respondent's comment was unwelcome.
5. That in or about 2013, at a department party, Respondent told Complainant 2 that he could not blame a man who had grabbed Complainant 2 as he rode by on a bike as he, too, would like to "grab her ass," or words to that effect, and that Respondent's comment was unwelcome.
6. That in or about 2015, at a department party, Respondent and Complainant 2 were conversing with a group of people, and Respondent grabbed Complainant 2's arm and pulled her toward him to talk with him, and that Respondent's conduct was unwelcome.
7. That on April 26, 2016, Respondent met with Complainant 2 regarding his decision to nominate her to the National Academy of Sciences; that during this conversation Respondent moved his body to be closer to hers as they discussed the nomination process and placed his hand on hers; that Respondent also informed her that during the NAS annual meeting, a member could pull an individual nominee from the slate for a discussion regarding that nominee and, when that occurred, the nominee rarely got elected; that Respondent's conduct was unwelcome and particularly impactful because it reminded Complainant 2 of the power that Respondent had over her career as a scientist.
8. That in or about October 2017, as Complainant 2 was leading a faculty meeting, Respondent told her and a female staff person "how wonderful to be sitting across from two beautiful women," or words to that effect; and that this comment was particularly unwelcome and impactful because Complainant 2 felt it undermined her authority as the Chair of the department.
9. That on November 8, 2017, during a faculty meeting, Complainant 2 discussed the University's sexual harassment policy and led a discussion concerning behaviors that might constitute sexual harassment; and that Respondent took issue with the proposed guidelines and challenged Complainant 2 about several issues.
10. That over the years, Complainant 2 also has heard about Respondent's conduct toward other women, which impacted the way she perceived his behavior toward her.

Complaining Witness 1

1. That during Complaining Witness 1's time as a graduate student and employee of UCI, Respondent has repeatedly kissed her when greeting her; and that his conduct was unwelcome.
2. That during Complaining Witness 1's time as a graduate student and employee of UCI, Respondent has repeatedly commented on her appearance and made favorable comments as to how her clothing looks on her; that these comments were unwelcome; and that one notable example is when he told her she should face the door while sitting in her office so people could see her pretty face.
3. That on February 11, 2015, at the beginning of a faculty meeting in which Complaining Witness 1 was to give a presentation, Respondent told her she could sit on his lap and he would enjoy the presentation more, or words to that effect; that this comment was unwelcome and greatly impacted Complaining Witness 1 given the setting and the junior nature of her position; and that this situation was exacerbated when Respondent, having learned that Complaining Witness 1 was upset, went to discuss it with her, stood over her and reprimanded her, telling her she was being sensitive.
4. That after the above incident, which resulted in an informal complaint to OEOD and a personal meeting between Respondent and a senior administrator, Associate Chancellor Quanbeck, who reminded him of the University's sexual harassment policy and advised him to watch the types of comments made to women in the educational and employment setting, that Respondent, on at least one occasion in 2016 or 2017, referred again to Complaining Witness 1's appearance by telling a male colleague that he was not allowing "the three pretty women" to mingle with their colleagues.
5. That over the years, Complaining Witness 1 also has heard about Respondent's conduct toward other women, which impacted the way she perceived his behavior toward her
6. That she observed Respondent pointing at a female student's "Ayala School of Biological Sciences" t-shirt at a "Doughnuts with the Dean" event in fall 2017 and touching, or coming close to touching, the student's chest.
7. That she attended a faculty meeting in November 2017 at which Complainant 2 reminded the faculty of the University's sexual harassment policy and led a discussion concerning appropriate behavior during which Respondent questioned Complainant 2 and took issue with the guidelines being discussed.

Complaining Witness 2

1. That during Complaining Witness 2's employment, Respondent has repeatedly kissed her and hugged her when greeting her; that during these greetings, Respondent placed his hands on her sides, under her jacket, and rubbed up and down; and that this conduct was unwelcome.
2. That during Complainant 2's employment, Respondent has repeatedly commented on her appearance, stating that she is "pretty" or "beautiful" or words to that effect, for example, on or about March 2, 2016, Respondent told her, "I just learned that women don't like to be told they're beautiful, but I know you don't mind," or words to that effect; and that on one occasion, Respondent stated, during a cabinet meeting, "We are lucky to have such a beautiful Assistant Dean," or words to that effect.

3. That at social events during Complaining Witness 2's employment, Respondent has repeatedly focused his attention on Complaining Witness 2 and engaged in unwelcome conversation with her.
4. That, on one occasion, while discussing the lettering to place Respondent's name on campus buildings or signs, Respondent accused Complaining Witness 2 of acting "as a woman" and manipulating the decision; and that Complaining Witness 2 felt this comment was degrading and upsetting, particularly since the conversation had begun with Respondent engaging in unwelcome physical conduct (kissing on the cheek).
5. That on or about October 4, 2017, as Complaining Witness 2 was seated for a faculty meeting, Respondent entered the room and stopped to greet her with a kiss and touch her with his hands; however, she grabbed his hands and shook her head "no" to indicate she did not want him to kiss or touch her.

Respondent was interviewed by Senior Investigator Erik Pelowitz on November 27, 2017, regarding the allegations made by Complainants 1 and 2. In that interview, Respondent stated that the allegations made by Complainants 1 and 2 were false. He stated that he did not think he touched Complainant 1 and, if he did, it was not intentional. He stated that he did not make any personal comments to Complainant 2 and did not recall if he ever kissed her cheek. He denied the other allegations made by Complainant 2 (Exhibit F). Furthermore, Respondent told Senior Investigator Pelowitz that the investigation needed to end quickly and in his favor and indicated he had lawyers waiting if the investigation did not end favorably.

On February 26, 2018, Senior Investigator Pelowitz contacted Respondent to schedule an interview regarding the allegations made by Complaining Witnesses 1 and 2 and to follow up on his initial interview with Respondent. Despite repeated attempts by the Investigators to schedule this interview as soon as possible, Respondent did not make himself available to be interviewed until April 19, 2018. On March 27, 2018, Associate Chancellor Quanbeck extended the completion date of the investigation to May 16, 2018.

Respondent was interviewed again on April 19, 2018 and provided detailed responses to the allegations made by Complainants 1 and 2 as well as Complaining Witnesses 1 and 2. While he admitted to making certain comments and engaging in certain conduct, he does not believe these were unwelcome or that they amount to sexual harassment.³ His responses are fully set forth in section VII of this report.

Respondent's Communications Regarding this Investigation

On November 22, 2017, Respondent wrote to President Napolitano and Chancellor Gillman⁴ expressing his "distress concerning the allegations of sexual harassment against [him]" (Exhibit D). He noted, among other things,

³ Respondent admitted stating to Complaining Witness 1 that she could sit on his lap. He characterized this comment as a horrendous lack of judgment on his part and said he apologized to Complaining Witness 1 when he learned the comment was unwelcome. The specifics of that discussion are at issue and will be reviewed later in this report.

⁴ With copies to President Napolitano's Executive Assistant, Diana Gee; UCI Provost and Executive Vice Chancellor Enrique Lavernia; UCI Vice Provost for Academic Personnel, Diane O'Dowd; Dean of the Ayala School of Biological Sciences, Frank LaFerla; UCI Respondent Services Coordinator, Negar Shekarabi; and Executive Director, Academic Senate, Irvine Division, Natalie Schonfeld.

I am also sending to you separately, via email, a “Response to Allegations,” addressed also to various authorities at UCI. This document will make clear, I assume, that these allegations are not justified and will cause enormous harm to my academic work and to me as a person, in spite of my important and generous contributions to UCI and to the University of California, academic as well as financial, and to UCI’s national and international prestige.

In the “Response to Allegations” sent to Chancellor Gillman⁵ (Exhibit E), Respondent stated that the allegations made by Complainant 1 were “absolutely false.” He responded to the allegations made by Complainant 2 in detail, as fully set forth in section VII of this report, concluding, “That [Complainant 2] would assert that my actions involved sexual harassment is disconcerting to me, as well as shocking, in addition to being in my opinion definitely wrong.”

On November 29, 2017, Respondent wrote to Chancellor Gillman⁶ (Exhibit G). In this email, Respondent provided further responses to the allegations made by Complainant 2, as fully set forth in section VII of this report, concluding, “There is not valid justification to place me, on the basis of false accusations, on an involuntary leave of absence, with the severe harming consequences to my research, my teaching, my international academic collaborations, and my mind.”⁷

On December 7, 2017, Respondent wrote to Senior Investigator Pelowitz⁸ regarding his support for women scientists (Exhibit I). Respondent listed various individuals whom he had nominated for awards and for various professional organizations/societies.

On December 15, 2017, Respondent wrote to Chancellor Gillman⁹ stating that he had been awarded and had accepted the Ocean Conservation Award, the highest honor awarded by the Aquarium of the Pacific (Exhibit J).

On January 9, 2018, Respondent wrote to Senior Investigator Pelowitz¹⁰ regarding the allegations made by Complainants 1 and 2 (Exhibit L). In this response, which is fully set forth in section VII of this report, Respondent asked, “Will [Complainant 2] be dismissed from UCI because of the enormous harm that her accusations based on falsifications have caused me—and UCI?”

Interim Measures

When notified that a formal investigation had been initiated based on the information they provided, the Complainants and Complaining Witnesses were provided with a list of offices that provide resources and support, including the University’s Employee Assistance Program, Office

⁵ With copies to Lavernia; O’Dowd; LaFerla; Shekarabi; and Schonfeld.

⁶ With copies to Napolitano; Salvaty; Lavernia; O’Dowd; LaFerla; Shekarabi; Schonfeld; Quanbeck; Pelowitz; and Professor and Chair, UCI Committee on Privilege and Tenure, Donald Senear.

⁷ Respondent was placed on an involuntary leave of absence effective November 20, 2017; this leave of absence was suspended effective March 6, 2018.

⁸ With copies to Gillman; Napolitano; Salvaty; Lavernia; O’Dowd; LaFerla; Shekarabi; Schonfeld; Quanbeck; and Senear.

⁹ With copies to Napolitano; Salvaty; Lavernia; O’Dowd; LaFerla; Shekarabi; Schonfeld; Quanbeck; Pelowitz; and Senear.

¹⁰ With copies to Gillman; Napolitano; Salvaty; Lavernia; O’Dowd; LaFerla; Shekarabi; Schonfeld; Quanbeck; Senear; and UCI Professor Ping Wang.

of the Ombudsman, and the Campus Assault Resource & Education (CARE). Complainant 1 requested that Respondent be directed not to attend Department seminars and, on November 17, 2017, Witness 52 directed Respondent to stay away from the seminars and the post-seminar social events [rooftop receptions] until further notice. In addition, University officials outside of OEOD determined to place Respondent on a leave of absence effective November 20, 2017, as stated above. On March 1, 2018, Respondent's involuntary leave was suspended and the following interim measures were put into place:

- The prohibition on Respondent's interaction with complainants and/or witnesses in the ongoing investigation was continued;
- The prohibition on Respondent's interaction with UCI faculty, staff, and students in the School of Biological Sciences, with the exception of his collaborators and assistant, during the pendency of this matter, was continued;
- The prohibition on Respondent's attendance at University hosted events was continued;
- The University offered Respondent the option of relocating his current department office, or some agreed upon portion of it, to a temporary space of similar size outside of the Bio Sci district, and Respondent was permitted to be on campus for the purpose of accessing this space only;
- Respondent was authorized to meet in-person with his assistant in his new, temporary office space, provided she is comfortable with this arrangement;
- Respondent was authorized to meet with collaborators in-person in his new, temporary office; and
- Respondent was authorized to deliver lectures when invited, provided these are not venues where UCI faculty and/or students are likely to be in the audience (such as a society meeting that is attended by a large fraction of the department personnel)

II. ALLEGATIONS PROVIDED TO RESPONDENT

Respondent was notified of the allegations involving Complainant 1 on November 17, 2017 (Exhibit T). He was notified of the allegations involving Complainant 2 on November 20, 2017 (Exhibit U).¹¹ And, on February 23, 2018, he was notified of the allegations involving Complaining Witnesses 1 and 2 (Exhibit V).¹² As the Investigators conducted interviews and reviewed documents, additional details regarding these allegations came to light, which are fully detailed in section VII of this report.

III. SCOPE OF REVIEW

This investigation sought to determine whether events occurred as alleged and whether they constitute a violation of the *UC Policy on Sexual Violence and Sexual Harassment* and/or the *UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment* as implemented by the *UCI Guidelines on Reporting and Responding to Reports of Discrimination and Harassment*.

¹¹ Complainant 2's allegations are contained in a written complaint form (Exhibit C). This form was shared with Respondent on November 27, 2017 (see Exhibit G) and again with Respondent and his counsel on March 6, 2018 and on April 3, 2018.

¹² Exhibit V was prepared prior to receiving Complaining Witness 2's comments on the draft of her statement. Complaining Witness 2's statements as contained in section VII are the true and correct statement of facts as told by Complaining Witness 2 to the Investigators.

IV. INVESTIGATION STANDARD

The standard applied in determining whether or not there is a violation of the applicable policy is the preponderance of the evidence. This means that the totality of the evidence must demonstrate that it is more likely than not that the alleged conduct occurred in violation of the applicable policy.

V. APPLICABLE POLICIES AND PROCEDURES:

Harassment Based on Sex/Gender

UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment as implemented by UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment

UC Irvine is committed to creating and maintaining an environment in which all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of discrimination and harassment. Such behavior is prohibited by law and University policy. The University will respond promptly and effectively to reports of discrimination and harassment, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates University policy and these Guidelines.

Discrimination is unequal treatment of an individual or group of people based upon race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services where there is no legitimate reason for such treatment.

Harassment, on any of the bases set forth in University policy concerning discrimination, including sex and gender, is defined as unwelcome conduct, including verbal, nonverbal, or physical 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. Harassment as used in these guidelines can include Sexual Harassment.

Sexual Harassment

UC Policy on Sexual Violence and Sexual Harassment as implemented by UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment

Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:

(Quid Pro Quo) a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program; or

(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.

VI. INVESTIGATION METHODOLOGY

Our investigation included interviews with the parties and witnesses listed below. During the course of this investigation, 77 potential witnesses were identified by parties, other witnesses and the investigators, 65 of which the investigators interviewed or attempted to interview.

Several potential witnesses named by Respondent (Witnesses 66-77) were not contacted because Respondent described them as individuals with whom he had interacted socially and did not describe them as individuals who would have information material to this investigation. As to these individuals, Respondent stated:

- We should interview Witness 66 because he has interacted with her regarding NAS nominations for UCI.
- We should interview Witness 67 because Respondent was the first Bren Professor, and Witness 67 was instrumental in bringing him to UCI. Respondent stated that Witness 67 could speak to his character.
- We should interview Witnesses 68 and 69 because Respondent knows them socially.
- We should interview Witnesses 70 and 71 because he has interacted with them socially to develop UCI.
- Respondent did not provide specific information during his interview regarding the information Witness 72 would provide.
- We should interview Witnesses 73 and 74 because he has interacted with them socially.
- We should interview Witness 75 because he has interacted with her socially.
- We should interview Witness 76 because he has interacted with her socially and discussed science with her. Respondent stated that Witness 76 knows him as a person.
- We should interview Witness 77 because she is a physician and a very distinguished person who knows him well. Respondent stated that Witness 77 has known him for many years.¹³

¹³ See also Exhibit N.

Of the individuals Respondent named as witnesses to be interviewed, he stated that it would be most important for the investigators to speak with Witnesses 37, 63 and 64. The investigators did speak with these individuals, as noted below.

After reviewing the draft report, Respondent took issue with the fact that the investigators declined to interview all of the individuals he had named as possible witnesses (Exhibit W). He added the following information concerning Witnesses 66 and 76:

- Witness 66, [Name omitted]: Witness 66 “a long-time professor and dean at UC Irvine, remains a member of the Chancellor’s Club. She’s very engaged with the UCI community. Thus, she should be interviewed.”
- Witness 76, [Name omitted]: Witness 76 “is a decades-long UCI affiliate. She taught at the school of education for many years, was instrumental in running the school, and retired only recently. Even so, Witness 76 remains very active at UCI and is also a member of the Chancellor’s Club. She was present—and interacted—with [Respondent] at countless academic events at UCI. Thus, she should be interviewed.”

The above descriptions do not explain how interviews with Witnesses 66 and 76 are likely to elicit material information. There is no information that they were present on the occasions at issue or that they have spoken to the parties about their interactions with Respondent. We decline to interview these witnesses.

After reviewing the draft report, Respondent also proposed another witness, Distinguished Professor, Brian Skyrms, with whom Respondent jointly “taught philosophy of biology for more than 20 years.” Again, this description does not explain how interviewing this individual is likely to elicit material information. There is no information that Professor Skyrms was present on the occasions at issue or has other information pertinent to the specific allegations.

The following chart indicates the person who referred the investigators to each witness and the date of each interview:

Witness	Provided by	Date Interviewed
Witness 1	Complainant 1	November 7, 2017
Witness 2	Complainant 2	January 4, 2018
Witness 3	Complainant 2	January 5, 2018, May 1, 2018, and May 5, 2018
Witness 4	Complainant 1	January 5, 2018
Witness 5	Complainant 1	January 5, 2018
Witness 6	Complainant 2	January 8, 2018 and May 2, 2018
Witness 7	Complainant 2	January 8, 2018 and May 3, 2018
Witness 8	Complainant 1	January 8, 2018
Witness 9	Complainant 1	January 8, 2018
Witness 10	Complainant 2	January 9, 2018 and May 2, 2018
Witness 11	Complainant 1	January 9, 2018
Witness 12	Complainant 2	January 10, 2018
Witness 13	Complainant 2; Witness 44	January 10, 2018
Witness 14	Complainant 1	January 10, 2018

Witness 15	Complainant 2	January 11, 2018
Witness 16	Complainant 2	January 11, 2018
Witness 17	Complainant 1	January 16, 2018
Witness 18	Complainant 1	January 17, 2018
Witness 19	Complainant 1	January 18, 2018
Witness 20	Investigator	January 23, 2018
Witness 21	Investigator	January 24, 2018
Witness 22	Witness 21	January 27, 2018
Witness 23	Investigator	January 29, 2018
Witness 24	Investigator	January 29, 2018
Witness 25	Investigator	January 29, 2018
Witness 26	Witness 22	January 30, 2018
Witness 27	Investigator	January 31, 2018
Witness 28	Respondent	January 31, 2018
Witness 29	Complainant 1	February 1, 2018
Witness 30	Complainant 2	February 2, 2018
Witness 31	Investigator	February 2, 2018
Witness 32	Investigator	February 2, 2018
Witness 33	Witness 10	February 5, 2018
Witness 34	Respondent	February 6, 2018
Witness 35	Respondent	February 6, 2018
Witness 36	Respondent	February 8, 2018
Witness 37	Respondent	February 8, 2018
Witness 38	Respondent	February 9, 2018
Witness 39	Respondent	February 9, 2018
Witness 40	Respondent	February 9, 2018
Witness 41	Complainant 2 and Respondent	February 13, 2018
Witness 42	Investigator	February 13, 2018
Witness 43	Complainant 1	February 15, 2018
Witness 44	Witness 10	February 16, 2018
Witness 45	Witness 10	February 20, 2018
Witness 46	Investigator	February 20, 2018
Witness 47	Complainant 1	February 22, 2018
Witness 48	Investigator	February 6, 2018
Witness 49	Witness 48	February 12, 2018
Witness 50	Witness 2	January 4, 2018
Witness 51	Witness 43	March 13, 2018
Witness 52	Investigator	March 20, 2018
Witness 53	Witness 49	February 12, 2018
Witness 54	Investigator	Contacted on February 5, 2018
Witness 55	Witness 22	Contacted on January 29, February 6 and 12, 2018
Witness 56	Complaining Witness 1	May 3, 2018
Witness 57	Investigator	Contacted on December 19, 2017 and February 12, 2018
Witness 58	Complainant 2; Witness 22	Contacted on December 19, 2017 and February 12, 2018

Witness 59	Respondent	May 1, 2018
Witness 60	Witness 43	April 30, 2018
Witness 61	Witness 12	May 2, 2018
Witness 62	Witness 26	May 4, 2018
Witness 63	Respondent	May 3, 2018
Witness 64	Respondent	April 30, 2018
Witness 65	Witness 22	May 1, 2018
Witness 66	Respondent	Not Contacted ¹⁴
Witness 67	Respondent	Not Contacted
Witness 68	Respondent	Not Contacted
Witness 69	Respondent	Not Contacted
Witness 70	Respondent	Not Contacted
Witness 71	Respondent	Not Contacted
Witness 72	Respondent	Not Contacted
Witness 73	Respondent	Not Contacted
Witness 74	Respondent	Not Contacted
Witness 75	Respondent	Not Contacted
Witness 76	Respondent	Not Contacted
Witness 77	Respondent	Not Contacted

Our investigation included a review of the following documents:

DOCUMENTS/EVIDENCE SUBMITTED:

Exhibit	Date	Document/Evidence Description	Submitted by
A	Undated	Written statement by Complainant 1, which describes her allegations against Respondent. The statement also includes a drawing showing where people were sitting when Respondent allegedly touched Complainant 1.	Complainant 1
B	Oct. 27-30 (no year listed)	Text messages between Complainant 1 and Witness 1 in which Witness 1 is asking Complainant 1 if she is ok because someone had witnessed Respondent standing too close to her and putting his hands on Complainant 1's shoulders and then discussing reporting Respondent to Complainant 2.	Complainant 1
C	Nov. 17, 2017	Complaint Form filed by Complainant 2	Complainant 2

¹⁴ As discussed in detail in this Report, several potential witnesses named by Respondent were not contacted because Respondent described them as individuals with whom he had interacted socially. He did not describe them as individuals who would have information material to this investigation.

D	Nov. 22, 2017	Email to Chancellor Gillman from Respondent re “Defense of My Character”	Office of the Chancellor
E	Nov. 22, 2017	Email to Chancellor Gillman from Respondent re “Response to Allegations”	Office of the Chancellor
F	Undated	Summary of Interview of Respondent on Nov. 27, 2017	Investigator
G	Nov. 29, 2017	Email to Chancellor Gillman from Respondent re “Accusations Based on Falsifications”	Respondent
H	Nov. 29, 2017	Email to Senior Investigator Pelowitz from Respondent re “Possible References”	Respondent
I	Dec. 7, 2017	Email to Senior Investigator Pelowitz from Respondent re “My Support for Women Scientists; Examples”	Respondent
J	Dec. 15, 2017	Email to Chancellor Gillman from Respondent re “2018 Ocean Conservation Award”	Respondent
K	Undated	Respondent’s Sexual Harassment Prevention (AB1825) training record.	OEOD
L	Jan. 9, 2018	Email to Senior Investigator Pelowitz from Respondent re “Allegations: Update”	Respondent
M	Mar. 13, 2018	Letter to Senior Investigator Pelowitz from Witness 52	Witness 52
N	Mar. 14, 2018	Witness (Reference) List	Randa Osman, Esq., attorney for Respondent
O	Apr. 20, 2018	Email to Senior Investigator Pelowitz from Witness 35	Witness 35
P	July 15-30, 2016	Emails between Complaining Witness 2 and Witness 46	Witness 46
Q	Nov. 8, 2017 (appx.)	Complainant 1’s Talking Points for Faculty Meeting on 11/8/17	Complainant 2
R	Nov. 7, 2017	Email from Witness 10 to EEB Faculty and Graduate Student Representatives re 11/8/17 Faculty Meeting	Complainant 2
S	Feb. 19, 2015	Email to Complainant 2 from Witness 20 re “Meet this Friday”	Complainant 2
T	Nov. 17, 2017	Letter to Respondent from OEOD re allegations from Complainant 1	Investigator
U	Nov. 20, 2017	Letter to Respondent from OEOD re allegations from Complainant 2	Investigator

V	Feb. 23, 2018	Letter to Respondent from OEOD re allegations from Complaining Witnesses 1 and 2	Investigator
W	May 11, 2018	Letter from Susan Estrich to Senior Investigator Pelowitz	Attorney for Respondent
X	May 11, 2018	Email from Micha Liberty to Senior Investigator Pelowitz re OEOD Investigation	Attorney for Complainants 1 and 2 and Complaining Witness 1
Y	May 11, 2018	Draft Review Activity Log	Investigator

Parties were advised of the process and timeline of this investigation and the standard of evidence relied upon, the preponderance of evidence. All parties were advised of their rights, options, and resources. They were asked to keep information related to the investigation confidential to the extent possible to allow this investigator to conduct a thorough and fair investigation. Testimony was not given under oath. The investigation proceeded under the good faith expectation and instruction to participants to answer truthfully. All participants were further advised that they are subject to the policies prohibiting retaliation for either bringing a claim or participating in an investigation and thus they should not retaliate. All parties were provided with the opportunity to review a summary of the statements provided by the other parties and witnesses prior to the finalization of this report. All documents and evidence, as permitted by privacy and confidentiality provisions, were made available to the parties to review and respond to during the investigation. The parties were given access to an electronic copy of the draft report, including statements of parties and witnesses, and all documents and evidence, on May 9, 2018 at 1:35 PM through May 11, 2018 at 5:00 PM. They, and their counsel, accessed the records on the dates and times set forth in Exhibit Y.

VII. STATEMENTS OF COMPLAINANTS AND COMPLAINING WITNESSES AND RESPONDENT'S RESPONSES

Complainant 1:

Complainant 1 was interviewed on November 7, 2017, with Witness 1 as her support person. She was interviewed on April 10, 2018 by telephone and on May 3, 2018, with Witness 43 as her support person and her counsel as her advisor. The below is a summary of Complainant 1's statements.

On October 27, 2017, Complainant 1 attended the Department of Ecology & Evolutionary Biology's (EEB) rooftop reception. Complainant 1 was sitting at a picnic table when Respondent walked up behind her to talk to Witness 18. (Exhibit A) Respondent was so close to Complainant 1 that she could feel Respondent's body touching her back. Specifically, Complainant 1 could feel the area from Respondent's chest down to his upper thighs pressed against her. Complainant felt "disturbed" and responded by scooting forward on the bench in an attempt to remove the contact but was not able to move far enough away. When asked if she felt Respondent's penis

during this encounter, she said she did not. Complainant 1 estimated that Respondent stood there for approximately three to five minutes before he walked away.¹⁵

After 15 to 30 minutes, Respondent returned to talk to Witness 18 and again pressed his body against Complainant 1. Respondent then put his hands on both of Complainant 1's exposed shoulders. Complainant 1 explained that she was wearing a sleeveless shirt. Complainant 1 then tried to move closer to the table again to get away from Respondent but was not able to move far enough to not feel Respondent's body. Complainant 1 estimated that Respondent stayed there for approximately one to two minutes prior to walking away.

Later that night, Witness 1 texted Complainant 1 to ask if she was ok and stated that Witness 29 wanted to show support for Complainant 1 and offered to either report the incident anonymously or to go with Complainant 1 to report it. (Exhibit B)

Complainant 1 stated that the situation has upset her to the point she has had trouble sleeping and avoided going to some of her classes because she was afraid she would see Respondent. She also noted that she does not drink and did not drink at the rooftop reception.

During Complainant 1's first interview, on November 7, 2017, she stated that she became aware as an undergraduate student in UCI's Minority Science Program that female undergraduate students felt uncomfortable because of Respondent's comments, such as telling them they were pretty. She stated that she has had a number of interactions with him previously but he had never touched her. She stated that she had heard rumors about his being "creepy," but had not previously experienced anything herself. She reported that if she had experienced something as an undergraduate, she would not have returned to UCI as a graduate student.

However, on April 3, 2018, Complainant 1 sent Associate Chancellor Quanbeck an email regarding the investigation in which she stated, among other things, "Having been an undergrad in MSP [Minority Science Program], I speak for all women of color in the program when I say he was creepy and repeatedly made us uncomfortable by making comments on our appearance or asking us to sit next to him. We thought we had to just accept it because he was glorified in the program and on campus and we knew he had power."

Senior Investigator Pelowitz then contacted Complainant 1 to follow up on the above statements. When asked again if she had had any encounters with Respondent prior to October 27, 2017, or whether she had knowledge of encounters involving others, Complainant 1 reiterated that she had heard things about Respondent from others. She also reported that there was one occasion on which she was in an elevator with Respondent and he had commented on her appearance.

