UNIVERSITY OF CALIFORNIA

Issued December 9, 2019

Guidance on Investigating Prohibited Conduct in the Context of Patient Care

INTRODUCTION

This guidance applies when there is an allegation that Prohibited Conduct occurred during or in connection with a Clinical Encounter in which the complainant was a patient and the respondent was a Health Care Provider[1] or Health Care Worker[2] (referred to in this document as "Prohibited Conduct in the context of patient care"). It provides additional detail on investigating those allegations, to address the unique circumstances in the context of patient care.

This document should be read with the UC Sexual Violence and Sexual Harassment ("SVSH") Policy, the *Guidelines on Prohibited Conduct Definitions in the Context of Patient Care* issued by the Systemwide Title IX Office, and, depending on the status of the respondent, the applicable SVSH Investigation and Adjudication Framework for students, staff or faculty. This guidance builds on prior policy work across the University to improve SVSH prevention, detection and response, and incorporates input from the President's Working Group on SVSH in the Clinical Setting. Capitalized terms not defined in this document have the meanings assigned to them in the SVSH Policy and the *Guidelines on Prohibited Conduct Definitions in the Context of Patient Care*.

Section I.A of this guidance applies only to locations with an Academic Medical Center ("AMC"). Section I.C. applies to locations with Student Health and Counseling Centers or other clinical services but not AMCs. The remainder applies to all UC locations.

Policy on Sexual Harassment and Sexual Violence
Systemwide Title IX Guidelines on Prohibited Conduct in the Context of Patient Care
UC Systemwide Investigation and Adjudication Model for Students (PACAOS–Appendix E)
UC Systemwide Investigation and Adjudication Model for Senate and Non-Senate Faculty
UC Systemwide Investigation and Adjudication Model for Staff and Non-Faculty Academic Personnel

[1] A Health Care Provider is any University faculty, staff member, student, resident, fellow, trainee, or contractor, or any other University-credentialed person, who provides health care services to a patient. The term includes any person engaged in the "Healing Arts" regulated under Division 2 of the California Business & Professions Code, such as physicians, nurses, pharmacists, psychologists, and social workers, at a clinical location; or who is enrolled in a University-sponsored health professional training program or rotating through a non-University program at a University clinical location, and in that capacity has contact with patients in any private setting such as an exam room or diagnostic suite.

[2] A Health Care Worker is an employee, contractor, or volunteer, other than a Health Care Provider, who performs duties directly associated with the care and treatment rendered at a clinical location (for example, a technician, a transporter, or a security guard).

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I. SVSH INCIDENT RESPONSE TEAM OR OTHER PROTOCOL

A. Academic Medical Center Locations

The Title IX Officer will work with senior officials at AMC locations designated by their respective Vice Chancellors for Health Sciences (after consultation with their Chancellors or designees as appropriate) to jointly develop a formal Incident Response Plan ("IRP"). The IRP will specify appropriate actions, reports, and escalations in response to allegations of Prohibited Conduct in the context of patient care.

B. SVSH Incident Response Team

The Title IX Officer and senior AMC officials will form an Incident Response Team ("IRT") to help coordinate a trauma-informed, fair, effective and timely response to reports of Prohibited Conduct in the context of patient care; review trends; and identify areas of concern and recommend actions to address them. The IRT may have other responsibilities specified in its location's IRP and other applicable policies.

Using a multi-disciplinary approach, the IRT reviews all current cases alleging Prohibited Conduct in the context of patient care to ensure that:

- the AMC's institutional response is trauma-informed;
- timely communication about the allegations within and outside the University occurs and adheres to all Federal and state laws, and institutional policies and guidelines. This includes designating, in the IRP, an appropriate official who shall ensure all legally-mandated reports are made;
- the Title IX Office's response under the SVSH Policy proceeds in coordination with other potentially implicated policies or processes including, for example, compliance policies, sentinel event policies, patient grievance policies, medical staff bylaws, medical education policies and Risk Services[3] processes.

Where Title IX determines that the allegation is not, even if true, Prohibited Conduct, the location shall use its normal procedures to address any other patient safety concerns.

The IRP will include a consultative process between Risk Services and the IRT. At a minimum that process must require that:

- Risk Services confer with the IRT before contacting complainants or undertaking a factual investigation; and
- Risk Services is provided with the information outlined in Attachment 1 by a designated IRT member.

[3] Please also see Responsible Employee obligations pursuant to the SVSH Policy.

