

## **RESPONSIBLE EMPLOYEES UNDER UC’S SEXUAL VIOLENCE AND SEXUAL HARASSMENT POLICY FREQUENTLY ASKED QUESTIONS**

### **What if I believe I have experienced any form of Sexual Violence or Sexual Harassment?**

If you believe you have experienced any form of sexual violence, including sexual assault, sexual harassment (including conduct on the basis of sex stereotypes, sex characteristics, sexual orientation, or gender identity), relationship violence (dating or domestic violence), or stalking, you can file a report or complaint with [your local Title IX Officer](#) or, if you are a University employee, you can file a grievance or complaint, which will be forwarded to the Title IX Officer for processing under the Sexual Violence and Sexual Harassment Policy. Whether to report or file a complaint is a personal choice.

Regardless of whether you choose to file a report or make a grievance/complaint, please know that [support services](#) are available to you.

### **What is the purpose of the Sexual Violence and Sexual Harassment Policy?**

UC’s [Sexual Violence and Sexual Harassment Policy \(pdf\)](#) (“SVSH Policy”) addresses UC’s responsibilities and procedures with regard to sexual violence, sexual harassment, related retaliation, and other conduct prohibited by the policy (collectively, “Prohibited Conduct”) to help ensure a safe, equitable, and inclusive education and employment environment.

### **Who is covered by the SVSH Policy?**

The SVSH Policy applies to all University employees as well as undergraduate, graduate, and professional students (“students”), and third parties. The Policy applies at all University campuses, the Lawrence Berkeley National Laboratory, Medical Centers, the Office of the President, Agriculture and Natural Resources, and to all University programs and activities.

### **What constitutes “Prohibited Conduct” under the SVSH Policy?**

Prohibited Conduct includes, sexual assault, relationship violence (dating and domestic violence), stalking, sexual harassment (including conduct on the basis of sex stereotypes, sex characteristics, sexual orientation, or gender identity), sexual exploitation, indecent exposure, invasions of sexual privacy, sexual intercourse with a minor, and related retaliation. For more detailed definitions of Prohibited Conduct, please refer to Section II.B. of the SVSH Policy.

**Which UC employees are considered “Responsible Employees” who are required to report Prohibited Conduct under the SVSH Policy, including sexual violence or sexual harassment, to the Title IX Officer?**

Please note that some UC campuses/locations broadly define who is a Responsible Employee under the SVSH Policy, so it is important to check with your local Title IX Office if you are not sure whether or not you are a Responsible Employee.

However, generally, any UC employee who is not specifically identified as a Confidential Resource in the SVSH Policy is a Responsible Employee required to report Prohibited Conduct to the Title IX Office. There are different reporting responsibilities, depending on whether the incident involves a student or a non-student or if a Responsible Employee learns that Prohibited Conduct may have occurred in the context of patient care:

To Whom or in What Context Did the SVSH Prohibited Conduct Occur?	Who Has a Reporting Obligation as a Responsible Employee?
A student (undergraduate, graduate, or professional) or that Prohibited Conduct may have occurred in the context of patient care (all patients are persons affiliated with the UC)	All UC employees who are not designated as “confidential resources” (defined below). This includes managers and supervisors, all faculty (including faculty advisors), all staff, and student employees. Responsible Employees include both represented and non-represented employees.
Any other person affiliated with the UC	Campus police, faculty members, Title IX professionals, managers and supervisors, including Deans, Department Chairs, and Directors of Organized Research Units, Academic Personnel, and Human Resources Administrators who are not designated as confidential. They must promptly notify the Title IX Officer if they receive, in the course of employment, a report of Prohibited Conduct from any other person affiliated with the UC.

Failure to comply with the SVSH Policy’s Responsible Employee reporting obligations could result in disciplinary action up to and including dismissal or termination of employment.

