



OFFICE OF DIVERSITY AND EQUITY

UNIVERSITY HALL, ROOM 214

Telephone: (203) 837-8444

Website: www.wcsu.edu/diversity

Email: ode@wcsu.edu

INVESTIGATIVE REPORT

ASSIGNED INVESTIGATOR(S)

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**JESENIA DELGADO, CHIEF DIVERSITY/TITLE IX
FRED CRATTY, CHIEF HUMAN RESOURCES OFFICER
CaRRT DEPUTY TITLE IX COORDINATOR
CaRRT MEMBER INTAKE: _____**

DATE OF FILED COMPLAINT:

May 22, 2018

DATE OF REPORT:

October 10, 2018

CASE NUMBER:

N/A

Complainant(s)

Name of Complainant:

Anonymous (University Representation – see page 2)

If Employee/Faculty

Office Title/Rank:

N/A

CORE-CT Date of

Appointment/Employment:

N/A

If Student,

Year of Attendance:

N/A

CORE-CT ID:

N/A

Alleged Protected

Category/Categories:

Sexual Harassment

Respondent(s)

Name of Respondent:

Xavier Potter

If Employee/Faculty,

Office Title/Rank:

SU Coach,

1-210B 17

Athletics Department - Recreation

CORE-CT Date of

Appointment/Employment:

Hired 10/02/2015

(2 years, 9 months)

If Student,

Year of Attendance:

N/A

CORE-CT ID:

183698



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COMPLAINT ALLEGATION(S):

On August 1, 2018, at approximately 9:00 a.m., the University's Office of Diversity and Equity ("ODE") was in receipt of the following below listed allegations from anonymous written complaint sent in on May 22, 2018 on the basis of sexual harassment that stated the following series of alleged engagements from the named Respondent, Xavier Potter, while serving as a SU Coach for the [REDACTED] 1-210B 17 [REDACTED] in the Athletics Department, from October 2, 2015 to July 20, 2018. This complaint is represented as a University complaint and alleges the following:

- 1) During the Fall 2017 academic semester, on (or around) August 28, 2017 to December 17, 2017, Respondent Potter allegedly engaged in sexual contact with an identified WCSU female student and active (roster) member of the [REDACTED] 1-210B 17 [REDACTED] while serving as the appointed SU Coach. The described sexual contact was with the identified WCSU student [REDACTED] 1-210B 11 [REDACTED] was alleged as oral sex during the mentioned period.
- 2) During the review of the above-noted allegation, the University received witness accounts in June and July 2018 to the following allegations, that on various dates in the Fall 2015 and Fall 2016 academic semesters, Respondent Potter engaged in inappropriate comments/sexual contact with two identified WCSU female students and active (roster) members of the [REDACTED] 1-210B 17 [REDACTED] while serving as the appointed SU Coach. The described inappropriate/sexual contact for the **first** WCSU female student [REDACTED] 1-210B 11 [REDACTED] was alleged as sexual intercourse during the mentioned period(s).

The described inappropriate/sexual contact for the **first** WCSU female student [REDACTED] 1-210B 11 [REDACTED] was reported as sexual harassment. The University received a witness account that described Respondent Potter allegedly exchanging text messages about a personal relationship of the WCSU female student [REDACTED] 1-210B 11 [REDACTED] with a WCSU male student. The WCSU female student [REDACTED] 1-210B 11 [REDACTED] told an identified witness that the Respondent commented the following, "*well I wish you had done things like that when you were seeing me.*"

The described inappropriate/sexual contact for the **second** WCSU female student [REDACTED] 1-210B 11 [REDACTED] was reported as sexual harassment. The University received a witness account that, in the Spring 2016 semester, on (or around) an unknown date, Respondent Potter allegedly inviting a WCSU female student [REDACTED] 1-210B 11 [REDACTED] for a car ride and smacked the WCSU female student's derriere (with an open hand) while intoxicated during a public/university alumni event.

- 3) On (or around) various dates in the Fall 2015, Fall 2016 and Fall 2017 academic semesters, the below described actions were allegedly reported by one (or more) identified witnesses who attested to Respondent Potter's alleged conduct while serving as the SU Coach during the mentioned period(s). The University received one or more witness accounts that described Respondent Potter allegedly made inappropriate comments about attire (clothing), physical body parts and/or appearance of various WCSU female students and active (roster) members of the [REDACTED] 1-210B 17 [REDACTED]

The University perceived the (alleged) described comments and/or contact(s) from Respondent Potter as inappropriate action(s) of a sexual nature. As a CSCU employee, the (described) alleged conduct violates the CSCU Policy on Consensual Relationships and the CSCU Policy on Sexual Misconducting Reporting, Support Services and Processes Policy.

