Report of the Independent Investigation
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Debevoise & Plimpton LLP

News Conference Transcript

Mary Jo White, Debevoise & Plimpton: Good afternoon everybody thank you for being here, my name is Mary Jo White and I am here today with my partner Mary Beth Hogan and others from our investigative team to report on our findings following an extensive three and a half month independent investigation that we conducted into allegations of sexual harassment made in 2016 against a tenured professor in the Brain and Cognitive Sciences Department, BCS, at the University of Rochester. And, allegations that the university and certain administrators retaliated against some of the complainants for bringing the claims forward. The professor in questions is Florian Jaeger, who has been at the University of Rochester in BCS since 2007.

After investigation, the university found that the professor's conduct, although inappropriate in some respects especially during his early years at the university, did not violate any then-applicable university policy or law. It would be a significant understatement to say that these allegations; Professor Jaeger's underlying actions; and the university’s and the complainants’ responses to them, have torn at the fabric of BCS and the broader university community. They have for example, led to the filing of the EEOC complaint and the
subsequent recently filed federal lawsuit which is ongoing; fractured relationships among BCS faculty; calls for the professor and the university president to be fired; letters of support for the professor from former students; and in September 2017, to the formation of a Special Committee of the University of Rochester Board of Trustees to commission and oversee a comprehensive independent investigation, which is now the subject of this report.

A very important part of our assignment was also to review the university's policies, procedures and process for addressing claims of sexual harassment against professors, and to make recommendations for enhancements.

After interviewing over 140 witnesses, reviewing over 6,000 documents, including e-mails, and analyzing the university's policies, procedures and process against 18 peer schools, we have completed our work. We received full cooperation from the university administration, including the office of counsel, academic deans and the Title IX office. We also spoke with many members of the university faculty past and present, including Jaeger, 64 past and present University of Rochester students and post-doctoral fellows, students and faculty from other institutions, and others with relevant information. The special committee structured itself to be totally independent from the investigative process, and it was.

The findings and the report and the recommendations are exclusively those of the Debevoise investigative team, and no one else saw the report before it was presented this morning to the special committee and the Board of Trustees and released a
few minutes ago to the public. No changes or edits have been made to the report since it was presented this morning.

On the advice of counsel, the complainants — and some of the witnesses referred to in the complaints by name or under an alias — did not agree to be interviewed. The report sets out the information we were able to gather from them indirectly based on the complainant's prior interviews, emails, Facebook communications, what we learned from other witnesses, and of course, the complaints themselves. We were also very fortunate to have received the cooperation of at least seven of the witnesses referred to in the EEOC complaint by their names or aliases, five of whom we spoke to, another provided us with a statement. And importantly, we were able to speak with all of the former University of Rochester students referred to in the complaints with whom Jaeger had a romantic or sexual relationship.

We of course would have preferred to interview each of the complainants, and all of the witnesses referred to in the complaints ourselves, and we made a number of efforts to secure their cooperation, but also respected that counsel advised them not to be interviewed in the independent investigation. While we were required to expand the scope of our work to some degree as a result — by interviewing more witnesses with whom they had spoken, and reviewing more extensive written communications among them and with others — we believe that the investigative record we compiled fully and fairly reflects the complainants’ collective and in most cases their individual views and information.
This investigation is of course occurring in an unprecedented environment of highly publicized instances and allegations of sexual assault, abuse and harassment in a wide variety of workplaces including Hollywood, the media, the federal bench, Congress and at other educational institutions. All of these instances, like the one before the University of Rochester community, raise very troubling allegations and in some cases acknowledgements of sexual misconduct by men in powerful positions of various kinds where female subordinates have been victimized. We share the hope of many others that the public dialogue about these high-profile situations, and the actions taken in response will heighten sensitivity, significantly raise the bar of acceptable behavior, lead generally to much more rigorous efforts by employers and others in authority to prevent sexual misconduct in the workplace, and enhance policies and stronger enforcement of policies and laws designed to ensure a work and educational environment free from any form of discrimination against anyone based on their sex, gender preference, race, religion, or on any other basis that does not respect the objective talents and performance of each individual.

In the meantime — what must not be lost in the current environment, turmoil and extensive public discourse — is that each situation has its own unique facts and circumstances. And the other fact patterns are obviously not the subject of this investigation or the allegations that prompted it. It is critical that we be very clear-eyed about that and thoroughly and impartially examine and evaluate the evidence, findings, and
recommendations that are at issue here. As one law professor commented recently in the wake of quick public judgments about alleged sexual harassers, zero tolerance should go hand-in-hand with two other things — due process and proportionality. Some have urged us to simply accept as fact the allegations in the EEOC complaint and the federal complaint. We could not do that. Claims and allegations are not proven facts and are not always true. And our investigation has substantiated some, but not all, of the allegations, and has affirmatively shown that some are not true.