The Title IX Office remains responsible for determining interim measures and investigative strategy under the SVSH Policy. The IRT is not meant to and will not affect the Title IX Offices' independence.

1. SVSH IRT Membership

Core Team. Each IRT shall include at least the following individuals or their designees:

- the Title IX Officer
- the most senior medical officer
- the most senior nursing officer

The Chief Health Counsel (if any) or Chief Campus Counsel or designee shall attend IRT meetings and provide legal advice as needed to the IRT.

To ensure UCPD is aware of cases alleging Prohibited Conduct in the context of patient care, the Title IX Officer may either (a) include UCPD on the Core IRT or (b) discuss matters arising in the context of patient care with the campus Case Management Team (which includes UCPD).

Ad Hoc Members. The IRT will include the following members as applicable:

- in matters involving respondent students, residents, or fellows, the Designated Institutional Official, Educational Dean, or applicable Program Director;
- depending on the nature and location of the incident and identities of the complainant and respondent, the relevant department chair, service chief, or director.

Consultants. If they are not already members of the Core Team, representatives of the following units may consult with the IRT as needed in response to individual cases, and will also support the IRT on a more systemic basis:

- Risk Services;
- Compliance;
- Medical Staff;
- Medical Group/Faculty Practice Plan;
- Human Resources;
- Academic Affairs or Personnel, as appropriate;
- Regulatory Affairs;
- Discipline Specific Experts (e.g. mental health);
- Medical Group CMO.

No person should participate on or consult with the IRT who may be called upon to participate as a party or witness in the investigation or adjudication of an allegation of Prohibited Conduct under the SVSH Policy.

2. Leadership and Administrative Support

The Title IX Officer shall convene the IRT and serve as its chair. The AMC will designate an administrative resource to support the IRT and its activities including management and meeting logistics.

3. Workforce Designation; Privacy.

All IRT members and consultants are considered members of the UC Single Health Care Component's workforce under the University's policies implementing the Health Insurance Portability and Accountability Act and implementing regulations ("HIPAA") and other Federal and state health privacy laws and shall receive required privacy training from the clinical location's chief privacy officer or designee.

IRT members and consultants will receive the minimum information about specific cases necessary to accomplish the IRT's objectives. Complainant and respondent identities, if disclosed, and other sensitive information must be kept confidential by IRT members to the extent practicable.

4. Training

The IRT will ensure that its members, consultants and others receive training as soon as practicable, but in any event within three months of the issuance date of this guidance as follows:

- for both members and consultants, training from the Title IX Officer or designee on the SVSH Policy; the student, faculty or staff Adjudication Frameworks; and the *Guidelines on Prohibited Conduct Definitions in the Context of Patient Care;*
- for members and consultants, training from the CMO, CNO, or designee on the clinical location's incident reporting policies; medical staff (and medical group, if different) bylaws, rules, and regulations; and quality assurance and performance improvement plan;
- for members and any individual with responsibility for an investigation or other inquiry, including conducting interviews, training as appropriate and practicable on effectively working with parties and witnesses, including the relevance of trauma in the SVSH context (for example, the neurobiology of trauma, and trauma-informed investigation techniques) and cultural competency (for example, sexual violence toward transgender and non-binary individuals; avoiding gender stereotypes; implicit bias).

The IRT will assess the need for additional training on an annual basis.

5. Regular Meetings

The IRT will convene at least quarterly to review status of current cases locally, ensure appropriate documentation and reporting is happening, and identify and escalate to location and system leaders opportunities for systems improvement. As discussed in Section II below,

the IRT must also convene on an ad hoc basis as necessary and appropriate to address new issues or reports of Prohibited Conduct.

6. Quality Assessment and Performance Improvement

A designated clinical location representative member of the IRT will ensure that a review is performed at the conclusion of any investigation(s) to identify opportunities for corrective and preventive action ("CAPAs") at a local or system level and any CAPAs are implemented and monitored.

C. Other Campus Locations

The Title IX Officer at locations with Student Health and Counseling Centers and other campus-based clinics but not AMCs will work with designated officials at the Student Health and Counseling Centers and other campus-based clinics to establish a protocol to address allegations of Prohibited Conduct in the context of patient care. The Title IX Officer will submit these protocols to the Systemwide Title IX Director for approval within three months of the date of this guidance. Sections II, III and IV of this guidance apply to all investigations of alleged Prohibited Conduct in the context of patient care.

