



California State University SAN MARCOS

Title IX Coordinator California State University San Marcos 333 S. Twin Oaks Valley Road San Marcos, CA 92096-0001
Tel: 760.750.4056 Fax: 760.750.3344 www.csusm.edu/titleg

CONFIDENTIAL

TO:

[REDACTED]

FROM: Dr. Bridget Blanshan, CSUSM Title IX Coordinator
Associate Vice President, Student Development Services

DATE: July 1, 2020

SUBJECT: Notice of Investigation Outcome

The University has concluded its investigation into your (Complainant) complaint, alleging Sexual Harassment against Dr. Chetan Kumar (Respondent), invoking possible prohibited conduct outlined in California State University (CSU) policies including, but not limited to, Executive Order 1097 (EO 1097), Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students, Revised March 29, 2019. The University has also concluded its investigation into allegations that may subject Respondent to discipline pursuant to California Education Code Section 89535 relating to unprofessional conduct.

You allege that during a [REDACTED] class Respondent suggested that you and he should get together to cry on each other's shoulders. The following day, Respondent emailed you inviting you to coffee, and you planned to meet for coffee on November 4, 2019. On November 4, 2019, you allege you called Respondent on his office phone and canceled the coffee plans; however, Respondent repeatedly requested that you reschedule. You further allege that from November 4, 2019 to November 16, 2019, Respondent repeatedly sent you text messages containing numerous invitations to meet socially, compliments on your personality and appearance, and photographs of sunsets and Respondent at the beach in a wetsuit.

On November 13, 2019, when you met Respondent at the coffee shop, you allege Respondent relayed his romantic and/or sexual interest in you through both verbal and non-verbal conduct. Specifically, you allege Respondent complimented your physical appearance by stating you were "beautiful" and "his type" while commenting he could get fired for his comments, asked if you were attracted to "short men like him", and told you he hoped your relationship with your boyfriend ended. In addition, you allege Respondent told you that you could use notecards on your presentation in a manner that made it seem he was allowing you to break the rules. Further, Respondent asked you if you were engaging in "random hook-ups" and advised that having "random fucks" is helpful to get over break ups. Respondent also shared that casual sex had helped him get over break-ups in the past and informed you that his wife had given him permission to have extramarital sex. Additionally, Respondent sat in the chair immediately next to you, even though the chair across the table was available, leaned in close to you while you talked, hugged you mid-way through the meeting and at the end of the meeting, and held your hand by placing his hand on top of your hand until you pulled your hand away. Before leaving the coffee shop, Respondent attempted to set another date with you. You allege you told

The California State University

Bakersfield | Channel Islands | Chico | Dominguez Hills | East Bay | Fresno | Fullerton | Humboldt | Long Beach | Los Angeles | Maritime Academy
Monterey Bay | Northridge | Pomona | Sacramento | San Bernardino | San Diego | San Francisco | San Jose | San Luis Obispo | San Marcos | Sonoma | Stanislaus

Respondent you were too busy, but Respondent repeatedly requested that you see him again. After your meeting, Respondent continued to text you photographs of himself in a wetsuit, pictures of sunsets, and suggested the two of you take your puppy for a walk on the beach. Ultimately, you texted Respondent that you wanted to keep your relationship with Respondent purely professional and asked that Respondent no longer text you.

As the CSUSM Title IX Coordinator, I assigned the task of investigating this matter to Carinna Connelly, Title IX/DHR Investigator (Investigator). She reviewed the information and documentation collected during the investigation and, as appropriate, consulted with other employees and managers to assist in addressing and resolving the issues identified during the course of the investigation.

The conclusions reached in this investigation were based upon the totality of the evidence and a thorough analysis of all the facts available to the Investigator during the investigation. Where necessary, credibility determinations were made. Findings and credibility determinations were made applying the preponderance of evidence standard. Preponderance of the evidence means the greater weight of the evidence, i.e., the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. Preponderance of the evidence is the applicable standard for investigations conducted under EO 1097.