We move to the allegations against Professor Jaeger.

The crux of the allegations against Jaeger are that he engaged in a pattern of behavior since he arrived at the university in 2007 as a 31-year-old assistant professor, that violated university policies on intimate relationships with students, conflicting employment relationships and gender-based discrimination and sexual harassment, thereby creating a hostile work and academic environment for female graduate students in BCS, in violation of federal and state laws. Specifically, the allegations against Professor Jaeger are that — especially in the 2007-2013 time period, with emphasis on the 2007 – 2011 period — he blurred the lines between personal and professional spheres, continued to lead a promiscuous lifestyle involving students in BCS and others in the cognitive sciences field; attended student social events uninvited; talked and joked about sex and sexual topics openly; harshly criticized students' work in demeaning ways, and unfairly took credit for their work; commented occasionally on the attractiveness of female graduate students; held off-site lab retreats at which
there were hot tubs and illegal drugs, and created an exclusionary cult around his lab, all of which allegedly combined to create a hostile and intimidating work environment, especially for female students in BCS.

Despite being labeled as a sexual predator in the complaints, there have never been allegations of sexual assault, unwanted groping, any use of force, or exhibitionism outside of consensual relationships. And we have found no evidence of such behavior ever occurring. It's important to remember that as you form your judgments and listen to the findings of our report. The complaints here do however, contain a number of important and troubling allegations that the independent investigation has completely substantiated, including that in his early years at the university, Jaeger, as then-permitted by university policy, had intimate consensual relationships with a number of BCS students, made inappropriate sexual remarks, blurred personal and professional boundaries, and created a negative academic environment for some BCS students.

At the same time, the complaints also make assertions that the independent investigation has disproven, and still others where fuller context is necessary to accurately understand the import and impact of certain behaviors. And as numerous witnesses with first-hand knowledge told us, there are many specific incidents alleged in the complaints that occurred in some form, but have been embellished and distorted into something they were not in order to sensationalize Professor Jaeger’s objectionable conduct, and to support the assertion of a pervasively hostile environment for women students in BCS. The complaints are also frequently
vague about when alleged events occurred. This is particularly important here, not because past acts and problems are irrelevant or unimportant, but because the current environment is obviously of greatest concern to the university, its students and potential students.

We have released a 207-page report today, together with over 45 exhibits which we urge everyone to review in its entirety, but I will try to summarize and capture what I can in terms of a number of the core findings and recommendations at least at a high level.

Number one, based on our investigation we found no evidence to suggest that there is currently, or has been since at least 2014, a hostile work or academic environment for any female graduate students in BCS. Indeed, all of the current BCS graduate students and post-doctoral fellows we interviewed from Professor Jaeger’s lab, female and male, were positive about Jaeger as a scientist and as a mentor, and said that they had not experienced or witnessed sexual harassment or other inappropriate conduct by him.

We are also not aware of evidence suggesting that any BCS female graduate student who started at BCS since 2014 has avoided Professor Jaeger and the educational opportunities he provides on account of any sexually related behavior or verbiage.

Number two, we also did not find any evidence that during this period Professor Jaeger violated university Policy 106 on sexual harassment, the university's policy on intimate relationships, university Policy 121 on conflicting employment relationships or any other university policy. There is no
evidence that Professor Jaeger engaged in any sexual relationship during this period with anyone other than his current partner who moved to Rochester in the fall of 2013. The allegation in the EEOC complaint suggesting a 2015 sexual encounter with a prospective graduate student is inaccurate, and has not been included in the federal complaint.

Number three, for the earlier period, 2007-2013, we credit, as the complaints allege, that Professor Jaeger engaged in behavior that was inappropriate, unprofessional and offensive. Among other things, he engaged in four consensual sexual relationships with current, former or prospective university students between 2007 and 2011. The independent investigation actually discovered the fourth of these relationships, which occurred in 2008 and which has not been included in any of the complaints. That relationship, like the others, was entirely consensual, and this one involved a BCS undergraduate student.

We also found, as the complaints have alleged, that Jaeger was flirtatious with other students, blurred appropriate faculty-student boundaries in other ways, including by renting a room in his home to a female graduate student, and he sometimes made comments in social and academic settings that included inappropriate sexual content or innuendo. We agree with the complainants that these behaviors were harmful in a variety of ways. For example, a number of female graduate students from this earlier period told us that as a result of the professor's reputation or behavior they made a conscious decision to avoid him and the educational opportunities he offered, which we find to be very troubling.
Number four. Despite the negative views of some students, male and female, about the professor, especially during his early years at the University of Rochester, primarily related to his toughness as a professor and unfiltered way of speaking, we are unaware of any complaint about his behavior, including any claim of sexual harassment, being brought to the attention of the administration, BCS leadership, or other faculty, prior to 2013. And no explicit claims of sexual harassment before March of 2016.

