



**November 18, 2019**

**INVESTIGATIVE REPORT TO UW-LA CROSSE CHANCELLOR JOE GOW**

**COMPLAINT BY [REDACTED]**

On March 7, 2019, [REDACTED] a student at UW-La Crosse (UWL), filed a complaint alleging that UWL Department Chair and Art Professor Joel Elgin sexually assaulted her. Although [REDACTED] alleged that she was sexually assaulted, the complaint was treated as a sexual harassment complaint. Near the end of the spring 2019 semester, UWL investigators issued an initial determination in which they concluded that UWL's sexual harassment policies were not violated by Elgin. When additional information regarding Elgin's conduct surfaced, Chancellor Joe Gow directed that the investigation of Elgin's alleged misconduct be re-opened. In a letter dated September 10, 2019, Nizam Arain, Director of Equity & Affirmative Action and Title IX Coordinator, acting on behalf of Chancellor Gow, requested that UW-Shared Services investigators "take up the investigation of student complaints of sexual harassment and/or related forms of discriminatory or unethical conduct by UWL professor Joel Elgin." In that investigation request, Arain stated – if warranted by new evidence – the re-opened investigation should re-evaluate the findings and conclusions of the initial UWL investigation.

**NATURE OF COMPLAINT**

The primary complaint against Joel Elgin is that after he led [REDACTED] to a small room sometimes used as a workspace, he engaged in conduct that constitutes sexual harassment.

**SUMMARY OF FINDINGS**

UW-Shared Services investigators Christine Buswell and Richard Thal conducted an investigation into [REDACTED]'s allegations and related forms of discriminatory or unethical conduct by Elgin. During the investigation, in addition to interviewing [REDACTED] and Elgin, the investigators interviewed one current and three former students, four current and four former faculty members, and two academic staff employees. Documentary evidence, witness statements, and submissions that commented on Elgin's reputation and character were also reviewed.

Based on the information obtained during the investigation, the undersigned investigators find that Joel Elgin sexually harassed [REDACTED] when he led her into a room with a locked door after asking [REDACTED] if she would like one-on-one drawing instruction; asked her to pose; asked

her to take her sweater off; commented on her body with words of exclamation; and twice began to lift her tank top.

Elgin's conduct was sexual harassment because:

- Elgin touched █████ and started to lift her shirt.
- The physical conduct followed verbal conduct of a sexual nature, and the physical conduct also constituted conduct of a sexual nature.
- Elgin's conduct had the effect of substantially interfering with █████'s academic performance, and it created an intimidating, hostile, and offensive educational environment.

## BACKGROUND

█████ enrolled at UW-La Crosse in the fall of 2014. During the spring semester of her freshman year █████, who then planned to major in art, took the following two art classes: Art 160 – Gen Art Foundation and Art 318 – Printmaking Lithography. Joel Elgin taught Art 318. Although █████ had not taken the prerequisite drawing class for enrollment in Art 318, the requirement was waived. Elgin and some other faculty in the Department of Art often recommended the waiver of prerequisites. From the fall of 2015 through the fall of 2019, Elgin recommended such waivers for 314 students. The waivers were recommended for both female and male students.

## SCOPE OF THE INVESTIGATION

The investigation focused on whether █████ was the victim of sexual harassment or sexual assault. Under UW-La Crosse's [Policy Against Discrimination, Discriminatory Harassment, Sexual Misconduct and Retaliation](#) and Regent Policy [RPD 14-2, Sexual Violence and Sexual Harassment](#), UWL is committed to providing an educational environment that is free of discriminatory harassment and sexual misconduct.

Section 4.3 of UWL's [Policy Against Discrimination, Discriminatory Harassment, Sexual Misconduct and Retaliation](#) includes a definition of sexual harassment, adapted from the definition contained in RPD 14-2. Under that definition:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other physical conduct and expressive behavior of a sexual nature where:

.....

- (c) such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or offensive employment or educational environment.

The different degrees of sexual assault are set forth in [Wis. Stat. § 940.225](#) and in RPD 14-2. Fourth degree sexual assault is defined as "Sexual contact with a person without the consent of that person." The definition of sexual contact contained in RPD 14-2, in relevant part, (which is adapted from the [Wis. Stat. § 940.225\(5\)\(b\)1](#) definition) is as follows:

intentional touching, whether direct or through clothing, if that intentional touching is for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant . . . . .

