

Confidential Report of Investigation

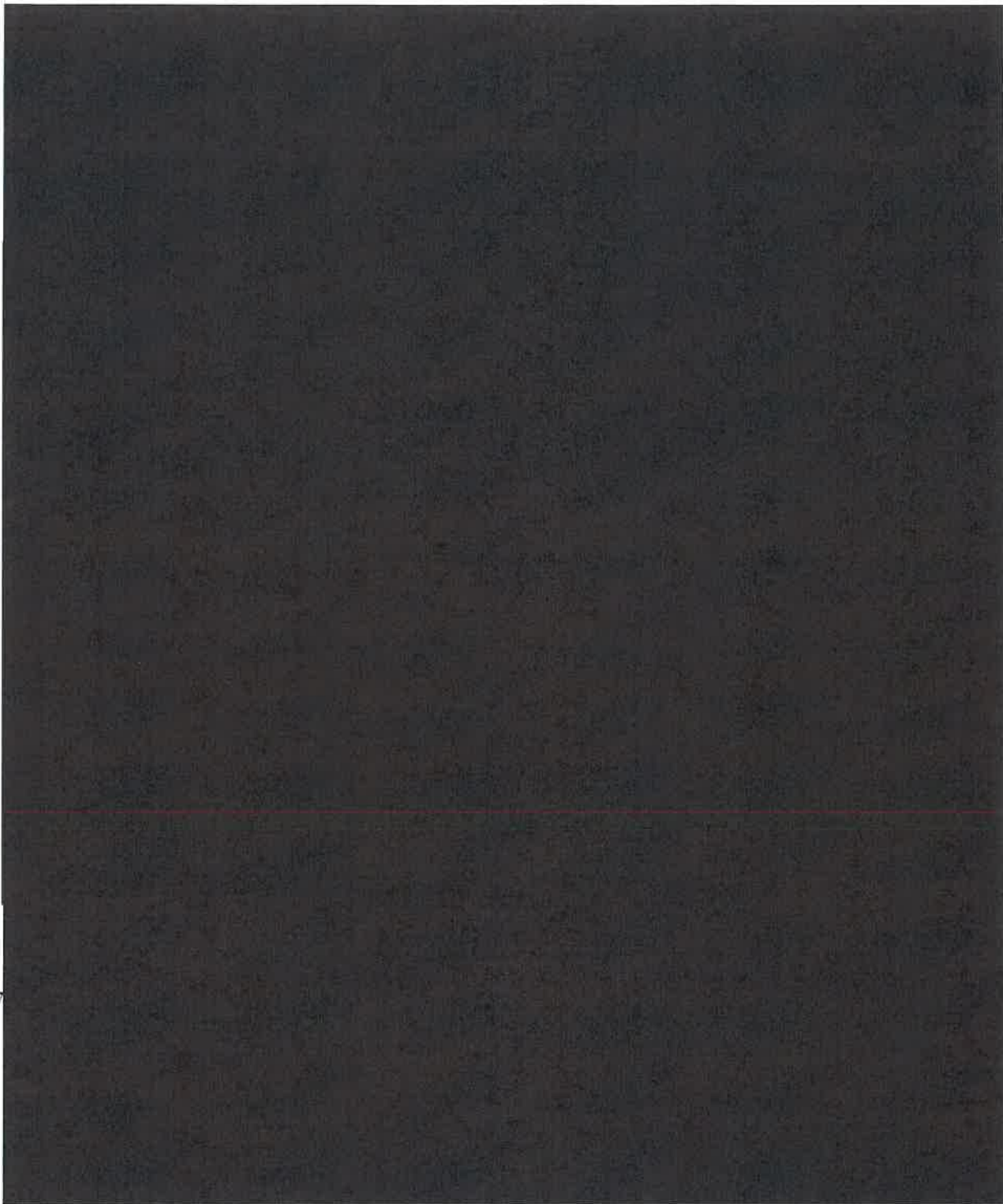
Investigation of Reports of Alleged Discrimination and/or Harassment at Cal Poly San Luis Obispo

