

# RESPONSIBLE EMPLOYEES FREQUENTLY ASKED QUESTIONS

## **What if I experience sexual misconduct?**

If you have experienced sexual violence, sexual assault, sexual harassment, dating/domestic violence or stalking, you can file a report or complaint. Or, if you choose not to, know that we have support services available for you. Learn more about your options [here](#).

## **What is the purpose of the SVSH Policy?**

UC's [Policy on Sexual Violence and Sexual Harassment](#) ("SVSH Policy") addresses UC's responsibilities and procedures with regard to sexual violence, sexual harassment, retaliation, and other behavior prohibited by the policy (collectively, "Prohibited Conduct") to help ensure an equitable and inclusive education and employment environment.

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

The SVSH Policy applies to all UC employees and students, at all UC locations, including campuses and medical centers, and to all UC programs and activities.

## **What constitutes "Prohibited Conduct" under the SVSH Policy?**

Prohibited Conduct includes sexual assault, relationship violence, stalking, sexual harassment, indecent exposure, invasions of sexual privacy, and sexual intercourse with a minor. For more detailed definitions of Prohibited Conduct, please refer to Section II.B. of the SVSH Policy.

## **Which UC employees are required to report sexual violence or sexual harassment to the Title IX Officer and are considered "Responsible Employees"?**

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:

Who May Have Experienced SVSH Prohibited Conduct?	Who Has a Reporting Obligation as a Responsible Employee?
A student (undergraduate, graduate, or professional)	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 (all patients are persons affiliated with the UC)	Faculty members, 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, licensed counselors in student counseling centers, 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.

### **When am I acting in my confidential capacity and therefore exempt from Title IX reporting duties?**

An employee may act as a confidential resource in some contexts and not in others. It depends on whether he or she 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 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 the individual 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 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. If your job responsibilities ordinarily would require you to investigate a report of disruptive behavior or intervene or resolve the issue, consult with counsel before taking any steps to assure compliance with all applicable laws and policies.

**Must I report sexual violence or sexual harassment even when the misconduct 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.

**Doesn't HIPAA preclude such reporting to Title IX when the misconduct 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 misconduct involves a patient. Pursuant to UCOP's [HIPAA Administrative Requirements Policy](#), 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 p. 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 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 policy on [Sexual Violence and Sexual Harassment](#), UC's policy on [Reporting Child Abuse and Neglect](#) (CANRA), [UC's Sexual Violence Prevention & Response website](#), and local bylaws and policies that govern individual campuses' internal reporting obligations. Campuses that wish to develop local guidance are requested to consult the Office of General Counsel or the Systemwide Title IX Office.