

Report of Special Counsel to the Special
Committee for Investigation Regarding the
Alleged Misconduct of Robert F. Miller

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INDEPENDENCE OF SPECIAL COUNSEL

On September 9, 2013, the State of Connecticut, through the Office of the Attorney General, engaged Drinker Biddle & Reath LLP (“DrinkerBiddle”) as Special Counsel to represent and advise the Special Committee for Investigation (“Special Committee”) of the Board of Trustees of the University of Connecticut (“University” or “UConn”) (“Board of Trustees”). Special Counsel operated with full independence in the course of our investigation. Our explicit mandate from the Special Committee was to conduct an investigation that was independent both in appearance and in fact and to follow the evidence wherever it might lead.

Special Counsel’s investigation proceeded independently of the several parallel law enforcement investigations and of the “Title IX” investigation being led by the University’s Office of Diversity and Equity (“ODE”). Special Counsel also operated completely independent of the University’s administration. At the direction of the Special Committee, and as contemplated by our contract, Special Counsel communicated with the University’s General Counsel on logistical and procedural matters. The General Counsel, however, did not have any control over or input into how the investigation should be conducted, including who was to be interviewed or the subjects to be covered in any interviews.

Interviews with current University employees were predominantly arranged with the assistance of an employee of the School of Fine Arts who did not work at

the University during the time period covered by the investigation and who otherwise had no knowledge of the underlying facts. Interviews were conducted primarily in one of two discreet conference rooms that were reserved for Special Counsel's exclusive use during the course of the investigation and were located in a building on campus separate from the School of Fine Arts, the Office of General Counsel, the University's police department ("UCPD"), Human Resources, and ODE.

Marcum LLP, a forensic investigative firm retained by the University prior to Special Counsel's retention, provided forensic and electronic document support services solely at the direction of Special Counsel since our retention on September 9, 2013. Notably, Special Counsel was given the opportunity at the outset to explore other providers, but Special Counsel elected to continue with Marcum.

Special Counsel made periodic reports to the Special Committee on the progress of our investigation and provided a draft of this report to the Special Committee. There was no interference with or attempt to influence the course or outcome of Special Counsel's investigation by anyone associated with the University. In addition, no restriction was placed on any information to which Special Counsel requested access.

Special Counsel received full support from the Special Committee and full cooperation from the University during all stages of our investigation.

SCOPE OF REVIEW AND METHODOLOGY

Special Counsel's engagement included four primary components as follows:

- (1) an institutional review of the facts and circumstances concerning how University officials handled allegations of sexual misconduct by Robert F. Miller, Professor in the Department of Music, including whether there was any violation of law or University policy, whether any employee breached a duty, and whether there existed and continues to exist any omissions or weaknesses in University policies and procedures;
- (2) a personnel investigation, based essentially on the facts developed through the institutional review, aimed at assisting the University to determine what if any personnel actions are appropriate;
- (3) to provide support, as requested, for the Title IX investigation being conducted by the University, specifically, ODE, pursuant to the University's statutory obligation to investigate and address any allegations of sexual harassment; and
- (4) to be sensitive to the criminal investigations that were underway at the time of our retention, and correspondingly, conduct the investigation in a manner that would not jeopardize any criminal investigation and

bring any information uncovered that might be evidence of a crime to the appropriate law enforcement authorities.

As a practical matter, Special Counsel investigated (1) Professor Miller's conduct, (2) the University's response to allegations of sexual misconduct by Professor Miller prior to February 2013, and (3) the University's response to the allegations of sexual misconduct by Professor Miller that were brought to light in February 2013. ODE conducted a separate parallel investigation focused upon identifying any possible victims of sexual harassment among the University's student population, and if so, providing such students with whatever support and assistance they might need. UCPD and other law enforcement investigations were focused on uncovering possible criminal activity.

Special Counsel interviewed 57 witnesses, including current and former faculty, staff, students, and administration officials—e.g., a former president, a former provost, and the current president of the University. We also reviewed more than 27,000 e-mails and electronic documents—which were culled from an initial collection of more than 2,000,000 e-mails and electronic documents using relevant search terms and phrases—as well as more than 6,000 pages of documents obtained from ODE, Human Resources, UCPD, the Office of General Counsel, and

individual witnesses. Special Counsel also had access to the investigative files of UCPD and ODE and reviewed the University's relevant policies and procedures.¹

Special Counsel used the information gleaned from this work product to identify or discount interview candidates, prepare for witness interviews, and assess the credibility of witnesses whom we interviewed, as well as for its substantive content. We attempted to avoid duplication of the investigative work conducted by others as much as possible. However, because Special Counsel's primary mandate was to make an *independent* assessment of the facts, there were many witnesses whom we interviewed ourselves, notwithstanding that they previously had been interviewed by at least one of the other organizations.

Nearly everyone we asked to speak with us agreed to do so, with the following exceptions. Professor Miller declined, through his counsel, to be interviewed. Donna Munroe, the University's former Vice President for Human Resources and Payroll Services, and Dana McGee, the University's former Associate Vice President, ODE, also declined our requests for interviews. Additionally, there were a handful of former students who did not respond when we attempted to contact them. In most cases, however, these students previously

¹ Special Counsel did not have access to the files of the other law enforcement agencies involved in the criminal investigation.

had spoken with ODE or UCPD, so Special Counsel had the benefit of the information obtained in those prior interviews.

Each current employee of the University and those former employees not represented by individual counsel were informed at the beginning of their interview that Special Counsel represents the University, not the interviewee individually. Each witness subsequently acknowledged that he or she understood our role in this process.

In order to provide an outlet for confidential communications from potential victims or individuals with relevant information, Special Counsel established and publicized telephone and e-mail hotlines. No potential victims contacted Special Counsel through the hotlines, and we promptly responded to the few contacts we did receive.

In addition to the investigative work described above, the University provided Special Counsel and Marcum copies of a significant number of computer hard drives and electronic storage media possessed by Professor Miller and obtained by University Information Technology Services (“UITS”) during an administrative search of Professor Miller’s office and studios within the Department of Music building on June 20, 2013.

Because of suspicious Internet activity by Professor Miller detected in the course of UCPD’s investigation, Special Counsel believed it was prudent to review

image files on the more than 40 hard drives and other electronic storage devices that had been collected from Professor Miller. Marcum, at Special Counsel's direction, reviewed the many thousands of images residing on this electronic media using explicit image detection (EID) software. This software is a forensic tool that detects human flesh and form to identify potentially pornographic images. Marcum used this software to narrow considerably the universe of image files that needed to be reviewed manually. Potential "hits," meaning images that might be pornographic, were then reviewed manually. Special Counsel and Marcum did not identify any pornographic images on Professor Miller's hard drives through this process. Marcum also provided a forensic review of four hard drives and electronic media that were either Professor Miller's primary machines or devices he returned from his home following the start of his paid administrative leave, the purpose of which was to determine whether these devices had been "scrubbed," meaning that there had been an attempt to remove certain files. Marcum determined that none of these four devices had been scrubbed. The possibility remains, however, that Professor Miller viewed or streamed inappropriate Internet content, based upon the questions raised during UCPD's investigation into the web sites he may have visited and his apparent efforts to block remote access to his computers by UITS.

EXECUTIVE SUMMARY

Background

On February 13, 2013, Bríd Grant, Dean of the School of Fine Arts, reported to Elizabeth Conklin, Associate Vice President, ODE, and Title IX Coordinator, that she (Dean Grant) had just become aware of allegations that Professor Miller had sexually abused a child or children at the Hole in the Wall Gang Camp in Connecticut in approximately 1992. These allegations were made in an anonymous letter mailed to and received by the Head of the Department of Music in December 2011. Ms. Conklin immediately brought the matter to the attention of the Assistant Attorney General at UConn and the Office of Faculty and Staff Labor Relations (“Labor Relations”). She noted the two troubling issues the letter presented: the underlying allegations against Professor Miller and the question of why such disturbing allegations were not brought to the attention of ODE, or any other University officials, until 14 months after the letter was received.

Within days, UCPD initiated a criminal investigation. Because of the sensitivity of the allegations concerning Professor Miller and of the law enforcement investigations into those allegations—in addition to the fact that at that point, no allegations had been made involving UConn students—an inquiry into the delay in reporting the anonymous letter was deferred while the law enforcement investigations proceeded covertly.

On June 20, 2013, Connecticut State Police executed a warrant for a search of Professor Miller's home. The same day, the University administratively seized from the Department of Music building a number of computers and electronic storage devices that were used or owned by Professor Miller. Professor Miller's University office and studios also were secured. On June 21, 2013, the University placed Professor Miller on paid administrative leave and issued a no-trespass letter, barring him from campus.

Following these events, on June 26, 2013, a member of the School of Fine Arts faculty contacted Ms. Conklin to report that a student had reported to that faculty member that Professor Miller was known to visit freshman dorms, provide drugs to students and then have sex with them. The faculty member who reported this conversation to Ms. Conklin also indicated that Professor Miller was known to have a history of having sex with boys.

UCPD determined during its investigation that, between 2006 and 2011, several allegations that Professor Miller had engaged in inappropriate sexual conduct with minor children were allegedly brought to the attention of certain University employees. On June 28, 2013, University President Susan B. Herbst met with senior staff and directed the University administration to, among other things, commence a personnel investigation regarding Professor Miller, commence a Title IX investigation regarding the allegations of sexual assault by Professor

Miller, and engage an outside law firm to conduct an independent review of the University's past actions with respect to the allegations against Professor Miller.

On July 12, 2013, the Board of Trustees formed the Special Committee. The Board of Trustees appointed Chairman Lawrence D. McHugh as Chair of the Special Committee and authorized him to appoint the members of the Special Committee.² Following a request for proposal and selection process by the Office of the Attorney General (during which time the ODE and UCPD investigations continued apace), on September 9, 2013, DrinkerBiddle was retained as Special Counsel to provide the services described in the Scope of Review.