**Who may qualify as a “Confidential Resource?”**

Under the SVSH Policy, confidential resources include UC employees with a professional license requiring confidentiality (including health center employees but excluding campus legal counsel), or employees they supervise, CARE, Ombuds, licensed counselors in student counseling centers, pastoral counselors, and faculty and staff/employee assistance program staff, **who receive reports of Prohibited Conduct while acting in their confidential capacity.** The SVSH Policy exempts confidential resources from reporting to the Title IX Office but not from other mandatory reporting obligations under CANRA (Child Abuse and Neglect Reporting Act) and other policies or laws that require reporting to campus or local law enforcement or Child Protective Services.

## **How do I know when I am acting in my confidential capacity as a Confidential Resource and therefore am exempt from the SVSH Policy Responsible Employee reporting duties?**

An employee may act as a Confidential Resource in some contexts and not in others. It depends on whether the employee is acting in a confidential capacity when receiving a report of Prohibited Conduct. For example, UC employees who are licensed medical or mental health professionals (e.g., Student Health and Counseling center directors; medical school department chairs, deans, and faculty members; medical center department chairs, clinical service chiefs, and faculty) would be considered Confidential Resources if they received information about Prohibited Conduct *in the context of providing care to a patient*. In the Medical Centers, well-being committees<sup>1</sup> and their members are confidential resources when performing committee activities. (Under these circumstances, employees acting under their supervision, such as clinic or committee staff, would be considered confidential resources, as well). However, outside of the patient care context, these individuals (and their supervisees) would not be Confidential Resources and would be subject to Responsible Employee reporting requirements under the SVSH Policy.

## **I am a Responsible Employee. How do I fulfill my obligation?**

When an individual discloses a possible incident of Prohibited Conduct, you should inform them that you are a Responsible Employee who must report any information the individual shared with you to the Title IX Office. As a Responsible Employee, you **must** contact your [campus Title IX Office](#) as soon as possible and share whatever information you have, including the names of any individuals involved, their contact information, and any details of the incident. (See the response below regarding the information that may be disclosed to the Title IX office when the incident involves a patient.)

As a Responsible Employee, you should report to the Title IX Office even if you are unsure that the incident actually occurred or whether it constitutes Prohibited Conduct. You should report even if time has passed since the alleged conduct occurred, the alleged conduct occurred off-campus, or the Respondent is a non-affiliate.

## **Must I report any form of sex discrimination, including sexual violence or sexual harassment, when the conduct involves a patient?**

Yes, if you learn the information in your role as a Responsible Employee. See above or consult the definition of “Confidential Resources” in the SVSH Policy for exceptions relevant to licensed health care providers who learn information in connection with their treatment of a patient.

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<sup>1</sup> Well-being committees assist Medical Staff in a variety of ways and play several important roles, but a central focus of all such committees is to assist physicians, trainees, and other members of the Medical Staff in addressing impairment, substance abuse, and behavioral issues.

**Does HIPAA preclude such reporting to Title IX when the conduct involves a patient? What if the relevant information is subject to additional privacy protections (e.g., mental health, substance abuse, communicable diseases)?**

In general, health and medical privacy laws do not preclude reporting to Title IX when the alleged conduct involves a patient. Pursuant to UCOP's [HIPAA Administrative Requirements Policy \(pdf\)](#), the Title IX Office is considered a part of the University's "covered component," and, as such, is subject to HIPAA's regulations and UC's systemwide HIPAA policies. HIPAA Administrative Requirements Policy pp. 2-3. As a part of the covered component, Title IX Office personnel must be trained on systemwide HIPAA policies and any relevant local procedures necessary to perform their assigned job functions, and they must take appropriate measures to protect the privacy of protected health information (PHI), in any form.

If you have any concerns about disclosing PHI or information subject to additional privacy protections to the Title IX Office without the written authorization of the complainant or respondent, seek guidance from your local legal counsel or HIPAA privacy officer. While you await guidance, the incident should be reported to your Title IX office in an anonymized manner that protects the identity of the patient.

**Where can I find more information and resources on the SVSH Policy and my reporting obligations as a Responsible Employee?**

For additional information, please see UC's SVSH Policy and/or contact your local Title IX Officer.