

THE UNIVERSITY OF ARIZONA
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Investigative Report

CONFIDENTIAL

Page 1 of 38

Complaint No.:	04-06A-MKM	Date Complaint Received:
Complainant:	Administrative Review	August 2004
Respondent:	Dr. Timothy Slater	Report Date:
Department:	Department of Astronomy, Steward Observatory	March 31, 2005

BACKGROUND:

Prior to July 2004, several individuals approached the EOAAO to discuss sexually charged conduct they were experiencing in the College of Astronomy, and Steward Observatory. They stated that the conduct was occurring across ranks; some indicated the conduct was creating a sexually hostile work environment. Some indicated retaliation might be occurring. These individuals refused to file complaints against the department because they feared work-related repercussions, including unlawful retaliation. Consequently the EOAAO met with administrators in the Department of Astronomy and Steward Observatory to discuss initiating an investigation into sexual harassment, sexually hostile work environment. The department, in turn, formalized a request for investigation, such that this Administrative Review began in August 2004.

Responsive to evidence obtained in the early stages of investigation, the EOAAO named Dr. Tim Slater as a respondent in this case, on September 24, 2004. The EOAAO notified Dr. Slater of his respondent status in accordance with EOAAO procedures, identifying sexual harassment and retaliation as the relevant issues.

Dr. Slater was hired by the University of Arizona on August 6, 2001, as an Associate Professor of Astronomy. He received tenure standing in May 2004. He has a variety of duties at the university, including his post as the Conceptual Astronomy and Physics Education Research (CAPER) team leader.

SCOPE OF INVESTIGATION:

In the course of the investigation, the investigator interviewed multiple individuals—some more than once—who were associated with the Department of Astronomy, Steward Observatory, and/or the CAPER team. Witnesses were selected either randomly, or with an effort to cross-section levels of authority and closeness, professional and/or personal, with the respondent. All efforts were made to get a comprehensive point of view.

ISSUE:

Did Dr. Slater violate the University's Sexual Harassment Policy, as well as the policy's Retaliation component?

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 2 of 38

STATEMENT OF COMPLAINT:

There is no Statement of Complaint *per se*, since none of the forthcoming individuals chose not to file a complaint, such that the investigation was initiated by Administrative Review. However, alleged conduct included continual sexual joking, banter and unwelcome touching.

WITNESS STATEMENTS:

Witness A provided the following information:

Witness A recalled that Dr. Slater frequently told sexual jokes, made invitations to bathe in his hot tub (at house parties,) and joked that bathing suits were optional.

Witness A recalled that Dr. Slater and his wife gave sex toys to guests and chocolate handcuffs to a graduate student.

On one occasion, the witness recalled that Dr. Slater mentioned that "so and so" was sleeping with "so and so"—and "isn't it great?" He went on to say, "Now everyone on the CAPER team has had sex at my house. I can't wait to install the cameras," or words to that effect. Witness A did not respond, but felt that the question, "So, why not you," was implied by Dr. Slater.

Dr. Slater inquired about Witness A's sex life on more than one occasion, and asked whom Witness A would be having in, when Witness A requested a private room during departmental travel.

Witness B provided the following information:

Immediately upon her hire, Witness B noticed that Dr. Slater conducted himself in a sexualized manner that she found to be inappropriate and outside her comfort level.

Witness B stated she is definitely not the only one toward whom Dr. Slater is sexual in his conduct.

General behaviors include stopping in his tracks whenever he sees a woman walk by in a short skirt, even insisting that all conversation cease so he can take in the scene. Witness B stated Dr. Slater relates most things to sex, *e.g.*, on one occasion, when Witness B brought in a large blue exercise ball to use for seating, he told her he had a prohibition against having "blue balls" in the office.

On another occasion he told Witness B that he had considered inviting her to swim over the weekend, but knew she would bring her bathing suit, so decided against it.

The University of Arizona
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 3 of 38

Witness B stated that Dr. Slater and Witness J* make a lot of sexual jokes and create sexual banter on a regular basis. She noted a lot of the women tend to ignore this when it is occurring around them.

On a regular basis, Dr. Slater has told Witness B she would teach better if she did not wear underwear.

On at least one occasion he grabbed her underwear through her dress, stretched it and snapped it, and said, "You'd look a whole lot better without these on," or words to that effect. That same day he invited her to attend a lunch with a visiting female graduate student from [REDACTED] and Witness J. Dr. Slater indicated they would be lunching at a local topless bar. At lunch both Dr. Slater and Witness J paid for and received lap dances. Dr. Slater offered to purchase a lap dance for Witness B; she declined and he did not push the issue further.

Witness B reported that during the semester the sexual conduct occurs daily.

Witness C provided the following information:

Witness C stated that she has continual but infrequent interaction with Dr. Slater during the course of her work. She stated that her concern regarding Dr. Slater reflects sexual conduct occurring on one day: [REDACTED] Witness C traveled with Dr. Slater to [REDACTED] by car, in the company of a female graduate student.

During the car trip, Witness C told Dr. Slater some work she had completed for CAPER. He responded by saying, "Awesome! I could just kiss you full on the mouth," or words very close to those. Witness C stated she found this response distasteful.

Later he asked her, "How bad can I be with you?" When she asked him what he meant, he asked her if she would be reporting his comments back to her supervisor.

Dr. Slater went on to relate that when he goes to academic conferences out of town he goes online to set up "hook-ups" (sexual dates) with women in the geographic area. He told Witness C that his personal (sexual) record was four (4) women in twenty-four (24) hours.

Dr. Slater also stated that he and his wife occasionally set up *manage-a-trois*.

* Witness J is a male assistant staff scientist who assists Dr. Slater in running CAPER, among other duties. He is similarly situated to Witness B. His interview is summarized on page 16 of this document.

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 4 of 38

Dr. Slater and the accompanying female graduate student discussed the upcoming visit of Dr. Slater's colleague. She asked Dr. Slater if she would have to sleep with him, to which Dr. Slater replied, "No, not this one." Witness C looked at them and exclaimed, "What?" whereupon Dr. Slater told her that occasionally he might have to ask her to take one for the team.

Talking about Witness J, Dr. Slater said, "Yeah, he likes the young ones. Witness C asked if that individual did not have a girlfriend. Dr. Slater replied that a girlfriend was one thing, but a student was another. Witness C asked if the students were minors, to which Dr. Slater responded that they were all probably over 18.

He added that he, Dr. Slater, preferred a more mature woman who knew "her way around the bedroom." Some minutes later he turned to Witness C and asked her if she knew "anything about or was any good at giving blowjobs, because (the accompanying female—*name deleted*) does not like to give or receive them—maybe you could give her some pointers."

Witness C then told Slater he was being completely inappropriate. She said, "You barely know me. I only started a couple of weeks ago, and you're already talking to me like this. Doesn't the U of A give sexual harassment training, or were you absent that day?" She went on to say that she has a particularly large boyfriend (whom she described, in part, as Black) She told Dr. Slater that he would not appreciate the manner in which Dr. Slater was speaking to her. Dr. Slater then asked Witness C if it were true that once you went black, you'd never go back," or words to that effect.

Later Dr. Slater joked that he would pull off at a rest stop so they could have a threesome. Witness C responded by saying, "Like that's going to happen," or words to that effect. After that she tried changing the subject every time it turned sexual, and then she related a story of personal tragedy (non-sexual,) which she noted seemed to sober Dr. Slater and the other female right away.

Witness C stated that she reported Dr. Slater's conduct to the Principle Investigator (PI) on her project. The PI, in turn, told her she should report it to her supervisor, which she did.

[Relevant to Witness D's testimony]

Witness C stated she was aware that Dr. Slater appeared to be trying to take [REDACTED] program, [REDACTED] away from the department, and bring it over to Steward Observatory where he also works. She stated he has been pulling funding from the program. Additionally he bad-mouths the Program Coordinator, Witness C's supervisor. He has also been giving responsibilities previously held by that supervisor to his various graduate students.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 5 of 38

Witness D provided the following information:

Witness D recalled that, at a Halloween party at Dr. Slater's house in [REDACTED] he told her that one of his sexual fantasies was to be with a Catholic schoolgirl. She was in costume as a Catholic schoolgirl.

Witness D stated that throughout her work with Dr. Slater he had a practice of requesting and taking hugs on a too-frequent basis that made her uncomfortable, and asking her about the marital/dating status of women in the department and surrounds; he did not ask similar questions about males, she recalled. Additionally, she noted that Dr. Slater had a social clique within the professional arena. She stated that they frequently spoke in a loose code, such that it was difficult to know specifically what they were discussing, but clear that it was often laced with sexual overtones. For example, one might hear "eight (8) inches" or other random phrases thrown in with other conversation. She became increasingly ill-at-ease around Dr. Slater as time passed, she said.

In [REDACTED], Witness D had to attend a meeting in [REDACTED] with Dr. Slater. They drove alone in his wife's car. When Witness D got into the car, Dr. Slater commented that he wished she had worn a skirt (she was wearing pants.) She did not ask him why. Instead she told him that she had once successfully filed suit against a former employer. She told him the reason, the entity and the outcome, with the conscious intent to make him reconsider how he was going to speak to her. Although her previous legal action had nothing to do with sexual harassment, Dr. Slater fell virtually silent for the drive to and from Phoenix.

Prior to this interaction, Dr. Slater had always praised Witness D and her work very highly. He had even played the "sympathetic character" during a period when Witness D was having some personal problems. After the [REDACTED] interaction in the car, Witness D noted the following changes in Dr. Slater's conduct toward her:

- He stopped communicating with her;
- He stopped meeting with her on a weekly basis (now they meet 1:6 months);
- He postponed her annual evaluation, even under different direction from above;
- He finally gave her a verbal evaluation, which was profoundly and inappropriately negative, and falsely blamed it on a Department Head. Of note, when she confronted him about his conduct and the evaluation, Dr. Slater told Witness D that things had changed, and the issues would never be resolved. He would not say what the issues were;
- He has removed duties to his graduate students and staff, who are not qualified for the assignments, e.g. [REDACTED] and Witness D's title as [REDACTED] respectively;

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 6 of 38

- He encourages his clique to be disrespectful to Witness D and reprimands Witness D about interactions, providing her no reasonable support in her position.
- He blames Witness D for decisions made by her superiors, who are also Dr. Slater's superiors.

