

SEXUAL MISCONDUCT LIABILITY SUMMARY OF INSURANCE

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

FEBRUARY 1, 2013

Sexual Misconduct Liability

The University of California could be subject to allegations of sexual misconduct and molestation. The Office of Risk Services (OPRS) recently placed sexual misconduct and molestation insurance coverage to provide financial protection for the university, the campuses, and the medical centers; and to meet increasing contractual requirements that mandate this coverage, particularly in circumstances where students, staff, faculty, and volunteers are engaged in teaching, recreational, and clinical activities with children.

COVERAGE

Sexual Misconduct and Molestation Liability (Claims Made)

The policy covers damages and claims expenses that the University is legally liable to pay due an actual or alleged act of abuse. Molestation, mistreatment or maltreatment of a sexual nature, including but not limited to any sexual involvement, sexual conduct or sexual contact, regardless of consent; and negligent employment, investigation, supervision, training or retention of or failure to report to proper authorities, a person who committed any act of abuse, molestation, mistreatment or maltreatment of a sexual nature.

Coverage includes the following but only while performing activities on behalf of The University that have been authorized or sponsored by The University:

- Employees including part time, seasonal and temporary employees
- Executive officers, directors and trustees for the conduct of University business in the course and scope of their employment
- Volunteers
- Individual employed in a supervisory, managerial or confidential position
- Substitute teachers, student teachers, coaches, counselors or clergy

Coverage **does not** apply to:

- Loss arising out of any claim, if prior to the date of the act that gave rise to the claim, any insured was aware of any allegation or complaint of sexual misconduct made against the same individual as accused in the claim

Any individual insured who participates in or assists in any act of sexual misconduct or molestation. A defense will be provided until adjudication or admission of participation in such act.

INSURED	The Regents of the University of California
LIMITS	<p>\$5,000,000 each victim \$5,000,000 aggregate limit of liability</p> <p>Defense expenses erode the limit of liability</p>
SELF-INSURED RETENTION	<p>\$2,500,000 per victim SIR is eroded by defense and indemnity payments</p>
INSURER	AF Beazley Syndicate AFB 623/2623
POLICY NUMBER	ZA 001813 (1)
UNIQUE MARKET REFERENCE	B0 509 ZA001813
TERM	January 26, 2013 to January 26, 2014
RETROACTIVE DATE	<p>January 26, 2012</p> <p>With the exception of Contract 0123.019.001 with Public Health Enterprises Inc, where the applicable retroactive date is April 1, 2011 and the sublimit of liability is \$2,000,000.</p>
GEOGRAPHICAL LIMITS	Worldwide
INSURING CONDITIONS	Coverage under this policy is limited to liability for only those covered claims that are first made against an insured and reported to the insurer in accordance with the reporting/notice provisions set forth in this policy.
MAJOR EXCLUSIONS	<p>Including but not limited to:</p> <ul style="list-style-type: none">• Hazing• Loss arising out of any claim by one insured or more against another insured• Employment Practices Liability• Policy will not provide coverage to an individual insured who personally commits or assists in any act of sexual misconduct or molestation. Policy will afford defense coverage up to such time as the individual is judicially determined to have committed, participated in or assisted in

any active of sexual misconduct or the individual admits in any context to have committed, participated in or assisted in any act.

- Perpetrator
- Knowledge of perpetrator
- Outside activities of insured as a trustee, partner, officer, director or employee of any organization other than that of the named insured
- Workers' Compensation
- Contractual Liability
- ERISA
- Fraud and Collusion
- Prior Notice of Loss Event

CLAIMS

Duties in the event of an occurrence claim or suit

- In the event of an event that may trigger a claim, campuses must follow their established event reporting procedures for a sexual misconduct or molestation event.

The insurer must be notified as soon as practicable but in no event more than 30 days after a claim is made; therefore OPRS must be notified immediately.

Time sensitive reporting requirements

- **Approved Mergers and Acquisitions**
 - Insurer may agree to cover certain organizations you acquire or form provided written notice is given to the insurer within 30 days after the acquisition together with requested underwriting information. An additional premium may be charged.
- **Limited Reporting Period**
 - Limited Reporting means the 30 day period after a policy ends, during which Claims because of Insured Events that happen or commence during the policy period and are reported in accordance with Sections I and VIII of the policy can be made
- **Extended Reporting**
 - If the policy is not renewed or cancelled, except for a non-payment of premium, an extended reporting period of 12 months from the end of the policy period, or the effective date of cancellation, whichever is earlier, can be purchased for an additional premium determined by the underwriter.

Request for the extended reporting period must be requested within 30 days after the policy is cancelled or non renewed and the premium is paid within this 30 day period.