Summary of Findings

Special Counsel's investigation revealed strong, credible evidence that Professor Miller engaged in serious misconduct with minors and with University students. In addition, Special Counsel found the response of University officials prior to February 2013 was insufficient to ensure the safety of minors on campus and of University students. University officials, however, responded with commendable urgency in and after February 2013 to the allegations then brought to light.

² Chairman McHugh appointed University Trustees Thomas E. Kruger, Esquire; Andrea Dennis-LaVigne, D.V.M.; Marilda L. Gándara, Esquire; and Thomas D. Ritter, Esquire to the Special Committee.

Professor Miller. There is convincing evidence that Professor Miller has engaged in serious misconduct with minors and with University students. For example, Professor Miller was forced to resign from the Hole in the Wall Gang Camp amid allegations of inappropriate contact with several campers—i.e., having the campers disrobe and checking them for bruises and/or ticks and sticking his hands down the pants of one camper. In addition, he had inappropriate contact with the son of a fellow music professor—i.e., touching the boy’s buttocks, massaging the boy’s legs and buttocks and attempting to reach toward his groin, and asking the boy to remove all of his clothing except for his underwear while he (Professor Miller) applied makeup to the boy before a performance. Professor Miller also most likely had inappropriate contact with at least one middle school student (the “Virginia Student”) in 1969—i.e., allegedly sticking his hands down the student’s pants while teaching him a breathing exercise, attempting the same thing on a different occasion, and having two students wash tubas in the showers with their clothes off while he watched.

Finally, the investigation uncovered numerous instances in which Professor Miller had inappropriate contact with University students—i.e., providing alcohol to underage University students; taking University students on trips to his vacation home in Vermont, even after he was advised not to socialize with University students; showering with University students at his health club; accompanying

University students into a hot tub at his health club while both he and the University students were naked; giving a University student a massage; and touching University students inappropriately while teaching them to breathe or ostensibly to check for ticks.

The investigation, however, did not reveal any evidence to substantiate the rumor that Professor Miller visited University housing to provide drugs to, and have sex with, University students. In addition, despite the exhaustive investigations by Special Counsel, ODE, and UCPD, all of which included considerable outreach to potential victims, no current or former University students came forward to identify themselves as victims of sexual misconduct by Professor Miller.

The Pre-February 2013 Response. The response of certain University officials to a number of allegations and rumors of sexual misconduct by Professor Miller—including rumors and allegations involving University students—prior to February 2013 was insufficient to ensure the safety of minors on campus and of University students. By at least 2003, rumors regarding Professor Miller’s separation from the Hole in the Wall Gang Camp and inappropriate conduct/relationships with students were widely known and discussed, even with David G. Woods, Dean of the School of Fine Arts. Despite these rumors, after receiving e-mails in November 2006 from the Virginia Student alleging that

Professor Miller had sexually abused him, no one took appropriate action to ensure the safety of minors on campus or University students. Moreover, although a number of University officials discussed during a November 5, 2007 meeting several allegations that Professor Miller had engaged in sexual misconduct, none of those officials followed up on the allegations.

Only after the Virginia Student sent another e-mail in January 2008 did anyone from within the School of Fine Arts advise Professor Miller not to socialize with University students; this advice, however, was not followed, and it was not consistently enforced. Finally, neither Dean Woods nor Catherine Jarjisian did anything but hide the December 2011 anonymous letter sent to Professor Jarjisian when she was Department Head, which contained disturbing allegations that Professor Miller was dismissed from the Hole in the Wall Gang Camp because he molested underage campers.

The Post-February 2013 Response. In contrast to the pre-February 2013 response, University officials responded appropriately and aggressively to ensure the safety of minors on campus and of University students with respect to the allegations that came to light beginning in February 2013. In particular, University officials responded vigorously to the December 2011 letter once it was brought to the attention of the new Dean of the School of Fine Arts and to ODE. In addition, the University's response to the June 2013 allegations that Professor Miller had

engaged in sexual misconduct with students in University housing met, if not exceeded, the University's Title IX obligations.

FACTUAL BACKGROUND

I. The University.

Founded in 1881, the University is the state's flagship public research "land and sea grant institution." Its main campus is located in Storrs, Connecticut. The University system includes ten Schools and Colleges at its Storrs campus, separate schools of law in Hartford and social work in West Hartford, five regional campuses throughout the state (Avery Point, Greater Hartford, Stamford, Torrington, and Waterbury), and the schools of medicine and dental medicine at the University Health Center in Farmington. The University offers undergraduate degrees in 102 majors, graduate degrees in 75 research and professional practice fields of study, and 6 professional degree programs. As of fall 2013, there were 30,474 students enrolled at the University, including 22,595 undergraduate students and 7,879 graduate students. The University's funds budget for 2013 was \$1.9 billion, and its endowment was valued at approximately \$357.6 million at the close of the 2013 fiscal year. The University is governed by the Board of Trustees.

II. The School of Fine Arts.

The School of Fine Arts is made up of four academic departments: Art and Art History, Digital Media and Design, Dramatic Arts, and Music. Each of the programs offers degrees at the undergraduate and graduate levels, with doctoral programs in Music.

The School of Fine Arts is led by the Dean of the School of Fine Arts. Robert Gray served as Dean from 1991 until his sudden death in June 1999. Gary M. English, Professor in the Department of Dramatic Arts, served as Interim Dean for the following year. Professor English was replaced by Dean Woods, who was appointed effective August 1, 2000. Dean Grant, the current Dean, began in August 2012, following Dean Woods's retirement.³

III. The Department of Music.

The Department of Music offers a variety of undergraduate degrees, including Bachelor of Music degrees in music theory or performance and Bachelor of Arts degrees with a major in music, concentration in music history, concentration in jazz studies, and a concentration in composition. In conjunction with the Neag School, the Department of Music also offers degrees in music education. The Department also offers several graduate degrees, including masters and doctoral degrees in performance, conducting, music theory, and music history. The Department has more than 40 faculty members.

A. Leadership.

The Head of the Department of Music reports directly to the Dean of the School of Fine Arts. Department heads typically are appointed to five-year terms,

³ Since his retirement, Dean Woods has remained on the faculty of the Neag School of Education.

with a formal review beginning in the fifth year. Professor Miller served as Interim Department Head effective June 1, 1999, and he was appointed Department Head on August 23, 1999. He served in that position until his resignation as Department Head effective March 31, 2003.⁴

Professor Miller was succeeded by Professor English as Interim Department Head in 2003. Robert Thayer succeeded Professor English and served as Interim Department Head until July 1, 2005, when Kenneth Fuchs came to UConn from the University of Oklahoma. Professor Fuchs served as Department Head until he resigned effective December 31, 2007. On January 1, 2008, Karla Fox, Professor in the School of Business, was appointed Receiver and Interim Head of the Department.

Professor Fox was succeeded in July 2010 by Professor Jarjisian, who served as Department Head until her resignation effective December 31, 2012. Dean Grant, the current Dean of the School of Fine Arts, served as interim Department Head until Eric Rice's appointment to a five-year term beginning on February 2, 2014. Thus, in the 11 years since Professor Miller resigned as Department Head, there have been seven different heads of the Department of Music.

⁴ Professor Miller, as all department heads typically do, remained on the faculty after his time as department head concluded.

B. Culture/Atmosphere.

The high turnover of department heads within the Department of Music reflects the dysfunction that has plagued the Department of Music for years. Personality conflicts among faculty were at the core of the dysfunction within the Department. Faculty members and even staff were believed to keep “files” on their colleagues, which contributed to an atmosphere of distrust. In fact, Professor Miller was notorious for saying that he had “files” on people. He was in the center of these personality conflicts, with numerous complaints—mostly informal—raised by other faculty members about his incivility and disruptive conduct.

Several witnesses also attributed the problems within the Department of Music to Dean Woods’s leadership style and his desire to avoid confrontation by not definitively addressing the lack of civility among the faculty. Other witnesses observed that the high turnover of department heads led to a leadership void within the Department of Music and, furthermore, depleted the applicant pool for prospective department heads from outside the University as the Department of Music’s reputation as “a hornets’ nest” spread around the country.

To be sure, many universities experience personality conflicts among their faculty members. With tenured faculty in particular, it can be difficult for department heads and deans to resolve those conflicts unless the conduct violates university policies. Moreover, it is not uncommon for there to be conflict within

university music departments in establishing priorities between performance and education, and there was an element of this tension within UConn's Department of Music as well. However, the problems within the Department, which persisted despite former University President Philip E. Austin's direction to the provosts who served under him to have them addressed, certainly were outside the norm.

In 2003, Professor Miller resigned as Department Head in the face of an early review that almost certainly would have resulted in his ouster. Following Professor Miller's resignation, the turnover of department heads escalated.

Professor Fuchs was the Director of the School of Music at the University of Oklahoma for seven years, but he lasted only two years as Head of UConn's Music Department. Following Professor Fuchs's resignation, the Department even was placed in a university "receivership" under the temporary leadership of Professor Fox, a business law professor. In addition to managing faculty and staff, Professor Fox was charged by Provost Peter Nicholls with evaluating whether the Department of Music should continue to exist. Her tenure was described as a "rather smooth period" for the Department, but the culture was described as one of "fear."

When Professor Jarjisian was selected by Dean Woods as Department Head in 2010, the problems within the Department re-emerged. Professor Jarjisian was

the subject of several complaints to ODE by faculty members and was described by many witnesses as being overmatched by the position.

Recently, the Department of Music has experienced a high rate of faculty turnover due to complaints of sexual misconduct. In recent years, four faculty members have separated for various types of sexual harassment or misconduct. A number of interviewees described student-teacher relationships and other sexual harassment as long-standing issues within the School of Fine Arts. As a result, ODE has targeted the School of Fine Arts for additional sexual harassment training.⁵

In early 2013, the Department of Music underwent a review by three independent reviewers. These reviewers concluded “that, over time, a complex of internal and external factors has collectively caused considerable disequilibrium, anxiety, and dissatisfaction among faculty and that frequent department changes in leadership, along with uncertainty about expectations and assumptions at the Dean’s and Provost’s levels, have contributed to a culture of instability and lack of goal direction.”

