



SYSTEMWIDE TITLE IX OFFICE

OFFICE OF THE PRESIDENT
1111 Franklin Street,
Oakland, California 94607-5200

August 26, 2021

CHANCELLORS
ACADEMIC COUNCIL CHAIR GAUVAIN
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

RE: Systemwide Review of Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Colleagues:

Enclosed for systemwide review are proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment (“SVSH Policy”). As explained below, the revisions are to (i) comply with a new state law, Senate Bill (SB) 493, and (ii) better account for Prohibited Conduct in the clinical setting.

Because the proposed revisions are not extensive and most are legally required, management consultation was relatively limited. I am nonetheless grateful for the input of certain key stakeholder groups, such as the Title IX officers, CARE directors, Student Conduct directors, Title IX Student Advisory Board members, and colleagues in UC Health. I also worked closely with Eric Heng, Director of Student Policies and Governance, and partners in UC Legal.

Senate Bill 493. UC must comply with SB 493 by January 1, 2022. The legislation was authored by former Senator Jackson of Santa Barbara and sponsored by Equal Rights Advocates and the Women’s Foundation of California. It was motivated largely by concerns, which UC shares, about potential adverse effects of the U.S. Department of Education’s 2020 amendments to the federal Title IX regulations. Our policies and implementing frameworks already codify most of SB 493’s requirements. Some other requirements are met in practice but not currently written in policy. Implementing revisions to the SVSH Policy are therefore limited, and include:

- the addition of “sexual exploitation” as a form of Prohibited Conduct;
- limitations on UC’s use of no-contact orders that restrict a Complainant’s contact with a Respondent;
- a requirement that Confidential Resources inform a person who discloses Prohibited Conduct of their right to report to Title IX, and how to do so;
- the addition of clergy members and employees who report to CARE leadership to enumerated Confidential Resources;
- a statement that resolution processes under the SVSH Policy are not adversarial;
- a statement that the Title IX Officer will update parties periodically on the status of investigations;
- the addition of certain notice requirements when the Title IX Officer opens an investigation despite a complainant’s wishes;

- a statement that the Title IX Officer will consider whether systemic remedies are appropriate at the end of an investigation; and
- a requirement that locations notify volunteers and contractors who regularly interact with students of the SVSH Policy.

The University will meet certain additional SB 493 requirements via public-facing written guidance from the Systemwide Title IX Office and UC Legal. The guidance will primarily specify certain practices during the adjudication process, most of which campuses already follow. We will codify these practices in the investigation and adjudication frameworks for faculty, staff and students the next time we revise those procedures – most likely in response to anticipated changes to the Title IX regulations.

Clinical Setting-Related Changes. The University has dedicated significant effort and resources to the critical work of preventing, detecting and responding to Prohibited Conduct arising from the context of patient care. To further that work, certain proposed policy revisions are to better account for the clinical context. These revisions were reviewed last year by the [President’s Working Group on SVSH in the Clinical Setting](#). They primarily include:

- a requirement that all Responsible Employees report possible Prohibited Conduct that occurs in the context of patient care. Employees with heightened reporting obligations under the current SVSH Policy—faculty, Human Resources and Academic Personnel administrators, police, managers and supervisors, and Title IX personnel—already have this obligation;
- modified definitions of Prohibited Conduct that apply when allegations arise in the context of patient care. These definitions are already in use via guidance the Systemwide Title IX Office issued in December 2019, and will now be incorporated as policy via an appendix to the SVSH Policy;
- a provision that sexual assault during a clinical encounter is considered “aggravated,” along with use of force, violence or menace, deliberately causing or taking advantage of incapacitation, and misuse of complainant’s image. A determination that conduct is aggravated may affect the corrective action; and
- the addition of examples and of references to University policies and officials, regulations, and regulatory agencies relevant to the clinical setting.

Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

As the SVSH Policy also applies to students, Director Heng will facilitate circulation of the proposed policy revisions to Campus Student Affairs Policy Coordinators to ensure students also have an opportunity to review and comment.

We are required to comply with SB 493 by January 1, 2022. So that we may meet this timeline, kindly submit your comments to me at suzanne.taylor@ucop.edu no later than **Wednesday, November 24, 2021**. I am grateful for your partnership with this important undertaking.

Kind Regards,



Suzanne Taylor
Systemwide Title IX Director

Enclosures:

- 1) Presidential Policy on Sexual Violence and Sexual Harassment (clean copy)
- 2) Presidential Policy on Sexual Violence and Sexual Harassment (redline copy)
- 3) Model Communication

cc: President Drake

Provost and Executive Vice President Brown
Academic Council Vice Chair Horwitz
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Senior Vice President Bustamante
Executive Vice President Byington
Executive Vice President Adler
Vice President and Vice Provost Gullatt
Vice President Lloyd
Vice President Maldonado
Vice Provost Carlson
Vice Provosts/Vice Chancellors of Academic Affairs/Personnel
Title IX Officers
Deputy General Counsel Woodall
Deputy General Counsel Nosowsky
Associate Vice President Nelson
President's Working Group on SVSH in the Clinical Setting
Associate Vice Provost Lee
Assistant Vice Provosts/Assistant Vice Chancellors/Directors – Academic Personnel
Executive Director Baxter
Executive Director and Chief of Staff Henderson
Executive Director Silas
Chief of Staff Kao
Chief of Staff Levintov
Chief of Staff Peterson
Chief Policy Advisor McAuliffe
Director Heng
Director Grant

Director Roller
Director Sykes
Manager Crosson
Manager Smith
Analyst Durrin
Policy Advisory Committee