

# **Chancellor's Senate/Administration Committee on Sexual Violence and Sexual Harassment**

Report of Findings and Recommendations

**JANUARY 2017**

**Berkeley**  
UNIVERSITY OF CALIFORNIA

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# Executive Summary

## General Observations

Sexual harassment is an abuse of power that violates the civil rights of those who are subject to it. It must not be tolerated in our community, and those who commit such acts of harassment should be expeditiously and appropriately sanctioned, as is required by Federal and State law, and in accordance with campus policies. Sexual assault is a criminal act that should be reported and punished in accordance with Federal, State, and local law.

Women and minorities (both ethno-racial and sexual) suffer disproportionately from these abusive behaviors, and even more so those with disabilities. These groups live and labor in conditions of inequality--both formal and informal--that make them more vulnerable to abuses of power than individuals and groups with greater formal power and social status. Women, minorities, and the disabled are also less likely to find sufficient sources of institutional support to protect them from such abuse or services to help to remediate their suffering.

These forms of abuse are more prevalent on College and University campuses than many of us are aware or prepared to recognize. In an "Open Letter" of January 5, 2017, Vice-President Joe Biden reminds us that "1 in every 5 women in college experience rape or sexual assault. And for female transgender and bisexual students it's even worse: 1 in 4 transgender students experience sexual assault in college. For bisexual students it's 1 in 3."<sup>1</sup> A 2007 study submitted to the U.S. Department of Justice reported that 19% of undergraduate women experienced sexual *assault* while in college.<sup>2</sup> A 2014 American Association of Universities study of 27 institutions of higher education found that rates of nonconsensual sexual contact were as high, or higher, than those reported in previous surveys, and noted that rates of sexual assault are highest among undergraduate women and those identifying as transgender, genderqueer, non-conforming, questioning, or as categories not listed.<sup>3</sup> It is important to note that this same survey also reported that 28% or fewer incidents of sexual violence and sexual harassment are reported to an official organization or agency, such as a Title IX office or the police. While most survey and reporting data is limited to students, there is considerable evidence that all members of the campus community--faculty, postdoctoral students, visiting scholars and staff--experience these

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<sup>1</sup> See: [www.NotAlone.gov](http://www.NotAlone.gov), and [www.ItsOnUs.org](http://www.ItsOnUs.org).

<sup>2</sup> Christopher P. Krebs et. Al., *The Campus Assault Study: final Report* xiii (National Criminal Justice reference Serv., October 2007) available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>

<sup>3</sup> David Cantor, ed. Al. *Report on the AAU Climate Survey on Sexual Assault and Sexual Misconduct* [http://www.aau.edu/uploadedFiles/AAU\\_Publications/AAU\\_Reports/Sexual\\_Assault\\_Campus\\_Survey/Report%20on%20the%20AAU%20Campus%20Climate%20Survey%20on%20Sexual%20Assault%20and%20Sexual%20Misconduct.pdf](http://www.aau.edu/uploadedFiles/AAU_Publications/AAU_Reports/Sexual_Assault_Campus_Survey/Report%20on%20the%20AAU%20Campus%20Climate%20Survey%20on%20Sexual%20Assault%20and%20Sexual%20Misconduct.pdf)

behaviors more frequently than is reported. Vice-President Biden writes, "These numbers are unacceptable and it is on us to make it stop."<sup>4</sup> The members of this Committee agree.

If UC Berkeley is to make good on its promises of inclusion and equal opportunity it needs to do everything in its power to eliminate these forms of abuse of power and to mitigate the inequalities that enable them. It needs to offer the right forms of institutional support for those who suffer. We therefore have an obligation to create and maintain an environment in which sexual violence and sexual harassment are contrary to the shared norms of the community. When violations do occur, the campus must respond swiftly, equitably, and holistically. We should comply with our legal obligations, but we should not be satisfied merely to comply with those obligations. The health and well being of our community, and particularly of survivors, demand more.

Toward this end, Chancellor Nicholas Dirks announced the formation of the Chancellor's Senate/Administration Committee on Sexual Violence and Sexual Harassment in April 2016, and charged it with reviewing and making recommendations to improve all campus services, policies, and practices relating to the prevention, adjudication, and sanctioning of sexual violence, harassment and assault against students, staff and faculty on the UC Berkeley Campus. In formulating its recommendations, the Committee was guided by a set of general objectives and principles. Our overarching goal in this report is to encourage campus to strengthen its efforts in norm change and prevention, to broaden our educational efforts beyond training toward compliance, and to aspire to more than compliance. In the end, we should aspire not only to prevent and sanction SVSH violations, but to the higher goal of insuring the well being of both individuals members of our community and our community as a whole.

## Principles

**The first duty of campus leadership is to do everything in its power to prevent abusive sexual behavior and to ensure the safety and well being of all members of our community.**

The campus should aim to foster an environment in which no one's personal, intellectual, or professional development is hampered by illegal, or other inappropriate forms of behavior. This principle aims to protect members of our community from becoming victims of sexual violence and harassment. We should foster preventative practices that inculcate a clear understanding of what are, and what are not, appropriate and legal behaviors. At the same time, we should help members of our community to identify those circumstances in which risky behaviors are more likely to occur, such as the combination of common university social situations with the consumption of alcohol, and educating the entire community about such ecologies of risk. Campus awareness activities should aim not only to insure compliance, but also to effect a change in campus culture by educating the community about the nature of the problem and the behaviors that create it.

**The Committee was guided by the second principle that people with greater power should be held to higher standards of behavior.** Although different policies (stemming from UC

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<sup>4</sup> Joe Biden, "A Call to Action for College and University Presidents, Chancellors and Senior Administrators: Step Up on Sexual Assault," January 5, 2017.

system-wide rules, collective bargaining agreements, and many other sources) govern discipline for different types of respondents, those policies should be applied with the goal of horizontal equity. That is, respondents who are similarly situated should face similar penalties for similar types of misconduct. The notion of “similarly situated” should take into account the previous principle: people with more power are differently situated and should be held to higher standards of behavior and accountability. By the same token, some members of the campus community are structurally unequal in their vulnerability to sexual violence and sexual harassment abuses, including but not limited to staff in potentially vulnerable positions, early career scholars (e.g. graduate students, postdoctoral fellows, and junior faculty), people of color, sexual and gender minorities, as well as the differently abled. Targeted support should be dedicated to these more vulnerable groups.

**Our third principle is that complainants should not end up worse off because they reported, whether or not the behavior they reported is found to be a violation of the policy.**

This principle is broader than just a reiteration of the ban on retaliation. There are many ways—short of retaliation—that a complainant might suffer on account of making a report. Campus leadership should be proactive in identifying and preventing these problems, and must properly and adequately address these problems when they arise. Remedies for violations of sexual violence and sexual harassment policies and laws should include not only discipline for violators of the policy, but also interventions directed at ensuring that the complainant and the community emerge better off following formal resolution of complaints; this includes interventions that aim to reintegrate respondents within their respective communities.

With the aim of formulating recommendations that conform to these principles, the Committee divided its work into five areas of concern, with a working group devoted to each, as follows: Prevention, Education, and Training; Complaint Resolution, Policy, and Discipline; Survivor Care, Support and Social Healing; Data and Records Management; Graduate Students and Postdoctoral Scholars. We conceived of the section on Graduate Students and Postdoctoral Scholars as a case study in which the areas of concern covered in the reports of the other working groups would be reviewed as they pertain to members of the community who are particularly vulnerable to abuses of power in violations of sexual violence and sexual harassment policy and law.

## **Recommendations**

**General:**

To insure holistic oversight and monitoring of all aspects of Title IX obligation (inclusive of Athletics, SVSH, and Fair Employment) and campus climate, we recommend the creation of a Special Campus Advisor on Title IX who reports directly to the Chancellor.

We recommend designating the office of the Special Advisor as the official keeper of all campus SVSH records and ensuring that all campus actions related to SVSH are reported to that office, including formal discipline and early/alternative resolutions, as well as training and prevention activities, and care and support services.

We recommend engaging an independent research firm to conduct an SVSH survey for the entire campus community (including students, postdocs, faculty, and staff) in 2017 to permit to benchmark our campus with respect to other universities and serve as a baseline for measuring the effectiveness of our interventions.

### **Education and Awareness:**

We recommend greater emphasis on education, as well as training, in our prevention efforts.

We recommend a required one-unit course for incoming undergraduates concerning SVSH and other aspects of personal wellbeing and social ethics, which would also include stress management and responsible alcohol use.

To promote greater interpersonal accountability in the workplace and classroom, to the extent possible, we recommend supplementing current SVSH training courses with in-person, localized, and sustained education about SVSH within units or clusters of related units. This would include participation of all status groups within the unit: staff, faculty, graduate students, non-faculty academic employees, and postdoctoral scholars who would be trained together.

We also recommend expanding the scope of the American Cultures (AC) program to formally recognize gender and sexuality as components of social diversity and intersectionality, in consultation with the Academic Senate Committee on Courses and Instruction, the AC program, the Department of Gender and Women's studies, and other academic units.

We recommend the development of a more holistic SVSH educational model that promotes the healthy re-engagement of respondents with the university and its members.

We recommend a social norms campaign that would include advertisement and awareness campaigns, bystander intervention training, and public events that signal community values and standards.

### **Complaint Resolution and Discipline:**

We recommend that the Academic Personnel Manual (APM) "three-year rule" be eliminated or revised with regard to SVSH claims. Survivors may still report violations after the three years have run, and, under Title IX, the University will still have an obligation to stop the harassment, prevent its recurrence, and remedy the harm. The current three-year rule potentially limits the university's ability to impose faculty discipline as part of its legal obligation.

We recommend that the campus Title IX Office for the Prevention of Harassment and Discrimination (OPHD) investigation be treated as the investigation of record for all SVSH complaints, regardless of whether the respondent is a faculty member, a staff member, or a student.

We recommend that complainants receive notice and have an opportunity to provide input in any early resolution process. We also recommend that the university limit the period of time for early resolution.

We recommend that procedures be developed that better define the circle of those who need to know about complaints, investigations, findings, and resolutions. The goal is to make better use of expertise on campus and limit the potential harm to the complainant and the community.

We recommend against mandatory sanctions for particular violations because their inflexibility may deter reporting. The recently introduced mandatory UC minimum sanctions imposed in the SVSH Student Adjudication Framework may also create a lack of horizontal equity. It should be carefully monitored and evaluated within three years by the office of the Chancellor's Special Advisor.

We support the UCOP directive to create a 'Campus Peer Review Panel' to provide greater community input and advice to the Chancellor in determining appropriate disciplinary actions for faculty. We also recommend that guidelines be established for consistent and equitable imposition of discipline.

We recommend that guidelines distinguish among and provide guidance on interim, administrative, and disciplinary measures that can be taken regarding SVSH complaints.

**Care and Survivor Support:**

We recommend creating new confidential resources designated specifically for staff, faculty, graduate students, and postdoctoral scholars.

We recommend strengthening support services for complainants during the complaint resolution process.

We recommend improvements in campus communication about Title IX reporting and Title IX process, with the aim to demystify and therefore increase the likelihood of reporting.

We recommend designation and training of unit-level confidential resources.

We recommend designation of discretionary funding to the PATH to Care Center for emergency survivor support.

# Report of Recommendations

## I. Prevention, Training, and Education

UC Berkeley should sustain a set of policies and practices with respect to sexual violence and sexual harassment that aim above and beyond legal compliance with Title IX and other relevant Federal, State, and local mandates. While we must fully comply with the law and do everything in our power to uphold the rights of those who have been subjected to abusive behaviors and to sanction perpetrators appropriately, our first duty should be to prevent these kinds of abuses from occurring in the first place.

Prevention initiatives seek to reduce, and ultimately eliminate, instances of SVSH by creating and sustaining a community culture that reinforces shared values and norms regarding respect, consent, and safety. The first cornerstone of effective campus prevention efforts must be strict enforcement of Title IX policies. It must be made clear that abusive behavior of a sexual nature will not be tolerated, regardless of the status of the perpetrator. But enforcement of policy alone is not enough. To be fully effective enforcement must be coupled with education.

Extensive interviews with campus stakeholders as well as a review of relevant literature led this committee to conclude that our current prevention, training and awareness programs are in need of improvement. We recommend two broad strategies: 1) more holistic educational initiatives and 2) campus social norms campaigns. While single-session trainings (such as on-line courses or BearPact) are a necessary starting point for developing awareness and prevention skills, in order to be effective educational initiatives must be broader in scope, sustained over time, and locally offered so that they create shared understanding and accountability within relevant campus communities. These initiatives need to move beyond training members of community in the "dos" and "don'ts" of Title IX policy. They should aim, as well, to *educate* all campus constituencies about the social and cultural dynamics that produce power differentials in sexual relations and the differential experiences of sexual behaviors in socially and culturally diverse environments. These efforts should be mindful of potential heteronormative or cisgender biases in course content and should be thoughtfully designed to be inclusive of all members of our campus community.

There is considerable evidence that community standards campaigns--including advertising and awareness campaigns, bystander intervention trainings, and public events--are effective strategies for communicating and supporting shared values and norms. The PATH to Care Center should be fully supported in its education and awareness mission, and the Committee recommends strengthening the consultation and coordination of prevention and education efforts among the PATH to Care Center, the Gender Equity Resource Center, and the Department of Gender and Women's Studies.

## **The Role of the Institution**

Institutional commitment is a key aspect of a successful prevention strategy, involving buy-in and support from administrative authorities, allocation of adequate financial resources, and consistent institutional messaging signaling the university's commitment.<sup>5</sup> This committee thus recommends that our campus:

1. *Invest in fund-raising efforts specifically aimed at funding sustainable prevention efforts (e.g., a targeted capital campaign).*
2. *Develop clear statements of campus standards and policies concerning SVSH for inclusion in university communications, including mission statements, syllabi, employee evaluations, and other documents.*
3. *Affirm the administration's commitment to creating a safe learning community for all members of the university as opportunities may arise (e.g., public speeches, ceremonies).*

## **Leadership training and education**

All members of our community who serve in academic or administrative leadership positions, from the Chancellor to Department Chairs and Chief Administrative Officers to Directors of Research Units and Laboratories, should receive specialized professional training regarding Title IX and campus SVSH policies and procedures. We understand that new training for responsible employees is already under development, and we recommend that it incorporate this information. Specifically, this information should include (we detail these points here for clarity even if some of this information may currently be provided):

- a. How OPHD decides whether or not to launch an investigation. This should explain the technical meaning of a "formal investigation" under the policy, and the possibility of "alternative resolution." It should clarify that if the complainant requests that no investigation occur, OPHD will only proceed with an investigation in limited circumstances where there is a potential risk to the broader campus community. It should also make clear that if a "responsible employee," out of an abundance of caution, reports facts that do not amount to a violation, OPHD will not launch an investigation if such an investigation is not warranted by the facts alleged. It should also make clear that allegations that are insufficient to prompt a formal investigation (because, for example, a student has reported problematic behavior to a responsible employee but not identified a perpetrator, or has alleged conduct that is not prohibited) do not go into a proverbial black hole, but are still recorded for purposes of identifying systemic climate problems in departments and patterns of behavior by individuals (which could generate responses including department-wide training and other interventions).

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<sup>5</sup> Buelow, R. (2016). Improving Campus Sexual Assault Prevention: A Best Practice Guide for Administrative Leadership: <http://everfi.com/sexual-assault-prevention-guidebook/>

- b. The actual expected timeframe for investigation and discipline—including whether exceptions to the SVSH policy’s 60-day timeframe for investigation are often granted – so that complainants can have a realistic picture of what to expect and are not surprised if the process takes longer than the 60 days allowed by policies. We understand that in the past exceptions have frequently been granted in light of limited resources at OPHD, and we hope this will be less common going forward with augmented resources. When an exception is granted, that fact and the expected duration of the extension should be communicated to the complainant, respondent, and those with a need to know, as discussed above.
- c. The steps and decision makers involved in the investigation, adjudication, and discipline processes for different types of respondents.
- d. The extent to which allegations and complainant identity can be kept confidential (and when and why they cannot be).
- e. OPHD’s practice of providing status report to complainants--i.e. what information complainants can expect to receive, and when, on the status of OPHD’s response to their reports.
- f. The prohibition on retaliation (including what constitutes retaliation, and how and where to report retaliation), the potential availability of interim measures during the course of the investigation, and other means of protecting victims and witnesses.
- g. How campus interprets the scope of Responsible Employees’ duties and what consequences may flow from failure to report. We understand that OPHD is seeking system-wide guidance to help clarify these issues, which would be welcome. This should include clarification of the circumstances under which students who are also staff are required to report potential violations of the SVSH policy (for example, situations in which an undergraduate student reports possible harassment to the GSI who is that student’s teacher, but not situations in which a fellow graduate student who is a friend tells the GSI about harassment unrelated to the GSI’s role as an instructor).
- h. That when alternative resolution is pursued, the complainant has the right to request a formal investigation at any time, but that the complainant’s request is not determinative.<sup>6</sup>

## **Academic and Educational Initiatives**

A consistent theme from our interviews was dissatisfaction with mandated SVSH trainings. A common characteristic of such trainings is that they are delivered in a single session and are often impersonal, leading many community members to view them as ineffective, burdensome, or both. Community members affected by SVSH expressed feeling further harmed by the lack of engagement and noted ridicule or disdain others express towards these trainings. This committee thus recommends supplementing current SVSH training programs (both in-person and on-line) with broader educational efforts and opportunities that are *sustained*, *holistic*, and *localized* (e.g., in dorm floors, academic departments). These educational efforts should be an

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<sup>6</sup> See systemwide SVSH policy page 11. The Office of Civil Rights Dear Colleague Letter of April 4, 2011 specifically notes this as well.

opportunity to learn about why such violations occur, environments and behaviors that make them more likely to occur, and the kinds of preventative efforts and remedies that are most effective.

During our conversations with stakeholders, it became apparent that a widely accepted belief is that SVSH issues fall outside the domain of academics, yet they contribute to an unwelcoming classroom environment. *Identity Matters* and *Respect is Part of Research* (see below) are programs aimed to counter this belief; however, these efforts are undertaken in a broader institutional context that disaggregates SVSH prevention, education and awareness, as the exclusive purview of “Student Affairs” and thus separated from academic “Teaching and Research” activities. While institutional divisions of labor are inevitable in an organization of the scale of UC Berkeley, this division of labor creates a structural gap in awareness and experience among faculty, staff and students, with little conversation, awareness and accountability among these groups about SVSH issues--they receive different trainings, different information and have different complaint resolution processes. Our educational efforts should aim to mitigate the "three cultures" problem to the extent that is appropriate and possible.

