California State University, Chico

Chico, California 95929-0010



Office of the Title IX Coordinator & DHR Administrator 530-898-4949

<u>titleix@csuchico.edu</u>

<u>www.csuchico.edu/title-ix</u>

www.csuchico.edu/hr/eodr

September 14, 2020

To: Dylan Saake, Title IX Coordinator

From: Robert Morton, Title IX-DHR Investigator

RE: Confidential Investigation Report pursuant to Executive Order 1096;

I. INTRODUCTION

The California State University, Chico, Title IX/DHR office opened an investigation after receiving a report that David Stachura, Associate Professor of Biological Sciences, (hereinafter Respondent) engaged in a consensual sexual relationship with a student over whom he had direct authority.

This investigation was conducted pursuant to Executive Order 1096: Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide *Procedure* for Addressing Such Complaints by Employees and Third Parties.

A. Background & Summary of Allegations

Campus was notified that there was a Consensual Relationship occurring between Respondent and Student Respondent is alleged to have been in a relationship with a student over whom he exercises supervision. Respondent was noticed that the investigation would proceed under Executive Order 1096.

II. INVESTIGATIVE PROCESS

A. The following individuals were interviewed during the course of the investigation:¹



July 20, 2020 via Zoom Video Conference August 6, 2020 via Phone Interview July 7, 2020 via Zoom Video Conference July 7, 2020 via Zoom Video Conference July 16, 2020 via Zoom Video Conference July 21, 2020 via Zoom Video Conference

¹ All interviews were conducted remotely due to the ongoing COVID-19 pandemic. Respondent offered student, as a witness to explain his relationship with Witness was not interviewed because the witness was not present during any of the reported incidents and therefore could not provide information relevant to the central issues in this investigation.



B. The following documents were reviewed as part of this investigation:

- Executive Order 1096R
- Respondent's Response to Evidence Considered (EO 1096 001000–001011.)²
- Respondent Letter (EO 1096 001012-001013.)

C. Procedural Compliance

Pursuant to Article III, Section C., Subsection 7., of Executive Order 1096, prior to reaching a final conclusion or issuing a final investigation report, Respondent was advised, in writing, of any and all evidence upon which the findings would be based and was afforded an opportunity to respond to the evidence, including presenting further relevant evidence, information, additional witnesses, or arguments that could affect the outcome. This was accomplished by providing Respondent, via email sent on August 6, 2020, an Evidence Report that included all evidence considered up to that point. This included a written document containing the parties' and witnesses' verbal statements and documentary evidence as of that date and providing Respondent until close of business on August 17, 2020 to respond with any further information as noted above.

On August 11, 2020, Respondent responded to the Evidence Report. (EO 1096 001000-001011.)

III.APPLICABLE POLICIES AND STANDARDS

A. Policy: Executive Order 1096

The California State University (CSU) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability, (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion, (or Religious Creed), Sexual Orientation, Veteran or Military Status, and other characteristics that make our community unique. All individuals have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation. The CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

Executive Order 1096, Article I., F., defines Consensual Relationship as follows:

Consensual Relationships. Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While sexual and/or romantic relationships between members of the University

² In the Evidence Report shared with Respondent, a "Formal Complaint" was mistakenly identified as Exhibit 1. A written complaint was not submitted in this matter and therefore none is attached.

community may begin as consensual, they may evolve into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.

Executive Order 1096, Article VI., Section Q., defines Employee as follows:

Employee means a person legally holding a position in the CSU. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or other Third Parties.

Executive Order 1096, Article VI., Section LL., defines Student as follows:

Student means an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending.

B. Standard of the Evidence:

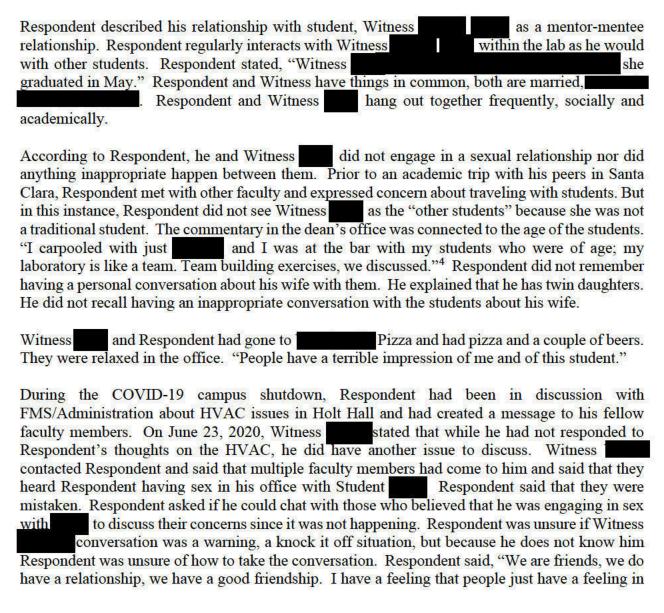
In weighing the evidence, the Investigator used a preponderance of the evidence standard in making a determination regarding the facts of the investigation. Executive Order 1096, Article VI., Section Z., states:

