

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**
4 **Under the California Fair Employment and Housing Act**
5 **(Gov. Code 12900 et. seq.)**

6 In the Matter of the Complaint of
7 Kathleen Gutierrez
8 1736 Franklin St. Suite 400
9 Oakland, CA 94612

DFEH No.: 568952-221324

10 vs.

11 University of California, Board of Regents
12 Office of the Secretary and Chief of Staff to the Regents
13 1111 Franklin St., 12th floor
14 Oakland, CA 94607

15 University of California, Berkeley; and

16 Assistant Professor of South and Southeast Asian Studies at the University of California, Berkeley,
17 Blake Wentworth.

18 = _____

19 Complainant alleges:

- 20 1. Respondent **University of California Board of Regents, and University of California, Berkeley, Public Employers, and Blake Wentworth**, are subject to suit under the **Fair Employment and Housing Act (FEHA) (Govt. Code § 12900 et. seq.)** and the **Unruh Civil Rights Act (Unruh Act) (Cal. Civ. Code. § 51, et. seq.)** Complainant believes the **respondent is subject to FEHA and Unruh Act.**
- 21 2. On or about April 11, 2016, complainant alleges that Respondent took the following adverse
22 actions against complainant: **Discrimination, Sexual Harassment, Oppressive, Hostile, Intimidating and Offensive Work Environment, Asked Impermissible, Non-Job related**
23 **Questions, and Denied a Work Environment free of Discrimination and/or Retaliation.** Complainant believes Respondent committed these acts because of their: **Sex-Gender.**
- 24 3. Complainant **Kathleen Gutierrez** resides in the City of Oakland, State of California.
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1 **Additional Complaint Details:**

2 Kathleen Gutierrez is currently employed as part time graduate student instructor (“GSI”) with the
3 University of California Berkeley (“UCB”). She has been employed in this capacity since the fall of
4 2014. As a GSI, Ms. Gutierrez teaches courses for undergraduate students in her area of
5 concentration. Ms. Gutierrez is a member of the United Auto Workers Union. In addition to her
6 employment, Ms. Gutierrez is also third year Ph.D. student in Southeast Asian studies at UCB.

7 Since the Fall Semester of 2014, Ms. Gutierrez has been subjected to an oppressive, hostile,
8 intimidating and offensive work environment. Beginning in the Fall Semester of 2014, Ms. Gutierrez
9 began to experience harassment and mistreatment from assistant professor Blake Wentworth. Dr.
10 Wentworth is an assistant professor in the South and Southeast Asian Studies Department where Ms.
11 Gutierrez is employed; however, she had not taken any classes from Dr. Wentworth, whose classes
12 focus on Tamil literature. Dr. Wentworth’s conduct began by subjecting Ms. Gutierrez to
13 conversations of a sexual nature and sexual innuendos and escalated to inappropriate touching and
14 proposals for dates.

15 Ms. Gutierrez often encountered Dr. Wentworth in the GSI office, where she works and holds office
16 hours for her students. The GSI office is a space intended for use by GSIs and undergraduate students
17 to meet with other students and work on their teaching related duties, not professors of the university.
18 Nevertheless, Dr. Wentworth had been a frequent visitor to the GSI office for social purposes. On
19 these visits, Dr. Wentworth often made inappropriate statements of a sexual nature (such as the
20 sexual practice of fisting and taking drugs at Burning Man) that have caused several GSI’s to
21 complain to Ms. Gutierrez and others about his remarks.

22 On February 17, 2015, Ms. Gutierrez was at the GSI office when Dr. Wentworth came in with his
23 dog and requested that she take a walk with him. Ms. Gutierrez felt singled out and uncomfortable by
24 Dr. Wentworth’s request as there were other graduate students present and she is not one of his
25 students. Once outside, Dr. Wentworth began to talk about his recent divorce, visiting a strip club,
26 and doing drugs of a stripper’s body. He then grabbed her hand. Ms. Gutierrez felt uncomfortable by
27 his actions. Dr. Wentworth continued to sit silently holding Ms. Gutierrez’s hand and after a few
28 minutes got up and walked away. Dr. Wentworth then made comments the following comment: “I
could lose my job over this . . . I would tell you, but I’m just so attracted to you” acknowledging to
the inappropriate nature of his actions. This frightened and confused Ms. Gutierrez, and she
immediately attempted to talk to Dr. Wentworth about his comments. Instead of addressing Ms.
Gutierrez’s concerns, Dr. Wentworth ignored her request and walked away. Ms. Gutierrez returned to
her office still frightened and confused. A few hours later Ms. Gutierrez again attempted to speak to
Dr. Wentworth about his inappropriate conduct; instead, he invited Ms. Gutierrez to dinner skirting
the impact of his actions. When she insisted that they talk, he requested that she initiate the
conversation via email. Upon their return to the office, Dr. Wentworth again made an inappropriate
pass at Ms. Gutierrez by coming up behind her, wrapping his hand over and around her head and ear;
inappropriately touching her after she had made it clear that she was uncomfortable with his
inappropriate behavior.