II. REPORTING OPTIONS AND RESOURCES

A. Reporting Options

In addition to the Reporting Options and Resources specified in the student, staff and faculty Investigation and Adjudication Frameworks, complainants must be notified by the Title IX Office of their right to report conduct arising in the context of patient care to external agencies as follows. Notifications will be made available in languages other than English as required by University policy and applicable laws.

- They may file a complaint against licensed medical professionals, including physicians, nurses, psychologists and others at https://www.dca.ca.gov/webapps/breeze/about_breeze.php.
- They may file a complaint related to a medical education program (e.g., for failure to prevent or appropriately respond to sexual harassment) with the Accreditation Council for Graduate Medical Education (ACGME) at https://www.acgme.org/Residents-and-Fellows/Report-an-Issue.
- They may file a federal civil rights complaint with the U.S. Department of Health and Human Services Office for Civil Rights at http://www.hhs.gov/ocr/office/file/index.html (contact information 1-800-368-1019,800-537-7697 (TDD)) or with the U.S. Department of Education Office for Civil Rights at https://ocrcas.ed.gov/index.cfm (contact information: 1-800-421-3481, ocr@ed.gov).

B. Notification to Potential Complainants

In addition to notifying individual complainants of their reporting options and resources, the IRT should consider in each case, on an ongoing basis, whether communication with other patients of the respondent is necessary to protect patient safety and ensure a thorough and reliable investigation. In making this assessment the IRT should consider, at a minimum the following factors and should consult with UC Legal and the Systemwide Title IX Office:

- the nature and seriousness of the allegations (inappropriate comments versus physical conduct, for example);
- whether allegations suggest grave patient safety concerns (inappropriate touching of an intimate body part during a sensitive exam, for example);
- any circumstances suggesting the respondent is targeting a particularly vulnerable population (immigrants, minors, dependent adults or patients with mental illness, for example);
- whether others have alleged conduct similar in nature by the same respondent (arising within UC or elsewhere).

The form any communication takes (for example, content on the health system website, a survey soliciting care-related concerns, or a letter referencing the provider by name) and which patients receive it (for example, all of the provider's patients, or only those who received a certain procedure) will depend on the specific circumstances and consideration of the above factors.

III. INITIAL ASSESSMENT

Consistent with the SVSH Policy and the student, faculty and staff Investigation and Adjudication Frameworks, upon receiving a report of alleged Prohibited Conduct in the context of patient care, the Title IX Officer will make an initial assessment, including an immediate assessment concerning the health and safety of the complainant and clinical community. Additionally, the IRT will convene to ensure that the appropriate officials gather any facts necessary for the initial assessment quickly and efficiently.

A. Interim Measures

The Title IX Office has exclusive authority to recommend and oversee interim measures implemented under the SVSH Policy. Interim measures include, for example: no contact orders; arranging for a patient to see a different provider; and connecting patients with available services. Title IX Officer will tailor the measures to the circumstances of each case and reevaluate the effectiveness and need for the measures as circumstances change. See also SVSH Policy Appendix III: Interim, Remedial, and Supportive Measures.

The clinical locations, after consultation with the IRT, may implement *additional* (but not less

restrictive) measures to protect patient or caregiver safety and well-being, or the integrity of the location's educational, research, and clinical programs, consistent with applicable law and accreditation standards and clinical location policy.

In assessing whether additional measures, including removal of the respondent from the clinical care setting pending a complete investigation, are necessary the IRT should undertake a Preliminary Review of the allegations and other relevant information. This Preliminary Review focuses first and foremost on patient safety and secondarily on assuring mandatory preliminary reports are made to applicable regulatory and enforcement authorities, appropriate escalations occur, and evidence is preserved for possible future investigations, claims, or litigation. At a minimum, the following factors should be considered:

- whether there are prior allegations of Prohibited Conduct or other similar allegations against the respondent;
- particular vulnerability of the respondent's patient population (immigrants, minors, or patients with mental illness, for example);
- medical necessity and appropriateness of the conduct as described by the complainant.

In the event the IRT identifies through Preliminary Review a safety concern warranting removal of the respondent from the clinical care setting pending a complete investigation, or determines that failure to remove the respondent may impede such investigation, removal shall be accomplished consistent with the appropriate defined process(es), including, for example, the student, faculty or staff Adjudication Frameworks, the medical staff bylaws, personnel policies for staff members, or other faculty, staff, or student conduct policies.