Preponderance of the Evidence means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

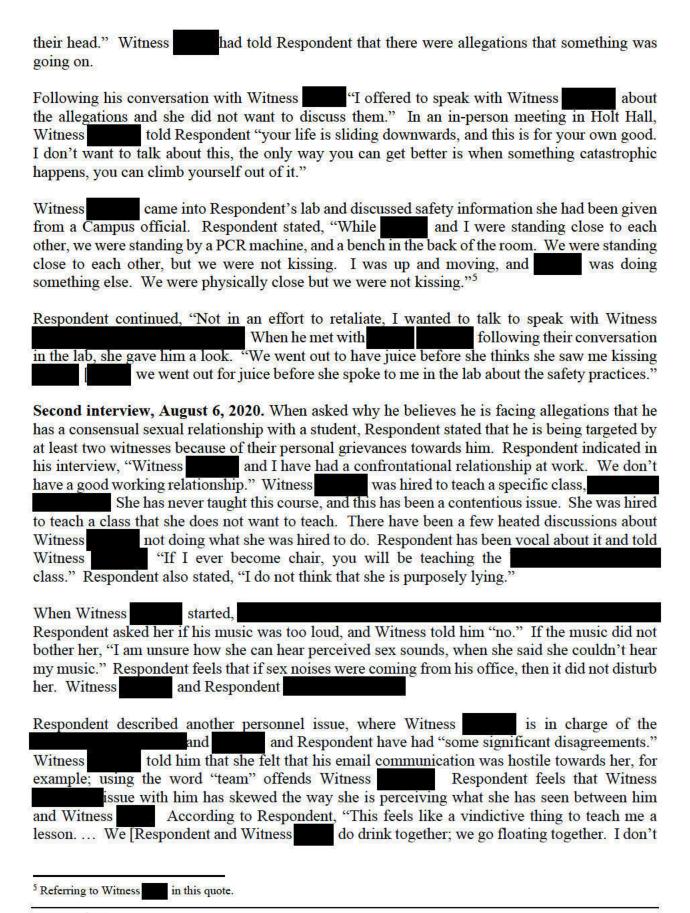
IV. EVIDENCE CONSIDERED³

A. Account of Respondent, Associate Professor David Stachura

First interview, July 20, 2020. Respondent knew about the allegations prior to the interview and sought to respond to the allegations throughout the interview. Respondent started working for California State University, Chico in 2014, initially as an Assistant Professor, and he is now an Associate Professor. Respondent's research focuses on blood development and the genetics of zebra-fish. Respondent is the Lantis Endowed Research Professor.



³ The party and witness statements were shared with Respondent. This final investigation report corrects typographical and grammatical errors that may have been present when they were shared with Respondent; no substantive changes were made. ⁴ In response to the Evidence Report, Respondent clarified, "I consider socializing at meetings with them a team-building exercise."



think this as a bad thing to do. I feel like I am being mischaracterized. I feel like they are trying to speak truth to power or trying to knock me down." The day in question (in early June), Respondent and Witness "watched a movie called 6" Underground and the other movie was The Proposal. I don't recall watching any other movies." He added, "We for sure did see other movies." None of the movies had pornographic content, although there might be sex scenes in the films. Respondent's concern about the allegations grew as the questions in the interview became more Respondent noted, "This focused on the behaviors which occurred between him and Witness feels like a deep dive into my personal life and all of the things that I've done over the past year." Regarding being seen at a restaurant on Valentine's Day, Respondent stated, "Witness went out to a bar on Valentine's Day at Brewery, and it's like a food truck. ... I was coming from the lab and I was not dressed up and this was not a date. Unfortunately, something as simple as going to get a drink is being characterized as a date or something unprofessional." B. Account of Witness, Professor Interview, July 7, 2020. Witness started working for California State Chico, University in and is now an as an As colleagues, they maintained a good relationship. Over the past year, Respondent had become more negative and their relationship changed but she would not classify it as bad. During the COVID-19 campus closure, faculty have continued to take care of their animals. On Wednesday, June 3, 2020, around 3:30 p.m., Witness knew that several of her colleagues were on-campus, including Respondent and Witness Witness made masks for her colleagues and went to campus to meet with a student to culture bacteria. Witness first encountered Witness whose office door was open, and provided her with a mask and just chatted about life. Witness asked if Respondent was in and then went to check to see if he was in. When she got close to his door, she heard the voice of Respondent and knew he was present. Witness knocked on the door and the room grew quiet, then she heard shuffling inside his office, and then Respondent opened the door. There was a strange odor emanating from the room; it was a "hot, no-air-flow kind of smell." The aroma was "sweaty." Respondent went back to his seat and sat on his yoga ball chair, with his shoes off; he was in his socks and the lights were off. The computer did not appear to be on and the black loveseat/futon in the office was laid out flat. sitting on the futon, with her back up against the wall of the office. Witness saw Witness They each had a can in their hands, but Witness is not sure what they were drinking. Witness gave Respondent the mask she made for him and engaged in conversation about him wearing this mask

instead of wearing a zebra fish thong mask, a joke gift he had received and posted on Facebook.