1 The day after, Dr. Wentworth again approached Ms. Gutierrez in front of other students, this time
2 requesting that she come into his office. Ms. Gutierrez did not want to be alone with Dr. Wentworth
and did not go in.

3 On February 27, 2015, Ms. Gutierrez met with Dr. Wentworth at a coffee shop to discuss his
4 inappropriate behavior. Again, Dr. Wentworth ignored Ms. Gutierrez's requests and derailed the
5 conversation by attempting to discuss monogamy and non-monogamy. Ms. Gutierrez replied that she
6 could not speak with him about these topics while trying to set some boundaries with Dr. Wentworth.
7 He proceeded to tell her that the other institutions where he used to teach, University of Chicago and
8 Yale, had a different culture than that of U.C. Berkeley, implying that intimate student teacher
9 relationships were acceptable. During this meeting, Dr. Wentworth also suggested that he could help
10 her with her career by stating that he could be a strong ally in the department and that he could assist
11 her with fellowships. Ms. Gutierrez took these suggestions as a threat and became afraid that if she
12 reported Dr. Wentworth her career could be at risk. After this meeting, Ms. Gutierrez felt numb and
13 awful for days. She reports that she had difficulty focusing and grading student assignments and
14 showing up to teach her classes. She also turned in an assignment late for the first time in her
15 graduate program.

16 At first, Ms. Gutierrez did not report Dr. Wentworth's conduct to the University because she felt
17 ashamed and afraid. However, on March 30, 2015, Ms. Gutierrez spoke to the Southeast Asian
18 Studies Department Chair, Jeff Hadler, about Dr. Wentworth's inappropriate conduct. That same day,
19 the Department Chair referred her complaint to the Office for Prevention of Harassment and
20 Discrimination ("OPHD"). On April 20, 2015, Ms. Gutierrez met with Andrea LaCampagne, OPHD
21 Complaint Resolution Officer, and shared her experiences with Dr. Wentworth. Ms. Gutierrez was
22 not informed that she could have an attorney or union representative present at this meeting.

23 Approximately six (6) months later, on October 2, 2015, OPHD issued a Formal Investigation Report
24 and found that Dr. Wentworth "made unwelcomed, sexual advances (or alternatively a verbal
25 comment), sufficiently severe to constitute behavior of a 'sexual nature,' that affected and interfered
26 with [Ms. Gutierrez's] work and education," which violated the UC Policy on Sexual Harassment and
27 Sexual Violence (hereinafter UC Policy). OPHD then referred Ms. Gutierrez's complaint to the Vice
28 Provost office for the Faculty for further review. On March 14, 2016, Ms. Gutierrez had met with a
separate group of a hoc faculty to review the facts of her case, yet again. She was not informed that
she could have legal counsel, a union representative, or the Head Graduate Advisor of her department
present at the meeting. As of today, her case is still pending.

Despite finding that Dr. Wentworth had violated University Policy Dr. Wentworth was not
disciplined for his actions and continued to come by the GSI office, when Ms. Gutierrez would be
there. In the fall of 2015, prior to the directive, the Chair of the Department, Jacob Dalton, asked Dr.
Wentworth to stop visiting the GSI office, however, Wentworth continued to visit the office. On
November 2, 2015, Ms. Gutierrez sought a No Contact Directive against Dr. Wentworth to protect
herself from further harassment.

1 VERIFICATION

2 I, R. Michael Flynn, am the Attorney(s) for Complainant in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The same is true of my own knowledge,
4 except as to those matters which are therein alleged on information and belief, and as to those
5 matters, I believe it to be true. On April 11, 2016, I declare under penalty of perjury under the laws of
6 the State of California that the foregoing is true and correct.

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Oakland, CA
/s/
R. Michael Flynn

AS SUBMITTED