Witness B provided the following additional information:

On or about [REDACTED] while talking to Dr. Slater in the lab, Witness B commented that the room was cold. Dr. Slater looked at her breasts and commented that he thought "they" were supposed to get hard and stand out when they were cold, and that it must not be too cold. Witness B walked away.

On [REDACTED] Witness B drove to a professional meeting with Dr. Slater. On the ride over, Dr. Slater made mention of swimming naked in his backyard pool. Witness B responded that he really needed to stop the sexual stuff.

She recalled that Dr. Slater got very serious and told her, "Listen, I like my life. Yes, I sexually harass people. I am not going to change. If you have a problem with it, you should start looking for employment elsewhere." He also stated that he surrounds himself with people who do not have a problem with it. She stated that he was not mean about it, but came off as very straightforward and matter-of-fact. Witness B responded that she was only telling him for his own good, and that he could get in a lot of trouble for his behavior. She recalled that he thanked her, saying, "I appreciate that," or words to that effect.

Witness B stated that although Dr. Slater had told her, unsolicited, that he was very happy with the work she had done while he was gone during the summer months, and he was glad to have her on his team, she feared he would fire her on the spot if she pursued the issue of sexual harassment any further, or stated her position on it any more clearly. [She stated that she is paid from his grant, and believed he could fire her himself.]

During the stop at Dr. Slater's wife's work, Witness B told his wife a silly joke about penguins (no sexual content.) Later, Dr. Slater joked that sexual harassment was a small price to pay for telling such bad jokes. She stated that he made other "digs" throughout the day about sexual harassment, as well as continuing to make sexual comments. For example, he noted how it might appear to passing motorists, at a rest stop, when Witness B was straightening up the car (Witness B indicated it was the kid car with lots of crumbs and toys, etc.) Dr. Slater added he hoped they got the "wrong" idea, or words to that effect. In another instance he reached over to get his cell phone. Witness B asked him what he was doing, and he told her, adding, "But I got to check you out, too," or words to that effect.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 7 of 38

During September 2004, the EOAAO interviewed six (6) individuals who work near or around one or more of the areas in which Dr. Slater has involvement. Some were male, some female, some in positions of authority, some not. None of these individuals testified to having any first-hand knowledge of any sexual conduct by anyone in their respective area, including joking, suggestive commentary and touching. None had heard reports or complaints of same, with the exception of one individual whose colleague had complained about sexual comments made by Dr. Slater, which she had deemed inappropriate [identified as Witness B.] There was limited discussion about this over lunch on one occasion.

On September 23, 2004, Witness B provided the following additional information:

On [REDACTED] Dr. Slater informed her she would be non-renewed in [REDACTED]. He told her she was not a good fit with the group. He told her that she was doing good work, and that he knew she was not slacking. He reiterated that her skills did not match the group's needs or direction—words to that effect. He told her he thought she would be happier somewhere else.

Witness B opined that Dr. Slater's decision to non-renew her contract was the result of his belief that she had complained about his sexual conduct [by [REDACTED] several individuals from CAPER and other pertinent areas, identified by some witnesses as particular friends of Dr. Slater's, had been interviewed at the EOAAO.]

On September 29, 2004, Witness E provided the following testimony:

Witness E stated that she is supervised by Dr. Slater and Witness J, and has been in her position since [REDACTED]. She is a member of the CAPER team and associates mostly with the members of this group, professionally.

She recalled that following an occasion on which Dr. Slater and her other supervisor, Witness J, were discussing their visit to a strip club, she told them conversationally that their topic of discussion made her very uncomfortable and she wished they would not talk about that in front of her. She recalled they were conciliatory and told her they would try to stop, but that if they did it again, she should tell them again that she objected to it.

She stated that although they have since refrained from talking about strip clubs, specifically, they still make sexual comments in her presence and/or vicinity. For example, she recalled they have a sort of rating system by which they measure Freshmen women (people walking by, for instance.) She stated that approximately once a month, a sexual comment is made that she finds offensive. She stated that she considers herself to be fairly sensitive to sexual material, especially where there is power differential. She stated also that, while this is true, she does not "jump at the chance" to make a big deal out of these kinds of issues.

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 8 of 38

The witness recalled that other female graduate students had commented that their advisors, Dr. Slater and Witness J, were too sexual in their demeanor.

Information from Respondent:

On September 30, 2004 Dr. Tim Slater provided the following information:

He stated that he recalled two occasions on which individuals complained directly to him about his personal conduct:

- In [REDACTED] talking about a bachelor party at a strip club, such that a graduate student commented, "That really creeps me out when you talk that way in front of me," or words to that affect. He recalled apologizing.
- A graduate student and former CAPER team member telling him that it had made her uncomfortable when he massaged her shoulders publicly, while hosting a teacher workshop. Dr. Slater recalled that she was concerned others might misinterpret the nature of their relationship, were they to observe his gesture.

Dr. Slater characterized himself as a "touchy" person who often hugs people. He stated that he is a "flirtatious" person, and defined that as "friendly," and "flattering." He stated this is mostly with the CAPER group, since CAPER constitutes his primary professional and social interaction.

Dr. Slater stated that he hugs males as well as females, and that he brought many people on the team [CAPER] from Montana and Kansas [universities there.] Many had lived in his house with him and his wife from time to time, and some of the relationships were of 10-12 years' duration. He added they had been in each other's weddings. He stated that they all socialize together at someone's house (often his) on 2-3 occasions *per* month.

Dr. Slater stated that he and Witness J run the CAPER group, and that within the group they have a joke that he, Slater, is the "mom," and Witness J is the "dad." He stated that some of the CAPER team members are more like family than others; he listed the two groups.

Regarding reports that he had given out "sex toys" at social events; he recalled that he had given one female graduate student a pickle or cucumber-shaped vibrator at a "pre-marriage" party. He could not recall having given out chocolate handcuffs, as specifically alleged. Regarding the vibrator, he recalled that the recipient was a collector of the vegetable it represented, and that he was certain she was not offended by it. He

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 9 of 38

recalled there were pickle or cucumber jokes going around the office for several days, thereafter.

Dr. Slater did not recall making the comment that he would have to install cameras in his home, as alleged, and referential to the alleged comment that everyone [in CAPER] had engaged in sexual activity in his home. Dr. Slater reiterated that many of the CAPER team members had, in fact, lived with him at his house over the years.

Regarding allegations that he stopped to look at women, and commented on their appearance, he stated this was common practice for him, and that he might have done it anywhere from "one-to-ten-to-a-hundred times." He denied that he had a rating system, but recalled saying things like, "You're going to have to say that again, because that's too distracting." He confirmed he had made such comments to women in the department and often Witness J, who joked with him in a similar fashion.

Regarding allegations that he told a colleague he had a prohibition against "blue balls" in the office (referencing an exercise ball,) he stated he did not recall making the comment, but that it was "consistent" with the kinds of comments he would make.

He believed he had not told a colleague he would have invited her to swim over the weekend but for the likelihood she would wear her swim suit. He stated he doubted that comment because he is not exclusionary by nature.

He did not recall telling a [subordinate female] colleague that she would teach better were she to stop wearing underwear, and did not recall snapping her underwear [through her T-shirt dress, as alleged.] However, he stated, he did tend to say a lot of sexual things.

Dr. Slater confirmed that he took a visiting female graduate student, as well as a male and a female [subordinate] colleague to lunch at a local strip club. He did not recall that specific event, but stated that he [and the accompanying male] usually purchase lap dances when they go. He usually offers to purchase lap dances for others, as well. He stated they go about once *per* month, and that it's usually a mixed group (male and female.)

Dr. Slater recalled that a group of department women had gone to a male club in honor of a wedding or birthday, and reported having a terrible time. Somehow, as an offshoot to that situation, one of the women [Witness B] thought she might like female clubs better, and decided to join the men. He could not recall how many times she attended, but thought probably several. He stated that he has gone with his wife, and several of the graduate students and/or colleagues. He stated the tab is always collected for "Dutch" treat: departmental funds are never used.

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 10 of 38

Dr. Slater confirmed he had traveled with co-workers by car [both female] to [REDACTED]. He identified one graduate student and an administrative assistant [often travels alone with same graduate student; one trip only with additional individual to that destination.] He stated that he often uses the phrase, "I could kiss you full on the lips," when speaking to males and females. He stated it is a line from a movie. He did not recall saying in on that particular trip, but did not deny it. He confirmed that he and the graduate student often joke about her sleeping with visiting professors, but stated it is only a joke. He confirmed that the line, "Tak[ing] one for the team" is often used in the context of the same joke, but also refers to the execution of any task. He also recalled that at least one female graduate student shares that joke with him on a fairly regular basis.

Dr. Slater stated that he is "sexually overt" and sometimes says things that are probably "inappropriate." He stated also that he has limits, and that talking about "blow jobs, snapping underwear or talking about co-workers' clothing from a sexual perspective [you'd teach better if you stopped wearing underwear] all go beyond his limits [all these items were alleged.]

Dr. Slater stated that prior to the investigation he had always thought he knew who would be offended by what, and had believed that he always stopped before crossing an offending line.

He recalled that a graduate student [who had worked on CAPER the year before, and had left the program,] told him once that he could get into trouble for the kind of things he was saying. He could not recall that anyone else had ever warned him about this possibility [as Witness B alleged she had done on a number of occasions.] Later in the interview, however, Dr. Slater recalled that he had spoken to Witness B about her conduct toward him: he asked her to refrain from placing her head on his shoulder at professional meetings, which she frequently did. He told her that he liked it when she did this, but for the fact that it might promote the wrong impression, and might be seen as unprofessional.