A number of faculty members have observed that the atmosphere in the Department of Music has improved during the current academic year.

⁵ Several faculty members expressed a desire for even more practical training aimed at the unique setting of the School of Fine Arts, where nude models and expressive performance can have the effect of blurring the lines between appropriate and inappropriate conduct.

FINDINGS

I. There Is Strong, Credible Evidence Professor Miller Engaged in Serious Misconduct.

A number of allegations of serious misconduct have been levied against

Professor Miller. These include allegations or suggestions that Professor Miller:

- engaged in inappropriate sexual conduct with at least one minor student while he was teaching middle school in Virginia;
- engaged in inappropriate sexual conduct with certain campers at the Hole in the Wall Gang Camp;
- engaged in inappropriate sexual conduct with the son of a fellow music professor;
- engaged in inappropriate contact with University students;
- provided alcohol to underage University students;
- brought University students to his vacation home in Vermont, including after he was directed not to socialize with University students;
- danced around his recording studio in the Department of Music building with a University student while the two of them were in their underwear; and
- visited University dorms to provide University students with alcohol and drugs in order to have sex with them.

Despite the exhaustive investigations by Special Counsel, ODE, and UCPD, all of which included considerable outreach to potential victims, no current or former University students came forward to identify themselves as victims of sexual misconduct by Professor Miller. In addition, Special Counsel did not uncover any evidence to support the allegation that Professor Miller visited

University housing to provide drugs to, and have sex with, University students.

Nevertheless, Special Counsel did find strong, credible evidence to support each of the other allegations of serious misconduct by Professor Miller.

A. Professor Miller likely had inappropriate contact with at least one middle school student in 1969.

Professor Miller was an instrumental music teacher for Fairfax County Public Schools in Virginia from 1969 to 1972. The Virginia Student alleged Professor Miller engaged in improper sexual activity with him on three different occasions in 1969. This student was 12 or 13 years old at that time.

Special Counsel interviewed the Virginia Student in the course of our investigation. The Virginia Student related that the first incident occurred in the school building outside regular hours while Professor Miller was teaching him breathing exercises. He explained that Professor Miller put his hands down his (the Virginia Student's) pants and said, "This is how you breathe."

The second incident occurred when the student joined Professor Miller at Professor Miller's parents' home. At some point during the evening, Professor Miller attempted to put his hands down the student's pants again.

The third incident occurred when Professor Miller asked the Virginia Student and a classmate to stay after school to clean instruments. Professor Miller asked him and the other student to take tubas into the shower and to clean them. Professor Miller asked the boys to take off their clothes while they were in the

shower. According to the Virginia Student, the other student took off all his clothes, but the Virginia Student kept on his underwear. The Virginia Student said that Professor Miller stood, watched, and groped himself with a “lascivious” look on his face while he and the other student were in the shower.

Although there is nothing to corroborate these alleged events, the Virginia Student’s account to Special Counsel was consistent with his e-mails to the Department of Music and the statement he gave to UCPD during its investigation and seemed credible otherwise. Moreover, the conduct in which he alleged Professor Miller engaged is generally consistent with Professor Miller’s alleged conduct with others, as discussed in more detail below. Accordingly, we believe it is more likely than not that Professor Miller engaged in inappropriate conduct with the Virginia Student.

B. Professor Miller resigned from the Hole in the Wall Gang Camp because of his inappropriate contact with certain campers.

Professor Miller volunteered at the Hole in the Wall Gang Camp—a summer camp for seriously ill children—from 1990 to 1992. Professor Miller resigned from the Camp after being questioned about certain inappropriate behavior with four underage campers, at least part of which he admitted. In particular, Special Counsel spoke with one of the attorneys for the Camp who confirmed that when Professor Miller was confronted with these allegations in 1992, he admitted at least

to taking pictures of the boys without their clothes on, ostensibly to check them for bruises.⁶

Another attorney for the Hole in the Wall Gang Camp advised UCPD in the course of its investigation that the Camp received information in 1992 that Professor Miller had taken four boys between the ages of 10 and 11 on a field trip (not sanctioned by the Camp) to Massachusetts in the winter of 1991 or 1992. The boys reported that, while on this trip, Professor Miller had them undress so he could inspect them for bruises. Professor Miller resigned from the Camp in 1992.

According to a search warrant affidavit prepared in June 2013, the Connecticut State Police interviewed three of the four alleged victims (Victims 3, 4, and 5); the parents of the other victim (Victim 2), who passed away since the alleged incidents; and the mother of another one of the victims.⁷ During those interviews, Victim 2's parents explained that, between five and seven times from the spring through the summer of 1992, Professor Miller picked up their son in Massachusetts—where he lived—and took him to Professor Miller's house. Their

⁶ Additionally, a woman contacted UCPD in July 2013 when Professor Miller's paid administrative leave from the University became public. This woman said that she shared an office with Professor Miller at the Hole in the Wall Gang Camp. She said that Professor Miller had numerous photographs of male campers hanging on the walls around his desk. The witness said this was strange because, while some staff did have pictures of campers, they were candid shots, not posed, like the ones Professor Miller had.

⁷ For ease of reference, Special Counsel refers to these victims in the same manner as they are referred in the search warrant affidavit. The affidavit identifies Victim 1 as the Virginia Student.

son told them Professor Miller would show him scary movies and that, if the boy became frightened, Professor Miller would let him sleep with him. During the summer of 1992, the boy's parents received a call from the parents of Victim 3 and Victim 4 explaining that Victim 3 reported being sexually assaulted by Professor Miller. Victim 2's parents confronted their son, and he said that Professor Miller had all the boys get naked so he could check them for ticks after they hiked.

Two of the victims—Victim 4 and Victim 5—corroborated the account that Professor Miller would examine them for ticks.⁸ Victim 5 provided a statement that Professor Miller would bring these four boys to his home periodically for hikes through the woods and other activities.⁹ Victim 5 explained that after the hikes, Professor Miller would examine the naked boys for ticks and bruises, including lifting and moving their penises. Victim 5 said that he slept with Professor Miller once after having a nightmare about ticks. Victim 5 said that when he woke up, Professor Miller's hand was down his (Victim 5's) pants, rubbing his (Victim 5's) penis. After this incident, Victim 5 told his mother he did not want to see Professor Miller again. Victim 5's mother informed police that

⁸ Victim 3 confirmed with police that on one occasion he was taking a bath at Professor Miller's house. Professor Miller attempted to enter the bathroom, but Victim 3 informed him he did not need any help. Victim 3 did not want to become involved in this investigation and refused to provide a written statement to Connecticut State Police.

⁹ Victim 5 explained in detail to the Connecticut State Police the layout and décor of Professor Miller's residence.

Victim 5 told her about Professor Miller checking the boys for ticks and touching their private parts and that, at that point, she and the other parents contacted the Hole in the Wall Gang Camp.

Based on this evidence, as set forth in its affidavit, the Connecticut State Police established probable cause and obtained a search warrant to inspect Professor Miller's house to determine whether Victim 5's description of the premises was accurate. The search warrant was executed June 20, 2013, and the layout of Professor Miller's home matched Victim 5's description.

C. Professor Miller had inappropriate contact with the son of a fellow music professor.

A former music professor who worked with Professor Miller at the University alleged that Professor Miller had inappropriate interactions with her son when he was a minor. The professor's son first reported the incidents with Professor Miller to his mother around the time he graduated from college, years after they had occurred. Special Counsel interviewed this victim and his mother, the former professor, in the course of our investigation.

The first incident occurred when the professor's son was approximately 13 years old. The professor agreed to let Professor Miller photograph her son for the cover of a music educator magazine, which Professor Miller told her he had been commissioned to shoot. The professor's son explained that throughout the shoot, which lasted over two days and occurred on the University's campus, Professor

Miller came into contact with his body, including his buttocks, when he adjusted the boy's clothes and tucked in his shirttail. Although the professor asked Professor Miller to see the photos, he never showed them to her and none of them was published on a magazine cover or elsewhere.

The second incident occurred around the same time period, when the professor's son rode his bicycle to Professor Miller's house to play computer games. The boy complained that his legs were sore and Professor Miller offered to, and did, massage his legs. When Professor Miller massaged the boy's buttocks and began reaching around toward his groin, the boy resisted and Professor Miller did not persist. Instead, he changed the subject and offered the boy a snack. Before Professor Miller would let him leave, however, he insisted that the boy allow him to take a photograph. Professor Miller asked the boy to remove his shirt and shorts and "moon" the camera for the photograph, but the boy removed only his shirt.

The third incident occurred when the professor's son was approximately 14 years old and he was playing the child lead in the campus production of an opera. Professor Miller was the boy's makeup artist. Before a performance, Professor Miller had him remove all of his clothing except for his underwear, ostensibly so the makeup would not get on his clothes. The boy's mother—Professor Miller's colleague—walked into the room when her son was in his underwear and both the

professor and her son recall a palpable sense of awkwardness at the time.

Professor Miller then finished the boy's makeup and "backed off."

The professor's son made it clear to his mother after these incidents that he did not want to interact with Professor Miller again. As noted, it was several years later that he told her the reason, albeit in rather general terms.

D. Professor Miller had inappropriate contact with a number of University students.

One of the striking things about this investigation is how few witnesses were surprised at the nature of the allegations concerning Professor Miller when the criminal investigation became public in June 2013. Aside from rumors about the Hole in the Wall Gang Camp and the so-called underwear incident that had circulated widely among the faculty, a number of students and faculty were cognizant of apparent "grooming" activities by Professor Miller aimed at certain students within the Department of Music.

Professor Miller attempted to position himself as a personal resource to students by distributing "Get Out of Jail Free" cards to incoming freshmen, which included his cell phone number and personal e-mail address and invited them to contact him at any time. He also made a point of teaching the Freshman Year Experience course. Professor Miller was also known to be in the Department of Music building late at night, when students—but virtually no other faculty or staff—were around.

