WELCOME

Stop Passing the Harasser: Rethinking the Hiring Process

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• This webinar session will be recorded and archived on MHEC's YouTube channel accessible via youtube.com/user/mhec12. Slides will also be sent as an attachment after the webinar.
Stop Passing the Harasser: Rethinking the Hiring Process

October 23, 2019
Your Host

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Midwestern Higher Education Compact

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Questions

- Please submit questions through the chat feature
- Follow-up will be done throughout the presentation
The Compact

- The Midwestern Higher Education Compact (MHEC) is a legislatively created agreement amongst the member states established for the purpose of providing greater higher education opportunities and services in the Midwestern region.

- A product of Midwestern legislators, MHEC was created through actions of the Midwestern Legislative Conference of the Council of State Governments (CSG) with its member states closely mirroring the Midwest footprint of CSG-Midwest.
Regional Compacts

- Illinois
- Indiana
- Iowa
- Kansas
- Michigan
- Minnesota
- Missouri
- Nebraska
- North Dakota
- Ohio
- South Dakota
- Wisconsin
MHEC Mission

• Through MHEC, the Midwestern states collectively create solutions that build higher education’s capacity to better serve individuals, institutions, and states by leveraging the region’s resources, expertise, ideas, and experiences through multi-state:
  — convenings,
  — programs,
  — research, and
  — contracts.
Welcome Guests

Quinn Williams, General Counsel, UW-System
Andrew Preboski, Program Assistant, UW-System
Rich Thal, Investigator, UW-System
Karen Massetti-Moran, Associate Director of HR, UW-Milwaukee
Teresa O’Halloran, Title IX Coordinator, UW-Eau Claire
Kate McQuillan, Chief of Staff, UW-Oshkosh
Welcome Guests

Frazier Benya, Senior Program Officer
Arielle Baker, Associate Program Officer
Stop Passing the Harasser: Rethinking the Hiring Process
Sexual Harassment of Women
Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine

#ScienceToo
www.nationalacademies.org/sexualharassment
Key findings

• There is extensive sexual harassment
• Gender harassment is the most common form of sexual harassment
• Sexual harassment undermines research integrity, reduces talent pool, and harms targets and bystanders
• Legal compliance is necessary but not sufficient to reduce harassment
• Changing climate and culture can prevent and effectively address sexual harassment
UNWANTED SEXUAL ATTENTION

- sexual assault
- rape
- unwanted groping or stroking

PUBLIC CONSCIOUSNESS

- relentless pressure for sex or dates
- unwanted sexual discussions

GENDER HARASSMENT

- nude images posted at work
- sexually humiliating acts
- sexual insults, gender slurs, and vulgar name calling (e.g. "whore," "pu**y," "slut," "bitch")
- offensive sexual teasing or remarks about bodies
- sabotage of women’s equipment
- sexist insults (e.g. women don’t belong in science)
- obscene gestures
Finding: Prevalence of Sexual Harassment

Sexual harassment is common in academic science, engineering, and medicine.

• Best available analysis to date shows that 50 percent of women faculty and staff in academia experience sexual harassment.

• Student surveys at a couple universities shows that between 20-50 percent of students in science, engineering, and medicine experience sexual harassment from faculty or staff.
Women of color experience more harassment (sexual, racial/ethnic, or combination of the two) than white women, white men, and men of color do. Women of color often experience sexual harassment that includes racial harassment.

Sexual- and gender-minority people experience more sexual harassment than heterosexual women do.
Findings: Impact on Targets and Bystanders

Sexual harassment undermines women’s professional and educational attainment and mental and physical health.

Sexual harassment has adverse effects that affect not only the targets of harassment but also bystanders, co-workers, workgroups, and entire organizations.
Findings: Legal System

Judicial interpretation of Title IX and Title VII has incentivized organizations to create policies, procedures, and training on sexual harassment that focus on symbolic compliance with current law and avoiding liability, and not on preventing sexual harassment.