In the interview on May 3, 2018, Complainant 1 expanded on the above. She stated that when she was an undergraduate student, there were multiple occasions in which she was in the elevator with Respondent, along with others, and he would comment to one or more female students, including Complainant 1, how nice their shirt looked on them or how beautiful they are. She stated that she heard that during the MSP Christmas dinner, in or about 2016, Respondent asked for all the women to stand in front of him for a photograph. She stated that when she would see Respondent in the hallway of Steinhaus Hall, he would tell her, "You look so beautiful today."

¹⁵ The investigators viewed the picnic tables and measured the height of the picnic table bench seat to be 16.5 inches from the ground.

She reported that this conduct was “constant.” She noted that she worked in Respondent’s lab for a year (her freshman to sophomore year, March 2014-March 2015) and saw him at weekly MSP events. Complainant 1 reported that all of the above conduct was unwelcome but she did not report it to anyone because it was “obvious they should be glorifying [Respondent] in the program.”

Respondent’s Response to Allegations:

Information Provided in Email to Chancellor Gillman et al. dated November 22, 2017 (Exhibit D)

Respondent stated, among other things, that during his entire scientific career, he has fought to increase the recognition of women’s accomplishments and their representation in top-caliber institutions, prominently the National Academy of Sciences, the American Academy of Arts and Sciences, and the American Association for the Advancement of Science. He stated, “I have been conducting these efforts to gain for women their much deserved access to and recognition by these prominent institutions. Even if these efforts were to be considered harassment, I would continue to strive for women’s professional recognition.” He further stated that the allegations are not justified and “will cause enormous harm to my academic work and to me as a person, in spite of my important and generous contributions to UCI and to the University of California, academic as well as financial, and to UCI’s national and international prestige.”

Information Provided in Email to Chancellor Gillman et al. dated November 22, 2017 (Exhibit E)

Respondent responded to the allegation that he “pressed the front of his body against Complainant 1’s back on two occasions on the night of October 27, 2017,” stating that the allegation is “absolutely false.”

Information Provided in Interview of November 27, 2017

Respondent stated that if he touched Complainant 1, it was not intentional and he does not think it happened. Furthermore, Respondent stated that he avoids touching people and has a culture of respect and therefore would not have touched her shoulders.¹⁶

Information Provided in Email to Chancellor Gillman et al. dated November 29, 2017 (Exhibit G)

Respondent stated that he was terribly shocked by Complainant 1’s allegations and was shocked again having received notice of Complainant 2’s allegations. He then provided a detailed response to Complainant 2’s allegations as discussed below.

Information Provided in Email to Sr. Investigator Pelowiz et al. dated January 9, 2018 (Exhibit L)

Respondent reiterated that the allegations concerning Complainant 1 are “absolutely false.” He also provided the following information:

¹⁶ See Exhibit F.

[I] noticed that two of [my] graduate students were sitting at a low table and eating. [I] approached them to acknowledge them from across the table, where [Complainant 1] was seated. [I] approached them again to say goodbye, again from across the table. You (Erik Pelowitz) know my aversion to body-to-body physical contact. Thus, I maintained separation between [Complainant 1's] body (seated) and mine (standing). On the second visit, I placed my arms over [Complainant 1's] shoulders, precisely to maintain the body-to-body separation. In any case, it is absolutely false that I pressed the front of my body against [Complainant 1's] back. (Incidentally, was [Complainant 1] coached into making this allegation?)¹⁷

Information Provided in Interview of April 19, 2018

Respondent stated that he did not know Complainant 1 when she was an undergraduate student and did not recognize her even after he was informed of her complaint of harassment.

Respondent stated that he does not always attend the rooftop receptions; he only attends if he knows the speaker. He stated that he attended the reception on October 27, 2017, because he knew the speaker.

Respondent stated that at the reception, the students were sitting at a low table on the roof of Steinhaus Hall after having served themselves food. He stated that he saw two of his female graduate students sitting at the table and came over to say "hello."¹⁸ He reported that Complainant 1 was in front of him (facing the table) as he spoke to his graduate students. He stated that he did not have any physical contact with her during this conversation.

Respondent stated that after some time went by he went back to the table to say "goodbye" to his graduate students. Again, Complainant 1 was in front of him (facing the table) as he spoke to his graduate students. This time, he placed his hands on Complainant 1's shoulders as he spoke. He stated that he did so in order to avoid having his body get too close to hers. When asked if he may have brushed up against Complainant 1, Respondent stated that he does not believe he did. He stated that he believes Complainant 1 may have been coached to make this allegation because he did not get near her body. He also stated that he does not recall what Complainant 1 was wearing but her shoulders were not bare. He stated that he would not have touched her shoulders if they were bare.¹⁹

Complainant 2:

Complainant 2 was interviewed on November 17, 2017. She was also interviewed on May 3, 2018, with her counsel as her advisor. The below is a summary of Complainant 2's statements.

Complainant 2 started working at UCI in July 2003. Since that time, nearly every time she talked to Respondent, he commented on her appearance and/or kissed her hello. Regarding the kissing hello, he would say something akin to "I'm European, so we always kiss hello on both cheeks." The comments were usually about how beautiful or good Complainant 2 looked, or how happy Respondent was to be in the company of a beautiful woman.

¹⁷ Emphasis in original.

¹⁸ Respondent stated that he stopped taking graduate students about seven years ago but within the past couple of years agreed to take students again because he was asked to do so by NIH.

¹⁹ During her interview on May 3, 2018, Complainant 1 reiterated that she was wearing a sleeveless shirt during the incident on October 27, 2017, and her shoulders were bare. She also denied having been coached to make a complaint about Respondent.

During departmental parties, Respondent would approach Complainant 2 as soon as he saw her, standing very close to her, monopolizing the conversation, and discouraging others from joining them by his body language. Respondent would corner Complainant 2 for the whole time that she was at the party. If Complainant 2 tried to leave politely, for example by saying that she was going to get a drink, he would say, "Oh, I'll get you the drink," and he would come back and the behavior would continue. Complainant 2 became so uncomfortable with this dynamic that she asked Witness 2 to accompany her to parties to help her manage Respondent and to give Complainant 2 a chance to leave the conversation.

In late 2007/early 2008, Respondent came into Complainant 2's office. Complainant 2 was pregnant at the time and Respondent said, "I have never seen you look more beautiful. You're so huge, though. I can't believe how huge you are. But you look beautiful."

On or about August 15, 2012, Complainant 2 saw Respondent at the University Center Farmer's Market.²⁰ The day before, she had given a guest lecture in Respondent's Minority Science Program undergraduate seminar. At the Farmer's Market, Respondent told Complainant 2 that she had done a great job with her lecture. He said that she was so enthusiastic talking about her research that Respondent thought Complainant 2 would "have an orgasm" in front of everyone.

On or about December 13, 2013, at an EEB party, Complainant 2 was in a conversation with Respondent. Witness 2 was there. Complainant 2 was telling a story about how a couple of months earlier, a man on a bicycle (not affiliated with UCI) had grabbed her butt as he rode by. Complainant 2 was giving an example of the type of sexual violence that women can experience. Respondent told Complainant 2 that he can't blame the man--he would also like to "grab [Complainant 2's] ass."

In 2015, when Complaining Witness 1 filed her complaint with OEOD, Complainant 2 was the Sexual Harassment Advisor for the School and the Vice Chair of the Department. When some of the graduate students learned that Complaining Witness 1 had filed a complaint, they informed Complainant 2 that Respondent made comments about the physical appearance of his female TAs.²¹ They did not report any physical conduct, such as unwelcome touching, but Complainant 2 got the impression that they had been worn down by Respondent's repeated conduct. She felt it would be appropriate to stop assigning female TAs to Respondent and informed the staff person responsible for TA assignments not to assign him female TAs.²²

During the EEB holiday party on or about December 7, 2015,²³ Complainant 2 and Respondent were talking in a group of about five people, including Witness 2. Complainant 2 was glad because she was across the group from Respondent, not next to him. During the conversation, Respondent reached across, grabbed Complainant 2's right forearm, and dragged her over so that Complainant 2 was standing close to him. This was unwelcome as she did not want to get forced into isolated conversations with Respondent at these types of events.

²⁰ During her interview on May 3, 2018, Respondent clarified that this date was wrong. She checked her calendar and reported that this incident occurred on August 25, 2012.

²¹ See Exhibit S.

²² A list of TAs provided by Witness 10 shows that Respondent was assigned only male TAs in 2016 and 2017.

²³ Complainant 2 included this date in her written complaint but reported to the Investigators that she was estimating the dates when she completed the complaint form. She stated that this date and other party dates noted in the form could be a bit off.

On April 26, 2016, Respondent requested a meeting with Complainant 2. Respondent met Complainant 2 in Complainant 2's office. Respondent told Complainant 2 that he would like to nominate Complainant 2 for the National Academy of Sciences (NAS).²⁴ Respondent is a NAS member, and explained to Complainant 2 the nomination process, emphasizing that it is set up so one member can effectively blackball a nomination. Respondent told Complainant 2 that he needed names of other NAS members to write supporting letters of nomination. Respondent directed Complainant 2 to the online NAS member directory so they could look up members and pick potential letter writers. Respondent scooted his chair around Complainant 2's desk so he was sitting directly behind Complainant 2, leaned over, put his hand over Complainant 2's right hand, which was on the mouse, and moved her hand as if to guide the mouse and help Complainant 2 navigate the directory. Complainant 2 stated that she did not ask for help and that she did not need help using the directory. Complainant 2 stated that she felt uncomfortable but did not want to say anything because Respondent was nominating her for the NAS. She noted that Respondent had spent a good part of this meeting discussing the blackball process. He told her that at the NAS annual meeting, at which elections for new members are held, a member can call for an individual nominee to be discussed individually, rather than with the slate of nominees. Respondent told her that once that happens, the nominee rarely gets elected because there are always weaknesses in a case.

A couple of days after this meeting with Respondent in April 2016, Witness 6, then Equity Advisor for the School, asked to meet with Complainant 2 regarding an upcoming leadership summit for the School. Witness 6 informed her that he wanted to lead a discussion at the summit regarding sexual harassment. Witness 6 told her that he was aware of the complaint Complainant 2 had filed with OEOD regarding Respondent and that Respondent had been counseled. However, he noted that at a recent meeting he saw Respondent talking to Complainant 2 in a way that made Witness 6 uncomfortable. Witness 6 shared that he had checked with Complainant 2 and, while she said Respondent's conduct did not bother her that much, Witness 6 wanted to discuss sexual harassment at the summit. Complainant 2 shared with Witness 6 that Respondent had engaged in unwelcome conduct toward her, as well, and that she wanted to report it but she was afraid to do so for fear that Respondent would blackball her NAS nomination. Witness 6 told her that he was not afraid of Respondent and that he could report it.

In or about April 2016, the leaders of the Ayala School of Biological Sciences, including the Chairs, met off-site for the leadership summit.²⁵ Part of the summit included a discussion amongst the Chairs. According to Complainant 2, Witness 6 told the group that he and Complainant 2 had information about sexual harassment that the Dean should know and they were not sure if they should report it because it could damage the reputation of the person whose behavior was at issue. The Chairs expressed an opinion that the matter should be reported to the Dean. Complainant 2 stated that after the leadership summit, she suggested to Complainant 2 that the Dean check in with Witness 6. Complainant 2 stated to the Investigators that she does not know whether Witness 6 ever talked to the Dean about these issues. She reported that she struggled with whether to report Respondent's conduct to OEOD because she did not feel she should have to sacrifice her career, so she "told other people hoping they would report it."

²⁴ Complainant 2 explained that this is a long-term career goal of hers.

²⁵ Witness 3 was still Chair of Ecology & Evolutionary Biology at that time.

On or about May 9, 2016, Complainant 2 spoke with Witness 3 to share with him the unwelcome behavior she had been experiencing with Respondent. She told him she was afraid to report it because it might affect her career. She does not recall what Witness 3's response was at that time other than that he seemed to validate her experience in some way.

On or about June 20, 2016, for an EEB retirement party, Witness 2 was out of town and could not accompany Complainant 2, which caused Complainant 2 to spend her time at the party watching for Respondent to approach her and breaking off her conversations so she could move across the room and avoid Respondent. This happened several times. Eventually, Complainant 2 got tired of doing this and left the party early. Complainant 2 explained that this was an example of how she has changed her behavior to avoid unwanted behavior from Respondent.

Complainant 2 began serving as the Chair of the Department on July 1, 2017. Prior to her first meeting with Witness 52 in July 2017, she prepared a list of topics to discuss, including her concerns that Respondent had been counseled regarding unwelcome conduct toward women but was still engaging in unwelcome conduct toward her. She told Witness 52 that she intended to tell the graduate students that if they had any concerns regarding inappropriate behavior by a faculty member, they should inform her so she could take appropriate action, including reporting it to OEOD.

On October 4 or October 18, 2017, Complainant 2 was leading a faculty meeting. For the entire time that Complainant 2 has been at UCI, Respondent has insisted on sitting at the seat at the right hand of the Chair. At the beginning of this faculty meeting, Respondent came in and sat in his usual seat. Respondent told Complainant 2 and Witness 10 something along the lines of "how wonderful to be sitting across from two beautiful women." Complainant 2 explained that although this comment is standard for Respondent, Complainant 2 especially disliked this incident because she felt it undermined her position as Chair. She informed Witness 10 afterward that she would instruct Respondent not to make these types of comments so that Witness 10 would not feel she needed to be subjected to this behavior.

On November 8, 2017, Complainant 2 held a discussion about sexual harassment during a faculty meeting. She determined to have this discussion because more than one faculty member had been reported to OEOD regarding inappropriate conduct toward graduate students. She prepared talking points for this meeting (Exhibit Q), which she shared with Witness 1 and Witness 57 prior to November 8th. She wanted to ensure that her talking points for the faculty meeting covered all the students' concerns. They asked her to please emphasize that comments about their appearance were unwelcome. The students did not identify Respondent as the source of this problem but did indicate there was a problem with faculty commenting on their appearance.²⁶

Complainant 2 noted that the agenda for the November 8th meeting (Exhibit R) was sent to faculty on November 7, 2017. She found it noteworthy that Respondent showed up early to the November 8th meeting and asked her if he could announce to the faculty her nomination as a Fellow of the AAAS. He made the announcement at the beginning of the meeting and she thanked him for his support. She questioned Respondent's motivation in making this announcement the day she planned to discuss sexual harassment with the faculty.

²⁶ During her interview with Investigators on May 3, 2018, Complainant 2 began reading through the talking points but was overcome with emotion and asked the Investigators to read the document.

During the meeting on November 8th, she read through her talking points and several faculty members weighed in with support for the “code of conduct” she was proposing. Some even commented that they had previously engaged in some of the listed behaviors but now realize they should not do those things. Complainant 2 told the faculty that if they observed others engaging in this behavior, they should report it to OEOD. During the discussion, Respondent was audibly sighing and then asked whether it was permissible for him to comment on the physical appearance of staff. Complainant 2 asked Witness 10 if staff would find that unwelcome, and Witness 10 said, “Yes.” Respondent asked, “What about the Dean’s office staff?” He stated that the “ladies” in the Dean’s Office want to hug and kiss him and if he failed to do so he might embarrass them. Complainant 2 told him she would share the “code of conduct” with the women in the Dean’s Office so he need not worry about that. He replied that she should not share this information with the Dean’s Office staff because he should be able to hug and kiss them. He asked if he could comment on the color of their nail polish, and she said, “No, it’s a different world now,” or words to that effect.

Complainant 2 stated that one of her graduate students recently told her that Respondent continued to talk to his graduate students this year, all females, regarding their appearance and did not talk about science with them.²⁷

Complainant 2 stated she has reported Respondent’s behavior to Witness 6 (then equity advisor) on April 28, 2016; Witness 3 (then Chair) on May 9, 2016; and Witness 52 (Dean) on July 20, 2017. She told each of them she was concerned about Respondent’s behavior in the department, but was afraid to go on record because he could blackball her nomination to the National Academy of Sciences.

During the interview with Investigators on May 3, 2018, Complainant 2 was asked if she wanted to hear Respondent’s response to the allegations. She determined not to do so indicating that it would be uncomfortable and unwelcome for her to hear his responses. She stated that she would answer any questions prompted by Respondent’s response and did answer such questions as noted in this report.

Information Regarding Complaining Witness 2

Complainant 2 was interviewed as a possible witness to the alleged conduct Respondent directed to Complaining Witness 2. However, Complainant 2 reported that she has not observed many interactions between Respondent and Complaining Witness 2. She stated that during events and parties Respondent typically spent his time with Complainant 2, while Complaining Witness 2 tended to talk with the Dean. Complainant 2 stated that she has not talked with Complaining Witness 2 about Respondent’s behavior toward Complaining Witness 2.

Complainant 2 did note, however, that she is aware that Complaining Witness 2 was not comfortable interacting with Respondent’s wife concerning a possible donation. According to Complainant 2, in or after November 2017, after this investigation was initiated, Respondent’s wife told the Dean, “I’ll donate the money as long as you don’t make me unhappy.” The Dean shared this information with Complainant 2.

²⁷ The information provided by Respondent’s 2017 graduate students is included in the witness statements below.

Respondent's Response to Allegations:

Information Provided in Email to Chancellor Gillman et al. dated November 22, 2017 (Exhibit D)

As more fully set forth above, Respondent stated, among other things, that he has fought to increase the recognition of women's accomplishments and their representation in top-caliber institutions and that the allegations are not justified.

Information Provided in Email to Chancellor Gillman et al. dated November 22, 2017 (Exhibit E)

Respondent stated:

[Complainant 2]

1. "It is alleged that since 2003 [Respondent] has made repeated sexually harassing comments to [Complainant 2], including comments about her appearance or that were sexual in nature and has kissed her cheeks repeatedly without permission."

RESPONSE: The comments I ever made about [Complainant 2's] appearance were compliments of social formality, never harassing in intent and usually received with a smile and a "thank you." Never did [Complainant 2] indicate that the comments were not welcome. Quite the contrary.

"Kissed her cheeks." It is a common friendly gesture, which does never (at least in my case) involve kissing, but rather consists of the approach of one cheek to the cheek of the other person, usually without actual touching. [Complainant 2] never expressed displeasure.

2. "On at least two occasions, including December 7, 2015, and April 26, 2016, [Respondent] touched [Complainant 2's] hand and arm in an inappropriate manner."

RESPONSE: I am not aware of having ever touched [Complainant 2's] hand and arm, nor that it would have been done in an inappropriate manner.

3. It is also alleged that [Respondent] used his "position in the National Academy of Sciences to gain access to an acquiescence of [Complainant 2]."

RESPONSE: I do not know what this allegation implies. It makes little sense to me.

ADDITIONAL COMMENTS: I will notice that on June 2, 2016, I nominated [Complainant 2] (with her acquiescence and her providing all appropriate information) for election to the National Academy of Sciences (NAS), Section 63, and also for the NAS Class VI Temporary Nominating Group (which seeks young candidates and women).

I also nominated [Complainant 2] on May 17, 2016, for election to the American Academy of Arts and Sciences.

I also nominated [Complainant 2] on February 15, 2017, for election as a Fellow to the American Association for the Advancement of Science (AAAS), Section G, Biological

Sciences. On October 27, 2017, [Complainant 2] was informed that she had been elected to the rank of AAAS Fellow. She came to my office to inform me of it and to express her gratitude.

Needless to say, the preparation of each of these nominations required a considerable amount of work (my own and my Executive Assistant's, [Witness 42]) including finding members, different ones for each nomination, who were willing to write in support of the nomination.

That [Complainant 2] would assert that my actions involved sexual harassment is disconcerting to me, as well as shocking, in addition to being in my opinion definitely wrong.

Information Provided in Interview of November 27, 2017²⁸

Respondent stated that Complainant 2's entire statement was a lie. Respondent stated that he has not made any personal comments towards Complainant 2 and did not remember if he has ever kissed her cheek. Respondent explained that when he gives a kiss on the cheek, he does not actually kiss the other person's cheek but kisses the air near the cheek, which is customary where he is from. Respondent also stated that he does not approach Complainant 2 more than anyone else and does not remember ever offering her a drink during any of the departmental parties.

Respondent also stated that on December 7, 2015, he did not attend the department holiday party because he was giving a lecture at UC San Diego on the Evolution of Ethical Behavior and Moral Values in Biology and was there all afternoon.

On April 26, 2016, Respondent wanted to nominate Complainant 2 to three different organizations, the National Academy of Sciences, the American Academy of Arts and Sciences, and the American Association for the Advancement of Science and went to her office. Respondent stated that it is not true that one person can blackball a potential member nor did he move his chair or touch Complainant 2's hand.

On June 20, 2016, Respondent did not seek out Complainant 2 while at the department party.

In response to Complainant 2's allegation that Respondent stated he would like to "grab [her] ass," Respondent stated that is a complete lie and that he never made this comment.

In regard to the alleged conduct on August 15, 2012, Respondent denied telling Complainant 2 that he thought she would have an orgasm and stated that he would never use the word orgasm, especially to a woman.

Information Provided in Email to Chancellor Gillman et al. dated November 29, 2017 (Exhibit G)

Respondent stated that he was terribly shocked by Complainant 1's allegations and was shocked again having received notice of Complainant 2's allegations. He then provided a detailed response to Complainant 2's allegations as follows:

²⁸ See Exhibit F.

Let me start by expressing my surprise by the original allegations (November 20, 2017) and their expansion (November 27, 2017) with additional details in the new document. I was terribly shocked by the early allegations and I am shocked again. One reason, of course, is my being placed on an involuntary leave of absence. But, equally so, although this may surprise you and others, by the fact that the allegations come from [Complainant 2], a colleague who I admired and respected. I am tremendously sorry for having caused to [Complainant 2] a perception of damage, which I certainly consider unfounded.

I wish there would be a way in which this perception of damage would not have come about. Again, I admire [Complainant 2] as a scientist. I enormously regret, let me repeat it, having caused this perceived offenses to her. I wish there would be a way in which they could be erased. Nothing could satisfy me more at this point in my life.

Nevertheless, I want to assert that the sexual harassment allegations in the two documents are based on fabrications and misinterpretations. Let me consider an allegation where the falsifications can easily be demonstrated:

“During the EEB holiday party on December 7, 2015, [Respondent] and I were talking in a group of about 5 people. [Witness 2] was in the group. We were standing in a circle. I was glad because I was across the circle from [Respondent], not next to him. During the conversation, he reached across, grabbed my right forearm, and dragged me over so I would be standing closely next to him.”

There was indeed an EEB holiday party on Monday, December 7, 2015 (3:00 – 5:00 pm). But I was not there. That day I drove in the morning to UC San Diego to have lunch and meet with graduate students and faculty and to deliver, in the late afternoon (4:00 – 5:00 pm), a lecture in a large auditorium, which was filled to the rim. The topic was “Evolution of Ethical Behavior and Moral Values: Biology? Culture?” (see PDF attached). The lecture was followed by a reception. In the evening I drove back to my home, in Irvine, from UC San Diego.

If the events described in this case did not actually happen, as it is readily shown, there is no reason to believe that those described in other situations are not also fabricated. They are.

I have never intentionally caused sexual harassment to anybody. To the extent that my actions may have caused harm to others, particularly in the present case to [Complainant 2], I apologize from the deepest of my heart and of my mind. Let me repeat it, I admire [Complainant 2] as a scientist. That is why I nominated her for election to the three distinguished US institutions: the National Academy of Sciences, the American Academy of Arts and Sciences, and the American Association for the Advancement of Science. I told her of my intention to do so in a visit to her office on April 26, 2016 (as she acknowledges in the documents at hand).

Once again, let me convey my respect for [Complainant 2] as a scientist and my regret that [Complainant 2] has interpreted my actions differently and has chosen to falsify my actions to justify her attacks.

Respondent stated:

[Complainant 2]. Document from Associate Chancellor Kirsten K. Quanbeck, November 20, 2017. "It is alleged that since 2003 [Respondent] has made repeated sexual harassing comments to [Complainant 2], including comments about her appearance or that were sexual in nature, and has kissed her cheeks repeatedly without her permission. Furthermore, it is alleged that on at least two occasions, including December 7, 2015 and April 26, 2016, [Respondent] touched [Complainant 2's] hand and arm in an inappropriate manner. It is also alleged that [Respondent] used his position in the National Academy of Sciences to gain access to and acquiescence of [Complainant 2]."

Additional and more detailed information was provided in a document handed to [Respondent] on November 27, 2017, 10:00 AM, by Erik Pelowitz, when [Respondent] first visited Mr. Pelowitz in his office. I have responded earlier to [Complainant 2's] allegations as conveyed in the document dated November 20, 2017. See my "Response to Allegations" (with Attachments) addressed to Chancellor Howard Gillman, November 22, 2017, 9:26 AM. Now I will consider the additional and more detailed information in the document (dated 11/17/2107) provided by Mr. Pelowitz to [Respondent] on November 27, 2017.

"Nearly every time that [Respondent] and I talk he comments on my appearance and/or kisses me hello. Regarding the kissing hello, he'll say something akin to 'I am European, so we always kiss hello on both cheeks.' The comments are usually about how beautiful/good I look, how happy he is to be in the company of a beautiful woman, etc. This behavior started when I arrived to UCI in July 2013 (sic) and has continued through my time here. During departmental parties, [Respondent] will approach me as soon as he sees me, stands very close to me, monopolizes the conversation, and discourages others from joining by body language. Basically, he corners me for the whole time that I am at the party. If I try to leave politely, for example by saying that I am going to get a drink, he'll say, 'Oh, I'll get you the drink' and he comes back and the behavior continues. I became so uncomfortable with this dynamic that I asked [Witness 2] to accompany me to parties to help me manage [Respondent], and to give me a chance to leave the conversation."

My comments: Really? She cannot walk out by herself and leave the conversation? [Complainant 2's] claims are figments of her imagination. An effort, it seems to me, to define and increase her personal significance in my life, something that does not exist except in her imagination, completely disconnected from my appraisal of her person, which is exclusively based on her scientific accomplishments.

I recall only two conversations with [Complainant 2]. A very brief one, after an EEB faculty meeting in which we had considered and unanimously approved her requested merit increase. I told [Complainant 2] after the meeting that considering her achievements, she might want to request a one-year or two-year acceleration for her next merit request, and that I had so stated during the EEB faculty meeting.

The second conversation was on April 26, 2016. I went to [Complainant 2's] office to tell her that, if she would agree, it was my intention to nominate her for election to the National Academy of Sciences (NAS), the American Academy of Arts and Sciences, and the American Association for the Advancement of Science (AAAS), and about the information and documents that she would need to provide me: biographical and bibliographic, research accomplishments, distinguished scientists who would likely endorse the nomination, etc. She agreed and provided the information over the next several weeks, often accompanied with thank you notes for my efforts. In reference to this meeting in her office, [Complainant 2] asserts that [Respondent] "put his hand over my right hand (which was on the mouse) and moved my hand as if to guide the mouse and help me navigate the directory." This claim is utterly false (as well as nonsensical).

On the same afternoon of April 26, 2016, I also visited [Witness 65], EEB faculty member, with a similar proposition, but I also told her that in addition, I would want to nominate her for the "2018 L'Oréal-UNESCO Award." [Witness 65] agreed to be nominated and to provide suitable information and documentation. (It may be worth pointing out that I had not offered to nominate [Complainant 2] for this distinguished Award.)²⁹

On June 2, 2016, I nominated [Complainant 2] for election to the NAS, and on May 17, 2016, for election to the American Academy of Arts and Sciences. I nominated [Witness 65] for election to the NAS on June 1, 2016, and to the American Academy of Arts and Sciences on May 17, 2016.

I find it astonishing that my efforts to enhance recognition for her scientific achievements by nominating her for the elections to the Academies (and otherwise) be interpreted by [Complainant 2] as sexual harassment.

[Complainant 2's] narrative about April 26, 2016, asserts that I emphasized that the NAS nomination process "is set up so one member can effectively blackball a nomination." I did not say that. It is not true. One more serious inconsistency: if election to the NAS "has been my long term goal", and if she believes that "one NAS member can effectively blackball a nomination", why is it that she seeks to antagonize me by accusing me of sexual harassment? (For the record, I will vote for [Complainant 2's] election -- as for any other candidate -- based on her scientific accomplishments, not on her false accusations of sexual harassment.)