I want to elaborate on that a bit. Sometime in the spring of 2013 Keturah Bixby, then 28 years old and a third-year BCS graduate student and now one of the complainants, spoke to her advisor, Professor Dick Aslin, another of the complainants, as well as another faculty member, and then later to the chair of BCS, Greg DeAngelis, about her discomfort with Jaeger.

Professor DeAngelis did not understand the conduct about which she complained to be sexual, and to the best of his recollection, confirmed that with her.

We note however, that the contemporaneous documents are ambiguous. She also did not, as far as we can determine, tell Professor Aslin or the other faculty member that I mentioned, that her discomfort with Jaeger was sexual in nature. In August 2016 however, after the university completed its initial investigation of Jaeger, Miss Bixby and four other former BCS female graduate students, including two DeAngelis interviewed in 2013 or early 2014, sent a letter to DeAngelis and several deans stating that they had experienced and or witnessed harassment and inappropriate sexual comments, which was forwarded to the office of counsel.
Bixby also conveyed in a cover e-mail her belief that the University of Rochester’s 2016 investigation had been inadequate and the process flawed, and offered to meet to share her views on how to improve the University of Rochester's process for handling sexual harassment claims, to better protect students. We certainly do not rule out, as the complaints assert, that it is possible that issues about Professor Jaeger's alleged sexual harassment were not brought forward, or were not brought forward earlier, because potential claimants may have been afraid of not being taken seriously, or other negative consequences, or because they did not recognize the behavior as harassment at the time it occurred.

We also want to clearly acknowledge that whether or not Keturah Bixby earlier recognized or articulated her discomfort with Jaeger as sexual harassment, she is to be commended for her courage in coming forward in 2013, and for her considerable efforts in 2016 to improve the University of Rochester's process for responding to and addressing claims of sexual harassment in academia.

Number five: once complaints and concerns were raised about Professor Jaeger’s behavior, both in November 2013 when she spoke to DeAngelis, and in March 2016, they were dealt with seriously and professionally by the BCS chair DeAngelis and the university.

In both cases, DeAngelis counseled Professor Jaeger and took other remedial steps which appear to have been at least somewhat successful in helping sensitize Jaeger to the impact of certain of his border-pushing behavior and inappropriate manner of speaking to and about students.
Number six. Despite our findings that Professor Jaeger’s conduct in this earlier period was inappropriate and harmful to some in the University of Rochester community, we nevertheless also believe that the university was correct in concluding that his conduct did not violate University of Rochester policy.

The University of Rochester’s intimate relationships policy in effect at the time, which has since has been substantially revised, did not prohibit — though it strongly discouraged — consensual sexual relationships between students and faculty. We also do not believe that any potential claimant or plaintiff, would be able to sustain a legal claim for sexual harassment in violation of applicable federal or state law, or University Policy 106, which substantially mirrors the standards under those laws, based on Jaeger’s conduct. There is no evidence of which we are aware that Jaeger ever engaged in so-called quid-pro-quo sexual harassment, or ever had any non-consensual sexual contact with any person.

Although we find Jaeger’s behavior inappropriate, unprofessional and offensive, the governing severe or pervasive legal standard for hostile environment harassment is a very demanding one, and we do not believe from the evidence available to us that standard was met. We emphasize, really underscore and emphasize, that this is a legal conclusion, not a moral or social judgment, based on applying the governing legal standards to the facts as we understand them. We also note, importantly, that many employers, educational institutions and jurisdictions have made a reasonable judgment to impose standards for defining prohibited sexual harassment that are
more exacting than the federal law and the University of Rochester standards, which governed Jaeger’s conduct in the period before 2014. Indeed the university's own relevant policies have become more exacting since then.

Our legal conclusion here, however, is based on the standards that governed his conduct at the relevant time. By providing our legal conclusion, we do not imply that Professor Jaeger’s conduct was acceptable or presume to opine on questions of moral culpability.

Moving to the university's investigations and the allegations of retaliation. The allegations of sexual harassment against Professor Jaeger began with an internal complaint filed by Professor Richard Aslin against him. Aslin, a highly respected, then senior member of the BCS faculty, and the Dean of the College of Arts and Sciences. He filed that claim in March of 2016. This was followed by a similar claim from Professor Jessica Cantlon, another BCS faculty member, in April of 2016. Both complaints were initially based on primarily second- and third-hand information. In response to the reports of possible sexual misconduct by Professor Jaeger, and another claim made in July 2016, alleging retaliation against Professor Celeste Kidd, a former BCS graduate student – now an assistant professor in BCS - the university followed its standard procedures and process for investigating claims of sexual harassment against faculty members.

