



OPPENHEIMER
INVESTIGATIONS
GROUP LLP

Report Concerning Complaints of Faculty-Student Sexual Misconduct

The Cate School

December 13, 2021

**The content of this Report is sensitive, personal, and graphic.
Reader discretion is advised.**

INVESTIGATIVE REPORT

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	METHODOLOGY	1
A.	Content of Report	1
B.	Scope of Report.....	2
C.	Participation.....	2
D.	Identification.....	2
E.	Documentation	3
F.	Preponderance of the Evidence Standard	4
III.	NAMED RESPONDENTS	4
A.	Kirk Phelps	4
B.	Scott McLeod	5
C.	Robert Kusel.....	7
D.	Martin Lowenstein	9
E.	David Mochel	10
F.	Andy Campbell	14
G.	Da’Jon James.....	19
IV.	UNNAMED RESPONDENTS	24
A.	Faculty Member 1	24
B.	Faculty Member 2	25
C.	Faculty Member 3	26
D.	Faculty Member 4	26
E.	Faculty Member 5	27
F.	Faculty Member 6	29
G.	Faculty Member 7	31
H.	Faculty Member 8	33
I.	Faculty Member 9	33
J.	Faculty Member 10	34

INVESTIGATIVE REPORT

I. INTRODUCTION

On October 13, 2020, the Cate School (“Cate”) retained the Oppenheimer Investigations Group LLP (“OIG,” formerly the Law Offices of Amy Oppenheimer) to conduct an impartial investigation into complaints of sexual misconduct and sexual harassment brought by Cate students and alumni. The investigation came about after former Cate students informed the school of incidents of sexual misconduct involving faculty members.

As a first step, the Cate School sent an email on October 23, 2020, asking alumni to come forward and share any experiences of sexual misconduct while at Cate. Fifteen individuals initially responded to this email. Within months an additional thirty individuals came forward, with the most recent in December 2021. Many of the responses were made following email updates from the school, which were sent April 27, July 3, July 23, August 20, August 25, September 22, October 1, and October 4, 2021. Alumni also came forward after Cate was the subject of reporting in multiple media outlets in July 2021.

The initial scope of the investigation was to investigate allegations of faculty-student sexual misconduct that had not previously been reported to the school.¹ The scope was revised in July 2021 to include allegations of faculty-student sexual misconduct and sexual harassment that *had* been previously reported. The final scope included investigating any sexual misconduct and sexual harassment between faculty and students, to determine what occurred, and to determine whether Cate administrators knew about such conduct and, if so, what steps they took to respond.

Once the scope of the investigation was determined and agreed upon, the investigators operated with complete independence as to witness identification, interview content, and preparation of findings.

II. METHODOLOGY

A. Content of Report

When determining what level of detail to provide in this Investigative Report (“Report”), OIG considered the perspective of the current and former students who came forward, and made efforts to protect individuals’ anonymity while also providing transparency and an accurate account of faculty sexual misconduct at Cate. Many of the individuals interviewed requested anonymity while others did not.

Given the small size of the school and the desire to assure anonymity to those who wanted it, OIG determined that providing a summary of the allegations, other evidence considered, and findings – focusing on the respondents’ wrongdoing rather than the details of what happened to each student – was the appropriate way to share this information with the community while respecting the participants’ desire for privacy.

Details of misconduct against students who did not participate in this investigation were omitted to ensure that this Report does not expose their identities. Thus, in some instances, supporting evidence was not included to protect the privacy of those individuals.

¹ For ease of reading, this Report makes general reference to “faculty-student” misconduct; however, it should be noted that the investigation encompassed allegations of conduct by faculty, administrators, and other non-faculty educators at Cate. References to “faculty” in this context should thus be understood to broadly apply to all such individuals.

INVESTIGATIVE REPORT

In addition, if an individual requested that their allegations be omitted from this Report, OIG accommodated the request. If participants shared information about conduct that was outside the scope of the investigation (such as student-on-student sexual misconduct), an anonymous account, in summary form, was submitted to Cate but not included in this Report.

OIG retains a copy of all details and information collected over the course of this investigation.

B. Scope of Report

This Report does not endeavor to serve as a comprehensive account of all the information OIG gathered. Rather, it details the allegations and findings regarding those respondent faculty members about whom OIG uncovered sufficient evidence to make findings concerning the alleged conduct.

Concerns were raised about 22 individual respondents. If OIG was unable to gather enough information to make findings on the allegations related to a particular respondent, which occurred with respect to five individuals, those allegations were omitted from this Report. This was due to factors such as the allegations being based on rumors, lack of documentation, and lack of direct information (for example, if the alleged target of the behavior declined to participate in the investigation and there was otherwise a lack of evidence concerning the alleged conduct).

Ultimately, OIG made findings concerning 17 respondents – seven of whom are named in this Report and ten of whom are not named, in accordance with OIG’s naming policy, set forth below in Section II.D.

C. Participation

A total of 54 individuals were interviewed as part of the investigation. This included 38 students and alumni, seven respondents, five administrators and former administrators, and four current and former faculty members.

In addition to interviewing those who contacted OIG in response to a communication from Cate or information in the media, OIG contacted students and alumni who were reported to have witnessed, but not experienced, faculty sexual misconduct. Those who reportedly *experienced* faculty sexual misconduct but did not contact OIG were not contacted. This decision was made to respect the boundaries and privacy of students and alumni who declined to participate and in an effort to avoid re-traumatizing or triggering individuals.

The investigators attempted to contact former faculty alleged to have engaged in sexual misconduct, with the exception of those whose contact information was unavailable or who were deceased. Seven respondents participated in the investigation. Two explicitly declined to participate in the investigation. An additional two respondents were contacted and did not respond to requests for an interview.

D. Identification

All students and alumni who spoke to the investigators were assigned a letter (Student A-Student LL), so their accounts would not be connected to their names. OIG will retain the identification key. Students and alumni who did not participate in the investigation, but were referenced in others’ accounts, were assigned a number so they, too, would not be identifiable in the Report (Student 1-Student 45). Thus, no

INVESTIGATIVE REPORT

individual assigned a number provided a first-hand account or otherwise participated in the investigation. These numbers and letters were assigned at random.

After careful consideration and an analysis of industry standards, OIG determined the naming policy for respondents who were found to have engaged in sexual misconduct. OIG considered the following six factors holistically when determining which individuals would be named in this Report:

- The severity of the misconduct;
- Whether there was a pattern of misconduct with multiple students;
- Whether the conduct involved physical or emotional coercion, or grooming behavior;²
- The number of reports made about a particular individual;
- The presence of independent corroborating evidence; and
- Ongoing current risk to students at Cate or elsewhere.

For allegations that were substantiated, but did not meet enough of the above factors, the allegations and findings are detailed in this Report, but the respondents are not named.³ Respondents, both named and unnamed, are listed in chronological order beginning with the earliest reported events.

Two former and three current administrators were interviewed regarding their knowledge of the allegations. Those individuals are:

- Scott McLeod, Former Head of School (1975-1993)
- Robert “Bob” Bonning, Former Assistant Head of School (1987-2015)
- Ben Williams, Current Head of School (1998-present)
- Jay Dorion, Current Assistant Head of School (2010-present)
- Sandi Pierce, Current Assistant Head of School for Finance and Operations (1991-present)

E. Documentation

The investigators reviewed thousands of pages of documentation provided by witnesses and respondents, as well as electronic files sent by Cate. In addition, during a site visit, OIG had access to relevant non-digitized documentation, as well as the school buildings and grounds.

The documentation reviewed included the personnel files of all respondents, student files, relevant Cate policies, and portions of the faculty handbook. In addition, the undersigned reviewed all documentation provided by witnesses, which included hundreds of pages of handwritten letters, typed notes, text messages, emails, and photographs.

² The U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (“SMART”) uses the following definition of grooming: “Grooming is a method used by offenders that involves building trust with a child and the adults around a child in an effort to gain access to and time alone with her/him. In extreme cases, offenders may use threats and physical force to sexually assault or abuse a child. More common, though, are subtle approaches designed to build relationships with families.”

³ One respondent was not named because of the target’s stated concern about privacy.

INVESTIGATIVE REPORT

F. Preponderance of the Evidence Standard

The findings in this Report do not reach questions of law as to whether the alleged misconduct constitutes a violation of applicable laws, but instead are factual findings. The undersigned utilized a legal analysis in reaching the determinations in this Report. When evaluating the evidence, the undersigned used the preponderance of the evidence evidentiary standard, to determine if after weighing all the evidence, the alleged conduct was more likely than not to have occurred. These determinations, however, are not intended to equate to a finding that applicable laws were violated.

The investigators have drawn the conclusions in this Report from the totality of the evidence and a thorough analysis of all the facts and, where necessary, have made credibility determinations. The investigators considered and gave appropriate weight to information that might be considered hearsay in legal proceedings.

III. NAMED RESPONDENTS

A. Kirk Phelps

Kirk Phelps taught at Cate full-time from 1983 to 1985, returned on a part-time basis for the 1987-88 school year, and led Cate's outdoor program on a full-time basis from 1991 to 1996. One former student reported that Phelps had sexually abused her while she was a student at Cate and Phelps was employed there.

1. Evidence Considered

a. Allegations

"Student G" reported that she was sexually abused by Phelps more than 20 times while she attended Cate in the 1980s. This occurred both on campus and during off-campus, school-sponsored activities. Student G considered Phelps a friend and role model and, before the abuse started, Phelps engaged in grooming behavior by taking her on off-campus outings and complimenting her.

The abuse began on the final night of Student G's sophomore year, when Student G went to Phelps' apartment, where he kissed and fondled her and pressed and rubbed his erect penis against her genital region for several hours. The encounters that followed were of a similar nature. The abuse continued into Student G's junior year.

b. Witness and Documentary Evidence

Student G provided voluminous documentation, including photographs of herself and Phelps, as well as hundreds of pages of letters. In addition, a friend of Student G's corroborated her account. This witness recalled Student G describing Phelps' behavior to her in 2019. She also shared her own recollections of how close Student G was to Phelps during their time at Cate, and her own feeling at the time that Phelps was "creepy." One faculty member who was friends with Phelps also recalled Student G's close relationship with Phelps. This witness recalled Phelps' admission that he had feelings for Student G.⁴

⁴ See Section IV.E. of this Report for an analysis of this faculty member's failure to report Phelps' admission.