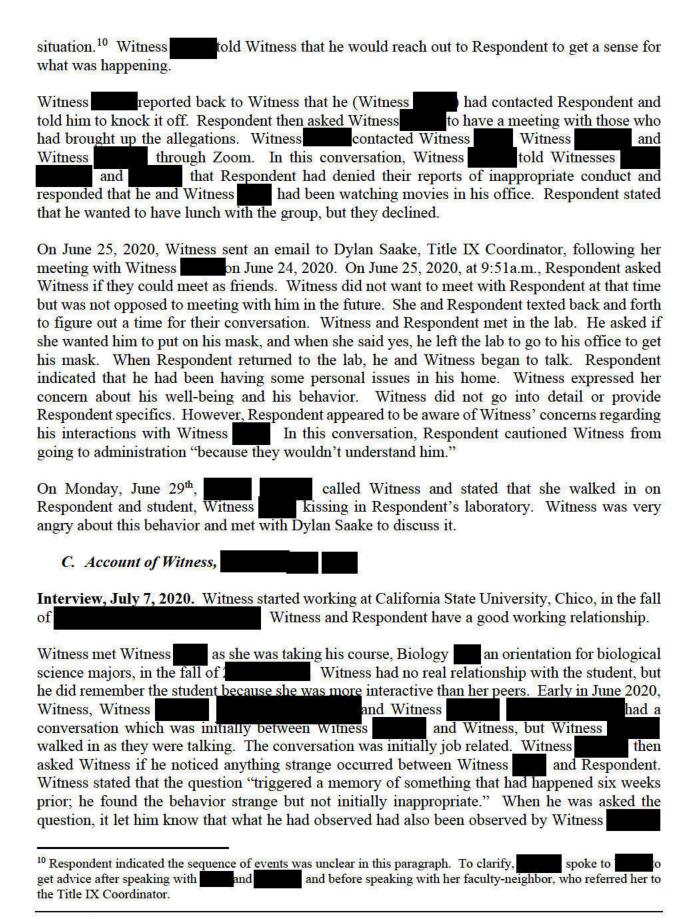
Page 6 of 19

⁶ Bacteria needs to be transferred every three weeks to propagate them. "You got to feed them, living things need to be fed."

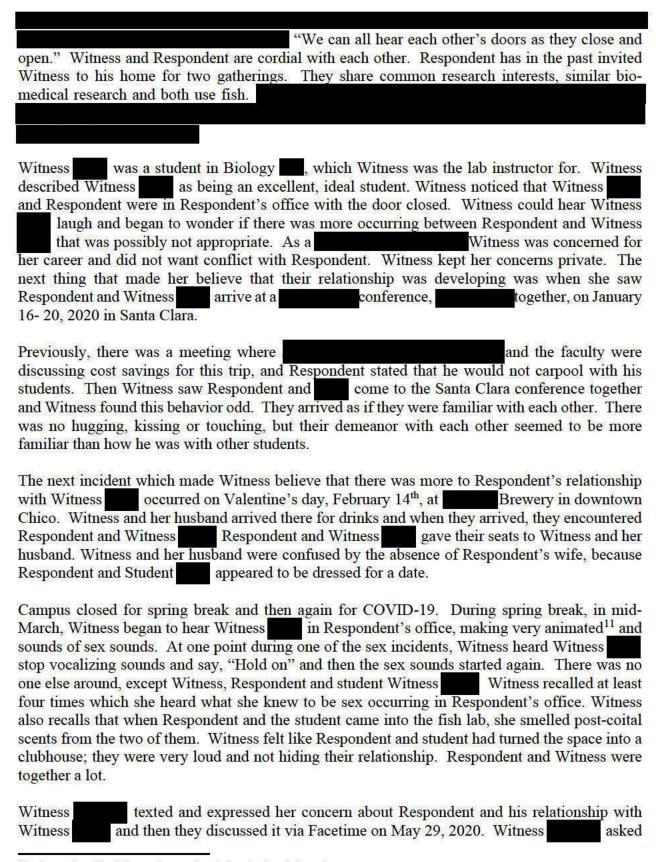
Witness then responded that Respondent could post a picture on Facebook. Respondent and Witness then discussed their frustration with the new ASC, and Respondent then told Witness of the yea, I haven't told you about her yet. Witness then decided that she needed to go speak with and check in on her undergraduate student. Witness was with the student for about two hours and supervised him as he was working with compressed gases and an autoclave. Witness and student left around 5:30 p.m., after sterilizing the lab. As Witness left the building, she could still hear voices and she said "goodbye" to Respondent, and Respondent responded with the same. Witness was present in Respondent's office at that point.
On the ride home on her bike, Witness was concerned about her colleague, Respondent, and it made her remember two other instances. These instances, which occurred much earlier, made her question Respondent's and Witness One such instance was in January at the Conference, which was held in Santa Clara, during the NFL Playoffs. The conference hotel had a bar in the downstairs area. Respondent and Witness were there with students and Respondent began to "bad talk" his wife in front of the students. The entire group of faculty moved away from the bar as a result of feeling uncomfortable with Respondent having this type of discussion in front of the students. Respondent and Witness The other incident occurred during the pandemic. Witness and her son went to and she observed Respondent and Witness together, which made her ponder why they were always together.
On June 4, 2020, Witness texted another faculty member, Witness indicating her concern about Respondent. On June 5, Witness and Witness met at then picked up and then went to Witness told Witness that while she did not know the nature of Respondent's relationship with Witness she knew something did not feel right. Witness responded that as a result of with Respondent, she had heard Respondent and Witness having sex in the office. Witness told Witness that she then attempted to limit her time with Respondent.
Witness was bothered by the conversation and found herself unable to sleep. Witness's concerns were the result of the workplace being used to deal with personal relationships, the hierarchy between Respondent and Witness and the impact that the relationship would have on their student-teacher relationship.
Somewhere between the 4 th and 10 th of June, Witness asked Witness if he found the relationship between Respondent and Witness walked in and shared her concerns about the relationship between Respondent and Witness Witness asked what she should do in this scenario. Witness then met with a faculty-neighbor and she was referred to "Safe Space" and then to Dylan Saake, Title IX Coordinator. Following this conversation, Witness reached out to senior faculty member
7 Academic Support Coordinator.