In addition, Professor Miller was known to gravitate toward young-looking freshman males with a consistent appearance, such that a certain “type” might be recognized by others as one of “Bob’s Boys.” Candidly, there is substantial evidence that Professor Miller would help students navigate problems with their coursework, schedules, or musical performances, and he appears to have developed genuine relationships with many students over the years. However, many students interviewed by ODE, UCPD, and/or Special Counsel characterized Professor Miller as “creepy,”¹⁰ and we learned that some upperclassmen would warn freshmen or sophomores, particularly those who were seen as Professor Miller’s “type,” to be careful around “Dr. Bob.”

Moreover, so common were Professor Miller’s invitations to students to his Vermont home over the years that the term “cabin club” was coined to identify the many students who traveled to Vermont to go skiing or fishing with Professor Miller. In sum, Professor Miller exhibited consistently questionable behavior with University students over the years that was widely known within the Department of Music.

¹⁰ For example, after a student helped Professor Miller jump start his car in the fall of 2012, Professor Miller wrote an e-mail to him that said, “Thanks so much for helping me out tonight. I appreciate it more than you will even know. I hope I can return the favor sometime.” He continued, “Even though this car thing is one of life’s little set backs [sic], it also brought some good: it put us together for a while and I always benefit from talking with you. You make me think, and you encourage me to love.”

Although no current or former University students came forward claiming to be a victim of Professor Miller's inappropriate conduct, a number of former University students reported incidents that demonstrate that Professor Miller engaged in inappropriate conduct with University students. For example, one student ("Student A") recalled that he and another student ("Student B") accompanied Professor Miller to his (Professor Miller's) health club to play racquetball. Afterward, Professor Miller and the two students, who were in their freshman and sophomore years (2001-02), took a shower before all three of them got into a hot tub together naked. Student A reported that there was no touching during this incident.

During a visit to Professor Miller's vacation home in Vermont during his freshman year (2000-01), Student A and Professor Miller exchanged massages. Student A, whom Special Counsel interviewed, "thought it was weird," but remembered thinking in his head, "My clothes are staying on and he's not going below the pants."

Student B also relayed during his interview with ODE a time when Professor Miller checked him for ticks after performing outdoor work at Professor Miller's home in Connecticut. Professor Miller had Student B pull down his pants and underwear and then checked Student B's buttocks and groin areas for ticks.

Student A, Student B's close friend, separately recounted that Student B had informed him of this incident.

A third student, Student C, recalled that during his sophomore year (likely 2009) he helped Professor Miller chop and stack wood at Professor Miller's vacation home in Vermont. According to Student C, Professor Miller warned him about ticks, and when they were finished working, Student C removed his shirt and allowed Professor Miller to check him for ticks. Without warning, Professor Miller grabbed the back of Student C's belt and looked down his pants for approximately two seconds.

E. Professor Miller provided alcohol to underage University students.

Several former University students reported that Professor Miller provided them alcohol when they were underage. For example, Student A relayed during his interview with Special Counsel that Professor Miller provided him with alcohol—specifically, Manhattans—on a number of occasions, including when he and Professor Miller ate dinner alone at Professor Miller's home in Connecticut during his freshman year (2000-01). In addition, Student A said he went to Professor Miller's vacation home in Vermont several times—during his freshman and sophomore years—and that they always drank when they were there. Student B also said that Professor Miller gave him a Manhattan while Professor Miller and

he were in Vermont. Student A and Student B were under the age of 21 when Professor Miller provided them with alcohol.

A fourth student, Student D, also related an incident where he and another University student accompanied Professor Miller to his vacation home in Vermont for one night in December of Student D's freshman year (2002). Professor Miller made the two University students dinner and gave them alcohol—i.e., “one or two Manhattans” each. Both former University students were under the age of 21 at the time.

F. Professor Miller took University students on trips to his vacation home in Vermont, including after he was advised not to socialize with University students.

A few interviewees recalled Professor Miller telling stories about a group of male University students with whom he had been very close in the past. Professor Miller spoke of taking these students to his vacation home in Vermont. Other former University students explained during their interviews that they—sometimes alone and sometimes with others—accompanied Professor Miller to his vacation home in Vermont. For example, Student A said during his interview that he and Professor Miller went to Vermont a number of times when he was an undergraduate, including two or three times his freshman year (2000-01). Student B, who reported that he went to Professor Miller's vacation home in Vermont “6-8 times” while he was enrolled at UConn, joined them on several occasions. In

addition, as noted previously, Student D recalled that he and another University student accompanied Professor Miller to Vermont in December of his freshman year (2002).

Although fraternization with students was not specifically prohibited by University policy, no other professor with whom Special Counsel spoke engaged in such overnight travel with students. Those faculty members who did socialize with students said that they did so with a group of students (such as a class party) or in a public place (such as a coffee shop).

According to Dean Woods, shortly after he came to the University in August 2000, he informed Chancellor John Peterson¹¹ and Vice Chancellor Fred Maryanski that Professor Miller was taking University students to Professor Miller's vacation home in Vermont. Dean Woods, despite being Professor Miller's supervisor, did not intervene to stop these trips himself, as he claimed that he was unaware of anything that prohibited Professor Miller's behavior and that he did not think Professor Miller would listen to him regardless. Dean Woods later observed the Vice Chancellor approach Professor Miller's car while he and a number of University students were putting their skis on top of it. The students dispersed after the Vice Chancellor spoke with Professor Miller.

¹¹ "Chancellor" was the term used to describe the position that is now known as "Provost."

Nevertheless, a fifth student, Student E, related during his interview with UCPD that Professor Miller invited him to Vermont during his freshman year (2006-07) but that Student E's mother would not allow him to go. Student E, however, did accompany Professor Miller to his home in Vermont one time during his sophomore year (2007-08).

In January 2008, Dean Woods did instruct Professor Miller in writing that he was "advised not to socialize with students at the University of Connecticut at this time." This, however, did not stop Professor Miller from socializing with students or from taking University students to his vacation home in Vermont. For example, Student C explained that in 2009 he accompanied Professor Miller to his vacation home in Vermont. Several other University students were identified as having been invited to Professor Miller's vacation home for skiing or fishing after January 2008. There also are numerous e-mails indicating that Professor Miller was socializing with students after January 2008.

G. Professor Miller more likely than not was in his underwear in the recording studio in the Department of Music building with a University student.

An incident involving Professor Miller and a University student dancing around his (Professor Miller's) recording studio in their underwear in March or April 2009 is widely rumored among the faculty, staff, and students of the School of Fine Arts. Several students were identified as having been involved in the

incident, and at least two faculty members said it was reported by a student or students who observed it.

While we could not definitively confirm that this incident occurred, UCPD interviewed Student E, one of the students reported to have been dancing in his underwear in the Department of Music building with Professor Miller. Student E related that Professor Miller was his advisor for two years and that he took two independent study classes with him. Student E said he went to Professor Miller's studio 30 or more times to listen to music. Professor Miller would tell him to "respond to what the music was doing." Over time, the student said, Professor Miller "started a 'light' touching" and "would ask him things like 'Are you ok with this?,' 'Did you feel comfortable?,' 'Is everything that happened ok with you?'" Student E started to tell UCPD about one time in Professor Miller's studio when he (Student E) took off his shirt, but he then said he did not feel comfortable talking about what happened next and the interview concluded.

This is not the only report of this type of activity. Student C said during his interview that Professor Miller would tell him to be silent in the recording studio and to do whatever felt right based on the music. When they were in the studio together, Student C and Professor Miller would sit in silence; Professor Miller would occasionally "nudge" him as an attempt to get him to react to the music. Once with Student C, Professor Miller took his shirt off and "played drums on his

stomach.”¹² Professor Miller also tugged on Student C’s shirt a few different times to suggest that Student C remove his shirt as well, but Professor Miller stopped doing so as soon as Student C moved away from him.

Based primarily upon the interview of Student E, we believe it is more likely than not that Professor Miller danced in his underwear with this student in his recording studio in the Department of Music building.

H. There is no evidence Professor Miller visited University dorms to provide students with alcohol or drugs and to engage in sexual activity.

Nearly every witness was asked about the allegation that Professor Miller visited University dorms and provided drugs and alcohol to students in order to engage in sexual activity with them. None of the witnesses corroborated this allegation, and none of them could demonstrate any awareness of the rumor before it was publicized during the summer of 2013.¹³ Only two interviewees mentioned they had ever heard of Professor Miller being in University dorms. The first related to a story Professor Miller told about how he prevented a University student from committing suicide by jumping off the roof of the building. The second related to a time when Professor Miller took medicine to a student because it was

¹² Another student reported a similar, different incident where Professor Miller “ripped open” his shirt in front of a group of students and said, “The human body is the best drum.”

¹³ ODE’s and UCPD’s investigations were focused particularly—although not exclusively—on this allegation; neither of these entities uncovered corroborating evidence either.

the holidays and the student could not get any help. In sum, there is no evidence to support the allegation—made by a former student after the search of Professor Miller’s residence and his being placed on administrative leave became public—that Professor Miller provided drugs or alcohol to students in order to engage in sexual relations with them in University housing.

I. Conclusions.

Based on all of the above, there is strong, credible evidence that Professor Miller engaged in serious misconduct before and during the time that he has been a professor at UConn. The three credible allegations of sexual misconduct with minors and Professor Miller’s improper interactions with University students—i.e., providing alcohol to underage students, engaging in inappropriate contact with students, taking students on overnight trips to Vermont, dancing in his underwear with a student in a University building, and creating an atmosphere in which upperclassmen felt the need to “warn” certain freshmen to avoid Professor Miller and faculty felt compelled to express concerns to the Dean about Professor Miller’s conduct with students—violate, or at least implicate, a number of University policies.