Title IX, Title VII, and case law reflect the inaccurate assumption that a target of sexual harassment will promptly report the harassment without worrying about retaliation.
Sexual harassment is most likely to take place in environments that are:

- Male-dominated in number, leaders, and culture
- Organizational tolerance of sexual harassment
  - Reporting is perceived as risky
  - Reports not taken seriously
  - Offenders escape sanction

*Organizational climate is, by far, the greatest predictor of the occurrence of sexual harassment.*
Recommendations for Institutions

1. Create diverse, inclusive, and respectful environments
2. Diffuse the hierarchical and dependent relationship between trainees and faculty
3. Provide support for targets
4. Improve transparency and accountability
5. Strive for strong and diverse leadership
**INTerventions For Preventing Sexual Harassment**

Create Diverse, Inclusive, and Respectful Environments

**Hiring and Promotion:** Take explicit steps to achieve greater gender and racial equity in hiring and promotions, and improve the representation of women at every level.
- The University of Michigan Committee on Strategies and Tactics for Recruiting to Improve Diversity and Excellence (STRIDE) offers Faculty Recruitment Workshops for faculty members with an important role in faculty recruitment.

**Civilty-Promotion:** Combine anti-harassment efforts with programs to promote civility.
- The 2016 FEO Task Force on the Study of Harassment in the Workplace recommends workplace training focused on respect and civility.
- The Civility, Respect, and Engagement at Work (CREW) program is an intensive 6 month intervention geared to enhance employees’ interpersonal awareness and communication skills.

Interrupt and Intervene in Inappropriate Behavior: Utilize training approaches that develop skills among participants to interrupt and intervene when inappropriate behavior occurs.
- bystander intervention training such as Confronting Prejudiced Responses (CPR) and Behavior Modeling Training (BMT) is designed to train participants to recognize and report problematic behavior.

Training that Aims to Change Behavior: Training should focus on changing behavior, not on changing beliefs.
- Programs should clearly communicate behavioral expectations and specify consequences for failing to meet those expectations. Training programs should not be based on the avoidance of legal liability.

Improve Transparency and Accountability

**Clear Policies:** Develop and share clear, accessible, and consistent policies on sexual harassment and standards of behavior. Make clear that people will be held accountable for violating the policies.
- Include a range of clear disciplinary actions that correspond with the severity of the harassment.
- Engage the academic community in policy and practice reviews. Some institutions have created student advisory boards and forums for students to meet with the Title IX Steering Committee.

**Transparency about Handling Reports:** Be as transparent as possible about how the institution is handling reports of sexual harassment.
- Yale University publishes a semiannual report of Complaints of Sexual Misconduct and an annual campus safety report to inform the campus community.

**Assess Climate:** Utilize climate surveys to further investigate and address systemic sexual harassment.
- The results of climate surveys should be shared publicly to demonstrate to the campus community that the institution takes the issue seriously. The Administrative-Researcher Campus Climate Collaborative (ARCC) survey has been used by more than 150 higher education institutions.

**Research Integrity:** Consider sexual harassment equally important as research misconduct in terms of its effect on the integrity of research.
- The U.S. Geological Survey and the Department of the Interior have broad scientific integrity policies that apply to employees, appointees, volunteers, grantees, and contractors. Some scientific societies such as the American Geophysical Union have developed new ethics policies that explicitly call out sexual harassment and discrimination.

Diffuse the Hierarchical and Dependent Relationship Between Trainees and Faculty

**Mentoring Networks:** Adopt mentoring networks or committee-based advising that allows for a diversity of potential pathways for advice, funding, support, and informal reporting of harassment.

**Independent Research Funding:** Develop ways research funding can be provided to the trainee rather than just the principal investigator.

Provide Support for the Target

**Access to Support Services:** Provide means for the target of harassment to access support services (social services, health care, legal, career/professional).

**Informal Reporting:** Provide alternative and less formal means of recording information about the experience and reporting the experience.
- Provide anonymous, confidential reporting systems. Callicot is an online system that allows targets to control the disclosure of information, access support services, and share information on alleged perpetrators.
- Provide confidential reporting channels outside of the faculty or usual workplace hierarchy, such as an ombudsperson.
- Explore the use of restorative justice processes. The Campus PRIISM (Promoting Restorative Initiatives for Sexual Misconduct) Project calls for accountability through collaboration and prevention through education.