He then recalled that Witness B agreed to his request, adding that he, too, needed to be more careful about the sexual joking that he did in public. Dr. Slater recalled telling Witness B at that time that he liked the way he had his life set up, that he was a sexually "overt" person, and that he would probably always be that way. Dr. Slater denied telling Witness B that he was sexually harassing people and that he would continue to. Dr. Slater denied that he told Witness B at that time that if she did not like his conduct she would do better to find another job. He did recall that they had talked about her position at that time in reference to his ongoing concerns that her area of research did not fit in with CAPER's research direction.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 11 of 38

Dr. Slater stated that her area, [REDACTED] was always an unusual fit. He stated that Witness B lacks teaching and research experience that other team members have, and that when he hired her it was to fill a gap: he needed someone to [REDACTED] Witness B fulfilled that need, and continues to teach the courses, but that is all she is qualified to teach. Any one of his team members would be qualified to teach the course, he said.

Regarding his conversation on the trip to [REDACTED] he recalled that he did ask Witness C a question about the general acceptability of his sexual banter, and that she replied that if he had seen her website [or Yahoo ID] he would not have asked. Dr. Slater recalled that she said her ID was [REDACTED] and that she had talked about meeting her husband [boyfriend] online. He denied that she broached the topic of [REDACTED] [REDACTED] [as alleged] to quell the conversation. He stated he was aware of [REDACTED] because her previous employer had mentioned it as a reason for her wanting a change of venue, during a referral dialogue. He did not have specific memory of the sexual comments she alleged he made during that car ride, but believed some of them sounded like something he might say, while others did not.

Dr. Slater admitted he told Witness C about his "personal sexual record," as alleged, adding that this went back to his high school marching band days. He admitted he did not share the latter, historic detail with Witness C.

October 6, 2004, Witness D provided additional information:

The witness called to notify the investigator that Dr. Slater had taken action to remove her assistant, from his grant. She stated that Dr. Slater is the Primary Investigator (PI) on the [REDACTED] from which the assistant previously received 50% of her salary. She stated there was no discussion about how it would affect the assistant's salary or position. Witness D went to the PI from the [REDACTED] and asked if he could fund that 50% with "carryover" funding, to which he agreed.

The Witness stated that Dr. Slater had always been capricious with his own funding, but had not been that way with others' funding. She admitted she had no firsthand knowledge of his use of his own grant. She recalled that prior to the car ride to [REDACTED] he had not tried to tell her how to handle her funding, but that since then he had been, for example, with the [REDACTED] grant, which she had written herself. She stated his explanation was that he is [REDACTED] and can do whatever he wants with the grant.]

The witness stated she believed that Dr. Slater thought withdrawing the funds would put her assistant out of a job, and that his main motivation for this was to put more pressure on the Witness, herself, by putting more work back on her. She stated that her assistant had told her that Dr. Slater came into the office that Monday ([REDACTED]) to tell the

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 12 of 38

assistant that he never intended that she lose her job. He also asked questions about the Witness, and whether she were putting in enough time since she is taking classes (which Dr. Slater had approved.)

The Witness stated that she perceived that Dr. Slater was expressing doubts about her to her own assistant. She further opined that he had turned against her several other individuals who had worked for her or with her previously, as well as the new co-director of [REDACTED]. Evidence for this was that the individuals had left the area, and/or treated her differently than they had initially. She made no specific statements about how Dr. Slater would have gone about turning people against her, and provided no direct evidence for such action. She provided the names of several individuals about whom she had concerns.

On October 11, 2004, Witness C provided the following additional information:

Witness C stated that her supervisor received notification by e-mail from Dr. Slater on [REDACTED] stating that the witness' salary source should be changed to 90% [REDACTED] budget (had been 50%, with 40% at [REDACTED] 10 % unknown.) He told her supervisor that the change was necessary because [REDACTED] was running "in the red."

Witness C stated that her supervisor went to the Primary Investigator (PI) for [REDACTED] to secure the additional funding necessary for Witness C's salary. She opined that Dr. Slater had no real idea whether this would work out when he requested the change.

She recalled that Dr. Slater came by the office to talk to her on [REDACTED]. He asked several questions about her supervisor, and whether she (the supervisor) were handling her work load in addition to the student teaching she is currently doing. Witness C told him that her supervisor was handling both, and was always there when she was supposed to be.

At that time, Witness C asked Dr. Slater why he had changed her salary source. He responded that he had run out of available funds in the [REDACTED] grant. Witness C learned later that Dr. Slater had hired a graduate student to work off of that grant, right around the same time. She opined that it was difficult to determine whether the funding change were retaliatory. She stated this "seat-of-the-pants" action seemed consistent with his past practices.

She stated that in their interactions, he was always very charming, and never seemed angry. She said that he checks in to ask her about her supervisor's conduct and availability fairly consistently. One time she confronted him about it, telling him she was not going to take sides, and asking what happened to make them dislike each other so much. He answered only that it was because of things in the past, about which they could not see "eye-to-eye," and that it could not be remedied.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 13 of 38

Witness C opined that it was difficult to work for her supervisor and Dr. Slater—both. She stated that her supervisor gets very emotional and is unpredictable, and that Dr. Slater holds that behavior against her supervisor.

On September 29, 2004, Witness F provided the following testimony:

Witness F denied that Dr. Slater had done anything to turn her against Witness D, as alleged by Witness D. She confirmed having had conflicts with Witness D when they worked together, and that two (2) months prior to her transfer to [REDACTED], she had approached Dr. Slater about those conflicts. He was very supportive, and changed the office structure so that she could report directly to him. She provided examples of the kinds of conflicts she had with Witness D, none of which were related in any way to Dr. Slater. Additionally, many of the same examples were corroborated by other witnesses, in their descriptions of professional interactions with Witness D.

Witness F also recalled that Witness D had stated on at least one occasion that she would use [REDACTED] to protect her job, if funding or other circumstances threatened her position. Witness F recalled that Witness D had told her about her involvement in a labor law suit in which she prevailed and influenced labor laws in Arizona. She did not know whether Witness D had told Dr. Slater the same story.

Witness F provided copies of contemporaneous correspondence between her and Dr. Slater, describing her conflicts with Witness D.

NOTE: Witness D provided the names of two other individuals [unidentified herein] with whom she had worked, and whom she believed Dr. Slater had endeavored to turn against her. The EOAAO interviewed both; both provided testimony refuting that Dr. Slater had influenced their respective relationships with Witness D.

All three (3) witnesses testified that they had no trouble with Dr. Slater in terms of sexual harassment in any form.

On October 29, 2004, Witness G provided the following information:

Witness G, an [REDACTED] who works in the professional vicinity of Dr. Slater, but who is not part of the CAPER team, testified that he was not aware of any sexual conduct, aside from an occasional off-color joke between men. The one specific comment he could recall was Dr. Slater's comment, regarding Witness J's girlfriend, "That's what you get when you screw around with a teacher," or words to that effect. He had not heard Dr. Slater make any such comments in front of women, he stated. He also stated that he never socializes with Dr. Slater, and does not have any knowledge of his social conduct.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 14 of 38

Regarding Dr. Slater's interactions with Witness D, he stated that he had no personal knowledge of any watershed event that caused a rupture between them. However, he stated that Witness D had been accustomed, prior to Dr. Slater's arrival, to far greater autonomy in her work. Since Dr. Slater had begun to exert his own authority over joint projects, there had been ongoing conflict, he opined. He further shared the opinion that they are both "control freaks," and reiterated that this aspect of their natures is likely the root of any problems between them. He recalled comments made by Dr. Slater, similar to the following: "I am in charge, not [Witness D]"; "I'd be happy to take [REDACTED] out of [REDACTED] control"; "I just cannot get along with [Witness D]."

On November 9, 2004, Witness H provided the following information:

Witness H stated that Dr. Slater and Witness J appear to make most decisions together. Witness H opined that Dr. Slater looks out for everyone, and is very concerned about the well-being of others, while Witness J is self-concerned.

Witness H was aware of frequent sexual joking and commentary at the office, but stated that given everyone's busy schedules, the conduct did not occur enough to create a sexually hostile work environment [estimated Dr. Slater was in the vicinity about 5 (five) hours *per week*.] Regarding others' participation, Witness H stated that different people handled the situation differently.

For example, one individual had asked Dr. Slater and Witness J directly not to discuss their strip club lunches at the office. Witness H recalled that Dr. Slater was apologetic, whereas Witness J continued. Witness H expressed concerns that Witness J often seemed to have the attitude that others' concerns were not going to be his concerns, even in these kinds of situations. Witness H opined that Witness J seemed to encourage Dr. Slater in his sexual behavior occasionally. [Witness H was also aware of a graduate student (female) who had asserted she felt pressured by Dr. Slater to attend a strip club, and who had stated she went along with it as well as she could, but was uncomfortable at the club.] Witness H was not aware whether an additional visiting graduate student, whom, it has been alleged, the Drs.* took to a local strip club, attended by desire or in resignation.

Another handles herself by telling jokes, herself, which are "clean," but often poke fun at gender-based characteristics. This same person appears to have no trouble telling Dr. Slater and Witness J when enough-is-enough, if they are talking about things she prefers not to discuss.

* "Drs." refers to Dr. Slater and Witness J, also a professor.

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 15 of 38

Another individual also tells them to stop, when they are getting inappropriate. In the experience of Witness H, Dr. Slater and Witness J do generally stop their line of commentary, when asked.

Witness H was aware that Dr. Slater had given a graduate student a set of chocolate handcuffs at a social function, and was aware that individual was embarrassed by the gift.