The investigative process included interviews of all parties and review of documentary evidence. All investigation interviews were conducted in-person or telephonically. The evidence considered during this investigation included: interviews with you, Respondent, Witness [REDACTED], documents submitted by you, including an email chain between yourself and Respondent and a text message chain between yourself and Respondent, and documents submitted by Respondent including emails between yourself and Respondent and a screenshot of an Instagram post from Respondent's Instagram account.

The Investigator reviewed whether the preponderance of the evidence demonstrated that Respondent engaged in Sexual Harassment as defined in EO 1097. I encourage you to review EO 1097 to understand the exact definitions of the terms used and to provide context for this finding.

The investigation concluded, by a preponderance of the evidence, that Respondent engaged in Sexual Harassment against you in violation of EO 1097.¹

The evidence produced during the investigation concluded that: 1) Respondent placed his hand on your hand and left his hand on yours until you pulled your hand away; 2) Respondent used the term "random fucks" when inquiring about your sex life; 3) Respondent stated he hoped your relationship with your boyfriend ended; 4) Respondent told you that his wife had told him that he was free to find someone else to be with; 5) Respondent commented on your physical appearance by stating you were "beautiful" and "his type," while simultaneously stating he could get fired for his comments; and 6) Respondent told you that you could use notecards on your presentation in a manner that made it seem he was allowing you to break the rules.

In regards to Sexual Harassment, the investigation concluded that Respondent's conduct was unwelcome, sexual in nature, and sufficiently severe, persistent or pervasive that it could be considered by a reasonable person in your shoes, and was in fact considered by you, to have limited your ability to participate in or benefit from the services, activities, or opportunities offered by the University. Specifically, the Investigator found that when

¹ A finding of Sexual Harassment of a student also constitutes unprofessional conduct under California Education Code Section 89535; however, this section is not independently discussed to avoid unnecessary duplication as the analysis under EO 1097 details how Respondent's conduct was unprofessional and inappropriate.

Respondent first learned that you were no longer engaged to be married, Respondent repeatedly suggested that you and he should see each other socially until you agreed to meet Respondent. Respondent told you during class on October 23, 2019 that you and he should get together, then emailed you the following day inviting you to coffee. When you called Respondent on his office phone to cancel your scheduled coffee meeting, Respondent suggested you reschedule. Then on November 4, 5, 8, 11, 12, 13, 15, and 16, 2019, Respondent sent text messages to you indicating his desire to see you socially. Additionally, within the text messages, Respondent repeatedly complimented you stating you were “cool” multiple times, stating you were an “interesting, intelligent and attractive homie girl” and stating, “I felt you were special from when I first met you.” On November 8, 11, and 15, 2019, Respondent sent you photographs of himself in a wetsuit at the beach and/or photographs of sunsets.

While at the November 13, 2019 coffee meeting, Respondent told you that you were “beautiful” and “his type”, then asked you if you were attracted to “short men like him” and told you he hoped your relationship with your boyfriend ended. Respondent also stated that he “could get fired” for his comments complimenting you. Further, Respondent asked if you were engaging in random “hook-ups,” advised you that having “random fucks” would help you get over break-ups, told you that engaging in casual sex had helped him get over break ups in the past, and informed you that his wife was not interested in having sex with him and told him to find someone else to have sex with. Furthermore, during the coffee meeting, Respondent took the seat right next to you, even though the seat across from you was available and leaned in close to you throughout the interaction. Additionally, Respondent placed his hand on your hand and left his hand on yours until you pulled your hand away. Also, midway through the meeting, Respondent announced that he was ready for a hug and proceeded to hug you and hugged you again at the end of the meeting.

