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UC Berkeley Responds to Title IX changes: protections are still in place

A statement from Cherie Scricca, Kellie Brennan, Sharon Inkelas and Mari Knuth-Bouracee

As campus professionals who work daily to address matters of sexual misconduct, relationship violence and other harms within our campus community, we are painfully aware of the confusion and anxiety the recent changes to the U.S. Department of Education Title IX policy have fostered in the community, especially with students.

Some of the changes to the federal policy, which went into effect Aug. 14, 2020, are indeed concerning. However, learning the facts about how we have incorporated the new regulations into the new [UC Sexual Violence and Sexual Harassment policy \(SVSH policy\)](#) may allay some fears.

The following information should clear up some of the confusion.

- 1. The university is not prohibited from addressing behavior that falls outside of the new federal regulations.** The new Appendix IV of the UC Sexual Violence Sexual Harassment Policy (SVSH) outlines the process we will use to address the subset of sexual harassment and sexual violence concerns governed by the new federal regulations. However, the UC SVSH Policy continues to cover its same, broader, set of prohibited sexual harassment and sexual violence conduct as before the initiation of the new Title IX regulations, including off-campus conduct and sexual harassment.
- 2. Individuals continue to have access to supportive measures and resources, just as before.** This is true for survivors and those responding to a complaint.
- 3. Survivors continue to have choice in whether to pursue a formal complaint under the SVSH policy, and the university respects that choice.** Generally, survivors may also choose to engage in alternative resolution of a complaint, which includes options across the conflict resolution spectrum, as appropriate given the severity of the allegation.
- 4. The Department of Education requires a new hearing process for conduct covered under the new Title IX regulations.** This includes live hearings with cross-examination of parties and witnesses by the other party's advisor. However, "live" does not mean public. It is a closed-door, private hearing.
- 5. A party's advisor may be someone who is an attorney, but they are not treated as and cannot act as an attorney in the process.** Both complainants and respondents may have an "advisor" of their choice with them during the process. All advisors must follow rules of decorum and respect in a

hearing, or they may be removed. The hearing officer ensures that parties do not have to answer inappropriate or irrelevant questions.

- 6. It is true that the new Title IX regulations give colleges and universities permission to do less to address sexual misconduct in their community.** At Berkeley and across the UC system, however, our values are clear and our commitments are firm. We are dedicated to creating and maintaining a safe community and a fair process. We can and do rely on other existing policies and laws that allow us to take action even when the new Title IX regulations do not.

There is no doubt that there are some areas of the new regulations and UC SVSH Policy that will cause individuals who have experienced sexual harassment and sexual assault concern, stress and anxiety about both making a report and going through the investigation and resolution process to address it. Thus, it is critical that survivors have accurate information about our processes and the resources available to them. It is then that individuals can make an informed decision that, hopefully, will assist them in exercising their rights and accessing the services and resources available to them.

Individuals who wish to file a formal report should, as always, contact the [Office for the Prevention of Harassment and Discrimination \(OPHD\)](#) by emailing ask_ophd@berkeley.edu.

We encourage anyone who has experienced sexual harassment or sexual assault to seek survivor support services from the [PATH to Care Center](#), a confidential resource. The caring professionals there can offer support and guidance every step of the way through the process, if an individual so chooses, as well as through a number of healing options such as healing circles, yoga and workshops.

Individuals who have been charged under the SVSH policy can expect that they will be treated fairly, and are encouraged to seek information and resources from respondent services.

Students who are worried they have caused harm to another person and would like help reflecting on changing behaviors can contact UHS [Social Services](#).

You can learn more about the new UC SVSH policy at ophd.berkeley.edu and about campuswide resources at svsh.berkeley.edu.

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