1. **Special Patient Safety Measure for Sexual Assault and Invasion of Sexual Privacy Allegations**

In addition to the interim measures outlined in the SVSH Policy and student, staff and faculty Investigation and Adjudication Frameworks, the following special procedures apply to allegations of Sexual Assault-Penetration, Sexual Assault-Contact, and Invasion of Sexual Privacy against a member of the medical staff or medical group/faculty practice plan, if the allegations are inherently plausible. The purpose of this additional measure is to ensure patient safety while the Title IX Office makes an Initial Assessment and the IRT Preliminarily Reviews the allegations.

a. Inherent Plausibility Determination. Within twenty-four hours of any member of the IRT receiving an allegation of Prohibited Conduct the Title IX Officer or designee, in consultation with an IRT member with applicable expertise, will determine (a) whether the alleged conduct, if true, constitutes Sexual Assault-Penetration, Sexual Assault-Contact, or Invasion of Sexual Privacy, and (b) whether the allegation is inherently plausible.

Inherent plausibility refers to whether the facts alleged are reasonable: whether the version of events holds together. In other words, whether it is plausible that events occurred in the manner alleged. Plausibility of the factual allegations and credibility of the person making them are different. While inherent plausibility may be relevant to the investigator's eventual determination of credibility in an investigation, a finding of inherent plausibility at this stage generally should not consider and does not depend on any credibility assessment.

b. Temporary Administrative Reassignment. Following a determination by the Title IX Officer or designee that the allegations are inherently plausible and would, if true, be Sexual Assault or Invasion of Sexual Privacy, the appropriate location authority will immediately remove the respondent from all direct patient care duties, pending preliminary review by the IRT. Such removal shall be automatic, shall not be deemed a restriction, suspension, or termination of privileges for any medical disciplinary cause or reason, and therefore shall not be appealable pursuant to the medical staff bylaws, policies, or rules and regulations. Temporary administrative reassignment is also not an "administrative action" as defined in NSF's term and condition titled "Notification Requirements Regarding Findings of Sexual Harassment, Other Forms of Harassment, or Sexual Assault." If the Governing Body identifies that patients are likely at greater risk from the provider's removal from patient care than from their continuation, then the Governing Body will notify the Title IX officer and the Chancellor. In exigent circumstances the Chancellor or their designee can grant an exception to temporary administrative reassignment as needed to address the greater safety risk identified by the Governing Body.

c. Preliminary Review and Recommendation. When a respondent is removed from the patient care setting based on an inherent plausibility determination under Section III.A.1, the IRT will convene for the Preliminary Review on an expedited basis, normally within 24 hours but in any event within three business days, to make a recommendation to the respondent's Department Chair, Medical Staff, and Governing Body as to whether an immediate threat to patient safety exists and a summary suspension is warranted.

B. Written Rights and Options

In addition to the Written Rights and Options specified in the student, staff and faculty Investigation and Adjudication Frameworks, the Title IX Office will notify complainants in writing that the University may be obligated by law to report their allegation(s) to licensing boards, law enforcement agencies, or both.

IV. INVESTIGATING REPORTS OF PROHIBITED CONDUCT

A. Alternative Resolution

The Title IX Office will not use Alternative Resolution for allegations of Prohibited Conduct in the context of patient care.

B. Formal Investigation

The Title IX Officer oversees the reporting and response processes under UC's SVSH Policy, including Formal Investigations. However, the IRT may identify non-SVSH policy or standards violations arising from the same set of alleged facts giving rise to the potential SVSH Policy violation. Non-SVSH policies and standards include, for example, professional standards; medical staff bylaws, rules, or regulations; compliance standards; privacy standards; and other clinical or training policies. If non-SVSH policy or standards violations arise from the same set of alleged facts giving rise to the potential SVSH Policy violation, the Title IX investigator will, in consultation with the IRT, gather evidence and make factual findings to assist the appropriate department(s) in determining whether the non-SVSH policies or standards were violated. The Title IX investigator will not analyze or reach conclusions on those non-SVSH policies or standards. The IRT will refer these other potential violations to the appropriate department for resolution in accordance with applicable policies.

1. Notifications

In addition to the notifications the Title IX Officer provides parties under the faculty, staff, or student Adjudication Frameworks, the Title IX Officer will notify the Vice Chancellor for Health Sciences ("VCHS") and chair of the hospital's Governing Body, if different, when it opens a Formal Investigation of a respondent who is appointed at or otherwise employed by an AMC. The Title IX Officer will be sensitive in their communication to protect the neutrality of those receiving the notification, as well as the privacy of the complainant and respondent. Thereafter, the Title IX Officer will periodically update the VCHS (and chair, if different) on the status of the Formal Investigation.