INVESTIGATIVE REPORT

c. Phelps' Response

Phelps initially agreed to speak with an investigator from OIG but was ultimately unresponsive when asked to schedule a meeting.

d. School's Knowledge and Response

Student G brought this incident to the attention of Cate administration in 2019. Subsequently, Student G reached a settlement agreement with Cate and Phelps. Previous administrators were not aware of any allegations against Phelps and were not involved in the settlement negotiations. Head of School Ben Williams said he accepted Student G's account as credible and wanted to repair the harm caused in the manner Student G saw fit. Student G said she wanted Cate to create a fund for survivors of sexual abuse to receive counseling and a space for students to share concerns about sexual harassment and assault.

2. Findings

A preponderance of the evidence supports a finding that Phelps engaged in sexual activity and grooming with Student G while she was a student at Cate, as described by Student G. This allegation is therefore sustained.

Student G was a very credible witness. She provided a detailed account of multiple instances of abuse. Her account was further corroborated by witness evidence, and the documentation she provided included hundreds of pages of letters from Phelps to Student G, as well as photographs of the two together. The letters indicate the inappropriate nature of their communications and relationship. This evidence leaves little doubt that Phelps engaged in sexual activity with Student G, as well as grooming behavior toward her, while she attended Cate.

While there was evidence that Phelps admitted his inappropriate romantic feelings for Student G to a faculty member at the time Student G was attending Cate (which is addressed later in this Report), it is not found that this faculty member reported Phelps' admission to Cate administrators, nor was there evidence that Cate administrators were otherwise aware of Phelps' abuse of Student G prior to 2019. Rather, the evidence is that Cate administration was first made aware of Phelps' conduct in 2019, at which point they entered into settlement negotiations with Student G.

B. Scott McLeod

Scott McLeod taught at Cate from 1965 to 1975, during which time he also was a soccer coach, tennis coach, and dorm head. He became Head of School in 1975 and held that role for 18 years, until 1993. One former student reported that McLeod groomed her during her time at Cate, and she subsequently had a sexual encounter with McLeod, after her graduation.

1. Evidence Considered

a. Allegations

"Student T" said that during her junior year at Cate (in the 1980s), she and McLeod began exchanging letters and notes. Over time, McLeod's letters became intimate and sexual. Student T no longer had the letters in her possession, but recalled that McLeod wrote he had never had feelings for someone like

INVESTIGATIVE REPORT

her, and never someone so young, and wrote that he loved her in one of the letters. She and McLeod also sat next to each other during assemblies and went out to dinner.

Student T said that a few months after she graduated and turned 18, McLeod attended a conference near where she was living. They arranged to meet and, when Student T arrived, McLeod had booked an adjoining room for her in his hotel. Student T and McLeod had dinner and drinks in the hotel and went upstairs together. Student T went into her room, and McLeod followed her. McLeod asked her if they could cuddle, and he began kissing her. McLeod stopped initiating sexual contact when she expressed discomfort, but they spent the night in the same bed, both naked. In subsequent years, McLeod asked to meet with Student T again, but she declined.

b. Witness Evidence

Four alumni corroborated information from Student T's account. These witnesses were friends of Student T's, who observed or heard about McLeod's behavior around the time it occurred. Two of the witnesses personally observed the "too close" relationship between Student T and McLeod. The other two witnesses provided indirect corroboration, having been told about Student T's experience by Student T around the time it occurred.

c. McLeod's Response

McLeod described Student T as an "outspoken, articulate, and fun student." He said he used to periodically leave Student T "friendly notes about how her day was going." He denied that the letters were love letters or intimate.

McLeod said he saw Student T after she graduated, while at a conference; they had dinner, which he initiated. McLeod acknowledged getting Student T a room next to his but denied entering Student T's room, having sexual contact with her, or spending the night in the same bed or room as her.

2. Findings

A preponderance of the evidence supports a finding that McLeod engaged in grooming behavior toward Student T during her time at Cate (by writing her overly personal, intimate letters and singling her out with other special attention), and that he subsequently had a sexual encounter with her after she graduated, as Student T described. This allegation is therefore sustained.

McLeod acknowledged his close relationship with Student T, which included writing her notes, and acknowledged initiating a meeting after her graduation and booking her a hotel room next to his. However, their accounts diverge on the contents of the notes and on what occurred following their dinner.

McLeod's denial that he had any physical intimacy with Student T was not persuasive. The act of having dinner with, and then purchasing an adjoining hotel room for a former student is in and of itself suggestive of an intimate relationship. Moreover, Student T's account of the evening was credible. She provided a detailed and balanced account, including information that could be viewed as favorable to McLeod, such as the fact that McLeod stopped initiating contact when he saw her discomfort. She also had no apparent motive to fabricate an allegation against McLeod. McLeod, on the other hand, had a motive to deny the conduct, which could impact his reputation and standing in the community.

INVESTIGATIVE REPORT

Student T's credibility was further enhanced by corroboration from multiple witnesses with whom she spoke shortly after the events. Another witness, who did not know Student T well, mentioned McLeod's strange dynamic with Student T as an aside in her separate complaint against another respondent.

There was no evidence uncovered during the course of the investigation that indicated other Cate administrators knew of McLeod's conduct.

C. Robert Kusel

Robert Kusel taught at Cate from 1983 to 1988. Eight former students and one former faculty member reported concerns about Kusel, related to Kusel engaging in sexual activity with students and/or demonstrating poor boundaries and engaging in grooming behaviors. Six of these former students reported hearing rumors about Kusel; two had specific accounts of witnessing or directly learning about Kusel's misconduct.

1. Issue 1: Allegations of Sexual Activity with Students

OIG received a number of reports that Kusel had sexual relationships with Cate students in the 1980s. However, because the targets of the sexual misconduct did not participate in this investigation, details concerning these allegations are omitted from this Report to protect their privacy.

a. Findings

A preponderance of the evidence supports a finding that Kusel engaged in grooming behavior toward Cate students, and that he subsequently had sexual encounters and/or sexual relationships with at least three of these students after they graduated. These allegations are therefore sustained.

It is uncontested that Kusel had sexual relationships with two Cate graduates. In addition, OIG received a credible report concerning a third Cate graduate with whom Kusel engaged in sexual activity. There was also credible evidence that Kusel engaged in boundary crossing and groomed students to become his sexual partners after graduating. (Details of Kusel's grooming behavior are discussed below.)

While there were some rumors of Kusel engaging in sexual activity with students while they were attending Cate, there was not sufficient evidence to support such a finding.

In addition, there is no evidence that administrators were contemporaneously aware of Kusel's conduct, as no witness reported having shared their concerns with administration at the time. Bonning noted that he counseled Kusel on his problematic boundaries, but this concern was not only about female students. McLeod said he only became aware of Kusel's conduct after the fact. However, McLeod's comment that Kusel succumbed to the "strong temptation" of being a younger, male teacher was consistent with his lack of response to other situations of faculty-student boundary crossing.

INVESTIGATIVE REPORT

2. Issue 2: Allegations of Poor Boundaries and Grooming Behavior

a. Evidence Considered

i. Witness Evidence

Multiple alumni reported that Kusel fostered close relationships with female students and engaged in grooming behavior. Student W said her friend often had dinner with Kusel, at his house, and recalled there being “a chemistry and flirtation” between them. Another student, “Student FF,” said Kusel had a “very flirty” demeanor and chose favorites. She noted that Kusel generally sought close relationships with attractive female students.

“Student X” said Kusel was known for the stock phrase, “Don’t worry, I would never tell.” Student X said he once went to Kusel’s apartment (while Kusel was living in an all-male dorm) to ask a class-related question. When he knocked on Kusel’s door, a female student answered and informed him that Kusel was in the shower. Student X said that in the years since he graduated from Cate, Kusel was mentioned often: “It is a blur of how many women have said something to me about Kusel over the years.”

Another student expressed concerns about Kusel “blurring the lines between his own sexual needs and his role as a teacher.” As a freshman, she heard rumors that Kusel had relationships with older female students. She was friends with a student who was a junior, and this student was very close to Kusel. (She believed they had an “intimate friendship” but did not know for certain.) This friend told the student that Kusel thought this student was beautiful (This student was 13 years old at the time). The student said this environment made her unsure whether she was expected to flirt with her male teachers.

As noted above, Bonning counseled Kusel on appropriate boundaries with male and female students, which indicates the school had some awareness that Kusel lacked boundaries with students.

ii. Kusel’s Response

Kusel acknowledged that boundaries were crossed but he placed the blame on female students. He recalled finding two female students going through drawers in his room, and one of his birthdays, when female students dressed in bikinis and held up signs that spelled out, “We love you Kus.”⁵ Kusel said, “That moment on my birthday sucked. I can’t believe the administration let that occur.” Kusel considered these incidents examples of him being sexually harassed at Cate.

b. Findings

A preponderance of the evidence supports a finding that Kusel engaged in grooming behavior and had inappropriate boundaries with students, as detailed in the accounts of Student X, Student W, and Student II. These allegations are therefore sustained.

The most striking example was Student X’s account of a female student answering Kusel’s door and informing Student X that Kusel was taking a shower. There was not sufficient evidence to reach a conclusion that Kusel had engaged in sexual activity with this student; however, at the very least, Kusel opting to take a shower while the student remained in his apartment is an example of boundary crossing

⁵ Kusel noted that his nickname was “Kus.”

INVESTIGATIVE REPORT

and grooming,⁶ which is characterized by normalizing sexually charged behaviors in an effort to chip away at a young person's boundaries and sense of normal or appropriate behavior.

Kusel depicted himself as the victim of unwelcome sexual advances. However, the evidence was that Kusel's demeanor, which was oft-described as flirtatious, likely encouraged a certain response from female students. This was evidenced in Student II's account of her confusion at how to interact with male faculty members based on what she saw of her friend's interactions with Kusel. Student II explained how she felt less like a student and more like an outlet for the sexual needs of male instructors, like Kusel.

Though McLeod did not appear to be aware of Kusel's behavior until after the fact, Bonning noted that he had a conversation with Kusel about boundaries. Unfortunately, there was a dearth of documentation to evidence this.