## INVESTIGATION

### *Position of Complainant*

█████ was enrolled in an art fundamentals course taught by Elgin when he first approached her. Elgin complimented █████'s talent and recommended that she enroll in Art 318 - Printmaking Lithography, an advanced class he taught. █████ respected Elgin as a teacher and artist and was encouraged by his compliments. █████ was excited to learn that based on his recommendation, UWL would waive the drawing course prerequisite so that she could enroll in the advanced class. While in the advanced class, █████ told Elgin she felt that her drawing skills were not as good as the skills of the other students in Art 318. Elgin offered to give █████ drawing tutorials. █████ did not know that Elgin would expect her to model for him as part of the tutorials and that the tutoring would be private.

█████ was in the printmaking studio after one of the Art 318 classes when Elgin offered her a drawing lesson. There were only a handful of students working in the printmaking studio and at least one of the two private work studios were available. Instead of remaining in the print studio or using one of the attached work studios, Elgin led █████ out through the corridor and into Room 304, a small room that is used for storing paper and often referred to as the paper room. █████ had never been in that room before. The paper room had two doors: the one █████ and Elgin used from the hallway and the other, which led directly into the print studio. The door into the studio was blocked from the outside, and its window covered. Storage cabinets consumed much of the space in the 14' by 11' paper room, and Elgin was positioned between █████ and the door to the hallway. █████ cannot recall whether Elgin locked the door, or whether it locked automatically.

It was █████'s understanding that she would draw during the tutorial. But once in the paper room, Elgin asked her to pose while he sketched her. █████ was wearing an open cardigan sweater with a slim-fitting tank top underneath. After he started drawing, Elgin asked her to remove her sweater. Although nervous and uncomfortable, █████ complied with this request. █████ told herself that Elgin probably wanted to see the build of her body to get the proportions right when drawing her. Not knowing what to do, █████ stood with one hand on her hip and the other awkwardly extended to rest on the closest piece of furniture. Elgin was seated with a large drawing pad wedged in his lap. Elgin started drawing █████, but █████ could not see the drawing from where she was standing.

Elgin talked when drawing and made suggestive and appreciative comments about █████'s body. For example, he exclaimed: "Oh wow █████ wow," and "you have long legs." Elgin asked █████ if she liked being drawn. █████ responded no. Elgin ignored her verbal response and her discomfort and started talking about the process of drawing. He stated, for example, that when the human body is drawn, the elbows line up with the belly button. After making this statement, Elgin approached █████ and lifted the bottom of the front of her tank top to expose her belly button. After releasing her shirt, Elgin continued his drawing. He then approached █████ again, and he again started to lift her shirt. █████ reacted by bringing her hand to her diaphragm to prevent him from lifting her shirt any higher. Elgin ignored █████'s discomfort and acted as if nothing had happened. Soon thereafter someone in the hallway rattled the paper room doorknob and made it clear that they wanted to enter the locked room. Elgin seemed startled and froze for a moment before opening the locked door, exiting, and allowing █████ to exit. █████ was ashamed and kept her head down as she left the room. The situation had felt wrong to her, and she supposed it looked wrong to the person waiting to get in the room.

After the "drawing tutorial," Elgin's attitude towards █████ changed. He no longer singled her out to praise her artistic talent or offer extra assistance. After that semester, the requirements of █████'s major obligated her to take a drawing course that used nude models and was taught by Elgin. █████ felt that Elgin often singled her out during classes. Elgin would stand behind her

while she was working in the printmaking studio, standing closer than he would with other students. To avoid Elgin, █████ changed her major. █████ believes that her struggles with depression and anxiety resulted from Elgin's treatment of her.

█████ felt isolated because she was aware that Elgin was well-liked by many students and feared others would not believe her. Elgin made his students laugh by nudging them, and he always had a friendly smile. At the time, █████ did not know of anyone else who had a similar experience with Elgin. After █████ posted her story on Facebook, she learned that her experiences with Elgin were similar to the experiences of several former UWL art students and models. Based on the information sent to her, █████ compiled the following pattern of experiences that she and others had with Elgin:

- Elgin complimented the individuals and singled them out as particularly skilled or talented.
- He waived prerequisites so students could enroll in upper level courses taught by him.
- He offered private drawing lessons to students and requested private modeling sessions from student models.
- He asked the student to model for him, and the modeling occurred in a locked room.
- He commented on the student's body.
- He touched the student.