9

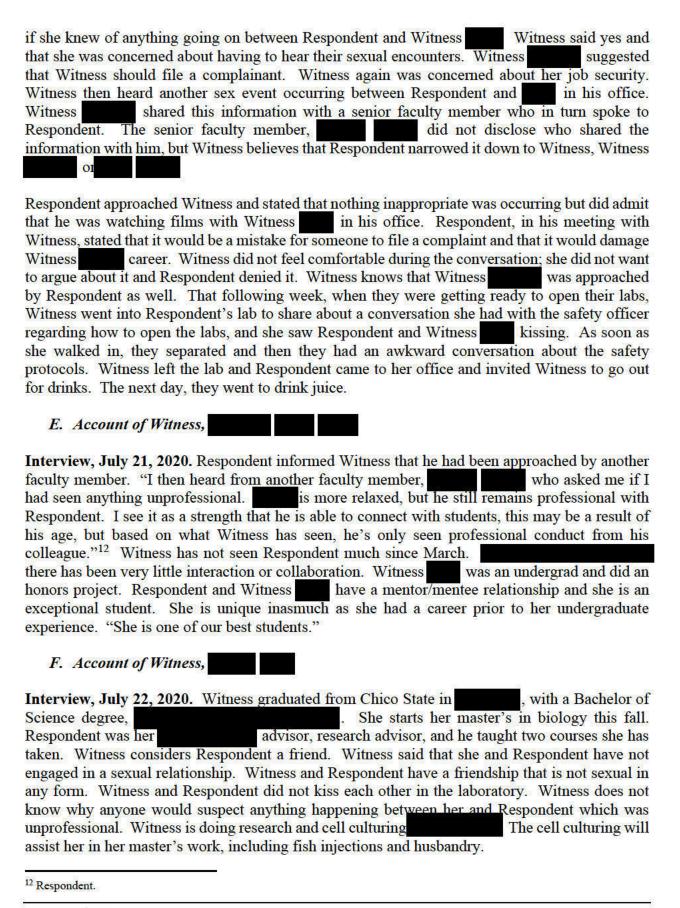
⁸ A sterilizer.



