

UC Riverside, School of Medicine Policies and Procedures
Policy Title: Responding to Governmental Investigations and Audits
Policy Number: 950-02-023

Responsible Officer:	Compliance Officer
Responsible Office:	Compliance Office
Origination Date:	May 2, 2013
Date of Revision:	July 19, 2021
Scope:	To establish protocol for an orderly response to the government's requests to enable the School of Medicine to protect itself and its patients' interest while fully cooperating with the investigation.

I. Policy Summary

It is the policy of the School of Medicine (SOM) to comply with all applicable healthcare laws and regulations and to cooperate with appropriately authorized governmental investigations and audits

II. Definitions

A variety of federal and state governmental agencies may be involved in investigating healthcare providers for various reasons. These agencies include, but are not limited to, the Office of Inspector General for the Department of Health and Human Services (OIG), the Centers for Medicare and Medicaid Services (CMS), the Federal Bureau of Investigation (FBI), the Department of Defense, the United States Attorney's Office, Medicare Contractors, the California Attorney General's Office and the California Department of Public Health (CDPH).

III. Policy Text

Representatives of the government may arrive unannounced at the SOM or at the homes of present or former employees, staff members and contractors (collectively referred to in this policy as "employees"). Generally, these representatives wish to either interview employees or obtain certain documents. The purpose of this policy is to establish a procedure for an orderly response to the government's requests to enable the School of Medicine to protect itself and its patients' interests while fully cooperating with the investigation.

IV. Responsibilities

A. Titles responsible for responding to government investigation requests should be contacted in the following order and accompanied by notification to the UCR School of Medicine Communications Office and the UCR Campus Communications Office:

1. Compliance Officer
2. Campus Counsel (from the Office of Legal Affairs)

V. Procedures

A. Protocol

1. When a representative from a federal or state agency contacts an employee anywhere, such as at home or at the office, for information regarding the School of Medicine or any School of Medicine-affiliated health care entity, or any other entity with which the School of Medicine does business, the employee should contact the Compliance Officer immediately.

2. If the Compliance Officer is not immediately available, the employee should contact University Campus Counsel at the Office of Legal Affairs.
3. The Compliance Officer will give the employee instructions on how to proceed.
4. The employee should ask to see the government representative's identification and business card, if the government representative is there in person. Otherwise, the employee should ask for the person's name and office, address and telephone number, identification number and call the government representative's office to confirm his or her authority.
5. If the government representative wishes to speak with the employee personally, the employee should find out why without getting into details. (See Section III, Interviews, below after completing all other tasks in this section.)
6. If the government representative wants to search the School of Medicine facilities or obtain any documents from the School of Medicine, the employee should ask to see a legal document authorizing the search, such as a search warrant, and any affidavit supporting the warrant. The employee should make a copy of this legal documentation. (See Section IV, Searches, below after completing all other tasks in this section.) The employee and/or his or her supervisor should send a copy immediately to the Compliance Officer, Senior Associate Dean for Clinical Affairs, and University Campus Counsel. If the government representative has appeared at the School of Medicine in person, they should be escorted to a private office or conference room where they can meet with the Compliance Officer. The employee should NOT respond to the request to search the School of Medicine facilities or obtain any documents.
7. If an employee receives a request in person or in the mail from a government representative for documents or a subpoena, the employee should immediately give a copy to his or her supervisor. The employee and/or his or her supervisor should send a copy immediately to the Compliance Officer and University Campus Counsel in accordance with the UCR Campus subpoena handling policies. The employee should NOT respond to the request.

B. Interviews

1. Occasionally, government representatives may ask to speak with individual employees regarding the SOM or a SOM--affiliated healthcare entity or any other entity with which the School of Medicine does business. EMPLOYEES ARE NOT REQUIRED TO SPEAK TO A GOVERNMENT REPRESENTATIVE ON THE SPOT. Employees may either agree to be interviewed or refuse to be interviewed - the government representative does not have the right to insist upon an interview. Employees may also make an appointment to speak with the government representative at a later date.
2. If an investigator contacts an employee at home and the employee wishes to submit to an interview, the employee has the right to insist that the interview take place in the office during normal business hours.
3. Employees are entitled to have someone with them during any interview with a government representative. The SOM will arrange to have an appropriate individual (possibly an attorney) present with the employee during the interview. The employee may also consult with an attorney of his or her own choosing at the employee's expense if he or she so desires.
4. If, during the course of an interview, the investigator asks an employee to provide

them with copies of any SOM records (including but not limited to, patient, billing, financial, quality assurance or peer review records), the employee should refuse, explaining that such records can only be provided in response to a lawfully-issued subpoena or other lawful methods. University Campus Counsel will direct the collection and transfer of records and provide other instructions as necessary to ensure that the SOM responds expeditiously and completely to the demands of the subpoena.