### ***Position of Respondent***

Elgin stated it was not uncommon for him and other professors in the Department of Art to waive prerequisites in order to allow students to enroll in higher-level courses. Elgin stated he has sometimes given one-on-one tutorials to students who would like additional drawing experiences. When he draws a student, the student should be able to see the drawing. The small rooms (such as Room 304) are used for such tutorials. Elgin denied that he made inappropriate comments on the bodies of his art students or of any student models, and he also denied that he ever inappropriately touched any of them.

Elgin does not recall meeting with █████ in a small room. Elgin stated that Room 304 is a small locked room that may be used as a drawing studio. Although he does not remember talking to █████ in one of those rooms, Elgin provided what he considered to be the likely explanation for him talking about the relationship of a person's elbow and navel. Elgin said that when he teaches drawing and discusses the proportions of the body, he sometimes explains that when applying the formula of Leonardo da Vinci's "Vitruvian Man," the navel is the center of the body. Elgin also explains that if he stated that █████ has long legs, he may have meant that she has legs longer (in proportion to other parts of her body) than would be the case if she had the so-called ideal (Vitruvian) human form.

It is Elgin's position that what █████ now recalls from what occurred in the spring of 2015 – and what she perceives as evidence of sexual harassment and predatory behavior on the part of Elgin – is a total misreading of what actually occurred, a total misreading of reality.

### ***Interview with ██████████***

██████████ enrolled at UW-La Crosse in the fall of 2005. During her freshman year she took a basic drawing class. Joel Elgin saw her drawings and told ██████████ that because they were so good, she should take a higher-level printmaking course even though she had not taken the required prerequisite for that course. ██████████ was flattered, and enrolled in one of Elgin's courses, where she received special attention from Elgin. During her sophomore year Elgin convinced ██████████ to pose for drawing classes by offering to pay her and by telling her that the modeling would be in the name of art and a classy thing to do. When ██████████ agreed to model, Elgin took her to the paper room to undress. ██████████ had to ask Elgin to leave the room as she

undressed. During a subsequent class when [REDACTED] wore underpants and a bra while modeling, Elgin urged her to take her underpants off. [REDACTED] told him she did not want to do that. On another occasion [REDACTED] was entering the drawing studio, and Elgin asked her to open her robe so he could look at her body before she entered the classroom. [REDACTED] then decided she was not going to model for Elgin anymore.

During her senior year [REDACTED] wanted to learn how to do medical illustrations, and Elgin agreed to help her. After she told Elgin she thought she wanted to become a medical illustrator, he offered to give her one-on-one tutorials to help her reach that goal. [REDACTED] expected that she would be drawing during one-on-one tutorials. For the first tutorial Elgin led [REDACTED] into a small room. When in the room, Elgin asked [REDACTED] to remove her shirt, which she refused to do. Elgin told her that it would be okay for her to take her shirt off, and he also explained something about the need to know where nipples are when trying to understand the relationship of the different parts of the body. Elgin's request that she take her shirt off made [REDACTED] extremely uncomfortable. She was relieved when there was a knock on the paper room door, and she was able to leave the room. [REDACTED] felt that over a three-year period Elgin got her to trust him more and more. He broke that trust by pressuring her to remove her shirt when she did not want to.

### ***Interview with and information received from a former student who wishes to remain anonymous***

The former UWL student enrolled in 2013. After a friend introduced her to Elgin, she audited Elgin's class and found him to be welcoming and very playful with his students. The student met with Elgin, and Elgin subsequently arranged for a waiver of prerequisites so she could enroll in Elgin's printmaking class. After being in the class for a while, the student realized she was not as talented at drawing as she had thought. She mentioned this to Elgin, and he offered to give her drawing lessons outside class time. When it was time for the drawing lesson, Elgin led the student into a small room, which she entered carrying her sketchbook because she expected to draw. Elgin did not ask her to draw. Rather, he started to explain a method that helps with the accurate depicting of body proportions. Elgin explained a system measuring proportions that used the size of the head to provide a guide for the relative lengths and widths of the body, and he explained that this system could be demonstrated by measurements that lead to the navel. To demonstrate this system, Elgin touched the student's torso when her shirt was lifted. The student does not recall who lifted her shirt. After this, Elgin was doing a drawing of the student. At some point, however, he stopped drawing, put his hands around her waist (caressing her) and told her how beautiful her body is. The student stated that Elgin did not do more than that. She thinks that she either made it clear how uncomfortable she was, or it was time for the tutorial to end. The student did not want to have any more tutorials with Elgin.