**Prevent Retaliation:** Develop approaches to prevent the target from experiencing or fear retaliation in academic settings.
- Be prepared to take action to ensure the target of the harassment is able to continue his/her academic work. This could include using mutal no contact orders between the accused and accuser, changing class schedules, changing the locks at the housing facility or workplace, recording building access for the accused, and reassigning advisors, mentors, and supervisors.

Strive for Strong and Diverse Leadership

**Make it an Explicit Goal:** College and university presidents, provosts, deans, department chairs, and program directors must make the reduction and prevention of sexual harassment an explicit goal of their tenure.

**Develop Leadership Skills:** Support and facilitate leaders at every level (university, school, college, department, lab) in developing skills in leadership, conflict resolution, mediation, negotiation, and de-escalation, and ensure a clear understanding of policies and procedures for handling sexual harassment issues.

**Move Beyond Legal Liability:** Leadership training programs should include training on how to recognize and handle sexual harassment issues, and how to take explicit steps to create a culture of climate to reduce and prevent sexual harassment—and not just protect the institution against liability.

Available at www.nationalacademies.org/sexualharassment

The National Academies of
SCIENCE • ENGINEERING • MEDICINE
ACTION COLLABORATIVE ON Preventing Sexual Harassment in Higher Education

http://nationalacademies.org/SexualHarassmentCollaborative

The National Academies of SCIENCES • ENGINEERING • MEDICINE
Action Collaborative on Preventing Sexual Harassment in Higher Education

Main goals:
1. Raise awareness about sexual harassment, its consequences, and preventing it
2. Share and elevate evidence-based policies and strategies for reducing and preventing sexual harassment
3. Contribute to setting a research agenda, and gather and apply research results across institutions
4. Develop a standard for measuring progress toward reducing and preventing sexual harassment in higher education
Action Collaborative on Preventing Sexual Harassment in Higher Education

**Leadership Group**
- Providing overall guidance and direction for the Action Collaborative.
- Includes leaders from the higher education community and leaders involved with the work of the National Academies of Sciences, Engineering, and Medicine.

**Advisory Committee**
- Providing advice and ensuring that the effort is grounded in research, inclusive of diverse voices, reflective of the experiences of victims, and consistent with the findings and recommendations of the National Academies report.
Action Collaborative on Preventing Sexual Harassment in Higher Education

- **Prevention**: Develop, implement, evaluate, and compile approaches for creating environments and organizational climates that prevent sexual harassment from occurring.

- **Response**: Develop, implement, evaluate, and compile approaches for responding to sexual harassment so that it contributes to creating an organizational climate that sexual harassment is not tolerated.

- **Remediation**: Develop, implement, evaluate, and compile approaches for systemic changes that can limit the damage caused by experiencing sexual harassment, and support those who experience it.

- **Evaluation**: Develop and implement approaches for measuring the campus climate and gauge effect of policies and actions implemented by other working groups; identify the most effective ways to measure and monitor the climate within an organization; and identify metrics for measuring progress across higher education.
Action Collaborative Membership

American University in Cairo
Argonne National Laboratory
Boston University
Caltech
Carnegie Mellon University
Children’s Hospital Los Angeles
Cold Spring Harbor Laboratory
Colorado College
Columbia University and Columbia University Irving Medical Center
Cornell University
Dartmouth College
Duke University
Grinnell College
Harvard University
International Ombudsman Association
Johns Hopkins University
Los Angeles Community College District
Michigan State University
Mills College
Massachusetts Institute of Technology
National Association of Graduate-Professional Students
National Oceanic and Atmospheric Administration
Northwestern University
Olin College of Engineering
Purdue University
Rutgers University
Salk Institute for Biological Studies
Stanford University
The Ohio State University
University of Alaska system
University of California Berkeley
University of California Los Angeles
University of California Merced
University of California Riverside
University of California San Diego
University of California San Francisco
University of California Santa Barbara
University of California Santa Cruz
University of Chicago
University of Cincinnati
University of Illinois at Chicago
University of Illinois at Urbana-Champaign
University of Kansas
University of Maryland School of Medicine
University of Massachusetts Amherst
University of Michigan
University of Minnesota
University of Tennessee, Knoxville
University of Washington
University of Wisconsin System
University of Southern California
Vanderbilt University
Vanderbilt University Medical Center
Washington University in St. Louis
Wellesley College
West Virginia University
Yale University