The Department of Gender and Women's Studies and other academic units offer a rich set of courses that focus on these topics at both the undergraduate and graduate levels (e.g., <http://womensstudies.berkeley.edu/undergrad/course>), but their impact is limited to students who elect to make this a part of their education. The Committee believes that this academic expertise and instructional effort could have a much broader impact if topics of gender and sexuality and intersectional identities were formally incorporated into the American Cultures (AC) program. The AC program has successfully integrated issues of race, ethnicity, and cultural diversity into the academic experience of all undergraduate students. The Committee recommends both the incorporation of gender, sexuality and intersectional identity into the AC program, as well as the creation of incentives for faculty to develop new course offerings that examine the role of gender and sexuality in the context of other disciplines, so that these topics and issues become fully integrated into the academic experience of all students.

To summarize, the Committee recommends:

4. *Formal incorporation of topics relating to gender, sexuality, and intersectionality as integral modules of the AC curriculum.*
5. *Incentives for faculty to create new course offerings examining the role of gender and sexuality in the context of other disciplines.*

Many of those we interviewed stressed that SVSH does not occur in isolation; rather, it often intersects with other aspects of campus life (e.g. responsible alcohol and drug use, stress, financial vulnerability). UC Berkeley has already begun exploring the introduction of a one-unit required “wellness” course for incoming undergraduates that would be held over the course of a semester. This committee recommends exploring a similar multi-session series for other campus constituencies, including graduate students, postdocs, staff, and faculty.

The Physics Department has already created a program called “Respect is Part of Research,” that was developed and is run by graduate students. This program both educates graduate students at the beginning of the school year and creates visible, well-known points of contact for students who might have concerns about SVSH. This committee recommends establishing similar groups in other campus units or groups of units, and expanding the number and frequency of these opportunities over the course of the academic year. The Committee further recommends making program participation a mandatory part of graduate student, postdoctoral, faculty, and staff SVSH educational programs.

To insure that these programs remain both local and sustainable, the Committee recommends identifying two to three individuals within academic departments, groups of departments, divisions or schools--two who are more permanent (e.g., a faculty member and GSAO) and one who rotates (e.g., a graduate student)--to serve as local SVSH “resource specialists.” These resource specialists should be familiar with campus resources and trained in crisis management by the PATH to Care Center. We further recommend that these “resource specialists” be explicitly added to the list of campus 'Confidential Resources' and therefore be exempt from “responsible employees” reporting mandates so that students and others may come to these specialists for confidential advice regarding SVSH concerns. To summarize:

6. *Establish a one-unit wellness course requirement for incoming undergraduates that includes SVSH topics alongside other developmentally relevant topics (e.g., stress management, financial independence, healthy relationships, responsible alcohol use).*
7. *For non-undergraduates, facilitate localized, sustained SVSH education and training at the unit level.*
8. *Identify and train permanent and rotating “resource specialists” who would receive training from the PATH to Care Center and who serve both an educational role and as local confidential points of contact for SVSH concerns.*
9. *Encourage participation in educational programming by members of the community. For graduate students, this might be required coursework; for faculty, postdocs, and staff, this might fall under rewarded professional development.*
10. *Where possible, incorporate SVSH education into existing routines, such as faculty meetings, to signal in an on-going way that such education is a departmental expectation and norm.*
11. *Develop and facilitate educational programming at the unit level so that people are not only recipients of information, but also have the opportunity to engage in open dialogue and discussion, particularly concerning so-called “grey areas” where people are unsure as to how to behave. Provide trained facilitators for community dialogue in such instances.*

## **Social Norms Campaigns**

A critical part of prevention efforts is effectively communicating clear community standards to insure that there is shared understanding of:

- Abuses of power
- Appropriate interpersonal behavior
- Behavior that is not tolerated

- Disciplinary consequences for SVSH violations
- Bystander intervention strategies
- Language or phrasing to signal discomfort or unwanted behavior
- Available resources for SVSH concerns and reporting

Features of social norms campaigns should include:

- Community leaders signaling support
- Community members signaling acceptance of these norms and participation in such campaigns.
- Content generated and agreed upon collectively by the community

Social norms campaigns can be targeted at both the campus level and at the level of campus units. At the campus level, for example, the recent rollout of the “It’s On Us” campaign contained many of the features recommended above. Campus-level campaigns can be disseminated through banners, university communications, and social media. At the unit level, the committee recognizes the Physics Department’s “Identity Matters” campaign, developed in consultation with the Physics community and rolled out in visible spaces within the department (e.g. decals on doors, posters).

Social norms campaigns are not limited to publicity campaigns; they also include special public events that educate and communicate community values and standards. Examples of public events include conferences, speaker series, performances, circle practices, and other intellectual endeavors. In support of such social norms campaigns, the committee recommends:

12. *Encouraging campus level events and communications and unit level activities that champion and foster healthy interpersonal behaviors and enhance awareness of our shared responsibility--for example, more widespread public posting of the campus honor code.*

13. *Design and oversight of campus level campaigns should be coordinated by the PATH to Care Center in collaboration with the Special Advisor to the Chancellor and the Chancellor's Office, so as not to oversaturate the campus, and to maximize effectiveness.*

## **Risk Prevention**

Risk prevention differs from education in that it is targeted toward promoting the safety of potential victims of SVSH in contexts where they might be in danger. The Committee recommends on-going review of campus measures by the Special Advisor so as to insure that measures taken to improve access to emergency assistance and to make reporting of SVSH easier are fully and effectively implemented and sustained.

Given the ubiquity of mobile devices, the Committee recommends exploring the adoption, if appropriate, of a mobile application that can provide these functions for the entire campus community. It could be a stand-alone app (e.g., [Circle of Six](#)) or a customized solution created specifically by and for the community (an example is [SafeSpace](#), which was created and launched at Berkeley as a result of the Big Ideas competition in Spring of 2016). Integration of these functions into existing apps already in use by the community (e.g. [Wildfire](#)) is also a

possibility. We note that risk prevention needs to include clear messaging that safety is not only the responsibility of survivors, but of the community as a whole. There is good evidence that bystander intervention training is highly effective.<sup>7</sup>

In addition to mobile platforms, the Committee also recommends making resources for reporting, emergency help and survivor support services easily accessible through electronic resources that students commonly use, including CalCentral and bCourses.

## **Implementation and Organizational Support**

The PATH to Care Center currently coordinates all campus prevention, education and awareness, in addition to providing confidential survivor care and advocacy services. The Committee concluded that this makes sense, given the overlap and shared expertise between them (e.g., resource specialists educate, but are also potential first points of contact). The Committee therefore recommends maintaining both of these SVSH functions within the PATH to Care Center.

The PATH to Care Center is functioning with very limited staff and program resources, given the campus demands for its services. The Committee has concluded that greater and more stable resourcing of the Center is needed. Moreover, if the recommendations made here with respect to prevention, education, and awareness, along with those proposed in section III below related to care, survivor support and social healing, are to be implemented, it would significantly expand the mandate and the services expected of the PATH to Care Center. The Committee therefore recommends:

14. *That relevant campus leaders work closely with the PATH to Care Center staff, the Coordinated Community Review Team and the Chancellor's Special Advisor to propose a staffing plan and budget that is consistent with the mandate and expectations of the PATH to Care Center.*

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<sup>7</sup> References and additional resources regarding prevention, education and awareness: Buelow, R. (2016). Improving Campus Sexual Assault Prevention: A Best Practice Guide for Administrative Leadership: <http://everfi.com/sexual-assault-prevention-guidebook/>; White House, Resource Guide and Recent Efforts to Combat Sexual Violence on College and University Campuses: <https://www.whitehouse.gov/the-press-office/2015/09/17/fact-sheet-resource-guide-and-recent-efforts-combat-sexual-violence> ; Centers for Disease Control and Prevention, Sexual Violence: Prevention Strategies: <http://www.cdc.gov/violenceprevention/sexualviolence/prevention.html> ; U.S. Department of Justice, Sexual Assault on Campus: What Colleges and Universities Are Doing About It: <https://www.ncjrs.gov/pdffiles1/nij/205521.pdf> ; American College Health Association, Addressing Sexual and Relationship Violence on College and University Campuses: [https://www.acha.org/documents/resources/guidelines/Addressing\\_Sexual\\_Violence.pdf](https://www.acha.org/documents/resources/guidelines/Addressing_Sexual_Violence.pdf).

15. *Campus should identify the funding necessary to put the PATH to Care Center on a solid financial footing.*
16. *The Special Advisor should be charged with monitoring campus prevention efforts and with re-assessing campus outcomes and needs in one year and three years.*
17. *The designated unit level "confidential resource specialists" proposed above should have a dotted reporting relationship to the PATH to Care Center and meet regularly with the PATH to Care Center prevention staff to insure consistent training of these specialists, as well as good coordination between campus and unit level education and awareness programs.*

## II. Complaint Resolution, Policy, and Discipline

Our research and consultations with relevant experts regarding UCB SVSH complaint resolution processes, discipline, and sanctions revealed concerns in four broad areas: 1) issues regarding power and equity; 2) issues related to reporting; 3) the need to provide more support to campus community members; 4) and issues related to the complaint resolution process.<sup>8</sup> With regard to power and equity, our consultations revealed strong concerns about abuse of power and retaliation against those who report violations of the SVSH policy, as well as frustration with aspects of our complaint resolution procedures that seem to reduce horizontal equity across different groups on campus.

Our recommendations regarding *power and equity* are directed at these concerns. With regard to reporting and the need for support, our consultations revealed concerns about factors that may be reducing reporting, such as lack of clarity about the Title IX definition of a “responsible employee,” insufficient confidential resources for all groups on campus, and the structure of and perceptions about campus interpretation of policies. Consultations also indicate a need for more information sharing, better communication, and for more support to complainants, respondents, and campus communities affected by SVSH over the course of the complaint resolution process. Our recommendations regarding *reporting and support* are directed at these concerns. With regard to the *complaint resolution process* itself, it became clear that the fragmented and decentralized process that follows a finding of a violation of the SVSH policy may allow important concerns to fall through the cracks, can produce delay in resolution of cases, and is not making the best use of the expertise on campus. Our recommendations regarding improvements to the complaint resolution process are directed at these concerns.

We are aware that there are ongoing UCOP Systemwide Task Forces at work on staff and faculty issues regarding SVSH, and we have noted places where we concur with recommendations from those task forces. It may be useful to revisit these recommendations after the completion of those processes.

### Power and Equity

1. *Implement a Stronger Message and Protections Regarding Retaliation:* Because our consultations suggested that fear of retaliation deters reporting, we recommend stronger protections against retaliation for complainants as well as for third party reporters and other witnesses. The University of California SVSH Policy states that “[r]etaliation includes threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial or disciplinary processes provided for in this Policy” (page 5). Protections against retaliation should include campus-specific guidelines in addition to the system-wide policy,

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<sup>8</sup> In the appendix we summarize the themes from the consultations that support these recommendations.

however. At the very least, when an investigation is initiated, the complainant and respondent should be sent a written notification describing forbidden forms of retaliation, explaining how and to whom to report retaliation in response to their complaint, and specifying what may happen if the respondent is found to have retaliated against the complainant or another. This notice should make clear that retaliation is a separate violation that does not depend on whether the original complaint leads to a finding of a SVSH policy violation.

2. *Eliminate or revise the APM "Three-Year Rule" as It Applies to SVSH:* Because we are concerned that failure to report violations to OPHD promptly may be creating problems with application of the so-called “three year rule” in APM-015, we recommend that the University eliminate the three-year rule altogether for violations of the SVSH policy. The current three-year rule prohibits disciplinary action against a faculty member if more than three years have passed since the Chancellor knew or should have known of the alleged violation. A proposed revision currently under Systemwide Review would clarify that the Chancellor is deemed to know of an SVSH violation when it is reported to OPHD (as the campus Title IX Office) or to any academic administrator at the level of department chair or above. The rule, in its current form or as amended, does not adequately contemplate the University’s particular obligations regarding sexual harassment and sexual violence. It would impose a time limit on faculty discipline even in a case in which an administrator failed to notify OPHD of allegations and, as a result an investigation, was never launched. In these circumstances, the rule would limit the University’s ability to impose discipline even in a case of extreme conduct about which the respondent was never subjected to any type of inquiry. In such cases, preserving the three-year rule could undermine the University’s ongoing compliance obligations and ethical responsibilities to the campus community.

As an alternative short of eliminating the three-year rule altogether in SVSH cases, we recommend that APM-015 (and related Senate Bylaw 336) be amended to provide that the three-year limit is not triggered until the Chancellor or OPHD receives actual notice of an SVSH allegation, and/or that the year period is tolled if an incident was reported to an academic administrator at the level of department chair or above and that administrator failed to report the incident to OPHD or the Chancellor.

If the three-year rule is retained in its current form or per the Systemwide proposal, it will be critical to provide adequate training to all chairs and other relevant administrators to insure that academic administrators always meet their obligation to report potential violations of the SVSH to OPHD promptly.

3. *Streamline the Investigation Process in Faculty Respondent Cases:* Our consultations indicated that multiple, potentially duplicative investigations and processes in faculty respondent cases can produce delay and distrust of the process, and in some instances can require survivors needlessly to recount their experiences more than once, which should be avoided whenever possible.<sup>9</sup> At the same time, current procedures allow faculty cases to be

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<sup>9</sup> Many survivors first tell their story to a friend or family member before “officially” reporting, and then, if they do report, current rules may require telling the story again to the investigator, and possibly even to those deciding the

resolved through early resolution with little or no input from the complainant, or from representatives with expertise from the university community and the faculty. The same type of early resolution process is not available to student, staff, or non-faculty academic appointee respondents, creating concerns about horizontal equity. Here we make recommendations focused on streamlining the investigatory process while maintaining the opportunity for Academic Senate faculty involvement in investigations when justified.<sup>10</sup>

To streamline the faculty investigatory process, we recommend conducting a single investigation of SVSH cases involving faculty as respondents, to be managed by OPHD, using the preponderance of the evidence standard,<sup>11</sup> as follows:

- a. Consistent with current practice, the investigation report should make a finding, based on the evidence in the report and supported with analysis, whether a preponderance of the evidence shows that the SVSH Policy was violated.<sup>12</sup> The investigation report should continue to be communicated by OPHD to the EVCP in form of an allegation of faculty misconduct per section 1(f) of the Faculty Disciplinary Procedures for the Berkeley Campus.<sup>13</sup>
- b. If the preponderance of evidence standard has been met regarding the SVSH allegation, the OPHD report shall constitute the finding of probable cause that the Faculty Code of Conduct has been violated.<sup>14</sup>

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case if it is appealed. In addition, we recognize that many survivors will also, if they decide to pursue other legal remedies, have to tell their story to (depending on the legal remedy they choose) their attorney, the police, the prosecutor, the court, an advocate, etc. Needless adding to this stress should be avoided.

<sup>10</sup> We address the problem of insufficient faculty governance in alternative resolution and early resolution in recommendation #12 (calling for a member of the Academic Senate to serve as SVSH Advisor with responsibility for monitoring all aspects of the process) and recommendation #5 (regarding factors to be considered by the new Peer Review Committee).

<sup>11</sup> The Office for Civil Rights Dear Colleague Letter of April 4, 2011, explicitly states at p. 11 that grievance procedures that use the clear and convincing standard “are inconsistent with the standard of proof established for violation of civil rights laws, and thus are not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for *investigating* allegations of sexual harassment or violence.” (emphasis added)

<sup>12</sup> These reports should continue to track systemwide policy regarding SVSH, which requires that the written investigation report contain a statement of the allegations and issues, the positions of the Complainant and Respondent, a summary of the evidence, an explanation why any proffered evidence was not investigated, and findings of fact and an analysis of whether a violation has occurred.

<sup>13</sup> [http://apo.chance.berkeley.edu/faculty\\_misconduct\\_015.pdf](http://apo.chance.berkeley.edu/faculty_misconduct_015.pdf) (“Allegations of faculty misconduct shall be lodged with the Executive Vice Chancellor and Provost (EVCP), and may be made by any member of the University community—faculty, staff, students, and administrators.”)

<sup>14</sup> The Berkeley Faculty Disciplinary Procedures and Sanctions, Section 3, currently states: “The EVCP shall designate an Academic Senate faculty member (or a committee of up to four faculty members) as an Investigative Officer (or Investigative Committee) to investigate allegations, wherever originating, of faculty misconduct. The Investigative Officer shall determine whether the facts alleged, if true, would justify the imposition of discipline for a violation of the Faculty Code of Conduct. In a case where the facts alleged would justify discipline, the Investigative Officer shall investigate the allegations and determine whether sufficient credible evidence can be produced to support a finding of misconduct. A positive finding on both of these two elements justifies a determination that there is probable cause to believe that misconduct has occurred.”

- c. Faculty investigators should not be appointed as a matter of course in SVSH cases, but only to investigate allegations of other, non-SVSH violations of the Faculty Code of Conduct, or in extraordinary circumstances in which supplemental faculty investigation of issues not addressed in the OPHD report is necessary, e.g., when a case raises concerns about systemic problems beyond the scope of the individual case at issue. In such latter cases, we again stress the importance of avoiding rigid requirements that survivors retell their stories, as this may be re-traumatizing and may deter reporting. Furthermore, any additional investigations should avoid delaying or hindering the resolution of SVSH violations.

This recommendation brings UC Berkeley into alignment with systemwide practice in this area, and is consistent with the principle that multiple investigations should be avoided when possible to limit trauma to the survivor and to promote horizontal equity. It tracks a similar recommendation in the UC Office of the President's *June 2016 Supplemental Report of the Joint Administration-Senate Committee on Faculty Discipline*. It is also intended to operate in coordination with the recently constituted Campus SVSH Peer Review Panel, which we expect will replicate some of the functions previously served by faculty investigators (e.g., in giving guidance regarding faculty-specific discipline). It ensures that entities with appropriate subject matter expertise are brought into investigations without unnecessarily dragging out the investigatory process and requiring complainants to recount their experiences repeatedly. It also brings the faculty investigation and disciplinary processes for violations of the SVSH policy more into line with the processes that apply to students, staff, and non-faculty academic appointees.

4. *Give Complainants a Voice and Information in the Early Resolution Process:* Our investigation revealed that complainants are largely excluded from the early resolution process, which is the mechanism by which most cases with faculty respondents are currently resolved, except as witnesses. This marginalization of complainants creates a risk that harm from violations by faculty respondents will not be appropriately remedied and may increase the potential that litigation will ensue. We recommend including the complainant in the process that follows OPHD's referral of the case to the EVCP in the ways listed below.