### ***Interview with Susan Timm***

Susan Timm is an Associate Lecturer in the UWL art department. She explained it is not unusual for a professor to request that an art student receive a waiver of a prerequisite so that the student may enroll in a higher-level course. Although such a waiver might be inappropriate in some cases, it is generally appropriate when the student wishes to enroll in a higher-level printmaking course. With respect to [REDACTED]'s implication that during her tutorial with Elgin she should have been drawing, Timm stated that Elgin's method of talking to a student while drawing is a good way to teach figure drawing, and most art students understand and appreciate that teaching method.

### ***Interview with Kathleen Hawkes***

Kathleen (Kate) Hawkes is an associate professor in the UWL art department. Hawkes teaches photography and digital imaging courses. She is a friend of Elgin, and she stated that Elgin was

a very popular teacher. Hawkes stated that she is among the faculty members pushing to limit how often the art department allows students to receive overrides of prerequisites, but she explained that in a small department courses cannot be offered each semester; so some waivers of prerequisites are going to happen. Hawkes said she has learned that Elgin has made some students uncomfortable, but he has been supportive and wonderful for others.

### ***Interview with Binod Shrestha***

Shrestha, who is now an Associate Professor at the University of North Texas, formerly taught drawing at UW-La Crosse. It is Shrestha's opinion that a professor or a teaching assistant should not be alone with a student in a room with a closed door unless there are windows or glass doors that allow the people to be seen. Shrestha thinks it is inappropriate for a professor to ask an art student to pose. And it would be inappropriate regardless of whether in a small room or a large studio. Paid models should pose. Shrestha explained that drawing instruction may involve the teacher explaining canons (such as figure drawing proportions) while the teacher is drawing. But such a demonstration should take place in a large studio. And anyone who is drawing a model should always respect the personal space of the model.

### ***Interview with Bradley Nichols***

For the past 13 years Professor Nichols has taught at UWL. His specialty areas are metalsmithing and blacksmithing. Nichols stated that, depending on the situation, he will recommend that prerequisites should be waived so a student may enroll in a higher-level art course. Nichols stated a number of students have told him that printmaking courses with Joel Elgin are the only art department courses they want to take.

### ***Interview with Jennifer Williams***

Professor Williams has taught painting and drawing at UWL for the past 21 years. Unlike Elgin, if a student needs or requests help with improving their drawing skills, Williams generally provides that help in the large studio during or after class. Meeting one-on-one with students is generally limited to meeting with students who are preparing for an exhibition or for meetings during office hours. Williams allows for longer classes to facilitate one-on-one instruction. Williams was not aware of Elgin's apparent practice of meeting with a single student in a small room. [REDACTED] was Williams's studio assistant at the beginning of this school year, and it is Williams's opinion that if Elgin met with [REDACTED] alone in Room 304, it is not believable that he would forget the encounter even though it occurred in 2015. Williams stated the printmaking studio area is referred to by some art students as the shop of love, and Elgin has had the following monikers: Lord of the Print and the Beloved Professor Joel.

### ***Information received from [REDACTED] and [REDACTED]***

During the afternoon of October 28, 2016, [REDACTED] and [REDACTED] two students (who were friends) met with Elgin and "auditioned" to be paid models for art department classes. Their "practice session," which lasted over three hours, was ostensibly for the purpose of practicing for classroom modeling. Elgin directed [REDACTED] and [REDACTED] to go into a small room, where the audition took place. During the "practice session" Elgin convinced [REDACTED] and [REDACTED] to expose their breasts, and throughout the modeling session Elgin took photos of [REDACTED] and [REDACTED]

After the audition, [REDACTED] decided that she did not want to model for art classes, but [REDACTED] decided to work as a model. [REDACTED] describes the difference between modeling in the classroom and "auditioning" for Elgin as follows:

In the classroom setting, everything about nude modeling was highly professional. I mostly modeled for Joel's classes, but I also modeled for another professor in a couple of painting classes. There was always a heater on to keep me warm while I was undressed, and I would wear a robe during breaks. The students are not allowed to film, take photos, or make any sorts of comments about the models or their bodies. None of that ever happened while I was in the classroom; so I always felt comfortable continuing to model. I feel incredibly humiliated and violated by the first encounter that I had with Joel. The "practice session" that he created for us clearly was not what we thought it was. He misled [REDACTED] and me. He made us believe that what we were doing was practicing for the classroom. He took advantage of his position as a professor and made us feel as if everything that happened [in the paper room] was normal. This was a type of work that was entirely new to us. We were young. We didn't understand at the time that we were being taken advantage of. If he wanted to give us a true practice session, he could have created an hour or two outside of normal class hours for a few students to come in and practice with us, or have another professor sit in. Joel Elgin was inappropriate and unprofessional. He took advantage of his position of power and prestige in academia to put himself in the situation that he wanted with two nineteen-year-old female students. It was inappropriate and unprofessional for him to make comments about our bodies at all, especially while mostly nude. Most of all, it concerns me that he may still possess whatever images, or footage, that he recorded of [REDACTED] and me on the camera that he took in with him behind the locked doors of a dark closet.

## INVESTIGATORS' FINDINGS AND CONCLUSIONS

### *Did Joel Elgin sexually harass [REDACTED]?*

The undersigned investigators find that [REDACTED]'s allegations against Elgin are credible. We therefore find that in the spring of 2015 Elgin led [REDACTED] into Room 304 after asking her if she would like one-on-one drawing instruction; he asked her to pose; he asked her to take her sweater off; he commented on her body with words of exclamation; and twice he began to lift her tank top. [REDACTED]'s credibility is bolstered by the accounts of the other UWL art students who have also credibly described Elgin's conduct when drawing them.

Under UWL's policy against sexual misconduct, [REDACTED] was a victim of sexual harassment if Elgin's conduct included physical conduct and expressive behavior of a sexual nature, and if the conduct had the effect of substantially interfering with [REDACTED]'s academic performance or if it created an intimidating, hostile or offensive educational environment. We find that Elgin's physical conduct (i.e., his lifting [REDACTED]'s tank top) constituted conduct of a sexual nature, and that physical conduct followed verbal conduct of a sexual nature (i.e., "Oh wow [REDACTED] wow"). Taken together, the physical and verbal conduct was sexual harassment because it had the effect of substantially interfering with [REDACTED]'s academic performance, and it created an intimidating, hostile, and offensive educational environment. Elgin's conduct had the effect of substantially interfering with [REDACTED]'s academic performance. [REDACTED] switched her major to marketing to avoid being in the arts building with Elgin, and her experiences with Elgin made it hard for her to trust male professors.

### *Did Joel Elgin engage in related forms of unacceptable or unethical conduct?*

Several students have submitted statements in which they claim that Elgin failed to maintain proper professional boundaries, and he exploited the unequal power inherent in the relationship between a faculty member and a student. We find that these claims – in addition to providing

support for ██████'s position that Elgin sexually harassed her – show that Elgin engaged in other unacceptable behavior. Elgin, for example, engaged in unacceptable conduct during ██████ ██████'s and ██████ student modeling practice session. ██████ and ██████ thought that they were meeting with Elgin to get an idea of what it would be like to model for art classes. Instead, Elgin subjected them to a three-hour-long private modeling session during which he helped ██████ take her bra off. The undersigned investigators find that what Elgin did in the modeling practice session on October 28, 2016, was inappropriate and unacceptable conduct.

But unacceptable behavior is not necessarily unethical conduct. The code of ethics in [Chapter UWS 8](#) of the Wisconsin Administrative Code sets forth standards for determining whether the conduct of faculty members is unethical, and nothing in that Code of Ethics specifically addresses Elgin's conduct.

#### *Did Joel Elgin Sexually Assault ██████*

Whether Elgin sexually assaulted ██████ is at issue because in her March 7, 2019 complaint ██████ selected sexually assault as the category that best described the incident that was the primary basis for her complaint. Subsequently ██████ characterized that incident as sexual harassment. The investigators do not find sufficient evidence to show that Elgin sexually assaulted ██████ Under Wisconsin law to show that Elgin sexually assaulted ██████ there would have to be sufficient evidence that Elgin's touching ██████ was for the purpose of sexual arousal or gratification. That evidence does not exist.

#### *Conclusion*

Because ██████'s sexual harassment allegations are credible and because Elgin engaged in other unacceptable conduct, there is a reasonable basis for Chancellor Gow to prepare a written statement of specific charges or to take some other appropriate action.

Dated this 18<sup>th</sup> day of November 2019

*Christine Buswell*

*Richard Thal*