Witness H was not aware of a sign that suggested "Naked Swimming" at Dr. Slater's house, and stated no knowledge of any *actual* naked swimming or bathing. Witness H who had gone swimming at Dr. Slater's house wearing a bathing suit, stated there was no professional or social pressure to attend functions at either Dr.'s homes, although both hosted parties—Dr. Slater, regularly.

Witness H stated that Dr. Slater is a "hugger," who hugs both men and women, and that his hugs do not feel inappropriate to Witness H. Witness H stated they do not discuss their sexual exploits.

Witness H confirmed allegations that Dr. Slater and Witness J assess the appearance of passing women, usually education students (and always female,) but do not subject the women in the office or CAPER team to the same overt objectification. However, Witness H opined that Witness J is generally demeaning to all women to the extent that he acts as if they are all the same, that they are universally hard to please, and that they are something to be looked upon and objectified. Witness H recalled that a visitor to the department had once stated that while Dr. Slater could be completely inappropriate, she liked him anyway, whereas Witness J seemed "slimy" or words to that effect. This visitor also commented that she felt unsafe around Witness J, but did not say why. Witness H also recalled that Witness J frequently made comments to males (often visitors) that working at the University of Arizona was like being "sandblasted with Barbies."

Witness H opined that there are no males in the department and/or in CAPER, whose conduct is sexually inappropriate, besides Dr. Slater's and Witness J's.

Additional Information from witnesses:

A witness stated that, regarding Witness B, she could be difficult to work with, insofar as she was particularly emotional and suffered [REDACTED]. Sometimes she did not come to work for days at a time, and she could be extremely sensitive about random concerns. The witness noted that prior to the point in time when people became generally aware that she had brought complaints against Dr. Slater, she and Dr. Slater had appeared to get along very well. The witness was not aware whether Witness B had maintained a practice of touching Dr. Slater, or putting her head on his shoulder, as Dr. Slater had

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 16 of 38

alleged, but the witness was aware that Witness B was "huggy" around the women in the group.

A witness stated that the phrase "taking one for the team" was often used in the CAPER group to mean taking on a distasteful professional task. This witness had never heard its use in any sexual context, as alleged.

A witness testified to having heard Dr. Slater make jokes at house parties, in front of his [Slater's] wife, about sexual threesomes, and recalled that Slater's wife giggled, such that "it made you wonder." However, the witness had no knowledge of its actual occurrence. The witness recalled that Dr. Slater has one friend he frequently jokes with about consensual "cheating," along the lines of "wife-swapping." This type of joking was also reported to occur openly, at parties.

A witness testified to overhearing a conversation between a department professor (male) and other individuals, in which the professor stated he had observed an interaction between Witness J and a female undergraduate student that made him uncomfortable. He stated that he went into the office to run interference. The professor did not specify on what he believed the discomfort was based.

The witness opined that, based on this, and other observations [previously noted,] the department would do well to pay attention to Witness J's interactions with students, to avoid future problems.

One witness believed that a male graduate student had been marked for hire as a post-doc, and the plan had been to "replace" Witness B. This witness believed that Dr. Slater's original plan had been to keep Witness B in her position for one year; later he decided to keep her through a second year. This witness opined that Witness B should not necessarily have felt surprise over her non-renewal, based on the scarcity of funding/positions in her field.

The witness stated that Dr. Slater does a lot of out-loud thinking about funding and related matters.

On November 23, 2004, Witness J provided the following information:

Witness J confirmed he occasionally tells sexual jokes, and makes comments about the appearance of passing women. He could not recall any specific examples of either. He confirmed that he and Dr. Slater go to strip clubs for lunch. He stated that no one else is compelled to go with them. Women from the department have occasionally attended, sometimes to his surprise. One such surprise was the attendance of Witness B. He believed that she was specifically aware that they were going to the strip club, prior to her accepting the invitation to lunch, and that she did go with them. He recalled that she

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 17 of 38

expressed curiosity. He stated that he has never invited anyone from the department to attend strip bars, himself.

Witness J confirmed that he and Dr. Slater have openly discussed their perspective that they do not always know whether their spouses will perceive good deeds/gifts as "donuts or diamonds." He stated it is a notation he has made about the nature of people in general, as well, and that it was not about women, exclusively.

Witness J confirmed he has made the comment that working at the University is like being sandblasted with Barbies. He stated that it seemed to him that a lot of the women on campus were going out of their way to emulate that physical presentation, and that he has commented on it.

Witness J stated he has never been involved in giving anyone chocolate handcuffs, but was aware there was a rumor going around about that issue, since the investigation began.

He stated that no one had ever approached him about refraining from discussion about strip clubs, and that no one has ever told him he is making too many sexual jokes and comments. He recalled being approached about being less straight-forward in his professional criticisms.

Witness J stated that he was involved in the decision to non-renew Witness B. He opined that it was actually by *his* impetus that it occurred, stating that he had spoken to Dr. Slater about her lack of productivity and success in her domain. He recalled that this started around the time she started working on [REDACTED] when he noted that she was not pulling her own weight. He did not tell Witness B directly that he was concerned with her production. He did occasionally ask her questions about how she was doing to prompt her attention. He recalled that he had been talking to Dr. Slater about his concerns all along, as he does regarding all the graduate students and post docs.

Witness J stated that there is no usual appointment for post docs, but that two (2) years is "fairly normal."

He recalled having discussions with Dr. Slater about Witness B in [REDACTED]. He recalled one definitive conversation, after which he believed Dr. Slater talked to Witness B about her opinion of her own work. Witness J reiterated that the conversation was supposed to have been designed to elicit her opinion--not necessarily to tell her she was non-renewed in absolute terms. However, Witness J never confirmed the conversation, either its occurrence, or its content, with Dr. Slater, and Slater never reported back to him about it.

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 18 of 38

Witness J could not pinpoint a date for all of this, but stated he was sure it was before he learned that Witness B was "behind" the EOAAO investigation.

Witness J noted that Dr. Slater worries more about the well-being of his co-workers more than anyone he has ever known, in terms of accommodating their needs, funding them, and trying to help them keep their work meaningful. Witness J opined he, himself, is viewed as the one who will crack down on everybody.

He stated that he does have personal conversations of various natures with both his male and female students. He added that he rides motor-cross bicycles, and runs into both males and females from his classes (students.) One, in particular, is the EMT at the track, and her boyfriend rides there, so they all hang out sometimes and talk shop. Regarding having made a student uncomfortable, as alleged, he had no information.

Witness J estimated that approximately 80% of all conversation in the group is about work, that health and politics are the second most-discussed issues, that media and music are big, and that sex talk is probably the next measurable percentage [did not offer an estimate.]

Witness J had previously stated that no one ever approached him about limiting his conversations, but then recalled that an undergraduate did once request that he not discuss certain sexual things around her. He stated that as a result of that request, he changed his behavior around her dramatically. He cited her as the only one in CAPER who has not, at some time, made a sexual comment of one kind or another. He stated that *maybe* one other person also does not ever make comments of a sexual nature.

Witness J stated that no one has ever approached him with complaints that Dr. Slater makes too many [or any] sexual comments. He was not aware of incidents [as alleged] when Dr. Slater told anyone they should not wear underwear so they might teach better, when Dr. Slater snapped anyone's underwear, or when Dr. Slater suggested that people might swim naked at his home.

Witness J recalled that the phrase "take one for the team" was used for "a thousand reasons" in the group, that it was applied to duties met by males and females, and that it had no specific sexual connotation that he could recall. He stated it was his belief that no one was ever expected to sleep with anyone else, as a job duty. Witness J further stated that he had not heard Dr. Slater discuss personal sexual records or sexual threesomes.

Witness J recalled that he and Dr. Slater had been discussing the production and value of Witness D's work [redacted] since [redacted] Witness J stated he did not work with her directly, but got feedback about her performance at workshops and meetings, from teachers in the community. Often the feedback was about a problem that had occurred in her line of responsibility. Additionally, graduate students

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 19 of 38

in CAPER complained that she was non-professional in her interactions, that she communicated poorly, that she often was guilty of not carrying her own weight, and that she sometimes withheld needed information, apparently for spite, making more work for everyone else. Witness J added that she simply "dropped the ball" a lot, and that while everyone does it sometimes, she stood out in that way.

Witness J was not aware of any watershed event between her and Dr. Slater that put them in conflict, but he stated that she might be sensitive because she may be aware she is not perceived to be performing at the level of expectation. He stated that in general, they appear to have a decent working relationship; she comes over to talk to him [Slater] occasionally.

Regarding Witness B, Witness J opined that she treats everyone "oddly." He stated that she is not good in groups, to the extent that she has trouble representing her own point of view. He noted that she tends to hide problems for a long time. Witness J confirmed that Witness B has had a habit of putting her head on Dr. Slater's shoulder. He stated she did not seem to be afraid of Dr. Slater. To the contrary, he recalled that during her frequent bouts of [REDACTED] she would sometimes need consoling for days at a time, and would go to Dr. Slater for that solace.

On the other hand, he noted that she appears to avoid him [REDACTED] in order to avoid conflict, he surmised, since she knows he is likely to tell it "as it is."

Witness J stated that it was difficult to tell when Witness B's performance was suffering because of her depression, or by her choice. Not only did she have obvious periods of depression, about which she was candid and open, but also long periods of time in which she would report that everything was OK, but would fail to perform adequately.

Witness J believed that Witness B had determined long before her non-renewal that her work was not a good fit with CAPER, and that she had been seeking work elsewhere since early in [REDACTED]

On November 23, 2004, the respondent provided additional information:

Dr. Slater testified that he could not think of anyone in the CAPER group who had *never* made a comment with some sexual overtone. He stated that while he believed he had set a tone in the group that sexual banter was acceptable, he did not believe he was "driving" the conduct.