2. Notice of Charges

The Title IX Officer will issue the Notice of Charges per the applicable student, staff or faculty Investigation and Adjudication Framework.

3. Investigative Process

The Title IX Officer will follow the investigative processes in the student, staff and faculty Investigation and Adjudication Frameworks. However, allegations of Prohibited Conduct in the context of patient care pose unique investigatory considerations that may require additional IRT consultation, an expert opinion, or both.

a. IRT Consultation

The Title IX investigator may require clinical subject matter expertise. The IRT will provide that expertise, assist the Title IX investigator in identifying and connecting with other experts, or both. As stated in Section I above, any subject matter expert assisting a Title IX investigator with complainant or respondent interviews during a Formal Investigation or Other Inquiry will receive training from the Title IX Officer prior to assisting with such interviews as appropriate and practicable.

b. Expert Opinions

The Title IX investigator may require a medical expert opinion to understand whether conduct by the respondent was Clinically Indicated. The Title IX Officer will ensure that the medical experts called upon does not have a personal, professional, or financial conflict of interest. See Attachment 2 for additional guidance.

4. Investigation Report; Notice of Investigative Outcome or Preliminary Determination

The Title IX Officer will issue an investigation report and a notice of investigative outcome or preliminary determination per the applicable student, staff or faculty Investigation and Adjudication Framework.

Where the Respondent is a physician or other Health Care Provider credentialed and privileged by hospital medical staff, or a health professional training program student, resident or fellow, then in addition to the applicable student, staff or faculty Investigation and Adjudication Framework, they may be subject to investigation and adjudication of professional misconduct under other rules and policies (for example, medical staff bylaws and school-based policies), potentially resulting in corrective action or termination.

5. Timeframe for Completion of Investigation; Extension for Good Cause

Timeframes are described in the applicable student, staff or faculty Investigation and Adjudication Frameworks. See also Systemwide Title IX *Guidelines for Timeliness of Formal Investigation*, issued July 2019.

C. Other Inquiry

When the respondent is a third party (for example, a Health Care Provider no longer employed by the University), the Title IX Officer may conduct an Other Inquiry per SVSH Policy Section V.A.5.d. In that case, the Title IX investigator may require clinical subject matter expertise, just as they would in a Formal Investigation. If so, they will obtain that expertise from the IRT or another expert as described in Section IV.B.3. a-b above.

V. REPORTING AND INFORMATION SHARING

Per the SVSH Policy, the University tries to protect people's privacy to the extent permitted

by law and University policies. However, laws and University policies may require disclosure to licensing boards, law enforcement, and other agencies, as described below.

A. Mandated Reporting

UC Health and student health locations must comply with numerous legally mandated reporting requirements. Existing local protocols may be used to address those reporting requirements. See Attachment 3 for additional detail.

B. Non-Mandated Reporting

In addition to legally-mandated reporting, the IRT should consider making non-mandatory reports to law enforcement when exceptional circumstances apply. In making this assessment the IRT should consider:

- the nature and seriousness of the allegations (inappropriate comments versus physical conduct, for example);
- whether allegations suggest grave patient safety concerns (inappropriate touching of an intimate body part during a sensitive exam, for example);
- any circumstances suggesting the respondent is targeting a particularly vulnerable population (immigrants, minors or patients with mental illness, for example);
- whether others have alleged conduct similar in nature by the same respondent (arising within UC or elsewhere).

Important Note: All non-mandated reports must de-identify complainant's personal identifiable information.

C. Information within the UC Health Enterprise and Campus Locations

IRT members will disclose information to other University departments using only the minimum information necessary to accomplish the purpose for which it is disclosed. See Attachment 4 for additional detail.

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Attachment 1 - Guidance on Investigating Prohibited Conduct in the Context of Clinical Patient Care

TO: Medical Center Risk Manager

FROM: [IRT Designee]

CC: [IRT Members]

DATE: [DATE]

Re: Notice of New SVSH Claim or PIN

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1. Title IX Case Assignment No.: _____

2. Patient Gender/Gender Identity: ☐ Male ☐ Female ☐ Non-binary ☐ Other or Unknown

3. Patient Status: ☐ Student ☐ Employee ☐ Third Party

4. Date(s) of Alleged Misconduct: _____

5. Primary Involved Department(s): _____

6. Respondent Name: _____

7. Respondent Department/Division: _____

8. Respondent Status: ☐ Faculty ☐ Staff ☐ Student ☐ Other: _____

9. Summary of Allegation(s):

If a claim (including a writ) or other request for monetary damages has been received by the University, unredacted copies of the investigation, findings, and any other relevant documents may be requested from Title IX.