The university's investigations ultimately concluded on June 2, 2016 that Professor Jaeger's conduct did not violate any university policy, again applicable at the time. And then on October 4, 2016 that no retaliation against Professor Kidd had
occurred, but that Professor Jaeger had exhibited gross lapses in judgement, and that there had been aspects of his behavior in the past that warranted review and discussion with Jaeger by BCS Chair Greg DeAngelis. On August 29, 2016 BCS Chair DeAngelis sent a formal letter admonishing Professor Jaeger to be mindful of the requirements of the stricter, current university policy on faculty relationships with students. The need to maintain appropriate boundaries and interactions with students and how every member of the faculty, because of their position and disproportionate influence on the academic and work environment for students, has a special responsibility to demonstrate appropriate behavior and choice of words at all times.

Professor DeAngelis further directed Jaeger to complete by December 1, 2016 one-on-one training on respectful workplace behaviors, sexual and other, including training on the dangers and risks inherent in entering even consensual relationships. That training, which the investigation confirmed, was successfully completed on November 9, 2016. The claimants appealed both decisions of the university. They were upheld on appeal by senior university officials.

The claimants strongly disagreed with the university's decision on Professor Jaeger. And within days of the initial June 2, 2016 decision finding that there had been no policy violation, were planning their appeal and talking about an alternative route to getting Professor Jaeger out of BCS by making his professional life miserable in various ways. The claimants also pressed for tougher sanctions against Jaeger, notwithstanding that he had not been found to have violated any university
policy, and spoke to others inside and outside of BCS about the allegations and investigations, contrary to the instructions and expectations of the office of counsel regarding confidentiality.

During the period from July 2016 to March 2017, there were numerous discussions between the claimants, the BCS chair, Deans Gloria Culver and Peter Lenny, Provost Robert Clark, and other senior university officials including eventually President Joel Seligman, about possible policy and process changes and how to best move forward. On November 30 of 2016 Professor Aslin sent a call for action letter to President Seligman and Dean Lenny, informing them he would retire early from the University of Rochester if the process for handling sexual harassment claims against faculty members was not improved. And that he would leave the University of Rochester in any event if Jaeger was not gone by June 30 of 2017. While the university continued to engage on changes in policies, procedures and process, the efforts to move forward from the controversy around Professor Jaeger was not successful.

As for our findings about the university's investigations, we find that the university's 2016 investigations of the allegations about Professor Jaeger were conducted in good faith, impartially, professionally, and in accordance with university policy. At least in hindsight, however, there were aspects of the initial university investigation that could have been done differently and better which might have avoided some of the troublesome communications about the investigation that occurred in BCS and certain of the complainant's criticisms.
As for how the investigation might have been improved, first, the instructions given to interviewees with respect to confidentiality were neither uniform nor always clear, leaving claimants, Professor Jaeger, witnesses and other BCS faculty uncertain about what they could discuss with others with respect to both the investigations themselves and their outcomes.

Second, while it would not have affected the finding of no policy violation in this case — and we appreciate the privacy concerns that motivated its exclusion — the university should have, as claimants argued in their appeal, included in the investigative report the fact, anonymized, that Professor Jaeger had also had a sexual relationship with an employee who was a recent undergraduate and did not work with Jaeger in his lab. Although this relationship also did not violate university policy, it might have been relevant to the decision-maker or to others at the university who had discretion over what remedial steps to take.

Third, as the university’s investigator now acknowledges, she should have reviewed Professor Jaeger’s Facebook messages to then-graduate student Kidd that Professor Kidd offered to provide. Once again however, doing so would not likely have altered the investigator’s findings, and perhaps if the investigator had also obtained Ms. Kidd's Facebook messages responding to Jaeger's messages, as we were able to do during the investigation, the messages viewed in full context would have cast further doubts on certain of the claimed made in 2016.
As noted, the various steps that the university took to try to move past the ongoing controversy and tensions in BCS were unsuccessful and indeed BCS became even more fractured. For example, matters were further exacerbated when in January 2017 the office of counsel provided DeAngelis with certain of the claimant's e-mails that had been received by the office of counsel in connection with complaints about violations of confidentiality, and in anticipation of providing them to the outside lawyer working on Professor Kidd’s retaliation claim.

In a January 2017 BCS faculty meeting, without naming names, Professor DeAngelis told the group that he believed that he had been deceived and manipulated after he had reviewed e-mails from those who had complained about Jaeger to the university. Professor Cantlon took his remarks to be referring to her, as well as Aslin, and was outraged.