D. Martin Lowenstein

Martin Lowenstein is a Cate alumnus, Class of 1982, who returned to Cate as Assistant to the Director of Development in the late 1980s. In addition, Lowenstein was a supervisor in a girls' dorm. The undersigned received reports that, during his time working at Cate, Lowenstein engaged in sexual activity (intercourse) with a Cate student, and on a separate occasion made sexual advances toward two recent graduates he encountered off campus.

1. Issue 1: Allegation of Sexual Activity with a Student

It was reported that Lowenstein had a sexual relationship with a Cate student, "Student 15." Because Student 15 did not participate in this investigation, details concerning this allegation are omitted from this Report to protect Student 15's privacy.⁷

a. Findings

A preponderance of the evidence supports a finding that Lowenstein engaged in sexual activity (intercourse) with a student while she was attending Cate in the late 1980s. This allegation was therefore sustained. Though the undersigned did not hear a direct account from Student 15,⁸ there was credible witness evidence which provided a consistent and persuasive account.

With respect to the administration's response, there was conflicting information about when McLeod and Bonning received notice of Lowenstein's behavior and how they responded. A faculty member said he reported the behavior to Bonning, but Bonning did not recall receiving any reports about Lowenstein from faculty members. Bonning also did not recall speaking to Lowenstein regarding the allegation, whereas McLeod described Bonning as having done so (and recalled that Lowenstein acknowledged the relationship).

⁶ For purposes of this Report, "boundary crossing" refers to educator-to-student behavior that crosses commonly held standards of propriety and professionalism, but need not violate a school code of conduct or the law.

⁷ It is noted that Lowenstein and his attorney were offered the opportunity to meet with the undersigned, which they declined. Lowenstein was also provided with written questions and notice of the allegations. He did not provide a response.

⁸ As previously stated, students and alumni who were referenced in others' accounts, but did not themselves participate in the investigation were assigned a number, as is the case with Student 15.

INVESTIGATIVE REPORT

There were no records in Lowenstein's employee file about the incident, despite it being remembered by both Bonning and McLeod. Yet Lowenstein's records do indicate that the year after Lowenstein left Cate, McLeod wrote Lowenstein a recommendation for business school, calling him "sensitive" and an "extremely effective team member."

Based on the evidence gathered, it is found that the school had notice of Lowenstein's misconduct and failed to take action.

2. Issue 2: Allegations of Sexual Advances Toward Recent Graduates

a. Evidence Considered

Two former students each reported that within days of their graduating from Cate, they encountered Lowenstein and Andy Campbell (who is addressed later in this Report) in a nightclub. They further stated that Lowenstein and Campbell flirted with, "came onto," and "in so many words, propositioned" them. As stated above, Lowenstein declined to participate in the investigation or provide a written response to the allegations.

b. Findings

A preponderance of the evidence supports a finding that Lowenstein made sexual advances toward the two students soon after they graduated from Cate. These allegations are therefore sustained.

The alumnae provided consistent accounts of the timing and substance of their encounter with Lowenstein and Campbell. Both described Lowenstein and Campbell as flirting with them, and alluding to the fact that they had recently graduated and were over 18 years old. The consistency between these alumnae's accounts was persuasive, as was their explanation of how they were uncomfortable with Campbell and Lowenstein's advances and declined the two men's offer to leave the club with them.

This allegation is made more persuasive by the fact that both Lowenstein and Campbell engaged in other problematic behavior with students, as evidenced by other substantiated allegations against them.⁹ In addition, in some of the correspondence between Lowenstein and McLeod contained in Lowenstein's employee file, Lowenstein noted his close relationship with Campbell, making it plausible that he and Campbell would go to a nightclub together.

E. David Mochel

David Mochel taught at Cate from 1989 to 1993, and from 2001 to 2012. Mochel lived on campus during his first and second tenure at Cate, and continued living on campus through the spring of 2021 (despite having not taught at Cate since 2012).

Seven Cate alumni shared information about inappropriate behavior by Mochel during his first tenure at Cate. These included allegations that during his first tenure at Cate Mochel engaged in sexual activity with two students (one while she was attending Cate, the other a recent graduate), touched and massaged female students, and had inappropriate boundaries. While three of the former students relayed rumors they heard while at Cate, four shared personal accounts of witnessing or experiencing

⁹ See below for discussion and findings concerning Campbell.

INVESTIGATIVE REPORT

inappropriate behavior by Mochel. In addition, four former faculty members reported having heard about inappropriate behavior by Mochel.

1. Issue 1: Allegation of Sexual Activity with a Student

a. Evidence Considered

i. Allegations

“Student EE” said Mochel had a physical relationship with her. Two other former Cate students reported knowing about this. In addition, Andy Campbell, another respondent in this Report, said he was aware of Mochel’s involvement with Student EE. Two former faculty members also reported having heard rumors that Mochel engaged in sexual misconduct.

Student EE said Mochel was “flirtatious and touchy” beginning in the latter half of her junior year and throughout her senior year. She said Mochel began a physical relationship with her in the middle of her senior year, when she was 17 years old. One evening, when she was in Mochel’s apartment, Mochel asked if Student EE would give him a backrub. Mochel then turned around and started kissing her, put his hands under her shirt, touched her breasts, and took off her shirt.

On other occasions during her senior year, Mochel came to Student EE’s dorm and kissed her, took her out to dinner, shared a tent with her while camping, and kissed her on a camping trip. Student EE said Mochel told her not to speak of their relationship with anyone and told her, “You have to take this to your grave.” (Despite this, Student EE described the incident to Campbell.) Mochel kept in contact with Student EE after she graduated, at one point telling her he loved her. The night before his wedding, he called Student EE and told her that he would call off his wedding if she agreed to marry him instead.

Student EE said that due to her relationship with Mochel, she could not focus on school, both during her time at Cate and during her first year of college. Following a 2012 reunion, the school learned of Student EE’s experience, after Student EE’s friend told recent graduates what happened and subsequently reported it to the school. Student EE participated in an investigation but was not informed of the results. She noted that although Mochel did not teach at Cate after her complaint, he was permitted to remain living on campus with his wife, who teaches at Cate.

Two former students corroborated much of Student EE’s account. These individuals witnessed some inappropriate interactions between Student EE and Mochel and were also told by Student EE about the relationship contemporaneously.

ii. Mochel’s Response

Mochel said he became close to Student EE during her senior year, and the dynamic shifted between them when Student EE, who was his teaching assistant, admitted she had a crush on him. Mochel said he had an “emotional reaction” to Student EE’s admission. He said he did not remember how their relationship progressed, but stated that on one occasion he and Student EE were intimate in his apartment; this encounter included kissing and putting his hand under her shirt.

Mochel could not recall other details of his relationship with Student EE, but he did not deny many of the allegations. He stated, “I can’t say it’s not true,” in response to Student EE’s allegation that he had

INVESTIGATIVE REPORT

advised her not to tell anyone, and her account that they had gone out to dinner. Mochel did not believe he and Student EE had kissed on any other occasion. However, he also stated, “I’m not saying it didn’t happen, but it’s so hard to imagine it happening.” He did not have a memory of telling Student EE that he loved her, but said he could imagine having done so. Mochel said he was an “unhealthy person” during his time at Cate and said he was in therapy to understand his actions as a younger man.

iii. Evidence Regarding School’s Knowledge and Response

Campbell acknowledged having known about Mochel’s feelings for Student EE and also about an “inappropriate incident” involving intimacy during or immediately following Student EE’s time at Cate. However, Campbell did not report this to the school, despite his admission that Student EE was “very upset” by the emotional challenges that stemmed from her relationship with Mochel.

Former Head of School McLeod said he was unaware of any misconduct involving Mochel during his time as Head of School at Cate. However, he later heard from current faculty members that Mochel had an inappropriate relationship that was “way over a line that male faculty should never cross.” Based on what he knew, McLeod did not believe Mochel should have been permitted to remain on campus.

Current Head of School Williams said he first became aware of the allegations involving Student EE and Mochel following a 2012 alumni gathering. When Williams learned of the allegation, the school retained an investigations firm. Ultimately, the investigator sustained Student EE’s allegation. Williams felt that “Mochel crossed a line and had to go.” However, Mochel was permitted to resign and continued to reside on campus because his wife was still employed by the school.

Williams said he did not believe Mochel posed an ongoing risk to current Cate students because Mochel’s misconduct occurred when Mochel was much younger. He said that while he understood the current approach was that perpetrators of such conduct should be “damned for life,” he had not seen anything in Mochel’s subsequent behavior that suggested Mochel was a risk to anyone’s safety. He said his primary concern was ensuring that Mochel’s wife felt cared for because she was an important part of the Cate community.

A review of Mochel’s personnel files did not reveal any mention of inappropriate behavior. The findings of the 2012 inquiry into Mochel’s misconduct were relayed to the school verbally and a contemporaneous report was prepared.

iv. Additional Concerns

One faculty member reported concerns about Mochel’s continued presence in the Cate community given that he was fired for sexual misconduct. Mochel was invited to be the keynote speaker for the Class of 2013, and the faculty member said she expressed her concerns to Williams, who said Mochel was the student choice and it was not within his purview to become involved. The faculty member also said Mochel was hired as a consultant for the admissions department and continued providing private one-on-one coaching to Cate students after his termination. She believed administrators inappropriately handled the follow up to Mochel’s dismissal.

Contacted about this additional concern, Cate administration provided the following statement: “Dave Mochel has never been paid or hired by the School for any services since his departure in 2012. He acted as a mediator in a conflict involving members of the admissions team at the request of the admissions

INVESTIGATIVE REPORT

staff members . . . After leaving Cate, it is possible that Dave Mochel was invited by a graduating class to a Senior Class breakfast. There is no record that he spoke at the event.”

b. Findings

i. Findings Regarding Mochel

A preponderance of the evidence supports a finding that Mochel engaged in sexual activity (kissing and touching of intimate body parts) with Student EE, while she was attending Cate, as she described, and that Mochel groomed Student EE (by being flirtatious and touchy, socializing with Student EE after hours, and exchanging massages with Student EE). These allegations are therefore sustained.