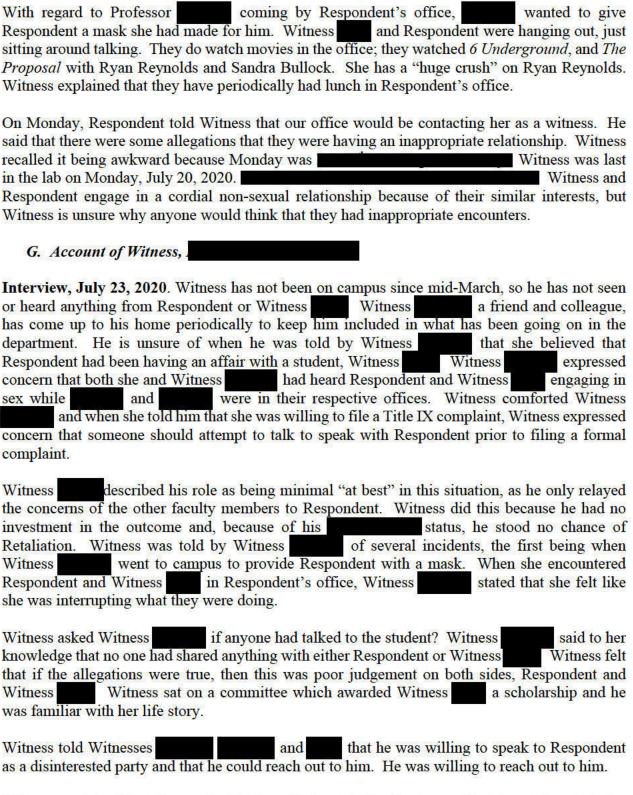
nature?" and Witness replied "yes."
In late March, early April, Witness walked past Respondent's office, en-route to his own lab space. Campus was closed and no one was in Holt Hall, other than those maintaining cell cultures or animals. Respondent maintains a colony of zebra-fish. Witness observed student Witness come out of Respondent's closed office door. It struck Witness as odd because of the timing. Witness explained that during the year he could understand scenarios where students might need to engage in delicate conversations with faculty behind closed doors, but because campus was in a shutdown situation, this behavior struck him as odd. However, since he was unsure of what occurred behind the closed office door, he could deem it inappropriate or ill advised.
Witnesses and described behaviors that they had seen and heard, and it caused him to reinterpret what he had seen in a different light. Witness office is Respondent's. Witness went to Respondent's office to relay a message, and neither were wearing socks or shoes. Witness described the room as smelling like beer and sex. Respondent has a couch in his office which folds out into a bed, and the bed was out. It had been noticing a fondness between Respondent and the student, and while she did not describe it, she started talking about how the fondness increased after campus shutdown and what she meant was that, while in her office, she could hear Respondent and Witness engaging in sexual activity in his office.
Witness told Witness that she heard sexual noises coming from Respondent's office. Respondent and live, and when she went into the space, she detected the smells of sex on the person of Respondent and student Witness
Most recently, Witness is aware that walked into the Respondent's primary lab and observed Respondent and the student kissing. Witness does not believe that Witness addressed the issue with Respondent, but Respondent did attempt to speak with Witness did not feel comfortable addressing the issue with Respondent and in fact she felt uncomfortable during her conversation with Respondent.
and Witness felt that it was prudent to approach Respondent. felt that he could safely have that conversation with Respondent about the idea that members of the faculty felt that he was having an inappropriate relationship with a student. Respondent denied that anything was happening between him and the student. Following Respondent's denial to Witness Witness informed Witness that she saw Respondent and Witness kiss in a lab.
D. Account of Witness,
Interview, July 16, 2020. Witness started as an informal mentor to and Witness. Witness described Respondent as being friendly and providing advice. "One of those things which he instructed me to do, was to not be in my office with a student and have the door closed."



¹¹ Witness described the erotic sounds as being loud and obnoxious.