According to [Complainant 2], "During the EEB holiday party on December 7, 2015, [Respondent] and I were talking in a group of about 5 people. [Witness 2] was in the group. We were standing in a circle. I was glad because I was across the circle from [Respondent], not next to him. During the conversation, he reached across, grabbed my right arm, and dragged me over so I would be standing closely next to him."

This is one accusation of sexual harassment by [Complainant 2] that involves physical contact, as well as a precise date, so that it can be checked. But it is, again, utterly false. There was indeed an EEB holiday party on Monday, December 7, 2015 (3:00-5:00 PM). But I was not there. That day I drove in the morning to UC San Diego to have lunch and

²⁹ It is not clear why Respondent felt it noteworthy to state that he did not nominate Complainant 2 for this award.

meet with graduate students and faculty, and to deliver, in the late afternoon (4:00-5:00 PM), a lecture in a large auditorium, which was filled to the rim, with additional attendees standing crowded in the side aisles and in the back. The topic was "Evolution of Ethical Behavior and Moral Values: Biology? Culture?" You, Erik, as well as others have seen the formal announcement and other relevant information. The lecture was followed by a reception. In the evening I drove back to my home in Irvine, from UC San Diego.

Will [Complainant 2] be dismissed from UCI because of the enormous harm that her accusations based on falsifications have caused me -- and UCI?³⁰

Other accusations in [Complainant 2's] "Complaint Form" of 11/17/2017 (precisely the same date of the allegations from [Complainant 1]. Astonishing coincidence, if both are not part of a coordinated plan!):

"On December 13, 2013, at an EEB party ... [Respondent] said that ... he would also like to grab my ass." I don't use this kind of language.

"On August 15, 2012, I saw [Respondent] at the University Center Farmers Market. The day before, I had just given a guest lecture in [Respondent's] Minority Science Program ... He said ... he thought I would have an orgasm in front of everyone." I never go to the Farmers Market. Moreover, on the day before (August 14, 2012) there was no Minority Science Program lecture scheduled for that day.

A general statement about the previous comments: UCI faculty and others who are acquainted with my personality know that the statements hereby attributed to me by [Complainant 2] do not reflect my use of language. They are false, in any case.

A final comment. The allegations coming from [Complainant 2] seem to imply that I am physically attracted to her. I should state unambiguously that my admiration and respect are exclusively for her scientific accomplishments. I have sought to increase the recognition that her accomplishments deserve.

Information Provided in Interview of April 19, 2018

Respondent stated that he has known Complainant 2 since she came to UCI. He stated that they are in different fields and different buildings and, therefore, he has not had much interaction with her over the years. He recalled only two conversations with her: once, when she was up for a merit increase, he told her that he had recommended to the faculty that her next merit be accelerated and, secondly, when he met with her to discuss his intent to nominate her for the National Academy of Sciences (NAS), along with Witness 65. He also noted that Complainant 2 sent him a note of gratitude after she was elected to the American Association for the Advancement of Science.

Respondent described the process for election to the NAS. He stated that members can submit formal nominations, and nominees often must be nominated several years in a row before they get serious attention. Ballots are sent to all members, and the top 80 or so nominees are selected as the slate of possible new members. At the annual NAS meeting in April, the slate is presented

³⁰ Emphasis in original.

and members may comment on the nominees. There is then an oral vote to approve the slate as a whole. Although a nominee can be selected for special consideration (i.e., a discussion particular to that candidate), he has seen that happen only twice in 25 years, and both times the candidates were elected anyway. Respondent stated that he is not planning to attend the annual meeting this year, but if he were, he would vote for Complainant 2 on her merits and noted that he was the main nominator for her.³¹

When asked whether he sought out Complainant 2 during social events and offered to get her drinks to stay in her company, he stated that he never sought out Complainant 2 during social events or brought her drinks and that this is a figment of her imagination. He stated that he may have been in the same room, or even the same group of people, with her on occasion but never sought her out. He stated that he did not attend many social events at the School because of his trips and other commitments. He stated that he never pulled on her arm to speak to her. He stated that he was in San Diego on the date he was alleged to have engaged in that conduct.

In regard to the occasion on which he was in her office to discuss the NAS nomination, Respondent stated that he sat across from her during the discussion. He stated that he never moved toward her and did not touch her.

When asked if he kissed Complainant 2's cheek, Respondent stated that he may have but it would not have been often. He said he does not remember doing so but that it is possible.³²

When asked if he ever commented on Complainant 2's clothing or appearance, he stated, "never." He stated that he was quite certain of this answer.

In regard to the department party in December 2013 and the alleged conversation about a person grabbing Complainant 2's buttocks as he rode by her on a bicycle, Respondent stated that he did not make a comment about grabbing Complainant 2's ass. He said this is a fiction since this is not his personality and he does not use that kind of language.

Respondent stated that Complainant 2 gave a lecture for the Minority Science Program on at least one occasion. He stated that after the lecture, he probably made some complimentary comments to the audience in regard to Complainant 2. However, he denied seeing Complainant 2 at a farmer's market the next day, stating that he does not go to farmer's markets.³³ He denied telling her that she was so enthusiastic in talking about her research that he thought she would have an orgasm. He said he had no discussion with her regarding her lecture outside of the lecture itself.

Respondent stated that he does not recall making any comments to Complainant 2 when she was pregnant but that he may have told her she looked beautiful.

³¹ Respondent stated that Complainant 2's behavior is inconsistent: he stated that if her goal is to be elected to NAS and she thinks one person can block the election, it does not make sense that she would make allegations against that person.

³² In her interview on May 3, 2018, Complainant 2 recalled that in or about 2005, around the time her file was being considered for tenure, she complimented Respondent about the quality of some wine he brought to a faculty meeting. He told her that he would give her a bottle if she gave him a kiss. She was very uncomfortable but, given the timing of the faculty vote on her file, she kissed his cheek. He then gave her two bottles of wine.

³³ Complainant 2 reported that she visited the farmer's market on a weekly basis and saw Respondent there only the one time. She stated that she was at the market by herself when she ran into him near one of the stalls. He, too, was by himself. She stated that she went home and told her husband about Respondent's comment.

Respondent stated that he did attend the October 2017 faculty meeting. When asked if he commented to Complainant 2 and Witness 10, "How wonderful to be sitting across from two beautiful women," he stated that he would not be surprised if he said that though he does not remember making that statement. He stated that if he made the statement, it would have been as a compliment, intended to be respectful.

When asked if there was any other information he would like to offer in regard to Complainant 2's allegations, Respondent stated that the implication of the allegations is that he is attracted to Complainant 2 but that is not true—his respect for her is based on her scientific accomplishments. He stated that he does not understand how people can invent allegations, such as the allegation that he sought Complainant 2 out during events or that he would comment on wanting to touch her backside. He stated that he does not use explicit language.

Complaining Witness 1:

Complaining Witness 1 was interviewed on January 9, 2018, at which time she was being interviewed as a witness regarding the allegations made by Complainants 1 and 2. After that date, based on the information she provided on January 9th, the University expanded the investigation to include her as a Complaining Witness. She was also interviewed on May 3, 2018, with her counsel as her advisor. The below is a summary of Complaining Witness 1's statements.

Complaining Witness 1 was a graduate student in the Department of Ecology & Evolutionary Biology and earned her PhD in 2013. She was then hired into a faculty position in the Department.

Complaining Witness 1 reported that she Respondent regularly commented on Complaining Witness 1's appearance when he saw her, including stating, "Didn't you know that you are supposed to have your desk facing the door so we can see your pretty face when we walk by?" He also commented on her clothing on numerous occasions. She recalled a particular sweater that he had commented on as she was wearing it the day of her first interview with the OEOD investigators assigned to this matter. She stated that his comments were annoying and she would go home and tell her husband about them. Respondent would not just say, "That is a nice sweater" or some benign comment; he would say how the article of clothing made her look pretty or how he enjoyed seeing her in it, or words to that effect.

Respondent greeted her with kisses dozens of times over the years, including when she was a graduate student. She stated that it was not problematic at the time, but she did not feel she could avoid it because it would make a scene. She stated that she worked in the Department for three years before becoming a PhD student; at some point, while she was a graduate student, he began greeting her with kisses. She reported that Respondent kissed her as though it is expected. She stated that he engages in this conduct daily with both faculty and staff. Complaining Witness 1 reported that Respondent's conduct was unwelcome because her relationship with him was professional, not social. She felt that since his behavior was common, not directed just at her, it was expected and she could not bow out of it.

Complaining Witness 1 recalled a social event in approximately 2013 or 2014 to which she had brought her two-year-old daughter. Respondent tried to touch her daughter's face, but her

daughter swatted him away and said, "No." Complaining Witness 1 stated that she was not raising this as an example of inappropriate behavior by Respondent; rather, she recalled the incident because several women came up to her afterward and asked her, "Don't you wish you could do that?" meaning "Don't you wish you could swat him away?"

On February 11, 2015, when Complaining Witness 1 was about to make a presentation during a faculty meeting, she sat in the seat where Respondent typically sat so she could plug her computer into the wall socket. Respondent told her she could sit on his lap and he would enjoy the presentation more, or words to that effect. She complained about Respondent's behavior to the Chair of the Department, Witness 3. Witness 3 later told her that Respondent wanted to come talk to her about the situation, which caused her anxiety. She kept her office door closed when she was in the office and sometimes worked from home to avoid Respondent.

Nevertheless, Respondent did, in fact, come to talk to her. He told her he was being complimentary and affectionate and accused her of being sensitive. He stood over her and told her, "I think of you as a niece," or words to that effect. He told her that he cared for her. She told him that he was creating a culture that was different for women to which he responded, "Of course, I don't treat my male colleagues the same," or words to that effect. She felt it was clear from Respondent's comments that he did not understand that his behavior was gender discrimination.

After this conversation with Respondent, Complaining Witness 1 filed an informal complaint with OEOD regarding Respondent's unwelcome conduct toward her. Complaining Witness 1 also reported that she heard that Respondent had made female students uncomfortable, specifically, Witnesses 13 and 44. The students accompanied her to OEOD and shared information regarding Respondent's conduct. Complaining Witness 1 was informed that Respondent was told at the time that his conduct was not appropriate.

Complaining Witness 1 stated that she and Respondent have had little interaction since approximately February 2015, even though their offices are three doors away from each other's. She reported that after some time passed, they began greeting each other in the morning, but did not interact beyond that. However, they also live within 500 feet of each other and she sees him in the neighborhood. She stated that whenever she sees him, it brings up all these issues for her and, therefore, she suffers anxiety about seeing him. She reported that his matter has taken up a great deal of her time and energy since 2015 and she feels her life would be easier if she had never complained about Respondent's behavior.

Complaining Witness 1 reported that for years Respondent has repeatedly joked about being "stuck" in the elevator or mail room with female graduate students, for example, when he was in the elevator with several female graduate students, he would say it was his lucky day to be in the elevator with a bunch of pretty young women. The women used to refer to this as the "elevator comment" or the "mail room comment" because it happened on approximately a monthly basis for years.

At a social function in the Natural Sciences Building conference room (an end of the year party, either at the end of fall 2016 or spring 2017), Complaining Witness 1 was talking with two other women and a male colleague when Respondent approached them and told the male that he was not allowing the three pretty women to mingle with their colleagues.

Witness 56 reported to Complaining Witness 1 that Respondent had cornered her in the mail room in the fall 2017 quarter and told her he was lucky to be stuck in the mail room with her. Witness 56 reported this incident to Complaining Witness 1 the same day that it occurred.

At the “Doughnuts with the Dean” event in fall 2017, people were wearing shirts with Respondent’s name printed on them to represent the School. Respondent was walking around pointing at people’s chests and telling them it was his name on their shirts.” Complaining Witness 1 observed Respondent doing this and believes he was either touching the student’s chest while making this comment or coming very close to doing so. She saw the student “shrink away.” Witness 15 also observed this conduct and complained about it to Complaining Witness 1; Complaining Witness 1 told her that no one else in the Department thinks Respondent’s behavior is ok.

According to Complaining Witness 1, Respondent would request the prettiest female TAs as his TAs (which are assigned by staff in the Department). She stated that he asked that they wear skirts and dress nicely. It is alleged that the Graduate Advisor determined not to assign female TAs to Respondent. Complaining Witness 1 stated that Witness 65 may have more information about this and that it may have been a verbal policy and perhaps did not survive after staff changes in the Department.

Complaining Witness 1 stated that two female students, Witnesses 13 and 44, shared with her that Respondent treated them differently than the male TAs, but neither wanted to be involved in a complaint against Respondent.

Complaining Witness 1 reported that others in the Department would excuse Respondent’s behavior, saying, “He’s European,” and “He’s from a different generation.” However, she stated that his repeated behavior started to make her question whether Respondent respected her work and that she even began to question her own merit as a scientist. The day Respondent made the remark about sitting on his lap was the day she “drew the line” as his behavior “really started to interfere with [her] ability to do [her] job” and she questioned whether perhaps other women were thinking that, as well.

Information Regarding Complainant 1

Complaining Witness 1 was interviewed as a witness regarding Complainant 1’s allegations and provided the following information:

Complainant 1 spoke to Complaining Witness 1 about her interaction with Respondent at the rooftop reception on October 27, 2017. Complaining Witness 1 was not present at the event on October 27, 2017, but Complainant 1 was informed that Complaining Witness 1 had previously complained about Respondent’s behavior, so Complainant 1 came to her to discuss filing a report with OEO. Complainant 1 told her that she was sitting at a picnic table when Respondent came up behind her and leaned in toward her such that Complainant 1 could feel his belt or penis against her back. He also placed his hand on Complainant 1’s bare shoulder during this interaction. Complainant 1 informed her that Respondent repeated this same behavior later in the evening on October 27th. Complainant 1 also informed her that students in the undergraduate Minority Science Program had reported that Respondent was touchy-feely toward them (e.g., kissing and hugging, and touching them on the hands or shoulder). Complaining Witness 1 reported that she had heard these same types of allegations when she was a graduate student. She

noted that he would treat males differently, perhaps patting them on the back, but not kissing them or touching them for a sustained period on the arm.

Complaining Witness 1 reported that she encouraged Complainant 1 to speak up about Respondent's behavior because there was a "long-standing concern about his behavior toward graduate students."

Information Regarding Complainant 2

Complaining Witness 1 was interviewed as a witness regarding Complainant 2's allegations and provided the following information:

Complaining Witness 1 has observed Respondent's behavior toward Complainant 2. She stated that Respondent sits next to Complainant 2 in Department meetings, which seems to be a "power play," though not based on the gender of the Chair, since he has always sat next to the Chair and the previous Chairs were male. Complaining Witness 1 reported that she has heard Respondent comment on Complainant 2's appearance and Complainant 2 has told her that Respondent has made her uncomfortable. On one occasion, Complaining Witness 1 heard Respondent say that it is nice to have a pretty, female Chair of the Department, or words to that effect. Complaining Witness 1 reported that Respondent had a different dynamic with the previous Chairs, all males, as compared to the dynamic between Complainant 2 and Respondent.

During a faculty meeting, in the fall quarter of 2017, which Complainant 2 conducted, Complainant 2 discussed the University's sexual harassment policy. Complainant 2 reminded the faculty that they should not be hugging students or making comments on their appearance. Respondent challenged this reminder, asking if it would be impermissible to comment on a woman's haircut or sweater. He also asked whether these restrictions applied to faculty behavior toward staff. Complainant 2 replied that faculty should not be kissing and hugging staff. Respondent responded that when he visits the Dean's Office, the female staff want him to kiss and hug them and stated that it is part of his culture. Complaining Witness 1 stated that by these comments Respondent demonstrated he does not understand his behavior is inappropriate.

Information Regarding Complaining Witness 2

Complaining Witness 1 was interviewed as a witness regarding Complaining Witness 2's allegations and provided the following information:

Complaining Witness 1 has seen Respondent interacting with Complaining Witness 2 during functions and meetings. Complaining Witness 2 is often with the Dean and Respondent gravitates toward them. When Respondent focused his attention on Complaining Witness 2, Complaining Witness 1 felt she would be "free from his sexual harassment that day." She stated that Respondent would greet Complaining Witness 2 with a hug and kiss and would place his hands on her waist or shoulder when doing so. When asked if Respondent engaged in that type of greeting with Complaining Witness 2 during a faculty meeting in October 2017, Complaining Witness 1 said she did not recall that incident specifically but that Respondent did typically greet Complaining Witness 2 with a kiss.

Respondent's Response to the Allegations

Information Provided in Email to Senior Investigator Pelowitz et al. dated January 9, 2018 (Exhibit L)³⁴

Respondent stated:

Concerning the report to OEOD in 2015. Professor Jessica Pratt was to make a short PowerPoint presentation during an EEB faculty meeting. I arrived and sat to the right of Professor Muller [sic], EEB chair. The screen was behind him. Professor Pratt was sitting to my right. She told me that she had left the seat empty for me, although it would have been more convenient for her presentation. I commented: "of course, you could sit on my lap." It was intended as a playful and affectionate comment. A horrendous error of judgment on my part. Professor Muller [sic] conveyed to me that Professor Pratt had told him that she was grievously offended by my comment. I went immediately to Professor Pratt to apologize as profusely as I possibly could. I am quite willing to ask for her forgiveness again and again.

Information Provided in Interview of April 19, 2018

Respondent reported that he met Complaining Witness 1 when she delivered a lecture to the Department. He stated that he did not know her when she was a student.³⁵ Respondent stated that after Complaining Witness 1 was brought on as an employee, he saw her in her office and told her, "If you face the door, people will see how beautiful you are," or words to that effect. He stated that he intended this with respect, as a compliment, but he now knows that people can be offended by such comments, so he has stopped making these types of comments. When asked when he became aware that such comments might not be taken as compliments, he stated that it was when he was provided with notice that a formal investigation had been initiated in November 2017.

Respondent stated that the above was the only comment he made to Complaining Witness 1 regarding her appearance or her clothing. When asked if he had ever kissed Complaining Witness 1 on the cheek, Respondent was certain that he had never kissed her cheek.

In regard to the comment asking Complaining Witness 1 to sit on his lap during a faculty meeting in 2015, Respondent stated that he meant the comment to be playful. After the Chair of the department told him that Complaining Witness 1 was offended by the comment, he went to Complaining Witness 1's office to apologize. Respondent stated that his comment was a tremendous error in judgment and he apologized profusely to Complaining Witness 1. He told her that he intended the comment to be playful and affectionate like he would tell his niece or granddaughter. Complaining Witness 1 told him that the Chair (Witness 3) had groaned when Respondent made this comment to her in the faculty meeting; however, Respondent told her this was a lie. Respondent stated that he had spoken to the Chair who told Respondent that he had

³⁴ Respondent sent this email to Senior Investigator Pelowitz prior to learning that Complaining Witness 1's allegations would be included within the scope of this investigation.

³⁵ Complaining Witness 1 stated that this is false as Respondent knew her when she was a graduate student and certainly knew her by name in 2013 when she interviewed for a faculty position. She stated that she was the graduate student representative for the Department and, therefore, attended faculty meetings prior to 2013.

not heard Respondent's comment to Complaining Witness 1. She also informed Respondent that two other faculty had heard his comment and that they, too, had reacted negatively. However, Respondent told Complaining Witness 1 that she was lying about that, as well, because no one else could have heard his comment.³⁶ When asked if Complaining Witness 1 told him he was creating a culture that was different for women, Respondent stated, "No." He said that he was expressing his regret to her and then she brought up that the Chair had groaned and that two other faculty had heard, and he told her she was lying.

Respondent stated that he also met with Associate Vice Chancellor Quanbeck at the time of the above incident. He stated that Quanbeck informed him that Complaining Witness 1 felt his comment about sitting on his lap was inappropriate. Respondent stated that he apologized for his error. When asked if Quanbeck recommended that he refrain from commenting on people's appearance, he stated that he does not remember if that was part of the conversation. When asked if she warned him about making sexual comments in the workplace, he stated that she may have but he does not recall and he does not make such comments anyway. Respondent reported that he does not recall whether Quanbeck spoke to him about avoiding retaliation.

Respondent was asked whether he attended a social function in the Natural Sciences building in either 2016 or 2017. He stated that he understands the allegation is that he told a male colleague that the colleague was not allowing the three pretty women (Complaining Witness 1 and two other women) to mingle. Respondent stated that this allegation is a creation of Complaining Witness 1's imagination and did not happen.

Respondent stated that he attended a "Doughnuts with the Dean" event in fall 2017. He noticed some students wearing Ayala School of Biological Sciences t-shirts. He stated that he told the students he was the person whose name was on their shirts and pointed to his name. He stated that he did not touch anyone.

Respondent stated that during a faculty meeting in fall 2017 (the only one he attended at which Complainant 2 was presiding), Complainant 2 discussed the sexual harassment policy. Respondent reported that at the time he did not know Complainant 2's comments were directed at him but he learned that later. During the meeting, he asked whether it would be inappropriate to tell Witness 10 that he liked her nail polish color. According to Respondent, Complainant 2 replied, "yes." Respondent also stated that when he goes to the Dean's Office, the staff greets him with kisses.³⁷ When asked if he questioned whether it was permissible to comment on a woman's haircut or sweater, he said he did not. When asked if he stated, "Isn't it rude if graduate students want to hug me and I don't [hug them]," he stated that he did not and added that he does not hug graduate students.

Respondent was asked if he discussed this meeting with Witness 10 or Witness 52 afterward, stating that "the problem with sexual harassment is that there is not enough of it." Respondent stated that he did not discuss this meeting with anyone afterward. When asked if he ever made this comment, he stated that he once made that comment but was quoting a woman who is close to him. He stated that he could not recall when he made the comment or to whom it was made. He stated that he intended it to be playful.

³⁶ Respondent reported to the investigators that it was physically impossible that the other faculty could have heard his comment to Complaining Witness 1.

³⁷ Respondent told the investigators that when he goes to the Dean's Office, the receptionist greets him with a kiss.

When asked about the allegation that he told a student he was glad to be stuck in the mail room with her, Respondent denied the allegation. He stated that this allegation does not fit his personality. He also stated that he rarely went into the mail room because his assistant generally retrieved his mail for him.

Complaining Witness 2:

Complaining Witness 2 was interviewed on February 16, 2018, and April 30, 2018. The below is a summary of Complaining Witness 2's statements.

According to Complaining Witness 2, Respondent has engaged in a long pattern of unwelcome conduct toward her, which she has had to tolerate because of the power he and his wife have in the School. She was extremely concerned about the impact of making her concerns known to Respondent and his wife.

One of the more egregious instances occurred on or about March 2, 2016 when she was in the Dean's office for a celebration of the Ayala Chairs. Respondent came to her and said, "Hello, [Complaining Witness 2], I just learned that women don't like to be told they're beautiful, but I know you don't mind," or words to that effect. He then grabbed her sides with both hands and rubbed them up and down while kissing her on the cheeks. A male faculty member, Witness 6, came to her after the event to see if she was ok, and she told him she was fine. Witness 6 also spoke with Complainant 2 because he was uncomfortable with Respondent's behavior toward Complaining Witness 2. Complaining Witness 2 reported that after this incident there was a leadership summit in the desert at which Witness 6 presented information on sexual harassment. Afterward, Complainant 2 told Complaining Witness 2 that Witness 6 had a point with that.

Respondent has engaged in this type of behavior toward Complaining Witness 2 since approximately 2014. Prior to the incident described above, he had previously grabbed her sides with both hands while rubbing them up and down and kissing her on the cheeks. She first noticed his unwanted attention when she was in room 114 Natural Sciences Building some years ago and she felt him looking at her. He tried to move closer to her, but she moved away. He stared at her the whole time, and she felt she needed to get out. Since that time, whenever Respondent saw her, he would make an effort to approach her. Thereafter, he began kissing her on the cheeks when he saw her.

In or about 2012 or 2013, after making a large donation to the School, Respondent began spending a lot of time in the Dean's office. That is when the excessive kissing on the cheeks and touching started, including the rubbing up and down Complaining Witness 2's sides under her jacket. This behavior was sporadic, but it happened frequently enough that she would tell her husband whenever it happened. She would try to stay away because she never liked the kissing but Respondent never asked if it was ok to kiss her; he just assumed her consent. Complaining Witness 2 noted that Respondent did not kiss all the staff in the Dean's office, just particular people. She got the impression that one was supposed to feel honored that he would seek them out for such attention. However, she felt minimized by his conduct.

From approximately 2014, Respondent would always comment to Complaining Witness 2 about her appearance. He would tell her she was "beautiful," and "pretty," or words to that effect. Respondent typically made these comments to her when the two of them were in the Dean's

office. She described this behavior as constant, occurring every time Respondent saw her. According to Complaining Witness 2, the Dean was often present but he did not seem to take notice of the comments. The Dean has recently apologized to her for failing to recognize that Respondent's conduct was problematic.

When the wall signage was going up on campus naming the School of Biological Sciences after Respondent, there was a dispute about what type of lettering would be used. Respondent somehow got the impression that Complaining Witness 2 was involved in the dispute. He told her that she was acting as a woman and manipulating the decision. She felt he was putting her down, based on her gender, and that his comment was degrading and upsetting. She told him to talk to the Dean about the lettering. Just prior to the conversation about the lettering, Respondent had kissed her on the cheeks, and then proceeded to make this derogatory comment based on gender.

Respondent and his wife invited Complaining Witness 2 and her husband to dinner in the summer of 2016. She did not want to accept but felt she had no choice as Respondent's wife is a benefactor to the School and a cordial and formal friendship developed between Respondent's wife and Complaining Witness 2. Complaining Witness 2 reported that, at some point, Respondent's wife told her that Respondent likes or enjoys women. Complaining Witness 2 stated that she was so stressed during the dinner that she sweated through her clothes. She told her husband she would never put herself through that again.

A couple years ago, Respondent started focusing his attention on Complainant 2, instead of focusing on her. Complaining Witness 2 first noticed Respondent's behavior toward Complainant 2 during an end of the year celebration in 114 Natural Sciences Building. She saw Respondent standing very close to Complainant 2 and was "glued" to her. Respondent did not seek Complaining Witness 2 out to kiss her as he typically had. She recalled feeling relieved that he was focused on someone else.

Complaining Witness 2 never explicitly objected to Respondent's conduct until October 4, 2017. On that date, she was in an Ecology & Evolutionary Biology faculty meeting, sitting next to the wall with two female faculty members, Witness 7, and Complaining Witness 1. Respondent came over to Complaining Witness 2 and bent down toward her, expecting a kiss, when she grabbed his hands and shook her head as to indicate that she was not going to stand up and be kissed on the cheeks. After that date, Complainant 2 informed her that she had spoken about sexual harassment at a faculty meeting (at which Complaining Witness 2 was not present). Complainant 2 reported to her that Respondent had challenged her in the meeting, arguing that he should be able to tell people they are beautiful. He stated that people like it and expect it, asking specifically about "the ladies in the Dean's office." Complainant 2 told him the women in the Dean's office do not like his behavior. He said he would talk to the women in the Dean's Office, but Complainant 2 told him not to do so. Complaining Witness 2 was embarrassed by the conversation; she felt that everyone knew she was the subject of the conversation. She stated that she would like to be known for her work and her contributions rather than as the object of Respondent's attention.

Complaining Witness 2 reported that this matter has caused her great distress over the years. She is very concerned about retaliation from Respondent and his wife. She thought very hard about filing a formal complaint herself but could not bring herself to fill out the form. However, she stated that since she was asked, by OEOD, to submit to a witness interview, she felt she needed

to do so, and to provide honest information regarding what Respondent had done. She feels Respondent has treated her as an object and has not respected her for her position and accomplishments. She believes Respondent harassed her.

Respondent's Response to Allegations:

Information Provided in Interview of April 29, 2018

Respondent stated that he has known Complaining Witness 2 for quite a few years, possibly ten years. He stated that he did not have a relationship with her until he started making donations to the campus. He stated that he interacted with her about once per year at that point, when he would go to tell the Dean he had delivered a check to the Chancellor.