The National Academies of
SCIENCE • ENGINEERING • MEDICINE
First Annual Summit of the Action Collaborative

November 19-20, 2019 at the University of Washington

http://www.nas.edu/ACSummit2019
Presenters & Panelists

Quinn Williams, General Counsel
UW System Administration

Andrew Preboski, Program Assistant
UW System Administration

Teresa O’Halloran, Title IX Coordinator
UW-Eau Claire

Karen Massetti-Moran, Assoc. Director of HR
UW-Milwaukee

Rich Thal, Investigator
UW Shared Services

Kate McQuillan, Chief of Staff
UW-Oshkosh
University of Wisconsin System

Structure
- 2 research universities (R1)
- 11 four-year comprehensives
- 13 two-year branch campuses
- 1 statewide extension

Demographics
- 175,000 students
- 40,000+ employees
- Over $1 billion in research
Issue Background

Emergent state and national issue

#metoo movement
2017 WI Act 130 “Pass the Trash” (K12)
Higher education
California AB 2770
Hollywood
Supreme Court nomination

Safety and welfare issue

National Academy of Science, Engineering, & Medicine Report
Issues at UW System

The Milwaukee Journal Sentinel published an article examining the all of the complaints of employee sexual misconduct — either harassment and/or assault — formally investigated since 2014.

In 2018, it was reported that two UW System employees known to have sexually harassed women got jobs at other educational institutions.

“UW students accuse teachers of sexual harassment in more than half of all campus cases”

Milwaukee Journal Sentinel, January 29, 2018
TIMELINE

- **Jan 2018**: Milwaukee Journal Sentinel Article
- **Mar 2018**: Beitz Story Breaks
- **Apr 2018**: Wilson story breaks
- **June 2018**: BOR Resolution 11038
On June 7, 2018, the Board adopted Resolution 11038 on employee personnel files and reference checks, which required the development or modification of certain human resource policies for all UW institutions regarding:

i. documenting sexual harassment allegations and investigations;

ii. maintaining personnel files and conducting reference checks;

iii. exchanging personnel files between all UW institutions and State of Wisconsin agencies.
TIMELINE

First Drafts Presented

June 22nd 2018

Sexual Misconduct Policy Work Group Charge Meeting

August 24th 2018

Feedback Period

Aug-Oct 2018

Training Period

Nov-Dec 2018

Policies Go-Live

Jan 1st 2019
Charge Meeting

- Set the tone
- Defined roles
- Developed a roadmap to the finish line
- Assigned duties

Important Tools

- Gantt chart
- Agenda and meeting notes
- Weekly conference call
- Shared digital workspace (SharePoint site)
Stages

- Current State Assessment
- Policy Drafting
- Feedback
- Finalize policy and socialize
- Implementation and monitoring
Current State Assessment

- All UW System institutions
- All Big Ten institutions
- Other large systems: SUNY, Texas, California, California State
- Additional universities: Georgia, North Carolina, Virginia,
- Dept. of Administration (DPM)
- K12
Findings

• Most of the universities did not have policies which covered:

  1. Sharing/transferring of p-files between institutions
  2. Appropriately documenting sexual harassment allegations/investigations within personnel files
  3. Conducting reference checks regarding allegations/investigations of sexual harassment

• However, multiple universities were in the process of reviewing and/or updating their sexual harassment, personnel file, or reference check policies
Feedback

Gathered feedback from major stakeholders:

- Campus governance groups
- HR Directors
- Title IX Coordinators
- CBOs
- Regents
- Campus leadership (Chancellors, Provosts, etc)

Communication channels

- Conference calls
- In-person meetings
- Website comment form
Most Common Concerns

- False Accusations/Bad Actors
- Liability for bad references
- Privacy concerns for sexual violence victims
- Why not other types of misconduct
- Issues with specific wording
- Permanent black mark
- Will hurt recruitment
Defamation

- Little evidence of successful defamation claims where the disclosed misconduct findings were based on sound investigations