The submitted evidence gathered from the investigation are attached as Exhibit A-F of the investigative report.



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NATURE OF COMPLAINT

ALLEGED VIOLATION(S) COMMITTED BASED ON THE SELECTED CSCU POLICY STATEMENT(S):

- ☐ CSCU Policy on Drug-Free Workplace Policy
- ☐ CSCU Affirmative Action and Equal Employment Opportunity Policy Statement
- ☒ CSCU Policy on Consensual Relationships
- ☒ CSCU Policy on Sexual Misconduct Reporting, Support Services and Processes
- ☐ CSCU Policy on Violence in the Workplace
- ☐ CSCU Policy on Nepotism in Hiring, Employment, Supervisory Responsibility, and Contracting
- ☐ CSCU Policy on Sexual Assault, Stalking and Domestic and Intimate Partner Violence Against Students
- ☐ Other applicable CSCU Policy re: _____

ALLEGED VIOLATION(S) COMMITTED BASED ON THE SELECTED FEDERAL, STATE AND/OR LOCAL HUMAN RIGHTS LAWS:

FEDERAL:

- ☐ Title I and Title V of the Americans with Disabilities Act of 1990
- ☐ Title II of the Genetic Information Nondiscrimination Act of 2008
- ☒ Title VII of the Civil Rights Act of 1964
- ☐ Section 503 of the Rehabilitation Act of 1973
- ☒ Title IX of the Education Amendments of 1972 (Public Law No. 92-318, 86 Stat. 235)

STATE:

- ☐ Connecticut Public Act re: _____
Section _____, re: _____
- ☐ Connecticut Public Act re: _____
Section _____, re: _____

PROTECTED CATEGORIES RELATED TO THE ABOVE LISTED ALLEGED VIOLATION(S):

- | | |
|---|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> Gender/Sex (including Gender Identity or Expression) |
| <input type="checkbox"/> Ancestry/Citizenship | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Arrest/Conviction Record | <input type="checkbox"/> National Origin |
| <small>(Unless the provision is a bona fide occupational qualification)</small> | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Creed | <input type="checkbox"/> Partnership Status |
| <input type="checkbox"/> Color | <input type="checkbox"/> Race |
| <input type="checkbox"/> Disability (please check one or more of the following below) | <input type="checkbox"/> Retaliation (for filing/assisting in an investigation) |
| <input type="checkbox"/> Learning Disability | <input checked="" type="checkbox"/> Sexual Harassment (including Pregnancy Discrimination) |
| <input type="checkbox"/> Mental Disorder | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Intellectual Disability | <input type="checkbox"/> Status as a Victim of Domestic Violence |
| <input type="checkbox"/> Physical Disability | <input type="checkbox"/> Status as a Victim of Stalking and Sex Offenses |

If the Complainant is an Employee/Faculty Member, please write out the affected term(s) and condition(s) of employment:

- | | |
|---------------------------------------|----------|
| 1) <u>Academic/Working Conditions</u> | 4) _____ |
| 2) _____ | 5) _____ |
| 3) _____ | 6) _____ |



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ACTION TAKEN:

This section is structured to include all pertinent information and investigative steps conducted in chronological order, such as party/witness interviews, meetings held, and evidence/document reviews. The investigation is detailed to include any culpable or exculpable information to either support or discount the allegation that will be listed for the following:

ELECTRONIC MAIL/TELEPHONE CORRESPONDENCE

On Tuesday, May 29, 2018, at approximately 2:00 p.m., the assigned investigator met with a person who will remain unnamed ("anonymous complainant"). The meeting was to obtain more specific details regarding the allegations made [Exhibit A: Anonymous complaint filed on May 22, 2018 with the University's Office of Diversity and Equity] and to determine if an EEO/Title IX investigation was warranted by the University's Office of Diversity and Equity. After a six (6) week preliminary review of the allegations, on July 9, 2018, the investigator determined that there was sufficient evidence to move forward with a formal notice to initiate an EEO/Title IX investigation.

On Thursday, August 2, 2018, at approximately 2:17 p.m. and Friday, August 10, 2018 at approximately 2:17 p.m., the assigned investigator contacted Xavier Potter. ("Respondent Potter"), the Respondent, SU Coach for the 1-210B 17 Team with the Athletics Department (by electronic mail) to arrange a meeting based on the received notification of a filed complaint made by an anonymous complainant. In each of the correspondence(s) sent, the Respondent was advised of the ability to exercise his Weingarten rights (i.e., rights to union representation). Electronic responses were made to Respondent Potter (and Professor Rotua Lumbantobing and Professor Katy Wiss, AAUP union representatives), and a confirmed appointment was made by electronic mail for Thursday, August 16, 2018 at 3:00 p.m. with the assigned investigator and Fred Cratty, Chief Human Resource Officer for the University's Human Resources Department.