Respondent stated Complaining Witness 2 was very affectionate with him. He stated that it was Complaining Witness 2 who initiated physical conduct (hugs and kisses) with him and he was simply responding in kind, but now she is "using it against" him. Respondent indicated that when Complaining Witness 2 hugged him, he hugged her back and may have placed his hands where they fall when hugging someone. He stated that he did not just stand stiffly while she hugged him. However, he stated that he did not recall rubbing his hands up and down her side or touching her under her jacket³⁸. He stated that he did not recall her wearing a jacket on the occasions when he interacted with her.³⁹

Respondent stated that he commented on Complaining Witness 2's appearance and she complimented him, as well. He stated that he told her she was "beautiful" and "elegant" on two to three occasions, but not many times. When asked if he told her she was so elegant she should be running the school, Respondent stated that he did not make this comment.⁴⁰

Respondent noted that he and his wife invited Complaining Witness 2 and her husband to dinner because he and Complaining Witness 2 had a nice relationship.

Respondent stated that he did not recall who was involved in the discussions concerning lettering for the signage bearing his name on campus. He stated that he did not tell Complaining Witness 2 that she was acting liking a woman and manipulating the decision concerning the lettering.

Respondent recalled attending a reception for the Ayala Fellows. When asked if he told Complaining Witness 2, "I have just learned that women do not like to be told they are beautiful, but I know you don't mind," Respondent said, "No, I don't remember saying that."

Respondent also stated that he did not recall commenting that the School is lucky to have a beautiful Assistant Dean.

³⁸ Complaining Witness 2 reported that she never hugged Respondent. She stated that it was Respondent who initiated the greeting when he saw her—he would come over to her and kiss her on the cheeks, and she would lean in to receive the kisses as she felt that was expected from her.

³⁹ Complaining Witness 2 reported that she always, or almost always, wears jackets to work. It should be noted that Complaining Witness 2 arrived for both of her meetings with the Investigators wearing a jacket, including the meeting in which she was informed of Respondent's statement that he did not recall her wearing a jacket on the occasions on which he interacted with her.

⁴⁰ During the interview, Respondent's support person, Witness 46, interjected and stated that she did make a comment to this effect to Complaining Witness 2, telling her she is so wonderful she should be running the school instead of the Dean.

In regard to the faculty meeting in October 2017, Respondent stated that he was present at that meeting. However, he stated that the allegation that he attempted to kiss Complaining Witness 2 at that meeting is an "outright lie." He stated that the faculty were seated around the table, and the staff were seated against the wall. He stated that it would have been physically impossible for him to get near Complaining Witness 2 because she was not seated near the faculty.

VIII. WITNESS STATEMENTS

The following summarizes the information provided by the witnesses:

Witness 1

Witness 1 stated that she was at the rooftop reception with her husband, Witness 29, on October 27, 2017. Witness 1 stated she did not notice that Respondent touched Complainant 1 when he walked up to the table and only found out about it afterwards when her husband told her what he had seen. Witness 1 then texted Complainant 1 to let her know that Witness 29 supports her and would report Respondent's actions to the Chair.

After reviewing the draft report, Respondent's attorney stated:

The information from Witness 1, [Name omitted], has no bearing or relation to the allegations against [Respondent]. The information does not even purport to corroborate any of the allegations. It should thus be omitted from the report.⁴¹

Witness 2

Witness 2 stated that on March 2, 2007, both Witness 2 and his wife, Witness 50, attended an EEB department-wide graduate recruitment dinner hosted in University Hills at Complainant 2's home. After the dinner, Witness 50 told him that while Witness 2 was not watching, around 8pm, Witness 50 had been introduced to Respondent for the first time. Respondent had been drinking, and when Witness 50 reached out to shake Respondent's hand, somehow his hand ended up rubbing against Witness 50's breast. Witness 50 told Witness 2 she thought that maybe the touch was an accident, perhaps relating to the fact that Respondent was tipsy but thought it was odd since Respondent's hand lingered on her breast for a few seconds.

Witness 2 stated that he has the impression that Respondent is a "dirty old man."

Witness 2 stated that he has seen Respondent kiss women on the cheeks and give them hugs and has not seen him do these things with males.

Witness 2 stated that two or three years ago Complainant 2 asked him to attend department functions with her to help her avoid Respondent. Witness 2 was asked whether he ever saw Respondent grab Complainant 2's arm and drag her over to stand near Respondent and whether he ever heard Respondent comment to Complainant 2 about grabbing Complainant 2's ass. Witness 2 did not recall these incidents but stated that they sounded like something Respondent would do.

⁴¹It is our practice to include all witness statements in the report so the parties and appropriate University officials know what information was presented to the investigators. The credibility and materiality of the information provided by Witness 1 will be discussed in section VII of the report.

On October 18, 2017, Witness 2 attended a faculty meeting run by Complainant 2 concerning sexual harassment.⁴² At the end of the meeting, Respondent stated “I should be able to give hugs to the Dean’s staff; they expect me to do that. It would be an insult if not,” or words to that effect.

Respondent’s Response to Information Provided by Witness 2

When provided with the name of Witness 2’s wife, Respondent stated that he does not recognize this name. When asked about the report that he had touched Witness 2’s wife’s breast when she reached out to shake his hand, Respondent stated that he did not do this as he does not do such things. Respondent also denied being inebriated and stated that he does not get inebriated.

After reviewing the draft report, Respondent’s attorney stated:

The allegation made by Witness 50 and relayed again by Witness 2, [Name omitted], is entirely false. First and most importantly, [Respondent] did not touch Witness 50’s breast. Second, [Respondent] was not “tipsy”—he never drinks to excess.

Furthermore, [Witness 2’s] statements that [Respondent] is a “dirty old man” and that Complainant 2’s allegations ‘sound like something Respondent would do’ amount to unsubstantiated character attacks. These attacks are false and do not belong in such a report. Those who know [Respondent] can attest to his true character, as many have done when interviewed.

As for the comments Witness 2 claims [Respondent] made, [Respondent] was merely explaining the custom that had developed when he would deliver his million-dollar donation checks—a custom that since then, [Respondent] no longer continues.⁴³

Witness 3

Witness 3 served as the Chair of Ecology & Evolutionary Biology from July 2012 to June 2017. He stated that it is standard for the Chairs in the Department to serve for five years. When his term was ending, he told the Dean he would be willing to stay on, if needed, but the Dean decided to rotate the position because there was interest on the part of another faculty member to serve in an administrative role.

Witness 3 stated that he met Respondent in March or April of 1975 while Witness 3 was a graduate student at UC Davis in Respondent’s lab. Witness 3 started to work at UCI in 1987, one year after Respondent.

Witness 3 reported that he attended a faculty meeting in 2015 in which Complaining Witness 1 was to give a presentation about a new professional master’s program she was helping develop. Witness 3 was sitting at the front of the room near Respondent. When Complaining Witness 1 entered the room, it was already pretty full, and she began looking for a seat near the front as she was to be presenting during the meeting. When Respondent noticed her searching for a seat, Respondent told her she could sit on his lap. Witness 3 heard this comment and may have rolled

⁴² According to Exhibit R, this meeting took place on November 8, 2017.

⁴³ The credibility and materiality of the information provided by Witness 2 will be analyzed and discussed in section IX of the report.

his eyes. He did not see Complaining Witness 1 react at the time, but she came to talk to him about it after the meeting. Witness 3 reported that the room was loud and chaotic at the time Respondent made this comment, but one other person may have heard it. Witness 3 reported that he did not groan audibly when Respondent made this comment but groaned internally and may have rolled his eyes.

After the meeting (possibly that same day), Complaining Witness 1 came to Witness 3 to discuss the comment as well as other comments Respondent had allegedly made to her regarding her appearance while Respondent was in or near Complaining Witness 1's office, such as how good Complaining Witness 1 looks. Complaining Witness 1 expressed a concern that others may perceive she is engaging in certain conduct with Respondent to advance her career, and she asked Witness 3 to take action. During this conversation, Respondent likely told Complaining Witness 1 that he had heard Respondent's comment about sitting on his lap and may have indicated his "mental groan" to her.

After meeting with Complaining Witness 1, Witness 3 spoke to the Equity Advisor (Witness 6) and believes Witness 6 spoke with the Office of Equal Opportunity and Diversity. Witness 3 was not involved in that conversation.

At first, Witness 3 did not recall having spoken with Respondent regarding Complaining Witness 1's concerns, but as the interview continued, he did recall having a conversation with Respondent at that time. Witness 3 reported that he told Respondent that things are different now than they were in the 1960's. Respondent characterized his comments as compliments, but Witness 3 informed him that "we all need to adjust to how we behave in the workplace," or words to that effect. Witness 3 told the Investigators that he was familiar with Respondent's mannerisms with students, staff and faculty and that Respondent was, "European and hands on" (e.g., "let me give you a hug"), but was not predatory. Witness 3 noted that Respondent regularly commented to women about how they look.

In this conversation, Witness 3 may have told Respondent that he did not hear the comments Respondent made to Complaining Witness 1 while Respondent was in or near Complaining Witness 1's office, but he reported that he would not have told Respondent that he did not hear Respondent's comment in the faculty meeting (that Complaining Witness 1 could sit on Respondent's lap) because he definitely heard that comment.

Witness 3 stated that, after this conversation with Respondent, he never observed Respondent engaging in any "bad acts" but did note that his exposure to Respondent was somewhat limited after that. Witness 3 stated that he and Respondent would see each other at faculty meetings or when passing in the hall, but there were not a lot of big social gatherings where they were both in attendance.

Witness 3 stated that at some point Complaining Witness 1 came back to him and shared that she and Respondent had discussed the incident in the faculty meeting. Complaining Witness 1 shared that there was a back and forth during that conversation in which she tried to convey to Respondent that his comments were not appropriate but that Respondent was defensive.

Witness 3 reported that he never received any other complaints regarding Respondent's behavior. When asked if anyone ever informed him of concerns regarding Respondent's behavior toward Complaining Witness 2, Witness 3 stated that no one ever did. Witness 3 stated

that he never observed Respondent being “hands on” with Complaining Witness 2 but noted that Respondent is that way and it is part of who he is. Again, Witness 3 stated that the behavior was not predatory as it was intended with goodwill, but that it was “dated goodwill.”

Witness 3 did not specifically recall whether Witness 6 presented information on the sexual harassment policy at a leadership retreat in 2016 but stated that it would not have been remarkable since that was part of Witness 6’s role to remind everyone of the policy. Witness 3 does not have information as to what may have precipitated that particular presentation.

Witness 3 was asked whether Complainant 2 shared with him concerns regarding Respondent’s behavior toward her. He stated that he does not specifically recall such a conversation but stated that if Complainant 2 recalls it, then he is “sure it did happen.” He stated that he had a number of conversations with various people regarding Respondent’s conduct and they may be merging together in his mind at this point.

After reviewing the draft report, Respondent’s attorney stated:

Witness 3, [Name omitted], was [Respondent’s] Ph.D. student at UC Davis. [Respondent] is surprised by much of this narrative, which is made-up. [Respondent] does not recall [Witness 3] ever telling him that “we all need to adjust to how we behave in the workplace.” This seemingly implies that [Respondent] regularly made comments like the one much-regretted comment he made to Complaining Witness 1—this is false. [Respondent] made a single off-color remark to Complaining Witness 1 offering her to sit in his lap—a failed attempt at humor and lapse of judgment for which he profusely apologized, and has not repeated. The real discussion with Witness 3 was not over regular misbehavior, but about handling this sole incident. But in calling [Respondent’s] behavior not predatory, Witness 3 was in fact correct. [Respondent] has never been motivated by anything but goodwill and courtesy.”⁴⁴

Witness 4

Witness 4 stated that she was at the rooftop reception on October 27, 2017 but sat at the opposite end of the table from Complainant 1. Witness 4 stated that she did not notice Respondent at the reception. Witness 4 did state that she has noticed that it is typical of Respondent to put his hand on people’s shoulders when he talks to them and has noticed Respondent tends to be around female graduate students or faculty.

After reviewing the draft report, Respondent’s attorney stated:

[Respondent] does not know Witness 4, [name omitted]. So Witness 4’s characterization of [Respondent’s] habits are clearly an unfounded character attack based on recent rumors alone. During the only specific instance that Witness 4 recounts being at an event which [Respondent] also attended, Witness 4 did not notice any of [Respondent’s] supposedly typical conduct of putting his hand on people’s shoulders.”⁴⁵

⁴⁴ The investigators will make a credibility determination concerning the information provided by Witness 3 in section IX of the report.

⁴⁵ Whether or not Respondent knows this graduate student, the student knows him and provided information regarding her observations of Respondent. To the extent Witness 4’s statements are relevant, they are discussed in section IX of the report.

Witness 5

Witness 5 stated that he attended the rooftop reception on October 27, 2017. He saw Respondent there but did not remember what Respondent did while there. Witness 5 stated that typically Respondent would walk around the table greeting everyone and then find one person at the reception and talk to that person for the rest of the reception.

Witness 5 stated he has not seen Respondent sexually harass anyone and is not aware if Respondent socializes outside of work with any graduate students.

Witness 6

Witness 6 is a Professor in Neurobiology & Behavior and previously served as the Equity Advisor for the Ayala School of Biological Sciences.

Witness 6 reported that when he served as Equity Advisor, Complaining Witness 1 met with him to discuss concerns regarding Respondent, specifically, that Respondent had made an inappropriate comment to her in a faculty meeting. Witness 6 spoke with the Chair of Ecology & Evolutionary Biology, Witness 3, who confirmed that he had heard the comment Respondent had made to Complaining Witness 1. Witness 6 then reported the matter to the Office of Equal Opportunity and Diversity. He checked in with Complaining Witness 1 a couple of times after that, and she reported that Respondent had been staying away from her.

Witness 6 stated that he later attended a cabinet meeting at which Respondent and his wife were announcing that they were donating funding to the School of Biological Sciences. Respondent was standing at the head of the table and was praising some of the male faculty and then praised Complaining Witness 2 by saying, "We are lucky to have such a beautiful Assistant Dean." After the meeting, Witness 6 went to Complaining Witness 2 and told her that it bothered him to hear what Respondent had said. Witness 6 reported to the Investigators that he was sensitized to this incident because of the prior concern Complaining Witness 1 had raised regarding Respondent. According to Witness 6, when he shared his concern with Complaining Witness 2, she "shrugged it off."⁴⁶ Witness 6 reported that since Complaining Witness 2 did not seem to have a problem with the comment he did not feel he needed to take any further action.

When asked if he had observed Respondent engaging in any physical conduct with Complaining Witness 2, he said he did not.

Witness 6 stated that around this same time, he presented materials regarding sexual harassment prevention and response at a leadership summit for the School of Biological Sciences. He did so in his role as Equity Advisor and consulted with Complainant 2 at the time as she was serving as the Sexual Harassment Advisor for the School. Witness 6 reported that it was coincidental that he presented this information around the same time he witnessed Respondent's comment about Complaining Witness 2's appearance.

Witness 6 was asked whether Complainant 2 shared with him, in or about April 2016, that Respondent had engaged in unwelcome conduct toward her but that she was afraid to report him for fear of retaliation in terms of her NAS nomination. Witness 6 stated that while he has had at

⁴⁶ Complaining Witness 2 reported that when Witness 6 spoke to her about Respondent's conduct, she did not feel comfortable discussing the matter with Witness 6, so she just told him she was "fine." She noted that Witness 6 also spoke about this incident with Complainant 2 at the time.

least one conversation with Complainant 2 regarding Respondent's conduct, he did not understand that she felt she had been the victim of it. Witness 6 stated that if she tried to convey that to him, he did not hear it that way.

When asked if he participated in a discussion with the Chairs concerning whether to report Respondent's conduct to the Dean, Witness 6 stated that he does not recall such a discussion. He stated that he talked with Complainant 2 regarding whether he should report Respondent's conduct to the Dean and he did eventually tell Complaining Witness 2 about his concerns—and he believes she conveyed his concerns to the Dean. However, according to Witness 6, this discussion took place around the time that Complaining Witness 1 made her concerns about Respondent's conduct known, which would have been in 2015, not 2016.

After reviewing the draft report, Respondent's attorney stated:

Witness 6, [name omitted]'s interview notes are internally contradicting and unreliable. In the final paragraph, Witness 6 contradicts himself in response to the investigator's questions. And the fact that Witness 6 found that Complaining Witness 2 "shrugged ... off" a supposed compliment to her made by [Respondent] indicates that she did not take offense. Instead, this is an instance of after-the-fact reinvention; merely another example of [Respondent's] typical old-fashioned, European manners being misconstrued. Furthermore, Witness 6 even explains that he never understood Complainant 2 to have felt that she had been victimized. And that's true—[Respondent] has only ever acted out of his traditional sense of courtesy and manners. Yet now, all of a sudden, he is being recast as a predator, which is absurd.⁴⁷

Witness 7

Witness 7 was not at the rooftop reception on October 27, 2017. Respondent has kissed Witness 7 on the cheek when he greeted her, but Witness 7 said that it was welcomed. Witness 7 has not seen Respondent kiss anyone else on the cheek nor has she heard Respondent compliment females.

Witness 7 was asked about the faculty meeting on October 4, 2017. She stated that she came late to the meeting and sat on the far side of the room, not her normal spot. She could not recall who was seated next to her. She did recall that Respondent was already seated when she arrived and she did not observe any interaction between Respondent and Complaining Witness 2.

Witness 8

Witness 8 attended the rooftop reception on October 27, 2017. Witness 8 stated he saw Respondent walk up to the table and put his hands on Complainant 1's shoulders while Respondent talked to Witness 18. Respondent seemed overly comfortable when he did this but Complainant 1 did not seem to react.

Witness 8 stated that he has not seen Respondent kissing anyone's cheeks, nor has he heard Respondent complimenting females.

After reviewing the draft report, Respondent's attorney stated:

⁴⁷ The investigators will make a credibility determination concerning the information provided by Witness 6, as well as the Complainants and Complaining Witnesses, in section IX of the report.

Witness 8, [name omitted], who [Respondent] does not know, claims to have seen him put his hands on Complainant 1's shoulders. Yet it is important to note that Complainant 1's allegations was that [Respondent] pressed his body against hers, which is entirely false. Thus, Witness 8's testimony also clearly corroborates that fact that [Respondent] never pressed his body against hers.⁴⁸

Witness 9

Witness 9 stated that he was at the rooftop reception on October 27, 2017, but did not notice if Respondent was there or not.

Witness 9 stated that, on other occasions, he has seen Respondent put his hands on female graduate students' shoulders while he talks to them. Witness 9 has not seen Respondent kiss anyone on the cheek, nor has he heard Respondent complimenting females.

After reviewing the draft report, Respondent's attorney stated:

Witness 9, [name omitted], provided testimony that clearly corroborates the fact that [Respondent] never pressed his body against hers.⁴⁹

Witness 10

Witness 10 stated that she did not attend the rooftop reception on October 27, 2017 and did not know if Respondent normally attends these receptions. Witness 10 stated that she has to submit a list of people planning on attending to Catering, and Respondent was not on the list for that day.

Witness 10 stated that over a year ago, during a faculty meeting, she witnessed Complaining Witness 1 arrive after most of the other people and heard Respondent tell Complaining Witness 1 that she could sit on Respondent's lap. According to Witness 10, another faculty member, Dr. Michael Bracken, laughed nervously in "disbelief" after hearing the comment. After the meeting, Complaining Witness 1 came to Witness 10 and stated that the comment was inappropriate and she was worried that faculty would not take her seriously. Witness 10 then reported the incident to the Chair, Witness 3.

Witness 10 stated that in October 2017, Complainant 2 told her that Respondent had made Complainant 2 uncomfortable, giving her the following examples: that Respondent had cornered her at EEB get togethers, to the point that she needed other faculty to be with her at the events, and that on at least one occasion Respondent had held Complainant's hand.

Witness 10 was asked whether she heard Respondent state to her and Complainant 2, when he arrived to a faculty meeting in October 2017, "How wonderful to be sitting across from two beautiful women." Witness 10 reported that she does not remember whether Respondent made that comment at a specific faculty meeting but noted that he has made that comment on a regular basis.

Witness 10 stated during a faculty meeting in October 2017, Complainant 2 talked about sexual harassment and stated that there should be no hugging or kissing of students, staff, or faculty.

⁴⁸ The information provided by Witness 8 and Respondent's attorney will be discussed in section IX of the report.

⁴⁹ The information provided by Witness 9 will be discussed in section IX of the report.

Respondent asked what he should do if someone wants to hug him. After the meeting, Respondent saw Witness 10 in the hallway and asked her what he should do if someone wants to hug him. Respondent told Witness 10, "Do you know what my wife would say about sexual harassment? There is not enough."

Witness 10 stated that two or three years ago, on her birthday or Respondent's birthday, Respondent kissed Witness 10 on the cheek. Witness 10 stated that this made her uncomfortable, and she has not given Respondent the chance to do that again.

Witness 10 stated that Respondent usually tells Witness 10 that she looks nice and has commented on her nails. Witness 10 stated that she does not think the comments are inappropriate and feels that it is just the way Respondent is. Witness 10 has heard rumors that Respondent is a womanizer, but she has not seen anything that would make her think that.

Respondent's Response to Information Provided by Witness 10

Respondent stated that he has known Witness 10 since she came to the department some years ago. He estimated it was 6-9 years ago. He described their relationship as very proper and cordial. He stated that Witness 10 is very proper to him and that she assists him from time to time with various work-related requests.

When asked if he has ever kissed Witness 10, he said, "Probably not." He stated that he probably did not do so because of her position, noting that she is the manager and her staff are located near her. He stated that in the past Witness 10's staff have complimented Respondent's dress, looks, and accomplishments and that it is possible that Witness 10 has done so, also. However, he reiterated that she is proper and subdued. When asked if he has made comments to her about her appearance, he stated, "Not that I can recall." However, he did state that he may have said to her and Complainant 2, during a meeting, that it was nice to be near two beautiful women, or words to that effect, though he did not specifically recall making that statement.

When asked if he told Witness 10, "The problem with sexual harassment is that there is not enough of it," Respondent stated that he once made that comment, quoting a woman who is close to him, but he does not recall when he made this comment or to whom.

After reviewing the draft report, Respondent's attorney stated:

Portions of [Respondent's] response to this witness's statement are grossly mischaracterized. [Respondent's] wife, [name omitted], can attest to this mischaracterization. During the interview with Mr. Pelowitz when this question was asked, [Respondent] actually stated that he did not ever make this comment as best he can recall and that he would not say such a thing. At which point, he looked to his wife asking her if she recalled him ever saying something like that. Then, [Respondent] stated that [his wife] had related a comment that a friend of hers—a noted Spanish painter—once made, which was perhaps related. Specifically, this painter commented how sad it was to see good manners and social courtesies undermined and vanishing. Polite comments, she noted, are increasingly confused with sexual harassments [sic]. Her point was that the world

needs more (not fewer) of these courtesies, which are too often being inappropriately labeled as harassment. But [Respondent] never said anything like he has been accused of saying.⁵⁰

Witness 11

Witness 11 stated that she was at the rooftop reception on October 27, 2017. Witness 11 was sitting at the table with approximately eight other people. Witness 11 stated that she saw Respondent talking to Witness 18 for about a minute but did not see Respondent touch Complainant 1.

Witness 11 stated that Respondent does pay a lot of attention to Witness 18, and she thinks that Respondent is obsessive over Witness 18. Witness 11 has not seen Witness 18 become uncomfortable and has never seen Respondent touch Witness 18.

After reviewing the draft report, Respondent's attorney stated:

Witness 11, [name omitted], made the demonstrably false claim that [Respondent] is obsessed with Witness 18—yet another example of ill-founded rumors run amok. Witness 18, a member of [Respondent's] minority graduate student program, notes that she has spoken to [Respondent] "only a 'handful' of times," during which [Respondent] never once acted inappropriately. Furthermore, [Witness 11] does not claim to have seen [Respondent] even touch Complainant 1—let alone press his body against hers, a patent falsehood.⁵¹

Witness 12

Witness 12 stated that his office is located off the same hallway as Respondent's and that he has a polite relationship with Respondent. Witness 12 also stated that he has not seen Respondent act inappropriately with any faculty member.

Witness 12 stated that back in the 1990s, one of his graduate students, Witness 61, complained to Witness 12 about Respondent. Specifically, Witness 61 stated that Respondent had leaned over her shoulder, and she thought Respondent was going to kiss her. Witness 61 told Witness 12 that if Respondent had tried to kiss her she would have hit him.⁵²

Witness 12 described another incident with Respondent that happened a few years after the Bonney Research Laboratory was built in 1981, in which Respondent attended a Freshman Honors Reception at the Laboratory. Respondent began telling two undergraduate students about a creek near where Respondent grew up, called Puta Creek. Respondent then explained that the word "puta" means "prostitute" in Spanish. Witness 12 stated he felt this conversation was very inappropriate between a professor and students.

⁵⁰ Despite the response of Respondent's attorney, who was not present at the interview of Respondent, Respondent did admit, during the interview that he once said, "The problem with sexual harassment is that there is not enough of it," Respondent stated that he once made that comment, quoting a woman who is close to him, but he does not recall when he made this comment or to whom.

⁵¹ The information provided by Witness 11 will be discussed in section IX of the report.

⁵² Witness 61 did not corroborate this incident as described by Witness 12. See below.

Respondent's Response to Information Provided by Witness 12

With regard to Witness 61, Respondent stated that he does not recognize that name. When asked if he ever leaned over a student's shoulder to try to kiss her, he stated that he did not do that. He stated that he would not do anything like that with a student.

Respondent did not recall the specifics of the conversation, such as date or location, but did recall telling students about a creek in the Davis, California area named Putah Creek. He recalled that he may have stated that the Spanish translation for the word "puta" is "whore."

After reviewing the draft report, Respondent's attorney stated:

[Respondent] never told Witness 12, [name omitted], and two undergraduate students the anecdote that Witness 12 claims he did. This testimony is false. Nor is [Respondent's] response accurately portrayed. As [Respondent] explained, he was asked if Putah Creek in the Davis area was a Spanish name, and he said that it had to be Native American because the Spanish word was a curse word.⁵³

Witness 13

Witness 13 stated that she attended UCI from 2012 to 2016 as a graduate student in Biological Sciences. During her time at UCI, Witness 13 was a teaching assistant for Respondent twice. Witness 13 stated that Respondent complimented her more than once, stating for example that she looked nice, but the comments never made her feel uncomfortable. Witness 13 stated that Respondent never touched her or kissed her cheeks. Witness 13 stated that while working as Respondent's TA, there was no dress code nor did Respondent treat his female TAs any differently than his male TAs. Overall, Witness 13 felt her time as Respondent's TA was a "good experience."

Since leaving UCI, Witness 13 has interacted with Respondent for her career. Specifically, Respondent referred Witness 13 to a contact for a job.

Witness 14

Witness 14 was at the rooftop reception on October 27, 2017, and remembers seeing Respondent there. Witness 14 did not see Respondent interact with Complainant 1 or Witness 18. In the past, Witness 14 has seen Respondent put his hand on Witness 18's shoulder while talking to her. Witness 14 has noticed that Respondent stands very close to people when he talks, but Witness 14 has assumed that Respondent has a hearing problem. Witness 14 has not seen Respondent kissing anyone on the cheek nor has he heard Respondent complimenting females.

After reviewing the draft report, Respondent's attorney stated:

⁵³ Despite the response of Respondent's attorney, who was not present at the interview of Respondent, Respondent stated during the interview that he while he did not recall the specifics of the conversation, such as date or location, he did recall telling students about a creek in the Davis, California area named Putah Creek. He recalled that he may have stated that the Spanish translation for the word "puta" is "whore."

Witness 14, [name omitted] is correct in surmising that to the extent [Respondent] does stand close to people when conversing, it is because he has begun to experience some hearing difficulties as he has aged.

Witness 15

On October 5, 2017, at the “Doughnuts with the Dean” event, Witness 15 observed inappropriate behavior toward an undergraduate student by Respondent. Witness 15 was standing with a group of four undergraduate female students, talking to them about their career goals. One of the students was wearing a t-shirt that read “Ayala School of Biological Sciences” across her chest. Respondent approached their group, holding a glass of wine, and introduced himself by placing his finger very close to his name on the student’s shirt, and telling everyone that this was his name, “Ayala”. His hand was so close to the student’s chest that he may have even briefly touched the student’s chest. Witness 15 stated that Respondent’s having his finger so close to the student’s chest made Witness 15 feel uncomfortable.