5. If an employee chooses to be interviewed by a government representative before calling a SOM representative as identified above, the employee should contact his or her supervisor and/or the Compliance Officer as soon as possible after the interview. Employees are encouraged to take detailed notes during the interview.
 6. An employee's decision to be interviewed or not will not be used in any way against the employee by the SOM.
 7. During the interview with the government representative, employees should follow these tips:
 - a. **Always tell the truth.** If the employee does not recall something or has no knowledge or insufficient knowledge about the topic that the government representative is asking about, the employee should say so. The employee should not guess or speculate.
 - b. In talking with the government representative, the employee should be very careful to answer questions completely, accurately and concisely so that there will be no misunderstanding as to what the employee is saying. It is important for the employee to make clear to the government representative whether the information he or she is providing is first-hand knowledge or something the employee has heard. The employee SHOULD NOT speculate. In providing information, the employee should not provide information they do not have first-hand knowledge of.
 - c. **The employee should contact the Compliance Officer as soon as possible after the interview.**
- C. Searches:** If the government representative wants to obtain documents or search the School of Medicine, the government representative should be escorted to a conference room and the Compliance Officer should be notified. A University employee should be present to witness any searches. With respect to searches of the School of Medicine, employees should remember the following:
1. A "search" occurs any time a government representative enters the School of Medicine premises and begins to look for any documents or asks questions. A search may not be conducted without a legally valid search warrant. However, some government agencies have the authority to assess penalties if representatives of the agency are not granted immediate access upon reasonable request to a health care entity. These agencies include the OIG. Therefore, the School of Medicine employees should strive to be courteous and helpful to government representatives while following the guidelines set forth in this section.
 2. A search warrant is different from a subpoena or a records request. A subpoena or records request requires the production of information but does not allow for a search. Most subpoenas or records requests allow a reasonable time in which to respond. The time frame (typically ranging from 10 to 30 days) will usually be identified on the subpoena itself. In contrast, a search warrant is issued by a magistrate or a judge

and allows immediate access to the School of Medicine premises or property which is described in the search warrant.

3. The employee should request that the investigator wait at the compliance Officer's office until either the compliance Officer or University Campus Counsel arrives. If the warrant is valid, the employee may not stop the search. However, before permitting the government representative to proceed with a requested search, University Campus Counsel should be first allowed to determine the validity of the warrant.
4. The confidentiality of medical records, patient records, and other hospital records must be maintained even when responding to a subpoena, warrant, or other request for document production. The compliance Officer and/or University Campus Counsel will direct the collection and transfer of records and provide other instructions as necessary to assure that the School of Medicine safeguards the confidentiality of these records and responds appropriately to the warrant.

VI. Forms/Instructions

- A. Once a government contact is initiated, the employee should establish a specific file for communications with University Campus Counsel. The employee should caption the file and all of his or her memos to University Campus Counsel with the words "**Confidential Attorney-Client Privileged Communication.**"
- B. The employee should **NOT** make copies other than a file copy and do not distribute confidential communications with University Campus Counsel. Distribution may destroy the privilege of confidentiality.
- C. If at any time, the employee is unsure of what to do, he or she should contact the compliance Officer or University Campus Counsel immediately. This policy contains general guidelines. At all times, the employee should follow instructions from the Compliance Officer and/or University Campus Counsel.

VII. Contacts

- A. It is important that employees not discuss their involvement with an investigation or any issue relating to an inquiry by a government agency with other employees or with people outside of the SOM. If an employee receives an inquiry from the media or any other outside person, the employee should do the following:
 1. If the media representative appears in person:
 - a. Verify their credentials by asking to see their identification (e.g. press pass) and/or business card.
 - b. Politely state that he or she is unable to comment or respond at the present time, but that he or she will pass along contact information to a person with authority to speak on behalf of the School of Medicine.
 - c. Explain that in order to provide the best School of Medicine spokesperson, he or she will need to know what information the individual is seeking to obtain about the School of Medicine.
 - d. The employee should not answer or respond to any requests for information or provide his or her opinion to any media representative.
 - e. Contact his or her supervisor/department director immediately or if the employee's supervisor/department director is unavailable, the employee should contact the School of Medicine communications representative at (951) 827-4598 or the UCR Strategic Communications Office at (951) 827-6397.

2. If an employee is contacted by telephone by a media representative:
 - a. The employee should ask for the person's phone number and his or her affiliation for the purpose of returning the call at a more appropriate time.
 - b. The employee should determine the purpose of the call. The employee should never provide information, answer questions, or speculate. The School of Medicine communications representative (951-827-4598) and UCR Strategic Communications Office (951-827-6397) will be responsible for coordinating all media contacts.
 - c. The employee should contact his or her supervisor/department director immediately or if his or her supervisor/department director is unavailable, the employee should contact the School of Medicine communications representative at (951) 827-4598 or the UCR Strategic Communications Office at (951) 827-6397.

Unit	Title	Phone
Compliance	Compliance Officer	951-827-4672
Clinical Affairs	Senior Associate Dean for Clinical Affairs	951-827-7697
UCR Office of Legal Affairs	Campus Counsel	951-827-5983
UCR School of Medicine, Communications	Communications Representative	951-827-4598
UCR Strategic Communications Office	Communications Representative	951-827-6397

VIII. Related Information (none)

IX. Frequently Asked Questions (none)

X. Revision History

Create Date: May 2, 2013

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Approvals:

COMPLIANCE COMMITTEE (07/28/2021)

PAUL HACKMAN, J.D., L.L.M.
CHIEF COMPLIANCE AND PRIVACY OFFICER,
SCHOOL OF MEDICINE

DATE

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