He recalled that Witness D had often made comments that suggested something sexual. He recalled that recently she had commented to him that if she only dressed more like Tina Turner she would be able to get the males to do what she needed them to do more quickly (administrative tasks were implied.) Dr. Slater opined that dressing "like Tina

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 20 of 38

Turner" implied baring the midriff and wearing short skirts. He stated that his wife had reminded him [after his first interview transpired] that Witness D had attended his costume Halloween party (in [REDACTED]) dressed, by self-identification, as a "naughty Catholic schoolgirl." Part of her costume was a pair of fishnet thigh-high stockings, he recalled. He reiterated earlier testimony that he did not specifically recall or specifically deny telling her that he had always had a fantasy about "doing" a Catholic schoolgirl.

Dr. Slater recalled that he and Witness B had shared a "ritual" in the past wherein when he arrived at work and she would ask him, "Are you dressed nice?" He was then supposed to show her his "behind" [clothed] so she could make an assessment of his appearance. She would say things like, "Yes, you look fine," or, "No, not quite right." He recalled this sort of thing went on between them regularly until Witness B became romantically interested in someone. He surmised her attitude about kidding around with him, in general, changed around that time, but could not be certain that was the reason.

Regarding Witness A, Dr. Slater recalled that when she resigned from CAPER she told him it was due to problems she had with Witness D, as far as follow-through, securing rooms, preparing materials, and other similar issues. He recalled that Witness D later told him that Witness A did not usually choose to stay in a position for more than a year, and so he surmised that was part of her motivation for leaving.

Providing additional information about the non-renewal of Witness B, Dr. Slater stated that Witness J had pushed repeatedly to non-renew her throughout [REDACTED]. Dr. Slater noted he had concerns about her from the start of her employment, but felt that they could mentor her through them. During the summer [Slater was gone all summer] this started to seem less likely. He recalled having several discussions with Witness B about these concerns, the last of which he believed occurred around two (2) weeks prior to Dr. Slater's meeting with the EOAAO [this meeting occurred on [REDACTED]].

On November 24, 2004, a former CAPER team graduate student provided the following information:

Witness A left the CAPER team of her own volition in [REDACTED]. She stated that her reasons for leaving were that Dr. Slater was so difficult to reach, there was no liaison and no established plan, and the budget was problematic. Additionally she felt that Dr. Slater mismanaged things administratively, such that she often had to "mop things up."

In addition to all these reasons, she left CAPER because of the sexual comments and "lewd" behavior often exhibited by Dr. Slater and Witness J. She recalled there was often sexual joking and banter between the two males, for example, a discussion about a gasoline-powered vibrator, and comments about what women want [sexually, implied.] She also recalled that on one occasion, when she called Dr. Slater in Hawaii with a

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 21 of 38

"laundry list" of things that needed tending, he ended the conversation by asking her how her love life was. She said she found this to be very inappropriate.

She stated there was "unspoken" professional pressure to attend social functions and house parties. When asked to provide examples, Witness A stated it was comments like "We really missed you at that party." Or, "We really hope to see you at the upcoming party." However, the witness stated she really did not have any problems when she failed to attend the Valentine's Day party. At one party she attended [Christmas] she recalled there was joking [only] after-the-fact about naked hot-tubbing.

In earlier testimony, the witness had stated that Witness J was "hitting on" a teacher after a conference they had all attended together. Upon further questioning she admitted that the two were having a mutual conversation in the car, in which nothing was "over the line." Later she observed the two at a party, clearly behaving as a couple [not inappropriately.] That was the extent of the related testimony.

Regarding that couple, Dr. Slater later told her that Witness J was "sleeping with [name deleted]," a piece of information she felt was highly inappropriate for sharing.

Witness A stated she was aware of the strip joint lunches when she was in CAPER, but did not attend any.

On November 29, 2004, Witness B provided additional information:

Witness B stated that Dr. Slater hired her as an [redacted]. They met at a workshop in [redacted]. At her hire, the witness understood that she was supported by a grant [redacted] that had a three (3) year life span, ending in [redacted].

Witness B recalled that in [redacted] she noticed that the new male post doc [similarly situated to witness] was getting more responsibility on the team than she had. She noted that in or about [redacted] his name was added to the CAPER e-mail header, joining the names of Dr. Slater and Witness J. The witness had been aware that Dr. Slater was looking forward to hiring this individual since [redacted] and that Dr. Slater was just waiting for his graduation [doctoral completion.] The witness stated that at no time was it indicated he would replace her.

The witness confirmed that her specialty is unusual in the CAPER group: [redacted] rather than astronomy, and that she had occasional concerns that it might be seen as misfit.

The witness admitted that as early as [redacted] she had already started to think about working elsewhere because she was afraid her contract would not be renewed. She stated

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 22 of 38

that at that time her fear was based on her having had to miss some work. When asked if her fears were based on anything else, she stated she was "psychotic," adding that she worries about everything. She cited no actions on the part of her team members that would have suggested she would be non-renewed at that time.

The witness denied looking for work elsewhere responsive to articulated concerns about her production, or her own desire to change jobs. She confirmed that she did start to look, briefly, out of fear of retaliatory termination, after she learned the EOAAO was investigating in her area. She started looking and then stopped looking, in [REDACTED] after deciding for personal reasons that she was unwilling to leave the Tucson area.

She recalled that in a conversation with Dr. Slater in [REDACTED] they discussed funding mechanisms by which she could stay on after three (3) years. The witness stated that although she wants to finish her third year with CAPER, she has misgivings about working with the group beyond that. She admitted that she had a conversation with Dr. Slater, in which she implied she was seeking that continuation, in an attempt to know where she stood with him at that time.

The witness estimated that she had been spending 20-30 hours a week with Dr. Slater [prior to the investigation] both in and out of the office, and that about 25% of that time their interactions were laced with sexual commentary and conduct. She stated that she never initiated any of the sexual conduct, but sometimes went along with it. She denied any knowledge of the conversation alleged by Slater that started with, "Do you look nice today?" She confirmed she had said things like, "Yeah, I'm really checking out your butt," when he would occasionally stop in front of her and accuse her of staring at his rear end, while walking on campus, for example.

The witness stated that Dr. Slater began to pressure her about going to strip clubs with him very early in her employment. She recalled a conversation in [REDACTED] in which he complained to her that all his female employees were always crying and whining. She told him she would not cry, and he said, well, we'll just see how different you are from everyone else. He further commented that the women he invited to strip clubs always whined about that.

Then, between [REDACTED] Dr. Slater gave her "grief" about not going to the male strip club with other females from the group in March. She recalled that he told her, "You'll have to come with me, then," or words to that effect. She stated she felt professional pressure to attend on the occasion on which she did finally go [REDACTED]

The witness stated that other than Dr. Slater's sexual conduct, he did not have habits that were troubling for her. One time he took her laptop for his own use, and she felt comfortable telling him that was unacceptable. Regarding the sexual conduct, she stated

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 23 of 38

it made her feel diminished, and inferior in importance to the males in the area. She further stated she had the impression that Dr. Slater valued women as objects, more than for their brains.

Additional comments she recalled his making were words similar to the following: "I want to get you naked"; "Stand up, turn around--half the boys in your class are going home to masturbate after watching you teach (referring to students in [REDACTED])"

The witness denied that Dr. Slater asked her how she felt about the option of non-renewal, and that she had agreed to it. She stated that he told her it would be so, and when she asked what she could do to prevent it, he told her, "Nothing. You won't be happy."

The witness stated she believed Dr. Slater made the decision to non-renew her, himself, and that he did it because of the complaints she had made about his conduct. Other than the timing of her non-renewal, relative to Dr. Slater's knowledge of the EOAAO investigation, the witness provided no evidence that the two were related.

On December 7, 2004, Witness K provided the following information:

The witness is an [REDACTED] and has known Dr. Slater and Witness J for several years, to the extent that he networked with them at professional conferences throughout that period. Last year [REDACTED] conversations about his joining their team became more serious as his doctoral work neared completion. Three months ago, in or about [REDACTED] he was hired.

Witness K is aware that his compensation is funded through [REDACTED] a grant that has one more year of funding. After that if more money is allocated, he may continue to work. He stated that no promises were made about the duration of his employment.

The witness stated that he is paid to help run the [REDACTED]

[REDACTED] He has also been asked to take on the [REDACTED]

[REDACTED] He stated that he believes part of the reason for his hire was his experience in this area, gained at [REDACTED] through his graduate program. He stated that at the time of his hire, Dr. Slater had 4-5 new graduate students in related PhD projects.

Witness K stated that he has little opportunity to interact with Witness B. He attended one conference with her about two (2) months ago, where he observed that she seemed less a "team" player than the graduate students who were also there. He recalled that she

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 24 of 38

did her assigned duties, but did not assist with the additional chores, refilling water pitchers, for example.

In working closely with Dr. Slater and Witness J, the witness learned only that they did not consider Witness B to be a major contributor to the program. He stated that he learned this during a conversation about the team, in general, in which they were discussing the progress of all the team members.

The witness stated he also works with [REDACTED]. He stated that he is aware that she has knowledge of Witness B's role in the investigation, but was not aware how she became aware of it. He stated that he has not ever been asked to make any sort of referral about Witness B. He was aware that she had applied for a volunteer position at [REDACTED] in a teaching capacity. He believed she had been accepted and was training with the program. He stated he believed [REDACTED] had no paying positions available.

On December 9, 2004, Witness B provided this additional information:

Witness B confirmed she had applied for a volunteer position at [REDACTED] hoping that it might develop as a paying position. She stated she has been accepted as a volunteer, is training for the position, and has had no trouble there.

On December 15, 2004, the Respondent provided the following additional information:

Dr. Slater reiterated that his first knowledge of the investigation came from overhearing graduate students talking about it. He recalled thinking at some point that they probably had not yet been interviewed because they were speculating against whom the complaint was made and talking about unsupervised employees "up the mountain." He stated that at that time he did not speculate about who had made a complaint. However, he recalled thinking about it the night of September 29, 2004, prior to his first EOAAO interview. He stated that Witness B was not a consideration, and that the only person he thought might have brought a complaint against him was Witness D, an employee he knew did not like him, whom he perceived to be very unpredictable, and who was aware her performance had been unsatisfactory to him since they started working together three (3) years ago. Dr. Slater stated he has never given Witness D a performance review because he is afraid she will act out against "the center" [REDACTED] in some way: messing up budgets; sabotaging teacher workshops; etc.