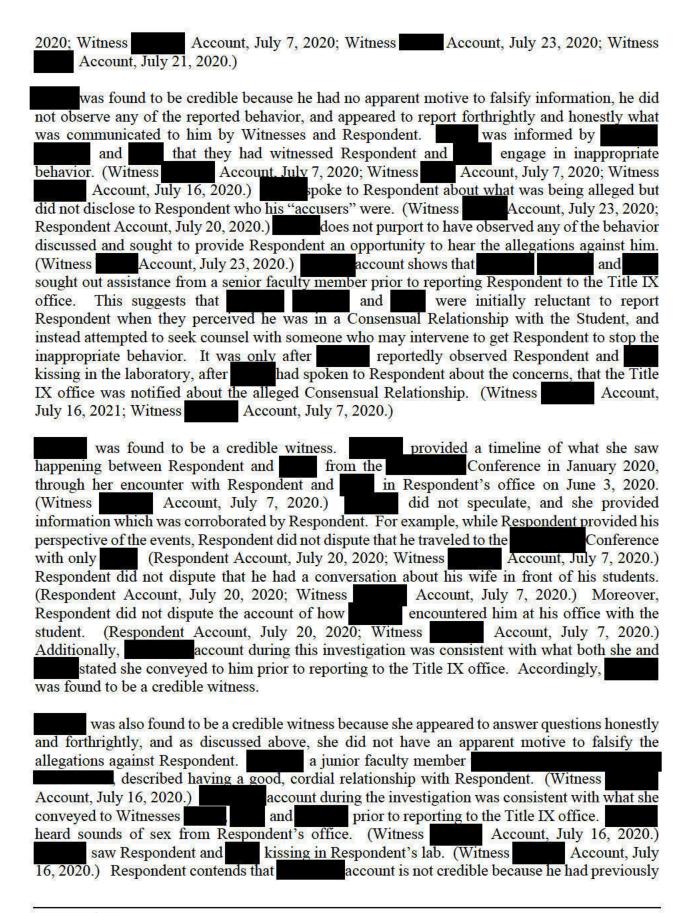


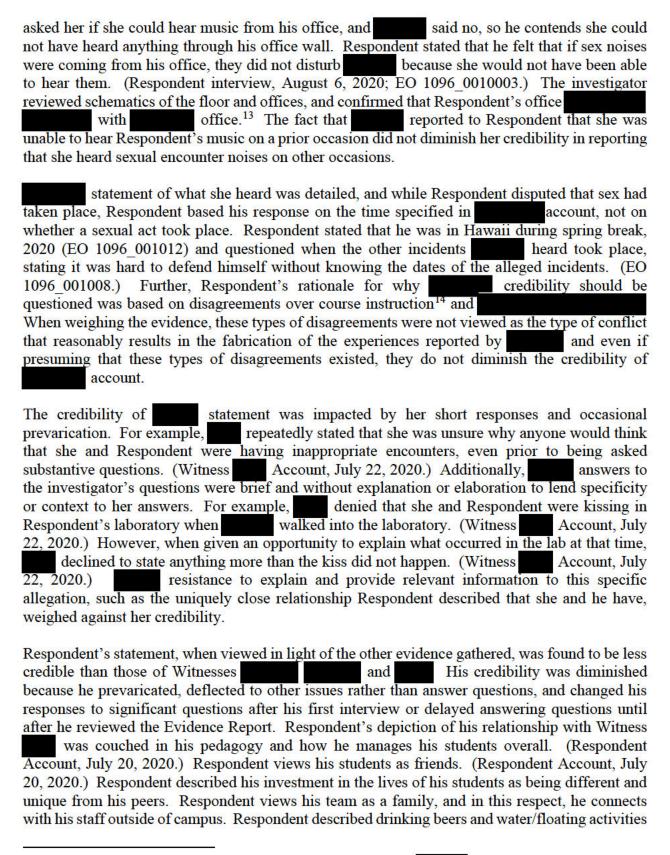
Page 11 of 19



Witness explained that Respondent had reached out to faculty in an effort to get the air in the building turned on. Witness explained that several problems occur when members of faculty and

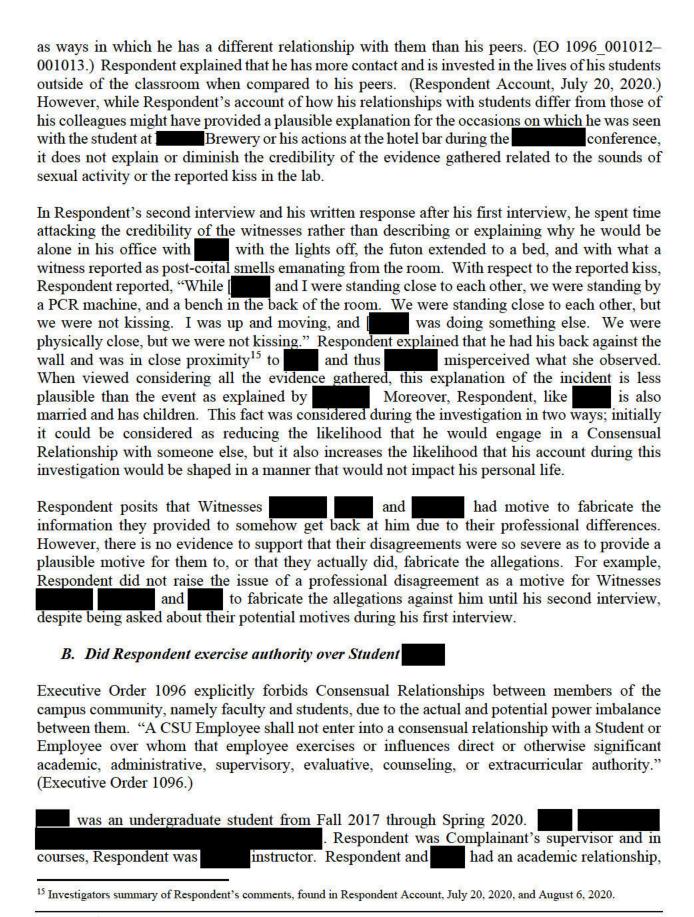
their research teams are doing research and there are extremely warm temperatures, as research organisms are affected by the building temperature. Witness was happy to see Respondent take the lead on this. Witness also saw this as an opportunity for him to speak with Respondent concerning the allegations. On either June 23, 2020 or June 24, 2020. He did a follow-up zoom meeting with Witnesses
In Witness' conversation with Respondent, Respondent admitted that he had spent time with Witness alone in the office but said that he had done nothing romantically. Respondent said, "That's awful, I would never do that, it would be inappropriate." Witness told Respondent that if he was doing it, he should stop.
Witness felt that maybe it was a misunderstanding. They all said that they are completely sure of their observations and they are sure that Respondent was not telling the truth. Witness felt that she was obliged to file a Title IX complaint. During the first week of July, Witness shared that Witness walked into Respondent's lab and she saw him kissing the student. Witness did not feel safe doing anything on her own.
Respondent began asking colleagues about what he should do, and Witness told Respondent that the Title IX complaint had been filed. Witness shared his concerns with the impacts that this could have on junior faculty. Witness is not sure why Respondent would lie about this, or why this otherwise excellent student would consent to such a bad decision. He struggles to believe a particular party, but he cannot think of a reason why they would make it up.
V. Analysis
Based on the analyses below, the preponderance of the evidence supports a finding that Respondent engaged in a Consensual Relationship, as defined in Executive Order 1096, with Student The preponderance of the evidence shows that Respondent and Student had a relationship which included consensual sexual encounters and kissing. This is a violation of the policy. In making these determinations, the investigator is limited to the evidence provided.
A. Credibility Analysis
The task of this investigation is to make a determination based on the evidence. Thus, a finding of responsibility means that when weighing the evidence provided during this investigation, the evidence of a policy violations outweighs the evidence that there is not a policy violation. The issue of credibility is integral to this case, most notably because Respondent disputes the accounts of Witnesses and contends that they are using professional differences as a reason to come forward with these allegations. Witness and Respondent credibility were assessed throughout the course of this investigation. Witnesses and provided accounts which were corroborated at times by Respondent, and by Witnesses and Respondent provided certain information which was corroborated by Witnesses and
Witnesses and did not appear to have anything against student, Witness as being an exceptional student. (Witness Account, July 7, 2020; Witness Account, July 16,