First, Professor Miller violated the University’s Policy Statement on Harassment—the predecessor policy to the current Policy Against Discrimination, Harassment and Inappropriate Romantic Relationships—which defines sexual

harassment as, among other things, “actions [that] have the effect of interfering with an individual’s performance or creating an intimidating, hostile, or offensive environment.” Second, Professor Miller’s conduct implicates the Ethics Statement in the University’s Code of Conduct, particularly as to Professionalism, which provides, in relevant part, “The University and its members expect that the professional standards and requirements that are applicable to the academic . . . and other professions comprising our community will be followed.”¹⁴ Finally, Professor Miller’s conduct implicates Section H.1.a. of the University By-laws, which states that “[a]dequate cause for dismissal will be related directly and substantially to the fitness of a faculty member in his/her professional capacity as described in Section D.” Section D describes professional fitness to include, among other things, the personal attribute of integrity and “[c]oncern for the educational, social, and personal welfare of students.”

¹⁴ Professor Miller’s conduct also constitutes “just cause” for discipline under Article 27 of the Collective Bargaining Agreement between the Board of Trustees and The University of Connecticut Chapter of the American Association of University Professors, which specifically lists “sexual harassment, serious misconduct, or other conduct which impairs the rights of students or other staff members.”

II. The Response of University Officials Prior to February 2013 to Allegations of Sexual Misconduct by Professor Miller Was Insufficient to Ensure the Safety of Minors on Campus and of University Students.

Prior to February 2013, University officials did not respond appropriately to numerous allegations of sexual misconduct on the part of Professor Miller to ensure the safety of minors on campus and of University students.

A. By at least 2003, rumors regarding Professor Miller's inappropriate contact/relationships with students were widely known and discussed.

Rumors regarding Professor Miller's disassociation from the Hole in the Wall Gang Camp and inappropriate interactions with students were widely known by the Dean of the School of Fine Arts and within the Department of Music since at least 2003.

1. The early review of Professor Miller as Head of the Department of Music in 2003.

a. The request.

Professor Miller was appointed Head of the Department of Music in 1999. As noted previously, department heads ordinarily are appointed to five-year terms, with a formal review beginning in the fifth year. Although Professor Miller was not scheduled for a formal review until the fall of 2003, three professors in the Department of Music requested in January 2003 that Dean Woods assemble the full-time voting faculty in a special meeting "to determine if there is a majority

within the department [of music] empowering [Dean Woods] to initiate an immediate review.”

The request for an early review was prompted by concerns of certain members of the faculty of the Department of Music as to Professor Miller’s leadership style and effectiveness, including his alleged intimidation of junior faculty members and bias against female faculty members. The impetus for Professor Miller’s review related to issues with his management style and not to concerns about interactions he had with University students.

b. The review.

On January 31, 2003, Dean Woods assembled the Department of Music faculty, a majority of whom voted in favor of initiating an immediate review of Professor Miller as Head of the Department of Music. The review committee used standardized questions to interview administrators, staff, select adjunct faculty, state music leaders, and members of the School of Fine Arts Executive Committee and of the Senate Executive Committee. The review committee also circulated questionnaires about Professor Miller’s performance as Department Head to each member of the faculty.

c. The results.

A draft report of the review committee, which included a summary of the interviews conducted and the narrative comments faculty members provided as

part of their responses to the questionnaire, was prepared. One interviewee noted that Professor Miller “often talks of spending late evenings on-line with students” and “frequently invites students into his home and takes some of the students to his cabin in Vermont.” In addition, among the comments returned to the review committee in response to the questionnaires were:

#5.

Dr. Miller spends too much time with students, walking the halls, visiting with them, helping them with English papers, taking them on trips to Vermont. . . .

#6.

Dr. Miller’s Weaknesses

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- inappropriate student relationships (“instant messaging” at 2 AM, late night practice room visits, writing student papers, inviting students to his Vermont cabin for the weekend)

Dean Woods reviewed the draft report shortly after it was prepared and met with Professor Miller to explain to him that the review committee had finished gathering information and that the results would be negative. Professor Miller resigned as Head of the Department of Music before a final report was issued.

2. The Hole in the Wall Gang Camp.

A number of interviewees reported knowledge dating back to as early as 2000 of “something” happening with Professor Miller at the Hole in the Wall Gang Camp. One professor in the Department of Music said that he heard rumors about

Professor Miller's conduct at the Camp around the time he started at the University, which was in August 2000. Another professor said that she heard in 2002 or 2003 that Professor Miller was dismissed from the Camp for "playing with little boys."

In addition, before she retired in 2003, the music professor whose son was involved in the incidents with Professor Miller set forth above had a meeting with Dean Woods to discuss her concerns regarding Professor Miller. During that meeting, she told Dean Woods that a real estate agent she met called Professor Miller a "disgusting man" and talked about knowing what he had done at the Hole in the Wall Gang Camp. Dean Woods denied during his interview with Special Counsel that she brought up the Camp during their meeting. However, in his notes from the meeting, Dean Woods wrote the following—"pedophile – Hole in Wall."

3. The professor's son.

The professor also discussed Professor Miller's inappropriate conduct with her minor son with a number of her colleagues, including Dean Woods and several faculty members. During the same meeting with Dean Woods before she retired in 2003, in which she shared her concerns about the rumors of Professor Miller and the Hole in the Wall Gang Camp, she explained to Dean Woods that Professor Miller acted inappropriately with her son when he was underage, albeit without

providing him with any details of the incidents.¹⁵ In addition, according to one former colleague, the professor told her to keep her son away from Professor Miller because he had “gotten her son in his underwear.”

* * *

Based on the above, by at least 2003, rumors regarding Professor Miller’s alleged inappropriate conduct were widely known by the Dean of the School of Fine Arts and within the Department of Music. Although the allegations known to University administrators at the time may not have contained sufficient detail to have been actionable, there was enough information to create a duty of inquiry—particularly on the part of Dean Woods, Professor Miller’s director supervisor—into Professor Miller’s University-related activities, to ensure that any minors on campus and University students were safe.

At a bare minimum, Dean Woods’s knowledge of these rumors should have caused him to treat more seriously the allegations of sexual misconduct referenced in the Virginia Student’s November 2006 e-mails.

¹⁵ According to the former music professor, she also expressed concerns about Professor Miller’s relationship with a student and about the so-called “cabin club” of students whom Professor Miller took to Vermont. Although Dean Woods denied in his interview that this professor spoke to him about these incidents, his notes from this meeting reflect the following—“Impropriety [unintelligible] taking boys to cabin” and “Students call ‘Cabin Club.’”

B. The response to e-mails sent in November 2006 by the Virginia Student alleging sexual misconduct by Professor Miller in the past was insufficient to ensure the safety of minors on campus and of University students.

The response to the Virginia Student's November 2006 e-mails was insufficient—particularly by Dean Woods in light of his knowledge at the time—to ensure the safety of minors on campus and of University students.

1. The Virginia Student's November 2006 e-mails.

In November 2006, the Virginia Student sent three e-mails to the general e-mail address of the Department of Music. The first one, received on November 2, 2006, stated:

To whom it may concern,

Just so you know, if your faculty member Robert F. Miller is the same one who taught at Whittier Junior High in the late 60's in Fairfax county, he is a pedophile. He is responsible for molesting several 7th and 8th grade students. I am certain it was the reason the Fairfax County school board suddenly moved him to McLean High. I would gladly provide you affidavits from myself and other students who were victims of this pervert. If you doubt me, fine, but watch out your [sic] young boys around this guy.

[The Virginia Student]

On November 7, 2006, the Virginia Student sent another e-mail that said, "So, no word yet on what to do with pedophiles on your staff?"

Finally, on November 8, 2006, the Virginia Student sent a third e-mail:

Mr. Miller et. al.,

See you folks in a couple of weeks for my local media blitz. It's a good thing I have friends in Hartford. Picket signs at concerts, bumper stickers, leaflets on campus. I can hardly wait. Payback will be such a relief to the shame and embarrassment I have felt over the years.

2. The response.

On November 3, 2006, the Department of Music staff member who was responsible for monitoring the Department's general e-mail forwarded the Virginia Student's initial e-mail to Professor Miller and Professor Fuchs, who was then the Head of the Department of Music. Professor Fuchs forwarded the e-mail to Ms. Munroe, Associate Vice President for Human Resources and Payroll, seeking advice on how to respond. Ms. Munroe requested advice from Michael J. Eagen, a Labor and Employment Specialist in her department.

Initially, Mr. Eagen suggested to Ms. Munroe that "no action is required to investigate or determine the veracity of the charges that are almost 40 years old. This is particularly true since [Professor Miller] has been successful at UCONN for many years and has attained tenure." The following day, after the receipt of the second e-mail from the Virginia Student, Mr. Eagen recommended that Professor Fuchs confirm that a check into Professor Miller's employment history and background at the time of his appointment did not reveal any information that would disqualify him from employment with the University. He also suggested that Professor Fuchs reach out to Professor Miller to express support. In addition,

he proposed a response to the Virginia Student that included a suggestion that the Virginia Student direct his allegations about Professor Miller to the proper authorities.

On November 7, 2006, Professor Fuchs forwarded the Virginia Student's e-mail to Dean Woods.¹⁶ He did so to "alert" Dean Woods in the event he wished to meet with Professor Miller. He also requested that Dean Woods review Mr. Eagen's proposed response to the Virginia Student's e-mails. That day, Dean Woods and Professor Fuchs spoke to Ralph Urban, the Assistant Attorney General assigned to the University and the University's counsel at the time,¹⁷ seeking advice on how to deal with the situation. Mr. Urban advised them that they should look into what access to minors Professor Miller had through his job at the University and that his access to minors—if any—should be limited. Mr. Urban also recommended responding to the Virginia Student in the manner described above.

