A Collaborative Approach to Safety, Equity, and Fairness by Medical Staff, Graduate Medical Education, Human Resources, and Law Enforcement

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Medical practitioners, as part of their routine daily care, conduct physical examinations, perform procedures, and ask sensitive personal questions that are much more invasive than would be acceptable in nonmedical professions and social interactions. Therefore, it may be very challenging for human resources (HR) or law enforcement experts, who are not clinicians, to differentiate between appropriate versus inappropriate professional behaviors of physicians. For example, we have encountered sexual assault allegations against physicians for conducting medically indicated vaginal ultrasounds and breast examinations even in the presence of chaperones, or for a congratulatory hug to a patient who was being discharged from a specialty clinic after years of complex care. These examples were deemed to have been appropriate medical and social interactions by expert sexual assault investigators.

Medical staff organizations at acute care hospitals with their oversight over credentialing, privileging, and medical professionalism have been historically charged with, and deemed better suited to, defining the boundaries of appropriate medical actions than have nonphysician experts in HR. Yet, medical staffs typically lack the expertise or authority to conduct employment investigations that are useful to HR or legal experts. Therefore, alleged breaches of behavior are also typically investigated by employers through HR protocols, and may involve law enforcement for allegations that rise above misdemeanor level accusations (eg, sexual assault, battery, etc), creating complexity regarding investigatory boundaries. Indeed, our experience has been that medical staff investigations into situations with criminal assault allegations can lead to law enforcement concerns of tampering with an ongoing criminal investigation. The gulf between authority, responsibility, and expertise among these 3 parties (employer/HR, law enforcement, and medical staff) can lead to difficulties in identifying, correctly assessing, and acting in response to allegations of unsafe, unfair, or inequitable behavior. Such investigations can also have lengthy turnaround times with limited feedback to involved parties.

Employers of residents and fellows are also held to Accreditation Council for Graduate Medical Education (ACGME) institutional requirements. Current requirements include an expectation that all residents and fellows enrolled in ACGME-accredited training programs must have a process for education of residents and faculty regarding unprofessional behavior, as well as a confidential process for reporting, investigating, monitoring, and addressing such concerns in a timely manner (III.B.6.d).(1)).[1] Moreover, ACGME-accredited training programs must have a safe and supportive learning and working environment in which trainees are free to raise concerns, problems, grievances, and complaints, and report breaches in personal and professional standards of others.

In response to the above concerns and requirements, and in concordance with California law, our Graduate Medical Education Committee (GMEC) collaborated with medical staff, law enforcement (Medical Center Safety Officers and Los Angeles County Sheriff), and HR to create a new policy, procedure, and GMEC subcommittee to specifically close the gaps between these stakeholders. The outcome was to establish the Safety, Fairness, and Equity (SAFE) Subcommittee housed under the GMEC to provide our trainees and faculty with a proactive avenue to report such concerns confidentially and anonymously. Information is shared anonymously to maintain confidentiality of those interviewed. Data are grouped by class year, as possible, to provide information regarding the learning environment, rather than by specific individuals.

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Of the 114 SAFE investigations performed since February 2019, the vast majority were investigated and concluded within 48 hours of being reported, including immediate recommendations made for immediate resolution, as indicated. The GMEC annually evaluates resident and faculty satisfaction, and perceived value of SAFE in the past year, via anonymous and confidential surveys for each program. Two such surveys and interviews indicated that 90% of residents and faculty "are aware [they] can report issues related to sexual assault/harassment, fairness, and/or equity to the SAFE Committee Members," and "trust that the SAFE Committee will investigate a complaint related to sexual assault/harassment."