On Tuesday, October 9, 2018, at approximately 3:00 p.m., the assigned investigator sent (by email) to Respondent Potter a delay letter identifying the reasons for the delay in the investigation after 60-days of the filing of the University's Complaint of Discrimination form.

EVIDENCE/DOCUMENTATION REVIEWED

Evidence/documentation collected and reviewed are as follows:

- Exhibit A: Anonymous complaint filed on May 22, 2018 with the Office of Diversity and Equity ("ODE");
- Exhibit B: Composition/rosters for the University 1-210B 17 Team from Fall 2015 – Spring 2016; Fall 2016 – Spring 2017; and Fall 2017;
- Exhibit C: Text messages - Respondent Potter & 1-210B 11 on July 24, July 27, and August 13, 2018;
- Exhibit D: Photograph of a gift (i.e., wine glass, engraved with 1-210B 11 name from Things Remembered, Inc.) from Respondent Potter to 1-210B 11
- Exhibit E: Respondent Potter written statement dated September 17, 2018; and
- Exhibit F: WCSU email dated January 30, 2018 from ODE regarding the 2017-18 Affirmative Action Plan & the Affirmative Action Plan Policy Statement; WCSU email sent on September 26, 2017 from the Human Resources Department to all WCSU employees regarding an update to the CSCU/BOR Policy on Consensual Relationships.

MEETING(S) WITH THE ASSIGNED INVESTIGATOR

On Thursday, September 13, 2018, at approximately 4:43 pm, the assigned investigator completed and sent (via electronic mail message and regular mail) a revised Notice of the Filed Complaint of Discrimination with a review of the allegation summary and copied evidence to Respondent Potter and an AAUP representative.



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EEO Investigative Report Witness Identification Form

Witness Letter	Witness Name (First Name, Last Name)	Office Title	Academic Department/Office	Date/Time of Interview
A	1-210B 11	WCSU Student/Women's 1-210B 17	N/A	May 24, 2018 1:00 p.m. (In-Person)
B		WCSU Student/Women's 1-210B 17	N/A	July 12, 2018 1:00 p.m. (In-Person)
C		WCSU Student/Women's 1-210B 17	N/A	July 12, 2018 1:30 p.m. (In-Person)
D		WCSU Student/Women's 1-210B 17	N/A	July 23, 2018 4:30 p.m. (Telephone)
E		WCSU Former Student/ 1-210B 17	N/A	July 25, 2018 11:00 a.m. (Telephone)
F		WCSU Student/Women's 1-210B 17	N/A	September X, 2018 11:00 a.m. (In-Person)



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The assigned investigation met with six (6) witnesses that were identified by the anonymous complainant in the Complaint of Discrimination. For purposes of witness confidentiality, this report will omit the witness(es) names and identifying information. Each witness will be labeled in letter form from Witness A through F.

A. WITNESS INTERVIEW(S)/STATEMENT(S)

Witness A: Name Withheld

On Tuesday, May 24, 2018, at approximately 1:00 p.m., the assigned investigator conducted an in-person interview with Witness A (name withheld) who is an active WCSU student and member of the [REDACTED] 1-210B 17 Team during the academic year 2017-18, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness A, the nature of this complaint. As a routine course of business, the assigned investigator advised witness A the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness B from discussing the investigation with any other students and/or employees, except with a chosen representative. Witness A then consented to an interview at 1:02 p.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

Witness A reported having first-hand knowledge of a sexual relationship between [REDACTED] 1-210B 11 a current WCSU student [REDACTED] 1-210B 17 Team and Respondent Potter. Witness A confirmed that [REDACTED] 1-210B 11 regularly communicate and was told by [REDACTED] 1-210B 11 that she had engaged in oral sex (i.e., giving him head) with Respondent Potter when she was a freshman student and had during her first year on the [REDACTED] 1-210B 17 Team in 2015-16. Witness A also confirmed that part of the [REDACTED] 1-210B culture was to "get drunk amongst the players, have drinking games and have fun." Witness A also reported that [REDACTED] 1-210B 11 appears to have non-romantic feelings for Respondent Potter for reasons unbeknown to the witness.

This interview ended at 1:22 p.m. The interview statement is on file with the investigatory record with the University's Office of Diversity and Equity.