It was uncontested that Mochel was sexually intimate with Student EE on at least one occasion during her senior year at Cate. With respect to Mochel’s tepid denial that he and Student EE were ever sexually intimate aside from the one occasion in his apartment, he was found to be less credible than Student EE. Student EE provided a detailed and specific account, which was corroborated by witness evidence, whereas Mochel’s refrain, “I can’t say it’s not true,” came across as a tacit admission.

Mochel also characterized Student EE as the initiator of their relationship, suggesting he would never have considered being intimate with her without her first saying she had a crush on him. However, Student EE provided a credible account of Mochel being flirtatious and touchy, socializing with her after hours (such as watching television in his apartment in the evenings), and requesting massages from her, behavior which she stated began her junior year and continued into her senior year, when the relationship became sexual in nature.

Furthermore, there was a distinct power imbalance between Mochel and Student EE. Given that Mochel was older and likely more romantically and sexually experienced, and given that he acted as a mentor to Student EE, Mochel’s depiction of Student EE as the instigator in the relationship came across as self-serving. Even if Student EE did have a “crush” on Mochel and told him about it, this would not justify Mochel initiating or engaging in sexual contact with her.

ii. Findings Regarding School’s Knowledge and Response

This investigation did not uncover evidence that would support a finding that either McLeod or Williams was aware of Mochel’s conduct toward Student EE prior to 2012. Though Student EE informed a trusted adult, Campbell, about Mochel’s conduct, it is not found that Campbell ever informed the administration. Additionally, while there were rumors circulating among the student body in both the early 1990s and the 2000s that Mochel had been involved with a student and had left Cate in the 1990s because of this, there was a lack of evidence that these rumors made their way to the administration.

When the school learned of the allegations in 2012, they launched an investigation into Student EE’s allegations and the investigation substantiated her complaint. However, Mochel was thereafter permitted to resign from his role and remain on campus due to his wife residing there; a decision which has garnered criticism. Williams’ repeated mention of Mochel’s wife and his focus on whether Mochel was an ongoing threat to students failed to consider that students who might have been aware of Mochel’s prior conduct could interpret Mochel’s continued residence on campus as indicative of the school condoning his actions.

INVESTIGATIVE REPORT

2. Issue 2: Allegation of Sexual Activity with a Recent Graduate

Mochel was also reported to have had a romantic relationship with “Student 19,” who did not participate in the investigation. Because Student 19 did not participate in this investigation, details concerning this allegation are omitted from this Report to protect Student 19’s privacy.

a. Findings

A preponderance of the evidence supports a finding that Mochel engaged in sexual activity (kissing) with Student 19, when she was a recent graduate, and that, while she was a student, he engaged in grooming behavior toward her. These allegations are therefore sustained. It is not found that Mochel engaged in sexual activity with Student 19 while she was a Cate student.

3. Issue 3: Allegations of Inappropriate Touching and Grooming Behavior

a. Evidence Considered

i. Allegations

Three former students reported being the recipients of unwelcome sexual advances and/or touching from Mochel. In addition to Student EE, two other students referenced inappropriate boundaries, explaining that Mochel had very close relationships with female students, which included exchanging massages. In one instance, Mochel and Campbell shared a tent with female students, massaged students, and asked students to massage them, while both the female students and the male faculty members were “scantily clad.”

ii. Mochel’s Response

Mochel admitted to asking female students to massage him and to giving them massages. He described a “different atmosphere” at Cate during the 1980s and 90s, when it was common for younger faculty members to take students out for dinners off campus and socialize with students late into the evenings. Mochel viewed his engagement with students as encouraged and as “being in it for the kids.”

b. Findings

A preponderance of the evidence supports a finding that Mochel gave female students massages, developed personal relationships with them, and did not set clear boundaries. These allegations are therefore sustained.

Student EE and others reported this behavior and specifically reported having given and received massages, which Mochel did not contest. Given the consistent accounts and specific details provided by the witnesses, it is found that Mochel more likely than not engaged in the behavior alleged.

F. Andy Campbell

Andy Campbell was the Music Director at Cate for five years, from September 1988 to May 1993. Eight former students reported inappropriate behavior by Campbell during his time at Cate, including allegations that Campbell had been sexually involved with a student, had engaged in inappropriate

INVESTIGATIVE REPORT

physical touching with students, had made sexual remarks and advances toward students, and had looked the other way when he learned of a colleague's sexual relationship with a student.

While two of the eight former students who came forward with information about Campbell had no direct knowledge of what occurred, six of the former students gave their own personal accounts of witnessing or being the target of inappropriate behavior by Campbell. In addition, five current and former Cate faculty members reported having heard about inappropriate behavior by Campbell.

1. Issue 1: Allegation of Romantic Relationship with a Student

It was reported that Campbell had an inappropriate romantic relationship with "Student 3," and that he continued to date her following her graduation and his departure from Cate. Because Student 3 did not participate in this investigation, details concerning this allegation are omitted from this Report to protect Student 3's privacy.

a. Findings

A preponderance of the evidence supports a finding that Campbell engaged in an inappropriate romantic relationship with Student 3, which included grooming, while Student 3 was enrolled at Cate, and that Head of School McLeod was aware of this at the time. These allegations are therefore sustained.

It was uncontested that Campbell and Student 3 became romantically involved while Student 3 was still a student. This, in and of itself, was inappropriate conduct, crossed professional boundaries, and constituted grooming. However, the investigation did not yield sufficient evidence to conclude that Campbell had engaged in sexual activity with Student 3 while she attended Cate.

With respect to the administration's response to the behavior, there is no indication there was any formal response. While McLeod stated that he spoke with Campbell, his account was that Campbell was essentially permitted to be in a romantic relationship with a current Cate student, so long as he waited until after she graduated to begin openly dating her. Campbell was not terminated, written up, or formally reprimanded for his actions.

2. Issue 2: Allegations of Inappropriate Touching, Sexual Remarks, and Advances

a. Evidence Considered

i. Allegations

One former student, "Student J," reported that Campbell had engaged in inappropriate physical touching with her while she was a student at Cate. She and a friend often visited Campbell's apartment to socialize. During these visits, Campbell asked for massages or gave her and her friend massages.¹⁰ Student J said Campbell had massaged her at least 10 times. On one occasion, Campbell lifted her shirt and massaged the side of her breast (touching the side of her breast, but not cupping it), while she "froze" and then pretended it did not happen. She avoided Campbell after this incident. It was not alleged that this incident was reported to Cate at the time or at any point prior to this investigation.

¹⁰ This friend did not come forward and was therefore not interviewed as part of the investigation.

INVESTIGATIVE REPORT

In addition, three former students reported being the recipients of unwelcome sexual advances or sexual comments from Campbell, while they were students at Cate or shortly thereafter. One former student, "Student I," said that, while enrolled at Cate, she was in Campbell's apartment one night when Campbell told her he thought she was "really pretty." Later in the conversation, she asked Campbell about his facial hair. He said he did not shave his beard because women liked the way it tickled their inner thighs. Student I said she left Campbell's apartment shortly after this exchange. While she remained friendly with Campbell, she never returned to his apartment.

Two other former students reported that, within days of their graduating from Cate, they encountered Campbell and Martin Lowenstein in a nightclub. Campbell and Lowenstein flirted with, "came onto," and "in so many words, propositioned" them.

ii. Campbell's Response

Campbell said it was not uncommon for students to give and receive back or foot massages. He said he did not recall if students gave him massages, but, "If it happened, it was probably a girl and not a boy that gave me a massage." Campbell recalled the two female students visiting his apartment together and, asked if he massaged those students, said he had no specific memory of this, but, "That doesn't sound unreasonable at all."

Campbell denied lifting a student's shirt while giving her a massage, or massaging the side of her breast, stating, "That absolutely did not happen. I don't even remember massaging them [the students], but I can't deny that I might have." Campbell said he massaged students over whatever clothing they were wearing.

Campbell likewise thought it was possible he told a student he thought she was really pretty. Campbell explained, "I don't remember doing that. It's probable that I told someone I thought they were pretty." He said he did not intend his comment to be "creepy," and commented, "I used to be not as careful about what I would say to kids."

Campbell confirmed that he had a beard when he worked at Cate. He thought his beard might have been a topic of conversation. He recalled male students complaining that they could not grow facial hair and female students telling Campbell his beard looked nice. When asked about the allegation that he told a student that women liked the way his beard tickled their inner thighs, Campbell stated, "I don't remember ever saying that to a student, but it's a thought I shared with other friends. But, if I said that to a student, that's pretty inappropriate. I'm afraid it sounds like me because I know I've said it to male friends, but I'm horrified to think I would have ever said that around a girl."

Campbell was interviewed prior to the allegation that he and Lowenstein made sexual advances toward two recent graduates in a nightclub, so he did not provide a response to that allegation.

b. Findings

i. Findings Regarding Inappropriate Touching

A preponderance of the evidence supports a finding that Campbell gave female students massages and received massages from female students, as Campbell acknowledged, and that he massaged the side of one female student's breast, as she alleged. These allegations are therefore sustained.

INVESTIGATIVE REPORT

The former student who reported this conduct was found to be credible. She lacked a motive to fabricate an allegation, years after the fact, against Campbell, who is no longer employed at Cate, and she shared a specific memory of her experience with him. She did not appear to be exaggerating or overstating in her account.

Campbell, on the other hand, was found to be less credible. He equivocated in his responses to the interviewer's questions, stating that the alleged conduct may have occurred but that he did not remember it. He also displayed a poor sense of appropriate boundaries with students, increasing the likelihood that he engaged in the behavior described. Further, his response that he had never touched a student's breast came across as disingenuous, given the level of conduct he acknowledged engaging in.

Based on the foregoing, the credibility of the former student outweighed Campbell's credibility, and her allegation is sustained.

ii. Findings Regarding Sexual Remarks

A preponderance of the evidence supports a finding that Campbell made sexual remarks toward a student. This allegation is therefore sustained.

While Campbell did not believe he made inappropriate remarks, he did not deny the allegations. He thought it was "probable" that he told a student that she was pretty. Similarly, he did not remember talking to students about his beard in the lewd manner described, but believed the comment sounded like something he might have said, because he had made similar comments to his male friends. Thus, this allegation was found to have occurred as alleged.

iii. Findings Regarding Sexual Advances Toward Recent Graduates

A preponderance of the evidence supports a finding that Campbell made sexual advances toward two recent graduates. These allegations are therefore sustained.