- a. The investigation report should be made available to both parties on the same basis, and the complainant should receive access to the same information on the same basis as the respondent regarding the status and outcome of the investigation.
- b. The complainant should be promptly notified when the case is referred to the EVCP.
- c. The complainant should be promptly notified when early resolution negotiations are in progress and given an opportunity to be heard in that process. This could include meeting with the relevant University representative to discuss the experiences of the complainant, the harm caused by the SVSH violation, and what remedies might best serve to stop the violation, prevent recurrence, and make the complainant whole; or, if the complainant prefers, submitting a written statement to the same effect. The same consultation could inform the imposition of discipline and other remedies if an early resolution is not reached. If an early resolution agreement is reached, the complainant

should be *promptly* notified of the proposed resolution, and should be able to express any concerns to the appropriate campus authority.<sup>15</sup>

- d. The complainant should be promptly notified if and when Privilege and Tenure charges have been brought.
- e. It would be helpful to develop resources to support and provide assistance to the complainant, which might include *pro bono* legal assistance. This recommendation recognizes that the University will be represented by counsel, while the complainant may not be, particularly if the complainant is a student. It was suggested in our consultations that resources for developing this source of support may be available through student initiated legal services projects at the Law School.
- f. The complainant should be notified in writing of the outcome of the Privilege and Tenure disciplinary proceedings at the same time that the respondent receives notice of this outcome.
- g. Consistent with our recommendation for implementation guidelines below, campus should create written implementation procedures that specify who has the duty and responsibility to provide these notifications. In the absence of such written documentation, we are concerned that these procedural protections for complainants will slip through the cracks.

5. *Establish Guidelines for Consistent and Equitable Imposition of Discipline:* A wide range of university actors and community members indicated that it would be helpful to have general campus guidelines about appropriate principles for imposing discipline on faculty, staff, and non-faculty academic appointees. Accordingly, we recommend the following guidelines for the decision-makers with authority over faculty, non-faculty academic appointee, and staff discipline, and for the new Campus Peer Review Panel. We specifically recommend against mandatory sanctions for particular violations because their perceived harshness and inflexibility may deter reporting (as suggested by our consultations regarding the student framework).<sup>16</sup> Instead, the guidelines recommended below include principles and factors to be considered in every case when imposing discipline and other remedies in a case involving a faculty or staff respondent. Notwithstanding our misgivings about mandatory minimum sanctions in student misconduct cases (discussed below), we believe in certain extreme cases (e.g., rape and sexual assault, and particularly egregious incidents of sexual harassment), the guidelines should articulate a presumption that the respondent be removed from their employment or enrollment at the university.

Our consultations regarding the investigation and disciplinary process raised concerns about maintaining due process protections and also indicated that not all campus communities were aware of the significant procedural protections that do exist. Some who we consulted emphasized that due process is an important safeguard against the potential for

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<sup>15</sup> At least one member of the Committee expressed a minority opinion in favor of strengthening this recommendation to empower the complainant to be able to bypass early resolution and compel the EVCP to forward the case for formal adjudication by the Academic Senate Committee on Privilege and Tenure.

<sup>16</sup> At least one member of the Committee expressed the alternate opinion that implementing mandatory sanctions or a rebuttal presumption regarding sanctions should be defined for faculty and staff violations, as is currently the case for students.

disproportionate or uneven enforcement of SVSH policies and laws against sexual and gender minorities and some underrepresented groups, driven by stereotypes. Uniform guidelines for imposing discipline also help to ensure fair and equitable treatment of all respondents in this process. Decision makers and the new Peer Review Panel should keep concerns about disparate enforcement of SVSH policies in mind when monitoring horizontal equity in the SVSH process.

Principles and factors relevant to *discipline* include, but are not limited to:

- a. Whether the respondent held a position of authority at the time of the violation, with those in authority held to highest standards of behavior.
- b. Number of individuals who were subject to harassment or hostile work environment by the respondent.
- c. Number of incidents of SVSH misconduct.
- d. Past violations.
- e. Severity of harm to the survivor, as well as broader harm to the community and the University. However, un-related effects of disciplinary measures themselves on the community and the University (e.g., difficult leadership transitions if administrators are removed from their posts, or bad publicity for the University) shall not be considered as a factor to mitigate or reduce disciplinary actions.
- f. Violence and/or threats of violence.
- g. Abuse of power, abuse of position (e.g., faculty over student, superior over subordinate).
- h. Humiliation and/or intimidation of the survivor.<sup>17</sup>
- i. Retaliation against the survivor and/or others.
- j. Interfering with the investigation.
- k. Whether the respondent takes responsibility for their actions and understands why those actions are prohibited by University policy.
- l. Whether respondent complied with their obligation to complete mandatory sexual harassment training prior to the harassment occurring.
- m. How similar cases have been treated in the past, with the goal of pursuing horizontal equity and consistency among similar cases across all categories of respondents (faculty, non-faculty academic appointee, student, and staff), but recognizing that the treatment of cases that predate these guidelines may not represent best practices or meet these standards. The focus should be on the conduct, not the status of the respondent, except as otherwise stated in these guidelines (see, e.g., factor (a)). The impact on the reputation or position of the respondent shall not be considered as a factor to mitigate or reduce disciplinary measures.

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<sup>17</sup> Note that sexual harassment need not be about sexual desire to be actionable. For example, the Office for Civil Rights Dear Colleague Letter of April 4, 2011, page 3, makes clear that “Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.” Also, “Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity...,” Office for Civil Rights Questions and Answers on Title IX and Sexual Violence. Accordingly, harassment based on gender identity or gender nonconformity are also covered by the SVSH policy.

- n. Input regarding appropriate discipline and remedies from the complainant, relevant department chair (or other supervisor(s) and Human Resources/Academic Personnel Office if applicable), Office of Risk Management, Office of Legal Affairs, OPHD and the Campus Peer Review Panel in faculty respondent cases. All of this input should be considered advisory, not determinative.
- o. In cases involving discipline short of dismissal, how the discipline under consideration would promote the education and rehabilitation of the respondent, fostering their constructive participation in our campus community. Options regarding restorative justice or similar approaches should be explored for appropriate situations.
- p. All of these factors should be considered in light of the totality of the circumstances, the need to maintain a fair process, and the need to address the harm to the survivor and community.

### **Remedial Measures**

We note that discipline imposed against the respondent may not be sufficient to also *remedy the harm to the complainant*, and without adequate University response, the complainant may be more likely to seek additional remedies through legal processes, which are an alternate or additional avenue for resolving SVSH claims. We discuss administrative remedial actions in recommendation #17 below. It is important that the University consider what remedial actions are necessary to remedy harm to the complainant in addition to what discipline is appropriate for the respondent, particularly if the case is resolved through an early resolution agreement between the respondent and the University. As we note above, complainants are largely absent from the early resolution process yet still may be entitled to remedies for the harm caused by respondent's violation of the SVSH policy.

With regard to the disciplinary process following a finding of a SVSH violation, consideration should also be given to the potential invasion of privacy of the complainant if the complainant requests confidential treatment that cannot be guaranteed consistent with the requirements of the formal discipline process. Here, the concern is that the formal disciplinary process should not impose further harm on the complainant, and the complainant should have an opportunity to express a preference for early resolution if it would better protect the complainant's privacy. Notwithstanding a complainant's confidentiality concerns, the University may still be obligated to impose discipline if it is needed to stop the conduct and prevent its recurrence, because Title IX requires the University to provide a safe and nondiscriminatory environment for all students.

### **Interim Measures**

In order to protect and prevent further harm to complainant, respondent and community, interim measures are sometimes necessary during the period of investigation and resolution of a complaint. In imposing interim measures campus considerations should include:

- a. How well the interim measure under consideration would prevent the alleged conduct from continuing, prevent harm to the complainant, and allow the complainant to continue functioning in their university capacity.
- b. How well the interim measure under consideration would prevent retaliation against the complainant and/or witnesses.

- c. How well the interim measure under consideration would limit the number of people exposed to potential harm.
- d. How well the interim measure under consideration would limit damage to the community climate.
- e. How well the interim measure under consideration would limit disruption to the educational mission of the University and relevant department.
- f. The extent to which the interim measure under consideration would unnecessarily interfere with the respondent (e.g., derailing of research) based on allegations not yet found to amount to a violation.

In considering the factors relevant to interim measures and weighing alternative measures in cases with faculty respondents, the Campus Peer Review Panel and all relevant decision makers should—all other things being equal—select measures that would inconvenience the respondent over those that would inconvenience the complainant. We also note that in some instances, survivors may be unwilling to file a formal complaint (e.g., they fear retaliation or the conduct has not yet reached the level of a violation of the SVSH policy), but may need assistance navigating the situation or negotiating exit from an untenable situation. Some interim measures, such as requested relocation, changing work arrangements, or academic adjustments, may also be appropriate in these instances and should be available through the PATH to Care Center and other relevant campus units. Addressing these situations early, before they escalate and cause harm, serves everyone’s interests.

## **Reporting and Support**

6. *Improve Communication and Information Sharing:* Our consultations revealed that there is not a clear and shared understanding across campus regarding communicating about complaints, investigations, and post-investigation procedures. We recommend the following to improve and clarify our practices.

- a. Develop procedures that better define the circle of those who need to know about complaints, investigations, findings, and resolutions and develop a procedure spelling out when and how communication within this circle should be conducted. We recommend that the procedures specify that, unless the complainant requests otherwise, OPHD should inform the relevant department chair whenever a complaint is received that alleges facts amounting to a violation of the SVSH policy by a member of that department's faculty, non-faculty academic appointee, or staff. The procedure should specify alternatives to notify in units in which another person in authority--e.g. a lab principal investigator--would be the more appropriate recipient of this information. It should also specify suitable alternatives for cases in which the person in authority (e.g., the chair) is the respondent. It should include guidance about communicating with others (e.g., members of a graduate student’s dissertation committee who may be asked to step in to replace a dissertation chair accused of an SVSH violation) only to the extent necessary. And it should identify circumstances that should prompt notification of the campus Risk Manager and Office of Legal Affairs.

- b. Develop and document procedures for communicating to affected community members regarding the status and outcome of investigations without compromising the integrity of ongoing investigations or undermining confidentiality obligations. Training should be required for deans and department chairs on these procedures.
- c. Develop and document guidelines on confidentiality to which relevant actors can refer to explain why they can or cannot disclose information.<sup>18</sup> These guidelines should reflect and explain the University’s legal obligations to both protect privacy (of complainants and respondents) and to serve the public’s interest in disclosure of information relevant to the operation of a public entity.<sup>19</sup> Training should be required for deans and department chairs on these guidelines, and they should be disseminated to all community members.

7. *Provide More Confidential Resources and Designate Targeted Resources for Faculty, Staff, Non-faculty Academic Appointees and Graduate Students:* Our consultations indicated that there were insufficient confidential resources for survivors who were seeking help to understand and navigate the reporting process (see Section I above and Sections III & V below).

8. *Provide Clear Information about What Happens When a Campus Community Member Reports Prohibited Conduct to OPHD:* Because our consultations suggested that confusion and anxiety may be deterring reporting, we recommend providing more information to faculty, staff, non-faculty academic appointees, and students about what happens when a potential violation is reported to OPHD. Improved education and communication should reassure members of the campus community that their reports will neither fall into a proverbial black hole nor automatically launch a formal investigation that is not warranted by the facts alleged. It should also set realistic expectations about timing and transparency—which have to be balanced with concerns about due process and confidentiality for both respondents and complainants (see above).

9. *Reevaluate the Mandatory Minimum Sanctions Approach in the SVSH Student Adjudication Framework:* Our consultations raised concerns that the mandatory minimum sanctions approach of the SVSH Student Adjudication Framework may be discouraging reporting and creating a lack of horizontal equity. We recommend careful monitoring and evaluation of this aspect of the student framework as we gain experience with its implementation. For example, all future campus surveys that are in any way related to SVSH should include questions regarding this issue. Within three years, campus (perhaps through CCRT) should re-evaluate this approach and provide written feedback about this aspect of the system-wide framework, whether it has a chilling effect on reporting, and whether it should be continued.

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<sup>18</sup> For some rules about access to academic personnel records, see APM 160: <http://www.ucop.edu/academic-personnel-programs/files/apm/apm-160.pdf>.

<sup>19</sup> The California Public Records Act recognizes this difficult balance and exempts “[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.” Cal. Gov. Code 6254(c). In determining whether release of a personnel document would constitute an unwarranted invasion of privacy, courts consider “whether the potential harm to privacy interests from disclosure outweighs the public interest in disclosure.” See, e.g., *Caldecott v. Superior Court*, 196 Cal.Rptr.3d 223 (2015).

## Improvements to the Process

10. *Centralized Recordkeeping and Reporting:* As documented below in Section IV, SVSH-related recordkeeping and data analysis on campus has suffered in the past from the absence of a comprehensive central system to track cases effectively from complaint through resolution. We recommend that reports akin to the “Case Outcome Letter” used for student respondents be generated for all types of respondents, following procedures developed as recommended below.

11. *Implementation Procedures for SVSH Policy Violations Committed by Staff and Faculty Respondents:* The Berkeley Procedures for Implementation of the Student Adjudication Model lay out clear implementation procedures of the SVSH policy to be followed once OPHD completes its investigation of a complaint involving a student respondent and hands the case to the Center for Student Conduct, and this process seems to be working. There are no similar written procedures for implementing the SVSH policy after a finding of violation by faculty, non-faculty academic appointees, and staff respondents. This situation creates uncertainty about the process that follows after a finding of a violation of the policy, including uncertainty about how and by whom discipline will be imposed, and also who is responsible for communication and notifications at each stage. We heard in our consultations that this uncertainty can create the impression of a “black hole” into which complaints disappear after the OPHD finding, undermining confidence in the campus response to violations. Concerns were also raised that local units may be unevenly prepared and therefore inconsistent in the manner in which they impose and monitor appropriate discipline. Lack of clear procedures and points of contact has also meant missed opportunities to access the expertise on campus on SVSH, risk management, and the needs of specific populations.

We recommend developing post-OPHD-finding procedures for implementing the SVSH policy in cases involving violations by faculty, non-faculty academic appointees, and staff respondents, even if those procedures will rely in part on more general disciplinary procedures on campus. These new implementation procedures should make clear who is responsible for acting at each step of the process to stop violence and harassment, to prevent recurrence, and to remedy the harm. They should conform to the recommended changes in the processes for faculty, non-faculty academic appointees, and staff that we outline in this report. They should specifically cover who is responsible for recommending and imposing discipline in faculty, staff, and non-faculty academic appointee respondent cases, and who is responsible for transmitting information to OPHD as cases progress through the resolution process, including information about any early resolution or final discipline imposed in the case. These procedures should be developed even if some of these points are covered in more general disciplinary procedures to make clear how those general procedures are applied in SVSH cases.

We also note that there are jurisdictional complexities regarding administration of various antidiscrimination policies and laws across different populations. SVSH investigations are centralized in OPHD for faculty, staff, non-faculty academic appointees, and students, but OPHD does some investigations related to other forms of discrimination with regard to all academic categories, and central HR has responsibility for investigating some forms of

discrimination for staff (e.g. Title VII). This jurisdictional complexity can create confusion about which office a "responsible employee" should contact and who has responsibility for a case; the new procedures should clarify these jurisdictional questions to the extent possible.

12. *Create a Campus level SVSH/Title IX Special Advisor Position:* Our consultations indicated that there is no single entity on campus that has clear and permanent responsibility for ensuring good coordination of the activities of our Title IX office (OPHD) regarding SVSH violations and compliance and other campus SVSH prevention, care and support services. There has been inadequate advocacy for OPHD, that can insure that the Office has the resources and independence it needs to conduct its investigative responsibilities, and that can ensure that post-investigation adjudication and disciplinary processes, based upon those investigations are fully executed and monitored. This makes it difficult for the campus to fulfill our responsibilities to stop sexual violence and harassment, prevent its recurrence, and remedy its harms.

Because best practices in campus response to SVSH violations require the coordination of a complex set of services, units and actors, we recommend appointing a Cabinet-level Special Advisor on SVSH who reports directly to the Chancellor, and can provide strategic leadership and high-level oversight of the investigation, adjudication, and discipline processes for all SVSH complaints. This position would not replace existing campus entities or processes, but would coordinate them, monitor implementation, ensure that implementation is being documented in centralized records, analyze those records to identify climate problems and repeat offenders, and oversee systemic compliance with legal requirements regarding sexual violence and sexual harassment. Though there was some difference of opinion within the Committee, the view is that the SVSH Advisor should be a member of the Academic Senate, whose oversight of faculty discipline and remedies (including interim remedies, alternative resolution, early resolution, administrative remedial actions, and imposition of disciplinary sanctions) will ensure faculty involvement in aspects of the process where it is currently lacking. It will also ensure that there is sufficient independence from other concerns of campus administration.

The SVSH Advisor should have appropriate training and experience regarding Title IX and other SVSH issues, including investigation, adjudication and resolution, as well as prevention, education and awareness. This Special Advisor would work closely with the Chief Risk Officer, OPHD, and the Office of General Counsel to insure that we have a fully coordinated response to SVSH incidents and can assess the success of our progress toward their elimination.

13. *Develop Procedures to Formalize Referral and Consultation:* We learned that coordination between OPHD and the entities responsible for imposing discipline varies across students, faculty, non-faculty academic appointees, and staff. We recommend formalizing the process by which OPHD refers all findings of violations to the appropriate disciplinary bodies, and developing written procedures that detail the steps that happen after that referral. We also recommend requiring those engaged in the faculty, non-faculty academic appointee, and staff processes that follow the completion of the OPHD report to consult formally with OPHD (as we understand the Center for Student Conduct already does for cases involving student respondents). This consultation should cover, at least: (1) the seriousness of the violation; (2) the risk to the campus community; (3) actions taken in prior cases against faculty, students, and

staff with similar facts for purposes of consistency across similar cases and horizontal equity; (4) measures that should be imposed during the pendency of adjudication in light of the OPHD findings; and (5) any other measures necessary to stop sexual violence and harassment, prevent it from reoccurring, and remedy the harm.

14. *Ensure OPHD has Sufficient Resources for Timely Investigations:* Because we learned that limited OPHD resources require triage to prioritize sexual violence cases, potentially delaying investigation of sexual harassment cases, we recommend providing sufficient resources to OPHD to expand investigatory capacity and speed up, as appropriate, the timeline of investigation and resolution for all SVSH cases. The capacity of OPHD should be assessed once the recently authorized new investigator positions are filled, and at least annually thereafter, to determine whether resources are sufficient to serve this need. We note, for example, that OPHD struggles to complete investigations within 60 days given its current workload and resources.