SAFE is comprised of the assistant designated institutional official (DIO) for SAFE, 2 peer-selected residents, and 2 faculty members, of which one is a member of the GMEC and one is an expert in sexual assault and forensic examinations. Ex officio members include the DIO and Los Angeles County + University of Southern California (LAC+USC) Medical Center Chief Medical Officer (CMO). The GMEC partnered with local HR and law enforcement so that they are aware and approve of SAFE's expertise in forensic assault medical examinations. This allows SAFE to conduct investigations independent of and in parallel with HR and law enforcement investigations, which has alleviated concerns about tampering with criminal investigations. Furthermore, LAC, USC, and law enforcement have entered an information sharing agreement with each other for overseeing professional behaviors (FIGURE). Information sharing across the parties is handled by the individual representatives of each group. For example, county representatives can communicate with county HR including counsel for privilege. University representatives can do the same via the university.

SAFE issues can be reported by residents and fellows or any health care worker in an anonymous, confidential manner via several reporting mechanisms, including: (1) relevant program directors or associate program directors; (2) the DIO; (3) the assistant DIO; (4) the Director of Resident Wellness; (5) the CMO or their designee; (6) a 24-hour hotline maintained by the GME office for this purpose; (7) the hospital's safety intelligence system; (8) any member of the GMEC; (9) Dean of the Keck School of Medicine at USC; (10) County Office of Equity; (11) USC Office of Equity and Diversity; (12) ACGME Office of the Ombudsperson or Office of Complaints; and (13) law enforcement.

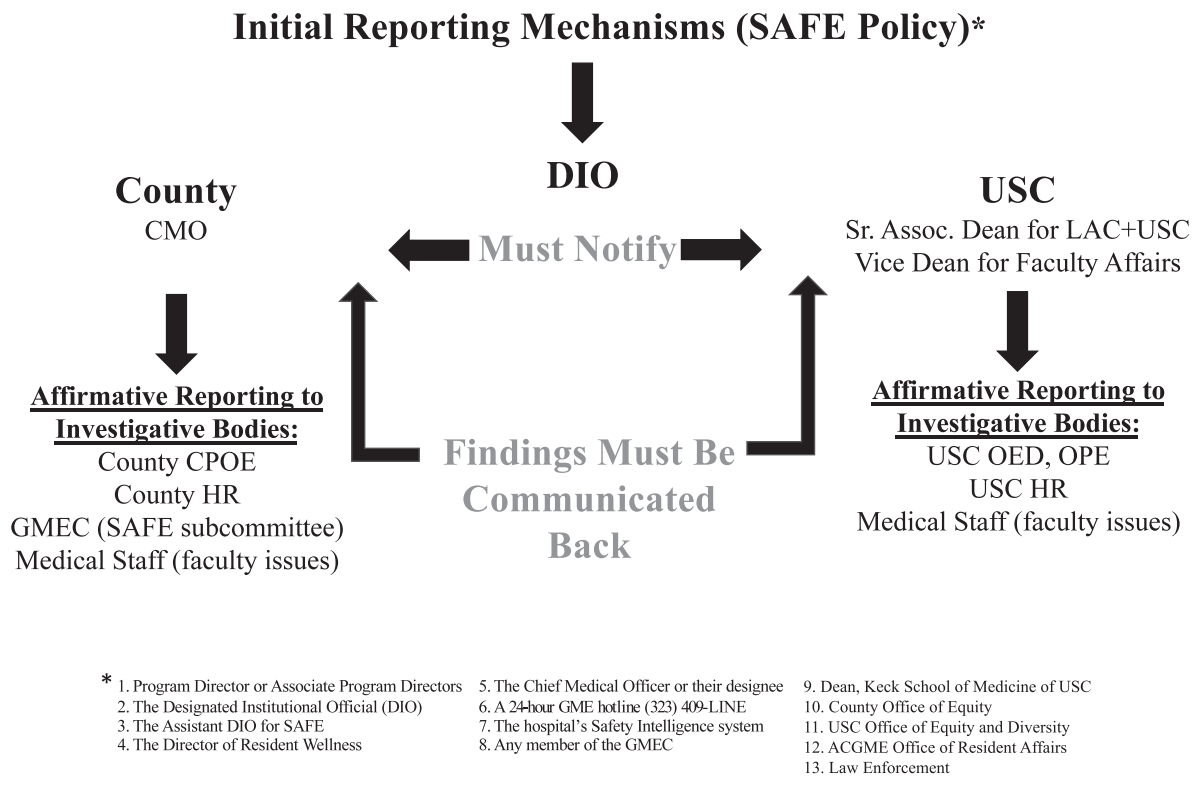
Investigations by members of SAFE often result in hearing differing perspectives from all health professionals. In particular, the residents and fellows provide helpful insight from their vantage point. Establishing and maintaining their trust with confidential conversations is essential to a fair investigation of sensitive matters.