After reviewing the draft report, Respondent’s attorney stated:

The accusation by Witness 15 [name omitted], is flatly wrong. [Respondent] never came close to the chest of anyone. Instead, [Respondent] merely introduced himself by pointing at the name tags, which bore his own name. The students seemed surprised and happy to meet the person for whom the school was named. The allegation [Respondent] touched or came close to touching a female student’s breast is a malicious fabrication and a distortion of [Respondent’s] goodwill.⁵⁴

Witness 16

Witness 16 stated that in early November 2017, Complainant 2 held a faculty meeting focusing on the prevention of sexual harassment. Witness 16 thinks that Complainant 2 held this meeting because of concerns that graduate students did not want to be complimented or touched. Respondent questioned the guidelines that Complainant 2 set forth -- that faculty will not kiss, hug or compliment students, staff, or faculty. Specifically, Respondent stated, “Isn’t it rude if graduate students want me to hug them and I don’t” and “The staff in the dean’s office love me, I don’t know if I cannot,” or words to that effect.

Witness 16 stated he has not seen Respondent kissing anyone or touching them in a way he thinks was inappropriate. He stated that Respondent is outgoing and friendly but also pompous and unable to imagine that he may be wrong.

Witness 17

Witness 17 stated that he has known Respondent since 1983, but not as close friends. Witness 17 stated that Respondent normally shows exaggerated courtesy and is very complimentary. Witness 17 could imagine how a person could be offended by the way Respondent compliments them but thinks that Respondent is “harmless.” Witness 17 stated he has never seen Respondent’s exaggerated courtesy lead to Respondent sexually harassing anyone. Witness 17 continued to explain that Respondent likes to sit next to beautiful graduate students and show his exaggerated courtesy.

⁵⁴ The investigators will make a credibility determination concerning the information provided by Witness 15 in section IX of the report.

Witness 17 stated that on October 27, 2017, he attended a rooftop reception since he was the host of the guest speaker. For most of the event, Witness 17 spoke with the guest speaker and Respondent. Witness 17 felt that Respondent was showing signs of early dementia because he was repeating himself, mixing up years and dates of events, and mixing up situations. Witness 17 also noted that Respondent was drinking wine during the event. Witness 17 stated that Respondent is not as mentally sharp as he was 25 years ago and has noticed that, since Respondent turned 80, he has been declining faster. Witness 17 stated that he did not notice if Respondent touched anyone's shoulders or gave them a hug but stated that he was not paying attention to Respondent at all times. Even though Witness 17 did not see Respondent touch Complainant 1 he could imagine it if Respondent was in a "dementia moment." He explained that it is common in the early stages of dementia that a person can lose their balance and have a loss of awareness as to what they are doing. Witness 17 stated that it is common for Respondent to touch a woman's shoulder or arm when he talks to them.

After reviewing the draft report, Respondent's attorney stated:

[Respondent] was dismayed by the statement of [name omitted], Witness 17. Recently, faculty members were asked to report on their publications in the last 10 years. [Respondent] has published 30 books in those 10 years, more than anyone in the entire department as far as [Respondent] is aware—hardly a feat that someone in the early stages of dementia could accomplish. Finally, it is important to note that Witness 17 noticed no inappropriate behavior by [Respondent].

Witness 18

Witness 18 started at UCI in July 2017 in Respondent's lab but worked under another academic employee. Throughout her time at UCI, Witness 18 has spoken to Respondent only a "handful" of times. During these interactions Respondent has never touched, kissed, or complimented Witness 18.

Witness 18 attended the rooftop reception on October 27, 2017. During the reception, Witness 18 walked over to Respondent and spoke to him. Witness 18 stated the Respondent seemed "normal," and did not seem drunk or disoriented. Later, during the reception, Witness 18 was sitting at the tables and Respondent walked up to the table to tell her goodbye. Witness 18 did not see Respondent touch Complainant 1's shoulders nor did Witness 18 see Respondent's body touch Complainant 1's body.

Witness 19

Witness 19 stated that he attended the rooftop reception on October 27, 2017 and was sitting near Complainant 1. Witness 19 saw Respondent walk up to the table one time and put a hand on Witness 18's shoulder. Respondent kept his hands on Witness 18's shoulders for approximately one minute while he talked to Witness 18. Witness 19 stated that Complainant 1 was sitting next to Witness 18 and, from where he was sitting, he could not see if Respondent touched Complainant 1.

Witness 20

Witness 20 was an undergraduate biology major at UCI from 2008-2011 and a graduate biology student from 2011-2016. She served as a TA for Respondent when she was a graduate student. She described her assignment to Respondent as a TA as random as she had no other relationship with him as a graduate student. She graduated from UCI with a doctorate in 2016.

Witness 20 reported that Respondent never subjected her to any unwelcome sexual comments or physical conduct, but she witnessed Respondent engaging in such conduct with others. She reported that she was present during a faculty meeting when Respondent made an unwelcome comment to Complaining Witness 1. Complaining Witness 1 was preparing to give a presentation at the meeting when Respondent made a comment to her (which Witness 20 did not directly hear), and Complaining Witness 1 became visibly upset and flustered (which Witness 20 did observe). Afterward, Complaining Witness 1 told Witness 20 that Respondent had made a comment about having Complaining Witness 1 sit on his lap. Complaining Witness 1 informed Witness 20 that Respondent continued to make unwelcome comments to her after the date of that meeting.

Witness 20 reported that she heard Respondent telling female graduate students they were beautiful. She estimated that he made such comments to a few students (more than three and fewer than ten). She reported that she was stand-offish to him, even while she was his TA, and even to the point of giving him disapproving looks. She stated that she observed him grabbing Witness 13's hands and telling her how nice her hands looked. That incident occurred in 2012 or 2013. Witness 20 reported that Witness 13 rolled her eyes and engaged in nervous laughter. Witness 13 shared with Witness 20 the statements that Respondent had made to her. Witness 20 can no longer recall the content of the statements.⁵⁵

Witness 20 stated that, during faculty-student social events, she observed Respondent telling female graduate students how beautiful they were and observed him "schmoozing" with the female students. She stated that she was not uncomfortable with these comments until the incident with Complaining Witness 1 occurred during the faculty meeting. Witness 20 stated that Respondent's behavior was a "thing" at the time, i.e., it was a regular topic of conversation among the graduate students.

Respondent's Response to Information Provided by Witness 20

Respondent was asked if he ever told graduate students they were beautiful. He reported that he was sure he had done so but he did not recall the specifics.⁵⁶

Respondent was asked about his relationship with Witness 13. He stated that she was a TA for his Philosophy of Biology course. He denied grabbing her hands or telling her how nice they look.

Witness 21

Witness 21 was a graduate student in Ecology & Evolutionary Biology from 2013-16. He reported that he never experienced any unwelcome conduct or discriminatory treatment. He did not have any further information relevant to this investigation.

Witness 22

Witness 22 was a graduate student in Ecology & Evolutionary Biology from 2011-April 2017. During the 2014-15 and 2015-16 academic years, she served as a pedagogical fellow, which

⁵⁵ Witness 13 did not mention that Respondent ever touched her hands. She stated that she was not uncomfortable with Respondent's behavior toward her.

⁵⁶ This question was posed to Respondent in a general manner without identifying the source or sources of information during the interview.

entailed training and mentoring incoming TAs. Witness 22 reported that she never experienced any unwelcome conduct or discrimination/unfairness at UCI. However, she heard about unwelcome conduct from other students: many of Respondent's TAs said he was inappropriate, verbally and physically. She was informed that, on various occasions, he engaged in physical conduct with students, e.g., holding a hand, kissing, or placing a hand on a student's shoulder for prolonged periods. He also made comments about female students' personal appearance, clothing choices, and body shape and size. She stated that incoming female students were warned (by other students) to visit Respondent in pairs, so as to avoid being alone with him.

Witness 22 stated that she never observed the above behaviors herself. She recommended talking to a specific female TA who, she believed, would have more specifics, Witness 55. Witness 55 encouraged female undergraduate students to avoid visiting Respondent in his office.⁵⁷

Witness 22 stated that she and Complaining Witness 1 were graduate students at the same time, although Complaining Witness 1 received her PhD prior to Witness 22. Witness 22 stated that when Complaining Witness 1 was hired as a lecturer, she led a faculty meeting at which Respondent made a comment about her sitting on his lap. Complaining Witness 1 told Witness 22 about the incident immediately afterward because she and Complaining Witness 1 were friends. Complaining Witness 1 was so upset that she was shaking and appeared to be very unnerved. After the Chair spoke to Respondent about the incident, Respondent confronted Complaining Witness 1 and told her he had intended his comment as a compliment. Complaining Witness 1 immediately shared with Witness 22 that she felt Respondent had berated her during this discussion. Complaining Witness 1 was crying while telling Witness 22 what Respondent had said to her.

Witness 22 recommended that the Investigators speak with a particular student who is still at UCI, Witness 26. Witness 26 reported to Witness 22 that during at a dissertation committee meeting in the last year, Respondent asked another committee member, in regard to a recent vacation, "Did you have fun doing cocaine and buying hookers?"

After reviewing the draft report, Respondent's attorney stated:

*Witness 22, [name omitted], merely recycles recent rumors. But rumors are not factual allegations. And they should not be included. Yet despite no negative interaction with [Respondent], the investigators have recounted every mere rumor that Witness 22 has ever heard. And setting aside that Witness 22 and Witness 26's statements are inconsistent, the claim that [Respondent] asked whether a colleague was buying cocaine and hookers is entirely false.*⁵⁸

Witness 23

Witness 23 is a 2nd year graduate student in Ecology & Evolutionary Biology. Respondent was her advisor until recently. She reported that she has never experienced any unwelcome conduct or discriminatory treatment while at UCI. She did not have any further information relevant to this investigation.

⁵⁷ Despite repeated attempts, Witness 55 did not respond to the investigators' attempts to speak with her.

⁵⁸ The credibility and materiality of the information provided by Witnesses 22 and 26 will be analyzed and discussed in section IX of the report.

Witness 24

Witness 24 is a 4th year graduate student in Ecology & Evolutionary Biology. He reported that he has never experienced any unwelcome conduct or discriminatory treatment at UCI. He did not have any further information relevant to this investigation.

Witness 25

Witness 25 is a 4th year graduate student in Ecology & Evolutionary Biology. He reported that he has never experienced any unwelcome conduct or discriminatory treatment at UCI. He did not have any further information relevant to this investigation.

Witness 26

Witness 26 is a 6th year graduate student in Ecology & Evolutionary Biology. Witness 26 stated that prior to one of her committee meetings within the past two to three years, she was talking with one of her committee members, Witness 62, about a grant he had recently received. Respondent then entered the room and asked Witness 62 what he was going to spend the grant money on, “whores and cocaine?” or words to that effect. Witness 26 reported that she was not uncomfortable with Respondent’s remark, but Witness 62 did not laugh and may have been uncomfortable.

Witness 26 reported that she interacts with Respondent at committee meetings and at random events around campus. She stated that he is very nice to her and never bothers her. He has kissed her on the cheek on a couple occasions, but it did not bother her. Sometimes, he would tell her that she looked nice; again, the comments did not bother her. She stated that, on one occasion three to four years ago, she was sitting in a seminar with Witness 7 when Respondent came and sat next to them. He remarked that he was sitting between two beautiful women. He also stated to Witness 26 that, if the room got more crowded, she could sit on his lap. Witness 26 reported that, at the time, she was not bothered by the comment (and still is not), but that she believes the comment was inappropriate. She stated that she does not know whether Witness 7 was bothered by Respondent’s comments. No one has complained to Witness 26 about Respondent’s behavior.

Respondent’s Response to Information Provided by Witness 26

Respondent stated that he was on Witness 26’s PhD committee. He stated that he met with her a few times in that context though never one on one.

When asked if he ever commented on her appearance, he stated, “I don’t think so.” However, he also noted that such comments were consistent with his style/personality in the past.

When asked whether he ever told her she could sit on his lap, he stated that he did not say that to Witness 26. He reported that he made that comment only one time in his life and it was to Complaining Witness 1.

Respondent was asked if he commented to Witness 62 about spending his grant money on whores and cocaine. Respondent stated that he would not make that comment and that it would surprise him if Witness 62 would say that he made such a comment.

Witness 27

Witness 27 is a 2nd year graduate student in Ecology & Evolutionary Biology. Witness 27 reported that he has never experienced any unwelcome conduct or discriminatory treatment at

UCI. When asked if he ever observed any unwelcome conduct, he stated that he overheard Respondent make an inappropriate comment to a female student near the end of the 2017 winter quarter, when he served as a TA for Respondent. The student was wearing a head covering and Respondent stated, "Why would she wear short shorts if she's so concerned about modesty with her head covering?" or words to that effect. Witness 27 reported that Respondent asked this question in a loud voice while the student was present, but Witness 27 was not certain if the student heard the question. Witness 27 stated that he and the other TA (also male) looked at each other and laughed uncomfortably.

Witness 27 reported that he has not heard Respondent make inappropriate comments on other occasions and stated that he does not believe Respondent discriminated against the female students in the class. Witness 27 could not recall the name of the student involved in the above incident.

Respondent's Response to Information Provided by Witness 27

Respondent was asked whether he recalled a female student wearing a head covering during his class in 2017. He said he did not recall a particular student but stated that he has had students who wore head coverings in his classes. Respondent was asked about the allegation that he commented, "Why would she wear short shorts if she's so concerned about modesty?" Respondent denied making this statement. He reported that he does not make comments about his students' appearance or dress.

After reviewing the draft report, Respondent's attorney stated:

Regarding his response, [Respondent] would like to clarify that he has not made comments about people's appearance except to tell colleagues things like they look nice or smart (which he no longer does). Furthermore, [Respondent] never makes ridiculing or disparaging comments about his students.

Witness 28

Witness 28 is a faculty member in the School of Social Ecology. She stated that she is a professional colleague of Respondent's as they are both members of the National Academy. They also have a social relationship. Witness 28 reported that she has been at UCI for 15 years and has known Respondent most of that time. They see each other at receptions and other professional functions. In addition, they occasionally attended performances together in the past, though not in the last few years. For the past few years, they have attended Christmas dinner together (along with Respondent's wife) at the home of a mutual friend.

Witness 28 stated that Respondent kisses her cheeks when he sees her and that it is not unwelcome. She stated that she does not believe he would harass or discriminate against anyone. She stated that he has been an "amazing citizen" at UCI and has done a lot for the campus.

Witness 29

Witness 29 stated that he does not interact with Complainant 1 often but sees her at the rooftop receptions. Witness 29 was at the rooftop reception on October 27, 2017. Witness 29 saw Respondent standing, talking with a female student. Witness 29 did not hear the conversation but thought the student looked uncomfortable. Respondent was standing very close to the student. Eventually, the student walked away from Respondent and came and sat down at the table near

Complainant 1. Later, Respondent walked up to the table to talk to the student again. Respondent kept moving closer to Complainant 1 and it looked like Respondent bumped into Complainant 1. Complainant 1 looked very uncomfortable and tried to move forward. At one point, Respondent grabbed Complainant 1's shoulders. Witness 29 stated he could not see if Respondent's body touched Complainant 1's body but Witness 29 did notice that Complainant 1 moved forward and started to look worried. After a few minutes, Respondent walked away. After Respondent left, Complainant 1 was quiet.

Later that night, Witness 29 told his wife, Witness 1, what he had seen that night and that he did not think it was right.

On another occasion, Witness 29 saw Respondent talking to a female faculty member whom Witness 29 did not recognize. Witness 29 stated that it seemed like the faculty member kept trying to back away from Respondent and looked very uncomfortable but Respondent kept moving closer to her.

After reviewing the draft report, Respondent's attorney stated:

Witness 29's statement is self-contradicting and nonsensical. For one thing, Witness 29, [name omitted], says that [Respondent] bumped into Complainant 1, but then Witness 29 says that he is actually unsure if [Respondent's] body ever touched her body. This makes no sense. It's not possible to bump into someone without making contact. And for another thing, Witness 29 initially says that Complainant 1 was sitting down. But then, Witness 29 says that Complainant 1 was moving around at the same time [Respondent] was allegedly grabbing her shoulders—another instance of self-contradiction and incoherence. Moreover, this goes against what Witness 18, who in fact was seated at the table, saw and testified to.⁵⁹

Witness 30

Witness 30 is a Staff Research Associate in Ecology & Evolutionary Biology. She has been at UCI since 1998. Her husband is a faculty member in the Department.

Witness 30 reported that she has interacted professionally and personally with Respondent since 1998. She considers him to be both a work acquaintance and a friend. She described Respondent and his wife as "delightful," stating that she and her husband socialize with them on occasion.

Witness 30 reported that she has never had any negative interactions with Respondent; he has been a "perfect gentleman." She described him as "old world and gallant." She reported that no one has ever brought any concerns to her attention regarding Respondent's being "sexually forward."⁶⁰

Witness 30 stated that her interactions with Respondent on campus are sporadic. Their offices are located in different buildings but at some point in the past their offices were in the same building (though on different floors).

⁵⁹ The investigators will make a credibility determination concerning the information provided by Witness 29 in section IX of the report.

⁶⁰ The Investigator did not share the nature of the allegations; Witness 30's use of the term "sexually forward" was spontaneous. She stated that she had heard rumors that Respondent's students were "taken away from him," so she assumed the allegations must be of that nature.

Witness 31

Witness 31 is a 2nd year graduate student in Ecology & Evolutionary Biology. Respondent was her advisor until recently.

When asked if she has ever experienced any unwelcome comments or physical conduct, she stated that she has heard, from a student and a staff person, that women and Hispanics do not have to publish, and that male students have a hard time getting fellowships. She stated that these comments were unwelcome. She did not wish to share names of the individuals who made these comments. She reported that she does not feel she has been discriminated against or treated unfairly at UCI.

Witness 32

Witness 32 is a 3rd year graduate student in Ecology & Evolutionary Biology. She completed her undergraduate degree at UCI, as well. Respondent was her advisor until recently.

Witness 32 reported that she has heard rumors about Respondent but nothing specific, other than hearing about an incident involving Respondent and a graduate student at a rooftop reception. She was not at the reception. She reported that she has not experienced or witnessed any harassment or discrimination at UCI.

Witness 33

Witness 33 is a former graduate student at UCI and was a TA for Respondent during the 2009-10 academic year. Outside of the classroom, Witness 33's interactions with Respondent were minimal and she never saw Respondent act inappropriately with anyone. Witness 33 stated she never experienced or observed Respondent touching anyone or giving anyone compliments about their appearance.

Witness 34

Witness 34 is a Professor Emeritus of Developmental and Cell Biology and served as the Dean of the School of Biological Sciences as well as the Vice Chancellor for Research at UCI. She was at UCI from the early 1970s through her retirement and has known Respondent for all, or most, of that time. However, her interactions with him were mostly at receptions or other events. She reported that there was no common ground in their research areas; therefore, they did not engage regarding their research. Witness 34 characterized her relationship with Respondent as "friendly colleagues." She reported that she and her husband have attended social events with Respondent in the past.

Witness 34 stated that no one ever brought any concerns to her attention regarding Respondent. She stated that she had heard rumors recently, but that was the first time she had ever heard of any issues regarding Respondent. She stated that she does not know who would have any information regarding the rumors. She stated that she has never experienced anything untoward in her interactions with Respondent and she has not observed anything untoward in his behavior with others.

Witness 35

Witness 35 stated that she would classify the allegations against Respondent as a "general misunderstanding," and that "a hug can be innocuous." Witness 35 described Respondent as a "warm, courtly European." Respondent always gives Witness 35 a hug and kiss on the cheek

when they meet. Witness 35 stated that manners are very important to Respondent; for example, Respondent always stands up when a woman walks into the room.

Witness 35 stated that Respondent can put “flattery on too thick,” but she feels that is just how Respondent is and does not think he is inappropriate. Witness 35 thinks that some people are taken aback by Respondent but Witness 35 thinks those people are just not used to it. Witness 35 described Respondent as extremely friendly, with a high opinion of himself and a concern for prestige.

Witness 35 stated that she has not seen Respondent treat males and females differently. Witness 35 also wrote an email to the investigator as a follow up to her interview. (Exhibit O)

Witness 36

Witness 36 hired Respondent in the 1980s while Witness 36 was the acting Dean and then was the subsequent Chair. Witness 36 is retired and sees Respondent approximately two to three times a year.

Witness 36 described Respondent as “courtly” and stated that Respondent treats women with a deferential respect. Witness 36 also described Respondent’s behavior as “old school politeness.” Witness 36 stated that he does not remember seeing Respondent kiss anyone’s cheeks or touch anyone.

Witness 36 stated that Respondent “probably” compliments women’s attire but not their physical features. Witness 36 gave the examples of “nice dress,” and “you look nice today.”

Witness 37

Witness 37 has known Respondent since 1987 from different scientific meetings. Witness 37 then came to work for UCI in 2004 and has interacted with Respondent on a weekly basis for the last ten years.

Witness 37 described Respondent as a “real gentleman,” who was always been “very respectable.” Respondent would greet Witness 37 with a kiss on the cheek and has given her comments like “you look really nice.” Witness 37 has not seen Respondent touch anyone but has noticed over the last few years that Respondent has started to lean in closer to people talking to him. Witness 37 stated she thinks he is leaning closer to people because Respondent may be losing his hearing. Witness 37 stated she has not seen anyone become uncomfortable with Respondent and has not heard anyone complain about him.

After reviewing the draft report, Respondent’s attorney requested that Witness 37 be re-interviewed because she has had extensive contact with both Complainant 1 and Respondent. However, no specific information was provided to indicate that re-interviewing Witness 37 would be likely to elicit material information, especially given that Witness 37 did not attend the rooftop reception on October 27, 2017.

Witness 38

Witness 38 stated that he first met Respondent in 1970 when Respondent came to the UCD Genetics department to give a seminar as part of a job interview. At that time, Witness 38 was a PhD student in genetics and was working in the same subfield as Respondent. Since that time, Witness 38 has maintained a professional relationship with Respondent and would see him

occasionally. In 2004, Respondent recruited Witness 38 to work at UCI. Witness 38 stated that as a member of the same department, Witness 38 has witnessed Respondent's behavior at UCI as a colleague. Witness 38 thinks Respondent comports himself as one would expect of a very experienced senior scientist and colleague. Since Witness 38 retired in 2014 he has not attended any departmental faculty meetings so he has no basis for recent observations.

Witness 38 could not remember specific instances of Respondent kissing colleagues on the cheek but stated that Respondent kisses Witness 38's wife on the cheek when they get together. Witness 38 explained that his wife is Mexican and expects this courtesy. Witness 38 stated that it is important to note that Respondent and his wife are European in culture and both still retain many of the cultural traits of their European origins, despite having lived in the US for many years. Furthermore, Witness 38 stated that he travels to Europe quite frequently as Vice President of the International Council for Science in Paris and is the Chair of the Council for the International Institute for Applied Systems Analysis based in Austria. In Witness 38's experience with European colleagues, it is common and indeed expected that one kiss a woman on both cheeks when you meet them, even if you don't know them well. It is considered rude not to -- like refusing to shake hands in the US. The custom in Mexico and Latin America is very similar except that you are only expected to kiss on one cheek. Witness 38 stated it is a bit confusing to find that this very accepted behavior in a large part of the world would be considered an offense at UCI. Witness 38 thinks it crucial to advise faculty who move to UCI from different cultures on the common behaviors that are considered inappropriate at UCI, because he fears that these kinds of confusions will cause substantial damage. He always thought UCI was a more cosmopolitan institution.

Witness 38 stated that he does not recall any specific instances of Respondent complimenting females on their appearance but would not be surprised if this occurred because Respondent is a "courtly and generous man." Furthermore, Witness 38 stated that he has not heard Respondent make any inappropriate comments towards or about any women. Witness 38 clarified that what is considered inappropriate may be both context dependent and vary considerably from one individual to another. Witness 38 also stated that he has never heard anyone complain about Respondent sexually harassing them or making them uncomfortable. Witness 38 described Respondent as a sensitive and sophisticated person, who would not deliberately offend others.

Witness 39

Witness 39 has known Respondent since Respondent was his adviser in graduate school from 1972 to 1975. After graduation, Witness 39 left California but returned in 2005 to work at UCI. Witness 39 described his relationship with Respondent as a close professional one and considers Respondent a friend, colleague, and mentor.

Witness 39 stated that when he moved back to California he found it shocking that people in California greeted each other with hugs and kisses because Witness 39 considers himself more reserved and stated that he felt that Respondent's behavior was an exemplar of that. Witness 39 stated that he found Respondent to be a gentleman and that Respondent takes a personal interest in people.

Witness 40

Witness 40 started to work at UCI approximately 26 years ago and has known Respondent since that time. Witness 40 stated that she does not see Respondent very often because they have different research areas and so they mostly see each other at events promoting the University.

Witness 40 stated that it is normal for Respondent to kiss her on the cheek when they greet and that it is consensual but Witness 40 stated that she would not allow anybody else to do so. Respondent also gives Witness 40 compliments about her looks “like he would the next person,” and she finds the comments to be friendly, with no bad intentions. Witness 40 stated she has never seen Respondent do anything degrading to a person intentionally, or otherwise, and feels these allegations were taken too far.⁶¹

Witness 40 stated that Respondent is good with his graduate students and focuses on minority students.

Witness 41

Witness 41 has worked for UCI for 20 years and has known Respondent for the entire time. Witness 41 described Respondent as a gentleman, but also self-promoting. Witness 41 stated that he got to know Respondent better while Witness 41 was Chair of the department and found that Respondent was a generous person who has given a lot to the campus. Witness 41 also stated that Respondent pushes the roles of females and minorities.

Witness 41 also described Respondent as solicitous towards women, but feels Respondent is motivated by good manners and good intent. Witness 41 stated that while he was Chair he would not assign female TAs to some faculty but does not remember if Respondent was one of those faculty. Witness 41 stated that he never thought that Respondent would use his power to sexually harass someone but could understand how Respondent could make some people uncomfortable. Witness 41 has seen Respondent kiss women on the cheek and compliment them on their appearance. Witness 41 has not seen Respondent kiss or compliment men but thinks this is due to Respondent’s solicitous character towards women and does not think Respondent’s intent was to demean women. Witness 41 has also seen Respondent lean in closely to people when they talk because he is losing his hearing. Witness 41 thinks that because Respondent is becoming frail he tends to grab people’s arms when standing and talking.

Witness 41 stated that he has not seen Respondent treating Complainant 2 any differently as Chair than how Respondent treated Witness 41 when he was Chair. He stated that Respondent sat next to him during faculty meetings.

Witness 42

Witness 42 has worked with Respondent for approximately 30 years and, in that time, she has seen Respondent routinely kiss people on the cheek as a greeting. Respondent usually does this to people that he has known for a long time but she has also seen him kiss visitors from Spain and China. Witness 42 also stated that she has heard Respondent give compliments to colleagues with whom he feels close. These comments are usually “off the cuff” and are never to students.

The only person that Witness 42 knew was uncomfortable with Respondent’s kissing was Witness 10 whom Respondent does not kiss. Throughout the 30 years Witness 42 has worked with Respondent, she does not know of one person telling Respondent “no” or backing away

⁶¹ When interviewing Witness 40, the Investigator did not share details of the allegations involving Respondent. However, Witness 40 seemed to be aware of the general nature of the allegations. It is possible that Witness 40 learned of the allegations from Respondent.

from him. Witness 42 stated that most of Respondent's long-term colleagues go up to Respondent to greet him.

In regard to the allegation that Respondent touches people, Witness 42 stated she has seen Respondent grab people's shoulders to steady himself. Witness 42 has also seen Respondent touch people's shoulders and hands during conversations to make a point.

Witness 42 stated that Respondent rarely has TAs and it has been approximately five to eight years since Respondent had a female TA. Witness 42 stated that she never heard that Respondent had a dress code for his TAs or that he treated the female TAs any differently than the male TAs.

Witness 42 stated that due to Respondent having a difficult time using a computer she has helped Respondent with completing his on-line training. Specifically, Respondent has developed a slight tremor and is losing his eyesight, which makes it difficult for him to move the mouse. Witness 42 sets up the training for Respondent but he does the training.

Witness 42 stated she has seen Complainant 2 in Respondent's office but has not seen any interactions between the two that would make her think that Respondent acted inappropriately. Witness 42 stated that she does not understand the motivations of Complainant 2 to make these allegations against Respondent and thinks that the allegations are "gross exaggerations." Furthermore, Witness 42 stated that Complainant 2 was anxious to remove the former Chair of the department and take his place. Witness 42 feels that Complainant 2 might be trying to get rid of the older faculty so that she can bring in younger people and move the department in a different direction.