Witness B: Name Withheld

On Thursday, July 12, 2018, at approximately 1:00 p.m., the assigned investigator conducted an in-person interview with Witness B (name withheld) who is an active WCSU student and member of the [REDACTED] 1-210B 17 Team during the academic year 2017-18, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness B, the nature of this complaint. As a routine course of business, the assigned investigator advised witness B the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness B from discussing the investigation with any other students and/or employees, except with a chosen representative. Witness B then consented to an interview at 1:02 p.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:



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Witness B reported having first-hand knowledge of a sexual relationship between [REDACTED] 1-210B 11 a current WCSU student [REDACTED] 1-210B 17 Team and Respondent Potter. Witness B confirmed that Respondent Potter would often (one to two weeks in between games) offer [REDACTED] 1-210B 11 rides to and from scheduled games. Witness B also reported that [REDACTED] 1-210B 11 told the witness that she and Respondent Potter were “hooking up” which meant to Witness B that both were having a sexual relationship. When asked about the manner of the described sexual relationship, Witness B reported that [REDACTED] 1-210B 11 told the witness that Respondent Potter and her [REDACTED] 1-210B 11 were making out and having oral sex. Witness B had knowledge that [REDACTED] 1-210B 11 was also dating another student named [REDACTED] 1-210B 11 whom [REDACTED] 1-210B 11 has a personal, dating relationship. Witness B had met both [REDACTED] 1-210B 11, who was introduced as [REDACTED] 1-210B 11 boyfriend to the witness.

Witness B reported that [REDACTED] 1-210B 11 told the witness Respondent Potter continued to text message about [REDACTED] 1-210B 11 dating relationship and had said regrets about what Respondent Potter would do sexually to [REDACTED] 1-210B 11. Witness B also reported that Respondent Potter has an “unofficial reputation” of making sexual comments (i.e., player’s attire, appearance and/or comments on female body parts) and/or passes at female student athletes within the [REDACTED] 1-210B 17 Team. Witness B stated that Respondent Potter tends to be attracted to “skinny girls” or young ladies with an athletic physique, and during practices and/or meetings make sexual comments (i.e., flirty comments about how certain female player’s look with their team uniforms). Witness B had knowledge of an incident at an Alumni event in Spring 2016 semester between Respondent Potter and another [REDACTED] 1-210B 17 player (player identified). Witness B directly observed Respondent Potter slap the female player’s buttocks in the presence of other male and female [REDACTED] 1-210B 17 players during the event. The identified female player immediately admonished Respondent Potter for his actions, but did not report the incident.

This interview ended at 1:31 p.m. The interview statement is on file with the investigatory record with the University’s Office of Diversity and Equity.

Witness C: Name Withheld

On Thursday, July 12, 2018, at approximately 1:30 p.m., the assigned investigator conducted an in-person interview with Witness C (name withheld) who is an active WCSU student and member of the [REDACTED] 1-210B 17 Team during the academic year 2017-18, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness C, the nature of this complaint. As a routine course of business, the assigned investigator advised witness C the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness C from discussing the investigation with any other students and/or employees, except with a chosen representative. Witness C then consented to an interview at 1:31 p.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

Witness C confirmed as having a no personal and/or professional affiliation with [REDACTED] 1-210B 11 and/or Respondent Potter outside of the [REDACTED] 1-210B 17 Team activities. When asked about any observed sexual harassment and/or bias conduct and/or any incidents of bias, discriminatory conduct, between [REDACTED] 1-210B 11 and Respondent Potter, witness C reported having no first-hand observations and/or knowledge of any incidents of alleged conduct of perceived bias and/or sexual harassment. The witness offered no relevant information in regards to the described allegations.

This interview ended at 1:40 p.m. The interview statement is on file with the investigatory record with the University’s Office of Diversity and Equity.



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Witness D: Name Withheld

On Monday, July 23, 2018, at approximately 4:30 p.m., the assigned investigator conducted a telephone interview with Witness D (name withheld) who is an active WCSU student and member of the [REDACTED] 1-210B 17 Team during the academic year 2017-18, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness D, the nature of this complaint. As a routine course of business, the assigned investigator advised witness D the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness D from discussing the investigation with any other students and/or employees, except with a chosen representative. Witness D then consented to an interview at 4:32 p.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

Witness D reported that this was the first year as a member of the [REDACTED] 1-210B 17 Team. Witness D reported having first-hand knowledge of a sexual relationship between [REDACTED] 1-210B 11 a current WCSU student and the [REDACTED] 1-210B 17 Team and Respondent Potter. Witness D confirmed that [REDACTED] 1-210B 11 told the witness that she had engaged in oral sex with Respondent Potter when she was a freshman student and had during her first year on the [REDACTED] 1-210B 17 Team in 2015-16. Witness D confirmed as having a no personal and/or professional affiliation with [REDACTED] 1-210B 11 and/or Respondent Potter outside of the [REDACTED] 1-210B 17 Team activities. When asked about any observed sexual harassment and/or bias conduct and/or any incidents of bias, discriminatory conduct, between [REDACTED] 1-210B 11 and Respondent Potter, witness D reported having no first-hand observations of any incidents of alleged conduct of perceived bias and/or sexual harassment.

