

# Title IX Regulations

## FAQs

The U.S. Department of Education (DOE) issued new Title IX regulations mandating how schools across the country respond to complaints of sexual harassment, which includes sexual violence. This FAQ addresses common questions about the DOE Regulations and the impact on the UC community.

### What are the Title IX regulations?

Title IX prohibits sex discrimination in federally funded education programs and activities. The Title IX regulations tell institutions how to implement Title IX, including how to respond to sexual harassment complaints.

### When did the new Title IX regulations go into effect?

The regulations went into effect on August 14, 2020. Legal challenges may delay or stop implementation, and UC is supporting a legal challenge by the California Attorney General, however UC must implement beginning on August 14th.

### How has UC's SVSH Policy changed?

The *conduct* prohibited by the SVSH Policy has not changed, but the *process* UC uses to respond to some reports of sexual harassment has changed. Additional information on the SVSH Policy changes is on the next page.

### What will happen to pending SVSH investigations?

The regulations only apply to conduct that occurs after August 14, 2020. SVSH investigations pending before that date will proceed under the prior SVSH Policy and procedures. In addition, the regulations do not apply to new reports of sexual harassment if the underlying conduct occurred prior to August 14, 2020.

### Is harassment based on gender identity and sexual orientation prohibited?

Yes. The SVSH Policy now explicitly prohibits sex-based harassment, harassment on the basis of gender identity, sex or gender stereotyping, or sexual orientation. The regulations also prohibit sex-based harassment. UC interprets the regulations to prohibit the same categories of harassment now prohibited by the SVSH Policy.

### Does this change UC Responsible Employee duties?

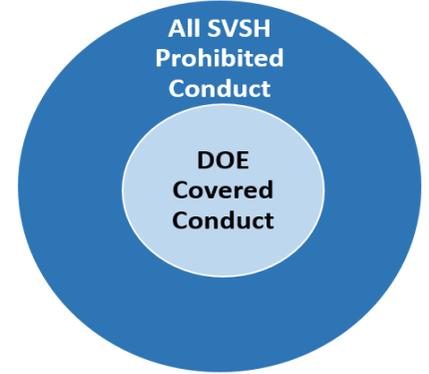
No. All SVSH Policy requirements regarding Responsible Employees remain in effect. All UC employees who are not confidential resources and become aware of possible sexual violence or sexual harassment of students **must report** the information to their local Title IX Office.

**UC is committed to combating all forms of sexual violence and sexual harassment**

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## ***Do the new regulations limit what is considered sexual violence or sexual harassment?***

The SVSH Policy prohibits sexual assault, sexual harassment, gender-based harassment, relationship violence, stalking, invasions of sexual privacy, other forms of sexual misconduct, and retaliation. These categories of behavior are called "Prohibited Conduct." The new regulations have definitions of sexual harassment and other forms of sexual misconduct that are narrower than Prohibited Conduct. These categories of behavior are called "DOE-Covered Conduct."



**The SVSH Policy will continue to cover all forms of Prohibited Conduct, including DOE-Covered Conduct.**

## ***Do the new regulations change how UC responds to reports of Prohibited Conduct?***

The scope of the SVSH Policy is unchanged, as is UC's commitment to preventing and responding to reports of sexual harassment from our community members. The SVSH Policy includes procedures that detail how we respond to reports of Prohibited Conduct, which may include providing resources and support services, conducting an investigation or other resolution process, and instituting discipline and other corrective action if a violation of the SVSH Policy has occurred.

The new regulations require institutions to follow particular procedures to respond to reports of DOE-Covered Conduct. These procedures are called the "DOE Grievance Process." So, UC will have two investigation processes: a DOE Grievance Process - which applies to formal complaints of DOE-Covered Conduct, and our existing SVSH formal investigation procedures - which apply to all other reports of Prohibited Conduct.

## ***What does the DOE Grievance Process require? What is different from existing SVSH procedures?***

Some of the steps required in the DOE Grievance Process are already a part of our existing SVSH procedures, such as providing written notice to the parties, the right to an advisor, and conducting a thorough investigation. Other required steps were not a part of our existing procedures. UC has revised our procedures to be fully compliant with the regulations, reflect our values, and protect our community from all Prohibited Conduct. More elements of the regulations and ) \ - 8 P

### **Definition of Sexual Harassment**

The regulations define sexual harassment as "unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to the recipient's education program or activity." The DOE definition is different than California state law and our SVSH Policy, which uses a severe *or* pervasive standard, and imposes a higher standard that may be harder to prove. However, sexual harassment that does not meet the DOE definition may still be addressed under the SVSH Policy.

### **Location of Harassing Conduct**

The regulations cover only sexual misconduct that occurs in a school's program or activity, while the complainant was in the United States. This excludes some off-campus conduct, for example, study abroad programs. The protections in the SVSH Policy are broader, cover on-campus conduct, conduct in a UC program or activity (wherever located), and off-campus conduct that creates a hostile environment on campus or in a UC program or activity.

### **Live Hearing and Questioning by Advisors**

The regulations require a live hearing to determine whether a student, staff or faculty respondent engaged in DOE-Covered Conduct. This was not previously required in faculty and staff cases, and has been added to the DOE Grievance Process for these respondents. The live hearing also requires questioning by parties' advisors. This means, for example, that if the complainant has questions for the respondent, the complainant's advisor can ask them at the hearing. If a party does not have an advisor at the hearing, UC will provide a person to read the party's questions.