¹⁶ During his interview with Special Counsel, Dean Woods said that the staff member who forwarded the November 2, 2006 e-mail to Professor Fuchs and Professor Miller advised him on November 3, 2006 that she had received a disturbing e-mail and that he asked her not to redistribute the e-mail, but to bring it to his office. According to Dean Woods, he immediately contacted Ms. Munroe and Ms. McGee, but this is contradicted by other witnesses and the documents. The assistant whom Dean Woods said notified him said that she notified Professor Fuchs, not Dean Woods. The contemporaneous e-mail exchanges among Professor Fuchs, Ms. Munroe, and Mr. Eagen also give no indication that Dean Woods was even aware the Virginia Student's e-mails had been received. The first indication Dean Woods was made aware of the Virginia Student's initial e-mail is a November 7, 2006 e-mail to Dean Woods from Professor Fuchs, alerting him to the situation and informing him of the internal response to date.

¹⁷ The University's Office of General Counsel was not established until April 2012.

Following consultation with Human Resources and Mr. Urban, Dean Woods and Professor Fuchs met with Professor Miller. During that meeting, Professor Miller advised them that he had retained his own counsel and that he would not discuss the Virginia Student's e-mails. Dean Woods subsequently advised Professor Fuchs that they would not pursue the issue further.

On November 29, 2006, after Mr. Urban inquired about the status of the response to the Virginia Student's e-mails, Mr. Eagen informed that, "[a]fter consultation with Dean Woods it was decided not to respond to the former student of Professor Miller." Mr. Eagen noted that Dean Woods did not report any further communications—presumably from the Virginia Student—about the subject.

Dean Woods did not respond adequately to the Virginia Student's November 2006 e-mails to ensure the safety of minors on campus and of University students.¹⁸ To be sure, he did meet with Professor Miller and confer with Human Resources and with Mr. Urban. However, he did not follow Mr. Urban's advice, including to limit Professor Miller's access to minors and to respond to the Virginia Student, directing him to local authorities. Dean Woods claims he delivered the November 2006 e-mails to President Austin; Provost Nicholls; and Robert Hudd, Chief of UCPD; and met with each of them to discuss the November

¹⁸ Special Counsel's investigation did not uncover any evidence that Professor Miller had any formal involvement with minors on campus; in particular, Professor Miller did not run any camps on campus or provide private lessons through Community School of the Arts.

2006 e-mails. While there is some indication that the allegation was discussed with President Austin and Provost Nicholls, there is no evidence that Dean Woods gave the e-mails to President Austin, Provost Nicholls, or Chief Hudd in November 2006, or that he shared with them the extent of his knowledge regarding Professor Miller's misconduct.¹⁹

Dean Woods said during his interview with Special Counsel that he attempted to have Professor Miller terminated soon after receipt of the November 2006 e-mails. There is no corroborating evidence that Dean Woods was pursuing a personnel action against Professor Miller as a result of the sexual misconduct allegations. Moreover, the discussion Dean Woods had with Professor Fuchs in November 2006 wherein he told Professor Fuchs that they would not pursue the matter further suggests otherwise.²⁰

¹⁹ Dean Woods did forward the Virginia Student's 2006 e-mails along with Professor Miller's address and social security number to Chief Hudd in August 2007 after Dean Woods received an anonymous, threatening letter at his home in July 2007 that he thought might have come from Professor Miller.

²⁰ In fact, the first indication that Dean Woods made any attempt to discipline Professor Miller is in the late summer and fall of 2007, which appears to have been prompted by Professor Miller acting out over the move of the music education program to the Neag School and his continued incivility toward and alleged intimidation of fellow faculty members. On September 25, 2007, Dean Woods assembled a dossier for Human Resources with a "Selected Compilation of Problems, Incidents, Complaints and Inappropriate Behavior of Robert Miller," which did include the Virginia Student's November 2006 e-mails among the numerous examples of incivility and similar misconduct. The members of Human Resources involved in assessing Professor Miller's conduct in 2007, however, consistently maintained that the allegations of sexual assault against Professor Miller were not the basis for their evaluation of whether he should be disciplined.

When Dean Woods learned of the November 2006 e-mails from the Virginia Student, he was aware of two other allegations and/or rumors that Professor Miller had engaged in sexual misconduct with minors, as well as allegations that Professor Miller had been involved in inappropriate activities with University students, such as taking them to his vacation home in Vermont. Indeed, Dean Woods likely was the only person among the people aware of the November 2006 e-mails who had knowledge of all of these prior allegations. Accordingly, the November 2006 e-mails should have set off alarm bells with Dean Woods in particular that Professor Miller could pose a danger to minors on campus or to University students. But there is no evidence that Dean Woods shared what he knew about the prior allegations with anyone else who might have recognized that the allegations in the November 2006 e-mails might have been indicative of a more immediate problem at the University.²¹

* * *

While there was some consultation with Human Resources and the Assistant Attorney General assigned to the University concerning how to respond to the Virginia Student's November 2006 e-mails, there is no evidence that anyone informed UCPD, performed any investigation into Professor Miller's access to and

²¹ There is a reference to "Mountain Retreat in VT" in Mr. Urban's notes of his telephone conversation with Dean Woods and Professor Fuchs on November 7, 2006, but the comment appears to be attributed to Professor Fuchs.

conduct with minors on campus and with University students, followed the advice provided by Mr. Urban, or did anything else to ensure the safety of minors on campus and of University students.

C. Although several allegations that Professor Miller engaged in sexual misconduct were raised during a meeting among University officials on November 5, 2007, nothing was done to investigate these allegations.

Leaders from Human Resources, ODE, UCPD, the School of Fine Arts, and the Neag School attended a meeting on November 5, 2007 specifically to discuss Professor Miller. According to notes from this meeting, three separate allegations of sexual misconduct by Professor Miller were discussed, but curiously the participants in the meeting interviewed by Special Counsel recall the singular focus of the meeting to be Professor Miller's conduct as a disruptive force among the faculty in the Department of Music. No one who spoke with Special Counsel had anything other than a vague memory, if any, of the sexual misconduct allegations, which none of the attendees took any responsibility for investigating.

1. The move of the music education program from the School of Fine Arts to the Neag School.

In the fall of 2007, the School of Fine Arts attempted to resolve the dysfunction within the Department of Music by moving the music education program to the Neag School. Because the students of the music education program were caught in the middle of the departmental dysfunction, Richard Schwab, Dean

of the Neag School, agreed to adopt a five-year degree program and to accept three music education professors from the Department of Music on the Neag School faculty. Dean Schwab refused to accept Professor Miller—who taught music education—as a Neag School faculty member because he had personally experienced Professor Miller’s negativity. Although Dean Schwab recognized that the other professors with whom Professor Miller argued also had personality issues, he believed that separating them from Professor Miller was a possible solution to the dysfunction within the Department of Music. The move also aligned the music education program with education programs offered by the University in other disciplines. Nevertheless, the move was unsettling to the music education faculty, particularly Professor Miller, who as a consequence was especially disruptive and troublesome in his dealings with Dean Woods and his fellow faculty members in the summer of 2007.

2. The November 5, 2007 meeting to discuss Professor Miller.

Professor Fuchs, Head of the Department of Music, requested assistance in addressing Professor Miller’s “attempts throughout the summer [of 2007] to undermine the transition that is currently taking place for the music education program and three faculty members to relocate to the Neag School of Education.”

Thus, on November 5, 2007, Ms. McGee;²² Dean Woods; Dean Schwab; Ms. Munroe; Mr. Eagen; Mary Signore, Assistant Director, ODE; Keith Hood, Assistant Director, Labor Relations; and Ronald Blicher, Major, UCPD; met to discuss Professor Miller's conduct as a disruptive force among the faculty in the Department of Music.

Two sets of notes exist from this meeting: one from Mr. Eagen and one believed to be from Ms. McGee. Mr. Eagen's notes say "Rumors about sexual activity w/ students," "Former student when he was a junior high school teacher alleged he was molested by Miller," and "[Former professor] told Dean that Miller molested her son (20 some years ago)."²³ The notes believed to be Ms. McGee's have the following references: "Cabin in Vermont, takes students there to ski" and "[Former professor]/her son."

The participants with whom we were able to speak universally had only the faintest recollection, if any, of these allegations of sexual misconduct.²⁴ While

²² In addition to addressing allegations of sexual harassment, ODE more generally focuses on ensuring compliance with the University's nondiscrimination policies and state and federal laws and regulations related to equal opportunity and affirmative action. ODE's major areas of focus include Americans with Disabilities Act (Title I) compliance; affirmative action; discrimination; diversity; education and training; search process compliance; and Title IX compliance.

²³ Mr. Eagen's notes also contain a quote apparently said by Professor Miller to Dean Woods's staff that "my class takes me to the porno shop in Manchester."

²⁴ As noted, Ms. Munroe and Ms. McGee, both former employees of the University, declined to be interviewed by Special Counsel. However, during our initial contact with Ms. McGee, after
(continued . . .)

Dean Woods said he recalled some of the discussions regarding Professor Miller's inappropriate conduct—the allegations by the Virginia Student and the professor's son—he did not recall all of them—the note about “rumors of sexual activity.”

Mr. Eagen acknowledged that his notes reflect a discussion of these allegations but that he has no independent recollection of Dean Woods conveying this information. Mr. Hood, who only recently had joined the University as a manager for Labor Relations, said he did not recall any discussion of sexual misconduct at this meeting when the allegations about Professor Miller became public in June 2013. He later vaguely recalled that the e-mails from the Virginia Student and allegations Professor Miller took University students to his vacation home in Vermont were briefly discussed, but the focus of the meeting was on Professor Miller's disruptive conduct among the faculty. Dean Schwab did not have any recollection of these allegations from the November 5, 2007 meeting. Although Major Blicher said that he would not have dismissed comments like these regardless of whether the conduct was legal, he also did not recall these allegations even being raised.

Given the participants' uniformly poor recall of the November 5, 2007 meeting, it is unclear how forcefully the concerns about Professor Miller's conduct

(. . . continued)

we explained the purpose for our request, she did not recall these topics being discussed at this meeting.

were expressed—likely by Dean Woods—and what, if any, detail was given.