This interview ended at 4:56 p.m. The interview statement is on file with the investigatory record with the University's Office of Diversity and Equity.

Witness E: Name Withheld

On Monday, July 25, 2018, at approximately 11:00 a.m., the assigned investigator conducted a telephone interview with Witness E (name withheld) who was a former student and member of the [REDACTED] 1-210B 17 Team during the academic years 2015-16 and 2016-17, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness E, the nature of this complaint. As a routine course of business, the assigned investigator advised witness E the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness E from discussing the investigation with any other employees, except with their chosen representative. Witness E then consented to an interview at 11:04 a.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

Witness E reported that Respondent Potter has a "unofficial reputation" of making uncomfortable sexual comments and/or jokes (i.e., player's attire, appearance and/or comments on female body parts) and/or passes at female student athletes within the [REDACTED] 1-210B 17 Team. Witness E confirmed that an incident did occur at an Alumni event in Spring 2016 semester between Respondent Potter and another [REDACTED] 1-210B 17 player (player identified). Witness E observed Respondent Potter slapped with an open hand a female [REDACTED] 1-210B 17 player's buttocks in the presence of other female and male [REDACTED] 1-210B 17 players during



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the event. Witness E reported that the identified female player admonished Respondent Potter for his actions, but did not report the incident.

This interview ended at 11:45 p.m. The interview statement is on file with the investigatory record with the University's Office of Diversity and Equity.

Witness F: Name Withheld

On Wednesday, September 5, 2018, at approximately 10:00 a.m., the assigned investigator conducted an in-person interview with Witness F (name withheld) who is an active WCSU student and member of the [REDACTED] 1-210B 17 Team during the academic year 2015-16 through the 2017-18, in University Hall, Room 214, as a witness for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with witness F, the nature of this complaint. As a routine course of business, the assigned investigator advised witness F the following:

- to review one or more of the CSCU Policies listed;
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged witness F from discussing the investigation with any other students and/or employees, except with a chosen representative. Witness F then consented to an interview at 10:02 a.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

Witness F reported having first-hand knowledge of a sexual relationship between [REDACTED] 1-210B 11 a current WCSU student [REDACTED] 1-210B 17 Team and Respondent Potter. Witness F confirmed that Respondent Potter would often communicate with [REDACTED] 1-210B 11 about his professed feelings of love and admiration to have a sexual, romantic relationship. Witness F also reported that Respondent Potter and [REDACTED] 1-210B 11 were "hooking up" which meant to Witness F that both were having a sexual relationship. When asked about the manner of the described sexual relationship, Witness F confirmed that Respondent Potter and [REDACTED] 1-210B 11 were engaging in oral sex in the Fall 2015 through Spring 2016 semesters. Witness F reported that [REDACTED] 1-210B 11 told the witness that Respondent Potter continued to text message [REDACTED] 1-210B 11 regularly about dating relationships and Respondent Potter's professed feelings for [REDACTED] 1-210B 11. Witness F provided copies of text messages and other materials as evidence [Exhibit C: Text messages between Respondent Potter and [REDACTED] 1-210B 11 on July 24, 2018, July 27, 2018 and August 13, 2018 and Exhibit D: Photograph of a gift (i.e., wine glass, engraved with [REDACTED] 1-210B 11 name from Things Remembered, Inc.) from Respondent Potter to [REDACTED] 1-210B 11 of the contact/conduct that has been initiated by Respondent Potter.

This interview ended at 10:31 a.m. The interview statement is on file with the investigatory record with the University's Office of Diversity and Equity.



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B. RESPONDENT INTERVIEW/STATEMENT(S)

During the course of the investigation, the Respondent, Xavier Potter ("Respondent Potter") submitted a two (2) page written statement, dated September 17, 2018, to the assigned Investigator. In review of the written statement, Respondent Potter denied involvement with the presented allegations. Respondent Potter's written statement is on file and attached as "Exhibit E: Respondent Potter written statement dated September 17, 2018" with the investigatory report as well as in the investigatory record with the University's Office of Diversity and Equity.

On Monday, September 17, 2018, the assigned investigator rescheduled the interview date and time with the understanding from Professor Rotua Lumbantobing ("Professor Lumbantobing"), AAUP representative on behalf of Respondent Potter.