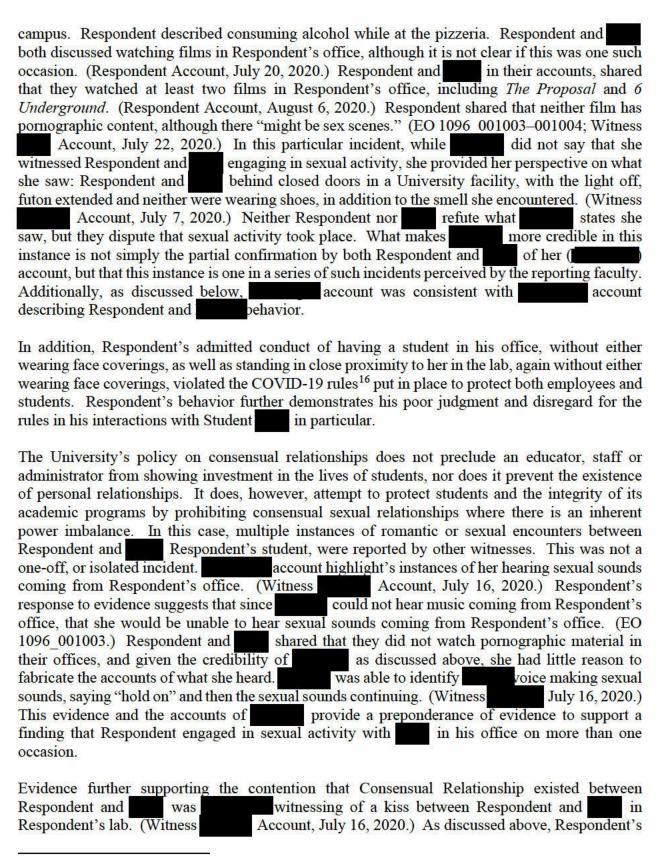
¹³ Based on the schematics, Respondent's west office wall is shared with Witness

¹⁴ Respondent provided emails of his communication between him and other faculty members.



Page 16 of 19

in addition to the supervisory role that Respondent and and which she used as a student. (Respondent Account, July 20, 2020.) There is no dispute
that Respondent exercised a great deal of influence over academic career. Respondent described Complainant as an excellent student, "I am close with We have developed
a close friendship. She is an excellent student and has achieved so much in my laboratory and at
Chico State. 1096_001013.) Respondent supported in his capacity as an advisor, when she presented her research and in her submission of peer-reviewed work, as aforementioned. (EO 1096_001005.) was an enrolled student during Spring 2020, and thus, the Consensual Relationship policy would apply. Additionally, is continuing at our institution as a graduate student, whose work will be with Respondent. Accordingly, Respondent exercised or influenced direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, and extracurricular authority over a Student.
C. Did Respondent engage in a Consensual Relationship with a student?
Respondent's connection to Complainant was both professional and personal. The issue is whether Respondent and engaged in a Consensual Relationship, as defined in Executive Order 1096, which was sexual or romantic in nature. "Consensual Relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship." (Executive Order 1096.)
According to Respondent, shares interest in Respondent's research, and that, in and of itself, is reason for Respondent and to work together, converse and even develop a strong relationship. This investigation is not a rebuke of Respondent's interest in building relationships with his students, but looks only at whether the preponderance of the evidence indicates that this particular relationship meets the definition of a Consensual Relationship as written in the Executive Order 1096.
There is a dispute in this case over whether sexual activity took place, not just on one occasion, but on several occasions. Respondent denied having sex with in Respondent's office. (Respondent Account, July 20, 2020.) However, by Respondent's own admission, he had a relationship with her that was different than with other students. (Respondent Account, July 20, 2020.)
Witnesses and accounts provide evidence that Respondent and engaged in a consensual sexual relationship. witnessed Respondent and in Respondent's closed office, with Respondent's lights off. (Witness Account, July 7, 2020.) described what she saw and what she smelled. Respondent and was laying on the futon bed in Respondent's office while Respondent's laptop was closed on the desk. (Witness Account, July 7, 2020.) described the smell emanating from the room upon the door being opened by Respondent as post-coital. (Witness Account, July 7, 2020.) Respondent, in his account, said he closed his laptop once came into his office. (EO 109_001004.) Respondent explained that he and come to his office, after leaving Pizza in downtown Chico, blocks from