15. *Extend the Case Management Model to All Cases Involving Formal Investigation or Alternative Resolution:* A Case Management Team currently coordinates the campus response in situations involving student respondents, an approach that appears to work well for decisions to implement needed interim measures and to identify actions that need to be taken in response to the complaint. The UC SVSH Policy requires that case management teams be deployed for all types of respondents when violence is alleged, but does not prescribe their use for all SVSH cases. We recommend that the SVSH Special Advisor be a member of the Case Management Team, and that this model be used for all types of respondents in all cases undergoing either formal investigation or alternative resolution, and that it follow each case until the case has been resolved.

The appropriate membership of the case management team will likely be different for faculty, staff, and non-faculty academic appointees than for students. This approach should help to ensure that interim measures continue or are taken if needed after the OPHD investigation finds a violation of the SVSH policy but before the disciplinary process has run its course. The case management team can also address issues of risk management and community support that may arise when respondents remain on campus during the pendency of the investigation and disciplinary process.

The case management team can help graduate students and postdoctoral scholars address the special difficulties they face, e.g., managing communication and the relationship with their doctoral committees, ensuring continued progress toward degree, and minimizing harm from switching topics or advisors as appropriate. The case management team in these cases should include a representative from the PATH to Care Center and include a representative from, or at least consult with, the Graduate Division on appropriate measures.

16. *Limit the Period of Time for Early Resolution:* To avoid unjustified delay in the faculty process (a frequent target of dissatisfaction during our consultations), we recommend limiting the period of time available for early resolution before Privilege and Tenure charges are filed, and requiring that early resolution be pursued (when it is) in parallel with preparing and bringing charges to Privilege and Tenure, not seriatim. This also tracks recommendations in the

June 2016 Supplemental Report of the Joint Administration-Senate Committee on Faculty Discipline that the Chancellor or designee should not delay in moving forward with the Privilege and Tenure process even if negotiations are underway to reach a settlement or early negotiation.

17. *Distinguish Among and Provide Guidance on Interim, Administrative, and Disciplinary Measures:* Current procedures do not clearly and consistently distinguish among interim, remedial, and disciplinary measures for all classes of respondents. We recommend developing guidance that distinguishes clearly among these three types of responses and creates a menu of available measures across these categories.<sup>20</sup>

For faculty respondents, it is especially important to delineate those disciplinary measures (also referred to as “disciplinary sanctions,” or simply “discipline”), for which Privilege and Tenure proceedings are required. Given the possibility of early resolution and the higher standard of proof applied in Privilege and Tenure hearings (clear and convincing evidence, rather than preponderance of the evidence), there may be cases in which discipline is not imposed upon a faculty member through Privilege and Tenure procedures, even when OPHD found a violation of the SVSH policy. In such a case the University still has a legal obligation under Title IX (and in some instances Title VII) to stop the harassment, prevent it from reoccurring, and protect the complainant from retaliation.<sup>21</sup> It also has an obligation to remedy effects of the harassment. Accordingly, “administrative remedial actions” (that is, measures that can be imposed without a P & T hearing and do not amount to “discipline” or “sanctions”)<sup>22</sup> may be necessary whether or not the case proceeds through P & T and whether or not the case results in early resolution. Interim measures prevent harm during the pendency of an investigation and subsequent disciplinary processes, and help meet the University’s obligation to take immediate and effective steps to end sexual harassment and sexual violence.

- a. Disciplinary measures that can only be imposed upon faculty through Privilege and Tenure proceedings are: Written censure, reduction in salary, demotion, suspension,

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<sup>20</sup> The SVSH Policy itself only describes discipline at a high level of abstraction: “The Title IX Officer shall forward the Investigation Report (with attachments and any necessary redactions) to the appropriate administrator responsible for discipline. The specific procedures for imposing discipline depend upon the nature of the Respondent’s relationship to the University . . .” It does distinguish between “discipline” and “remedies,” and provides a combined list of “Interim Measures and Remedies” in Appendix III.

<sup>21</sup> At least one member of the Committee believes that, in compliance with Federal law and to insure equity across status groups, the Academic Senate should reduce the Privilege and Tenure “clear and convincing” standard of proof for SVSH violations, and in other instances where Federal Law prescribes a lower standard of proof.

<sup>22</sup> See APM 016: “No disciplinary sanctions described in this policy may be imposed on faculty members other than through the procedures pursuant to this policy and the Faculty Code of Conduct. In addition, faculty members may be subject to certain administrative actions that are outside the scope of faculty discipline. For example, like all other members of the University community, faculty members are subject to the general rules and regulations of the University such as those pertaining to parking, library privileges, health and safety, and use of University facilities. Faculty are subject to appropriate administrative actions for failure to comply with such rules and regulations. . . .”

The April Joint Committee report interprets systemwide and campus policies to allow administrative remedies that do not amount to discipline: “The policies also specify the forms of sanction that may be imposed through the formal discipline process, leaving broad discretion to implement other administrative measures to remediate or mitigate a situation without implicating the faculty disciplinary process.”

denial or curtailment of emeritus status, dismissal from the employ of the University. For non-Senate, non-represented academic appointees, APM 150-30 defines the types of corrective action. Corrective action for represented academics and staff may be found in the relevant collective bargaining agreement. For non-represented staff, PPSM 62 defines and provides procedures for “corrective action,” including: written warning, corrective salary decrease, suspension, and demotion.<sup>23</sup> Termination of career employees is covered in PPSM 64, 65 and 67. For students, disciplinary sanctions are identified and relevant procedures prescribed in the Sexual Violence and Sexual Harassment Student Adjudication Framework.<sup>24</sup>

- b. Administrative Remedial Actions: administrative actions in response to violation of the SVSH policy to remediate or mitigate the situation (for which a Privilege and Tenure hearing is not required because they do not constitute faculty discipline) might include:
- i. Required counseling and training for the respondent.
  - ii. Required counseling and training for the affected department and alteration of departmental policies (e.g., rules regarding alcohol consumption at official events, lodging arrangements during off-site activities, etc.).
  - iii. Including the finding of violation of the SVSH policy in the materials to be considered in faculty merit reviews.
  - iv. Removal from administrative positions (as provided by AMP-O16)<sup>25</sup> and disqualification from appointment to future administrative positions.
  - v. Remedies to make the complainant whole. These remedies might require HR actions, such as restoring sick and vacation time lost due to harassment, transfer to another, comparable position, expunging inaccurate negative information from employment or academic records, and revising performance reviews or academic evaluations tainted by harassment. They might also include services such as compensation for counseling, medical

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<sup>23</sup> <http://policy.ucop.edu/doc/4010411/PPSM-62>. See also <http://hr.berkeley.edu/hr-network/central-guide-managing-hr/managing-hr/er-labor/disciplinary/alternatives>

<sup>24</sup> <http://policy.ucop.edu/doc/2710641/PACAOS-Appendix-E>. “University disciplinary sanctions include, but are not limited to:

- a. Dismissal from the University of California,
- b. Suspension from the campus,
- c. Exclusion from Areas of the Campus or from Official University Functions,
- d. Loss of Privileges and Exclusion from Activities,
- e. Restitution,
- f. Probation
- g. Censure/Warning”

<sup>25</sup> See APM 016 Section III: “A disciplinary action against a faculty member holding an administrative title may proceed in two parts. One part involves the removal of an administrative title or other administrative action under procedures established by The Regents and the administration. Such action need not adhere to the disciplinary procedures set forth in this policy. The other part involves the proposed imposition of any type of disciplinary sanction set forth in this policy, which must proceed in accordance with the procedures for discipline outlined in the Faculty Code of Conduct and the applicable Senate Bylaws and Divisional rules. The removal of the administrative title or other administrative action does not preclude or require the imposition of a disciplinary sanction under this policy.”

care, or other care needed as a result of the harassment, or changes to academic, living, transportation, or working situations, as appropriate. They might further include academic accommodations and support, such as extra time to complete required academic work, providing opportunities to retake a course or withdraw from a class without financial consequence or adverse effects on the complainant's academic record, ensuring that graduate students and postdoctoral scholars are able to benefit fully from fellowships (e.g. by extending the duration of a fellowship to account for a delay attributable to sexual violence or harassment), complying with graduate student and postdoctoral scholar requests for reassignment to different advisors, labs, or research groups (and ensuring that they receive mentoring and letters of recommendation that are not tainted as a result of the sexual violence or harassment), and providing academic support services such as tutoring.

- vi. Continued monitoring of respondent's interactions with students, staff, and colleagues, including following up with these groups to see if problems continue or if there are additional problems.
  - vii. Taking steps to investigate whether any other students or staff are subjected to sexual harassment or sexual violence by the respondent.
  - viii. Issuing a written or spoken warning, counseling memo, or verbal counseling to the respondent.<sup>26</sup>
  - ix. Review and revision of the University's policy and procedures, if an incident reveals shortcomings in those policies and procedures.
  - x. Assess whether further measures are needed to ensure that the unit or group within which the incident occurred has the needed resources to restore the sense of safety and well-being of the community.
- c. Interim measures are those measures taken to protect the complainant and respondent, and in some instances the community, during the OPHD investigation, or in later stages of the disciplinary process. The goal is to prevent ongoing harassment or discrimination, to protect the safety and well-being of the parties and community members, and to prevent retaliatory conduct. Those with the duty and authority to impose interim measures (OPHD during the investigation, and other entities once the investigation is complete and disciplinary proceedings are pending) should consult with offices with expertise in preventative interim measures, including OPHD and the Office of Ethics and Risk Management, to identify appropriate interim measures. The process of determining appropriate interim measures should be overseen by the Special Advisor on SVSH.

Interim measures are case specific, but possible interim measures include but are not limited to:

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<sup>26</sup> For faculty, a warning is not a form of "discipline." See APM-016: "Informal written or spoken warning is not an official disciplinary action." For staff, a warning does constitute "corrective action" subject to the procedures of PPSM-62. A counseling memo or verbal counseling does not. See <http://policy.ucop.edu/doc/4010411/PPSM-62>

- i. Issuing a no-contact directive, including limiting where both respondent and complainant may go on campus. When taking steps to separate the complainant and the respondent, the Office of Civil Rights indicates, and we further emphasize and recommend, that the University “should minimize the burden on the complainant.”<sup>27</sup>
- ii. Transferring respondent and/or complainant to a different area/department or a temporary shift to eliminate or reduce further business or social conduct. The University should exercise caution in conducting transfers of the complainant in such a way that they are not actually, or perceived as retaliatory or punitive for the complainant. The University should take all steps to avoid or mitigate disruption to the complainant’s academic or career path.
- iii. Issuing instructions that the respondent must cease the alleged conduct.
- iv. Issuing instructions against retaliation or interference with the investigation.
- v. Reassigning duties.
- vi. Changing supervisory authority.
- vii. Directing parties to report any violations of restrictions.
- viii. Monitoring of respondent’s behavior.
- ix. Placing respondent, complainant, or both, on paid administrative leave. Paid administrative leave as an interim measure should not be punitive, but should rather be understood as a temporary measure designed to avoid the possibility of harm during the course of an investigation in unusual cases in which it is otherwise difficult to separate the parties. When implemented for this purpose, paid administrative leave should not require either the complainant or respondent to deplete their sick or vacation leave. Wherever possible, it should be the respondent, not the complainant, who is placed on paid administrative leave during the pendency of an investigation (unless the complainant requests leave). More generally, where interim measures require inconveniencing one of the parties or hampering their career or academic prospects, every effort should be made to avoid imposing a greater burden on the complainant than the respondent. Note that imposition of involuntary paid leave on a faculty member is currently subject to the “10-day” rule in APM-016. We agree with the recommendation of the UC Joint Committee of the Administration and Academic Senate (and currently under System-wide Review) that this rule should be amended to allow for more flexible use of this interim measure.

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<sup>27</sup> OCR Dear Colleague Letter of April 4, 2011, page 16.

### III. Survivor Care, Support and Social Healing

In addition to overseeing SVSH prevention, education and awareness efforts on campus (Section I above), UC Berkeley's PATH to Care Center has been, and continues to be, an essential resource for UC Berkeley's survivor care, advocacy, and healing efforts. The PATH to Care Center may be characterized as a first responder resource for victims of SVSH incidents, and as an advocacy resource that works creatively to help survivors assess their specific needs and identify needed resources (from counseling to medical attention and emergency resources). It is also an important resource for advice and guidance to others affected by SVSH, from friends of survivors to campus units grappling with trauma.

The PATH to Care Center has achieved a hard-earned reputation as a safe campus resource for victims and others affected by SVSH. The confidential care and advocacy services of the Center have, since its inception in 2014, earned the trust of both the SVSH community (which promotes its utilization and makes referrals), and with individual clients who have turned to its services. The PATH to Care Center saw approximately 370 cases in the past year (July 1, 2015- June 30, 2016), a fraction of whom (approximately 20%), required intensive, long-term advocacy (e.g. identifying emergency resources and supporting the survivor through the complaint and investigative process). This intensive advocacy, along with providing the emotional support needed to help in the healing of survivors, takes up the largest proportion of Care Advocates' time. The Center currently dedicates 2.5 FTE to confidential advocacy and care (two full-time advocates, plus .5 FTE from the center's Director). The Associate Dean of Students estimates that the full-time confidential advocates currently handle an average caseload of 30 cases per year, in addition to rotating 24-hour shifts.<sup>28</sup>

The PATH to Care Center provides confidential support and assistance for most of the non-disciplinary aspects of SVSH, including immediate support, referrals, and assistance in academic, safety, medical, and legal matters. The specific needs of victims vary widely, and thus we were told that it is difficult to track (or classify) the services of the PATH to Care Center in terms of discrete categories. Some examples of the kinds of services that Care Advocates provide to individuals and the community are:

- Expertise and guidance in assessing options and resources available to survivors and allies;
- Expertise regarding campus policies, the formal complaint process, and the withdrawal process;
- Accompanying clients to appointments, including hospital visits, police, campus units, and the like;
- Advocating for academic accommodations, which may include extensions in coursework, and contacting faculty, deans, the registrar, or others, as needed;

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<sup>28</sup> Social Services at the University Health Services Tang Center also have 2 FTE dedicated to SVSH counseling and support.

- Safety planning;
- Emergency services, e.g. finding safe housing and emergency financial aid;
- Individual counseling and healing work, e.g. support groups, healing circles;
- Crisis prevention and management;
- First responder 24-hour availability
- Support for survivors' support network;
- Referrals to other services that the Center may not be able to provide, such as legal services.

## Recommendations

### Staffing

1. *Increase the Capacity of Full-Time Confidential Care Advocacy Positions:* Despite the success and strength of the SVSH office, care advocates and other care providers (e.g., at the Gender and Equity Resource Center) report feeling overwhelmed and stretched thin. This undoubtedly results in part from the psychologically demanding task of advocacy and support for survivors of trauma. The caseloads of the Advocates will exceed the maximum number of yearly cases (18) recommended by accrediting agencies (See appendix).

Assessing the future demand for SVSH survivor care and support services at UC Berkeley is difficult in the absence of a scientifically sound survey of the kind recommended elsewhere in this report. Moreover, the most statistically robust surveys at other colleges and universities have been limited to student populations. Both of these observations underscore the urgency and need for a sound, independent survey to create a baseline to assess needed levels of service at Berkeley.

With those caveats in mind, it is nonetheless possible to make some reasonable assessments based upon research at other American colleges and universities.<sup>29</sup> Given the likelihood of underreporting, we can conservatively assume that in a given student population approximately 12 percent of students have experienced some form of unwanted physical contact of a sexual nature. Extrapolating to the [Berkeley student population](#), the number of students affected by SVSH since enrolling at Berkeley on our campus could exceed 4,000; and this number could be even larger when considering those affected by SVSH before coming to Berkeley, who may still be experiencing ramifications from their trauma. While all community members who have been subjected to SVSH behaviors may not choose to seek these support services, it seems clear, based on these rough estimates, that funding should be identified for additional permanent FTE

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<sup>29</sup> A [study](#) commissioned by the Association of American Universities of 27 Institutions of Higher Education (which included survey responses from a total of 779,168 students, of whom 659,191 were from public IHE's) revealed that 11.7% of students across the 27 universities reported experiencing nonconsensual sexual contact by force or incapacitation since enrolling in their institution (although this report notes that this percentage likely under-samples from respondents who did not experience sexual violence, this figure also underestimates total SVSH cases, which can include traumatic experiences that involve psychological intimidation and stress even without contact).

allocations for Care advocates. The Committee thus recommends at least doubling the capacity of full-time confidential care advocacy positions.

2. *Create Confidential Care Advocacy Positions Dedicated to Faculty, Staff, and Graduate Students, and Locate Them Separately:* Interviewees universally agreed that SVSH advocacy and healing services do not exist in any meaningful way for staff and faculty (ladder rank or otherwise). The PATH to Care Center reports no instances of faculty clients, and increasing numbers of staff clients. The Committee was unable to find data specifically addressing the incidence of SVSH within these two constituencies.

Our consultations made clear that many individuals experiencing harassment find themselves in a difficult situation if they are reluctant to report harassment to OPHD but nevertheless need assistance extracting themselves from the situation or obtaining services and support. Students and staff are particularly vulnerable to leaving the university as a result of the harassment if they can no longer function in these situations. We also heard that women faculty, especially junior women faculty, disproportionately are asked to help students and staff navigate these situations. In addition to reporting potential violations to OPHD, these faculty members need to have a point person, through the PATH to Care Center or otherwise, with whom they could speak about options for assisting survivors and about their own vulnerability to retaliation. Resources of this kind would likely improve reporting and allow developing situations to be addressed earlier, before more harm is done.

We recommend creating more confidential resources, including those tailored to different types of campus community members. Specifically, we recommend designating at least one PATH to Care advocate as a specialist in assisting graduate students and postdoctoral scholars, who are particularly vulnerable because of their short-term status and/or dependent positions within the university.<sup>30</sup> We also recommend creating new confidential resources designated specifically for staff, faculty, non-faculty academic appointees and graduate students. These should be administered in coordination with PATH to Care resources directed toward students, but located separately from student resources and more appropriately for faculty and staff. We recommend significantly increasing localized, specially trained, confidential resources (e.g., in schools, departments or departmental clusters, residence halls, athletic facilities, etc.), and publicizing these resources widely (including through targeted communications at the department or other local level and through campus-wide communications like the Chancellor's email to the community at the start of the semester). These recommendations are consistent with, and broader than, President Napolitano's April 2016 directive to campuses to designate at least one confidential resource for faculty, other academic appointees, and graduate students.