Nevertheless, given that three separate instances of alleged sexual misconduct were raised during this one meeting, everyone who attended the meeting was on notice that Professor Miller posed a potential threat to the safety of minors on campus and to University students. Regrettably, none of the individuals who participated in this meeting took responsibility for following up on these allegations. Indeed, as of January 2008, the only action anyone had taken to curtail Professor Miller's inappropriate contact with students was Vice Chancellor Maryanski, who interceded and stopped a ski trip that Professor Miller was taking with several students, as described above.²⁵

D. In January 2008, University officials advised Professor Miller not to socialize with University students, but did not consistently enforce it.

In January 2008, the Virginia Student resurfaced and sent another e-mail to the Department of Music repeating his allegations that Professor Miller was a child molester. Although the Virginia Student did not make any different claims, in response to this new e-mail from him in January 2008, certain University officials did engage to try to limit Professor Miller's social interactions with students by

²⁵ Dean Woods said during his interview that he requested UCPD to place an extra officer in the Department of Music building to address, in part, concerns relating to Professor Miller. Chief Hudd, however, stated that an additional officer was stationed in the Department of Music building because of concerns regarding theft. Chief Hudd advised that the assignment of an additional officer to the Department of Music building was unrelated to any issue with Professor Miller. Other witnesses within UCPD concurred with Chief Hudd.

advising him to cease such interactions. Professor Miller, however, did not comply, and the warning was not consistently enforced.

On January 4, 2008, the Virginia Student sent another e-mail to the Department of Music that read:

To whom it may concern,

Just wanted you to be sure you are not letting your teacher Robert Miller near any minor childre [sic]. With his history of molesting young boys, I am hopeful he is not involved with any youth groups or has any other opportunity to practice his despicable behavior. I will be visiting the Hartford area in February and hope to make more of his disgusting practices with young boys public at that time. I will be including testimony from several of his victims at Whittier Junior High in Fairfax County where he molested me and others in 1969 and 1970.

[The Virginia Student]

On January 10, 2008, Dean Woods forwarded this e-mail to Ms. Munroe and Major Blicher to discuss how to respond. Dean Woods, Ms. Fox, Ms. Munroe, and Mr. Eagen met on January 17, 2008. Mr. Eagen's notes from this meeting indicate that Dean Woods informed the group that—most likely in 2006—Professor Miller admitted to Dean Woods that he knew the Virginia Student, neither denied nor admitted the activity, and said that he had retained an attorney. Mr. Eagen's notes also reflect that Chief Hudd was aware of the allegations, that “no check done

although it was requested,”²⁶ and that Professor Miller did not have a record of conviction and his work history was clear. The participants in this meeting decided that Dean Woods needed to tell Professor Miller about the most recent contact from the Virginia Student and that Professor Miller should not socialize with undergraduate University students in light of all these allegations and that he would be removed as the head of undergraduate music. On January 21, 2008, Dean Woods met with Professor Miller and gave him a letter that stated, “Because of the content of [the allegations in the Virginia Student’s e-mails], you are advised not to socialize with students at the University of Connecticut at this time.”

Dean Woods, however, did not ensure that Professor Miller followed this admonishment. For example, in response to concerns expressed by a professor to Dean Woods in 2009 that Professor Miller was spending time late at night with students, Dean Woods responded that Professor Miller should be “commended” for his “work ethic.” In addition, in 2009, another professor reported the so-called underwear incident to Dean Woods. According to this professor, Dean Woods responded, “Well, they’re 18, and there’s nothing we can do about it.” Another staff member who also passed along to Dean Woods the widespread rumors about this incident noted that Dean Woods reacted dismissively, saying that the person

²⁶ Although Dean Woods requested Chief Hudd perform a background check of Professor Miller in August 2007, in his interview, Chief Hudd only “barely” recognized Professor Miller’s name. The first indication UCPD investigated an allegation involving Professor Miller is when UCPD detectives conducted a background check of him in January 2008.

spreading the rumor probably was just jealous that he or she was not the one dancing.²⁷

Professor Fox, however, did reinforce the letter, on two occasions. The first came when she heard of the alleged underwear incident. According to Professor Fox, she confronted Professor Miller about these allegations. Although he denied them, she reminded him that he was being watched, that he could not ever let this happen again, and that he should avoid even the appearance of impropriety. The second came when Professor Miller volunteered to go to elementary schools to observe student teachers as part of the music education program. Professor Fox told Professor Miller that she could not believe he would even suggest that he be assigned to observe student teachers in an elementary school and that he should “forget the whole thing.”

E. Neither Professor Jarjisian nor Dean Woods reported the December 2011 letter to the appropriate University officials.

On December 12, 2011, Professor Jarjisian, Head of the Department of Music, received an anonymous letter dated December 1, 2011, which discussed Professor Miller’s disassociation from the Hole in the Wall Gang Camp. In

²⁷ In fact, Dean Woods appointed Professor Miller Special Associate to the Dean for the 2011-12 academic year. In defending this decision, Dean Woods contended that it was not a promotion and that Professor Miller did not receive the usual \$10,000 supplement normally associated with such a position. The University confirmed, however, that Professor Miller’s salary for this period did, in fact, reflect that he received the full salary, including the supplement, associated with this position.

particular, it stated that Professor Miller was dismissed from the Camp in approximately 1992 for molesting a camper. The letter explained that the administrators of the Camp did not report the incident, in order to protect the camp and the Camp's founder, actor Paul Newman. The letter warned, at the very top, "DO NOT LET UCONN BECOME A PENN STATE OR SYRACUSE U. STORY." Neither Professor Jarjisian nor Dean Woods reported the December 1, 2011 letter to any other University official despite its serious—albeit anonymous—allegations (corroborative of information Dean Woods had known for more than eight years at that point) and the fact that the Penn State-Sandusky scandal was in the news nearly every day during this time.

According to Professor Jarjisian, she immediately brought the letter to Dean Woods's attention, but he instructed her to take the letter home and put it in a file. In his interview, Dean Woods specifically denied that Professor Jarjisian informed him of the letter and also specifically denied telling her to take the letter to her house and put it in a file. In fact, he "swore" that he first learned of the letter when he read about it in the newspaper in the summer of 2013. However, we determined that Dean Woods either was forgetful or not being truthful when, during our review of e-mails in the course of this investigation, we discovered an e-mail from Professor Jarjisian to Dean Woods dated December 13, 2011—one day after

receiving the letter—wherein she wrote, with respect to the agenda for their routine weekly meeting to be held that day, “Add anonymous letter.”

Although Professor Jarjisian did not take the letter to her home, she also did not report the letter to anyone else. Instead, she put it in a file and forgot about it, even though she already was aware of rumors concerning the Hole in the Wall Gang Camp, the so-called underwear incident, and Professor Miller’s trips to Vermont with University students. Astonishingly, Professor Jarjisian said she did not draw a parallel to Penn State, notwithstanding the fact that it was in the news every day at the time and explicitly referenced in the anonymous letter.

The highly publicized announcement of the University’s new, institution-wide Sexual Assault Response Policy and Child Abuse and Neglect Reporting Policy, which were released just one month later, on January 25, 2012 (followed shortly thereafter by University-wide training), also did not motivate Professor Jarjisian or Dean Woods to bring the allegations in the December 2011 letter to the attention of University authorities. The Sexual Assault Response Policy (which has not been applied retroactively) requires “*any* employee who . . . receives a report of sexual assault” to report the incident as soon as possible to the Title IX Coordinator or other appropriate campus authorities. While Connecticut law does not include University professors among the list of mandatory reporters of child abuse, the University’s child abuse reporting policy encourages “all other

University employees . . . to report suspected child abuse to the [Department of Children and Families] hotline.”

In the face of all the information of which Professor Jarjisian and Dean Woods were aware when the letter was received in December 2011—particularly Dean Woods, who had written the note “pedophile – Hole in Wall Camp” after his meeting with the former professor eight years earlier—it is inexplicable that neither of them acted to ensure that the December 2011 letter made it to the appropriate University officials for further review, investigation, and possible action.

F. Conclusions.

As noted, University officials at different levels were aware of allegations of serious misconduct by Professor Miller prior to February 2013. Certain of these officials—notably Professor Fuchs, Vice Provost Maryanski, Professor Fox, and Mr. Urban—attempted to address the particular allegation they each confronted appropriately. Meanwhile, there was a collective failure by the participants in the November 5, 2007 meeting to meet their moral, if not their professional, obligation to investigate the three separate allegations of sexual misconduct by Professor Miller that were identified during that meeting, to ensure the safety of minors on campus and of University students. As described below, Dean Woods, Professor

Jarjisian, and, to a far lesser degree, UCPD, are singled out for particular criticism of their handling of the allegations involving Professor Miller.

These failures were not the result of any omission or weakness in University policy. Rather, they were the result of the inaction by the particular individuals involved.

Dean Woods. Given the turnover of department heads as a result of the dysfunction within the Department of Music, Dean Woods was the only person who had both knowledge of every allegation and authority to address them. Dean Woods, however, repeatedly failed to address effectively the allegations of misconduct against Professor Miller.

In fact, by 2003, Dean Woods was aware of numerous rumors regarding Professor Miller's inappropriate conduct and relationships with students. He had read the draft report from Professor Miller's 2003 early review, in which certain faculty members expressed concerns about Professor Miller's "inappropriate student relationships" and trips to his homes in Connecticut and Vermont, he had been informed of rumored sexual misconduct with campers at the Hole in the Wall Gang Camp, and he had been informed about inappropriate contact with the minor son of a fellow music professor. Yet, despite this billowing smoke, Dean Woods took no action prior to November 2006 to see if there was fire.

Because of his prior knowledge of alleged sexual misconduct by Professor Miller, the Virginia Student's November 2006 e-mails alleging that Professor Miller is a "pedophile" should have been particularly alarming to Dean Woods. Despite consulting with Human Resources and University counsel (Mr. Urban) after learning of these e-mails, Dean Woods did not raise the prior allegations, involve UCPD, or, contrary to the advice of counsel, take steps to investigate and limit Professor Miller's access to minors on campus or to potentially vulnerable undergraduate students.