Witness 42 stated that Respondent has big admiration for young female scientists and that Respondent wanted to get them into the different scientific academies.

Witness 42 stated that she was involved in the UCI choir last year and, during one of the practice sessions, she saw Complainant 1 there, just staring at Witness 42. Witness 42 felt this was odd since she did not know Complainant 1. Witness 42 stated she thinks Complainant 1 may have been coached to make up the allegations against Respondent because Witness 42 feels the allegations made by Complainant 1 are ridiculous.⁶²

Witness 43

Witness 43 started at UCI in the Ecology & Evolutionary Biology Department in 2009 as a post-doc and then was hired as faculty in 2011. Originally, Witness 43 felt that Respondent was friendly and collegial and thought of Respondent's personality as "old school European."

As a post-doc, Witness 43 heard that many of the female graduate students felt very uncomfortable and "creeped out" around Respondent. Specifically, Witness 43 stated that while Witness 60 was a graduate student, Witness 60 would tell Witness 43 about how she and other female graduate students were uncomfortable around Respondent.

⁶² When interviewing Witness 42, the Investigator did not share details of the allegations involving Respondent. However, Witness 42 stated that she had printed out the notices to Respondent informing him of the allegations. Witness 42 stated that she handles all of Respondent's emails.

Witness 43 stated that he did not see the incident on October 27, 2017, but stated he was not surprised by the allegation. Witness 43 stated he has seen Respondent kiss some women on the cheek when he greets them and has heard Respondent compliment women on how they look. For example, Witness 43 has heard Respondent make comments such as, "You look nice today," and "That blouse looks good on you." During his time at UCI, Witness 43 has heard a lot of people during describe Respondent as a fixture in the department and state that they would get used to the way Respondent acted.

Witness 44

Witness 44 was a graduate student in Biology from 2012-2015. She served as a TA for Respondent in the winter 2014 and winter 2015 quarters. When asked if she ever experienced any unwelcome conduct while she was a student at UCI, she mentioned several incidents with Respondent. She reported that on one occasion in 2014 or 2015 she was at a rooftop event on a Friday. While interacting with Respondent she noticed a crumb on Respondent's collar and brushed it off. Respondent commented, "I thought you were trying to get fresh with me," or words to that effect. Witness 44 reported that the situation became awkward because Respondent's comment did not relate to the conversation, and she had not intended her conduct as an intimate gesture. Witness 44 described this as a one-time event. However, she also noted that, on another occasion, when she was having a conversation with Respondent, he mentioned a faculty member who was female and a spousal hire. He commented that the woman was able to get positions in academia because of her looks and her spouse. Witness 44 felt the comment was derogatory based on gender.

Witness 44 reported that Respondent did not seem to have a sense about current social mores. She stated that his behaviors may have been attempts to be social, but he did not consider whether they were appropriate for the context. She stated that she never felt Respondent would make an advance toward her, but he did create moments of awkwardness for her in that she felt he was seeing or evaluating her based on her gender. She reported that she was aware of the report a faculty member had made against regarding sexual harassment and that may have colored her view of him, as well. She stated that she became aware of his "reputation" in 2015; she was not aware of it in 2014.

Witness 44 reported that when she served as Respondent's TA in winter 2014, the other TA was also a female. Witness 44 stated that Respondent seemed to focus his attention on the other TA. She did not recall him touching the other TA, but she did recall that he tended to focus his banter with the other TA. She also recalled an incident in which the three of them were talking after class, discussing a book the other TA had borrowed from Respondent. Respondent told the other TA that if she did not return it, he would spank her, or words to that effect.

Respondent's Response to the Information Provided by Witness 44

Respondent stated that Witness 44's name is familiar to him and that she may have been his TA. He did not recall an incident in which she had brushed a crumb off his jacket. When asked if he commented, "I thought you were trying to get fresh with me," he stated that he may have made this comment but does not remember saying that. When asked about the alleged comment regarding a female spousal hire and her ability to acquire a position because of her looks and her spouse, Respondent stated that he would not make such a comment. He stated that he does not make comments about appearance in hiring faculty members.

Respondent stated that he may have loaned a book to a TA but did not recall stating that if she failed to return it he would spank her. He stated that he doubted that he would make such a comment because it is not language he typically uses. He added that if he did make such a comment it would have been made with a playful intent.

After reviewing the draft report, Respondent's attorney stated:

[Respondent's] response is misinterpreted in the report. He does not believe that he "may have made this comment." Rather, [Respondent] did not make such a comment as far as he can recall. Moreover, he cannot imagine ever making a comment like that. This is not something he would say.⁶³

Witness 45

Witness 45 first met Respondent while she was looking into starting her PhD in 2008. Witness 45 approached Respondent for academic guidance and, during their meeting, Respondent mentioned some faculty at UCI with similar research interests as hers. Throughout Witness 45's PhD, she met with Respondent around once a year to catch up, besides when she was TAing for him. More recently, in 2015 Witness 45 emailed Respondent about a paper he published on meningitis since Witness 45 was working for the CDC in the meningitis lab at the time. Respondent also wrote a reference letter for her for to obtain her current position with CDC.

Witness 45 stated that she has witnessed Respondent kissing people in general, both male and female, on the cheek. This is something that they did each time they met. Witness 45 stated that she also does this with her European co-workers.

Witness 45 has also heard Respondent compliment people in general about their appearance, "such as something a gentleman would do, along with opening the door to the room and letting you go first." Witness 45 stated that she has never heard Respondent make any inappropriate comments to anyone.

Witness 45 stated that as a TA, she was treated the same as the male TAs. When Witness 45 TA'd for Respondent, which she estimated to be three times, there were both male and female TAs, and not once was there a difference between them. They all had the same workload, the same attention, and the same help. There was no dress code at all for the TAs; however, Respondent did mention that they should be professional in their attitudes and how they treated the students.

Witness 45 has never heard anyone complain about their interactions with Respondent in terms of sexual harassment. All the interactions she has witnessed were those of an "older gentleman with manners rarely found in men nowadays."

Witness 46

Witness 46 is the wife of Respondent and stated that she and Respondent have dedicated everything financially and personally to UCI. Witness 46 described Respondent as a "patron" to women and minorities and stated that Respondent felt that women need to be raised to equal

⁶³ It is not clear to which alleged comment Respondent's attorney is referring. Regardless, despite the response of Respondent's attorney, who was not present at the interview of Respondent, the summary of the statements Respondent provided during the interview, as set forth in this report, is accurate.

heights as men. Furthermore, Witness 46 stated that Respondent is at the peak of his profession and has weekly visitors from around the world. Witness 46 stated that students adore and admire Respondent.

In regard to Complainant 2's complaint, Witness 46 stated that the complaint was vulgar and that the allegations involve words Respondent would never use, such as "ass." Witness 46 stated that Respondent was raised as a proper gentleman and that she has never met anyone with better manners. Witness 46 stated that Complainant 2's complaint is false and that Respondent was not present at one of the events at which Respondent is alleged to have harassed her; he was at a seminar at UC San Diego. Witness 46 also stated that one to two years ago she was having dinner with the current Dean and he asked if she thought the Chair of EEB was incompetent. The Dean told Witness 46 that Complainant 2 had complained to him that the Chair was incompetent and she wanted the Chair removed from his position. Witness 46 stated that Complainant 2 might be motivated by ambition and, therefore, wants to remove the more senior faculty members.

In regard to Respondent kissing women's cheeks, Witness 46 stated that Respondent does not actually kiss their cheeks but touches cheeks. Furthermore, Respondent stated that the Dean, the Provost, and the Chancellor do the same to her when they greet her.

Witness 46 stated that she and Respondent interacted with Complaining Witness 2 several times. She stated that on these occasions Complaining Witness 2 would hug and kiss Respondent. She stated that Complaining Witness 2 is affectionate and that it is in her nature to hug and kiss. Witness 46 viewed this conduct as warm. Witness 46 stated that she recently ran into Witness 59 and he asked her about this investigation. Witness 46 asked him if he interacts with Complaining Witness 2. He said that he does and noted that Complaining Witness 2 always kisses and hugs him.⁶⁴

Witness 46 also reported that Complaining Witness 2 sent her nice notes over the years. Witness 46 considered her a family friend. She and Complaining Witness 2 went to lunches and dinners themselves, and she felt they were almost like sisters. Witness 46 provided two weeks' worth of emails between her and Complaining Witness 2 to demonstrate the nature of their relationship. (Exhibit P.)⁶⁵ She stated that Complaining Witness 2 has commented to her about Respondent's integrity over the years.

Witness 46 stated that she felt that barring Respondent from campus was not fair because it only excluded Respondent. When Respondent brought this up during a meeting, they were told that Respondent was being removed from campus to keep the integrity of the investigative process because of how influential Respondent is. Witness 46 stated this did not make any sense since

⁶⁴ Witness 59 did not recall the conversation similarly. See below.

⁶⁵ Complaining Witness 2 reported that she felt she had no choice but to socialize with Respondent and Witness 46 given their involvement with the School. She stated that she was not comfortable with how Witness 46 interacted with her; Witness 46 was possessive and territorial over her. Complaining Witness 2 stated that she was not comfortable with the language she felt she had to use in the emails with Witness 46 but that was the type of wording Witness 46 would use with her (such as using the word "love"), and she felt obligated to respond in kind. Complaining Witness 2 stated that she feels terrible that Witness 46 felt they were friends but Complaining Witness 2 never wanted this close relationship with Witness 46 and asked University officials, including Witness 52, for assistance in extricating herself from this relationship.

Complainant 2 was allowed to remain on campus and due to her position as Chair, she also has influence.

In regard to complimenting women, Witness 46 stated that Respondent would not compliment someone he barely knew or the way they dress or look but would tell them it was “nice to meet you.” If Respondent knew the person and was close to them, Respondent might compliment them by saying they are “looking nice.” Witness 46 stated that Respondent would never compliment a person in a sexual manner. She stated that Respondent uses these compliments to express admiration and respect and would never use language to suggest anything sexual.

Witness 46 stated that Respondent’s work is international and within the diplomatic sphere. Respondent tries to not be offended by different cultures and tries to not offend people from different cultures.

Witness 47

Witness 47 stated that he was at the rooftop reception on October 27, 2017. Witness 47 stated that he sat a few seats down from Complainant 1 and that the table seemed to become tense when Respondent walked up to talk to a person across the table from Complainant 1. Witness 47 saw Respondent put his hands on Complainant 1’s shoulders. Witness 47 did not see if any other part of Respondent touched Complainant 1.

A few days later, Witness 47 spoke with Complainant 1 who told him that she was uncomfortable with the way Respondent had touched her. Witness 47 stated that Complainant 1 told him that Respondent compliments the female undergraduate students and that Respondent gives them the “creeps.”

After reviewing the draft report, Respondent’s attorney stated:

Witness 47’s statement is an example of another person saying that Witness 18 was across the table from Complainant 1, which further discredits Witness 19’s statement that [Respondent] put his hands on Witness 18.⁶⁶

Witness 48

Witness 48 is the current Chair of the Philosophy Department. Respondent has given lectures in this department in the past. Witness 48 stated that she is relatively new as the Chair and does not have any knowledge of Respondent giving lectures there. Witness 48 stated that Witness 49 might have more information.

Witness 49

Witness 49 is the previous Chair of the Philosophy Department. Witness 49 stated that he has not heard of any complaints concerning Respondent and recommended Witness 53 be interviewed.

Witness 50

Witness 50 stated that on March 2, 2007, she attended an EEB department-wide graduate recruitment dinner with her husband, Witness 2. Around 8 pm, Witness 50 was introduced to Respondent for the first time. Respondent had been drinking and, when Witness 50 reached out

⁶⁶ The credibility and materiality of the information provided by Witness 19 will be analyzed and discussed in section IX of the report.

to shake Respondent's hand, somehow Respondent's hand ended up rubbing against Witness 50's breast. Witness 50 told her husband that she thought that maybe the touch was an accident, perhaps relating to the fact that Respondent was tipsy, but she thought it was odd since Respondent's hand lingered on her breast for a few seconds.

Respondent's Response to Information Provided by Witness 50:

Respondent stated that he does not recognize this witness's name. When asked about the report that he had touched Witness 50's breast when she reached out to shake his hand, Respondent stated that he did not do this as he does not do such things. Respondent also denied being inebriated and stated that he does not get inebriated.

After reviewing the draft report, Respondent's attorney stated:

The allegation made by Witness 50 and relayed again by Witness 2, [name omitted], is entirely false. First and most importantly, [Respondent] did not touch Witness 50's breast. Second, [Respondent] was not "tipsy"—he never drinks to excess.⁶⁷

Witness 51

Witness 51 is a professor at Duke University. She stated that in December of 2003, she applied for a tenure track, assistant professor position in "Evolutionary or Comparative Physiology" advertised by UC Irvine's Department of Ecology & Evolutionary Biology. Witness 51 was invited for an in-person interview in early 2004 and visited UC Irvine for this interview. Witness 51 stated that she had a standard schedule for tenure track faculty interviews that included one-on-one interviews with faculty in the department, typically in their offices. Respondent was on her schedule and Witness 51 was particularly interested in meeting him given his stature in the field.

When Witness 51 entered Respondent's office for her interview with him, he closed the door, which Witness 51 noticed at the time and it made her slightly uncomfortable. When Witness 51 and Respondent sat down and began to talk, Witness 51 asked Respondent what he was thinking about at the time, curious to know about his latest research and ideas. Respondent answered that he was thinking about her appearance. Witness 51 stated that Respondent discussed her appearance in a fair amount of detail, noting that he was thinking about the beautiful woman sitting in his office, made comments about her clothing and how she looked in the clothing, and generally admired her shape and physique. Witness 51 stated that Respondent's comments and focus on her appearance were distressing and she tried to redirect the conversation by returning to her interest in his thoughts about research. He appeared to quite clearly understand that Witness 51's original question was asking about his research, not about his personal thoughts about her appearance.

Witness 51 stated that she still remembers the outfit she was wearing at that interview because of Respondent's specific comments about the purple color of the shirt and its fit on features of her body. Witness 51 had specifically chosen a conservative button down, business-attire shirt that would not draw attention to her figure during the interview. This incident in Respondent's office

⁶⁷ The credibility and materiality of the information provided by Witness 50 will be analyzed and discussed in section IX of the report.

remains memorable to Witness 51 because of her shock and discomfort in the midst of a high-pressure job interview, which should have been entirely focused on scientific evaluation/assessment, and because she had carefully chosen an outfit to not draw attention to herself.

Shortly after the interview, Witness 51 contacted a professor in the department (who no longer works at UC Irvine) to report this incident. When she explained that she had asked what Respondent was thinking about and instead of hearing about his research, she heard about his attention to details about her body and his positive assessment of her “beauty”, the professor responded that Witness 51 should be more careful about how she phrases her questions in the future. There was no follow-up or response. Witness 51 was not offered the job.

In 2015, Witness 51 returned to UC Irvine to give an invited departmental seminar to the Ecology & Evolutionary Biology Department. Witness 51 noted to a faculty member in the department whom she declined to name that she was shocked to see the building now named after Respondent and told the faculty member the story of her interview. The faculty member responded that everyone knew that Respondent was sexist and behaved badly toward women, but that Respondent gave a lot of money to the university which justified naming the building after him.

Respondent's Response to Information Provided by Witness 51

Respondent stated that he did not recognize this witness's name. He stated that he sometimes interviewed candidates for faculty positions, including one on one interviews. He stated that he typically conducted such interviews in his office. He said he would close his door for sound reasons. He also noted that his assistant sits right outside his office. Respondent was informed of Witness 51's allegation that he had commented on Witness 51's appearance. Respondent stated that this allegation does not make sense because he would not make a comment to a candidate about her looks. Respondent was informed of the allegation that when Witness 51 asked Respondent what he was thinking about, he responded that he was thinking about the beautiful woman in his office. Respondent stated that he does not recall making this statement but that it is possible that he had done so as it is similar to comments he used to make.

After reviewing the preliminary report, Respondent's attorney stated:

[Respondent] does not recall closing the door during his interview. While it is true that [Respondent] does sometimes close his door during meetings (to cut out background noise that he may better hear), his assistant's door is always open. His assistant [name omitted] constantly enters and exits [Respondent's] office during such meetings.

[Respondent] would also like to clarify that he did not make this statement as far as he recalls, nor does he think he may have said this. [Respondent], in fact does not make comments like this. (He only ever has made compliments such as, “you like nice today.”)

Witness 52

Witness 52 is the Dean of the Ayala School of Biological Sciences. He stated that approximately two years ago, Complainant 2, who at the time was the Vice Chair of Ecology & Evolutionary Biology, and the School's sexual harassment advisor, told him that Complaining Witness 1 had

filed a complaint against Respondent. Complaining Witness 1 was alleging that Respondent had asked her, "Why don't you sit on my lap," or something to that effect, during a faculty meeting.

Witness 52 stated that in November 2017, he had a meeting with Complainant 2 and Complaining Witness 2. In this meeting, Complainant 2 stated that a graduate student, Complainant 1, alleged that Respondent had pushed his body against her during a rooftop reception. Furthermore, Complainant 2 stated that Respondent had been harassing her for many years.

On another occasion, Complainant 2 told Witness 52 that at a "Doughnuts with the Dean" event, Respondent had walked up to a female undergraduate student who was wearing an Ayala School of Biological Sciences shirt and circled his name on her shirt, which was imprinted on the shirt in the chest area.

In regard to Respondent's interactions with Complaining Witness 2, Witness 52 stated that it mostly happened out of his view. He has seen Respondent kiss Complaining Witness 2's cheek when he greeted her and has heard Respondent tell her that she is "so elegant." During a meeting in the Dean's conference room, a faculty member, Witness 6, asked Witness 52 what someone should do if they see a faculty or staff member put in an uncomfortable position. Witness 52 told Witness 6 that it must be reported. Witness 52 did not know at the time but heard later that Witness 6 had just seen Respondent kiss Complaining Witness 2 on the cheek right behind Witness 52.

Witness 52 stated that he has not seen Respondent acting inappropriately at events because Witness 52 tends to avoid Respondent. Witness 52 stated that after Respondent was given the letter limiting his access to campus, Respondent told Witness 52, "Do you know what my wife says about sexual harassment? There is not enough of it," or words to that effect.

Witness 52 was asked whether Complainant 2 shared with him, in or about July 2017, any concerns regarding Respondent's conduct toward her. He stated that he does not recall that. He stated that if anyone had raised an issue of sexual harassment, he would have told them that he had to report it. According to his recollection, the first time Complainant 2 informed him she felt Respondent had been sexually harassing her was in November 2017. Witness 52 added that Complaining Witness 2 sits in his meetings with the Chairs and recommended that the Investigators speak with Complaining Witness 2 about this.⁶⁸

Respondent's Response to Information Provided by Witness 52

When asked if he told Witness 52, "the problem with sexual harassment is that there is not enough of it," Respondent stated that he once made that comment, quoting a woman who is close to him, but he does not recall when he made this comment or to whom.

After reviewing the draft report, Respondent's attorney stated:

⁶⁸ Complaining Witness 2 reported that she does not recall Complainant 2 discussing Respondent in her July 2017 meeting with Witness 52 and does not recall Complainant 2 raising an issue of sexual harassment at that time. Complaining Witness 2 reported that Complainant 2 recently asked her if she recalled this discussion and Complaining Witness 2 said she did not.

Again, [Respondent's] response is grossly mischaracterized. Please see the clarification provided in point 8 of this response, "Witness Statement: Witness 10."

Witness 53

Witness 53 is the Chair of the Logic and Philosophy of Science Department and has hosted lectures from Respondent in the past. Witness 53 stated that he has not seen Respondent kiss anyone on the cheek, nor has he heard Respondent give women compliments about their appearance. Furthermore, Witness 53 has not heard anyone complain about Respondent.

Witness 54

Witness 54 did not agree to be interviewed.

Witness 55

Witness 55 did not agree to be interviewed.

Witness 56

Witness 56 is a fifth-year graduate student in Ecology & Evolutionary Biology. She has known Respondent for five years but they have not interacted often. Witness 56 reported that Respondent probably would recognize her as being a graduate student but may not know her by name. She stated that she has been involved in a few group conversations with him in the past.

Witness 56 stated that in the fall of 2017, she was in the mail room along with Respondent. As she was leaving, he turned toward her and stood between her and the door. He saw that he had no mail and remarked that he had "no presents today, but it is always a present to be with a female graduate student," or words to that effect. She responded with a look of surprise and then walked away. She told Complaining Witness 1 about this incident the day it occurred because the two of them are our friends and she is aware of Complaining Witness 1's prior complaint regarding Respondent.

Respondent's Response to Information Provided by Witness 56

When asked about the allegation that he told a student he was glad to be stuck in the mail room with her, Respondent denied the allegation. He stated that this allegation does not fit his personality. He also stated that he rarely went into the mail room because his assistant generally retrieved his mail for him.

Witness 57

Witness 57 did not agree to be interviewed.

Witness 58

Witness 58 did not agree to be interviewed.

Witness 59

Witness 59 is a Professor of Ecology & Evolutionary Biology and has been a member of the Department since 1990. He served as Chair of the Department in or about the early 2000's.

Witness 59 stated that he ran into Witness 46 recently and told her that he was concerned that Respondent had not been at work. Witness 59 reported that he does not know the allegations against Respondent but he deeply admires Respondent as an extraordinary scientist and a

wonderful, honorable, decent, caring person. He described Respondent as gentlemanly and kind. Witness 59 stated that it has been painful to see Respondent go through this experience as he has done so much for the University, including nominating people for awards. Witness 59 described Respondent as being European in style in that he will “kiss the ladies” on the cheek. He reiterated that Respondent is very proper and very giving. He noted that Respondent even taught an introductory course each quarter despite his preeminence and his travel schedule.

When asked if he spoke with Witness 46 about Complaining Witness 2, Witness 59 stated that Witness 46 had mentioned that Complaining Witness 2 was previously effusive in her praise of Witness 46 and Respondent but that after the investigation was initiated, Complaining Witness 2’s attitude changed abruptly. Witness 59 was asked if he discussed how Complaining Witness 2 greeted him.⁶⁹ He stated that he may have shared with Witness 46 that, at one point, he had met with Complaining Witness 2, and she was very friendly, but he interpreted it as just being friendly. He stated that in the current atmosphere things can be misinterpreted but he did not misinterpret Complaining Witness 2’s behavior. In other words, he did not find it unwelcome. Nevertheless, he stated, “We’re all walking on eggshells these days—it’s a difficult environment,” or words to that effect. He stated that he is concerned about the culture in the Department but stated he did not want to go into further detail.

Witness 60

Witness 60 is an Assistant Professor at Boston University. She attended graduate school in 2006 to 2011 in UCI’s Department of Ecology & Evolutionary Biology. During her time here, Witness 60 attended one class that Respondent taught, and Witness 60’s advisor’s office was next door to Respondent’s office, so she interacted with Respondent often. Witness 60 described her interactions with Respondent as pleasant and polite. Witness 60 states that Respondent did not kiss her cheeks nor does Witness 60 remember Respondent complimenting her appearance.

Witness 60 stated that Complaining Witness 1 told her about an incident that Complaining Witness 1 had with Respondent. Complaining Witness 1 told Witness 60 that Respondent made a comment about the way Complaining Witness 1 looked prior to Complaining Witness 1 giving a presentation. Complaining Witness 1 told Witness 60 that this happened right after Complaining Witness 1 began working as a faculty member at UCI. Witness 60 stated she does not remember if Complaining Witness 1 told her about this incident in person or over the phone.

Witness 60 stated no other person besides Complaining Witness 1 has complained about Respondent to her.

Witness 61

Witness 61 was a graduate student in Ecology & Evolutionary Biology in the 1990s. She served as a TA for Respondent but Respondent was not her advisor. Witness 12 was her advisor. When asked if she recalled a conversation with Witness 12 concerning Respondent, she stated that she did not recall details of any such conversation. She noted that when she was first contacted by the Investigator, she wondered who the investigation might be concerning and thought first of Respondent. When asked why she felt that way, she stated that she recalled Respondent treating his female graduate students different from his male graduate students but could not recall the details.

⁶⁹ Witness 46 had reported that Witness 59 told her Complaining Witness 2 always kisses and hugs Witness 59.

Witness 61 was able to recall one interaction with Respondent that stands out in her mind. She was working in the greenhouse, and Respondent came to talk with her about a proposed test question for the course in which she served as a TA. Respondent informed her that he had received her feedback about the question and disagreed with it. Witness 61 recalled being surprised that Respondent took the time to come talk to her about this matter and felt that he was showing her respect; this surprised her because prior to that she did not feel he had given her the "time of day."

When asked if she ever reported to Witness 12 that Respondent had leaned over her to try to kiss her, she stated that she did not recall such a conversation and wondered whether Witness 12 might have the wrong person. After the initial interview with Witness 61, Witness 61 called the Investigator to state that in thinking about that question, she recalled that this incident had occurred but that it was not Respondent who had engaged in this behavior; it was another professor whose name she cannot recall.

Witness 62

Witness 62 is a Professor of Developmental & Cell Biology. He was on Witness 26's dissertation committee for the past six years and stated that he thinks very highly of Witness 26. Witness 62 stated that he does not know Respondent well. The only times he has interacted with Witness 62 were dissertation committee meetings for Witness 26, which were held twice per year; however, he has not seen Respondent in a year or a year and a half.

When asked if he recalled a discussion with Respondent concerning a grant Witness 62 had received, Respondent stated that he did not recall such a discussion. He stated that he could not recall the specifics of any of his discussions with Respondent. When asked whether Respondent asked him if he was going to use his grant money on whores and cocaine, Witness 62 stated that he does not recall that conversation and believes he would recall it if it occurred. However, he noted that Respondent speaks with an accent in a quiet voice and that it is possible that he did not hear the comment if it was made.

Witness 63

Witness 63 is a Trustee of the UCI Foundation. He has known Respondent for over 20 years and has interacted with him multiple times per year at UCI-related events and meetings. He stated that he is friends with Respondent and described Respondent as "very European, in the French, Spanish, Italian style." He described Respondent as warm, engaging, bright, generous, and very expressive. When asked if he ever observed anyone react negatively to this expressiveness, he stated that he has not. He noted that he has run several companies, as well as a school, and feels he has a good read on whether someone is uncomfortable with another person's behavior. He never sensed that Respondent had engaged in anything inappropriate and never heard that anyone else felt Respondent had behaved inappropriately.

Witness 64

Witness 64 met Respondent in 1987 while Witness 64 was a graduate student. At that time Respondent was a faculty member but not a primary advisor to him. In 2000, Witness 64 was hired at UCI to assist with the Minority Science Program. Currently, Witness 64 has a lab that shares the same space as Respondent's lab. Also, Respondent is the Primary Investigator for one of Witness 64's grants. Witness 64 estimated that he talked with Respondent on a weekly basis, at a minimum, and would see Respondent interacting with students on a regular basis.

Witness 64 described Respondent as being open and honest and the type of person who will help anyone that he can. Witness 64 gave the example that Respondent nominated Witness 64 for an award at UCI, Lauds and Laurels, without telling Witness 64. Witness 64 also stated that Respondent has a very welcoming rapport with his students and is open to discussing anything with them. Respondent always prompts the students to ask questions and think critically.

Witness 64 stated that he has not heard of any students raising any concerns about Respondent.

Witness 65

Witness 65 is a Professor in Ecology & Evolutionary Biology. She stated that she began working at UCI in 2006 and served as the graduate student advisor from 2011 to 2013 and then again starting in 2016 through the present. Throughout Witness 65's time at UCI, she has not heard any student complain about any faculty making sexual comments, commenting on a student's appearance or touching a student. Witness 65 also stated that she has not observed any such conduct by faculty toward students. Witness 65 reported that she is not aware that any faculty were prohibited from having female TAs and she had never heard anything about that. She stated that she has recently heard that female students have made complaints regarding Respondent, but she does not know which students are involved and has never received any concerns from students regarding Respondent.

Witness 65 described Respondent as a colleague who has been personally supportive of her. She stated that she has not witnessed Respondent engage in any behavior that would cause her concern.