Advocates in this role should work in collaboration with the PATH to Care Center but be responsible for establishing different social networks and be located in different physical spaces. There is wide agreement that staff, faculty, and graduate student advocates should be in satellite offices separate from the main PATH to Care Center, as it was strongly felt that these

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<sup>30</sup> This recommendation is also in line with one of the demands from the Graduate Assembly's Resolution # 1604A.

populations would be more likely to seek out designated spaces where the risk of running into undergraduate students is low.

### **Resources and Reporting**

3. *Create a Discretionary Fund of a Sufficient Amount for the PATH to Care Center Dedicated to the Varying Needs of the Center’s Clients, Including Emergency Housing Expenses:* This committee has not been able to secure precise figures for the different types of assistance provided to victims (in the form of short-term financial aid, safety supplies, emergency housing, shelter), but it seems reasonable that any growth in the PATH to Care Center’s staffing should include at least a proportionate amount of funding to assist in emergency care. It is not uncommon for students to be assaulted by someone with whom they share living space (i.e. dorms, co-ops, fraternity houses, sorority houses, other group living arrangements).<sup>31</sup> Survivors who have been assaulted by someone they live with are often displaced from their homes from fear of encountering their perpetrator. While this certainly does not apply to every case, emergency housing should be available to survivors who do not feel safe returning to their living space, house, apartment, dorm, etc. until other arrangements can be made. Given Berkeley’s housing crisis, alternative housing can be expensive and difficult to find.

4. *Provide Appropriate Academic and Employment Accommodations to Student Survivors:* The physical and psychological aftermath of sexual assault can be debilitating. While some instructors are willing to make accommodations, student survivors are occasionally not granted the extra time and support they need to do their work. This not only places additional burdens on student survivors, but also can delegitimize their trauma. The University should enact policies that recognize the need to provide appropriate accommodations for survivors of sexual violence (e.g., among its list of official [accommodations](#)). Such accommodations should be guaranteed in a way that does not necessitate responsible employee laws on the part of authority figures (e.g., Care advocates can continue to advocate for students, but this will be easier if the university guarantees accommodationso).

5. *Add SVSH Resources Regularly to Syllabi, and Other Communications Relevant to Employees:* Many, but not all, instructors already include resources for students struggling with issues related to mental health and sexual violence in their syllabi. Using existing resources a “template syllabus” can be distributed to professors who wish to provide their students with this information.

6. *Add Information on Resources, Reporting, and Care Options to Websites and Spaces Frequently Used by Different Campus Constituencies:* Another way to effectively reach students would be to include a “wellness tab” on a website they use every day (i.e. bCourses or

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<sup>31</sup> Tjaden, P & Thoennes, N. (2000). Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey: National Institute of Justice.

CalCentral). This tab could include links to the <http://survivorsupport.berkeley.edu/> website, PATH to Care website <http://sa.berkeley.edu/dean/confidential-care-advocate/>, the Tang Center Social Services website <https://uhs.berkeley.edu/social-services>, and other appropriate resources that support and educate survivors and allies. A “wellness tab” could be incorporated easily into CalCentral by the team in charge of the Student Information System (SIS).

7. *Maintain Anonymous Records in the PATH to Care Center:* The Committee recommends that the PATH to Care Center maintain anonymous records of the types of services it provides, the communities it serves, and the number of hours spent per client to better understand the nature of SVSH care on the Berkeley campus, as well as to provide benchmarks for progress (or lack thereof) in addressing this issue on campus.

8. *Increase Faculty Involvement in the Coordinated Campus Review Team:* Designating the Special Advisor to the Chancellor on SVSH as the Co-Convener of the CCRT will help to educate the faculty. It will ensure regular, consistent faculty participation in the CCRT. The Special Advisor should work to increase faculty involvement, perhaps through the Academic Senate Committee on Diversity, Equity and Inclusion. This body is charged with making recommendations to the Chancellor with respect to ongoing SVSH concerns, and we recommend that annual meetings between the CCRT and Chancellor’s/EVCP office be formalized and regularly scheduled.

9. *Identify Meaningful Units across the University (e.g., Department, Work Unit, Dorm Floor) to Localize Prevention and Care Efforts:* Despite the prevalence of SVSH on college campuses, underreporting of these experiences remains a serious issue. In the AAU study, for example, less than 30% of such experiences were reported to the appropriate office; studies cite embarrassment, shame, and confusion with respect to the incident as principal hindrances to reporting. These barriers to reporting were confirmed by the campus experts we interviewed, who added that as a result, SVSH cases often come to light after victims suffer noticeable academic difficulties or visit health professionals for internalizing or stress symptoms. As such, first contact confidants in SVSH cases are often not PATH to Care staff, but rather staff and student services representatives in other areas of campus who then refer victims to the PATH to Care Center. The informal nature of such referrals is a feature of the SVSH network that is difficult to quantify; nevertheless, it is fair to say that it is grounded in, and functions through, trust and personal relationships established among the network of responders. Specifically, victims who may be experiencing strong vulnerability following disclosure are more likely to follow through with care if a first contact confidant can personally recommend an advocate by name, rather than direct them to a website or phone number. Stakeholders in this process all cited the importance of such trust and relationship building in the establishment of a successful “safety net” for victims of SVSH.

10. *Identify and Train at least Two “Resource Specialists” per Unit:* Consistent with our committee’s recommendation for local prevention efforts (see Section 1 above), psychologically meaningful university units (e.g., departments, dormitories) should designate and train “resource specialists,” one permanent and one rotating, who would be readily available to

members of the community and would collaborate with PATH to Care. As noted earlier, candidates would include academic advisors and GSAOs, but should also include designated graduate student peers who are formally identified within their units as being available to talk about potential concerns. These “resource specialists” should be added to the list of confidential resources, and exempt from “responsible employees” reporting mandates. Efforts should be made to make these designees visible and known to the local community, not only through public events, but also through other creative venues in media campaigns (e.g., not only advertising the PATH to Care number, but to personalize messages with individuals, names, and pictures, as we see in current campus campaigns and more broadly, in advertising). Unit-level designees should be trained by, and lead collaborative relationships with, PATH to Care Center staff. In other words, this Committee recommends an explicit investment in a network of potential contacts for victims of SVSH that undergo training in how to handle initial disclosures and referrals, as well as funding for trust-building opportunities among members of this network, particularly with PATH to Care Center staff.

### **Social Healing, Restorative Practices, and Accountability**

11. *Social Services, the Restorative Justice Center, and the PATH to Care Center Should Collaborate on the Development of Interventions to Educate and Reintegrate Respondents:* Although resources are continuously needed to support survivors, there is also a critical- but often overlooked need for the university to help respondents through the transformational educational process of making deep, lasting change in their lives, as well as to assist in the social healing of the community in which an incident has occurred. The Committee recommends that the University develop an educational model that helps respondents find healthy ways not only to re-engage with the university and its members, but also to actively work against the cultural dynamics that perpetuate violence. Those who have engaged in harmful behaviors should be provided with paths to change their behavior, demonstrate their accountability and learn new ways of being.

Social Services at UHS and the Restorative Justice Center offer expertise that can be drawn upon in working with individuals who have perpetrated violence or engaged in anti-social behaviors. There is evidence that these units have developed useful educational and restorative programs. This Committee recommends that the PATH to Care Center consult with Social Services and the Restorative Justice Center to develop model programs in social healing that can be replicated and implemented systemwide. UHS Social Services has signaled to the Committee that it is ready to lead the development and implementation effort. Education and training efforts aimed at respondents and communities are an integral component of a holistic SVSH campus strategy that aims to heal and to prevent further violence.

## IV. Data and Records Management

Sexual violence and sexual harassment will not be stopped by data. However, better data collection, management, and analysis can support our central aims of reducing occurrences of sexual violence and sexual harassment, conducting effective and timely investigations of cases, ensuring appropriate and fair consequences for perpetrators, and supporting survivors. In order to be useful for these central aims, collection, management, and analysis of SVSH data must strike the right balance on several fronts. Data transparency must be balanced against privacy; comprehensive data collection must be balanced against the risk of re-traumatizing survivors, and against other uses of staff time. Data collection must not become an end in itself, but always remain in the service of improving welfare. We must ensure that we are collecting, managing, and analyzing only the right data, and sharing those data with only the right people at the right time.

We as a campus have had an uneven record of data collection and management related to SVSH. Seemingly simple questions—for example, about the pattern of use of alternative resolution for faculty respondents, or the demographic characteristics of respondents, or the effectiveness of our current training—are surprisingly difficult to answer from existing data sources. More nuanced questions—such as whether there may be specific campus contexts where additional training or early intervention would be especially useful—are nearly impossible to answer at present.

In response to these and other challenges, the campus has recently undertaken a major investment in data collection and management through the acquisition and implementation of an integrated case management system for the Office of the Prevention of Harassment and Discrimination (OPHD), called Advocate GME. This system is already used at UCLA, UC Riverside, UCSB, and UC Merced, and a related program provided by the same company is already in use here by Student Conduct. The Title IX module of Advocate GME will be up and running at Berkeley by the end of this academic year. This system offers a number of advantages over the current record keeping system. For example, it will ensure that all cases reported to OPHD are collected and maintained in a single, digital location; it will draw in data from our HR and student records, reducing the time spent retyping already available information; and it will reduce the work involved in both Clery Act reporting and some of the UCOP-mandated reporting. Advocate GME is not a panacea, but it does represent a major advance over our current software available to OPHD. The Committee applauds the campus's decision to acquire and deploy Advocate GME, and in what follows, we assume that its implementation continues apace.

We consider three topics regarding SVSH data: data collection & management; the use of data in improving campus climate and welfare; and data reporting.

### **Recommendations**

## Data Collection and Management

1. *Designate a Single Office as the Official Keeper of all SVSH Records. The new campus Special Advisor on SVSH should have responsibility for ensuring that all relevant entities on campus comply with their responsibilities to supply records to this office:* OPHD currently tracks all complaints it receives, including those that do not prompt a formal investigation (either because the facts alleged do not amount to prohibited conduct or because the case was resolved through alternative resolution). This comprehensive tracking is important to help identify climate problems and possible repeat offenders. For complaints that do prompt a formal investigation, OPHD maintains records of that investigation and its findings. In cases involving student respondents, OPHD also maintains records of the outcome (including any sanctions imposed by the Center for Student Conduct) in the form of a “Case Outcome Letter” issued by CSC.<sup>32</sup> There is no similar systematic procedure by which the ultimate outcome of cases involving non-student respondents is reported to OPHD for purposes of centralized recordkeeping. Our consultations indicate that records are kept in multiple locations in different forms, and that the final outcome of cases is not reliably reported back to OPHD to be included in the case file. This presents challenges for internal oversight and assessment of our processes, and for compliance with external audits. We recommend that Advocate GME be used as the comprehensive repository of records about *all* stages of the SVSH complaint resolution process, from initial report through ultimate resolution—including not only any discipline imposed, but also all early resolution agreements and other measures taken to stop the SVSH, prevent recurrence, and remedy the harm.

It is urgently important to have a single locus for the collection and maintenance of all campus data regarding SVSH. This includes both data produced through the reporting, investigation, and adjudication processes, as well as forms of data produced outside of the formal process for SVSH cases, such as surveys. Advocate GME will ensure that data concerning the investigation of cases by OPHD is centralized, a considerable improvement. However, as OPHD does not impose discipline, information regarding sanctions -- notably including both formal discipline and early/alternative resolutions -- will not automatically be part of the Advocate GME record, but must still be collected and maintained in conjunction with the data that is within Advocate GME. We need to have the entire cycle—from initial report through investigation (or not) to sanction (or not)—recorded in a single place for all categories of respondents.

2. *In Rolling Out the New Advocate GME system, Ensure that the Short List of Datafields Most Needed for Reporting and Prevention Purposes are Included:* This list of datafields will evolve over time under the guidance of the new campus SVSH Advisor and the Chief Ethics, Risk, and Compliance Officer. The implementation of Advocate GME enables us to collect additional data within the existing investigation process without considerably increasing either the workload of the OPHD staff or the emotional burden on complainants. For example, the “doorway” through which complaints come into OPHD can be captured directly through the reporting process; this information could be useful in identifying where additional services and

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<sup>32</sup> See University of California, Berkeley, Procedures for Implementation of the Student Adjudication Model, p. 10.

training could be needed. As another example, information about what trainings people have received and how long they have been at Berkeley—both potentially useful in thinking through whether and how our training programs are working—can either be drawn in from already linked databases (This appears to be the case for HR data) or asked for now, and linked later (which appears to be the case for Blu).

3. *Hire Research Triangle Institute (RTI) to conduct a campus SVSH survey-- expanding from students to also include faculty, staff, postdocs and non-senate academics--ideally within the 2017 calendar year:* Although campus can make some improvements in our data infrastructure through the investigation process, a number of urgent questions can only be addressed through complementary data collection, and in particular, through the collection of campus-wide survey data. Cases reported to OPHD are a small, highly selected sample of all instances of SVSH on campus. We cannot know how small or how selected without an independent source of high-quality, anonymous data. We need a survey as a baseline, as a denominator for the cases and training data, to compare to other campuses, and to provide information about differential rates. It would be possible for us to field such a survey ourselves; however, it would likely be more efficient to take advantage of national experts in this area. The professional research organization RTI has developed an efficient and elegant survey instrument that it has field-tested at nine US universities, and that has the backing of the US Department of Education. By working with RTI, we could be confident that our survey data are truly comparable to those on other US campuses.

## **Use of Data**

In this section, we consider how we could better use existing data to identify problems in climate and behavior that might be amenable to intervention; to evaluate which of our practices and procedures need improvement (training, PATH to Care support services, reporting mechanisms); and to apply appropriate interim measures in a timely fashion.

4. *The New Special Advisor on SVSH Should Oversee an Analysis of Initial Reports to Determine Whether They Can Serve as a Social Sensor Function, and Should Formulate Strategies for Intervention When These Reports Indicate a Climate and/or Behavior Problem:* To identify emerging problems in climate before they rise to the level of a violation, we could take better advantage of initial reports to OPHD. Most reports do not result in an investigation, either because the actions alleged do not rise to the level of a potential violation, or because the reports contain insufficient information to make an investigation possible (for example, the respondent is not named). Nonetheless, these reports may provide valuable climate data. Although unconfirmed, these reports could serve as a kind of “social sensor”, taking the temperature of different communities on campus. A large number, or sudden increase, in reports that do not rise to the level of investigations could indicate a problem of climate or behavior that might be amenable to intervention before becoming a more severe problem. In particular, as the volume of reports will likely increase with the new web-interface and increased awareness about SVSH, the sensor-value of reports may also increase.

5. *The New campus SVSH Special Advisor and the Chief Ethics, Risk, and Compliance Officer Should Collaborate with CCRT to Establish a Timetable by which our Key SVSH-related Practices and Processes will be Assessed:* To determine which of our practices and procedures work, we must have data about outcomes over time. Recommendations #1-3 focus on building the data infrastructure to make this analysis possible. We want to know if training and education efforts make a difference, if climate is improving, if incidents are increasing or decreasing, if similar cases are adjudicated in an equitable manner, regardless of the title or demographic characteristics of the respondent, and so on. However, we do not have capacity to consider all of these at once, and so must prioritize. The Committee advocates first prioritizing those outcomes that are more under our control and somewhat more limited in scope, such as the equity of adjudication processes. Decisions about processes that are in need of assessment should be made by the new SVSH Advisor, in coordination with the Chief Ethics, Risk, and Compliance Officer and the CCRT.

## **Reporting**

In addition to mandated Federal, State, and UCOP reporting, we need a limited number of standardized internal reports about incidents of SVSH. What gets measured gets done. Improving climate will be a higher priority for many administrative leaders if it is measured and reported than if it is not.

6. *The New SVSH Advisor Should Work with the Campus Privacy Officer, Chief Ethics, Risk, and Compliance Officer, the Council of Deans, and the Academic Senate Committee on Diversity, Equity, and Campus Climate to Establish a Small Number of Internal Reports to be Prepared on an Annual or Semi-Annual Basis:* Two sources of data seem appropriate to report: survey data and data regarding investigations and discipline. We consider the investigation and discipline data first. Given the legitimate and serious concerns about privacy, reports regarding individual cases will need to be at a relatively high level of aggregation: decanal units or above. At the decanal level, they can likely contain no covariates at all without jeopardizing privacy. At the campus level, we should almost certainly report counts of complainants and respondents by status (UG, Grad, Postdoc, Staff, Faculty). Additional covariates, such as gender identity of complainants and respondents, may also be appropriate to release, if doing so does not jeopardize privacy. For survey data, the data will be collected more rarely and in a more anonymized fashion already. Still, we need to be very attentive not to report data down to unit levels that reveal more than we intend. For example, “women faculty” in some departments are easily identified, because they are so few.

## V. Special Case Study: Graduate Students and Postdoctoral Scholars

SVSH affects every group on campus, but its long-term effects, especially, vary according to the structural role of populations. **Graduate students** (including doctoral students, graduate students at the professional schools, and those obtaining professional master's degrees) and **postdoctoral scholars** share two key properties that set them apart from other groups in relevant ways:

- a. Their early-career stage makes their careers especially vulnerable to the delays and potential for retaliation that are likely to occur when reporting an incident.
- b. These populations may be at Berkeley for a short time, meaning that the effects of an incident occupy a greater proportion of their time in comparison to permanent campus employees, and that their case may still be ongoing beyond the time they are at UC Berkeley.

Assistant professors and pre-6 lecturers share the early-career vulnerability property; visiting students, visiting faculty, visiting scholars and researchers, and undergraduate students (especially transfer, exchange, and special status students) share the temporal vulnerability. The discussion below is intended to include these academic populations, even as it focuses on the groups (graduate students and postdoctoral scholars) in the intersection of the two dimensions in focus.

In this section of the report, we will frequently refer to the recurring example of a graduate student or postdoctoral scholar who has been harassed by a faculty advisor. This is not because we have evidence that this situation is the most common among incidents of sexual violence or sexual harassment, nor because it is worse or somehow more important than other types of situations. However, it is the situation that is most entwined in a key architectural element of academia: the intellectual apprenticeship between an early-career scholar and a powerful faculty advisor who determines the scholar's career potential in the short and long term. Moreover, it is one of the situations that have captured much of the public attention at Berkeley in this area.