Dr. Slater stated that the only person with whom he discussed EOAAO interviews was Witness J. He stated that, to this day, he is not aware who else the EOAAO has interviewed.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 25 of 38

Dr. Slater specifically denied that non-renewing Witness B was in any way related to the sexual harassment complaints brought against him.

He reiterated that she had been seeking work elsewhere earlier in the year, based on her own desire to be in a position that was purely teaching, and earlier discussions they had together about her goals and her fit with CAPER's goals.

He stated that poor performance was an issue with Witness B. He admitted that when she asked him if he thought she had been working hard, he told her he knew she had been. He defended his position, stating that while he had always believed she was trying, she simply was not producing adequately.

He stated that she was hired to develop [REDACTED] and to conduct research in [REDACTED]. She should have been publishing in both areas, and she should have been writing grants, neither of which she did. He confirmed that she not so much as submitted in either area. He was aware that she had one class she taught: the [REDACTED] class, which she has taught only one time to six (6) students, heretofore. He stated that she should also have been providing guidance to graduate students in her area of expertise. He stated graduate students are not assigned, and surmised that none has approached her because she does not convey a lot of expertise. He admitted he was reasonably aware of her scope when he hired her, in terms of her cross-utility within the program [references her usefulness to graduate students.] Dr. Slater noted that worst of all, Witness B showed little or no initiative in learning new skills.

Dr. Slater stated that both Witness B and the new post-doc were hired as post doctoral fellows, but had slightly different titles, with distinctions he had been unaware of until last week, when he attended a University Leadership Institute workshop that highlighted hiring practices. He stated that, while at the workshop, he divulged that fact that when he hired each, respectively, he simply chose their desired pay, and then selected a title to justify the desired salary. The trainers clearly and firmly articulated that this is not an appropriate hiring practice.

He hired the new post-doc about three (3) months ago with the following tasks: to

[REDACTED] Since his start he has submitted two (2) papers for publication and one grant, the latter on [REDACTED]. Dr. Slater opined that the new post-doc is such a hot shot he did not provide a fair comparison for Witness B [however, they are similarly situated.] Regarding Witness J, a peer to Witness B with a little more seniority, he has submitted 6-8 papers in three (3) years, and has received three (3) grants in that period. He also teaches two (2) classes *per semester* and supervises graduate students.

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 26 of 38

Dr. Slater stated that the only indication he ever had that Witness B did not like his sexual banter was on [REDACTED] when she responded to a sexual comment he made by telling him he needed to stop talking that way for his own good. Although he later considered that her reason for the change in attitude was her new-found love, he did not think much about it on [REDACTED]. He recalled that things went on between them that day, in the usual way.

On March 1, 2005, the respondent provided additional testimony: He noted that his [REDACTED] conversation with Witness B, in which they discussed the ways and means of her staying, referred to her staying in [REDACTED]—not in CAPER.

He noted that when he informed Witness B of her non-renewal, she asked for advice about how to find appropriate employment. They discussed various options related to teaching. She requested that Dr. Slater pay her through [REDACTED] if her new job were scheduled to start in [REDACTED]. He stated he told her this was "reasonable," and they could discuss it again as it came timely.

Dr. Slater provided a written timeline, "[name deleted] Employment Timeline" for Witness B's employment. It outlined her various accomplishments, and made citations of her professional shortcomings, both quantitative and qualitative, from his perspective, and included his efforts to assist her in finding various teaching posts during [REDACTED] with the University of Arizona, and an e-mail showing that Witness B was seeking work outside the university in [REDACTED] though she had denied having done so prior to the initiation of this investigation.

Dr. Slater said that Witness B's statements that he had never indicated to her any concerns about her production and her continuing work in CAPER, were simply not true. He stated that they had various conversations about it, based on her heightened interest in teaching, and her continual dissatisfaction with the projects she undertook throughout the [REDACTED] academic year, i.e., the conversations occurred as a result of *his* and *her* dissatisfaction.

Dr. Slater stated that when he returned to the office in [REDACTED] it was Witness B's low production over the summer that made her continuing employment seem untenable: he recalled that she produced between six (6) and eight (8) pages of a curriculum material for an introductory general education course—material that he deemed to be of very poor quality, and which he said "could have easily been produced in a weekend." He recalled that Witness B also told him she worked on her "job talk" over the summer—i.e., her oral presentation for potential upcoming job interviews at other institutions.

On March 10, 2005, Witness B provided additional information: Generally, she denied Dr. Slater's assessments of her professional output, both quantitative and qualitative. She

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Equal Opportunity and Affirmative Action Office

(EOAAO)

Investigative Report

CONFIDENTIAL

Page 27 of 38

confirmed that she had sought a position outside the University of Arizona, in [REDACTED] in the hopes of getting a job that offered more teaching opportunity [prior to concerns that her job would be in jeopardy of retaliatory action by Dr. Slater]. She stated that she had forgotten about this attempt to find new employment when she was asked about same in a previous EOAAO interview. She denied Dr. Slater's statements that she had missed a lot of class when teaching [REDACTED]. Regarding the assignment he stated she had made to students and then failed to collect, she stated that he was responsible for the same error by half, since they were co-teaching the class and he had asked her to make the assignment. She opined that he could have reminded her to collect the assignment, and forgot to do so, himself.

Witness B confirmed Dr. Slater's efforts to assist her in finding teaching posts at the University of Arizona, and confirmed her preference for teaching over research. Witness B reiterated that Dr. Slater had told her specifically and repeatedly that it was alright with him that she was not producing research or grants, and that she had found her niche—teaching.

Later she added that Dr. Slater had known for some time that she intended to publish some teaching research she had started, but that the research findings still needed to be tested before it could be put up for publication. She did not say when that was likely to occur.

Witness B confirmed her receipt of a form entitled "Self Assessment of Expectations as CAPER Team Members" which she believed had been handed out at a meeting early in her employment within CAPER. She stated that she believed that although she is a CAPER team member, it did not apply to her, since she is not a graduate student. She admitted that it was never stated that it—and its itemized assessments—did not apply to her.

Regarding that summer's product, Witness B recalled that she gave Dr. Slater 6-8 pages in the beginning of the summer, asked for feedback, but never received it, and finished another 6-8 pages by the end of the summer. She stated they were complicated pages, which included diagrams, questions, and other teaching tools. She said that the pages represented "a lot of work."

FACTUAL ANALYSIS:

Re: Sexual Harassment:

Evidence from multiple witnesses, and from the respondent, indicates that, particularly within the CAPER team, there has been a continual practice of sexual joking, direct sexual discourse, and *innuendo*. Dr. Slater confirmed that he has openly conversed in front of female graduate students about his experiences at strip clubs, that he is "touchy," often hugging people, as well as at least occasionally massaging co-workers shoulders.

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Equal Opportunity and Affirmative Action Office

(EOAAO)

Investigative Report

CONFIDENTIAL

Page 28 of 38

He characterized himself as "flirtatious," and "friendly" and "flattering." Dr. Slater confirmed giving an employee a vegetable-shaped vibrator, and frequently ["one-to-ten-to-a-hundred times"] commenting to males and females about the appearance of passing women, insinuating sexual interest: "You're going to have to say that again, because that's too distracting." Dr. Slater confirmed that he is "sexually overt" [his words,] that he tends to say a lot of sexual things, and that he is probably inappropriate sometimes.

Although there were many specific allegations that he was unable to confirm, he repeatedly commented that the alleged comments sounded like the kind of thing he would say. In specific instances, he denied the alleged conduct, stating it crossed a line that he successfully maintains. For example, he said that discussing blow jobs, or physically snapping a female's underwear through her dress, would cross such a line.

Dr. Slater confirmed the use of such phrases as "I could kiss you full on the lips" [with males and females] and "taking one for the team," sometimes with sexual intent, and as a joke. He confirmed that he told one witness that his personal sexual record was four (4) women in twenty-four (24) hours [he told the investigator this particular 24 hour period dated back to high school, but admitted he did not reveal that to the witness when he told the story.]

He denied talking about having sexual threesomes that included his wife, and denied telling one witness he hooked up on line with women, meeting them for sexual encounters at professional conferences.

Some witnesses reported that they went along with the sexual banter, and participated in it reactively, sometimes casually, other times because they felt their professional security would be diminished if they did not. There is strong evidence that several witnesses were comfortable approaching Dr. Slater about his conduct, at least occasionally: one asked that he refrain from discussing strip clubs in her presence; another requested that he cease massaging her shoulders publicly [Dr. Slater confirmed these two incidents, himself.] Another witness reported expressing "enough-is-enough" when the banter reached a certain point, and testified that others had also taken this approach with Dr. Slater.

There is evidence that some members of CAPER, other than the respondent, likely initiated sexual comments on some occasions, both in the presence of Dr. Slater and in his absence.

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 29 of 38

Re: Sexual Harassment:

The University's Sexual Harassment Policy prohibits University employees from subjecting other employees or students to sexual harassment. Unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a University sponsored activity, or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, education decisions, or other decisions affecting an individual's participation in a University activity, or
- Such conduct has the effect of unreasonably interfering with an individual's work performance, education or participation in a University sponsored activity, to the extent that said conduct creates an intimidating, hostile, or offensive work or educational environment.

The alleged conduct must be sexual in nature and/or based on sex.

Based on the testimony of the Respondent and many of the witnesses the evidence supports the conclusion that there was sexual conduct occurring within the department, specifically, but not exclusively, within the CAPER team, and advanced by the Respondent in many instances.

The alleged conduct must be unwelcome.