Campbell was not specifically asked about the allegation that he and Lowenstein made sexual advances toward two former students in a nightclub.¹¹ However, given Campbell's lack of boundaries, as evidenced by his dating a student upon her graduation and his sexual comments and physical conduct toward current students, it is found that Campbell more likely than not did make sexual advances toward these former students, as alleged.

3. Issue 3: Campbell's Knowledge and Response Regarding David Mochel

a. Evidence Considered

i. Allegation

Student EE said she confided in Campbell about her sexual activity with Mochel and that she and Campbell discussed Mochel on many occasions. During one of their conversations, Campbell said, "It was all premeditated," which Student EE now understands to mean that Mochel was grooming her. Despite Student EE's candor with Campbell, Campbell did not disclose the relationship to anyone else,

¹¹ This allegation was not made until after Campbell's investigative interview.

INVESTIGATIVE REPORT

so there was no intervention by the school or other faculty members. Student EE recalled, “Everything continued, nothing changed, and no one intervened.”

ii. Witness Evidence

Mochel said he remembered discussing Student EE with Campbell. Mochel believed Campbell asked if Mochel had kissed Student EE and Mochel stated that he had.

iii. Campbell’s Response

Campbell said he was aware of another investigation of the relationship between his colleague and then-friend, Mochel, and Student EE. Campbell said Mochel had a close relationship with Student EE, and there was an inappropriate incident that took place when she was a student, or right after she graduated. Student EE told Campbell that Mochel told her he was in love with her and wanted to find a way to be together, which was confusing and upsetting for Student EE to hear.

In 2012, Student EE told Campbell that when she returned to Cate for an alumni event, she went back to her old dorm room and was triggered and became very upset. At the time, Student EE was with a friend, and her friend told her to report what had happened to the school. Campbell said Head of School Williams then followed up with Campbell to learn what he knew about the relationship between Mochel and Student EE.

Campbell’s recollection was that there was no physical contact between Mochel and Student EE, aside from a time in which Mochel gave her, or she gave Mochel, a backrub. Campbell said he did not know of any other misconduct involving Mochel. He described Mochel as a “wonderful guy.”

b. Findings

A preponderance of the evidence supports a finding that Campbell failed to report Mochel, even after he knew that Mochel had engaged in sexual activity (kissing and touching) with Student EE. This allegation is therefore sustained.

Campbell asserted that he did not know the details of Mochel’s conduct with Student EE, but knew that Student EE had a “crush” on Mochel. Campbell stated that he only learned of the boundary crossing after Student EE had graduated.

However, Campbell’s recollection was contradicted by Mochel’s and Student EE’s memories, as they both recall Campbell having expressed knowledge of Mochel’s sexual activity with Student EE. In fact, Mochel remembered admitting to Campbell that he and Student EE had kissed, which belied Campbell’s contention that he did not have knowledge of the misconduct while Student EE was a student. Mochel’s and Student EE’s consistent statements that Campbell was informed of the sexual activity prior to Student EE’s graduation were found to be more persuasive than Campbell’s denial, which came across as convenient and self-serving.

Moreover, Campbell did not report Mochel’s misconduct either before or after Student EE’s graduation. The first time he discussed the situation with administration appears to have been in connection with the 2012 complaint, despite the fact that Mochel returned to work at Cate from 2001 to 2012.

INVESTIGATIVE REPORT

G. Da'Jon James

Da'Jon James was the Director of Vocal Music at Cate from summer 2019 until February 2020. Several witnesses spoke of James' "crossing of boundaries" in a number of respects, including physical touching of female students, discussing personal matters, developing intimate friendships with female students, saying inappropriate sexual comments, having students in his campus apartment until late at night, and treating students as peers.¹²

1. Issue 1: Allegations of Inappropriate Touching

a. Evidence Considered

i. Allegations

The most serious allegations came from "Student N," who reported that James formed a very close relationship with her during his tenure at Cate, which included complimenting her, inviting her and her friends to his apartment to watch television in the evenings, sitting close to her and touching her thigh,¹³ texting and calling her frequently (including personal texts), and taking her off campus. She said James also made comments such as, "If I were in high school, I would want to date you," and, "I don't know why you're still single," and described his "dream girl" as having the same hairstyle as her.

One evening in November 2019, when Student N went to watch television in James' room alone, James spread his legs open so Student N could lean back on his chest, "encircled" her with his arms around her chest, and began kissing Student N's neck and the top of her head. He also felt Student N's chest through her sweatshirt. As James was doing this, he made comments such as, "I know this is wrong," and, "I shouldn't be doing this. You're a student."

Student N said she was reluctant to share what happened because she knew James had a hard life, and she did not want to be responsible for having him fired. After Thanksgiving, she was called in to speak with the Director of Campus Life and the Assistant Head of School for Finance and Operations (Sandi Pierce) about her relationship with James. Student N said she lied to the two administrators and did not share what had occurred out of concern that James would be fired and unable to find another job.

ii. Witness Evidence

"Student P" corroborated Student N's account and said Student N confided in her about her experiences with James, telling her James had touched her chest and kissed her neck one evening in his apartment. Student N also told Student P that James told Student N he was attracted to her. Student N was "very upset" because she worried it would be her fault if James was fired.

¹² It is noted that due to the number of individuals who came forward with information regarding James, the number of different incidents reported, and the fact that the incidents occurred recently (and so witness accounts tended to be more detailed), this Report section concerning James is somewhat longer than sections concerning other respondents.

¹³ Student N said James also did this to a friend of hers.

INVESTIGATIVE REPORT

In addition, “Student R” recalled seeing James spend significant amounts of time with Student N and thought the two acted like a “couple.” Student R remembered James putting his arm around Student N, tucking his head into her shoulder, and walking with her “constantly,” including at night.

iii. James’ Response

James said he and Student N were close. He admitted to texting Student N personal messages that could have been misconstrued as flirting and being attracted to her, but said it was not in a sexual or physical way. He also admitted that Student N came to his apartment to watch TV and at times sat on his bed. He said he touched her leg in an attempt to be comforting, if she was having a bad day or was upset. James also acknowledged telling Student N, “If I were in high school, I would want to date you,” but denied making some of the other statements attributed to him, such as the comment about his “dream girl.”

When asked about Student N’s allegation that James touched her breasts over her sweatshirt and kissed her neck, James responded, “Wow. I am going to have to go with a hard no on that one. I made many mistakes, but I didn’t do that.” Asked why Student N would have alleged this, James said Student N was close to Student 9, who “despised” him.

When asked if Student N sat between James’ legs while they were watching television, he said they did not sit in the manner described but she would often lie down on the couch while he was seated, such that her head was resting on his legs, elbow, or arm. James said he did kiss Student N’s forehead on occasion, whenever they were saying goodbye for a break that was longer than a few days.

James said, “I am fully aware that I am not absolved from mistakes I’ve made and I’ve been talking to a therapist about it . . . in terms of [Student N], I understand . . . that relationship was inappropriate.”

b. Findings

A preponderance of the evidence supports a finding that James engaged in inappropriate touching of Student N, in the manner she described. This allegation is therefore sustained.

There was a substantial amount of evidence that James engaged in the actions alleged. He admitted nearly all the allegations, denying only the most serious allegation of touching and a few of the comments attributed to him. However, many of the actions were witnessed by others and were indicative of a pattern of behavior that had the effect of enhancing Student N’s credibility.

Student N provided a detailed account of what occurred and did not appear to be exaggerating or embellishing. It is more likely that James, having realized the seriousness of some of his actions, is denying aspects of what he did, as opposed to Student N making up this particular allegation (but not her other allegations).

INVESTIGATIVE REPORT

2. Issue 2: Boundary Crossing and Grooming Behavior

a. Evidence Considered

i. Allegations

In addition to Student N, multiple other students – including Student P, Student R, and Student Y – reported concerns about James to the undersigned investigators, as did one parent and the spouse of one faculty member. The allegations included the following:

- Student P described how James frequently hugged and touched students.
- Student P said James invited her and a friend into his apartment and said they could sit on his bed.
- Student P said James put his hands around her hips, told her he found her attractive, and said she looked good in her costume, while they were seated together on a piano bench during rehearsals.
- Student P said James handed her his phone, with the Tinder app open, and said to “find him a wife.”
- Student P said James told her, “You look so pretty, like a cool old lady,” at a formal dinner and convocation, and later, in front of her class, told her she had looked beautiful the night before.
- Student R felt she was groomed by James, explaining that James gave her private lessons in his apartment, called her “beautiful,” and hugged her “all the time” (tight and long frontal hugs).
- Student R said James discussed how he was not supposed to hug students, and said, “How come these other teachers can hug students and I can’t?”
- Student R said that over time, James’ attention shifted to other female students and James was less supportive of her than he had been previously.
- Student R said she did not feel romantically attached to James, but was “deeply dependent” on him.
- Student Y recalled James being “very unfiltered.”
- Student Y said he and another student went to James’ apartment for a pre-arranged meeting, and James greeted them wearing only boxers, saying he had been up late helping a student.
- Student Y said James questioned Student Y’s sexuality in front of his classmates, and inquired into the personal lives of other students, particularly female students.
- Student Y felt James interacted with male and female students differently, hugging female students, but not male students.
- Student Y said James mentioned he was not supposed to hug students, but continued to do so.
- A parent of a Cate student described how James asked her daughter and a group of female students a “would you rather” question that involved a question about drinking “a bucket of semen.”
- The spouse of a Cate faculty member said James had, on occasion, touched her shoulder when he greeted her and her husband in the campus dining hall, which she found inappropriate.
- The faculty member’s spouse also observed James frequently hugging female students.

Note that not all of these allegations were reported to the administration contemporaneously, or prior to this investigation. An analysis of the administration’s knowledge and response is addressed in the following section.

INVESTIGATIVE REPORT

ii. James' Response

James admitted he struggled with creating student-teacher boundaries and tried to “fill the role of big brother.” He said that within the first week of school, he was brought in to talk to Dorion, because someone saw James hug a student. He said he now realized this should have been a “hint” he was attracting “unwanted attention,” but at the time his perspective was, “Fuck it. I’m doing the right thing.” James said he met with Dorion every week to talk about boundaries.