### Early Career Scholars - Career Vulnerabilities

Early-career scholars depend, for the most part, for their short-term intellectual shaping and longer-term future career support, on (more) senior faculty mentors. For a graduate student this is the faculty advisor and (if applicable) dissertation committee; for a postdoctoral scholar, it is the research supervisor(s).

Reporting an incident or pattern of SVSH on the part of a faculty advisor threatens virtually every essential aspect of a doctoral student's success in the program. In the short term, either the SVSH incident or potentially even the reporting itself can mean loss of funding (if the student is supported by the faculty advisor's grant), lack of access to the lab (if the student is working in the faculty advisor's lab), inability to attend crucial classes in the student's field that the advisor may teach; inability to serve as a GSI for that faculty member; inability to feel comfortable in the department or school if the faculty advisor is present; inability to ask for a crucial letter of recommendation for grant and job opportunities in the short and longer term; and, of course, loss of the ability to discuss the student's research in a comfortable environment and complete a dissertation or publish research in the student's chosen area with the mentor the student came to Berkeley to work with.

The power dynamic and intellectual relationship between a graduate student and faculty advisor may make it impossible to sever the relationship without profound negative career consequences. This early career vulnerability creates a serious disincentive to report incidents. It makes remediation and justice more challenging to design and administer. The perception, or knowledge, that in the past, powerful faculty or administrators have violated the sexual misconduct policy without incurring proper sanctions, reduces even further the chance that a student survivor will take the career risk of coming forward.

The career vulnerabilities of students and other early-career scholars can be exacerbated by other factors. Demographically, early-career scholars are more likely than some other comparable groups (e.g. undergraduate students) to have families; the economic vulnerability of dependents only worsens the consequences of losing funding, access to campus housing, or academic opportunity. A significant number of early-career scholars come to Berkeley from different international backgrounds, potentially making it more difficult for them to recognize and deal with SVSH if they experience it.

These points about the special career vulnerability of early-career scholars are important to make publicly so that early-career scholars are aware that the campus understands and appreciates their position. More importantly, it is incumbent on the campus community to recognize this vulnerability, create a climate in which SVSH is not tolerated, and be alert for any warning signs from vulnerable individuals.

### **A Transitory population**

A characteristic of many graduate students, postdoctoral scholars, and visiting students, temporary faculty, scholars and researchers is that they are only at Berkeley for a short period of time. This time frame is relevant for several reasons.

First, unlike later-career scholars, early-career scholars are subject to numerous fixed milestones that they must achieve in a short time frame in order to succeed. For graduate students, these include course deadlines; for doctoral students, MA exams, qualifying papers, and/or advancing to candidacy; for postdoctoral scholars, delivering the promised research results on a grant; for assistant professors, the mid-career review and tenure; etc. The trauma and distraction of experiencing and/or reporting an incident of SVSH can cause an early career researcher to miss a key milestone and fail to progress in their career. Missing a milestone can jeopardize funding opportunities or academic standing, given requirements of normative time (in graduate programs) or funding expiration dates (for graduate students and postdoctoral scholars). SVSH is not the only kind of trauma that can delay progress towards a time-sensitive milestone, but insofar as time-cost is a disincentive to reporting SVHS, it falls clearly in the purview of this discussion.

Second, the perception that investigations of SVSH take a long time could be a disincentive to report, for scholars who are at Berkeley for only a limited amount of time. If the scholar plans to leave before an investigation is scheduled to finish, the scholar might have little incentive to report, given the associated costs and risk to career. It is thus important to make clear to the community that investigation of a report will continue until completion, even if the respondent or complainant leaves campus.

A third way in which the transitory nature of this population is relevant is that it can take time for those coming from a background different from UC Berkeley to learn what local rules and expectations are regarding SVSH. Members of these groups may arrive at UC Berkeley with very

different cultural expectations about what constitutes sexual harassment in the first place. These differing expectations may result in someone harassing another without realizing that the behavior qualifies as harassment; it may result in someone tolerating what we would consider harassment without realizing they can object; and it may result in someone feeling harassed by a behavior that is unacceptable in their home setting but acceptable in this one. For these reasons, training shorter-term members of the Berkeley community is essential, as developed further in our comments below.

## **Recommendations**

Given the particular vulnerabilities noted above, we recommend the following changes in best practices, policies, and procedures, especially as they relate to graduate students and postdoctoral scholars.

### **Education, Prevention, and Training**

1. *Introduce Localized Annual Training:* Graduate students are currently required to attend in-person training, which has so far been offered at either New Graduate Student Orientation, a school's orientation, or another session led by the PATH to Care Center. This training covers the six core requirements mandated by UC Office of the President (UCOP). The other groups in our purview are not required to attend in-person training. By policy and law, postdoctoral scholars--and graduate students who are also staff (e.g., graduate student instructors and researchers)--must complete an online one-hour training on sexual harassment. To our knowledge, visiting scholars and visiting faculty have no training requirement at all, even though they are often in close contact with students. This must change.

We recommend that in-person training be made universal, and that it be localized by unit in order to have the greatest effect. Whether via interactive theater, or instruction by trained professionals (e.g. PATH to Care staff), we recommend that SVSH training be held at least every two years within units or clusters of related units.

It may be preferable to offer separate training sessions for different status groups (e.g., graduate students, postdoctoral scholars, visiting researchers), as appropriate for each unit or cluster of related units, and to offer participants some choice in attending trainings in their own or another similar unit.

The in-person training sessions should cover the six core requirements and provide a basic overview of the training and expectations of staff and faculty (e.g., understanding the policies and procedures laid out in the Faculty Code of Conduct, APM-015 & APM-016).

We also recommend, as a follow-up to this training, that units or clusters of related units hold a meeting in which local expectations are discussed. Meetings permit a different kind of discussion than would be possible in the in-person required training described in the preceding paragraph, including a frank discussion of past failures and successes at UC Berkeley in the area of SVSH. These discussions may have a special focus on the department's history, culture, and expectations as they relate to SVSH. For larger departments and schools--like the Haas School of Business and Berkeley Law--these discussions may operate best in smaller groups within the school.

2. *Develop a Shared Lexicon:* We recommend that the administration work with the PATH to Care Center and other support groups to develop not only shared awareness of procedures to

follow but also a common vocabulary or conventionalized dialogue (“shared lexicon” is a term we have heard in previous discussions by members of this Committee) to use in discussing SVSH. This should be part of the in-person SVSH training that all units participate in. Of course people may speak in any way that they choose, but conventionalized expressions are useful in navigating unfamiliar or fraught waters; in times of trauma, and where action may be immediately needed, a shared lexicon can help people as a sort of default tool. To illustrate, a sample dialogue for students to be familiar with is the following: “Behavior (X) made me feel uncomfortable,” to which the expected response from a respondent who has internalized their SVSH training could be “I’m sorry I did that; I won’t do it again.” Students should know to expect this kind of response, and to view as a red flag alternative responses such as “You didn’t seem to mind” or “I didn’t mean anything sexual by it.” Training everyone in this kind of expected dialogue will also make it easier for bystanders to flag problems.

3. *Train Peer Educators:* While the PATH to Care Center, the Gender Equity Resource Center, and other on-campus offices offer excellent resources, we believe that great value can come from training members in small groups across campus to bridge the gap between disparate units and schools and central campus. We recommend that departments and schools work with the PATH to Care Center and other offices and community organizations to train peer educators for these sessions. These peer educators would be available to consult with all members of a unit, whether students, postdoctoral scholars, staff, faculty, or (other) visitors. They could offer training in SVSH policy; they can be resources for those who have experienced SVSH and help guide them to professional campus resources. Peer educators could be people in any number of roles; our particular focus is on graduate students, who are at Berkeley long enough to develop the local expertise to advise others. We would look to the PATH to Care Center to identify appropriate training guidelines. If possible, we recommend that these peer educators be added to the list of individuals deemed exempt from the “responsible employee” definition, as set by UCOP policy. Further, we recommend that these peer educators receive a reasonable amount of academic credit and/or a fair amount of pay.

4. *Develop Follow-up, In-depth Courses and Workshops for Faculty, Staff and Students on Specific Issues Pertaining to SVSH:* We recommend that resources be made available to students, faculty, and staff (e.g., via the PATH to Care Center and its Student Advisory Board) to offer courses and workshops on the issues of SVSH in more depth and through various lenses. Certain topics, such as how SVSH intersects with sexuality, healthy relationships, and maintaining a work-life balance, how to preserve one’s career path after an incident of SVSH, or how to recognize warning signs such as grooming behavior on the part of a supervisor, may be of special interest to graduate students and postdoctoral scholars.

5. *Continue Online SVSH Training For Now, with a Review in Two Years:* For now, we recommend that the required online training on SVSH for all students, postdoctoral scholars, and faculty be continued, and that the requirement be extended to visiting scholars and visiting faculty as well, before they can be issued a campus ID. No SVSH training is currently required of visiting scholars and visiting faculty, even though visiting faculty, in particular, interact closely with graduate students.

However, going forward, we urge against reliance on online training as the main source of SVSH training. Many students and faculty that we consulted feel strongly that the training is not effective. We are familiar with complaints that the training feels like a means to check a “compliance box” rather than an effective education about SVSH. Thus, we recommend that it continue in the longer term only if evidence is produced in the next two years showing that the

online training is efficacious. Such evidence could consist of user evaluations upon completion of the course, and/or questions about the perceived utility of the online training as part of the survey being advocated in Section IV on Data and Reporting (above). In the meantime, we urge improvements to the newly-revised online training in the form of more detail about available resources and reporting options at Berkeley, as well as a deeper dive into issues like bystander intervention, stopping (potential) perpetrators, and supporting survivors who disclose.

*6. Implement Targeted Measures to Mitigate to Possibility of SVSH Violations by Visiting Faculty, Invited Guests and Non-Campus Professionals Engaged in Temporary Employment:*

A second issue with online training is that it is not, and cannot reasonably be, required of off-campus faculty and professionals who come to campus to provide a talk or to attend an event. We have been told of concerns that these visitors may victimize students--particularly graduate students who need their input on research or need to make a good impression in order to facilitate future job searches or research opportunities. Every student should have the opportunity to engage safely with invited campus guests, and those who sponsor such visitors need to be mindful of the risks created by transient nature of these interactions.

- a. To protect against these heightened risks, we recommend first and foremost that a publicity campaign be mounted through a ubiquitous posting of the Campus Honor Code in offices, building entries, classrooms and other public spaces that make awareness of our values unavoidable.
- b. We also recommend that units who invite these visiting faculty and scholars avoid structuring the visit in a way that could put students at risk. For example, graduate students should not be made to feel compelled to drive visitors in their personal cars, departments could instead reimburse the visitor for the cost of a taxi or public transportation. If units set up one-on-one meetings between graduate students and visitors, they should arrange for public, professional settings, such as faculty offices or meeting rooms with open doors, or well-supervised social settings.
- c. Additionally we recommend that the administration clarify that those with a Berkeley ID and staffed by UC Berkeley--including, e.g., visiting scholars and visiting researchers--are in fact staff of the university who would be subject to investigation and potential sanction, if they were to be found to have violated the staff (sexual) misconduct policy.
- d. Campus educational programs should include mention of the special responsibility that individuals or groups who invite visitors to campus bear for clarifying our values and policies regarding Title IX and other forms of discrimination.

## **Survivor Care and Support**

We offer suggested best practices for various offices to better support and care for graduate students and postdoctoral scholars with regard to guarding against retaliation (in all its forms) and ensuring that the early career researcher maintains a proper path to fulfilling the program or degree requirements.

*7. Departments and other Relevant Units Should Take Steps to Guard against Retaliation:* In general, everyone in a department - and especially leaders like high-ranking faculty, deans, and chairs - must ensure that any individual who reports an incident of SVSH be protected from retaliation by anyone, whether actively or passively. Per the SVSH Policy, "Retaliation includes threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in this

Policy.”<sup>33</sup> It is important, in training and department meetings, to make people aware of the various types of possible retaliation, including potentially less obvious ways--which, due to general legal protections like the right to free speech, press, and the right to access the courts, may or may not be actionable harassment or retaliation under Title IX, Title VII, or another statute, policy, or legal provision--like harmful Op-Ed’s in the newspaper and frivolous lawsuits by a respondent against a complainant.<sup>34</sup> Further, these trainings and meetings must discuss the role of bystanders in preventing retaliation, e.g., by objecting when others “bad-mouth” a complainant (e.g., via tarnishing the survivor’s academic reputation or slut-shaming), or by encouraging survivors to connect with an advocate in the PATH to Care Center if they observe retaliation. We encourage departments to make expectations about averting retaliation part of the discussion in the meeting-recommendation discussion discussed in the Prevention, Education, and Training section (see Section I, above).

8. *If Appropriate, Survivors Should Inform Advisors and Dissertation Committees of Complaints:* Doctoral students rely on good communication with their advisor and dissertation committee in making progress on their research and in their program generally. If a student is dealing with SVSH and the student's advisors do not know, it can be difficult for students to get the kind of advice and academic support that they need. We recommend that, if appropriate and desired by the survivor, as a best practice for the student and for the Case Management Team, the student let the advisor or committee know what is going on. If the advisor is the problem, then the student must be provided with a different advisor; other members of the committee can assist with mentoring, including writing letters of recommendation that the student cannot request from the adviser, stepping up to serve as co-advisor, or assisting the student in finding someone outside the committee who could provide a letter or otherwise help. The committee can assist the student in preserving their reputation in the field in case of a rupture with a former advisor. Units may wish to consult with Graduate Division and the Office of Legal Affairs on appropriate wording in order to decide whether, or how, to allude in a letter of recommendation to a change in a student’s committee or research topic that has resulted from SVSH (or, for that matter, any other significant, private trauma in the student’s life).

We recognize that postdoctoral scholars and others do not have a committee, and may lack close structural ties to anyone beyond the supervisor, but they may at least have a lab or research group connections. In cases where that supervisor is the respondent, and generally in all cases where the survivor needs support, we suggest that, to the extent reasonably possible for those facing the trauma of an incident of SVSH, supervisees reach out to the PATH to Care Center, which could then work with or connect the student to the Visiting Scholars and Postdoctoral Affairs Program, Disabled Students Program, or other office or appropriate student and postdoctoral groups (e.g., Berkeley Postdoctoral Association). When possible, though, others working with the student or scholar reach out to an office like PATH to Care for confidential advice on how to best support the survivor.

9. *Departments Should Take Measures to Ensure that Survivors Are Able to Maintain a Proper Career Path:* In addition to the committee and lab or research group members helping guard against retaliation, they may be able to help the student maintain a proper path to completion at Berkeley. In the very short term, if the survivor and respondent are in the same group or both under the purview of the same committee, the members should intervene to

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<sup>33</sup> UC Sexual Violence and Sexual Harassment Policy, p. 5, available at: <http://policy.ucop.edu/doc/4000385/SVSH>.

<sup>34</sup> We have heard from some whom we have consulted that such actions by respondents may chill reporting and, of course, further traumatize the survivor-complainant.

separate the student survivor and the respondent, and work to ensure the survivor can continue studying and working as needed while the investigation--which may last months--is underway. In the slightly longer term, interventions and remedies may vary because every student and postdoctoral scholar's situation is different.

The more specific the research area the harder it may be for a student or scholar to separate successfully from a supervisor. For example, a remedy could involve shifting a graduate student to a different advisor within the unit, if there is such a person, or bringing in a visitor from another institution to consult with the student as needed. A student might be supported with summer funding to conduct research or take coursework elsewhere. A thesis committee might be strengthened by adding members from nearby institutions. A graduate program requirement might be altered to accommodate the specific needs of a survivor. A postdoctoral scholar may be able to change labs, or may need to be supported (in consultation with the union and subject to the restrictions in the scholar's contract and the terms of sponsored research) in transferring to another institution where the postdoctoral research can be carried out.

In the case of postdoctoral scholars, we recommend that the Vice Chancellor for Research develop efficient mechanisms for ensuring that the postdoctoral scholar is able to continue the contracted work even if a shift in location is necessary. In general, we recommend that, in assisting individuals whose advising structure has been disrupted by an incident of SVSH in the department, departments consult with Graduate Division, the Vice Chancellor for Research, and/or the office of the Vice Provost for the Faculty for advice. Additionally, the head graduate advisor and/or department chair should assist, in consultation with the student and other committee members, in the assignment of a new advisor.

Graduate Division can play a role in supporting survivors whose progress through the graduate program may have been negatively impacted (or may potentially be so impacted) after reporting an allegation. We recommend that Graduate Division work with the PATH to Care Center and, as appropriate, DSP and other campus support units, to provide students and faculty with a menu of short-term accommodations to meet survivors' needs (e.g., changes to exams, classes, or fees), and that GSAOs and head graduate faculty advisors be informed about these options on an annual basis.

10. *Departments and Schools Should Make Reintegration of Survivors a Priority in Allocating Funding (e.g. from GSI and GSR appointments, or other departmental sources).* Additionally, we encourage the campus administration to work with the PATH to Care Center, Tang/UHS, and appropriate student groups (e.g., the Graduate Assembly Wellness Project, ASUC Sexual Assault Commission, department-level groups) to provide safe spaces (such as the Survivors' Symposium of 2015-16) for survivors of SVSH, for healing and organizing, and to provide confidential advocates specifically for graduate students and postdoctoral scholars. If possible, these advocates would be located in satellite offices beyond Sproul Hall to be more easily accessible. Counseling & Psychological Services (CPS) is one possible model for the satellite offices.

### **Investigation, Adjudication, and Sanctions**

11. *Clarify Procedures for Reporting and Realistic Timelines for Investigations:* Many graduate students and postdoctoral scholars are calling for increased transparency and honesty in the reporting process. From discussions with students and postdoctoral scholars, and those who work with them, we have concluded that many are legitimately confused about certain

aspects of policies and procedures related to SVSH. The process involved for faculty respondents, in particular, has been described as opaque and compared to a black box. This is a factor in a general concern we have heard about, the “open secret” of faculty who are widely known or suspected to have committed SVSH, but who have not faced investigation. The reality, or perception, that faculty are protected due to their power and status contributes to a climate in which it seems that students have no recourse about SVSH, at least regarding certain individuals.

For this reason, it is all the more imperative that when a student discusses their options with anyone, whether an OPHD Investigator or a Confidential Care Advocate, that person ought to be frank regarding the procedures and the likely timeline of a case. Instead of quoting the OCR regulations, for example, OPHD should inform a student that investigating their case may take months, and implementing sanctions, even longer. Furthermore, the person to whom the survivor reported must be clear in describing the reporting options available, including distinguishing the options that begin an investigation and adjudication process which the survivor cannot stop (once started) and those that do not.