- Most states have “good faith” reference laws
  - Employers are only liable if they act maliciously or knowingly provide false information (e.g. Wis. Stat. 895.487(2))

- Policy mandates only the disclosure of actual findings of sexual misconduct or of the fact that an individual left during an active investigation
  - does not include unsubstantiated allegations
Shift Towards Duty of Care

- Currently no legal duty to warn about potential harm for higher education employers
- However, legal landscape is shifting
  - 2017 WI Act 130 “Pass the Trash” (K12)
  - California AB 2770
- More is being required of employers
  - Tarisoff and its progeny
  - K12 “special relationship” analysis (Illinois Supreme Court)
- Shift towards openness and duty to disclose
Major fear: a well-intentioned policy that ends up being ineffective with a high administrative cost (time, effort, money)

Concerns
- Risk of not having a policy
- Liability
- Compressed timeline
- Cost of implementation
  - Administrative burden (work hours spent)
  - Financial
- Policy efficacy

Goals
- Shared Governance buy-in
- Early socialization
- Smooth implementation
- Solving or minimizing the issue
Keys to Success

- Support of leadership
- Don’t overestimate opposition
- Internal stakeholder support
- Data
Work Group Recommendations

1. Electronic records for personnel files
2. Consistent documentation and procedures
3. Develop system for employee categories not covered by these policies (grad students, student hourlies, etc.)
4. Develop implementation guides and provide training to supervisors
5. Complete all investigations of sexual violence and sexual harassment
   a) Even if employee leaves during an active investigation
6. Consult policy stakeholders (including governance)
7. Regular assessment of policy and best practices during implementation
Related to changes in management of personnel files and sexual harassment and sexual misconduct checks
Personnel File Policy Changes

**Defines Official Personnel File**
- "Ownership"
- Access
- Contents

**Changes to Contents**
- Investigatory Notice
- Findings
- Disciplines
- Document Removal

**Defines P-File Sharing**
- Across the UW
- Across State Agencies
- Timeframe

**Mechanism for file sharing**
- Secured site for upload and sharing.
- Future state – Electronic Pfile in HRS system.
- Transfers between State Agencies
Recruitment Policy Changes

- Specific reference checking
- Prior to hire
- Positions covered
  - number of checks
  - Within the UW or State of Wisconsin
- Process
- Information eligible for release
- Escalation/review process
Impacts of the Change

- HR communities (Across UW and within UWM)
- Institutional buy-in (UWM perspective)
- Training of the HR community
  - Identifying who conducts checks
  - Identifying who is involved when issues arise
  - Formalizing a process
- Educating others on the process
## Policy Roles

<table>
<thead>
<tr>
<th>Employment Relationship</th>
<th>Responsibilities:</th>
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<tbody>
<tr>
<td>Supervisor</td>
<td>• Must provide caller with contact for any questions</td>
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<tr>
<td></td>
<td>regarding employee misconduct</td>
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<tr>
<td></td>
<td>• Must provide contact whether asked or not</td>
</tr>
<tr>
<td>HR Contact</td>
<td>• Must provide caller with information regarding</td>
</tr>
<tr>
<td></td>
<td>employee misconduct</td>
</tr>
<tr>
<td>Colleague (no supervisory</td>
<td>• Nothing required by policy</td>
</tr>
<tr>
<td>duties)</td>
<td></td>
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</tbody>
</table>
Candidate and Employer Reference Checks

- Was the candidate ever found to have engaged in any sexual misconduct?

- Is the candidate currently under investigation for allegations of sexual misconduct against the candidate?

- Did the candidate leave your employment prior to the completion of an investigation into allegations of sexual misconduct against the candidate?
“All questions related to employee misconduct including sexual misconduct are addressed only by our human resources department, which can be contacted [by email] at [insert contact information]. This isn’t meant to imply that this candidate has committed any misconduct but is something we are required by policy to tell all potential employers.”
Open Q&A

Submit your questions via the chat function

The question will be read aloud

The presenters will respond
Webinar Follow-up

Please complete the assessment upon conclusion of the webinar.

The webcast and slides will be posted to the MHEC’s YouTube Channel.

youtube.com/user/mhec12
Feedback

For more information on MHEC’s work or ideas on additional best practices to share:

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