Later in the EEOC and federal court complaints, it was asserted that DeAngelis’ remarks constituted retaliation for having complained about Jaeger and participated in the investigation. Although e-mails of faculty and students are rarely reviewed by the University of Rochester administration, the office of counsel’s preservation and review of BCS faculty emails relating to the claimants complaints about Jaeger, complied with the university's information technology policy. Sharing a sample of those e-mails with DeAngelis in January 2017, while not prohibited and done in an effort to help DeAngelis effectively lead BCS, reflected questionable judgment under the circumstances, and exacerbated the tensions in BCS. For security, investigative and other legitimate reasons, the university needs to retain the ability to search and
review e-mails on its servers, just as other employers and educational institutions do. Reviewing the e-mails of faculty, students or staff however, should not be done lightly and should be governed by new more specific criteria as we have now recommended in this report.

A number of other actions taken by the university in 2016 and 2017, primarily related to various BCS hiring and retention decisions, are also alleged to have been retaliatory. We carefully reviewed each of those, and our analysis is set out at pages 134 through 149 and pages 164 through 173. We find that the university did not retaliate against the complainants for the claimants’ filing of the complaint against Jaeger, or for participating in the university’s investigations and their aftermath.

Retaliation, as that term is defined under applicable law, requires a materially adverse employment action such as a termination or demotion in response to protected activity such as complaining about or opposing harassment. Despite the animosity that was present in BCS following the university's decision in this matter, we found no evidence of retaliation. Many of the statements made and actions taken by the university to which the complainants object, were in our view not taken to retaliate against them for any protected activity but rather as a good-faith, albeit not successful, effort to lessen the divisiveness within BCS. Here again, further facts and context not alleged in the complaints are essential to evaluating the claims. Following the complaints, appeals and turmoil, all of these things, for example, occurred: In May 2016, the Board of Trustees approved Cantlon’s promotion to
associate professor with tenure. In September 2016, DeAngelis wrote a letter recommending complainant Kidd for the Sloan Research Fellowship. In December 2016 Jaeger wrote a letter to fully support complainant Mahon’s promotion to associate professor with tenure. In the spring of 2017 Jaeger wrote to fully support reappointing Kidd and Piantadosi, both claimants, as assistant professors, following their third year reviews. And in 2017, Mahon was promoted to associate professor. This is obviously strong evidence of a non-retaliatory environment in BCS.

It is clear from the documents and from our interviews with all of the key university personnel that extensive efforts were made to try to deal with the aftermath of the university’s investigations. Though it is equally clear that those efforts were not effective. The challenge was immense, starting with an unusual complaint, breeches of confidentiality during the investigation that threatened the integrity of the investigation, claimants who saw the facts very differently and rejected the university’s investigation and process, and later took matters into their own hands, all while a pre-eminent department was in turmoil. We think that the university acted in good faith and appropriately under its then-current policies and that the steps it took in an effort to navigate an unusually difficult situation were reasonable.

That said they were some steps taken and missed opportunities that in hindsight seemed to have exacerbated the situation. Missteps included promoting Jaeger before the appeals process was finished, a move that understandably angered the claimants. Sharing e-mails with Professor
DeAngelis and perhaps President Seligman’s’ decision not to personally intervene during key moments of departmental tension, even though it appears that nothing less than Jaeger’s termination or forced exit would have satisfied at least Professor Aslin and perhaps some of the other complainants.

So that is the past, or a summary of the past. A lot more in the report. Again, I urge everybody to read it all.

What about the future and steps that can be taken to improve the university's policies, procedures and process to help avoid a recurrence of what has happened here, and to be more effective in protecting students in the academic environment from such behaviors as occurred, whether or not they violated a policy or law, and to be more supportive of claimants who courageously come forward about sexual harassment by faculty members. And to be more transparent about the findings and remedies coming out of investigations of these kinds — while still appropriately preserving confidentiality and privacy.

In connection with our examination of the university's policies and procedures and in making our policy recommendations, we interviewed 12 university officials and benchmarked the university's policies against those of 18 other schools. We also spoke to officials at other schools. Today, the university administration, faculty senate, BCS chair, the Commission on Women and Gender Equity in Academia, and the Student’s Association Task Force to review University of Rochester sexual misconduct and Title IX policies and procedures, among others, continue to review and work on the policy and procedural concerns and related issues that this
matter has brought forward and into the open for broader discussion and scrutiny by the university community, of sexual harassment and other gender-related issues. That is critical work.