IX. ANALYSIS AND FINDINGS

This investigation focused on determining the credibility of the allegations through the statements of witnesses and documentary evidence. The investigators did not set out to prove or disprove the allegations, but merely to gather information in a neutral fashion and reach reasoned conclusions. The factual findings were made by carefully analyzing the documentary and testimonial evidence under the preponderance of the evidence standard.

Respondent is a world-renowned scientist, a generous donor to the University and, by many accounts, a gracious person. However, none of that precludes him from knowingly or unknowingly engaging in unwelcome conduct based on sex and/or unwelcome conduct of a sexual nature. After reviewing the draft report, Respondent's attorney expressed a concern that the witnesses who provided information favorable to Respondent's character, i.e., those who never observed him engaging in unwelcome behavior, were not given lengthier interviews and/or lengthier summaries of their statements in this report. This is a misunderstanding of the investigator's role. It is not the purpose of the investigator to collect background on the parties' conduct toward everyone with whom they come into contact, or even on their interactions with people with whom they engage regularly, unless such individuals can be expected to provide information material to the allegations at issue in the investigation.

The investigators interviewed a wide array of individuals, including those who were alleged to have observed conduct between Respondent and the Complainants and Complaining Witnesses. The purpose in interviewing these individuals was to gather material information irrespective of whether the information turned out to be favorable to one party or another. The findings in this report are based on a thorough and impartial review of the evidence.

A. University Policy

Harassment Based on Sex/Gender

Harassment, on any of the bases set forth in University policy concerning discrimination, including sex and gender, is defined as unwelcome conduct, including verbal, nonverbal, or physical 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. Harassment as used in these guidelines can include Sexual Harassment.

Sexual Harassment: Sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:

(Quid Pro Quo) a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program; or

(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. Credibility Determinations

Respondent did not deny that he often greets women with a kiss (albeit a cheek to cheek "kiss," not a kiss using his lips) and that he often compliments women on their appearance. He stated that this conduct is customary and a show of respect in the Spanish culture. However, he has denied the vast majority of allegations made by Complainants 1 and 2 and Complaining Witnesses 1 and 2. When there are disputed issues of fact, it is necessary to make credibility assessments. The determination as to whether parties and witnesses are credible is not a determination as to whether they are generally honest people or whether they believe they are telling the truth. Rather, credibility assessments require the fact-finder to weigh the accuracy and veracity of evidence. Relevant factors include such matters as the consistency of information provided; the inherent plausibility of each person's story; whether there is corroborating evidence that would tend to support or contradict each person's story; and possible bias (motive to falsify or exaggerate).

1. Complainant 1

Rooftop Reception on October 27, 2017

The information Complainant 1 provided regarding the rooftop reception on October 27, 2017 has been consistent throughout this investigation. She stated that Respondent twice came up to the table at which she was sitting and leaned the front of his body up against the back of hers such that his body was pressed up against hers. She stated that on the second such occasion he placed his hands on her bare shoulders.

Respondent has been consistent in denying that he touched the front of his body against the back of Complainant 1's during the rooftop reception or that he pressed his body against hers. However, as to the allegation that he touched her shoulders, in his interview on November 27, 2017, he stated that if he touched Complainant 1, it was not intentional and he does not think it happened. Furthermore, he stated that he avoids touching people (other than cheek to cheek kisses) and has a culture of respect and therefore would not have touched Complainant 1's shoulders. However, in an email to Senior Investigator Pelowitz dated January 9, 2018 Respondent stated that he placed his arms over Complainant 1's shoulders, "precisely to maintain the body-to-body separation." In his interview on April 19, 2018, Respondent again stated that he placed his hands on Complainant 1's shoulders as he spoke in order to avoid having his body get too close to hers. Thus, there seems to be no question that Respondent touched Complainant 1's shoulders as he stood behind her while she was seated at the picnic table. Whether his body pressed up against hers on these two occasions is disputed.

Several witnesses provided information regarding the rooftop reception. Since these witnesses did not all provide consistent information, it is worthwhile to repeat their statements here:

- Witness 1, a graduate student, was at the rooftop reception but reported that she did not see Respondent touch Complainant 1 when he walked up to the table.
- Witness 4, a graduate student, was at the rooftop reception and sat at the opposite end of the table from Complainant 1. She stated that she did not notice Respondent at the reception. She stated that she has noticed that it is typical of Respondent to put his hand on people's shoulders when he talks to them.⁷⁰
- Witness 5, a graduate student, attended the rooftop reception and reported that he saw Respondent there, but did not remember what Respondent did while there. He stated that he has not seen Respondent sexually harass anyone.
- Witness 8, a graduate student, stated that he saw Respondent walk up to the table and put his hands on Complainant 1's shoulders while Respondent talked to Witness 18 and that Respondent seemed overly comfortable when he did this, but Complainant 1 did not seem to react.⁷¹
- Witness 9, a graduate student, stated that he was at the rooftop reception, but did not notice if Respondent was there or not.⁷²
- Witness 11, a graduate student, stated that she was sitting at the table with approximately eight other people and that she saw Respondent talking to Witness 18 for about a minute, but did not see Respondent touch Complainant 1.⁷³

⁷⁰ Respondent's attorney stated that Witness 4's statements are an "unfounded character attack based on recent rumors alone." This is a strange comment to make considering that Respondent has admitted to touching Complainant 1's shoulders, the very behavior Witness 4 reported having seen Respondent engage in on other occasions. Moreover, Witness 4 did not allege that the behavior was unwelcome on those other occasions. The information Witness 4 provided is credible, though not dispositive, as discussed below.

⁷¹ Respondent's attorney stated that Witness 8 "claimed to have seen [Respondent] put his hands on Complainant 1's shoulders." Again, Respondent does not deny having placed his hands on Complainant 1's shoulders, so the attack on Witness 8's credibility seems to be unfounded. On the other hand, Respondent's attorney asserts that Witness 8's testimony supports Respondent in that Witness 8 did not observe Respondent pressing his body against Complainant 1's. Witness 8's testimony on that point is relevant but not dispositive, as discussed below.

⁷² Respondent's attorney stated that Witness 9's testimony "clearly corroborates the fact that [Respondent] never pressed his body against [Complainant 1's]. Again, this testimony is relevant but not dispositive, as discussed below.

- Witness 14, a graduate student, stated that he was at the rooftop reception, but did not see Respondent there. Thus, he did not see Respondent interact with Complainant 1 or Witness 18. Witness 14 stated that he has noticed that Respondent stands very close to people when he talks and has assumed Respondent has a hearing problem.⁷⁴
- Witness 17, a faculty member, attended the rooftop reception and stated that he did not notice if Respondent touched anyone's shoulders or gave them a hug, but said he was not paying attention to Respondent at all times. He stated that he did not see Respondent touch Complainant 1.⁷⁵
- Witness 18, a graduate student, attended the rooftop reception and stated that, during the reception, she approached Respondent. She stated that during her "handful" of interactions with Respondent in the past, he has never touched, kissed, or complimented her. She stated that at a later point, during the reception, Respondent came up to the table where she was sitting to tell her "goodbye." She reported that she did not see Respondent touch Complainant 1's shoulders, nor did she see Respondent's body touch Complainant 1's body.
- Witness 19, a graduate student, attended the rooftop reception and stated that he was sitting near Complainant 1. He stated that he saw Respondent walk up to the table one time and put a hand on Witness 18's shoulder for approximately one minute while he talked to Witness 18. He stated that from where he was sitting, he could not see if Respondent touched Complainant 1.⁷⁶
- Witness 29, a graduate student, attended the rooftop reception and stated that he saw Respondent walk up to the table where Complainant 1 was sitting to talk to another student. Witness 29 stated that Respondent kept moving closer to Complainant 1 and it looked like Respondent bumped into Complainant 1. He stated that Complainant 1 looked very uncomfortable and tried to move forward and, at one point, Respondent grabbed Complainant 1's shoulders. He stated that he could not see if Respondent's body touched Complainant 1's body, but he noticed that Complainant 1 moved forward and started to look worried.⁷⁷

⁷³ Respondent's attorney attacked Witness 11's credibility but then noted that her testimony supports Respondent's statements in that Witness 11 "does not claim to have seen [Respondent] even touch Complainant 1." Witness 11's testimony is relevant but not dispositive, as discussed below.

⁷⁴ Respondent's attorney stated that Witness 14 "is correct in surmising that to the extent [Respondent] does stand close to people when conversing, it is because he has begun to experience some hearing difficulties as he has aged."

⁷⁵ Witness 17 also stated that he could imagine Respondent touching Complainant 1 if Respondent was in a "dementia moment." This comment is viewed by the investigators as speculation and was not considered by the investigators in making our findings. As Respondent's attorney noted, Witness 17 noticed no inappropriate behavior by Respondent. This testimony is relevant but not dispositive as discussed below.

⁷⁶ Respondent's attorney stated that the statements by Witness 19 are "demonstrably false" because Respondent was on the opposite side of the table as Witness 18 and could not have touched Witness 18; in addition, Witness 18 did not corroborate Witness 19's testimony, and Witness 47 confirmed that Witness 18 was on the opposite table than Respondent. This attack on the information provided by Witness 19 is well-founded though irrelevant since Witness 19 did not claim to have seen Respondent touch Complainant 1. If anything, Witness 19's testimony supports Respondent, though it is not dispositive.

⁷⁷ Respondent's attorney stated that Witness 29's statement is self-contradicting and nonsensical as he first stated that "[Respondent] bumped into Complainant 1 ... but then Witness 29 says that he is actually unsure if [Respondent's] body ever touched [Complainant 1's] body." This is a mischaracterization of Witness 29's testimony. Witness 29 stated that it "looked like" Respondent bumped into Complainant 1, that Complainant 1 looked very uncomfortable and tried to move forward, that Respondent grabbed Complainant's shoulders, and that Witness 29 could not see if Respondent's body touched Complainant 1's body. Respondent's attorney also attacked Witness 29 as self-contradictory for stating that Complainant 1 was sitting down and then stating that Complainant 1 was moving around at the same time Respondent was grabbing her shoulders. There is no contradiction here. According to Witness 29, Complainant 1 was seated throughout the entire encounter and, when Respondent grabbed

- Witness 47, a graduate student, attended the rooftop reception and stated that he sat a few seats down from Complainant 1. He stated that the table seemed to become tense when Respondent walked up to talk to a person across the table from Complainant 1. Witness 47 reported seeing Respondent place his hands on Complainant 1's shoulders, but did not see if any other part of Respondent touched Complainant 1.

Complainant 1 was certain that Respondent, on two occasions, leaned up against her such that his body was pressed up against hers. Several witnesses provided information that can corroborate Complainant 1's allegations and several witnesses provided information that fail to corroborate Complainant 1's allegations. None of these witnesses provided information that is dispositive in and of itself. Witness 29 stated that he saw Respondent's body touch, or come close to touching, Complainant 1's body and that Complainant 1 seemed to be very uncomfortable. Witness 14 stated that he has noticed that Respondent stands very close to people when he talks and he has assumed (correctly, according to Respondent's attorney) that Respondent has a hearing problem. Witness 47 indicated that there was tension at the table when Respondent walked up to talk to a person across the table from Complainant 1.

While a number of people sitting at the table did not observe Respondent lean against Complainant 1, it is quite possible that they were involved in conversations with other people and were not focused on the placement of Respondent's body as Respondent conversed with people across the table from Complainant 1. Given his hearing difficulties, it makes sense that Respondent would attempt to get closer to those seated across from Complainant 1 in order to hear them. This situation, more likely than not, caused him to lean up against Complainant 1 such that he was pressed up against her. The preponderance of the evidence (a qualitative, not quantitative, standard) supports Complainant 1's statement that Respondent's body touched up against hers on two occasions and, on one occasion, he placed his hand on her shoulders. Since she was wearing a sleeveless shirt, Respondent touched her bare shoulders when placing his hands on her.

Incidents Prior to October 27, 2017

Complainant 1 has not provided consistent information throughout this investigation regarding her interactions with Respondent while she was an undergraduate student in the Minority Science Program. During her initial interview with Senior Investigator Pelowitz on November 7, 2017, she stated that when she was an undergraduate she heard that female undergraduate students felt uncomfortable with Respondent's comments on their appearance, such as telling them they are pretty. She stated that she had heard rumors about his being "creepy," but had not experienced anything herself. She added that if she had experienced something, she would not have returned to UCI as a graduate student.

On April 3, 2018, Complainant 1 sent Associate Chancellor Quanbeck an email regarding the investigation in which she stated, among other things, "Having been an undergrad in MSP, I speak for all women of color in the program when I say he was creepy and repeatedly made us uncomfortable by making comments on our appearance or asking us to sit next to him. We thought we had to just accept it because he was glorified in the program and on campus and we knew he had power."

her shoulders, Complainant 1 moved forward and started to look worried. Witness 29's statement is credible though not dispositive, as discussed below.

Senior Investigator Pelowitz then contacted Complainant 1 to follow up on the above statements. When asked again if she had had any encounters with Respondent prior to October 27, 2017, or whether she had knowledge of encounters involving others, Complainant 1 reiterated that she had heard things about Respondent from others. She also reported that there was one occasion on which she was in an elevator with Respondent and he commented on her appearance.

In the interview on May 3, 2018, Complainant 1 expanded on the above. She stated that when she was an undergraduate student, there were multiple occasions in which she was in the elevator with Respondent, along with others, and he would comment to one or more female students, including Complainant 1, how nice their shirt looked on them or how beautiful they are. She also stated that when she would see Respondent in the hallway of Steinhaus Hall, he would tell her, "You look so beautiful today." She reported that this conduct was "constant."

Despite the inconsistencies in the information provided, it should be noted that the witnesses corroborated the following:

- That Respondent regularly commented to women on their appearance (Witnesses 10, 13, 20, 26, 40, 41 and 43), and this occurred, on one occasion, even when formally interviewing a female candidate for a faculty position (Witness 51)⁷⁸
- That Respondent repeatedly commented to female students, in the elevator and the mail room, that it was nice to be with such attractive women, or words to that effect (Complaining Witness 1)

Respondent stated that he did not know Complainant 1 and, given the number of undergraduate students in MSP, it is possible that he did not know her. However, she knew him and was in a position to have seen him interact with students on a number of occasions. Whether he knew her or not is not material.

It is credible, based on the large number of witnesses who corroborate that Respondent regularly commented on women's appearance and sometimes touches them, that Complainant 1 observed such behavior on some occasions. Complainant 1 did not quantify the number of occasions this occurred. Complainant 1 also heard about such incidents involving Respondent's conduct toward other students. Again, Complainant 1 did not quantify the number of incidents. Further, based on the inconsistent statements she gave during this investigation, Complainant 1's statements that she was the direct recipient of unwelcome comments by Respondent and that she overheard Respondent making unwelcome comments to other female students on a pervasive basis are not credible.

2. Complainant 2

Other than some incorrect dates, which Complainant 2 later corrected, the information Complainant 2 provided at the beginning of this investigation has remained consistent

⁷⁸ Some witnesses (e.g., Witnesses 10, 13 and 40) reported that Respondent's comments on their appearance were not unwelcome.

throughout.⁷⁹ In addition, with one exception, discussed below, her allegations are corroborated by witness statements and/or documentary evidence. Notable examples include:

- Witness 2 corroborated Complainant 2's statement that Complainant 2 asked Witness 2 two or three years ago to attend Department functions with her to help her avoid Respondent
- Respondent did not deny, and numerous witnesses, including, but not limited to, Witnesses 2, 26, 39, 40, 41 and 43 corroborated that Respondent regularly greeted women with kisses on the cheek⁸⁰
- Numerous witnesses, including, but not limited to, Witnesses 4, 9, 14, 19, 20 and 41 corroborated that Respondent sometimes touched people's hands, arms or shoulders when speaking with them and some of these witnesses (9, 19 and 20) noted Respondent engaged in this behavior with women⁸¹; Witness 20 observed Respondent grabbing a female TA's hands and Witness 50 reported that Respondent's hand rubbed against her breast when she was introduced to him
- Respondent did not deny, and numerous witnesses, including, but not limited to, Witnesses 10, 13, 20, 26, 40, 41 and 43 corroborated that Respondent regularly commented to women on their appearance, and this occurred, on one occasion, even when formally interviewing a female candidate for a faculty position (Witness 51)⁸²
- Numerous witnesses corroborated that Respondent, on multiple occasions, made "off the cuff" sexual remarks, such as commenting to a staff member, and the Dean, that there is not enough sexual harassment (Witnesses 10 and 52), asking a faculty member if he was going to spend his grant money on whores and cocaine (Witness 26), telling a student she could sit on his lap if the room got too crowded (Witness 26), asking a male graduate student why a female undergraduate in Respondent's class who wore a head covering would wear short shorts if she was so concerned about modesty (Witness 27), telling one of his female TAs, "I thought you were trying to get fresh with me" (Witness 44), telling another female TA that if she did not return his book, he would spank her (Witness 44), and telling a female graduate student that it is always a "present" to be with a female graduate student (Witness 56).

The one area where witnesses failed to corroborate Complainant 2's statements is her reported attempts to inform others of Respondent's behavior toward her. Specifically, she alleged that she told Witnesses 3, 6, and 52 of Respondent's conduct toward her prior to filing her complaint in November 2017. She alleged that she also told them she was afraid to go on record because Respondent could blackball her nomination to the NAS. Witness 3 stated that he does not recall such a conversation, but that if Complainant 2 is stating that it occurred, he is "sure" that it did. Witness 6 stated that he does not recall hearing from Complainant 2 that Respondent's behavior had been directed at her, though he does recall that he and Complainant 2 discussed

⁷⁹ Complainant 2 stated that when she completed the complaint form, she was estimating the dates of certain events, particularly social events in the department or school. Given that some of these incidents occurred approximately two or more years ago, her estimates, if they are faulty, are understandable and do not reflect an intent to deceive.

⁸⁰ Whether or not Respondent's lips touched the other person's cheeks is not asserted by the Complainants or the Complaining Witnesses and is not material to the findings in this investigation. Respondent stated that he may have kissed Complainant 2's cheeks but it would not have been often, whereas Complainant 2 stated that this occurred nearly every time she interacted with Respondent.

⁸¹ Respondent denied grabbing Complainant 2 by the arm and pulling her toward him during an event and denied touching Complainant 2's hand when he was in her office discussing the NAS nomination.

⁸² Respondent denied ever commenting on Complainant 2's appearance whereas Complainant 2 asserted that Respondent commented on her appearance nearly every time she interacted with Respondent.

Respondent's unwelcome behavior toward Complaining Witness 1. Witness 52 did not recall a conversation about unwelcome behavior toward Complainant 2 until Complainant 2 met with him in November 2017.⁸³

Complainant 2 and Respondent have provided conflicting accounts of the conversation in Complainant 2's office regarding the NAS nomination process. According to Complainant 2, Respondent noted the ability of one member to pull an individual nominee's name from the slate for individual discussion and stated that, once a name is pulled, the individual is rarely elected. Respondent, on the other hand, told the investigators that he has only seen an individual's application singled out for discussion a couple of times in 25 years and, both times, the person got elected. It seems unlikely that Respondent would mention the individual discussion process to Complainant 2 just to state that it is not impactful, especially since he told the investigators that he saw this happen only twice in 25 years. It makes more sense that Respondent would raise the individual discussion process with Complainant 2 to demonstrate the power each NAS member, such as himself, can exert. More likely than not, Complainant 2's account of this conversation reflects the essence of the conversation.

Despite the lack of corroboration concerning Complainant 2's attempts to report Respondent's unwelcome conduct to administrators, the information Complainant 2 provided regarding Respondent's behaviors is credible for the reasons stated above. Moreover, there does not appear to be any reason why Complainant would be motivated to falsify or exaggerate the allegations against Respondent. To the contrary, she felt she had quite a lot to lose professionally by reporting his unwelcome behavior toward her. The information Complainant 2 provided during this investigation is credible.

3. Complaining Witness 1

Complaining Witness 1 has provided consistent information throughout this investigation. In addition, her allegations are corroborated by witness statements. Notable examples include:

- Respondent does not deny, and witnesses, including Witnesses 3, 10 and 20, heard Respondent tell Complaining Witness 1, in a 2015 faculty meeting at which she was to make a presentation, that she could sit on his lap
- Witness 20 reported that Complaining Witness 1 was visibly upset and flustered when Respondent made the above comment and Witness 22 reported that, after the meeting, Complaining Witness 1 was so upset that she was shaking and appeared to be very unnerved
- Witness 22 reported that after Respondent went to speak with Complaining Witness 1 about the above comment, Complaining Witness 1 immediately shared that she felt berated by Respondent during this conversation and was crying while telling Witness 22 what Respondent had said
- Witness 6 confirmed that Complaining Witness 1 spoke with him about her concerns regarding Respondent in 2015 and he referred the matter to OEOD
- Respondent did not deny, and numerous witnesses, including but not limited to, Witnesses 2, 26, 39, 40 and 41 and 43 corroborated that Respondent regularly greeted women with kisses on the cheek⁸⁴

⁸³ Complainant 2 stated that in July 2017 she told Witness 52 that Respondent had subjected her to unwelcome conduct.

- Respondent did not deny, and numerous witnesses, including but not limited to, Witnesses 10, 13, 20, 26, 40, 41 and 43 corroborated that Respondent regularly commented to women on their appearance, and this occurred, on one occasion, even when formally interviewing a female candidate for a faculty position (Witness 51)⁸⁵
- Witnesses corroborated that Respondent, on numerous occasions, made "off the cuff" sexual remarks, such as commenting to a staff member, and the Dean, that there is not enough sexual harassment (Witnesses 10 and 52), asking a faculty member if he was going to spend his grant money on whores and cocaine (Witness 26), telling a student she could sit on his lap if the room got too crowded (Witness 26), asking a male graduate student why a female undergraduate in Respondent's class who wore a head covering would wear short shorts if she was so concerned about modesty (Witness 27), telling one of his female TAs, "I thought you were trying to get fresh with me" (Witness 44), telling another female TA that if she did not return his book, he would spank her (Witness 44), and telling a female graduate student that it is always a "present" to be with a female graduate student (Witness 56)

We know of no reason indicating that Complaining Witness 1 would be motivated to falsify or exaggerate allegations against Respondent, particularly given Respondent's standing in the scientific community and the University of California. The information Complaining Witness 1 provided during this investigation is credible.

4. Complaining Witness 2

Complaining Witness 2 has provided consistent information throughout this investigation. In addition, her allegations are corroborated by witness statements. Notable examples include:

- Witness 6 corroborated that Respondent said, in a cabinet meeting, "We are lucky to have such a beautiful Assistant Dean."⁸⁶ Witness 6 was bothered by the comment and went to discuss it with Complaining Witness 2 to see if she was ok.⁸⁷
- Witness 52 corroborated that Respondent kissed Complaining Witness 2 on the cheeks when he greeted her.⁸⁸
- Witness 52 corroborated that Respondent has commented to Complaining Witness 2 on her appearance, telling her she is "so elegant"
- Respondent did not deny, and numerous witnesses, including but not limited to, Witnesses 2, 26, 39, 40 and 41 and 43, corroborated that Respondent regularly greeted women with kisses on the cheek
- Numerous witnesses, including but not limited to, Witnesses 10, 13, 20, 26, 40, 41 and 43, corroborated that Respondent regularly commented to women on their appearance,

⁸⁴ Respondent reported that he was certain he had never kissed Complaining Witness 1's cheek whereas Complaining Witness 1 stated that this occurred repeatedly.

⁸⁵ Respondent admitted to stating to Complaining Witness 1, on one occasion, "If you face the door, people will see how beautiful you are." He denied making any other comments on her appearance or clothing. Complaining Witness 1 stated that Respondent repeatedly commented on her appearance and clothing.

⁸⁶ Respondent reported that he did not recall making this statement.

⁸⁷ Complaining Witness 2 recalled that Witness 6 came up to her on a different occasion (when Respondent told her, "I just learned that women don't like to be told they're beautiful, but I know you don't mind"). She stated that she told Witness 6 that she was fine because she did not feel comfortable talking with Witness 6 about Respondent's behavior at that time.

⁸⁸ Respondent stated that it was Complaining Witness 2 who initiated the physical conduct with him (hugs and kisses) and he was just responding in kind.

and this occurred, on one occasion, even when formally interviewing a female candidate for a faculty position (Witness 51)⁸⁹

We know of no reason that would indicate Complaining Witness 2 would be motivated to falsify or exaggerate allegations against Respondent. In fact, she was extremely hesitant to bring forward these allegations, which is quite understandable given the close relationship she felt she was required to cultivate with Respondent and his wife given her position in the School and Respondent and his wife's involvement with it. The information Complaining Witness 2 provided during this investigation is credible.

5. Respondent

While Respondent did make some admissions against his interest during the investigation, he also denied many of the allegations that have been made against him. We have concerns regarding the credibility of the information he provided. First, the information he provided during this investigation has not all been consistent. For example:

- In his interview with Senior Investigator Pelowitz on November 27, 2017, Respondent reported that he did not think he placed his hands on Complainant 1's shoulders because he has a culture of respect and therefore would not have touched her shoulder. However, in an email to Senior Investigator Pelowitz dated January 9, 2018 (Exhibit L), Respondent stated that he placed his arms on Complainant 1's shoulders and that he did so to maintain "body-to-body separation" with Complainant 1.
- In his email to Chancellor Gillman dated November 22, 2017 (Exhibit E), Respondent stated that "the comments I ever made about [Complainant 2's] appearance were complements of social formality, never harassing in intent and usually received with a smile and a "thank you." However, in his interview with Investigators on April 29, 2018, Respondent stated that he was certain that he had never commented on Complainant 2's appearance.

Moreover, the witnesses provided information that contradicted his testimony. Noteworthy examples include:

- Respondent stated that he did not recall commenting that the School is "lucky to have a beautiful Assistant" Dean; however, Witness 6 stated that he heard the comment and was troubled by it
- Respondent denied asking, in a faculty meeting in November 2017, "Isn't it rude if graduate students want to hug me and I don't?" However, Witness 16 recalled hearing Respondent ask this question
- Respondent stated that he would not touch a student's shoulder; however, Witnesses 9 and 19 reported having seen Respondent engage in this behavior
- Respondent stated that he does not use explicit or vulgar language, such as "ass." However, he did discuss "whores and cocaine" in front of a graduate student (Witness 26) and admitted to telling students, some years ago, that the word "puta" means "whore" in Spanish.

⁸⁹ Respondent stated that he told Complaining Witness 2 she is "beautiful" and "elegant" on "two to three occasions, but not many times." Complaining Witness 2, however, stated that Respondent persistently made comments to her regarding her appearance and physical attributes.

- Respondent reported that he has only once in his life commented to a woman that she could sit on his lap. However, Witness 26, a graduate student on whose dissertation committee Respondent served, reported that Respondent once made this comment to her
- Respondent denied stating, in regard to a female student wearing a head covering, “Why would she wear short shorts if she’s so concerned about modesty?”; however, Witness 27 recalled hearing Respondent make this comment and we found the information provided by Witness 27 to be credible
- Respondent denied commenting about a female spousal hire’s ability to get the job because of her looks and her spouse, stating that he does not make comments about appearance in hiring faculty members; however, Witness 44 recalled him making this comment and Witness 51 stated that Respondent commented on her appearance during a job interview⁹⁰

On at least one issue, the information Respondent provided is implausible: he stated that he did not know Complaining Witness 1 when she was a graduate student in the department. However, Complaining Witness 1 was the graduate student representative and attended faculty meetings during her time as a graduate student. Respondent’s statement that he did not know her strains credulity.

6. Other Witnesses

By and large, the witnesses provided credible information. Some witnesses never observed Respondent engaging in the conduct at issue, which may mean that he never engaged in this conduct in their presence, but allows for the possibility that it occurred outside of these witnesses’ presence. Others observed Respondent engaging in the type of conduct alleged here, but did not find it unwelcome, which is a subjective and valid reaction, but allows for the possibility that others who saw it or heard of it could find it to be unwelcome. Others experienced, observed, or heard of Respondent’s conduct and found it to be unwelcome, which is also a subjective and objectively reasonable reaction to Respondent’s conduct.

It is possible that some witnesses were hesitant to share negative experiences or information about Respondent given his stature in the international scientific community and the UCI campus community. However, it is equally possible that the witnesses who shared only positive or neutral information regarding Respondent were accurately sharing their own experiences.