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Attachment 2 - Guidance on Investigating Prohibited Conduct in the Context of Clinical Patient Care

Guidance on Retaining Medical Experts for Allegations of Prohibited Conduct in the Context of Patient Care

1. Application of this guidance. This guidance applies to outside medical experts retained by a Title IX Officer during a Formal Investigation or Other Inquiry into alleged Prohibited Conduct in the context of patient care. The Title IX investigator may obtain an expert opinion to assist in Title IX's assessment of whether conduct by the respondent was Clinically Indicated, whether the complainant provided Informed Consent, or both.

   Note that time-sensitive determinations during an Initial Assessment phase may require consultation with internal subject-matter consultants at the location where the alleged conduct took place.

2. Rule against relying upon medical experts with conflicts of interest in the course of a Formal Investigation or Other Inquiry. The University shall not retain or consult with medical experts who have an actual or apparent conflict of interest in connection with a given matter. Actual or apparent conflict of interest may exist when the expert or their immediate family or household member has a professional, financial, or personal relationship with the complainant or the respondent. Examples include:

   - a supervisory relationship between the expert or their immediate family or household member and a party;
   - a business partnership between the expert or their immediate family or household member and a party;
   - the expert or their immediate family or household member serving as or receiving a professional reference from a party;
   - past involvement by the expert or their immediate family or household member in the patient's care, or as a referral source to or from the respondent;
   - involvement by the expert or their immediate family or household member in the underlying conduct (as a percipient witness, for example);
   - involvement by the expert or their immediate family or household member in other allegations made either by complainant or against respondent.

3. Disqualification is warranted where the circumstances are such that the expert is actually or apparently unable to render an opinion that is fair, impartial, and unbiased.

   a. No assumption of conflict of interest based on prior engagement by the University. Medical experts previously retained or engaged by the University are not automatically assumed to have an actual or apparent conflict of interest. Whether such experts have an actual or apparent conflict of interest should be determined using the criteria in this guidance.

b. Impermissible grounds for disqualification. That a medical expert is or is not a particular gender, or is or is not of a particular race, ethnicity, national origin, religion, sexual orientation or other protected class as the party seeking disqualification is not a permissible ground for disqualification.

2. Determination of conflict. The Title IX Officer determines whether a medical expert has an actual or apparent conflict of interest. The Title IX Officer will use the criteria in this guidance, and document their determination in the case file.

3. Pre-retention disclosure of potential grounds for disqualification. Before retaining a medical expert for any particular matter, the Title IX Officer must require the expert to disclose any potential ground for disqualification based on actual or potential conflict of interest. The expert's disclosures should be documented on the expert disclosure form (Appendix A of this document) and maintained in the Title IX file for the matter. Potential grounds for disqualification are described in Section 2, above. Additionally, the expert will be disqualified if they have any reason to believe they cannot render a fair, impartial, and unbiased opinion.

4. Retention agreement statement regarding neutral role of the University. The retention agreement or other contract with the expert or expert firm must emphasize the neutral role of the University in the review, investigation, and adjudication of the matter.

a. Sample language. "We wish to emphasize that the University is not a party in this review, investigation, or adjudication, and furthermore does not advocate for or against any party. The potential for future work with the University depends on your skill in carrying out the expert function in accordance with relevant University policies and the standard of care in your particular field of expertise, not on the frequency with which you issue opinions that favor either complainant or respondent."

Attachment 2 - Guidance on Investigating Prohibited Conduct in the Context of Clinical Patient Care

Appendix A

Form for Expert Disclosures

I, _____ [Expert Witness Name], make the following disclosures relevant to potential conflicts of interest with respect to Investigation/Matter No. _____, involving Complainant_____ [Complainant Name], Respondent _____ [Respondent Name], whose identities have been disclosed to me in confidence for the sole purpose of assessing potential conflicts. I certify that I am currently board-certified and licensed in good standing to practice in the relevant discipline.

If you answer "Yes" to any of the below, please provide further detail in the space provided, including relevant dates.