In January 2008, Dean Woods did respond to an additional e-mail from the Virginia Student by "advising" Professor Miller "not to socialize with students at the University of Connecticut at this time." When he later learned that Professor Miller might still be socializing with University Students—i.e., late-night interactions with students and the so-called underwear incident—Dean Woods dismissed these allegations and failed to take any further action to limit Professor Miller's contact with University students.

Most egregiously, the evidence strongly indicates that Dean Woods was made aware of the December 2011 allegations involving the Hole in the Wall Gang Camp, and notwithstanding his prior knowledge of this same allegation, that he told Professor Jarjisian to take the letter home and did nothing himself to act upon it.

Dean Woods’s mishandling of the allegations about Professor Miller over the course of a decade implicates the Ethics Statement in the University’s Code of Conduct, particularly as to Professionalism, which provides, in relevant part, “The University and its members expect that the professional standards and requirements that are applicable to the academic . . . and other professions comprising our community will be followed.” It also implicates Section H.1.a. of the University By-laws, which states that “[a]dequate cause for dismissal will be related directly and substantially to the fitness of a faculty member in his/her professional capacity as described in Section D.” Section D describes professional fitness to include, among other things, the personal attribute of integrity and “[c]oncern for the educational, social, and personal welfare of students.” In addition, it implicates the University’s Policy Statement on Harassment in place at the time—which stated that “Deans, directors, and department heads receiving complaints must alert ODE as to the nature of the incident.”

Professor Jarjisian. Professor Jarjisian received the anonymous letter referenced above on December 12, 2011. Although she immediately brought the letter to Dean Woods’s attention, her failure to report the letter to anyone else for a period of 14 months—whether or not at the direction of Dean Woods—put minors on campus and University students at further risk. Her failure to act on the December 2011 letter implicates the Ethics Statement in the University’s Code of

Conduct and Section H.1.a. of the University By-laws, as identified in the discussion of Dean Woods's conduct, above. Professor Jarjisian separated from the University in April 2013 for reasons entirely unrelated to the allegations concerning Professor Miller.

UCPD. In contrast to the vigorous response by UCPD in February 2013, UCPD responded rather passively to the prior allegations of sexual misconduct. Major Blicher—who retired from the University in September 2011—said he would not dismiss allegations of sexual misconduct like those made at the November 5, 2007 meeting, regardless of whether the conduct was legal. He, however, has no memory of these allegations or even of the meeting itself, and he speculated that he may not have stayed the whole time. Major Blicher actually said he had no memory of Professor Miller at all. In addition, Chief Hudd—who retired from the University in April 2012—received an e-mail in August 2007 from Dean Woods's assistant attaching the November 2006 e-mails, but he did not remember—or even admit to—receiving the e-mails and said he only “barely” remembers Professor Miller.

The only action UCPD took between August 2007 (the earliest time UCPD apparently was made aware of allegations involving Professor Miller) and February 2013 was a background check of Professor Miller performed in January 2008 by UCPD detectives, which indicated only that Professor Miller previously

had not been charged with a crime. Contrary to UCPD practice, no investigative file on Professor Miller was opened at that time.

III. University Officials Responded Appropriately and Aggressively to Allegations Concerning Professor Miller Once the December 2011 Letter Finally Came to Light in February 2013.

In contrast to the situation prior to February 2013, since that time, University officials have responded appropriately to the allegations of sexual misconduct by Professor Miller.

A. University officials responded forcefully to the December 1, 2011 letter once it was brought to the attention of ODE.

University officials took appropriate, forceful action once the December 2011 anonymous letter finally was provided to them in February 2013. Professor Jarjisian resigned as Head of the Department of Music in December 2012, but she remained a member of the faculty in the Department. According to her, she found the December 2011 letter again on February 13, 2013, while cleaning out the office she had occupied as Department Head. Professor Jarjisian took the letter to Dean Grant, who had succeeded Dean Woods in August 2012. Professor Jarjisian handed the letter to Dean Grant and told her Dean Woods had instructed her to take it home but that it was hers (Dean Grant's) now.

Dean Grant immediately notified ODE of the letter, and the next day, February 14, 2013, e-mailed a copy of the letter to Ms. Conklin, Associate Vice

President and Title IX Coordinator, seeking advice on how to respond.²⁸ The same day, Ms. Conklin brought the matter to the attention of Mr. Eagen, who had since moved to Labor Relations, and with Mr. Urban. She noted the two troubling issues the letter presented: the underlying allegations against Professor Miller and the question of why such disturbing allegations were not brought to the attention of ODE, or any other University officials, until 14 months after the letter was received.

UCPD, which has been led by Chief Barbara O'Connor since 2012, also was informed of the letter. Almost immediately, UCPD initiated a criminal investigation that ultimately included interviews of more than 50 witnesses. In addition, UCPD contacted and coordinated with Connecticut State Police and Virginia law enforcement. As of this time, there were no allegations of sexual misconduct involving University students; thus, ODE appropriately deferred to the needs of the sensitive and (at that time) covert law enforcement investigation its own investigation into the adequacy of University officials' prior response.

By June 2013, Connecticut State Police (in cooperation with UCPD and Virginia law enforcement) had obtained sufficient information to establish probable cause for a search warrant with respect to Professor Miller's home in

²⁸ Ms. McGee left ODE in 2012.

Connecticut. In tandem with execution of that warrant on June 20, 2013, UITS administratively seized from the Department of Music building a number of computers and electronic storage devices that were used or owned by Professor Miller.²⁹ There was nothing to prevent this same vigorous response by the University in November 2006, 2007, or 2008.

B. University officials responded consistent with their obligations under Title IX to allegations in June 2013 that Professor Miller had engaged in sexual misconduct with University students.

On June 21, 2013, the University placed Professor Miller on paid administrative leave, following the execution of the search warrant by the Connecticut State Police and the administrative seizure of his computers and related electronic storage devices. These actions received considerable media attention in Connecticut. On June 26, 2013, Ms. Conklin received a call from a music professor regarding a conversation she had a day earlier with a former University student. According to this professor, the topic of Professor Miller came up and the student said that he was not surprised about the police investigations. The student related that Professor Miller was known to enter freshman dorms, bring illegal drugs, “get kids stoned,” and then have sex with them.³⁰ The student

²⁹ There is no indication that Professor Miller was aware of the criminal investigations being conducted prior to execution of the search warrant.

³⁰ As noted previously, our investigation did not reveal any facts to support these allegations.

indicated that he had not been assaulted but that he had friends who were. The student refused to identify these alleged victims.

The same day, Ms. Conklin notified UCPD, Labor Relations, the Office of the General Counsel, the Assistant Attorney General, the Office of the Provost, and Dean Grant. Ms. Conklin and the Chief Operations Officer in the Office of the Provost arranged to have a conversation the next day with the Chief and Deputy Chief of UCPD and with officials in Labor Relations. The purpose of the call was to “assure that public safety and administrative concerns are being addressed appropriately.”

Following this discussion and others, on June 28, 2013, President Herbst met with senior staff and directed University administration to (1) commence a personnel investigation regarding Professor Miller, (2) commence a Title IX investigation regarding the allegations of sexual assault by Professor Miller, and (3) engage an outside law firm to assist in the personnel and Title IX investigations and to conduct an independent review of the University’s past actions with respect to the allegations against Professor Miller. The multifaceted investigation that the University undertook became focused in particular on identifying any potential victims of sexual harassment among the University student population and on the independent investigation commissioned by the Board of Trustees, the so-called “institutional review” that is the subject of this Report.

Consistent with the University's Title IX obligations, ODE commenced its investigation aimed at identifying and assisting any potential victims. ODE's outreach to potential victims was exhaustive, and ODE followed up on every logical lead—including attempting to contact more than 70 current and former students and staff and interviewing more than 35 of them. ODE's outreach was reinforced by the media coverage that the allegations concerning Professor Miller received in the summer of 2013. No victims of sexual harassment by Professor Miller, however, came forward from among the former and current student populations.

The one limitation Special Counsel observed with respect to ODE's investigation is that ODE initially reached out to potential victims by e-mail or telephone and conducted many interviews by telephone, which are not ideal forms of communication to elicit such sensitive information as whether one has been the victim of sexual harassment or to assess a person's credibility. To be sure, the allegation concerning Professor Miller engaging in serious misconduct with students in University housing emerged in late June, when most students were not on campus and who were thus difficult to contact in person. In addition, ODE felt an understandable need to act promptly now that allegations were made involving University students. Moreover, the record from ODE's investigation reflects that it did elicit obviously sensitive and candid comments from many witnesses who were

interviewed. Nevertheless, although unlikely given the extent of ODE's efforts to identify potential victims (supplemented by UCPD and Special Counsel's efforts), the possibility remains that there could be a victim of sexual harassment who did not feel comfortable speaking candidly in response to an e-mail inquiry or in the course of a telephone interview by an investigator with whom that current or former student was unfamiliar.³¹

Based on the foregoing, University officials—including UCPD, ODE, the Office of the General Counsel, the President, and the Board of Trustees—responded promptly and effectively to the allegations involving Professor Miller that were raised in February and June 2013. University officials, up to and including the Board of Trustees, appropriately focused on identifying and helping any possible victims and undertaking a transparent institutional review of the facts to uncover any policy weaknesses or other vulnerabilities that should be addressed to enhance the safety of the University campus community going forward, while at the same time not interfering with the ongoing law enforcement investigations.

³¹ We also note there were a few students who believed the ODE investigator with whom they spoke suggested to them that they were victims when they, in fact, viewed their relationships with Professor Miller to be entirely appropriate, and this resulted in some lingering resentment about their ODE interviews. This merely may reflect the difficult challenge ODE, like any investigator, faces when needing to ask probing questions about such sensitive subjects as arise in this matter. It is a useful reminder, however, of the delicate balance that must be struck between asking such probing questions and not letting developing perceptions of the evidence lead to questions that might be less than objective.