On Monday, September 24, 2018, at approximately 4:45 p.m., the assigned investigator met with Respondent Potter for an in-person interview. Respondent Potter is the named Respondent and (at the time of this interview) served as the SU Coach for the [REDACTED] 1-210B 17 Team and a member of the Athletics Department. Respondent Potter met with the assigned investigator in University Hall, Room 214, for the purpose of clarifying information regarding the filed complaint. The assigned investigator discussed with Respondent Potter the nature of this complaint. As a routine course of business, the assigned investigator advised Respondent Potter the following:

- to review one or more of the CSCU Policies listed;
- to review and recite the record, interview statement; and
- of his/her right to have any form of available representation to observe the interview and statement provided;

To ensure an accurate and comprehensive investigation as well as to protect the integrity of the investigation, I discouraged Respondent Potter from discussing the investigation with any other students and/or employees, except with their chosen representative. Respondent Potter was represented by a chosen representative, Professor Lumbantobing, AAUP representative, to observe the interview and serve as an advisor. Respondent Potter then consented to an interview at 4:59 p.m. This interview was not taped, but responses were documented as interview notes. A summary is as follows:

In regards to the [REDACTED] 1-210B 17 Team roster, Respondent Potter reported that he was responsible for creating the team rosters each year upon his hire in the Fall 2015 semester (and thereafter). Generally, Respondent Potter reported that he had the existing student athletes recruit new, incoming and returning students who showed interest in the team/sport. Upon confirming the student's interest, Respondent Potter would place them on the team roster if the student was confirmed to be a full-time student [Exhibit B: Composition/rosters for the University [REDACTED] 1-210B 17 Team from Fall 2015 – Spring 2016; Fall 2016 – Spring 2017; and Fall 2017]. Respondent Potter confirmed the composition of the team roster for the Fall 2017 and that [REDACTED] 1-210B 11 [REDACTED] 1-210B 17

In regards to allegation #1, Respondent admitted to the presented allegation. Respondent Potter attested to the following: [REDACTED] 1-210B 11 *made the sexual advances toward me at the end of the [REDACTED] 1-210B season in late April 2016 that is when the sexual relationship began with her. We were casually dating.*" The written statement also confers Respondent Potter admitting to the presented allegation. Respondent Potter attested to the following: *"I do admit to having a consensual relationship with student, [REDACTED] 1-210B 11. At no point was she forced, held to any quid-pro-quo, or threatened for any retaliation by myself. In full retrospect I should have acted with better judgment and rejected her advances. The consensual relationship took place late in the spring semester to 2016, after team activities were done for that semester. The relationship ended the same time as the semester. We did keep in contact on both a professional (coach to player) and well as personal matter."*

The investigator reviewed the CSCU/BOR Policy on Consensual Relationships linked as: <http://www.ct.edu/files/pdfs/hr-policy-consensual-relationships.pdf>, under Connecticut State Colleges and Universities Policy website) with Respondent Potter to review the prohibition of employee and student relationships. The result of this review was included in the Investigative Analysis, on page(s) 11 of the investigative report.



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In regards to allegation #2, Respondent Potter denied the presented allegation. Respondent Potter attested to the following: "I know 1-210B 11 as a former member of the 1-210B 17 Team. I had general interactions with her, but she had issues with confidence. I have no recollection of any incident with 1-210B 11. I do not recall extending an invite to enter my vehicle. I was drinking along with 1-210B 11 and may have tapped her on the butt." The written statement attested to the following: "I deny at any point that I was intoxicated around my players. I made it a personal choice to be in a place of better judgment to try and prevent such misconduct. As for any action taken toward student, 1-210B 11 there was no "smacking" of the student's derriere, instead was a shooing gesture by myself towards the student that may have inadvertently struck the student's derriere."

In regards to allegation #3, Respondent Potter denied the presented allegation. Respondent Potter attested to the following: "I do not recall having made any blatant comments. I may have said aloud the fact that I didn't know how the girls could wear Yoda¹ pants during the cold months while I was bundled up with clothes." The written statement attested to the following: "At no point during my tenure as the head coach of WCSU 1-210B 17 did I intentionally or knowingly make inappropriate comments about attire with any intent to offend. At no point during my tenure as the head coach of WCSU 1-210B 17 did I intentionally or knowingly make inappropriate comments related to physical appearance of female students with intent to offend."

Upon the conclusion of the interview, Respondent Potter wished to advise that upon his hire, and thereafter, as an employee, he had never been advised and/or receive any formal training on the CSCU/BOR policies and/or receipt of the official CSCU Affirmative Action Policy Statement, CSCU/BOR Policy on Consensual Relationships, and/or the original and/or revised and amended CSCU/BOR Policy on Sexual Misconduct Report, Support Services and Processes Policy. The investigator advised to note that statement and to refer to the Human Resources Department on records verification of his non-receipt of training and/or policy information.

¹ Yoda, also known as yoga pants are a type of flexible, form-fitting pants designed for the practice of [yoga](#) as well as other physical activities that involve a lot of movement, bending and stretching.