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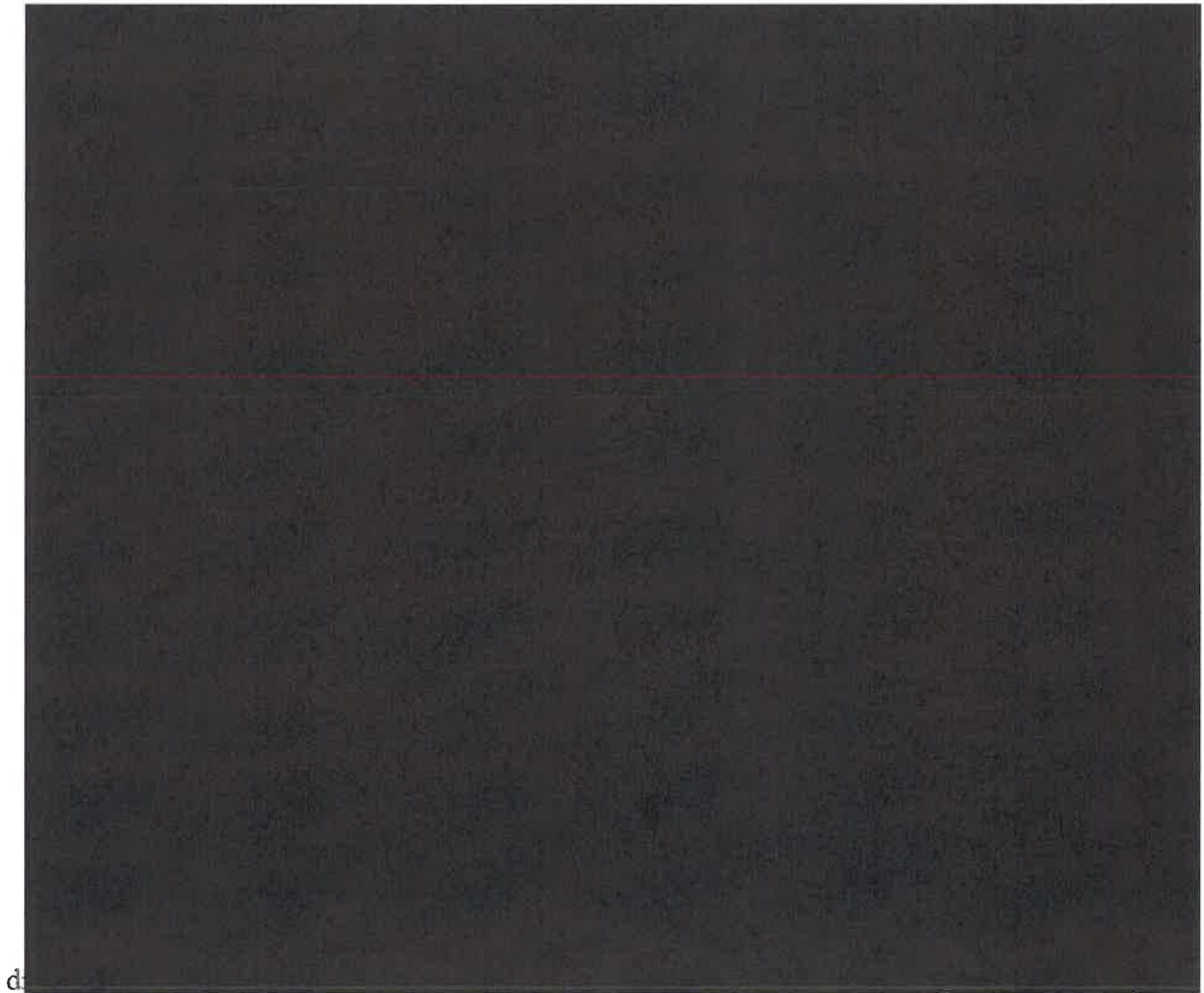
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V. ANALYSIS AND FINDINGS REGARDING THE ALLEGATIONS