The bottom line is that the university's policies, procedures and process can and should be enhanced in a number of ways, as the claimants have long advocated. They do comply with the law and with peer institutions’ policies. That is where we come out as well, as I said, notwithstanding that the university's policies on sexual harassment, existing procedures and process, do conform as I said to applicable law and in line with policies and procedures. We therefore agree with claimants on many of these issues and make a number of recommendations for change, including considering a more prohibitive university intimate relationships policy that could bar outright intimate relationships between faculty and students in the same department; having sexual harassment claims handled by an office and investigator independent of the office of counsel; providing at the outset of every investigation a clear statement of rights and process to every complainant, witness and accused; and providing access to separate advisors for claimants and the accused to assist them in understanding the process and the other support resources that are available to them.

We also recommend amending Policy 106, the University's policy on sexual harassment, to provide specific examples of what may constitute sexual harassment as well as the range of possible discipline for the violation of that policy as well as the possible range of actions and remediation that may be taken
for acts of sexual harassment which do not violate the policy. A review of those issues and a full set of our recommendations is summarized at pages 41-46 of the report and discussed in more detail at pages 173-207. It should be noted that a number of our recommendations are for consideration by the University's various constituencies, including the faculty senate, the Graduate Student Association, the University Administration, the Board of Trustees and the Commission on Women and Gender Equity in Academia. Tight timetables are also recommended so that action is taken, not just discussed.

This matter has fractured BCS and the University community generally. The concerns brought forward by the complainants are serious ones, going to the heart of the protection of students and integrity and fairness of the academic environment. The University now needs to promptly take a number of bold steps, including but not limited to, acting on the recommendations in this report to repair the resulting wounds and distrust that have occurred. The University should be proactive in responding - in some cases beyond what its peer institutions have done and beyond what would be necessary if this matter had never arisen and so significantly, and so significantly, undermined trust in the University of Rochester community.

Strengthening the relevant policies and procedures for addressing claims of sexual harassment by faculty members is not all that will be required. Heightened understanding of and sensitivity to the varieties of sexual harassment that may occur and the asymmetry in power between all faculty and students might have prevented, or at least accelerated the detection and
remediation of, the problematic conduct that occurred here. As we’ve noted, and I want to emphasize again, some former female graduate students in BCS had to endure behaviors and inappropriate remarks that they should never have had to at the University of Rochester or at any other educational institution.

The University should consider, along with the other actions we are recommending and it is considering, what actions it might take to demonstrate its support for those students who had these painful experiences. The focus should be on pursuing the most constructive and optimal path forward. Again, I know I have said it three times but I’ll say it a fourth time, we urge everyone to read the full report and the exhibits before making judgments and to remember as we found over and over during the investigation, BCS is an extraordinarily impressive department, and the University of Rochester is a university where the administration, faculty, students, alumni and the Board of Trustees are deeply engaged and committed to its welfare and that of its students. No one we talked to disputed that the safety and education of the University of Rochester students are paramount. This includes the former and current BCS graduate students who, despite the questions, disruptions and pain surrounding these events, generally praised the high quality of their education while at the same time worrying about the negative impact on their research, reputations and careers that may flow from this matter and how it has proceeded. The release of the complaints has profoundly impacted Professor Jaeger’s current students. One student, who spoke very favorably about Jaeger
as her advisor, said that the complaints had derailed her entire year and explained that others in the field were boycotting her papers because with Jaeger as co-author, they were refusing to read her work. None of this is obviously her fault. You know, there are a lot of facts to absorb from this report about these events, but in our view, the university and all involved here now have a unique opportunity to make such amends as can be made, heal, and work hard to become the thought and moral leader for the academic community in preventing and dealing fairly with allegations of sexual harassment and all forms of discrimination in the academic workplace. Set the bar and set it high. “Ever better” is what the University of Rochester is all about. Thank you. I’ll be happy to take your questions.

There are mics, I think, that you can use and mics at the table.

**Question and Answer Session**

**Reporter:** What do you think should happen to Dr. Jaeger now?

**Mary Jo White:** That’s really for the University to decide. I mean, our scope is basically to - and we’ve done it - a very comprehensive independent investigation so that the decision makers at the university can make appropriate decisions, really on all issues, including personnel issues.

**Reporter:** Should he start teaching again?
MJW: Again, that's for the university to decide all of those issues. It really is beyond the scope of the independent investigation. Very important - that we were as comprehensive as we were and made all the facts available, as were available to us, available to those decision makers.

Reporter: Much of this report does vindicate the university. Can you address criticism that you are not looking at all of this independently?

MJW: I mean first I would - I guess I would take issue with the premise. Which is I don't look at this as vindicating anyone. The report as you read through it substantiates a number of allegations, not all of them certainly; is quite critical of many of the judgments, policies and procedures of the university. So I don’t see it in that way. In terms of independence, we were retained to do an independent investigation. I think I’ve been known for a few decades for being very independent, I mean literally and otherwise, you know. I wouldn't do the job any other way.