James understood he was terminated due to touching a student’s leg (“Student 10”). James said, “Seemingly, out of nowhere, I was called to Ben Williams’ office. He said that I had sexually assaulted her or touched her leg in October.” James said the only instance he could recall having touched Student 10’s leg was while he and other students had gathered at his apartment to watch a movie. He thought he had “jumped” during a scary moment and inadvertently touched two students’ legs.

James said certain students came to his apartment often, and he described his close bond with female students. He described one student as “like a sister” and another female student as “the gem of the earth.” He said of his relationship with one student, “At that time, I knew that the boundaries were kind of gray . . . I was in a new job, a new city, and I didn’t have any friends, and she was my best friend and my family.”

James said he had switched from giving students chest-to-chest hugs to giving them side-hugs, after Dorion counseled him about hugging students, and he always asked students’ permission to hug them. He said he did not hug his students any more or less than other teachers. James said he also sometimes touched students when they were watching movies, as they were generally seated quite close together; braided female and male students’ hair; and shared personal information with students “all the time.” He also texted with students.

When asked about his relationship with Student P, James laughed and said he remembered the situation with Student P “vividly” because “the whole situation was a pain in the ass.” He continued, “I then, as I do now, did not think the allegations she brought up were even remotely credible.” However, James then went on to acknowledge much of the conduct Student P alleged:

- He acknowledged inviting Student P and her friend to his apartment to see their class schedules and acknowledged he may have offered that they could sit on his bed, though he did not recall.
- He acknowledged he once said to Student P, “Hey beautiful, take a load off,” and that another student later told him Student P had complained about this, so he apologized.
- He acknowledged handing Student P his phone with Tinder open and saying, “Find me a wife.”
- He acknowledged commenting on Student P’s attire at the formal dinner and said the comment that she looked “like a cool old lady” sounded “100%” like what he said.

The only allegation from Student P that James explicitly denied was putting his hands on her hips and saying he found her attractive. He said he did not understand how he could have done this without it being “the most awkward thing in the world.”

James said he did not share with his students that the school was concerned about his boundaries. However, he did share with his students that he was trying to work on his boundaries, because he did not want students to be offended when he was less open to hugs or other physical contact.

INVESTIGATIVE REPORT

b. Findings

A preponderance of the evidence supports a finding that James engaged in grooming behavior and boundary crossing by developing personal relationships with multiple female students that included talking about their families and feelings, commenting on their appearances, making inappropriate sexual remarks, and hugging students, as was alleged. These allegations were therefore sustained.

While the most serious conduct alleged involved Student N, the other students also provided credible accounts of James engaging in behavior that made them uncomfortable and was inappropriate in a teacher-student relationship. While James denied telling students that he was warned about boundaries, a number of witnesses stated that he did, which diminished James' credibility and perhaps was also indicative of his lack of awareness as to how much he was sharing with students.

Five students reported that James engaged in the aforementioned conduct frequently and with multiple students, which demonstrated James' consistent pattern of engaging in inappropriate behavior with students. Moreover, it is notable that he continued to behave in this manner with students even after being told that his conduct was impermissible. James himself recalled being counseled by Dorion the first week of school. Yet the evidence showed that James continued to engage in misconduct, and his behavior escalated into more severe boundary crossing.

3. Issue 3: School's Knowledge and Response Concerning James' Conduct

Several administrators were aware of James hugging female students, having a student sit on his lap, and saying inappropriate things. The school was first notified of this in September 2019, and James was counseled about his behavior by Dorion on several occasions.

When asked why James was not terminated after multiple reports of inappropriately touching students, Dorion said, "I know what it looks like now. It looks like that to me now, and I fully understand the progression. Part of what we were trying to do is work with a new faculty member and one that we felt had great promise and trying to parse out the intention around his contact with students. It didn't feel always in the moment as if his intentions were what I believe them to be now. I have been working with students in this capacity now for 30 years. I don't take any responsibility more seriously than protecting students. It is not lost on me how it looks. In the moment, I felt we were trying to be very responsive to their concerns, and to a young man who seemed like he was really trying."

a. Findings

The facts relating to Cate's response to concerns raised about James are essentially uncontested and include the following:

- In September, administrators knew James had a student on his lap, had kissed a student on the forehead, had danced with a female student, and had hugged female students. He was spoken to, and an email documenting the counseling was placed in his personnel file.
- A month later, in October, administrators learned that James had made comments about a female student's attire, including how her clothes fit, and asked her personal questions, making her and her family uncomfortable. Administrators decided to counsel James again and memorialized the conversation in an email to James, which also went in his file.

INVESTIGATIVE REPORT

- In November, administrators learned that James had played a “would you rather” game with four girls, asking them: “Would you rather . . . or drink a bucket of semen?” Again, administrators opted to speak to James, and noted the verbal counseling in James’ personnel file.¹⁴
- In December 2019 or January 2020, administrators were informed that James grabbed a female student’s hips (Student P) and had an inappropriate interaction with Student N (which Student N denied). James was verbally counseled and told if the behavior continued he would not be asked back, or may even be dismissed mid-year, as stated in a December 2019 email to James.
- Finally, in February 2020, Student 10 told administrators that in October 2019, while at a movie, James placed his hand on her thigh and left it there for a long period of time. James denied the allegation. It was this event that caused the administration to terminate James.
- At this time, in February 2020, the administration also filed a report with Child Protective Services (“CPS”), but according to administrators CPS did not take the report because the incident did not rise to the level of being “reportable.”

Administrators cited inconsistent information from students, their belief at the time that there was no malintent on James’ part, and concerns about James asserting the complaints against him were racially motivated, to explain why James was not terminated sooner despite these complaints. However, administrators did not retain an external investigator to conduct an impartial investigation into the reported incidents of misconduct, which could have addressed these questions.

IV. UNNAMED RESPONDENTS

Ten unnamed respondents are included in this Report. These respondents were unnamed because their conduct did not meet the naming criteria set forth above, in Section II.D.

A. Faculty Member 1

Faculty Member 1 (“FM1”) was at Cate in the 1960s. Two former Cate students reported that FM1 engaged in sexual misconduct toward male students at Cate.

1. Evidence Considered

“Student C” reported that FM1 had sexually molested him in the 1960s, when he was 16 years old. He said FM1 came into his room and fondled him on two occasions. A second alumnus, “Student B,” reported that FM1 had made a sexual advance toward his classmate, “Student 1” (someone different than Student C), in the 1960s. Student B said Student 1 told him about this in the 1990s.

It was not alleged that these incidents were reported to Cate at the time or at any point prior to this investigation, nor was there any documentation in FM1’s personnel file that referenced any discipline or sexual misconduct. FM1 is believed to be deceased and was not interviewed.

¹⁴ It was noted that Jay Dorion did ask the student who reported this if she would be willing to continue riding with James until Dorion found a replacement driver (the inappropriate comment was made while James was driving the students to an activity), and the student’s parent expressed concerns about this to OIG.

INVESTIGATIVE REPORT

2. Findings

A preponderance of the evidence supports a finding that FM1 engaged in the alleged conduct and these allegations are therefore sustained.

Both witnesses were found to be credible and lacked a motive to fabricate an allegation against FM1. Student C provided specific details of what occurred and how the experience affected him. In addition, Student B's account provides some corroboration of FM1 having inappropriate boundaries.

B. Faculty Member 2

Faculty Member 2 ("FM2") was at Cate from the 1970s to the 1980s. One alumnus reported that FM2 demonstrated inappropriate boundaries, and a second reported that FM2 engaged in homophobic bullying.

1. Evidence Considered

"Student DD" reported an experience with FM2 in the 1970s that he thought could be sexual. He said that during his freshman year, he and FM2 were alone and unclothed in the group showers standing next to one another, and FM2 began splashing him with water. Student DD felt that, in retrospect, the incident was sexual in nature.

"Student BB" alleged that FM2 frequently used homophobic language to insult him between 20 and 30 times. In addition, FM2 frequently mocked Student BB's voice in class, imitating his pitch and cadence. In addition, Student BB said that in a group conversation with Cate alumni, another student, Student DD, said he believed FM2 had made a pass at him (Student DD).

Conversely, a student from the 1980s, "Student KK," felt FM2 was kind and had appropriate boundaries. Student KK had other concerns about another faculty member that they brought to FM2, and felt FM2 responded appropriately.

FM2 was not interviewed and is believed to be deceased. It was not alleged that the foregoing incidents were reported to Cate at the time they occurred or at any point prior to this investigation.

2. Findings

A preponderance of the evidence supports a finding that FM2 engaged in the alleged conduct and these allegations are therefore sustained.

Both witnesses were found to be credible and lacked a motive to fabricate an allegation against FM2. Student DD explained why he felt his interaction with FM2 was of a sexual nature, and he later told friends about what transpired. This made Student DD a credible witness. In addition, Student BB corroborated Student DD's account and also shared his own negative experience with FM2. Student BB provided details of how FM2 engaged in bullying based on sexual orientation and credibly recounted the various ways he was subjected to FM2's ridicule.

INVESTIGATIVE REPORT

C. Faculty Member 3

Faculty Member 3 (“FM3”) was at Cate from the 1970s to the 1980s. One alumnus reported that FM3 had engaged in emotional and homophobic abuse.

1. Evidence Considered

Student BB reported that FM3 emotionally abused him in the 1970s. He said FM3 knew Student BB was gay and purposefully “toyed” with and flirted with him. He felt that FM3 knew Student BB was attracted to him and used his attraction as a way to harass him.

Student BB said FM3 also harassed him about his weight. On one occasion, FM3 berated Student BB for about 45 minutes regarding his weight, asking him how much he weighed and asking him to pull up his shirt so he could see his stomach. Student BB said, “He didn’t lay a finger on me, but I feel in a sense I was violated.”

FM3 was not interviewed, as his contact information was not available and he was suspected to be deceased. It was not alleged that the foregoing incidents were reported to Cate at the time or at any point prior to this investigation.

2. Findings

A preponderance of the evidence supports a finding that FM3 engaged in the alleged conduct and these allegations are therefore sustained.

Student BB was credible. He recalled specific details of his experience with FM3 and recounted how FM3’s conduct affected him as a student and in the years that followed. Furthermore, Student BB lacked a motive to fabricate an allegation against FM3, who has long since departed Cate.