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INVESTIGATIVE ANALYSIS:

This section of the investigative report analyzes all of the information and evidence collected. *This section will briefly document findings to either support or discount each allegation and list any consistencies or inconsistencies uncovered.*

The assigned investigator reviewed the Complainant statements and other documents noted that coincide with the presented allegations. Respondent Xavier Potter ("Respondent Potter") admitted to one of the three presented allegations, provided several explanations in the submitted written statement dated September 17, 2018.

Concerning allegation (1), there was direct evidence to suggest that the described circumstance did in fact occur and are based on sexual harassment/misconduct initiated by Respondent Potter on (or around) the 2015-16 academic year. In review of four (4) out of the five (5) witness interviews and the Respondent's statement dated September 17, 2018; in addition to a review of *Exhibit C: Text messages between Respondent Potter and 1-210B 11 on July 24, 2018, July 27, 2018 and August 13, 2018 and Exhibit D: Photograph of a gift (i.e., wine glass, engraved from Things Remembered, Inc.) from Respondent Potter to 1-210B 11* the Investigator has determined that there is sufficient evidence that the described conduct exhibited was a form of **sexual harassment** against 1-210B 11 as reported by the anonymous complainant. The text messages submitted as evidence were sufficient to determine that a sexual, intimate relationship existed between the student, 1-210B 11 and Respondent Potter.

As noted in the CSCU/BOR Policy on Consensual Relationships linked as: <http://www.ct.edu/files/pdfs/hr-policy-consensual-relationships.pdf>, under Connecticut State Colleges and Universities Policy website), *it states under Policy prohibited between employee and student section: Consensual romantic, dating, or sexual relationships between any employee and any student over whom that employee exercises direct or otherwise significant academic, supervisory, or evaluative authority or influence are prohibited at all State Universities and Colleges. The evaluative relationship can take a variety of forms, such as teacher to student, advisor to advisee, coach to athlete, supervisor to student employee, or similar relationship.*" Respondent Potter served as the university's SU Coach for the 1-210B 17 Team, and therefore, had a responsibility not to engage in a romantic, dating or sexual relationship with a student under his supervision. This matter has created dissension and confusion for the student female athletes and members of the Athletics Department.

Concerning allegation (2), there was direct evidence to suggest that the described circumstances did in fact occur and are based on sexual harassment/misconduct initiated by Respondent Potter on (or around) the 2015-18 academic years. In review of four (4) out of the five (5) witness interviews and the Respondent's statement dated September 17, 2018; in addition to a review of *Exhibit C: Text messages between Respondent Potter and 1-210B 11 on July 24, 2018, July 27, 2018 and August 13, 2018 and Exhibit D: Photograph of a gift (i.e., wine glass, engraved from Things Remembered, Inc.) from Respondent Potter to 1-210B 11* the Investigator has determined that there is sufficient evidence that the described conduct exhibited was a form of **sexual harassment** against 1-210B 11 as reported by the identified, unnamed witnesses during the preliminary review. The text messages and witness statements submitted as evidence were sufficient to determine that sexually harassing comments and/or conduct occurred with Respondent Potter and the identified members of the 1-210B 17 Team.

Concerning allegation (3), there was direct evidence to suggest that the described comments did in fact occur and are based on sexual harassment/misconduct initiated by Respondent Potter on (or around) the 2015-18 academic years. In review of two (2) out of the five (5) witness interviews and the Respondent's statement dated September 17, 2018, the Investigator has determined that there is sufficient evidence that the described conduct exhibited was a form of **sexual harassment** against members of the 1-210B 17 Team as reported by the identified, unnamed witnesses during the preliminary review. The witness statements submitted as evidence were sufficient to determine that sexually harassing comments were made by Respondent Potter in the presence of members of the 1-210B 17 Team.



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Upon the conclusion of the interview, Respondent Potter reported that upon his hire, and thereafter, as an employee, he had not been advised and/or receive any formal training on the CSCU/BOR policies and/or receipt of the official CSCU Affirmative Action Policy Statement, CSCU/BOR Policy on Consensual Relationships, and/or the original and/or revised and amended CSCU/BOR Policy on Sexual Misconduct Report, Support Services and Processes Policy. The investigator confirmed that Respondent Potter did not participate in the CORE-CT Portal Title IX online training provided in 2014 and/ in 2017 because he was not a full-time employee. However, the Office of Diversity and Equity ("ODE") had publicly advertised for open enrollment to all *full-time and part time employees* to participate in Title IX employee training sessions on October 20, 2017, November 7, 2017, April 1, 2018, and August 24, 2018. The below mentioned policies have been publicized and disseminated to all CSU employees, including Respondent Potter, on the following dates:

