

**Year 2 Public Description of Work for
Action Collaborative on Preventing Sexual Harassment in Higher Education**

University of California, Office of the President

Addressing Sexual Misconduct in the Clinical Context

Relevant Rubric Area(s):

Improved Policies and Reducing Power Differentials

Description of Work:

There is an inherent imbalance of power and knowledge between physicians and their patients, particularly patients with relatively little experience with doctors. Patients frequently enter the therapeutic relationship from a place of vulnerability due to illness, and a need to disclose deeply personal information and subject themselves to sensitive physical examination. This vulnerability is heightened by the patient's trust in their physician, who holds the power to deliver care, prescribe needed treatment, and make appropriate referrals to specialists. As such, sexual misconduct by physicians, or other health care providers, in a clinical setting poses unique and critical challenges.

The University of California ("UC") is continually developing and improving its ability to prevent, detect, and respond to sexual violence and sexual harassment ("SVSH") across all of its operations. Because SVSH in the clinical setting presents unique complexities that warrant UC leadership's particular focus, President Emeritus Napolitano convened a Working Group with systemwide representation on May 31, 2019 to review UC's current policies and recommend action. This interdisciplinary team has worked to strengthen existing policies and procedures and undertake additional actions that create unambiguous expectations about appropriate behavior, clarify reporting requirements for suspicious activity and establish escalation paths whenever there are allegations of sexual misconduct by physicians or other health care personnel in our Academic Medical and Student Health centers. To that end, the Working Group has developed interim guidance, directives, and a presidential policy aimed at addressing SVSH in the clinical setting.

Amidst a rapidly changing legal landscape, UC's policy developments incorporated lessons learned from several recent high profile enforcement actions by federal agencies involving misconduct in the patient care setting. These cases clarified the application of Title IX and Section 1557 of the Affordable Care Act's prohibition against sex discrimination in the clinical setting. In December of 2019, The Office of the President issued Guidance on Investigating Prohibited Conduct in the Patient Care Context, which provides instruction on responding to SVSH alleged to occur in connection with clinical encounters. The Guidance on Investigations includes the following key initiatives:

- Incident Response Team ("IRT"): A directive to the Title IX Officer and Senior Academic Medical Center officials of each UC campus to form an IRT to help coordinate a trauma-informed, fair, effective and timely response to reports of sexual misconduct in the context of patient care; review trends; and identify areas of concern and recommended actions to address them.

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- Reporting Obligations: The Guidance makes clear the numerous legally-mandated reporting requirements. It also outlines considerations for the IRT to consider with respect to non-mandated reporting.
- Minimum Standards and Implementation Deadlines for Chaperone Policies: This Directive establishes minimum standards for chaperone policies at all UC clinical locations, including the requirement of a trained and independent chaperone for any Sensitive Exam of a patient age 8 or older, a chaperone made available for any other exam upon request, and documentation of either compliance with the chaperone requirement or the patient's informed decision to decline a chaperone.
- Boundaries Training, Procedural Guidelines, Patient Education and Other Controls to Prevent and Detect Sexual Misconduct in the Clinical Setting: This Directive outlines requirements for boundaries courses. Clinical locations are also developing or adopting standardized patient education materials for routine sensitive exams, and identifying best practices for preventing and detecting sexual misconduct perpetrated by or against special populations.

In addition to implementing the above reforms, the University continues to dedicate significant effort and resources to the critical work of preventing, detecting, and responding to SVSH arising from the context of patient care, including adoption of several recommendations from the National Academies' 2018 report on the Sexual Harassment of Women into future initiatives.

Website for further information (if applicable):

<https://sexualviolence.universityofcalifornia.edu/index.html>

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