The complainant should also be informed at this time of their rights to take legal action outside of the on-campus processes, including information on where to find deadlines for taking such actions, such as with the California Department of Fair Employment and Housing, the U.S. Department of Education Office of Civil Rights, either state or federal court for any number of causes of action (which may have various statutes of limitation), or any other needed entity--in addition to potential places to seek (pro bono) legal advice.<sup>35</sup>

12. *Prioritize Reducing the Length and Repetitive Procedures of Cases:* We strongly recommend that the administration prioritize reducing the length and repetitive structure of cases (from reporting and investigation to adjudication and sanctions), to the greatest extent possible. Some of the current delay is caused by OPHD’s case backlog, itself due to a shortage of resources, although there are certainly some cases where delays have been properly granted at the request of the survivor or because of a concurrent legal process. Survivors should not have to repeat their story too often. To this end, we recommend (below, as above in Section II), in cases of faculty respondents, that the separate and additional faculty investigation process be combined with the OPHD investigation. Moreover, all who interact with a survivor in the life of any SVSH case (e.g., police officers, OPHD investigators, and appeals officers) must receive trauma-informed training annually, as we understand is already suggested by UCOP for some dealing with student-as-respondent cases.<sup>36</sup>

13. *Graduate Student or Postdoctoral Scholar Complainants Should Have a Defined Role in the Investigation and Disciplinary Process:* Currently, a student or postdoctoral scholar who

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<sup>35</sup> It would probably be giving legal advice to provide the complainant with a definite deadline date, which means a non-attorney cannot give such advice without practicing law unlawfully. Thus, beyond giving the complainant at this point some websites and phone numbers to call, they should be connected, if possible, with pro bono attorneys, such as with the Family Violence Law Center, to help them understand their legal rights and responsibilities.

<sup>36</sup> See UC Berkeley Procedures for Implementation of the Student Adjudication Model, p. 4 (“University officials responsible for the investigation and/or adjudication process will be trained to carry out their roles in an impartial manner in keeping with trauma-informed practices. It is suggested that this training occur annually.”), available at <http://sa.berkeley.edu/sites/default/files/FINAL%20Adjudication%20Model%2012.18.15%20%284%29.pdf>.

makes an allegation against a faculty member contributes testimony and may participate in alternative resolution in some cases, but is then out of the loop for the remainder of the investigation. The student may receive a report at the end, though we have heard that even this does not always happen. When early resolution occurs, students have no say. Only if a case gets all the way to a Senate Privilege and Tenure hearing (which is rare) is the student involved again. We strongly recommend the establishment of a mechanism of student consultation as part of the investigation and sanctions process. In the performance of their role in the process, we recommend that students or postdoctoral scholars be provided with legal representation (which could be provided on a volunteer pro bono basis, but must not be contingent on the availability of volunteers). Students and postdoctoral scholars are well aware that many members of the faculty have the resources to afford legal representation, contributing to the power imbalance that can dissuade students from initiating a complaint in the first place.

14. *Faculty Respondents Should Not Solicit Students or Postdoctoral Scholars as Witnesses:* Furthermore, based on concerns we have heard from graduate students and postdoctoral scholars, we recommend that faculty respondents not solicit students or postdoctoral scholars who are not the complainants for (character) witnesses during their investigation, adjudication, or elsewhere; rather, the respondent in such a case should rely on their tenured faculty and other colleagues, who would presumably feel more at liberty to decline. Currently, some faculty respondents have requested students or postdoctoral scholars who are in their lab or research group to serve as such witnesses. But doing so is likely to put the students or postdoctoral scholars in an awkward and potentially compromising position where, due to the power dynamics and other phenomena discussed above, they feel that they cannot decline, even if they would like to. We recommend that instead, as a matter of course, OPHD investigators interview any such students and postdoctoral scholars who may be witnesses, if in their professional judgment they believe that to be necessary for their investigation. We further recommend that, if--against our prior recommendation--a faculty member *does* ask a student or postdoctoral researcher to be a witness, and said person declines the faculty member's request, it be considered unethical and possibly a form of retaliation for the faculty respondent, in such a case, to then take any negative action against said student or postdoctoral scholar.

### **Minimum Sanctions and Mandatory Reporting**

15. *Reassess the Use of Minimum Sanctions and Create a Menu of Possible Sanctions to be Used in Their Stead:* While they have the potential to do good by encouraging more reporting and rationalizing sanctions, the policies of mandatory reporting and minimum sanctions are felt to have deleterious effects by many students, staff, and faculty that we interviewed. Many individuals we consulted expressed concerns over the imposition of minimum sanctions on student respondents. This practice may have a chilling effect upon reporting by survivors who may not want the respondent to face sanctions that they feel to be too harsh or unfair. Furthermore, minimum sanctions on students (alone) are perceived as harsher than sanctions against faculty respondents for the same misconduct. At the same time, some have called for imposing minimum sanctions for respondents who hold a great deal of power, such as high-level administrators. Additionally, many have called for augmenting or replacing minimum sanctions with the implementation of restorative justice practices, allowing the possibility for healing rather than (simply) punishment. Our recommendation is that the rationale behind minimum sanctions be scrutinized, amended, and clarified. Going further, we also recommend that instead of minimum sanctions, a menu of possible sanctions be published so that complainants (and respondents) at all levels have some reasonable expectation for the kind of result they might expect if a complaint is upheld.

16. *Clarify the Definition and Scope of “Responsible Employees”*: Many members of the campus community have requested greater clarity about the definition and scope of “responsible employees,” i.e. those who have a legal duty to report to a supervisor. Many have expressed opposition to the new policy of requiring virtually all employees (including student staff) to be “responsible employees,” stating that it both discourages survivors from disclosing incidents to peers who could help and discourages students from listening to a disclosure, for fear of being obligated to report it against the survivor’s wishes (or being in violation of policy). For the definition of “responsible employee,” we urge UCOP to either amend this new policy (i.e., by further exempting individuals, such as peer educators, by adding them explicitly to the list of confidential resources), provide greater clarity about exemptions, or remove it altogether.

## Acknowledgements

The Committee would like to thank, first and foremost, all the participants in the 2016 summer working groups and the participants in our fall listening and outreach sessions, as well as the numerous individual campus experts and practitioners who gave generously of their time and expertise in support of the work of the Committee (see Appendix B below). We thank, in particular, Associate Chancellor and Chief Ethics, Risk and Compliance Office, Khira Griscavage, Deputy Associate Chancellor Wanda Crockett, Director of OPHD Denise Oldham and Director of PATH to Care Center Mari Knuth-Bouracee, who went above and beyond to help us. We benefited, as well, from the expertise of Associate Chancellor Nils Gilman, Vice Chancellor of Student Affairs, Harry LeGrande, Dean of Students Joseph Greenwell, Associate Dean of Students, David Surratt, Executive Director of University Health Services, Claudia Covello, Associate Vice Chancellor for Human Resources, Jeannine Raymond, Vice Chancellor for Equity and Inclusion, Na'ilah Suad-Nasir, and Jeffrey Edelson, Dean of the School of Social Welfare, each of whom provided important input and advice at critical stages in our work. Phyllis Hoffman and Andrea Lambert in the Office of the UC Berkeley Office of the Executive Vice Chancellor and Provost have offered unerring advice and support throughout. We greatly appreciate Jane Christen in the College of Letters and Science Dean's Office for all of the scheduling and logistical support. Finally, we would like to extend special thanks to Robert Post and Riva Siegel of Yale Law School, and Seth Grossman in the University of California Office of the President.

# Glossary

**Administrative Remedial Measures** - Administrative actions in response to violation of the SVSH policy to remediate or mitigate the situation (for which a Privilege and Tenure hearing is not required because they do not constitute faculty discipline).

**Alternative resolution** - When a complaint is made to the Title IX office, but is put to rest without formal Title IX investigation because the complainant decides not to go forward through the whole process. In such cases, the campus may nonetheless decide there is sufficient evidence to go forward with some informal “alternative resolution” that is not a formal sanction.

**BearWalk** - BearWalk is a free walking escort service of UCPD that is largely a student-run operation. Students can schedule a walking escort online and a member of the UCPD team (usually student workers called Community Services Officers) will respond.

<http://nightsafety.berkeley.edu/nightsafety/escort>

**Clear and convincing evidence** - A medium level of burden of proof which is a more rigorous standard to meet than the preponderance of the evidence standard, but a less rigorous standard to meet than proving evidence beyond a reasonable doubt. In order to meet the standard and prove something by clear and convincing evidence, a party must prove that it is substantially more likely than not that it is true. This standard is employed in both civil and criminal trials (used in the Academic Senate Committee on Privilege and Tenure).

[https://www.law.cornell.edu/wex/clear\\_and\\_convincing\\_evidence](https://www.law.cornell.edu/wex/clear_and_convincing_evidence)

**Complainant** - The University considers any alleged victim of sexual violence or sexual harassment a “complainant,” whether or not they make a report or participate in the investigation and resolution process. <http://policy.ucop.edu/doc/2710641/PACAOS-Appendix-E>

**Complaint** - The first document filed by a person or entity claiming legal rights against another.

**Coordinated Community Review Team (CCRT)** - Each UC campus is required to appoint a Coordinated Community Review Team for Sexual and Gender-Based Violence and Misconduct (CCRT). The role of the committee is to serve in an advisory capacity to campus leadership and community members about policy, best practices, education, prevention and response to sexual misconduct. The configuration of the committee encompasses a wide and diverse representation of functions from across the campus and the community, including students.

<http://compliance.berkeley.edu/service-support/compliance-oversight-coordination/ccrt-committee>

**Early resolution** - An agreement reached between administration and faculty respondent, concerning sanctions for a violation of the Faculty Code of Conduct, that halts any subsequent or concurrent Privilege and Tenure disciplinary actions [Administration sanctions, such as removing a chair or dean from their administrative role do not go to the Committee on Privilege and Tenure].

**Formal investigation** -A formal Title IX investigation is initiated when a Title IX Officer receives a complaint that indicates that a violation of Title IX or campus SVSH policies may have occurred. The Investigative Officer meets separately with the complainant, the respondent, and any third parties with relevant information. The product of the investigation is a written report that includes a statement of the findings, the positions of the parties, a summary of the evidence, the findings of facts, and a recommendation as to whether there has been a violation of SVSH policy. <http://policy.ucop.edu/doc/2710641/PACAOS-Appendix-E>

**Interim measures** - Measures taken to protect the complainant and respondent, and in some instances the community, during the OPHD investigation. The goal is to prevent ongoing harassment or discrimination, to protect the safety and well-being of the parties and community members, and to prevent retaliatory conduct.

**Office for the Prevention of Harassment and Discrimination (OPHD)** - The OPHD Office has the specific responsibility for providing prompt and effective responses to all complaints of sex discrimination or harassment for faculty, staff and students. They lead the investigative process. <https://ophd.berkeley.edu/>

**PATH to Care Center** - The PATH to Care Center provides affirming, empowering, and confidential support for survivors and those who have experienced gendered violence, including: sexual harassment, dating and intimate partner violence, sexual assault, stalking, and sexual exploitation. Confidential advocates bring a non-judgmental, caring approach to exploring all options, rights, and resources. <http://sa.berkeley.edu/dean/confidential-care-advocate>

**Preponderance of evidence** - Preponderance of the evidence is the standard used for investigating allegations of sexual harassment or violence (used for OPHD investigation). This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. Preponderance of the evidence is required in a civil case and is contrasted with "beyond a reasonable doubt," which is the more severe test of evidence required to convict in a criminal trial. <http://dictionary.law.com/default.aspx?selected=1586>

**Probable cause** - During an investigation, the Investigative Officer determines whether the facts alleged, if true, would justify the imposition of discipline for a violation of policy. In a case where the facts alleged would justify discipline, the Investigative Officer investigates the allegations and determines whether sufficient credible evidence can be produced to support a finding of misconduct. A positive finding on both of these two elements justifies a determination that there is probable cause to believe that misconduct has occurred.

**Respondent** - The party against whom an appeal or motion, an application for a court order, is instituted and who is required to answer in order to protect his or her interests. <http://legal-dictionary.thefreedictionary.com/respondent>

**Sexual assault** - Occurs when physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of

drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication). <http://survivorsupport.berkeley.edu/sexual-assault>

**Sexual harassment** -Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive. Sexual harassment includes sexual violence. <http://survivorsupport.berkeley.edu/sexual-assault>

**Sexual violence** - is defined as physical sexual acts engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking. <http://survivorsupport.berkeley.edu/sexual-assault>

**Survivor** - The term "survivor" is used instead of "victim" to refer to those who are impacted by violence and harassment. It is meant as a term of empowerment and is widely used in advocacy and activist circles to signify movement towards healing and recovery. <http://survivorsupport.berkeley.edu/friends-and-family>

**Title VII** - Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employers from discriminating against employees on the basis of race, color, religion, sex, or national origin. <https://www.eeoc.gov/laws/statutes/titlevii.cfm>

**Title IX** - Title IX of the Education Amendments of 1972 is a federal law that states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

**WarnMe** - WarnMe/Nixle is UC Berkeley's alerting and warning service for students, staff, and faculty. It is activated to contact people when there is an immediate threat to safety or health affecting the campus community. WarnMe/Nixle can alert people by email or text message. <https://warnme.berkeley.edu/>

# Appendix A:

## Committee Overview and Process

### Committee's Charge

The Chancellor's Senate/Administration Committee on Sexual Violence and Sexual Harassment, formed in April of 2016, was tasked with reviewing and making recommendations for improving all campus services, policies and practices relating to the prevention, remediation, adjudication, and sanctioning of sexual violence, harassment and assault against students, staff and faculty on the UC Berkeley campus.

### Committee Membership

#### Co-Chairs:

Carla Hesse	Dean of Social Sciences and Executive Dean of the College of Letters & Science
Barbara Spackman	Professor of Italian Studies and Comparative Literature

#### Faculty:

Carol Christ (ex-officio)	Interim Executive Vice Chancellor & Provost; Professor Emerita, English
Catherine Albiston	Professor of Law and Sociology
Steven Boggs (resigned August 2016)	Professor and Chair of Physics
Inez Fung	Professor of Earth & Planetary Science; Environmental Science, Policy & Management
Sharon Inkelas (joined August 2016)	Professor of Linguistics
Rodolfo Mendoza-Denton	Professor of Psychology; Associate Dean for Diversity and Inclusion, College of Letters & Science
Janelle Scott	Professor of Education
Molly Van Houweling	Professor of Law

#### Academic Senate Representatives:

Donna Jones	Associate Professor of English, DECC
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Jennifer Johnson-Hanks	Professor of Demography and Sociology, CAPRA
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**Staff:**

Barbara A. Lane	Assistant Dean (CAO), College of Natural Resources
Alicia Rowell (resigned September 2016)	Assistant Athletic Director, Capital Campaigns & Administration, Cal Athletics

**Students:**

Selina Lao	ASUC Representative
Frances McGinley	ASUC Representative
Cory Hernandez	GA Representative

**External Advisors to the Committee:**

Mary Sue Coleman	Former President of the University of Michigan, Incoming President of the Association of American Universities
Ruth Simmons	Former President of Brown University, Professor of Comparative Literature and Africana Studies
Robert Post	Dean of Yale Law School, Professor of Law

**Staff to the Committee:**

Jenny Kwon	Special Projects Administrator, Office of the Chancellor
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**Organization of the Work**

**Meeting Frequency and Agendas/Content**

The full committee met 8 times between May 2016 and November 2016 as listed below:

1. May 24, 2016, 1:00 to 4:00 pm
2. August 31, 2016, 3:00 to 6:00 pm
3. September 15, 2016, 1:00 to 3:00 pm
4. September 20, 2016, 10:00 am to 12:00 pm
5. October 5, 2016, 4:00 to 6:00 pm
6. October 18, 2016, 9:30 am to 11:30 am
7. November 3, 2016, 2:00 to 4:00 pm
8. January 18, 2017, 2:00-4:00 pm

Agenda items covered included:

- Scope and objectives the committee
- Creation of committee timeline
- Creating of major themes to then constitute 5 summer working groups
- Status of summer working group consultations with stakeholders
- Reporting of major findings by each working group
- Discussing key recommendations of each working group
- Establishing a Statement of Principles that will guide the committee's report
- Finalization of draft

### **Summer Working Group Process and Consultative Model**

The committee divided into 5 summer working groups that were based on the major topics that they felt needed careful review and recommendations. These working groups included:

1. Data and Records Management
2. Prevention, Training, and Education
3. Survivor Care and Support
4. Complaint Resolution, Policy, and Discipline
5. Graduate Students and Postdoctoral Scholars

### **Working Group Membership**

Each of the summer working groups was led by members of the Committee, but included additional members from the campus community (staff, faculty, students, and postdoctoral scholars) who have worked closely on those themes. Working groups included a variety of experts and stakeholders in the campus community in order to ensure a full review of each topic (See Appendix B for full list).

### **Working Group Consultative and Report Process**

Each working group together researched and assessed their topic and considered items including:

- Recommendations for scope, scale, and structure related to the topic
- Evaluation of current practices, policies, loopholes, roadblocks, etc.
- Consider the role of power dynamics (position, race, gender, status group, etc.)
- Assess resource needs
- Pay particular attention to graduate students and postdoc issues related to the topic
- Assess data, record-keeping, and reporting variables
- Gather any lessons learned as well as best practices

Workings groups then drafted summary reports that were reviewed by all committee members. These summary reports have been incorporated into this final report.