1. CSCU Affirmative Action Policy Statement was issued on July 26, 2017 and July 24, 2018 (as part of the yearly filed Affirmative Action Plan) as an internal communication (email sent) to all staff on January 30, 2018 (website link: <http://www.wcsu.edu/diversity/affirmative-action-policy-statement/> and Exhibit F: WCSU email dated January 30, 2018 from the Office of Diversity and Equity regarding the 2017-18 Affirmative Action Plan and the Affirmative Action Plan Policy Statement);
2. BR#05-13 CSCU/BOR Policy on Consensual Relationships was issued systemwide on November 21, 2013 and provided to all WCSU employees upon time of hire/Exhibit F: WCSU email sent on September 26, 2017 from the Human Resources Department (website link: <http://www.ct.edu/files/pdfs/hr-policy-consensual-relationships.pdf>);
3. The original/amended 5.2 CSCU/BOR Policy on Sexual Misconduct Report, Support Services and Processes issued on January 15, 2015; amended on June 16, 2016 to all WCSU employees upon time of hire (website link: [http://www.ct.edu/files/policies/5.2%20Ssexual%20misconduct%20reporting%20support%20and%20processes.p df](http://www.ct.edu/files/policies/5.2%20Ssexual%20misconduct%20reporting%20support%20and%20processes.pdf)).

DETERMINATION:

Based upon this investigation, there is direct evidence to substantiate the presented allegations and/or to conclude that the named Respondent demonstrated the described actions in this complaint on the basis of *sexual harassment* from the following:

There was direct evidence that demonstrated an intent to create a hostile academic environment for the female student athletes of the 1-210B 17 Team that were based on **sexual harassment** as claimed in the presented allegations. The investigation revealed that a female student athlete and Respondent Potter were engaged in a sexual, romantic relationship as prohibited by the CSCU/BOR Policy on Consensual Relationships. In reviewing the presented allegations, Respondent Potter admitted to the sexual, romantic relationship with an identified female student athlete. Despite the explanation in the written statement, Respondent Potter had a greater responsibility *as an employee and SU Coach* to not have engaged in a sexual, romantic relationship with a student/student athlete in his supervisory capacity. During the investigation, it was found that Respondent Potter demonstrated acts of unprofessionalism to the student athletes/members of the 1-210B 17 Team as described in the ascertained witness statements.

As instituted under CSCU/BOR Policy on Consensual Relationships, the Investigator highly encourages the need for all staff (i.e., administrative staff, coaches and trainers) of the Athletics Department to receive professional development/refresher training on the mentioned policies as well as respect and workplace civility as an academic department/Division of Student Affairs initiative within the 2019-2020 academic year.

Based on the presented evidence, information and witness statements, the described allegations identified in this investigation are in violation of the CSCU Affirmative Action Policy Statement, CSCU/BOR Policy on Consensual Relationships and the CSCU/BOR Policy on Sexual Misconduct Reporting, Support Services and Process Policy.



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NON-RETALIATION PROVISION:

All parties and witnesses were informed and reminded of the CSCU Affirmative Action Policy Statement and the CSCU Policy on Sexual Misconduct Reporting, Support Services and Processes as it relates to *retaliation*.

This report finalizes the investigation.

Submitted by:

Name of Investigator

DATE

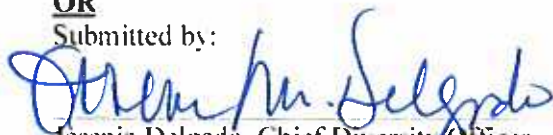
Approved by:

Jesenia Delgado, Chief Diversity Officer

DATE

OR

Submitted by:


Jesenia Delgado, Chief Diversity Officer

October 12, 2018

DATE

Based on the investigative analysis and determination, the Office of Diversity and Equity request your approval to close this complaint in conjunction with the subsequent action steps recommended on this matter.

REVIEWED AND APPROVED FOR CLOSING:



PRESIDENT

10/26/19

DATE

Redaction Log

Total Number of Redactions in Document: 113

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	1
2	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	4
2	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	7
4	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	2
4	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	3

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5	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	1
5	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	6
6	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	5
6	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	4
7	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	17
7	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	6

Redaction Log

Page	Reason	Description	Occurrences
8	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	10
8	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	5
9	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	2
9	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	11
10	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	5
10	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	3

Redaction Log

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11	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	4
11	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	3
12	1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	7
12	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	4
13	1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	3

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
1-210B 11	Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance as the case may be of the town wherein the student resides for the purpose of verifying tuition payments made to such school	2(7) 4(3) 5(1) 6(4) 7(17) 8(5) 9(11) 10(3) 11(4) 12(7)
1-210B 17	Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act 20 USC 1232g	2(4) 4(2) 5(6) 6(5) 7(6) 8(10) 9(2) 10(5) 11(3) 12(4) 13(3) 1(1)