Reporter: How do you think this investigation will affect the many women that came forward saying that he was guilty of sexual misconduct?

MJW: Well, as we’ve indicated, we have credited many allegations by those women. So I think that’s part of this report - a very important part.
**Reporter:** You cautioned against listening to gossip and rumors and said that some were substantiated, some weren’t; some were outright refuted. What were the ones that were not substantiated?

**MJW:** There are several examples in the report. Again, I’d urge you to read it. I think I mentioned one in my remarks, which was the allegation of a 2015 sexual relationship, was one. There are a number of allegations in the complaints, nonsexual in nature, but negative in nature about Jaeger as a professor and as a mentor; one being that he unfairly took credit for his student's work. I think the allegation that remains in that category in the federal complaints is one that is explicitly refuted as well.

**Reporter:** Can you address the whole #metoo movement and the Silence Breakers and how that may have come into play in this particular situation: this is something that happened in this environment?

**MJW:** I’d say a couple things-- one I did mention, I’ll mention it again- how important I think it is, for example, that Keturah Bixby came forward in 2013, which is actually long before the #metoo movement. I think that was quite courageous on her part to do. I think, as I said on the outset, we share the hopes of others that the #metoo movement and the responses to the #metoo movement, to ensure - to the extent humanly possible - a more supportive environment for
women and everyone is all, you know, a very good thing. We must continue that momentum; continue to support those that come forward.

**Reporter:** At what point does pursuing sexual encounters with colleagues and graduate students cross the line into inappropriate behavior to creating a hostile work environment?

**MJW:** That’s a more complicated question than you may know and it's a legal question to some degree, which I addressed to *some* degree. I mean it’s a - sexual harassment, which is covered by the university's Policy 106, basically incorporates federal law, and state law for that matter, on those subjects. What’s required to cross a line? A couple things are: that whatever the sexual conduct is, assuming it is sexual conduct as opposed to just other conduct that’s offensive, that it be unwanted for one thing, and that it be - and the standard is - severe or pervasive. So far, the courts have interpreted severe or pervasive to be a very, very high bar.

**Reporter:** Much of the what-seems-like egregious behavior happened before the policy change here at the University of Rochester. I’m wondering if that behavior would have happened now, how different this event would be. And in your research, was the University of Rochester behind the times compared to other universities in changing those policies between students and professors?
**MJW:** We did the policy review that I mentioned - quite comprehensive - and certainly the University of Rochester is ahead on some of its policies. For example, once it was revised, the intimate personal relationships policy, prohibits all intimate relationships with undergraduate students. That’s not true at many other, you know, peer institutions. We do note in a section of our findings that I call ‘Missed Opportunities’ that that change in the policy, there were some other changes as well to enhance it, was really on the agenda from 2010 and didn't occur until 2014. And so, you know, these policies matter. And indeed there is, from our interviews, I think Professor Jaeger paid attention to what those policies allowed and did not allow. Obviously, those policies, which I do think can be effective and helpful in preventing sexual harassment, need to be effective - and promptly effective - in order to take effect.

**Reporter:** Is it your conclusion that Dr. Jaeger did not sexually harass people in his department?

**MJW:** Well, I think the conclusions really are - the report kind of speaks for itself - again I think my remarks do too. I think, in terms of the legal standard, from the evidence we have seen, we don't think there’s a claim there under those laws. But the acts that we have said - and feel very strongly about - were offensive, inappropriate, and what I would call in the nature of sexually harassing acts is something that, you know, we’ve condemned in the report.
Reporter: Why isn't that sexual harassment then?

MJW: It's a difference between, as I said earlier, I think between the legal standards and what's required, and really a moral judgment.

Reporter: So whose decision then — or who has the responsibility of passing moral judgment?

MJW: I think every institution, frankly every private business, in sort of, looking and being introspective about its corporate culture and its policies, needs to set the bar where they think it is appropriate. So, for example, and I think I refer to this in my remarks, there’s some municipalities and companies - New York City is one actually - which has much, much tougher standards in the sense that an act, not severe or pervasive, but an act where a woman is treated differently than a man is a violation of that stricter policy. So, in the first instance, you have to decide as an institution where you want to set that bar.

Reporter: And is one of your recommendations that the university adjust what their policy is and set the bar higher?