Operationally, concerns are investigated in a matter compliant with legal standards, the LAC Policy of Equity, the USC Policy for Equity and Diversity, and California Evidence Code 1157. SAFE is authorized by the medical staff to conduct 1157 peer-review protected investigations of sensitive matters involving resident physicians, whether filed by patients, trainees, faculty, or families (all of which we have experienced). It is important that investigational bodies have a firewall between them and the decision-makers regarding actions to be taken; this allows for a strictly objective investigation to be conducted, which then informs the decision-makers, who have not themselves participated in the investigations.

SAFE usually investigates allegations of misconduct in the learning environment within 24 hours of reporting. Investigations are conducted by a member of this committee with appropriate expertise. For sexual assault or harassment allegations, a member of the Violence Intervention Program with special forensic training collaborates in the investigation. Issues relating to law enforcement, Title IX, and HR are investigated in parallel with the SAFE investigation. Mobilizing SAFE to investigate the learning environment allows for immediate management and potential resolution of unacceptable behaviors and separation of involved parties as necessary. SAFE has immediate access to and collaborates with program directors and faculty affairs personnel.

Once the learning environment is assessed, the allegations are channeled to the most appropriate other investigatory entity. SAFE does not have any legal authority or jurisdiction over investigation of Title VII or other HR concerns. However, the authorities that do have jurisdiction over such matters have found the SAFE investigative reports invaluable to inform their own decision-making.

SAFE strives to ensure that trainees are able to work and learn in a supportive environment, by proactively creating an environment where difficult matters can be raised and resolved, in collaboration with appropriate personnel, in a timely manner. SAFE flyers with the cell phone numbers of committee members are posted in strategic sites for use by residents. All residents are provided with these numbers at annual orientations. Program directors and departmental chairs are informed early in the investigation in a confidential and anonymous manner: they are aware and can make immediate modifications when necessary.



FIGURE

Flow Chart for SAFE Notification

Abbreviations: SAFE, Safety, Fairness, and Equity Subcommittee; CMO, chief medical officer; DIO, designated institutional official; USC, University of Southern California; LAC, Los Angeles County; CPOE, County of Los Angeles Policy of Equity; HR, human resources; GMEC, Graduate Medical Education Committee; OED, Office of Equity and Diversity; OPE, Office of Professionalism and Ethics.

SAFE is advisory to the program director and other program leadership and faculty and does not decide the resolution of a complaint. SAFE's role is to investigate, provide a report of the events to the decision-makers, and if related to training performance or professionalism, make a recommendation to the GMEC and/or program director. In turn, the program director can discuss the recommendation with the clinical competency committee (CCC), as appropriate. SAFE is not a part of the CCC and does not make decisions or have involvement in the recommendations of the CCC. Recommendations by SAFE are reviewed and approved by the GMEC. Most issues are resolved at a program level. Breeches of hospital policy may need resolution by HR with input from SAFE. Criminal matters are resolved by the appropriate legal authorities.

Importantly, all trainees involved in investigations are offered immediate counseling services by therapists and given information on connecting to appropriate affinity groups for additional support. Collaborating with our wellness initiatives has been critical to the success of the SAFE program.

We believe the SAFE construct may serve as a best practice as to how the collaboration of medical staff, GME, HR, and law enforcement can share responsibility for a safe learning and working environment and promote the values of a just culture within a complex medical community.

References

1. Accreditation Council for Graduate Medical Education. ACGME Institutional Requirements. https://www.acgme.org/Portals/0/PFAssets/ReviewandComment/RC/InstitutionalRequirements_2020-07-13_RC.pdf. Accessed August 24, 2021.

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