In this Investigative Report, we make a determination as to whether any provisions of Executive Orders 1097 and 1096, as well as the portion of Executive Order 1068 concerning discrimination, have been violated under the preponderance of the evidence standard. The issues considered are as follows:

The Lambda Olympics

- Issue No. 1: Did K. Watkins engage in discrimination and/or harassment on the basis of race, color, and/or national origin, as defined by Executive Orders 1097 and 1096, when he put black paint on his face in connection with the Olympics event on April 6, 2018.
- Issue No. 2: Did the other Loko Family members, other than K. Watkins, who dressed up for the “blackout” and/or “black” theme engage in discrimination and/or harassment on the basis of race, color, and/or national origin, as defined by Executive Orders 1097 and 1096.



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Issue No. 1: Did K. Watkins engage in discrimination and/or harassment on the basis of race, color, and/or national origin, as defined by Executive Orders 1097 and 1096, when he put black paint on his face in connection with the Olympics event on April 6, 2018.

Findings As To Issue No. 1: No. Although wearing black paint at an event and posing for public photographs with his face covered in black paint is inappropriate and demonstrates an appalling lack of judgment, the investigation revealed that there was no intent to be racially offensive and there was an absence of other racially inappropriate conduct by K. Watkins. In the absence of any other conduct by him, his inappropriate conduct would not have a substantial or material adverse effect on other student's abilities to participate in a University program or activity. Similarly, the conduct was not so severe, persistent, or pervasive to limit other student's abilities to benefit from University services, activities or opportunities.

Discussion of Issue No. 1:

K. Watkins wore black paint on his face at the Olympics event. (K. Watkins Interview). He purchased a tube of black body paint the morning of the event at a party supply store and applied the black paint to his face at his apartment. (*Ibid.*) He walked to a fraternity satellite house and then to "main house" with the black paint on his face. (*Ibid.*) At the Olympics event, he was photographed wearing black paint in a team picture with Loko Family. (*Ibid.*). In

[REDACTED]

The act of a white person putting black paint on their face is shocking and suggests, almost intuitively, a racially charged motivation. There has been a long and disturbing history in America of white actors putting black paint on their face to portray mocking and disparaging caricatures of African Americans.⁶³ Given the historical context of "Blackface" in this country, a