Sexual conduct constitutes a violation of University policy only if it is unwelcome. The investigator assesses the degree to which witnesses/complainants regard the conduct as undesirable or offensive to determine whether sexual conduct will be deemed welcome or unwelcome, *per* university policy. Under specific circumstances, the investigation may consider whether it appears witnesses sufficiently made known a change in their attitude about conduct to which they had *not* previously objected. Where such a change in attitude has been made known, and the conduct in question does not sufficiently change, it may then be held that the enduring conduct is unwelcome.

Giving the respondent, Dr. Slater, his due, the evidence suggests that some of his employees and students [and student/employees] did not find his sexual banter offensive. They attended strip clubs with him, likely operating within their own aesthetic, and *not* under professional duress, and even joined or initiated sexual innuendo, joking and interpersonal dialogue. One witness, who testified clearly about the explicit and

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 30 of 38

pervasive nature of such conduct, and who stated she virtually never participated in said conduct in any but the most passive manner, simply felt the conduct did *not* create a sexually hostile work environment—and so testified.

However, this perspective was not shared by everyone within Dr. Slater's professional purview. Many witnesses testified that they found the conduct offensive. Witness B stated she felt diminished by it, and that she sensed Dr. Slater perceived women as objects to be apprehended through their physical attributes, rather than their mental attributes.

Another witness, who had complained directly to Dr. Slater about his strip club conversations, was thereafter subjected to continuing comments of a sexual nature—just not about strip clubs.

In considering "Welcomeness" the investigator also questions is whether the conduct was unsolicited. "Unsolicited" differs from "unwelcome" in this way: occasionally, the evidence shows that individuals who later claim that identified sexual conduct was unwelcome, actually encouraged it by initiating similar conduct. They may genuinely find that when "the shoe is on the other foot" they do not like the conduct, or it makes them uncomfortable, and it therefore becomes "unwelcome." Wherein this occurs, and reasonable parity of conduct is in evidence, the respondent may prevail with the defense that his/her own conduct was solicited by the complaining party.

In this particular investigation, there were a few such witnesses. That is to say, others' conduct, under further scrutiny, might reasonably have given Dr. Slater the impression that his style of interaction, wherein it included sexual content, was acceptable to the witness. Then, over time, as Dr. Slater's conduct was continual, the conduct became unwelcome by its sheer volume. Further investigation would have been required to determine whether their respective articulated objections to it were clear enough to send a sure and certain message that his conduct had become unwelcome.

Again, this was not true in all cases, and does not provide a generalized defense for Dr. Slater's sexual conduct under circumstances in which many witnesses could not be shown to have solicited Dr. Slater's conduct in any manner.

The alleged conduct must be severe and/or pervasive:

There is substantial evidence that Dr. Slater's sexual conduct was ongoing, and when present on campus [as opposed to while traveling,] was probably occurring more than once every day, sometimes with different people, and/or in the presence of groups, such that an individual might have been subjected to sexual content several times during the course of one day. This rises to the level of "pervasive" as determined by the policy. As for severity, the evidence struggles against the he-said-she-said problem. Certainly, snapping underwear through a dress, or suggesting that a post-doc was inspiring her

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 31 of 38

students to masturbate after class, could be considered severe examples of sexual conduct. Dr. Slater denied the former, and did not have an opportunity to address the latter allegation. No witnesses were provided, and therefore, the measure of severity is inconclusive. However, given Dr. Slater's admitted record of conduct, it is in no way outside the bounds of reasonable conjecture that these incidents could well have occurred.

CONCLUSION:

Since the evidence supports the determination that Dr. Slater conducted himself in a sexual manner, that the conduct was to some both unwelcome and unsolicited, and that the conduct was pervasive, a policy violation finding must be made in the matter of sexual harassment, hostile work environment.

FACTUAL ANALYSIS:

Re: Retaliation

Witness B raised allegations of retaliation against Dr. Slater.

Witness B alleged that she had voiced concerns to Dr. Slater directly, a couple of times, that his sexual conduct could get him into trouble. She stated the last time they had that conversation was [REDACTED]. She alleged that in this same conversation, she also conveyed a personal attitude of "enough-is-enough," following a comment he made to her about the prospect of her swimming naked at his house. She recalled saying words similar to, "Look, you've got to stop this sexual stuff." She recalled that she told him she was concerned that he was going to get himself into trouble. She recalled that he responded by saying that he was a sexual harasser and probably always would be, and that if she did not like it, maybe she should seek work elsewhere. She recalled that he told her he believed he had surrounded himself with people who did not mind his conduct.

Dr. Slater confirmed his participation in that general conversation, but denied conveying precisely that message. He did admit he told her he liked the way he had his life [social-professional implied] set up, and that he was a "sexually overt" person, and did not think he would "ever change."

He also ruminated that Witness B seemed not to be offended by his sexual demeanor, but that she became more reticent about it around the same time that she began to talk about a man with whom she was interacting romantically. Sometime after the fact, he recalled [REDACTED] as the point in time when her responses to his conduct began to change, in his estimation, such that he noted he should stop flirting with her so much.

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Equal Opportunity and Affirmative Action Office

(EOAAO)

Investigative Report

CONFIDENTIAL

Page 32 of 38

Other witnesses have testified to their own and/or others' protestations against the sexual banter. These individuals reported specifically that Dr. Slater was non-retaliatory in these instances, although one noted he did not discontinue the conduct.

Dr. Slater alleged he was motivated to non-renew Witness B on the particular day-- [REDACTED] while attending an Academic Programs Committee meeting (on [REDACTED]) in which a professor discussed cutting non-productive graduate students loose, as a sort of professional favor, and by moral obligation, rather than keeping them to a track on which they probably did not belong. He stated that this focused his intent to non-renew Witness B. He also stated in his first interview that he had made the decision by himself. In his second interview, he stated that Witness J, another Assistant Research Scientist, and a peer to Witness B, had been prodding him to get rid of her for months [matches the testimony Witness J gave a few hours prior to Dr. Slater's proffering.] He stated that his reasons were performance based, citing her failure to publish, submit grants, supervise graduate students, or take initiative in learning new skills. He stated that she had been an odd fit, professionally, even at her hire, because of her preference for teaching over research. She was hired to satisfy a particular need CAPER had at the time, and that she had fulfilled the need, and exhausted her utility. Dr. Slater stated that anyone on his team could fulfill the duties Witness B was maintaining. He stated that she was simply not doing enough, good quality work to maintain her position.

Departmental evidence shows that the last Academic Programs Committee meeting before the non-renewal was held on [REDACTED] and that Dr. Slater was present. Corroborative testimony about topics discussed at that meeting is not available.

On [REDACTED] Witness B called the EOAAO and reported that the day before, [REDACTED] Dr. Slater had given her notice of a [REDACTED] non-renewal.

Dr. Slater testified that he became aware of the investigation about a week prior to his receiving notice [receipt of notice would have occurred around [REDACTED]] that an Administrative Review/investigation was underway, and that he had been named as a respondent. He stated that he became aware of it because the graduate students were in an uproar over it [many had been scheduled to testify by then.] He stated that when he heard about it, he thought he might be a focus of the investigation, himself, because he said a lot of sexual things. He stated that later, after he was identified as a respondent, he guessed that perhaps Witness D had brought the complaint, given their conflicts, and earlier concerns that she would lash out at him or his programs. He did not suspect Witness B, he said.

Witness B stated that at her non-renewal Dr. Slater told her she was not a good fit with the group, and that she would not be happy continuing with CAPER. She asked if there were anything she could do to maintain her position, and he said there was not. She recalled that he also told her specifically that he had *not* made his decision based on her

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 33 of 38

performance or due to absences related to a health condition with which she struggles periodically.

Another interviewee, recalling Witness B's upset after the meeting, recalled that Witness B admitted at the time that she was not a great fit with CAPER, professionally, and that maybe she belonged at a smaller college where she could teach more. Additionally this individual recalled that Witness B relayed having, herself, admitted to Dr. Slater, her own reluctance to publish or write grants.

Dr. Slater and Witness J testified that Witness J had been approaching Dr. Slater for months about Witness B's poor production as a CAPER member. That Witness J was not involved in the same work as Witness B, although he was her peer, by title, are facts not contested among the witnesses.

Dr. Slater and Witness B agreed that throughout [REDACTED] they had discussions about Witness B's preference for teaching, compared to research and publishing.

Dr. Slater and Witness B disagreed about the quality of her work, and whether Dr. Slater ever told her that he was not satisfied with the nature and amount of her work, up to and throughout his articulation of his intent to non-renew her contract in [REDACTED]

Dr. Slater and Witness B both testified that they discussed ways she might go about seeking the kind of employment she wanted in the ensuing months, and discussed the open possibility that Dr. Slater would continue to fund her until a position [presumably teaching] might initiate in [REDACTED].

POLICY ANALYSIS:

Re: Retaliation:

The University's Sexual Harassment Policy prohibits retaliation against individuals who engage in protected activity related to sexual harassment. An individual is protected from retaliation when he/she engages in protected conduct in one or more of the following ways:

- Files a sexual harassment complaint or testifies, assists, or participates in any manner in an investigation or other proceeding related to such a complaint, or
- Opposes conduct reasonably believed to constitute sexual harassment toward one's self or to others, even if the individual has not filed a sexual harassment complaint and is not involved in the investigation of such a complaint.

Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 34 of 38

Essentially, any adverse action that is reasonably likely to deter a complaining party or others from engaging in protected activity, or then punishes them for having done so, is prohibited.

- The complainant must have engaged in protected conduct;
- The complainant must be able to articulate an employment or academic adverse action that he/she has sustained;
- To support a *prima facie* [on its face] case of discrimination, *retaliation*, the complainant must be able to show a temporal or causal link between the protected conduct [complaint of harassment] and the alleged adverse action;
- Where there is *prima facie* evidence for retaliation, the respondent must be able to articulate a credible, legitimate, non-discriminatory reason for its actions, in order to successfully defend itself against a retaliation complaints;
- Where the respondent has articulated a credible, legitimate, non-discriminatory defense for its actions, the complainant must demonstrate that the articulated defense is merely a pretext for discriminatory intent.