¹⁶ In his response to the evidence, Respondent stated that COVID regulations permit only two people to be in the fish room because of the size of the space, although he did not mention the face coverings requirement.

Page 18 of 19

explanation as to why misperceived them kissing was not found to be credible. As such, the preponderance of the evidence supports finding that saw Respondent and kissing in the lab.

Accordingly, the preponderance of the evidence supports finding that Respondent engaged in a Consensual Relationship with a Student.

VII. CONCLUSION

Based on the foregoing, the preponderance of the evidence obtained in this investigation supports a finding that Respondent violated Executive Order 1096 by engaging in a Consensual Relationship with a Student.

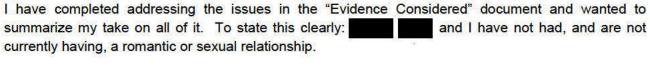
Biological Sciences 530-898-5356



David Stachura, Ph.D.
Associate Professor
Department of Biological Sciences
California State University, Chico
Chico, CA 95929-0515

August 10, 2020

Robert Morton:





The California State University



Biological Sciences 530-898-5356 those situations by keeping our presence low key in the building and by closing and locking doors behind me. One thing I'm not doing? Loudly having sex in my office.

That is phenomenal. She is working Asi as actual professors. They are jealous of my relationship with and that we work well together. They are jealous of the fact that we are hard workers. Ask them both how much they have accomplished over the COVID shutdown. The answer: "not much." So yes- I have been doing work with my student and getting things done. We are good friends. I ask her about childcare advice (he kids are teenagers). I had a beer with her, her husband, and son the other week sides is 16-he wasn't drinking beer) at the students of the fact that she couldn't get to walk in the ceremony that wasn't held this year. She's been waiting 20 years to do that. I even had lunch with mother the other week. Does this seem like the behavior of someone that is cheating on his wife and having an affair with his student? No- it is the behavior of a faculty member that cares very deeply about his students. Ask any of my students and they will tell you that I am one of the only people here in the Biology department that goes above and beyond for them. I can show you letters emails, etc. I care. That's why I work here. I am not abusing that power.	I am close with We have developed a close friendship. She is an excellent student, an has achieved so much in my laboratory and at Chico State.
relationship with and and that we work well together. They are jealous of the fact that we are hard workers. Ask them both how much they have accomplished over the COVID shutdown. The answer: "not much." So yes- I have been doing work with my student and getting things done. We are good friends. I ask her about childcare advice (he kids are teenagers). I had a beer with her, her husband, and son the other week wasn't drinking beer) at the left her and her husband have been over to my house for parties. Helped him make a graduation video for because of the fact that she couldn't get to walk in the ceremony that wasn't held this year. She's been waiting 20 years to do that. I even had lunch with mother the other week. Does this seem like the behavior of someone that is cheating on his wife and having an affair with his student? No- it is the behavior of a faculty member that cares very deeply about his students. Ask any of my students and they will tell you that I am one of the only people here in the Biology department that goes above and beyond for them. I can show you letters	That is phenomenal. She is working As
	relationship with and and that we work well together. They are jealous of the fact that we are har workers. and are not hard workers. Ask them both how much they have accomplished over the COVID shutdown. The answer: "not much." So yes- I have been doing work with my student and getting things done. We are good friends. I ask her about childcare advice (he kids are teenagers). I had a beer with her, her husband, and son the other week wasn't drinking beer) at the her and her husband have been over to my house for parties. Helped him make a graduation video for because of the fact that she couldn't get to walk in the ceremony that wasn't held this year. She's been waiting 20 years to do that. I even had lunch with mother the other week. Does this seem like the behavior of someone that is cheating on his wife and having an affair with his student? No- it is the behavior of a faculty member that cares ver deeply about his students. Ask any of my students and they will tell you that I am one of the only people here in the Biology department that goes above and beyond for them. I can show you letters

I await the decision of your office, and hope you can see my point of view on these issues.

Sincerely,

David Stachura, Ph.D. dstachura@csuchico.edu