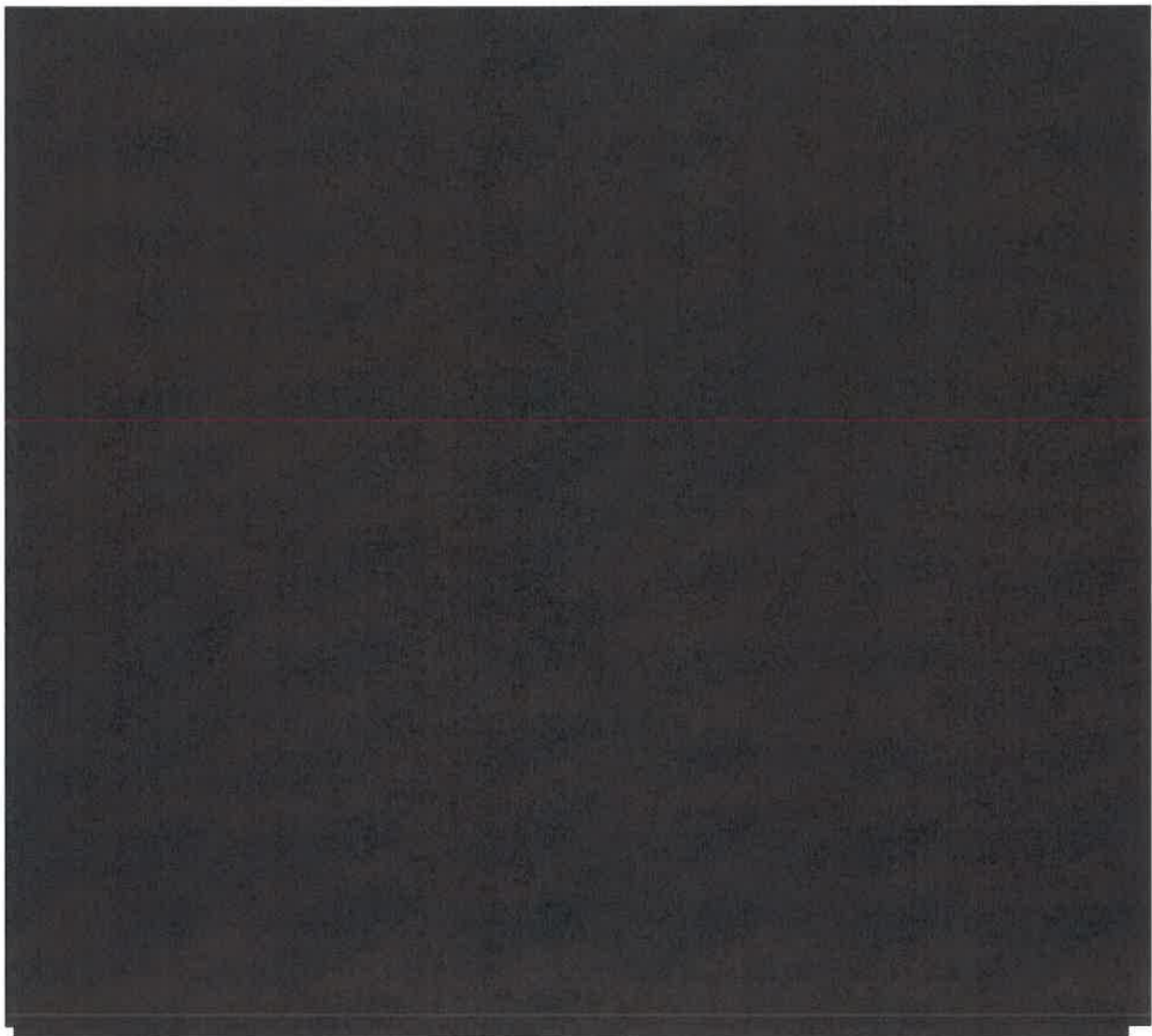
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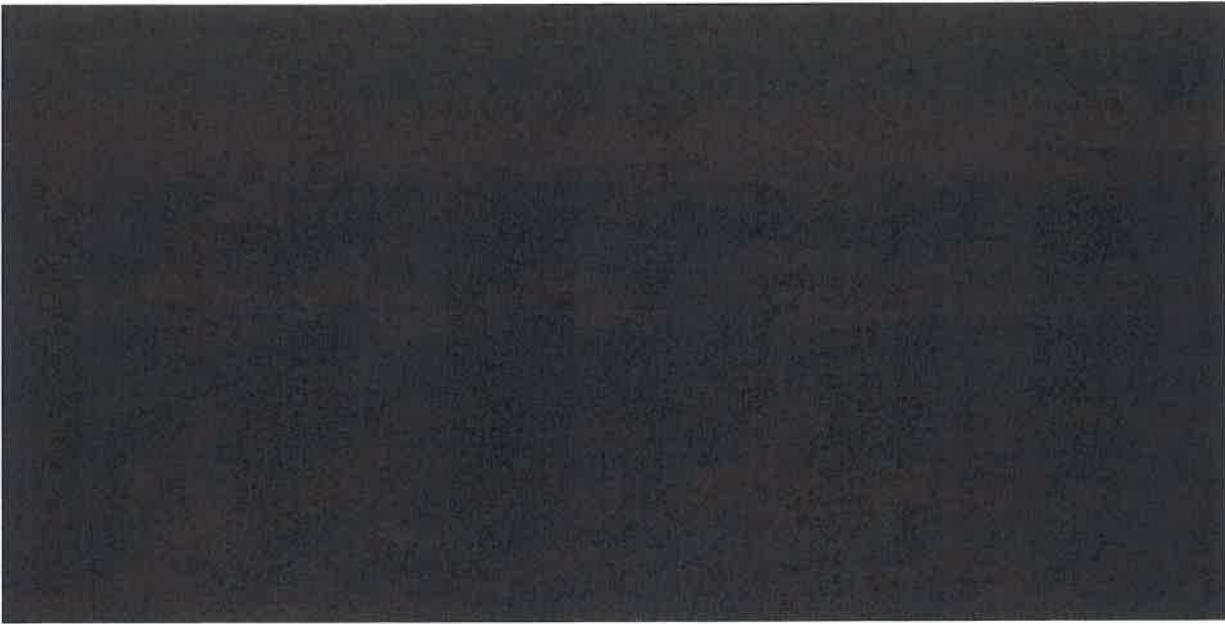
⁶³ See <http://black-face.com/>