The complainant must have engaged in protected conduct:

The evidence shows that Witness B verbalized at least one complaint to Dr. Slater about his sexual banter, about six (6) weeks prior to her non-renewal. There is reasonable evidence to support the conclusion that by the time Dr. Slater non-renewed Witness B, he was, more likely than not, aware of the investigation through the grapevine, already suspected his own conduct was being reviewed, and could reasonably have identified Witness B as a possible bringer of the complaint. Of note, Dr. Slater's testimony is to the contrary on the latter point: he stated he did *not* believe Witness B was the bringer, but suspected Witness D might be, based on their many professional conflicts.

The complainant must be able to articulate an employment or academic adverse action that he/she has sustained:

Witness B received verbal advice of non-renewal of contract, to be effective June 2005. Dr. Slater was the formal decision-maker in this non-renewal. Because Witness B reported Dr. Slater's intent to non-renew to the EOAAO immediately, and the EOAAO forestalled the formal administration of this action, Witness B did not sustain an adverse action; she received the threat of an adverse action. A threat may not be sustainable in a court of law, however for purposes of apprehending university policy, it may be held as an adverse action and subjected to, and scrutinized under, the models of discrimination as laid out by university policy, especially by the entity [EOAAO] that determined the threat would not go forward without due consideration of its discriminatory appearance.

To support a *prima facie* [on its face] case of discrimination, *retaliation*, the complainant must be able to show a temporal or causal link between the protected conduct [complaint of harassment] and the alleged adverse action:

The evidence supports a *temporal* connection between the protected conduct and the resulting adverse action. Dr. Slater testified that approximately one week prior to his own interview at the EOAAO [September 30, 2004] he became aware of a sexual harassment investigation, and surmised that he could be a subject of that investigation [therefore, on or about September 23, 2004, by Slater's own reckoning.] Even giving Slater the benefit of his own potential inaccuracy, the timing of witness interviews would corroborate Slater's general awareness of the investigation by the date of Witness B's non-renewal [REDACTED] There is a reasonable possibility that he suspected that Witness B had brought the complaint and or related concerns to the attention of the EOAAO, given the concerns she articulated to him directly on at least one occasion: [REDACTED] This personal complaint to Dr. Slater in August, linked to Dr. Slater's knowledge of the investigation in September, preceding the non-renewal by only day or two, reasonably create an apparent temporal connection between the protected conduct and the adverse action.

Where there is *prima facie* evidence for retaliation, the respondent must be able to articulate a credible, legitimate, non-discriminatory reason for its actions, in order to successfully defend a *retaliation* complaint:

Dr. Slater defended that he chose to non-renew Witness B's contract due to performance concerns, specifically her failure to publish, gain grants, provide leadership and take initiative. These are reasonable standards by which to measure Witness B's value to the department, and there is no conflict of opinion between the parties, regarding her failure to perform in at least the first three (3) of these areas. Thus, Dr. Slater has provided a credible, legitimate, non-discriminatory reason for his actions.

Where the respondent has articulated a credible, legitimate, non-discriminatory defense for its actions, the complainant must demonstrate that the articulated defense is merely a pretext for discriminatory intent:

In simple terms, this is the point at which Witness B's arguments favoring the likelihood of discrimination have to pass closer scrutiny, in order for her to be successful in her claims. This occurs only where her argument can show, "No really, it was not my performance, as he says, but his knowledge that I complained about his sexual conduct, that made him non-renew my contract." The only reasonable certainty is that he understood her [REDACTED] comments as some kind of warning that he needed to be more circumspect in his commentary—indeed, they were both talking about their shared need to improve their professional images. Conversely, there is not reasonable certainty that Dr. Slater was aware that, or believed that, Witness B was the bringer of complaints leading to an investigation into his conduct, when he sought to non-renew her contract on [REDACTED] The non-renewal itself, as described by both parties, lacks the sting of retaliation: Dr. Slater counseled Witness B, as he had been for months, on how to improve her chances for landing a teaching job—her desired position—and agreed to consider paying her past her contract as a bridge to a teaching job they both hoped would materialize for her by [REDACTED]

The University of Arizona®
Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 36 of 38

Also notable, is that Witness B alleged she had expressed her direct complaint, as it were, to Dr. Slater on several previous occasions to no ill effect [Dr. Slater testified that he did not recall other occasions.] Additionally, another witness alleged she told Dr. Slater and Witness J that she was offended by their open conversations about strip clubs—an announcement she claimed she made without later retribution.

Applying fair scrutiny to Dr. Slater's defense, whether reasonable standards for performance were ever articulated to Witness B is unclear; the parties disagree on these issues. It appears Dr. Slater may have encouraged her to believe she was doing "OK." In the absence of formalized or even articulated performance measures, it would be difficult to determine perfectly whether she were actually failing them. Three things seem likely: that Witness B was misled, however unintentionally, into thinking that little was expected of her; that there may not have been enough work to justify her salary, over the three-year period indicated at her hire; that most others on the CAPER team were performing at a higher level of output, whatever their respective positions/titles, than did Witness B.

Given Witness B's contract renewal in [REDACTED] and Dr. Slater's absence from the office during [REDACTED] his defense that it had become evident over the summer that she could not be mentored through her professional torpor might seem flimsy. However, it appears that Witness B did not produce a large body of work over that summer. Ultimately, Dr. Slater was able to produce evidence, largely undisputed by Witness B, that he had attempted repeatedly to assist her in meeting her teaching goals, if anything attempting to *make* it "O.K." that she was not producing in other areas at this university, and also engaging in efforts to assist her search for work outside this university, upon her clear articulation that grant-seeking, research and publishing were not her goals—all prior to any articulation to the EOAAO, or within the department, that she believed she was being subjected to sexual harassment.

Additionally, the record clearly shows that Witness J, not supervisory to Witness B, but influential to some degree, in Dr. Slater's decisions about CAPER team members, had been recommending her non-renewal since at least [REDACTED] well in advance of any complaints by Witness B that discriminatory conduct was occurring.

The timing of the non-renewal, following only by days the inception of Dr. Slater's respondent status in this investigation, gave rise to serious concerns that there might be a connection between the two, as alleged by Witness B. However, she had no evidence, besides the appearance of the temporal connection, to sustain that allegation. Dr. Slater has categorically denied the connection; his close associate, Witness J, has denied any knowledge of such connection in Dr. Slater's mind, and maintains that it had long been his own will that Witness B's status would change, if her performance would not. Dr. Slater stands by his defense that the timing of the non-renewal reflected his attendance at a departmental meeting wherein there was compelling discussion about how to handle non-performing academics—in that particular case, graduate students—with track records perhaps similar to Witness B's.

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Equal Opportunity and Affirmative Action Office
(EOAAO)

Investigative Report

CONFIDENTIAL

Page 37 of 38

All considerations together, the investigation shows that Dr. Slater's defense of his actions—the articulation of intent to non-renewal Witness B's contract, to be effective [REDACTED]—was not pretextual, but has the ring of truth to it.

Witness D raised allegations of retaliation against Dr. Slater.

Witness D's initial allegations were based on incidents she believed stemmed from a conversation she had in which she told Dr. Slater that she had once successfully filed suit against her employer in a matter not relating to discrimination statutes. She perceived that thereafter, Dr. Slater treated her differently and worse than he had before [refer to allegations of page 5, herein.] In order to make a retaliation complaint, the complainant must be able to show that her underlying complaint was based on protected conduct [see bullets, page 33 of this document for outline of retaliation *per* policy.] Making an indirect threat of a potential complaint by referencing a past law suit, only indirectly relatable to discrimination laws, does not meet the definition of engaging in protected conduct in the relevant instance. Even so, many of Witness D's specific reports of retaliatory treatment were investigated and deemed unfounded. Witness D's allegations were considered in the full context of the investigation, but do not stand on their own, and will not be subjected to further analysis herein.

Witness D more recently articulated concerns about conduct by Dr. Slater that she construed as retaliatory. More adverse actions, she alleged, began to occur after the date that Dr. Slater has identified as the point at which he began to suspect Witness D was behind the sexual harassment complaints [REDACTED]. The specific complaints are similar in nature to the kinds of complaints she had previously made about his treatment of her, over a long period of time. That is to say, they do not represent new bad treatment that might reasonably be associated with his suspicion that she had made a sexual harassment complaint about him. Rather, they are allegations of the "same-old-same-old" bad treatment. Therefore, Witness D would not be able to show that upon his belief that she had complained about him, he commenced to treat her worse; the temporal connection would not be sustained. Again, the allegations will not be further scrutinized, as they have failed a particular prong of the retaliation policy paradigm.

CONCLUSIONS:

In the matter of retaliation, specific to *Witness B's* non-renewal of contract, the investigation finds that, more likely than not, a policy violation has not been committed.

In the matters forwarded by *Witness D*, the evidence does not support a *prima facie* case for retaliation; no policy violation is found in these particular matters.

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(EOAAO)

Investigative Report

CONFIDENTIAL

Page 38 of 38

FINDINGS:

Sexual harassment, sexually *hostile work environment*, the finding is **policy violation**.

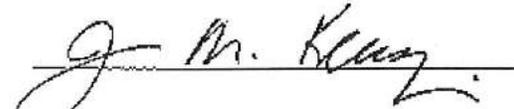
Retaliation, re: Witness B, the finding is **NO policy violation**.

Retaliation, re: Witness D, the finding is **NO policy violation**.

March 31, 2005



Millay Kate McAndrew
Assistant Director, Investigator
EOAAO



Jeanne M. Kleespie
Assistant Vice President, Director
EOAAO

cc: Peter Strittmatter; Joaquin Ruiz