D. Faculty Member 4

Faculty Member 4 (“FM4”), who is deceased, was at Cate from the 1970s to the 2000s. One alumna reported that FM4 had made sexual innuendos and engaged in other sexually-charged behavior.

1. Evidence Considered

“Student V” said she was reluctant to share her recollection of FM4, from the 1980s, because FM4 is deceased, but described FM4 as an “absolute creep.” She said many female students tried to avoid FM4 because of FM4’s propensity to make suggestive comments during class and look down female students’ shirts. FM4 also made sexual innuendos; for example, saying certain words in a “weird and suggestive” voice while staring at female students, including Student V.

Student V said FM4 also massaged the backs of female students during class. Student V strategically moved her desk against the wall to block FM4’s ability to come behind her and massage her. She also said that during parents’ weekend, her mother felt FM4 was objectifying female parents, and wrote a complaint sent to then-Head of School Peter Thorp.

INVESTIGATIVE REPORT

Four current and former faculty members and administrators stated that they were aware of general concerns regarding FM4. One faculty member heard that FM4 made female students uncomfortable but did not know of any specific complaints. Former Head of School McLeod said he was not aware of any specific misconduct involving FM4, but recalled speculation about FM4 favoring young, attractive female students. Former Assistant Head of School Bonning also said he was not aware of any inappropriate incidents but recalled FM4 having close relationships with students. Finally, Assistant Head of School for Finance and Operations Pierce heard that FM4 made female students uncomfortable, which Pierce believed was due to FM4's demeanor, which could be intimidating to students.

2. Findings

A preponderance of the evidence supports a finding that FM4 engaged in the alleged conduct and these allegations are therefore sustained.

Student V was found to be credible. She did not appear to be exaggerating or overstating in her account. She lacked a motive to fabricate an allegation against FM4, who is now deceased. Her concerns regarding FM4 were also corroborated by the witness evidence from faculty and administrators that FM4 made female students uncomfortable.

As to the Cate administration's response, there was no mention of Student V's mother's complaint in FM4's employee file. In addition, the evidence is that faculty members and administrators had some awareness that FM4 made female students uncomfortable; singled out young, attractive female students; and had overly close relationship with female students, yet administrators failed to take corrective action. There was no indication Bonning or McLeod had formal or informal conversations with FM4 about students' concerns, nor was there any mention of FM4's conduct in his personnel file.

E. Faculty Member 5

Faculty Member 5 ("FM5") has worked at Cate since the 1980s. One former Cate student reported that FM5 enabled Kirk Phelps' abuse of her in the 1980s (as detailed above, in Section III.A. of this Report).¹⁵

1. Evidence Considered

a. Allegations

Student G alleged that FM5 enabled Phelps' abuse of her in that FM5 was present and sleeping only feet away from where Phelps abused Student G on at least two occasions. She believed FM5 was "absolutely aware" of Phelps' abuse, and stated that FM5 "could have been pretending to be asleep." She said FM5 was also aware of other boundary crossing between her and Phelps, and knew that Phelps often took her off campus.

In addition, Student G said FM5 enabled her abuse by housing Phelps when he returned for visits after leaving Cate. She believed FM5 knew that Phelps was abusing her and failed to report it to the

¹⁵ While the scope of this investigation focused on allegations of sexual harassment and sexual misconduct, and *administration's* knowledge and response, the allegation that FM5 was aware of and enabled Phelps' sexual abuse of Student G was determined to be sufficiently relevant to this scope to warrant including associated findings in this Report. (There was no allegation made that FM5 himself engaged in any type of harassment or abuse.)

INVESTIGATIVE REPORT

administration or stop the abuse. She said, “He was legally obligated to protect me and he didn’t. He let Phelps do whatever he wanted.” She also felt that FM5 should have checked on her in the years since her graduation, given that he observed the “really inappropriate” relationship between her and Phelps.

b. Response to Allegation

FM5 said he did not know about the extent of Student G’s relationship with Phelps until Student G came forward in 2019. FM5 said, “Up until then, he was one of the most honorable men I knew and had a really rigid moral code.”

FM5 said he did not notice any sexual dynamic between Student G and Phelps and never saw Phelps and Student G leave to spend time alone with one another. FM5 said he remembered Phelps expressing his feelings for Student G, but he did not remember when. He recalled Phelps stating that he was in love with, or had strong feelings for, Student G, and asking FM5 what to do with those feelings. FM5 stated, “I said, ‘Kirk, you have to wait until she graduates from high school and let her go to college. You have to wait until she is 18.’” FM5 said he never thought Phelps would act on his feelings, nor did he see evidence of a physical relationship.

FM5 denied Student G ever being in his room after hours with Phelps and did not recall her ever having been in the upstairs loft area of his room. Furthermore, FM5 said his room was not set up in such a way that he could have been sleeping only feet from the other bed, as the beds in his room were spaced more than 15 to 20 feet apart, on opposite sides of the loft.¹⁶ FM5 believed Student G did not have a clear recollection of his room and the space where the abuse took place. He said Student G’s recollection was “absolutely not true.” He said he would not have pretended to be asleep, and stated, “That notion that this is what I would do is antithetical to everything that I have done in all my years at this school.” He also noted that Phelps lived in the space prior to FM5 moving in.

FM5 said Student G wrote him a letter on her graduation day expressing her gratitude for their friendship,¹⁷ and wrote FM5 a few more times after she graduated. He said Student G never expressed feeling upset or traumatized.

c. Witness and Documentary Evidence

Letters from Phelps revealed several mentions of FM5. However, the explicit mentioning of FM5’s name does not make it clear that FM5 was aware of the abuse. The letters primarily reference FM5’s residence or a time when the three all went on a hike.

FM5 was praised by three alumnae when they shared concerns about other faculty members who engaged in misconduct. Student II said FM5 was one of the few male faculty members who exhibited clear and appropriate boundaries. She said, “I gravitated towards him to be reminded of very safe boundaries.” Student HH said she considered FM5 to be particularly supportive. Finally, Student J cited FM5 as a young, male teacher who had “very clear and appropriate boundaries.”

¹⁶ During OIG’s school site visit, FM5 showed the undersigned the room, which was consistent with his account. (The room was quite large, having formerly served as the upper floor of a horse barn.)

¹⁷ FM5 provided a copy of this letter.

INVESTIGATIVE REPORT

Former Assistant Head of School Bonning described FM5 as very trustworthy and “a tremendous man.” Current Assistant Head of School Dorion said FM5 had reported concerns about another faculty member who was later fired for sexual misconduct.

2. Findings

A preponderance of the evidence does not support a finding that FM5 was aware of Phelps’ sexual abuse while Student G was a student at Cate. However, a preponderance of the evidence does support a finding that FM5 should have taken greater measures to protect Student G by reporting Phelps’ admission of his romantic feelings for Student G. Moreover, counseling Phelps to wait until graduation was ill-advised and sent the wrong message to Phelps.

Student G was found to be credible. Her credibility with respect to her allegation against Phelps was bolstered by the voluminous documentation she provided to support her account. However, her statement that she thought FM5 could have “pretended” to be asleep suggested that she felt FM5 should have known about the abuse, but that she lacked actual knowledge or evidence of this.

Furthermore, FM5 was also found to be credible. He was open about his own relationships with Phelps and Student G (suggesting he was being forthright), and provided details of other incidents of misconduct he had proactively reported (suggesting he would likely have reported Phelps’ misconduct, had he been aware of it). FM5 did not disbelieve Student G’s account of what occurred with Phelps, but he said her recollection of him being present was not accurate.

In addition, FM5 was spontaneously mentioned by three former students as a teacher with appropriate boundaries and a trusted adult in the Cate community. This was especially noteworthy given that the women who felt this way were reporting their own experiences with faculty sexual misconduct. In addition, former administrators spoke highly of the ethics of FM5. This tended to support FM5’s assertion that he would not knowingly have enabled harm to a student.

However, it is found that FM5 should have done more to protect Student G. Though the evidence does not support a finding that he had actual notice of abuse, it is uncontested that the relationship between Phelps and Student G was unusual and inappropriately close. This was further evidenced by Phelps’ admission of his romantic interest in Student G while Student G was still a student at Cate. FM5 said he told Phelps that he could not act on those feelings. However, it was problematic for FM5 to say, or even imply, that such a relationship might be permissible after Student G had turned 18.

Ultimately, while the evidence is that FM5 genuinely believed Phelps heeded his advice and did not engage in a relationship with Student G, that was a mistaken assumption. FM5 placed too much trust in Phelps that he would respect appropriate boundaries, when FM5 had reason to believe otherwise.

F. Faculty Member 6

Faculty Member 6 (“FM6”) was at Cate from the 1980s to the 1990s. Three alumnae reported that FM6 had engaged in inappropriate behavior, making sexual comments and demonstrating poor boundaries.

INVESTIGATIVE REPORT

1. Evidence Considered

a. Allegations

“Student I” reported that on one occasion, FM6 came into her apartment at around 10:00 p.m. and left a mug of bourbon in her room. On another occasion, about a week after her graduation, FM6 drunkenly called Student I and asked her, “What are you wearing? What panties are you wearing? I want to imagine your tight little ass in your panties.” On a third occasion, when Student I was a freshman in college, FM6 called her again. She did not feel comfortable speaking to him and hung up.

Students J and EE also provided information concerning FM6. Student J said FM6 always had a “harem of women” around him, and she believed FM6 slept with two female students during his time at Cate. Student EE recalled that FM6 did not have appropriate boundaries. She felt FM6 acted like a student and often had students over to his apartment.

It was not alleged that the forgoing was reported to Cate at the time or at any point prior to this investigation. Former Assistant Head of School Bonning said he did not hear any rumors regarding sexual misconduct involving FM6. However, Bonning recalled that FM6 had “really close relationships with students.” FM6’s personnel files did not contain any mention of discipline or of inappropriate behavior.

b. Response to Allegations

FM6 described his rapport with students as “very warm,” and said school administrators encouraged him to be close with students and do activities with them. He explained that students often came to his apartment to watch movies and chat.