picture of a white college student with black paint on his face laughing at a fraternity party is nothing less than disturbing.

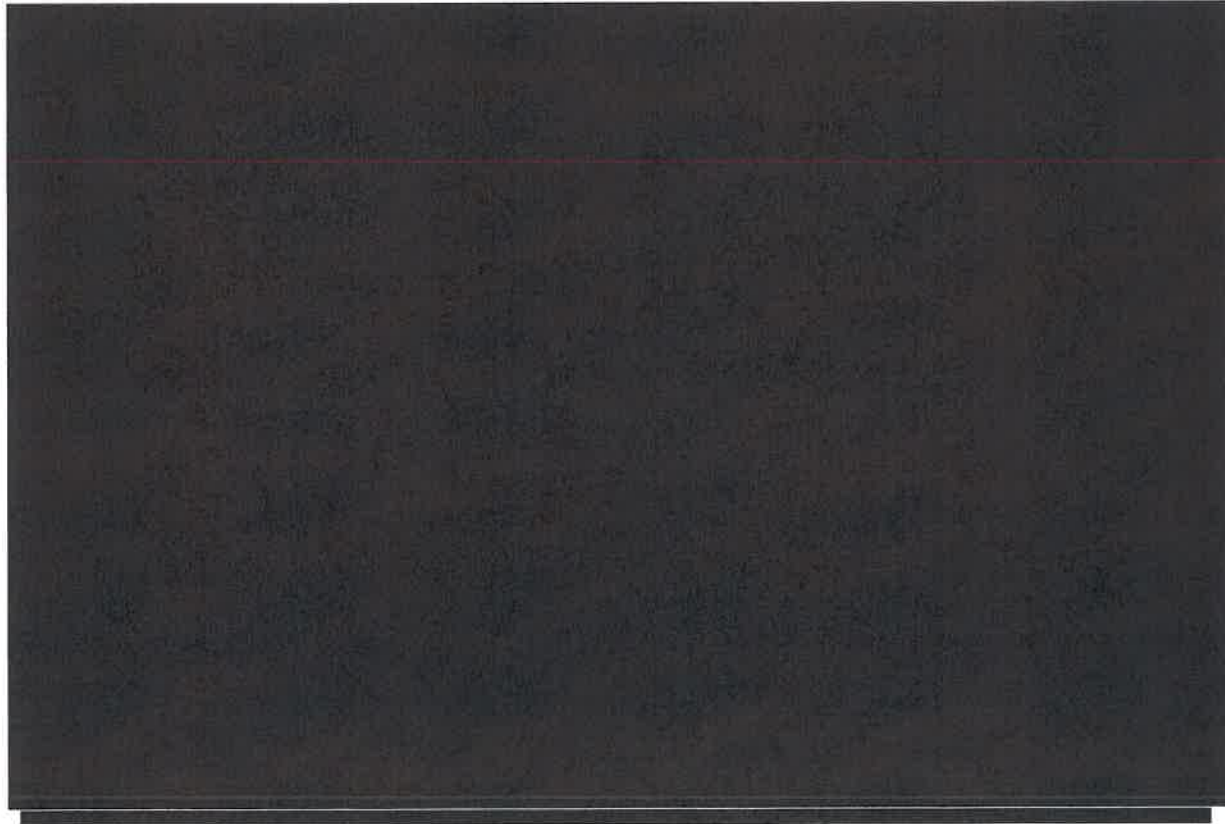
The long and sordid history of the use of “Blackface” in this country, and its well understood use to demean and stereotype African Americans, raises the issue of whether K. Watkins wore the black paint on his face with the intent of mocking people of color. A careful consideration of the evidence adduced during the investigation indicates that he did not.