You did not welcome Respondent’s repeated attempts to see you socially, nor did you welcome Respondent’s verbal and nonverbal conduct of a sexual nature during the November 13, 2019 coffee meeting. You repeatedly attempted to limit your contact with Respondent. Specifically, you canceled your first scheduled coffee date and resisted attempts to reschedule. While you ultimately agreed to meet Respondent for coffee, you had limited ability to decline the repeated invitations due to the power differential between Respondent and yourself. Further, you did not accept Respondent’s invitations for a surf lesson, a walk on the beach with your dog, his offer to help her move, or his invitation for a second coffee meeting. Finally, via a text message on November 16, 2019, you directly communicated to Respondent that you wanted to limit your communication with Respondent to only academic matters and requested that Respondent no longer text you.

In addition, during the November 13, 2019 coffee meeting, you did not reciprocate Respondent’s verbal and nonverbal conduct of a sexual nature. Specifically, you did not reciprocate when Respondent complimented your physical appearance. While Respondent complimented you, stating you were “beautiful” and stating you were “his type,” you did not compliment Respondent’s physical appearance and stated your boyfriend (who did not look like Respondent) was your type when asked. Further, when Respondent asked about your sex life and talked about his own sex life, you did not make statements of a sexual nature nor share information about your sex life. Instead, you attempted to divert the conversation away from personal or sexual topics. Further, you quickly pulled your hand away after Respondent placed his hand on top of your hand, evidencing that you did not welcome Respondent’s physical contact. Finally, via a text message on November 16, 2019, you directly communicated to Respondent that you wanted to limit your communication with Respondent to only academic matters and requested that Respondent no longer text you. The totality of Respondent’s conduct including the repeated text messages sent over a several day period that contained multiple inappropriate compliments, the persistent invitations to meet socially despite you either ignoring or declining the invitations, the repeated verbal statements intimating Respondent’s desire to start a sexual or romantic relationship with you during the November 13, 2019 coffee meeting, the sexually explicit statements regarding Respondent’s sex life and his

inquiries into your sex life, and Respondent's nonverbal conduct of placing his hand on top of your hand and hugging you, all led the Investigator to conclude the conduct was sexual in nature.

Finally, Respondent's conduct was sufficiently severe that a reasonable person could, and you did, consider it to have limited your ability to participate in or benefit from the services, activities, or opportunities offered by the University. Several factors contributed to the severity of Respondent's conduct including, the fact that Respondent had significant authority and power over you. Respondent was your current advisor for your [REDACTED] [REDACTED] course, and responsible for assigning your grade in the course. The [REDACTED] course is a requirement for graduation; failing or withdrawing from the course would have delayed your graduation date. Further, Respondent highlighted his willingness to abuse his position of power when he told you that you could use notecards on your presentation when it had previously been communicated to the class that notecards were prohibited. The persistence of Respondent's conduct and the explicitness of Respondent's sexual comments also contributed to the severity of Respondent's conduct, as experienced by you. The investigation concluded that the unwelcome sexual conduct was sufficiently severe to reasonably have limited your ability to participate in or benefit from the services, activities, or opportunities offered by the University.

Per EO 1097, the parties have a right to appeal EO 1097 findings to the Office of the Chancellor of the California State University. Please see EO 1097 Revised March 29, 2019, Article IV, Section A-I for details on the appeals process. Should a party choose, the appeal must be filed with the Office of the Chancellor no later than **10 working days** (July 16, 2020) after the date of this Notice of Investigation Outcome. Enclosed is a copy of the investigation report with attachments.

Please be assured that the contents of the investigation are confidential and will be disclosed only to those individuals who have a legitimate business need to know or as required by law. Additionally, I remind you of our policies prohibiting retaliation, harassment or discrimination, and direct you to refrain from harassment, retaliation or discrimination against any faculty, staff, or students who may have participated in this investigation.

If you have any questions or concerns about any of these expectations, or about any part of the investigation, please contact me.

Cc: Michelle Hunt, Associate Vice President for Faculty Affairs