FM6 denied engaging in sexual activity with any student. He also said he had not heard rumors that he had engaged in sexual activity with a student, either during or after his time at Cate. FM6 said any rumors of a sexual relationship were false. He said he did not understand why there might have been a perception that he was involved sexually with any student. He said, “I would like to think I was the cool uncle,” and that “there was nothing romantic at all” in his relationships with students. FM6 said he might have given students a hug, but did not otherwise have physical contact with them.

FM6 said he drank alcohol while at Cate but that he drank heavily only “on occasion.” He clarified that he did not drink while on dorm duty. When he did consume alcohol, it was in his on-campus apartment. Asked what type of alcohol he generally consumed, FM6 replied that he drank bourbon and beer. FM6 did not remember ever leaving a cup of bourbon in a dorm room.

FM6 said he kept in touch with numerous students after their graduation. However, he denied having called and made lewd remarks to a student, stating, “That’s a lie.” FM6 had no idea who would make such an allegation and called the language “outright crude and rude.”

2. Findings

A preponderance of the evidence supports a finding that FM6 engaged in the conduct alleged by Student I, and Student I’s allegations are therefore sustained.

INVESTIGATIVE REPORT

Student I was found to be credible with respect to her allegations that FM6 left alcohol in her apartment while she was a student, and drunkenly called her and made sexual comments after her graduation. She provided specifics about what occurred, did not appear to be exaggerating or embellishing in her account, and lacked a motive to fabricate an allegation against FM6, who no longer works at Cate.

In addition, the witness accounts that FM6 was often surrounded by female students, did not have appropriate boundaries with students, and had students over to his apartment provided some general corroboration for Student I's account of FM6's inappropriate behavior. Further, when asked about his drinking, FM6 acknowledged that he drank bourbon while working at Cate, which also tended to support Student I's account.

On balance, despite FM6's denial that he made the alleged sexual comments during a drunken phone call to Student I, Student I was found to be the more credible party and her allegation is sustained. It is noted that if FM6 was intoxicated at the time he placed the call, it is possible he does not remember his actions.

A preponderance of the evidence does not support a finding that FM6 had sexual contact with any Cate student, as this allegation was based upon rumor, no witnesses came forward to offer direct information to this effect, and there was a general lack of evidence that this occurred.

G. Faculty Member 7

Faculty Member 7 ("FM7") was at Cate from the 1990s until the 2000s. One former faculty member reported concerns about FM7 failing to demonstrate appropriate boundaries with students, while a former student reported that FM7 had been sexually involved with multiple students.

1. Issue 1: Allegation of Sexual Activity with Students

a. Evidence Considered

i. Witness Evidence

One former student reported hearing rumors that FM7 had sex with multiple students. No other witnesses came forward about such rumors or to otherwise provide evidence about this.

Former Head of School McLeod said he would never have expected FM7 to be involved in sexual misconduct involving a student. He said, "I would be personally disappointed if something untoward was going on. A boarding school community is very intimate in healthy and unhealthy ways. There are a lot of rumors and suspicions." Former Assistant Head of School Bonning likewise said he did not know of any rumors about FM7 having a sexual relationship with a student.

ii. Response to Allegation

FM7 was aware of these rumors and believed they began after FM7 attended a skiing weekend with a group of students and former students. FM7 and one student watched a movie alone together one day in lieu of going skiing. FM7 described feeling "mortified" by the rumors.

INVESTIGATIVE REPORT

FM7 denied having had any physical or sexual relationship with any student or former student. FM7 was not surprised by the rumors, but was surprised by the students FM7 was alleged to have had sex with. FM7 said, "It's mind-boggling to me that those are the names you have, but it's not mind-boggling that someone thought something was happening that wasn't."

b. Findings

A preponderance of the evidence does not support a finding that FM7 engaged in sexual activity with a student or former student, and the allegation is therefore not sustained.

This allegation stemmed from rumors alone, as the student who raised this concern lacked direct knowledge about the alleged behavior. In addition, these rumors were not mentioned by other witnesses. FM7 provided a plausible explanation for the origins of the rumor and admitted to having been privy to the rumor. On balance, FM7's denial was found to be more credible than one individual's allegation of sexual activity based on rumor.

2. Issue 2: Allegations of Boundary Crossing

a. Evidence Considered

i. Witness Evidence

One former faculty member said FM7 was inappropriately close to students and recalled a student napping on FM7's couch while FM7 was in class.

McLeod said he had heard rumors of students visiting FM7's apartment. However, McLeod did not believe anything inappropriate had occurred. Bonning said FM7 had expressed concerns about close relationships with students. He said FM7 was "one of those young faculty members who formed very close relationships with students of both genders and took them off campus." He also mentioned students visiting FM7's apartment, when this should not have occurred.

ii. Response to Allegations

FM7 acknowledged being close to many students and acknowledged often being alone with students. FM7 did not recall the specific incident involving a student sleeping on FM7's couch but thought it "certainly could have happened" and "would not have seemed unusual at the time." FM7 also described going on an international trip with recent Cate graduates, and described going on vacation with a student's family. FM7 also visited this family at their out-of-state home.

b. Findings

A preponderance of the evidence supports a finding that FM7 engaged in boundary crossing by fostering inappropriately close relationships with students, and this allegation is therefore sustained.

It is uncontested that FM7 had close relationships with students, which included students visiting FM7's apartment while FM7 was both present and absent; going on vacation with students, and in one case, their family; and developing friendships with students.

INVESTIGATIVE REPORT

FM7 demonstrated an unusual level of comfort with students walking in and out of their apartment as they pleased, which is indicative of a level of closeness that is inappropriate between a teacher and students, especially so with teachers and students of the opposite sex. FM7 contended that being assigned to a dorm of the opposite sex facilitated this dynamic. While this may be true, it nevertheless does not excuse FM7's behavior in fostering close relationships with students that went beyond the professional boundaries of a teacher.

FM7's lack of boundaries with students was noted by former administrators, including McLeod and Bonning. This further supports a finding that FM7's conduct was beyond the proper boundaries of teacher-student engagement.

Finally, while Bonning and McLeod were aware that FM7's conduct may have gone beyond the norms of appropriate teacher-student boundaries, neither took action or counseled FM7 on maintaining appropriate boundaries with students.

H. Faculty Member 8

Faculty Member 8 ("FM8") was at Cate during the 1980s. One former student reported that FM8 made sexually explicit, threatening, and profane comments but requested her account be shared with as few details as possible, and asked that respondent's name be omitted from this Report. Out of respect for Student II's wishes, OIG did not contact FM8 for his response to the allegations and details concerning her allegations are omitted.

1. Findings

A preponderance of the evidence supports a finding that FM8 made sexually explicit, threatening, and profane comments, as Student II alleged, and this allegation is therefore sustained.

Though the undersigned did not have the benefit of interviewing the respondent, Student II provided a very detailed and specific account of her experience, did not appear to have any motive to fabricate the allegations, and was found to be credible.

I. Faculty Member 9

Faculty Member 9 ("FM9") was at Cate in the 2000s. One alumna reported that FM9 made a sexual advance toward her while she was a student at Cate in the 2000s.

1. Evidence Considered

"Student M" was close to FM9 because Student M was very involved in the program taught by FM9. She reported that FM9 asked her to meet him at a mall in downtown Santa Barbara, the Paseo Nuevo. Once there, FM9 told Student M he had a "huge crush" on her, thought about her all the time, and was falling in love with her. Student M responded that she did not feel the same way and left shortly after. Student M did not tell anyone what transpired aside from her then-boyfriend. She did not want to "blow up his life" and believed FM9 was "very scared" that she was going to share what had happened with others.

Later that year, Student M and FM9 went on walks together. On one of these walks, FM9 told her, "I think you got the wrong idea about what I told you at the Paseo." Student M did not correct FM9, though she disagreed with what he said, because FM9 had control over her as her teacher. FM9 also

INVESTIGATIVE REPORT

told her that he was having marital problems and that he and his wife did not have sex. Student M felt that her interactions with FM9 were “very strange” the rest of her time at Cate.

It was not alleged that these incidents were reported to Cate at the time or at any point prior to this investigation. Former Assistant Head of School Bonning said he did not hear any rumors about FM9. Current Head of School Williams likewise was not aware of any concerns about FM9 until 2020, when Student M disclosed how FM9 had “professed his love” for her. Williams encouraged Student M to participate in this investigation. He called Student M’s report “deeply disturbing.”

FM9 is no longer an employee at Cate and left for unrelated reasons. When contacted, he declined to participate in the investigation through his attorney.

2. Findings

A preponderance of the evidence supports a finding that FM9 engaged in the conduct alleged by Student M, and Student M’s allegations are therefore sustained.

Student M was found to be credible. She did not appear to be exaggerating or overstating in her account. She lacked a motive to fabricate an allegation against FM9, who is no longer employed at Cate. She provided specific details, and those details were consistent with what she relayed to Williams. It is also notable that her reluctance to report the incident at the time was due to not wanting to “blow up” FM9’s life, and because FM9 retained control over Student M as her teacher.

J. Faculty Member 10

Faculty Member 10 (“FM10”) was a faculty member at Cate in the 2010s.¹⁸ Five witnesses (one faculty member, three current administrators, and one former administrator) reported that FM10 was terminated for engaging in sexual contact (kissing) with a student, “Student 45.” Because Student 45 did not participate in this investigation, details concerning this allegation are omitted from this Report to protect Student 45’s privacy.

1. Findings

A preponderance of the evidence supports a finding that FM10 engaged in sexual activity (kissing) with Student 45. This allegation is therefore sustained.

While the undersigned did not have the benefit of interviewing either Student 45 or FM10, the witnesses provided consistent accounts of what transpired, which ultimately resulted in FM10’s termination. School records in FM10’s personnel file further corroborate these accounts.

With regard to the school’s response, the evidence was that once the school learned of FM10’s actions, they fired FM10 and removed him from campus. It appeared that Williams also took measures to follow up with Student 45.

¹⁸ FM10 is not named in this Report out of respect for the privacy concerns of “Student 45.”

INVESTIGATIVE REPORT

With that said, however, Dorion mentioned he was unaware of other faculty members' concerns about FM10, and acknowledged that, had there been coordination on the part of faculty, FM10's pattern of misconduct would have been evident.

Respectfully submitted,



Madeline Buitelaar



Alezah Trigueros



Amy Oppenheimer