1. Do you or does anyone in your immediate family or household have a personal (e.g., social or familial) relationship with the Complainant, the Respondent? ____Yes ____No

2. Is Complainant or Respondent a colleague or partner of yours or any member of your immediate family member or household in the same practice group, department, or division? ____Yes ____No

3. Is Complainant or Respondent or their business or practice in competition with you or your business or practice? ____Yes ____No

4. Do you have a referral relationship with Complainant or Respondent? ____Yes ____No

Attachment 2 - Guidance on Investigating Prohibited Conduct in the Context of Clinical Patient Care

5. Do you or does any member of your immediate family (to the best of your knowledge) have any financial relationship with Complainant or Respondent? ____Yes ____No

6. Have you had any prior involvement in providing assessment, care, or treatment to Complainant or Respondent? ____Yes ____No

7. Are you or anyone in your immediate family (to the best of your knowledge) a patient of Respondent? ____Yes ____No

8. Are you aware of any other facts or circumstances that might be viewed as undermining your ability to render an opinion that is fair, impartial, and unbiased? ____Yes ____No

I certify that the foregoing is true and correct.

Date: _____

Signature: _____

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Attachment 3 – External Reporting Mandates

Agency	Report	Purpose/Description	Notes
UCPD/Local PD or CPS	Allegations of Child Abuse or Neglect or Violence	Any sexual misconduct perpetrated against a child (see CDSS for details), pursuant to Penal Code 11165.1, using online form. Patient identification required.	Decisions concerning non-mandated reporting by the University to law enforcement authorities shall be made by local Incident Response Teams in accordance with applicable guidance.
ECAS (Internal)	CANRA Compliance	Any sexual misconduct perpetrated against a child (see policy for details). Patient identification *not* required.	
UCPD/Local PD or APS	Allegations of Elder or Dependent Abuse or Neglect or Violence	WIC 15630 (see CalDOJ for details), using online form. Patient identification required.	
Clery Coordinator	Allegations of Criminal Sexual Misconduct	Deidentified: report must include when the incident occurred, when it was reported, where it occurred, and the nature or description of the incident (patient identification not required). See Clery Act Policy – Campus Safety and Security Reporting.	
UCPD/Local PD	Suspicious Injury "Gun and Knife Law"	Any physical injury associated with sexual misconduct, to an appropriate law enforcement agency, followed by submission of Form Cal OES 2-920, if and as required by, and pursuant to, Cal Penal Code §§ 11160 *et seq*. Patient identification normally required but we have redacted reports where required by applicable law due to preemption (e.g., FERPA). VAWA preemption analysis has not been performed. *Note that the mandate is not often invoked in sexual battery cases due to lack of physical injury.*	
Healing Arts Boards	Sexual Misconduct	A written report of inappropriate contact or communication of a sexual nature allegedly perpetrated by a healing arts licensee (physician, nurse, physician assistant, dentist, etc.) against a patient must be reported, under 2019 SB 425, Cal. Bus. & Prof. Code 805.8, to the relevant health professional licensing board within 15 days of receipt by UC of a written complaint.	All reports of Prohibited Conduct, including reports made orally and in writing, trigger the University's obligation to respond to allegations. All such reports shall be reported pursuant to Cal. Bus. & Prof. Code 805.8.
Medical Board of California National Practitioner Data Bank	Medical Staff Action Employment Action	Restriction, suspension, revocation, or termination of staff privileges, suspension or involuntary leave from faculty appointment, or "voluntary" separation from the University or the medical staff while an investigation is pending, as required by and pursuant to Cal. Bus. & Prof. Code §§ 805 and 805.01; and to the National Practitioner Databank as required by and pursuant to the federal Health Care Quality Improvement Act. Currently no consistent practices exist for deidentification of report attachments.	Redactions should be made in consultation with local Title IX office.
Cal/OSHA	Workplace Violence	[UNDER DEVELOPMENT – SEE, E.G., https://www.calhospital.org/sites/main/files/file-attachments/workplace_violence_reporting_matrix.pdf]	
California Department of Public Health	Public Health Oversight	An allegation of criminal sexual misconduct that occurs at a licensed facility or clinic to the California Department of Public Health, as required by and pursuant to Cal. Health & Safety Code § 1279.1(b)(6) and 22 Cal. Code Reg. § 70737 (see summary online). Complainant identification not required initially but CDPH will review records and may wish to interview complainant.	
Joint Commission	Hospital Accreditation	Sexual abuse or assault witnessed by any staff, admitted by perpetrator, or where there's otherwise sufficient clinical evidence (see discussion online). Complainant identification not required initially but TJC will review records.	
Liaison Committee on Medical Education (LCME)	Undergraduate Medical Education	LCME Standard 3.6 - A medical school develops effective written policies that define mistreatment, has effective mechanisms in place for a prompt response to any complaints, and supports educational activities aimed at preventing mistreatment. Mechanisms for reporting mistreatment are understood by medical students, including visiting medical students, and ensure that any violations can be registered and investigated without fear of retaliation.	No mandated reports but students and others are permitted to make reports about program deficiencies directly to LCME.