There are a number of witnesses whose credibility Respondent’s attorney has specifically challenged and whose testimony is relevant to the findings.⁹¹ We address these issues as follows:

a. Witness 2

Respondent’s attorney questioned Witness 2’s statements in regard to the alleged incident regarding Witness 50; however, Witness 2 did not claim to have observed the conduct himself, so he did not appear to be exaggerating the information he obtained from his wife.

Witness 2 is an important witness because he corroborates that Complainant 2 asked him to attend department functions with her to help her avoid Respondent. Again, Witness 2 did not appear to be exaggerating his testimony because he failed to corroborate two specific incidents

⁹⁰ See Exhibit M.

⁹¹ Other witnesses whose testimony was challenged by Respondent’s attorney did not provide information material to the investigation and, unless noted elsewhere in this report, will not be discussed further.

alleged by Complainant 2 (that Respondent grabbed her arm on one occasion and, on another occasion, commented to her about “grabbing her ass.”) We found the information Complainant 2 provided to be credible.

b. Witness 3

Respondent’s attorney asserted that much of Witness 3’s testimony is “made-up,” though she concedes that Respondent and Witness 3 had a discussion concerning Respondent’s behavior toward Complaining Witness 1. According to Respondent’s attorney, this conversation related to only one comment (Respondent’s invitation to Complainant 1 in a faculty meeting to sit on his lap). Witness 3, however, recalled that Complaining Witness 1 had made him aware of repeated comments Respondent had made to her regarding her appearance and recalled talking with Respondent about his general behaviors toward women. Witness 3 did not recall the specific words he used during the conversation with Respondent, but recalled discussing that expectations for the workplace had changed and that everyone needed to adjust. We found the information Witness 3 provided to be credible.

c. Witness 6

Respondent’s attorney stated that Witness 6’s “interview notes are internally contradicting and unreliable.” However, she goes on to note that Witness 6 provided information favorable to Respondent.

Respondent’s attorney asserted that Witness 6 “explains that he never understood Complainant 2 to have felt that she had been victimized.” This is true as Complainant 2 did not clearly indicate to Witness 6 that Respondent had engaged in unwelcome sexual conduct toward her; she may have thought she did, but Witness 6 did not receive it that way.

Respondent’s attorney noted that Witness 6 found Complaining Witness 2 to have “shrugged” off Respondent’s comment about her appearance on one occasion. In fact, Complaining Witness 2 reported that she was not prepared to make her concerns about Respondent’s conduct known at that time, to Witness 6, and so she told him it was “fine.” In that regard, it should be noted that Witness 6 was the Equity Advisor for the School and Complaining Witness 2 would have known that any information she shared with him regarding unwelcome conduct would be “on the record” and could be reported to OEOD. For the reasons stated above, we found the information provided by Complaining Witness 2 to be credible.

Witness 6 may have his timing off as to when he spoke to Complaining Witness 2 about his concerns regarding Respondent. He certainly was aware in 2015 that Complaining Witness 1 was upset about Respondent’s comment to sit on her lap and spoke with Witness 3 and OEOD about it. He also was upset by Respondent’s statement about Complaining Witness 2’s appearance in or about April 2016. However, he stated that he did not take that matter further because Complaining Witness 2 did not seem bothered by it. Overall, the information Witness 6 provided was credible. He did not have an accurate read on how Complainant 2 or Complaining Witness 2 felt, but more likely than not that is because they were not explicit with Witness 6 about their true feelings.

d. Witness 11

Respondent's attorney stated that Witness 11 made the "demonstrably false claim that [Respondent] is obsessed with Witness 18." We do not find this claim, true or not, material to this investigation as Witness 18 has reported no unwelcome conduct by Respondent.

Respondent's attorney goes on to note that Witness 11 provided information favorable to Respondent in that Witness 11 did not claim to have seen Respondent touch Complainant 1 on October 27, 2017. This is true and, while we found the information Witness 11 provided to be credible, we did not find it to be dispositive.

e. Witness 12

Respondent's attorney stated that Witness 12 provided false information regarding the conversation in the 1990s when Respondent told two undergraduate students that the word "puta" means "prostitute" in Spanish. However, Respondent in his interview with the investigators on April 19, 2017, stated that while he did not recall the specifics of the conversation he did recall telling students about a creek in the Davis area named Putah Creek. He recalled that he may have stated that the Spanish translation for the word "puta" is "whore." We found the information provided by Witness 12 to be credible.

However, we do not find the information Witness 12 provided regarding Respondent's interaction with Witness 61 to be credible. Witness 61 stated that the incident Witness 12 related to investigators involved a different faculty member, not Respondent.

f. Witness 15

Respondent's attorney stated that the accusation by Witness 15 is "flatly wrong" in that Respondent never came close to touching anyone's chest during the "Doughnuts with the Dean" event. However, Complaining Witness 1 and Witness 15 observed similar behavior by Respondent during this event, and we know of no reason why Witness 15 would be motivated to fabricate or exaggerate her testimony in this matter. We found the information Witness 15 provided to be credible.

g. Witness 19

Respondent's attorney stated that the statements by Witness 19 are "demonstrably false" because Respondent was on the opposite side of the table on October 27, 2017, as Witness 18 and could not have touched Witness 18; in addition, Witness 18 did not corroborate Witness 19's testimony, and Witness 47 confirmed that Witness 18 was on the opposite table than Respondent. As stated above, this attack on the information provided by Witness 19 is well-founded though irrelevant since Witness 19 did not claim to have seen Respondent touch Complainant 1. If anything, Witness 19's testimony supports Respondent, though it is not dispositive.

h. Witness 22

Respondent's attorney stated that Witness 22 "merely recycles recent rumors." Witness 22 provided information about unwelcome conduct she had heard about from others. The fact that Respondent had a reputation for commenting to female students on their appearance is relevant

in this matter and corroborated by a number of witnesses. However, the reputation itself is not a violation of policy, only a factor in whether the response of Complainants 1 and 2 and Complaining Witnesses 1 and 2 to that behavior was reasonable.

Witness 22 also provided information regarding Complaining Witness 1's physical reactions when Complaining Witness 1 told her about Respondent's comment (the invitation to sit on his lap) and when Respondent came to talk to Complaining Witness 1 about that comment. The information Witness 22 provided concerning Complaining Witness 1 is credible.

Witness 22 also reported that Witness 26 told her Respondent asked a faculty member, during her dissertation committee meeting, "Did you have fun doing cocaine and buying hookers [with your grant money]?" Witness 26 reported this to the investigators with slightly different wording but her statement is not "inconsistent" with Witness 22's, as asserted by Respondent's attorney. This slight difference in wording does not detract from Witness 22's credibility.

i. Witness 26

Witness 26 reported that Respondent had asked another faculty, at the start of Witness 26's dissertation committee meeting, whether the other faculty member was going to use his grant money on whores and cocaine. Witness 26 was not uncomfortable with this comment but did report it to another student. Respondent's attorney stated, "[T]he claim that [Respondent] asked a whether a colleague was buying cocaine and hookers is entirely false." We found Witness 26 to be credible, particularly since she was so matter of fact in the way she reported Respondent's conduct. Witness 26 reported that she was not bothered by the fact that Respondent greeted her with kisses on the cheek on a couple of occasions and told her she looked nice. Witness 26 quite clearly was not providing information intended to make Respondent look bad. While Witness 62 did not recall the "whores and cocaine" comment, and believes he would have remembered it if it had occurred, he also stated that Respondent speaks with an accent and in a quiet voice, so he is not sure if he always caught what Respondent was saying. Notwithstanding the information provided by Witness 62, we found the information provided by Witness 26 to be credible.

j. Witness 27

Respondent's attorney questioned Witness 27's credibility by stating that Respondent never makes ridiculing or disparaging comments about his students. It should be noted that Witness 27 was not asked about Respondent in particular. He was asked if he had ever witnessed any unwelcome or discriminatory treatment at UCI. He then related the anecdote in which Respondent had looked at a female student wearing a head covering and asked, "Why would she wear short shorts if she's so concerned about modesty with her head covering?" or words to that effect. We know of no reason why Witness 27 would be motivated to fabricate or exaggerate this incident and we find the information he provided to be credible.

k. Witness 29

Respondent's attorney stated that Witness 29's statement is self-contradicting and nonsensical as he first stated that "[Respondent] bumped into Complainant 1 ... but then Witness 29 says that he is actually unsure if [Respondent's] body ever touched [Complainant 1's] body." This is a mischaracterization of Witness 29's testimony. Witness 29 stated that it "looked like" Respondent bumped into Complainant 1, that Complainant 1 looked very uncomfortable and

tried to move forward, that Respondent grabbed Complainant's shoulders, and that Witness 29 could not see if Respondent's body touched Complainant 1's body. Respondent's attorney also attacked Witness 29 as self-contradictory for stating that Complainant 1 was sitting down and then stating that Complainant 1 was moving around at the same time Respondent was grabbing her shoulders. There is no contradiction here. According to Witness 29, Complainant 1 was seated throughout the entire encounter and, when Respondent grabbed her shoulders, Complainant 1 moved forward and started to look worried. We found the information provided by Witness 29 to be credible.

1. Witness 50

Respondent's attorney stated that Witness 50's allegation that Respondent touched her breast is false. Witness 50 qualified her statement by stating that Respondent may have touched her breast by accident, though his hand did linger on her breast for a few seconds. We know of no reason why Witness 50 would be motivated to fabricate or exaggerate this incident, which she shared with her husband the night it occurred. We find the information provided by Witness 50 to be credible.

m. Witness 51

Respondent's attorney stated that Respondent does not recall closing the door for this interview and does not think he may have told Witness 51, when asked what he was thinking about, that he was thinking about the beautiful woman in his office. We know of no reason why Witness 51 would be motivated to fabricate or exaggerate this incident and we find the information provided by Witness 51 to be credible.

C. Findings

Relevant to the context in this case, and critical to the objective analysis required by University policy, Respondent's status is higher than that of the Complainants and Complaining Witnesses. Complainant 1 is a first-year graduate student and, therefore, is at one of the lowest levels in the hierarchy. Complainant 2, while an extraordinarily accomplished scientist and full Professor, does not hold the same status as Respondent given his international reputation and accolades, his status as an important donor, and his access to officials at the highest levels of the University. Complaining Witness 1 was a graduate student when she started experiencing the behavior at issue and now works as an Assistant Teaching Professor in the department in which Respondent has had significant influence for many years. And, Complaining Witness 2 is a staff person and, while she has a relatively high position (the highest staff member in the School), she does not have anywhere near the influence Respondent has. This disparity in power is relevant in determining whether Respondent's behavior would negatively impact a reasonable person under the circumstances. Moreover, this is in contrast to some of the witnesses interviewed in this case who are senior members of the University community with significant power and influence; these individuals reported that Respondent's behavior was welcome, but that it is of little consequence in determining how a person in a lower stratum would view Respondent's conduct.

Respondent, and some witnesses supportive of Respondent, take the position that Respondent's "courtly" behavior is being misinterpreted. However, this argument is unpersuasive for two reasons:

1) Respondent's habits of social engagement went beyond what was comfortable for a large number of women in the educational and employment setting, to the point that conversations about some of his oft-repeated comments (e.g., the elevator and mail room comments and his comments about women's appearance) became commonplace amongst students and others. Respondent was warned by Associate Chancellor Quanbeck, and by the then Chair, Witness 3, in 2015, that his conduct was viewed as unwelcome and that he needed to modify it to be compliant with University policy. Respondent's stature suggests that both his intellectual capabilities and social intelligence are of the highest caliber; if he wanted to heed the advice of those who warned him to modify his behavior, he was more than capable of it.

2) Respondent's tendency to wield his influence in an intimidating manner impacts how his behavior is received. The following are examples of conduct that impact how a reasonable person would view his behavior:

- Respondent has made it a habit to always sit next to the Chair of the Department during faculty meetings, giving the impression that, even without an administrative position, he may have special influence or authority over other faculty members, staff, and students.
- After Complaining Witness 1 complained to the then Chair of the Department that Respondent's conduct in a faculty meeting was inappropriate and unwelcome (and the Chair who had witnessed the behavior agreed, finding Respondent's behavior to be out of step with the times and the context), Respondent went to Complaining Witness 1's office and told her she was lying about the fact that other people present in the meeting, including the Chair, had heard Respondent's comment. Complaining Witness 1 shared her experience with a number of friends in the Department, which added to the general awareness amongst students and others in regard to Respondent's conduct.
- When discussing his nomination of Complainant 2 to NAS with Complainant 2, Respondent made a point to note that a member of the NAS, such as himself, could likely doom a nominee's chances by pulling the nominee's name from the slate, for individual discussion at the NAS annual meeting and election.
- When Complainant 2 found it necessary to lead a discussion with the Department's faculty concerning conduct that could be viewed as sexually harassing, Respondent pushed back and questioned a number of the guidelines on which the discussion had centered.
- As noted in section I of the report, Respondent has engaged in a campaign with the highest University officials to influence the outcome of this investigation. We did not set out to find for or against Respondent and we did not allow this campaign to influence our findings. Nevertheless, it is noteworthy that Respondent does not shy away from reminding University personnel of his many financial and academic contributions to the University.

Based on all the information collected during this investigation, the preponderance of the evidence establishes the following:

1. Complainant 1

Findings of Fact

Complainant 1 alleged that Respondent sexually harassed her. In analyzing whether Respondent violated University policy, we considered that Respondent's conduct could constitute either

sexual harassment, meaning his actions were sexual in nature, or gender-based harassment, meaning his actions were based on Complainant 1's gender.

Again, we have significant concerns regarding the credibility of the information Complainant 1 provided regarding Respondent's conduct prior to October 27, 2017. We gave the greatest weight to the information she provided in her first interview, namely, that when she was an undergraduate student, she heard that female undergraduate students felt uncomfortable with Respondent's comments on their appearance, such as telling them they are pretty. She stated that she had heard rumors about his being "creepy," but had not experienced anything herself. She added that if she had experienced such conduct, she would not have returned to UCI as a graduate student.

On a later date, she stated, on behalf of herself and others who were not named: "Having been an undergrad in MSP, I speak for all women of color in the program when I say he was creepy and repeatedly made us uncomfortable by making comments on our appearance or asking us to sit next to him." On a later date, she reported that there was one occasion on which she was in an elevator with Respondent and he commented on her appearance. On a later date, she stated that when she was an undergraduate student, there were multiple occasions in which she was in the elevator with Respondent, along with others, and he would comment to one or more female students, including Complainant 1, how nice their shirt looked on them or how beautiful they are. She also stated that when she would see Respondent in the hallway of Steinhaus Hall, he would tell her, "You look so beautiful today." She reported that this conduct was "constant." The inconsistencies in Complainant 1's statements over time detract from the credibility of the information she provided.

We make the following findings, based on a preponderance of the evidence:

On October 27, 2017, at the rooftop reception at Steinhaus Hall, Respondent twice stood behind, and leaned up against, Complainant 1 while she was sitting at a picnic table such that the front of his body was touching the back of her body for approximately a minute or two. On one of these occasions, Respondent placed his hands on Complainant 1's bare shoulders as he stood there with the front of his body touching the back of hers. This was uncomfortable for Complainant 1 and was unwelcome, and she tried to shift her body away from his. Nevertheless, it is more likely than not that Respondent was simply leaning against the person at the picnic table who happened to be sitting near Respondent's graduate students. It is possible that Respondent would not have put his hands on a male student's bare shoulders or that he would not lean up against them as closely as he did Complainant 1, but that is merely conjecture. The preponderance of the evidence does not establish that Respondent's conduct on October 27, 2017, was sexual in nature or gender-based.

We do not find that Respondent made comments to Complainant 1 regarding her appearance.

We find that on one or more occasions, between 2014 and 2017, Complainant 1 overheard Respondent commenting to female students regarding their physical appearance in a way that was unwelcome to Complainant 1. Complainant 1 has not quantified these comments and we do not find her exposure to them was pervasive.

We also find that on some occasions, between 2014 and 2017, Complainant 1 heard from others that Respondent had commented on the physical appearance of female students in a way that was unwelcome to those students.

Policy Determination

There is not a preponderance of the evidence to establish that Respondent's conduct toward Complainant 1 violated University policy.

Complainant 1 had a view of Respondent as being "creepy" prior to the incident on October 27, 2017, which impacted her response to Respondent's behavior on October 27, 2017, but we do not find, based on the totality of the circumstances involving Complainant 1, that Respondent's conduct was sufficiently severe or pervasive that it unreasonably denied, adversely limited, or interfered with Complainant 1's participation in or benefit from the education of the University and created an environment that a reasonable person would find to be intimidating or offensive.

Complainant 1 did hear about Respondent's conduct toward others. We do not find, based solely on Complainant's exposure to such information, that Respondent's conduct rose to the level of a policy violation for Complainant 1.

Complainant 1 stated that Respondent's conduct upset her to the point that she has had trouble sleeping and avoided going to some of her classes because she was afraid she would see Respondent. While this may have been Complainant 1's reaction to Respondent's conduct, we do not find that the conduct meets the objective test required to find a violation of University policy.

2. Complainant 2

Findings of Fact

Complainant 2 alleged that Respondent sexually harassed her. In analyzing whether Respondent violated University policy, we considered that Respondent's conduct could constitute either sexual harassment, meaning his actions were sexual in nature, or gender-based harassment, meaning his actions were based on Complainant 2's gender.

We make the following findings, based on a preponderance of the evidence:

During Complainant 2's employment at UCI, Respondent has repeatedly kissed her, cheek to cheek, when greeting her. This conduct was unwelcome.

During Complainant 2's employment at UCI, Respondent has repeatedly commented on her appearance, stating that she is "pretty" or "beautiful" or words to that effect. One notable example is when Complainant 2 was pregnant and Respondent told her, "I have never seen you look more beautiful. You're so huge, though. I can't believe how huge you are. But you look beautiful." Respondent's comments were unwelcome.

At social events during Complainant 2's employment, Respondent has repeatedly focused his attention on Complainant 2 and engaged in unwelcome conversation with her, to the point that

Complainant 2 asked Witness 2 to attend such events with her so he could help her avoid Respondent's unwanted attention.

On or about August 25, 2012, Respondent told Complainant 2 that she was so enthusiastic in talking about her research during a lecture that he thought she would "have an orgasm" in front of everyone. Respondent's comment was unwelcome.

In or about 2013, at a department party, Respondent told Complainant 2 that he could not blame a man who had grabbed Complainant 2 as he rode by on a bike as he, too, would like to grab Complainant's ass, or words to that effect. Respondent's comment was unwelcome.

In or about 2015, at a department party, Respondent and Complainant 2 were conversing with a group of people. Respondent grabbed Complainant 2's arm and pulled her toward him to talk with him. Respondent's conduct was unwelcome.

On April 26, 2016, Respondent met with Complainant 2 regarding his decision to nominate her to the National Academy of Sciences. During this conversation Respondent moved his body to be closer to hers as they discussed the nomination process and placed his hand on hers. Respondent also informed her that during the NAS annual meeting, a member could pull an individual nominee from the slate for a discussion regarding that nominee and, when that occurred, the nominee rarely got elected. Respondent's conduct was unwelcome and particularly impactful because it reminded Complainant 2 of the power that Respondent had over her career as a scientist. Respondent's conduct was unwelcome.

In or about October 2017, as Complainant 2 was leading a faculty meeting, Respondent told her and Witness 10 "how wonderful to be sitting across from two beautiful women," or words to that effect. This comment was particularly unwelcome and impactful because Complainant 2 felt it undermined her authority as the Chair of the department.

On November 8, 2017, during a faculty meeting, Complainant 2 discussed certain behaviors that could be viewed as sexual harassment and a consensus developed amongst those present that such behaviors should be avoided. Nevertheless, Respondent took issue with the proposed guidelines and challenged Complainant 2 about several issues. Respondent's comments reflected a lack of appreciation and understanding of the issues, such that he later told Witness 10 and Witness 52 that the problem with sexual harassment is that there is not enough of it, or words to that effect.

Policy Determination

A preponderance of the evidence establishes that Respondent's conduct toward Complainant 2 violated University policy.

Respondent's conduct was so bothersome to Complainant 2 that she felt she had to ask a male colleague to assist her in managing Respondent during events at the school. Out of concern that Respondent would direct unwanted sexual attention to female graduate students, she asked staff, in 2015, to stop assigning him female TAs. In 2016, when Respondent nominated Complainant 2 for the National Academy of Sciences, he indicated to her that he also had the power to kill that nomination. She felt she had little choice but to put up with Respondent's behavior (and try her best to avoid it) even when he undermined her position as Chair by commenting on her

appearance during a faculty meeting. Respondent may not have intended to undermine her, but Complainant 2's perception of the situation was reasonable. She did not officially report Respondent's behavior prior to November 2017, because she did not want to run the risk of Respondent sabotaging her NAS election. However, once Complainant 1 came forward, Complainant 2 brought her concerns to the Dean's attention. When discussing with the investigators her talking points for the November 8, 2017 faculty discussion concerning sexual harassment, she became so emotional that she could not read the entire document. Respondent's behavior has had a strong, deleterious effect on Complainant 2.

Respondent's conduct toward Complainant 2 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complainant 2's participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive.

3. Complaining Witness 1

Findings of Fact

We make the following findings, based on a preponderance of the evidence:

During Complaining Witness 1's time as a graduate student and employee of UCI, Respondent has repeatedly kissed her, cheek to cheek, when greeting her. This conduct was unwelcome.

During Complaining Witness 1's time as a graduate student and employee of UCI, Respondent has repeatedly commented on her appearance and made favorable comments as to how her clothing looks on her. These comments were unwelcome. One notable example is when he told her she should face the door while sitting in her office so people could see her pretty face, a statement Respondent admits that he made.

On February 11, 2015, at the beginning of a faculty meeting in which Complaining Witness 1 was to give a presentation, Respondent told her she could sit on his lap and he would enjoy the presentation more, or words to that effect. This comment was unwelcome and greatly impacted Complaining Witness 1 given the setting and the junior nature of her position. This situation was exacerbated when Respondent, having learned that Complaining Witness 1 was upset, went to discuss it with her and ended up explicitly impugning her integrity, calling her a liar when she told him that other faculty had both heard his comment and reacted negatively. He also stood over her and told her she was being sensitive. Complaining Witness 1's reaction, quite reasonably, was that she had been reprimanded by a very senior and powerful member of the faculty in the department she had recently joined.

Remarkably, after the above incident, which resulted in an informal complaint to OEOD and a personal meeting between Respondent and a senior administrator, Associate Chancellor Quanbeck, who reminded him of the University's sexual harassment policy and advised him to watch the types of comments made to women in the educational and employment setting, Respondent, on at least one occasion in 2016 or 2017, referred again to Complaining Witness 1's appearance by telling a male colleague that he was not allowing "the three pretty women" to mingle with their colleagues.

Over the years, up to and including fall 2017, Complaining Witness 1 also has heard about Respondent's conduct toward other women, which undoubtedly impacted the way she perceived his behavior toward her. Respondent's comments to female students indicating that it was nice to be "stuck" with them were so commonplace as to become referred to by women, in shorthand, as the "elevator comment" and the "mailroom comment."

Complaining Witness 1 observed Respondent pointing at a female student's "Ayala School of Biological Sciences" shirt at a "Doughnuts with the Dean" event in fall 2017 and touching, or coming close to touching, the student's chest.

Complaining Witness 1 attended a faculty meeting in November 2017 at which Complainant 2 reminded the faculty of the University's sexual harassment policy and led a discussion concerning appropriate behavior during which Respondent questioned Complainant 2 and took issue with the guidelines being discussed.

Policy Determination

A preponderance of the evidence establishes that Respondent's conduct toward Complaining Witness 1 violated University policy. Respondent's conduct has been so impactful for Complaining Witness 1 that she dreads seeing him in the neighborhood where they both live. Respondent's repeated conduct toward her made her question whether Respondent respected her work and made her question her own merit as a scientist. She is angry and upset about the time and energy she has spent dealing with Respondent's conduct. She has been greatly impacted by Respondent's conduct both before and after she complained of it in 2015 as well as his response to the complaint she made in 2015. Respondent's stature in the scientific and campus communities and the power he yields are not lost on her and to have taken the risk of complaining about his conduct only to have him confront her about it in angry manner only worsened an already difficult situation.

Respondent's conduct toward Complaining Witness 1 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complaining Witness 1's participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive.

4. Complaining Witness 2

Findings of Fact

We make the following findings, based on a preponderance of the evidence:

During Complaining Witness 2's employment at UCI, Respondent has repeatedly kissed her and hugged her when greeting her. During these greetings, Respondent placed his hands on her sides, under her jacket, and rubbed up and down. This conduct was unwelcome.

During Complaining Witness 2's employment at UCI, Respondent has repeatedly commented on her appearance, stating that she is "pretty" or "beautiful" or words to that effect. For example, on or about March 2, 2016, Respondent told her, "I just learned that women don't like to be told they're beautiful, but I know you don't mind," or words to that effect. On one occasion,

Respondent stated, during a cabinet meeting, “We are lucky to have such a beautiful Assistant Dean,” or words to that effect.

At social events during Complaining Witness 2’s employment, Respondent has repeatedly focused his attention on Complaining Witness 2 and engaged in unwelcome conversation with her. To Complaining Witness 2’s relief, this behavior stopped a couple of years ago when Respondent turned this type of attention to Complainant 2 instead.

On one occasion, while discussing the lettering to place Respondent’s name on campus buildings or signs, Respondent accused Complaining Witness 2 of acting “as a woman” and manipulating the decision. Complaining Witness 2 felt this comment was degrading and upsetting, particularly since the conversation had begun with Respondent engaging in unwelcome physical conduct (kissing on the cheek).

On or about October 4, 2017, as Complaining Witness 2 was seated for a faculty meeting, Respondent entered the room and stopped to greet her with a kiss and touch her with his hands; however, she grabbed his hands and shook her head “no” to indicate she did not want him to kiss or touch her.

Policy Determination

A preponderance of the evidence establishes that Respondent’s conduct toward Complaining Witness 2 violated University policy. Complaining Witness 2 reported feeling minimized and intimidated by Respondent’s behavior in addition to feeling compelled to maintain good relations with such an important donor and luminary. She also reported that Respondent’s conduct has caused her great distress over the years. She feels Respondent has treated her as an object and has not respected her for her position and accomplishments.

Respondent’s conduct toward Complaining Witness 2 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complaining Witness 2’s participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive.

X. CONCLUSION

Complainant 1

For the reasons stated above, a preponderance of the evidence does not establish that Respondent’s conduct toward Complainant 1 violated University policy. We did not find that his conduct on October 27, 2017, was sexual in nature or gender-based, and we did not find that Respondent made comments to Complainant 1 regarding her appearance. Moreover, while we found that on some occasions, between 2014 and 2017, Complainant 1 overheard, or heard from others, that Respondent had commented on the physical appearance of female students in a way that was unwelcome to those students, we did not find, based on the totality of the circumstances involving Complainant 1, that Respondent’s conduct was sufficiently severe or pervasive that it unreasonably denied, adversely limited, or interfered with Complainant 1’s participation in or benefit from the education of the University and created an environment that a reasonable person would find to be intimidating or offensive. Therefore, we did not find Respondent’s conduct toward Complainant 1 to be in violation of the *UC Policy on Sexual Violence and Sexual*

Harassment or the UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment, as implemented by the UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment.

Complainant 2

A preponderance of the evidence establishes that Respondent's conduct toward Complainant 2 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complainant 2's participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive in violation of both the *UC Policy on Sexual Violence and Sexual Harassment* and the *UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, as implemented by the *UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment*.

Complaining Witness 1

A preponderance of the evidence establishes that Respondent's conduct toward Complaining Witness 1 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complaining Witness 1's participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive in violation of both the *UC Policy on Sexual Violence and Sexual Harassment* and the *UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, as implemented by the *UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment*.

Complaining Witness 2

A preponderance of the evidence establishes that Respondent's conduct toward Complaining Witness 2 was gender-based, sexual in nature, and unwelcome. The conduct was sufficiently severe or pervasive as to unreasonably interfere with Complaining Witness 2's participation in or benefit from her employment and create an environment that a reasonable person would find to be intimidating and offensive in violation of both the *UC Policy on Sexual Violence and Sexual Harassment* and the *UC Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, as implemented by the *UCI Guidelines for Reporting and Responding to Reports of Discrimination and Harassment*.

Prepared by:



Date 5/16/2018



Date 5/16/18