For his part, K. Watkins stated that he was not trying to dress up like an African American person and was unaware of “Blackface” and its historical significance. (K. Watkins Interview). Instead, he stated that he was trying to comport with his team’s theme and represent a color – black. (*Ibid.*) He went on to say that “[i]f I was on the blue team, I would have dressed all blue and looked like the Blue Man group in [Las] Vegas.” (*Ibid.*) The investigator found K. Watkins to be credible when he stated that, at the time, he did not know about “Blackface” and was not motivated by racial animus when he put black paint on his face.





Significantly, an African American member of the fraternity who was at the Olympics event, Robert Sandle, ⁶⁴ did not believe K. Watkins was doing anything inappropriate. (Sandle Interview). When he saw K. Watkins with black paint on his face, Sandle asked him what team he was on and K. Watkins explained that he was on the “blackout” team. (Sandle Interview). Sandle explained: “I know he [K. Watkins] tends to go over the top with the theme decision – his theme decision being black out – he was dressed head to toe in black.” (*Ibid.*) He did not think K. Watkins was doing “Blackface” or trying to mock or disparage Africans Americans in any way. (*Ibid.*)





VI. CONCLUSION

As described above, this investigation finds that many of the 35 Respondents engaged in conduct that was objectionable, inappropriate, and displayed extremely poor judgment. Many of these Respondents seem to have forgotten or not cared that their actions - especially in posting inappropriate photographs on social media - can and did have an impact on others. Students of all races viewing the photographs rightfully were offended and it is hoped that this incident and the response to it, including the suspension of Greek organizations and this investigation, will prevent a repetition of such behavior.

It is also important to consider the cumulative impact of the conduct found in this report in light of past issues of racially inappropriate conduct by other members of the Greek

¹⁰¹ The picture of K. Watkins with black paint on his face first appeared on social media on April 8, 2018 and multiple media outlets reported on the issue for several days afterwards.

community which are outside the scope of this report. Considered cumulatively, the past inappropriate conduct and the inappropriate conduct found in this report have clearly contributed to an atmosphere that has made some students of color feel unwelcome. The cumulative effect of the conduct, whether or not intended, could be considered by a reasonable student of color as limiting their ability to participate in Greek organizations and/or their activities.

Moreover, the repetitive nature and cumulative effect of such racially inappropriate conduct occurring within the Greek community could represent a violation of the anti-discrimination provision of Executive Order 1068. Executive Order 1068 gives Cal Poly a mechanism to address discrimination by organizations, including fraternities. This is a serious problem that needs to be addressed because it represents a threat to Cal Poly's commitment to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect.

Therefore, we recommend that Cal Poly consider additional measures to prevent a repetition of this conduct such as mandating anti-harassment and/or diversity training for all students, including fraternities and sororities. Also, Cal Poly might consider reaching out directly to students who have been negatively affected by these photographs to listen to their concerns and work collaboratively to develop additional methods to support marginalized students and address the wider issues of inclusion and lack of diversity on campus.



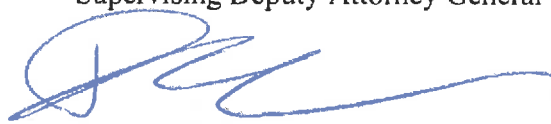
With respect to each of the individual respondents, viewed independently, we did not find a violation of the University's anti-discrimination and harassment policies. Our finding is compelled by the lack of evidence that any particular individual engaged in additional inappropriate racial behavior but we emphasize that this conduct was inappropriate and unworthy of the students and their fraternity.

The Report of Investigation, in conjunction with the identified exhibits and electronic audio files of interviews, constitute the entire investigation file in this matter. Matters not specifically addressed in this report are deemed by the investigator to be beyond the scope of the investigation and were not investigated.

Dated: September 20, 2018

Respectfully Submitted,

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