Agency	Report	Purpose/Description	Notes
Accreditation Council for Graduate Medical Education (ACGME)	Graduate Medical Education	CPR IV.B.1 - Residents must demonstrate a commitment to professionalism and an adherence to ethical principles. CPR VI.B.6 - Programs, in partnership with their Sponsoring Institutions, must provide a professional, equitable, respectful, and civil environment that is free from discrimination, sexual and other forms of harassment, mistreatment, abuse, or coercion of students, residents, faculty, and staff.	No mandated reports to ACGME, but residents and fellows are permitted to make reports about program deficiencies directly to ACGME (see 2019 Accreditation Policies Subject 23.00).
Other Health Professions Education Accreditation Bodies	TBD	TBD	
Granting Agencies	Research Funding	NSF: requires reporting within 10 days of findings or determinations of sexual harassment by a principal investigator or co-principal investigator, or of administrative action (including administrative leave) taken after an investigation begins, whichever comes first (see discussion online). NIH: requires reporting of administrative actions that change the status of senior or key personnel on an NIH award (see discussion online) and requires prior approval of such a change in status.	

Guidance on Investigating Prohibited Conduct in the Context of Patient Care

Attachment 4 – UC Internal Information Sharing

Who (Purpose)	High Level Summary* (Timing)	Substantiated Allegation(s)**	Redacted Report† (Timing)	Unredacted Report‡ (Timing)	Notes/Comments
Supervisor of Complainant	X				High level summary produced as needed to implement interim measures; may occur at Initial Assessment or throughout as part of a resolution process. Only required where supervisor/executive/med ed is not part of the IRT.
Line Executive (Operational Oversight)	X				
Medical Education Dean, DIO, Program Director (Academic Evaluation)	X				
Student Conduct (Student Adjudication)				X (Notice of Outcome)	
Supervisor of Respondent & Chancellor or designee (Staff Adjudication)	X (Notice of Charges)			X (Notice of Outcome)	
Chancellor or designee (Faculty Adjudication)	X (Notice of Charges)			X (Notice of Outcome)	
Medical Staff (Peer Review Proceedings)	X (Initial Assessment)		X (Notice of Outcome)	X (Adjudication Proceeding)	
Standards & Promotions Committee (Professionalism Review and Process)			X (Notice of Outcome)	X (Adjudication Proceeding)	
Vice Chancellor for Health Sciences and, if different, Chair of Governing Body	X (Initial Assessment)	X (Notice of Outcome)			Only for cases of sexual violence or invasion of sexual privacy, for purposes of consulting with the CMO, CNO, and counsel to determine appropriate action under policies other than the SVSH Policy.
President/EVP (Escalation)		X (Notice of Outcome)			
Regents (Escalation)		X (Notice of Outcome)			
Risk Services (Report to Carriers and Third-Party Claims Administrator)	X (Initial Assessment)				Per approved claim form, Guidance on Investigating Prohibited Conduct in the Context of Patient Care, and location's Incident Response Plan
Regulatory Affairs (Patient Grievance and Sentinel Events Protocols)	CMO/CNO consult with IRT				
UC Legal and Risk Services (Defense of Claims and Litigation)	Unredacted copies of the investigation, findings, and any other relevant documents if a claim (including a writ) or other request for monetary damages is received.				

* A **high level summary** states whether a violation occurred, interim measures, and discipline recommended or imposed. Identifies respondent(s); identifies complainant(s) only by affiliation (e.g., faculty, staff, student, patient).

** A report of **substantiated allegations** summarizes any allegations substantiated against the respondent(s), states whether a violation occurred, identifies interim measures imposed, and describes discipline recommended or imposed. It identifies any respondent(s). Complainants are identified only by affiliation (e.g., faculty, staff, student, patient).

† A **redacted report** is a complete report of investigation, redacted only to protect complaint and witness identifiers, as well as highly sensitive information not relevant to the designated recipients' need to know.

‡ A **complete, unredacted** report is the original report with no modifications.