MJW: Well, one of our recommendations is that - and I think I mentioned this - is that they consider, with all the relevant constituencies participating in it, and on a timetable – and as I say, it's very important we put these deadlines on this because you want to see action, not just words and talk and
meetings, that they look at their intimate sexual relationship policy between faculty and students and impose an outright bar on relationships in the same department between students and faculty. Of the peer institutions that I mentioned, I think Stanford is the only one that has that strict a policy. So, if the university decides to adopt such a policy, in a sense it's an outlier but an outlier, in my view, in a very good way by raising the bar of what is acceptable.

**Reporter:** On one hand you’re apologizing for what you said these women have endured through this. I imagine their reaction is going to be, if you are apologizing for what they had to endure and essentially finding that the university policy did not violate their own policies at the time and federal law, what would you say to these women who did come forward and did speak to you?

**MJW:** Well again, I praise the women who came forward not just to us but to the university. You know, our investigation - it was independent, it was thorough and we basically called it as we saw it based on the evidence. But make no mistake, and I think our report’s very clear on this, and we credit many, many of the allegations of these women who came forward and praise these women that came forward.

**Reporter:** Did Dr. Jaeger provide testimony to you during your investigation?

**MJW:** He cooperated in the investigation, yes.
**Reporter:** You mentioned that the complainants in the EEOC case did not.

**MJW:** Yes. Correct.

**Reporter:** And so, how did you feel that impacted your investigation?

**MJW:** I mean, you know, again it’s the - you want to talk to everybody, you know, the complainants and everybody that you can to get as much information as you can. And we do address this in the report - I think I did in my remarks as well. Rather unusually here, you have a lot of information available from all of the complainants because there were two prior investigations which included very detailed notes of interviews with all of them and they were notes that were actually provided to the witnesses, the complainants, to review before they were finalized. So, you don't ordinarily have that kind of robust evidence. We certainly had it here. There’s extensive email, Facebook messaging between and among the complainants. Obviously, you have a very detailed - really two very detailed complaints that set forth their position both collectively, and their information, both collectively and in most cases individually as well. We had access to actually a three-hour tape of an interview of Professor Kidd from one of the prior investigations so we had a lot of information from them in that way. Still would have preferred, of course, to talk to them. And tried to.
**Reporter:** Does your report find that Jaeger pursued unwanted sexual relationships, but just found that his actions were not severe enough to create a legally hostile environment? And the lawsuit alleges that 16 women have come forward. How many women need to find his actions pervasive?

**MJW:** You know, again, I think the report speaks for itself but to sort of try to un-package that a little bit, in terms of assessing - certainly from a legal perspective - you assess it by each person. You know, did the particular person you are considering, were they the subject of sexual harassment of any kind and was it unwanted sexual discussion or sexual acts? You really have to analyze that on an individual basis, which we, which we did.

**Reporter:** If Jaeger returns to the university are their recommendations for the university to get him back into teaching in a non-hostile work environment?

**MJW:** Well, our recommendations, which are quite comprehensive, what they don't address - they don’t address the ongoing litigation, that’s not our role, they also don't make recommendations about personnel decisions. There are a lot of, I think, very important recommendations for improving how the university addresses claims of sexual harassment against faculty members. Quite robust recommendations that ought to
make a big difference in terms of supporting victims, encouraging victims, to come forward.

**Reporter:** How do you think that this case and this outcome is going to affect other universities and other businesses for that matter in going forward? What do you think ultimately this means?

**MJW:** Look, I think all of this - really in every setting in every venue - all that's coming out now both in terms of complaints that are being made, established acts of sexual misconduct in some places, how institutions - educational and private - are responding, you learn from every single one of these and you ought to learn fast and you ought to enhance your standards.

**Moderator:** We will take one more question. Then if you have additional questions you can speak with my colleague and we’ll get answers for you. One more question.

**Reporter:** While your investigation was very thorough, you did address not being able to speak to the complainants, do you have any questions that you would still like to ask them even though this has been concluded?

**MJW:** I mean, again, I think as we say in the report, I think we were able to - by expanding scope and given all the information that was available - get the information we needed to reach the findings, but, you know, I like to talk to every witness I can who has any relevant information, and that
applies to them as well as anyone else that may not have been available to us.

**Reporter:** Any indication - I don't know if you’ve spoken with Seligman or anyone from the university since releasing your findings. I don’t know if they got it a little bit ahead of time, you said they didn’t, but - if there’s any indication whether or not they plan to implement the recommendations you’ve outlined?

**MJW:** I mean, that’s certainly - what we did, as we said we were going to publicly, we presented the report to the Special Committee and the entire Board of Trustees. President Seligman is on the board so he heard the report when we presented it. But it's really up to them to respond to those recommendations. So - I can't speak for them.

**Moderator:** OK. Thank you very much. My colleague is standing here and will be able to take any additional questions or clarification that you need and we’ll get back to you with answers. Thank you very much.