### **Listening & Input Tour**

The committee also launched a Listening and Input Tour so that any member of the campus could engage with the committee to (1) hear about the committee's work and findings thus far and (2) offer additional feedback and guidance as they complete the process. These sessions proved very beneficial. Four sessions were scheduled:

1. Undergraduate & Graduate Student Listening Session - We offered two dates with students.
2. Staff
3. Faculty

**Additional Co-Chair meetings with various experts and stakeholders**

Co-Chairs Carla Hesse and Barbara Spackman met and consulted with several additional experts and stakeholders including:

- [Coordinated Community Review Team \(CCRT\) membership](#)
- [PATH to Care leadership](#)
- [Office for the Prevention of Harassment and Discrimination \(OPHD\)](#)
- [Title IX Working Group](#)
- UCOP President and Leadership
- [Khira Griscavage, Associate Chancellor and Chief Ethics, Risk, and Compliance Officer \(CERCO\)](#)
- Claudia Covello, Director of University Health Services

# Appendix B

## Summer Working Group Members and People Consulted

### Data and Records Management

- **Co-Leads and Members**
  - Jennifer Johnson-Hanks, Professor of Demography and Sociology, CAPRA
  - Inez Fung, Professor of Earth and Planetary Science
- **Additional Individuals Consulted**
  - Melanie Hassel, formerly Office for the Prevention of Harassment and Discrimination
  - Denise Oldham, Director, Office for the Prevention of Harassment and Discrimination
  - Fiona Doyle, Dean of Graduate Division
  - Jody Shipper, Formerly VAWA/Clery Act/Title IX/SVSA, UCOP
  - Andrew Eppig, Institutional Research Analyst, Office of Equity & Inclusion and Office of Planning & Analysis
  - Lisa Ho, Campus Privacy Officer, Office of Ethics, Risk and Compliance Services
  - Khira Griscavage, Associate Chancellor and Chief Ethics, Risk, and Compliance Officer
  - Frances Hellman, Dean, Division of Mathematical and Physical Sciences

### Prevention, Training, and Education

#### Survivor Care and Support

(These two groups overlapped quite a bit in membership and consultation, and are therefore listed together)

- **Prevention, Training, and Education Co-Leads**
  - Rodolfo Mendoza-Denton, Professor of Psychology; Associate Dean for Diversity and Inclusion, College of Letters & Science
  - Alicia Rowell, Assistant Athletic Director, Capital Campaigns & Administration, Cal Athletics (resigned in September 2016)
- **Survivor Care and Support Co-Leads**
  - Selina Lao, undergraduate student, ASUC Representative
  - Frances McGinley, undergraduate student, ASUC Representative
  - Donna Jones, Associate Professor of English, DECC
  - Rodolfo Mendoza-Denton, Professor of Psychology; Associate Dean for Diversity and Inclusion, College of Letters & Science
- **Additional Members/Individuals Consulted**
  - Billy Curtis- Director, Gender Equity Resource Center
  - Cici Ambrosio - Director of Women's Resources, Sexual Harassment/Assault Resources, Gender Equity Resource Center
  - Dax viviD, Graduate Assembly Campus Affairs Vice President, Department of Integrative Biology
  - David Surratt, Associate Dean of Students
  - Tiffany Hsiang, Confidential Advocate, PATH to Care Center
  - Mari Knuth-Bouracee, Director, PATH to Care Center
  - Virginia Duplessis, Assistant Director, Sexual Assault Prevention, PATH to Care Center
  - Colette Patt, Director of Diversity Programs, Math and Physical Sciences

- Randy Lee, Class of 2016
- Sam Kohn, graduate student, Physics Department
- David Robinson, Associate Campus Counsel, Office of Legal Affairs
- Jeff Prince, Director, Counseling and Psychological Services, UHS
- Charis Thompson, Chancellor's Professor and Chair of Gender & Women's Studies
- Claude Steele, Professor of Psychology, EVCP Emeritus
- Kiara Lee, Confidential Advocate, PATH to Care Center
- Micki Estuesta, Assistant Director, New Student Services
- Angelica Stacy, Associate Vice Provost, Office of Faculty Equity and Welfare
- Sophie Bandarkar, undergraduate student, ASUC Student Advocate
- Tobirus Newby, Licensed Clinical Social Worker, UHS
- Paula Flamm, Social Services Manager, UHS
- Cory Hernandez, graduate student, GA Representative
- Victoria Robinson, lecturer and AC Program Director, Ethnic Studies

## **Complaint Resolution, Policy, and Discipline**

- **Co-Leads**

- Catherine (KT) Albiston, Professor of Law and Sociology
- Molly Van Houweling, Professor of Law (resigned from committee in October 2016)

- **Members**

- Carol Christ (ex-officio), Interim Executive Vice Chancellor and Provost
- Carla Hesse, Dean of Social Sciences and Executive Dean of the College of Letters & Science
- Barbara Spackman, Professor of Italian and Comparative Literature
- Janelle Scott, Professor of Education
- Babs Lane, Assistant Dean (CAO), College of Natural Resources
- Cory Hernandez, graduate student, GA Representative
- Selina Lao, undergraduate student, ASUC Representative
- Jennifer Johnson-Hanks, Associate Professor of Demography and Sociology, CAPRA
- Anita Raman, Director, HR Policy & Labor Relations, Human Resources
- Corliss Lee, Librarian, LAUC-B Diversity Committee
- Denise Oldham, Director, Office for the Prevention of Harassment and Discrimination
- Paula Raffaelli, Complaint Resolution Officer, Office for the Prevention of Harassment and Discrimination
- Hallie Hunt, Assistant Dean of Students and Director, Center for Student Conduct
- Jonathan Simon, Academic Senate, President's Task Force, Professor of Law
- Heather Archer, Assistant Vice Provost, Academic Personnel Office

- **Members Who Offered Additional Consultation Outside of Regular Meetings**

- Heather Archer, Assistant Vice Provost, Academic Personnel Office
- Denise Oldham, Director, Office for the Prevention of Harassment and Discrimination
- Paula Raffaelli, Complaint Resolution Officer, Office for the Prevention of Harassment and Discrimination
- Anita Raman, Director, HR Policy & Labor Relations, Human Resources

- **Additional Individuals Consulted**

- Jody Shipper, Formerly VAWA/Clery Act/Title IX/SVSA, UCOP

- Therese Leone, Associate Campus Counsel, Office of Legal Affairs
- Chris Patti, Chief Campus Counsel, Office of Legal Affairs
- Andy Goldblatt, Campus Risk Manager, Risk Services
- Sara Thacker, Director and Ombudsperson, Staff Ombuds Office
- Barbara Bryant, Lecturer Berkeley Law
- Raka Ray, Professor of Sociology and South & Southeast Asian Studies
- Wendy Brown, Professor of Political Science
- Ben Hermalin, Vice Provost for the Faculty
- Janet Broughton, Vice Provost for the Faculty Emeritus
- Yohance Edwards, Associate Director, Office for the Prevention of Harassment and Discrimination

## **Graduate Students and Postdocs**

- **Co-Leads**

- Cory Hernandez, graduate student, GA Representative
- Sharon Inkelas, Professor of Linguistics (began in August 2016)
- Steven Boggs, Professor and Chair of Physics (resigned in August 2016)

- **Members**

- Fiona Doyle, Dean of Graduate Division
- Janelle Scott, Professor of Education
- Jenna Johnson-Hanks, Associate Professor of Demography and Sociology, CAPRA
- Corinne Sadlowski, Berkeley Postdoctoral Association
- Sam Castaneda, Visiting Scholars and Postdoctoral Affairs
- Louise Fortmann, Professor in Environmental Science
- Dax viviD, Graduate Assembly Campus Affairs Vice President
- Maria Jaochico, Associate Director, Center for Student Conduct (resigned November 2016)
- Ann Swidler, Graduate Council
- Erin Greer, Graduate student & member of student-workers union
- Julia Havard, graduate student & member of student-workers union
- Erin Niebylski, Interim Associate Director, Center for Student Conduct (began November 2016)

- **Additional Individuals Consulted**

- Claire Stinchcomb, graduate student & member of student-workers union
- Elise Span, graduate student & GA rep on VPC
- Jennifer Chizuk, Manager, Talent Development, Human Resources
- Anneli Hayden, researcher at University of Uppsala, Centre for Gender Research (through one of our working group members)
- Numerous graduate students, postdoctoral researchers, and other community members who wished to remain anonymous for purposes of being listed in the report

# Appendix C

## Themes from Consultation: Complaint Resolution, Policy and Discipline Working Group Report

Theme	Comments
Early resolution	When OPHD finds a violation and then refers a case to EVPC, can be a perception that cases stall out, go into a proverbial “black hole”; process takes a very long time; complainant largely left out of the process; decision about discipline made with little guidance, too discretionary, insufficient community input or consultation with those with expertise; too much pressure on one individual to make the decision about discipline and also not clear who EVPC can/must/does consult with before making that decision.
Power issues	Post-docs and doctoral students are especially vulnerable due to dependence on one faculty member; administrative assistants to powerful administrators are especially vulnerable; perception that university is not taking power issues seriously; lack of focus on the vulnerable position of the survivor/complainant, may not want to report but still needs support, services, assistance navigating difficult situation; those in positions of power should be held to a higher, not lower, behavioral standard because of the potential for abuse of power; problems with abuse of power more generally (e.g. bullying), and this can be a precursor to SVSH issues.
Concerns about retaliation	In a climate of short contracts and layoffs, people fear retaliation; concern about lack of protection from retaliation; retaliation an acute concern for faculty, graduate students who are in delicate dependent relationships with powerful faculty and administrators; survivors often turn to junior women faculty members who then are vulnerable to retaliation and extreme stress when they try to provide assistance; survivors choose not to report because of fear of retaliation but then are unsure how to access support and services for navigating untenable situations.
Lack of horizontal equity or consistency	Early resolution, three year rule, and restrictions on imposing paid administrative leave available to faculty but not to staff and students; three investigation model applied to faculty but not to staff and students; perception that there are much harsher consequences for staff and students compared to faculty; no guidance for applying discipline to staff or faculty, too discretionary; more community input needed to ensure a fair outcome; imposition of discipline can be inconsistent

	because it is ultimately imposed by decentralized managers or chairs; concerns about due process and potential disproportionate enforcement against sexual minorities, underrepresented minorities based on stereotypes about sexuality.
Three year rule	Responsible employee may know and not report which would deprive the university of the opportunity to investigate and sanction a violation; may be a good thing to have no statute of limitations for SVSH - people may have a disincentive to report when they are still students; sometimes people are still around and investigation can turn up additional cases; even though three year rule is not a statute of limitations, is perceived as one and chills reporting.
Information sharing and communication	Departments frustrated with lack of information when investigation and disciplinary processes are ongoing; concerns about risk management and maintaining inclusive climate; concern about putting students at risk of harm because not aware of pending investigations or complaints - information needs to be shared if needed for someone to do their job; consider expanding the circle of actors who need to know about pending investigations and findings of violation of the SVSH policy to address some of these concerns; not clear what is confidential and why, gives impression of a cover up, written guidance on this with explanations of why information is confidential would given various actors something to rely on when asked to disclose information; need to balance the need for confidentiality for complainant and respondent with the need to keep the community safe; systems of consulting and routing information back to OPHD are needed so they can consult about what has happened in similar cases, also record keeping issues; small crisis teams working quickly on cases and reporting out to the appropriate actors can work well.
Need for representation and assistance for complainants and some respondents	Some (limited) resources for student respondents, but inequalities are developing among those who can afford private representation and those who cannot; not all respondents (e.g. staff) can afford representation; complainants have limited resources, are witnesses but not parties in early resolution but have legal rights affected by early resolution, resources to provide representation and assistance to complainants should be developed.
Insufficient confidential resources	Concern that centralized confidential advocates for all three populations may discourage reporting by faculty and staff; need and desire for separate confidential advocates for staff/non-faculty academic appointees, faculty, and students; EAP and Ombuds office NOT advocates, not trained for these situations unlike confidential advocates and also must cover many other issues; EAP not a good choice for confidential advocates, should be someone NOT associated with HR; intervening sooner and more effectively may reduce harm and also later lawsuits; more resources needed for all populations; extreme

	<p>concern about post-docs and doctoral students who have special concerns and need confidential advocates who understand their circumstances; do NOT use volunteers or just designate existing people as confidential advocates/resources - being a confidential advocate requires training, expertise is needed in addressing these issues or will chill reporting, so becomes a resource issue; there should be a specific confidential resource for post-doc and graduate students who are especially vulnerable to delays and potential for retaliation; for faculty, staff, and graduate students, the stakes of bringing a complaint seem enormous, so confidential resources for them need a lot of education about HR and different graduate students and faculty issues.</p>
<p>Reporting</p>	<p>Fear of retaliation is undermining reporting; lack of faith in OPHD to investigate and remedy the situation, provide assistance to complainants, or protect complainants from retaliation is deterring reporting; minimum sentencing guideline approach in student policy may deter reporting, nationally (e.g. at other universities) evidence that mandatory sentencing guidelines have reduced reporting; uncertainty about the limits of the responsible employee policy and also lack of UCOP guidance for penalties for failing to report; concern about responsible employee designation undermining reporting -- responsible employees who are reporting fear retaliation against themselves and complainants, also fear that if they report too late or incompletely they will get into trouble, might be a disincentive to report anything; guidance and training would be useful on responsible employee standard and requirements; insufficient confidential advocates for staff and faculty (and students) undermines reporting; concern that responsible employees who fail to report will nevertheless start the three year rule clock running under the current rule, resulting in no meaningful investigation or discipline for some faculty violations of the SVSH policy; concern that local HR offices may not always report issues to central HR and/or OPHD, but instead try to handle them locally, would be helpful to clarify that local HR should refer cases directly to OPHD, especially because there may be conflicts of interest and other issues for local HR; the perception that investigations take a long time can be a disincentive to report, especially for those who are on campus for only a short period (e.g., post-docs); aggregate reporting of complaints filed and processed would encourage reporting by indicating university takes complaints seriously and does something.</p>
<p>Unclear process and policies</p>	<p>Unlike the student conduct model, no clear process that follows a finding of violation of the SVSH policy by staff or faculty; different evidentiary standards for OPHD investigation (preponderance of the evidence), faculty investigators (probable cause), and P &amp; T (clear and convincing) confusing and illogical; lots of overlapping policies for discipline and reporting, not always clear where to go; other UCs do not use Faculty Investigator model for discrimination, outlier;</p>

	<p>general disciplinary policies for staff and faculty not always well suited for dealing with violations of SVSH where university has obligation to stop harassment, prevent recurrence, and remedy the harm.</p>
<p>Delay in resolution</p>	<p>Investigations take a long time; investigation and disciplinary process for faculty after OPHD finding takes a long time, this deters post-docs and graduate students when they learn how long the process against a faculty member might take; alternative resolution/early resolution processes should be limited in time and scope; second investigation by faculty investigators grafted onto SVSH process from pre-existing FCC policy, delays resolution, not clear it ever changes the conclusion, and in some cases requires survivor to needlessly repeat his/her experience, which can be traumatizing; liability problems with delay and inconsistent discipline.</p>
<p>Interim, remedial, and disciplinary measures</p>	<p>More guidance and assistance needed to departments and units about protecting complainants with interim measures, what is available, who can take measures, etc.; what steps can be taken to remedy the harm for complainant and the broader community; not clear who has authority or duty to implement interim and remedial measures, these fall through the cracks; concerns about remedy and risk management, perhaps need to expand the case management team model; more community input on appropriate disciplinary measures is needed - perception that this is too discretionary and unequal among respondents; no guidelines on what is an appropriate response, case by case determinations sometimes result in inconsistency; guidelines on factors and principles for applying disciplinary measures to improve consistency and horizontal equity would be a good idea, if guidelines avoid mandatory minimum would not undermine reporting; administrative leave as an interim measures restricted by 10 day rule, not ideal; central HR can only provide advice, has no authority to impose interim measures but must depend on local units to follow through; need to develop better interim measures for graduate students and post docs who are in potentially delicate and long term relationships with faculty members and who may not chose to pursue a complaint.</p>
<p>Recordkeeping</p>	<p>Decentralized record keeping (OPHD investigation, discipline and other resolution scattered) makes compliance with OCR and PRA requests difficult and time consuming for staff; recordkeeping not always ideal, up until recently have not had the infrastructure or resources; what has been missing in the process for faculty and staff is a single point of contact that collects information about investigation, settlements, etc.; settlement outside the formal process not making it into the system, settlement documents not always shared with Title IX office; centralized record keeping and a single point of information requires</p>

	coordination among campus offices - no procedures in place for that.
Expertise not being utilized	<p>Offices with expertise, e.g. OPHD, OLA, Risk Management, central HR, PATH to Care advocates, are not being utilized sufficiently at all levels of the process from complaint through disciplinary procedures; wider consultation could bring in data about similarly situated people and what has happened to them; can be an issue for OCR - how consistently is the SVSH policy being applied; there are not systematic or institutionalized relationships among actors relevant to SVSH process - consider extending case management team model, or something like that, to more/all cases; concern about having faculty investigators in SVSH cases (Berkeley is an outlier in UC system in having faculty investigators redo SVSH investigations) -- OPHD has more expertise/training in trauma and SVSH, faculty can be intimidating to students, consider having FI investigate any non-SVSH violations of FCC that may be involved, but not require second reinvestigation of SVSH; insufficient consideration of the seriousness of violations and the risks involved of continuing conduct; clear HR/ employee relations function and expertise for staff that can catch concerns with behavior earlier, no equivalent with similar career expertise for faculty; general disciplinary processes focus on discipline, but can overlook the legal requirement to stop harassment, prevent recurrence, and remedy the harm to the survivor; appropriate expertise hearing about issues too late (e.g., risk management).</p>

# Appendix D

## SVSH Confidential Care Advocates at Peer Institutions

College or University	Number of SVSH Counselors/Advocates	Website	Number of Students
Stanford University	2	<a href="#">Confidential Support Team (CST)</a>	6,980 undergraduates / 8,897 postgraduates
Harvard University	2	<a href="#">Office of Sexual Assault Prevention &amp; Response (OSAPR)</a>	6,700 undergraduates / 14,500 postgraduates
Yale University	2	<a href="#">Sexual Harassment and Assault Response &amp; Education (SHARE)</a>	5,453 undergraduates / 6,859 postgraduates
Columbia University	6 (full advocates and 2 supervisors who can also provide services)	<a href="#">Sexual Violence Response (SVR) &amp; Rape Crisis/Anti-Violence Support Center</a>	8,410 undergraduates / 19,532 postgraduates
MIT	3	<a href="#">Violence Prevention &amp; Response (VPR)</a>	4,512 undergraduates / 6,807 postgraduates
Caltech	1 (with 2 additional people at their Center for Diversity named)	No program: <a href="https://titleix.caltech.edu/ConfidentialHelp">https://titleix.caltech.edu/ConfidentialHelp</a>	1,001 undergraduates / 1,254 postgraduates
University of Michigan	6 (2@ 100%)	<a href="#">Sexual Assault Prevention and Awareness Center</a>	28,395 undergraduates / 15,230 postgraduates
UCLA	2	<a href="#">UCLA Care Program</a>	29,585 undergraduates / 12,323 postgraduates
University of Texas at	2	<a href="#">Voices Against Violence (VAV)</a> Note: this is part of general counseling	39,619 undergraduates

Austin		services	/ 11,331 postgraduates
University of California, Santa Barbara	3	<a href="#">Campus Advocacy, Resources, &amp; Education (CARE)</a>	20,607 undergraduates / 2,890 postgraduates