UC RISK MITIGATION PROTOCOLS

- **Adherence to Campus and Federal Guidelines**
Adhere to applicable UC campus and medical center policy and [Title IX Requirements related to Sexual Harassment and Sexual Violence](#)

More information: University of California Procedures for Responding to Reports of Sexual Harassment
<http://www.ucop.edu/ucophome/coordrev/policy/PP121404procedures.pdf>

- **Use of Chaperones**
While California law does not require physicians to have a male or female chaperone, if having a chaperone or assistant in the exam room makes the patient feel more comfortable and at ease, then the physician should accommodate the patient's request if possible or allow a friend or relative to accompany the patient.
(source: The Medical Board of California, Department of Consumer Affairs
http://www.mbc.ca.gov/consumer/complaint_info_questions_practice.html#1)

Suggested chaperone guidelines:

- Patients should be notified that they are free to request a chaperone for any “intimate” exam, including (but not always limited to) pelvic, breast, and rectal exams, regardless of the gender of the patient or physician
 - The patient's or physician's request for a chaperone should be honored
 - The patient's desires (whether requesting or declining a chaperone) should be documented in the record
 - Whenever possible a healthcare professional should serve as the chaperone
 - Clear rules should be established for chaperones regarding patient privacy and confidentiality
 - If a chaperone is provided, a separate opportunity for

private conversation between the patient and physician should be arranged

- Family members should not be used as chaperones unless specifically requested by the patient.

(source: AMERICAN ACADEMY OF PEDIATRICS - The Use of Chaperones During the Physical Examination of the Pediatric Patient

<http://aappolicy.aappublications.org/cgi/reprint/pediatrics;98/6/1202.pdf>)

- **Fingerprinting**

The State of California requires the following professionals to be fingerprinted:

Teachers

The California Education Code §44340 & 44341 require that all individuals who seek to obtain California credentials, certificates, permits, and waivers issued by the California Commission on Teacher Credentialing receive fingerprint clearance from the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) through the Commission. Individuals who have received fingerprint clearance through other California agencies, employers, other states or government agencies are not exempt from this process.

Behavioral Health Professionals

The California Board of Behavioral Sciences requires both a Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal history background check on all applicants for licensure or registration. There are currently two methods available for submitting fingerprints: Live Scan; or, the ten-print "hard card". More information can be found at:

<http://www.bbs.ca.gov/app-reg/fingerprints.shtml>

Dentists

Effective July 1, 2011, if dentists have never been fingerprinted for the Dental Board or the DOJ you are

required to submit fingerprints to the Board as follows:

- Renew a license that expires on or after July 1, 2011 in the active status
Activate an inactive license
- Seek reinstatement, in the active status, of a lapsed license.
 - You do not have to be fingerprinted if you:
 - Have previously been fingerprinted for the Dental Board (e.g., for initial licensure, reinstatement of license, or condition of probation, etc.) and the Board or the DOJ has your fingerprint record
 - Are renewing your license in the "inactive status"; or
 - Are actively serving in the military outside the country.

Optometrists

Regulations require the submission of fingerprints upon license renewal if the licensee was not previously fingerprinted by the Board (*Title 16 of the California Code of Regulations Sections: 1525.1 and 1525.2*). This requirement applies to Optometrists licensed prior to January 1, 1998, since fingerprints were not required for licensure prior to that date, unless fingerprinted by this Board subsequent to licensure.

Registered Nurses

- Title 16 of the California Code of Regulations Amended Sections: 1419, 1419.1 requires:
 - A renewal application shall be on the form

provided by the board, accompanied by the fee specified in Section 1417(a)(3) and required information and filed with the board at its office in Sacramento.

- For a license that expires on or after March 1, 2009, as a condition of renewal, an applicant for renewal not previously fingerprinted by the board, or for whom a record of the submission of fingerprints no longer exists, is required to furnish to Department of Justice, as directed by the board, a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice. Failure to submit a full set of fingerprints to the Department of Justice on or before the date required for renewal of a license is grounds for discipline by the board. It shall be certified on the renewal form whether the fingerprints have been submitted. This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.

Vocational Nurses and Psychiatric Technicians

For those licenses expiring on or after April 1, 2009, the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) will require Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs), that were licensed prior to January 1, 1998 or for whom a record of the submission of fingerprint no longer exists, to submit a complete set of fingerprints to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) as a condition of license renewal.

Physicians

Before the Medical Board of California can issue a registration, a criminal record clearance must be received from both the state Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

UC RESOURCES

<http://www.ucop.edu/riskmgt/publications.html>

- [Management of Youth Activities-Guidelines, Training & Insurance \(pdf\)](#)
 - [Best Practices for Managing Minors on Campus \(Appendix A\) \(pdf\)](#)
 - [Best Practices Checklist: Minors on Campus \(Appendix B\) \(pdf\)](#)
 - [Best Practices for Managing Early Childhood Learning Centers & Playgrounds on Campus \(Appendix C\) \(pdf\)](#)
 - [Best Practices Checklist: Early Childhood Learning Centers \(Appendix D\) \(pdf\)](#)
 - [Best Practices for Hosting Youth Camps on Campus \(Appendix E\) \(pdf\)](#)
 - [Best Practices Checklist: Hosting Youth Camps on Campus \(Appendix F\) \(pdf\)](#)
 - [See Something, Say Something – UCSD \(Appendix G\) \(pdf\)](#)
 - [Campus Camps Work Group \(Appendix H\) \(pdf\)](#)
 - [Campus Camps Program Survey Invitation \(Appendix I\) \(pdf\)](#)
 - [Parent's Guide To Child Abuse/Molestation Risk Management Program \(Appendix J\) \(pdf\)](#)
 - [Counselor Handbook for Summer Day Camp \(UCSB\) \(pdf\)](#)
 - [Trail Guide for Summer Staff \(UCD\) \(pdf\)](#)



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