

# WELCOME

## Stop Passing the Harasser: Rethinking the Hiring Process

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# Stop Passing the Harasser: Rethinking the Hiring Process

October 23, 2019

# Your Host



Susan G. Heegaard

President

Midwestern Higher Education Compact

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# Questions

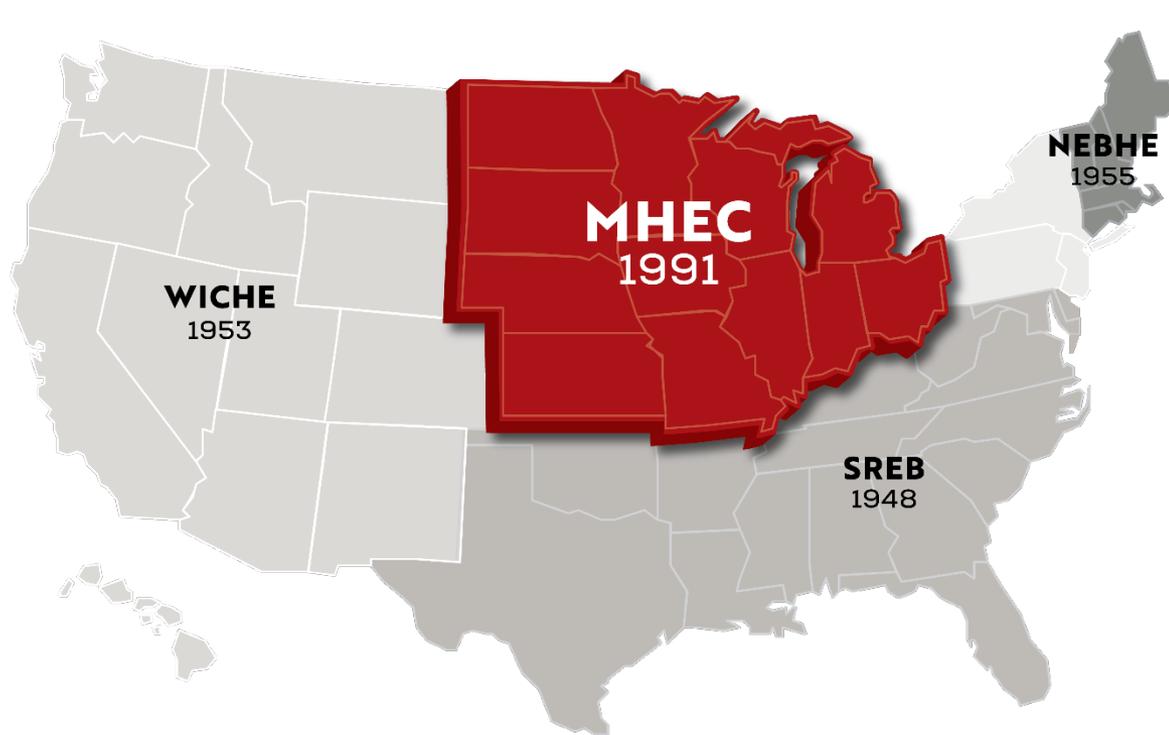
- Please submit questions through the chat feature
- Follow-up will be done throughout the presentation



# 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

# CONSENSUS STUDY REPORT

## *Sexual Harassment of Women*

Climate, Culture, and  
Consequences in  
Academic Sciences, Engineering,  
and Medicine



**#ScienceToo**

[www.nationalacademies.org/sexualharassment](http://www.nationalacademies.org/sexualharassment)

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Medical Institute



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## 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

using professional threats or rewards to get sexual favors

UNWANTED SEXUAL ATTENTION

sexual assault

rape

unwanted groping or stroking

PUBLIC CONSCIOUSNESS

GENDER HARASSMENT

relentless pressure for sex or dates

nude images posted at work

unwanted sexual discussions

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

sexist insults  
e.g. *women don't belong in science*

sabotage of women's equipment

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.

## Findings: Race, Sexuality, and Gender Identity

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.

## Findings: Predictors of Sexual Harassment

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.

**Civility-Promotion:** Combine anti-harassment efforts with programs to promote civility.

- The 2016 EEOC 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 Administrator-Researcher Campus Climate Collaborative (ARC3) 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.

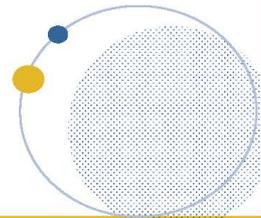
- The U.S. Geological Survey and the Department of the Interior have broad scientific integrity policies that apply to employees, appointees, volunteers, grantees, and contractors. Some scientific societies such as the American Geophysical Union have developed new ethics policies that explicitly call 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. Callisto is an online system that allows targets to control the disclosure of information, access supportive 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 PRISM (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 fearing 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 mutual no contact orders between the accused and accuser, changing class schedules, changing the locks at the housing facility or workplace, rescinding building access for the accused, and reassigning advisors, mentees, 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 and climate to reduce and prevent sexual harassment—and not just protect the institution against liability.

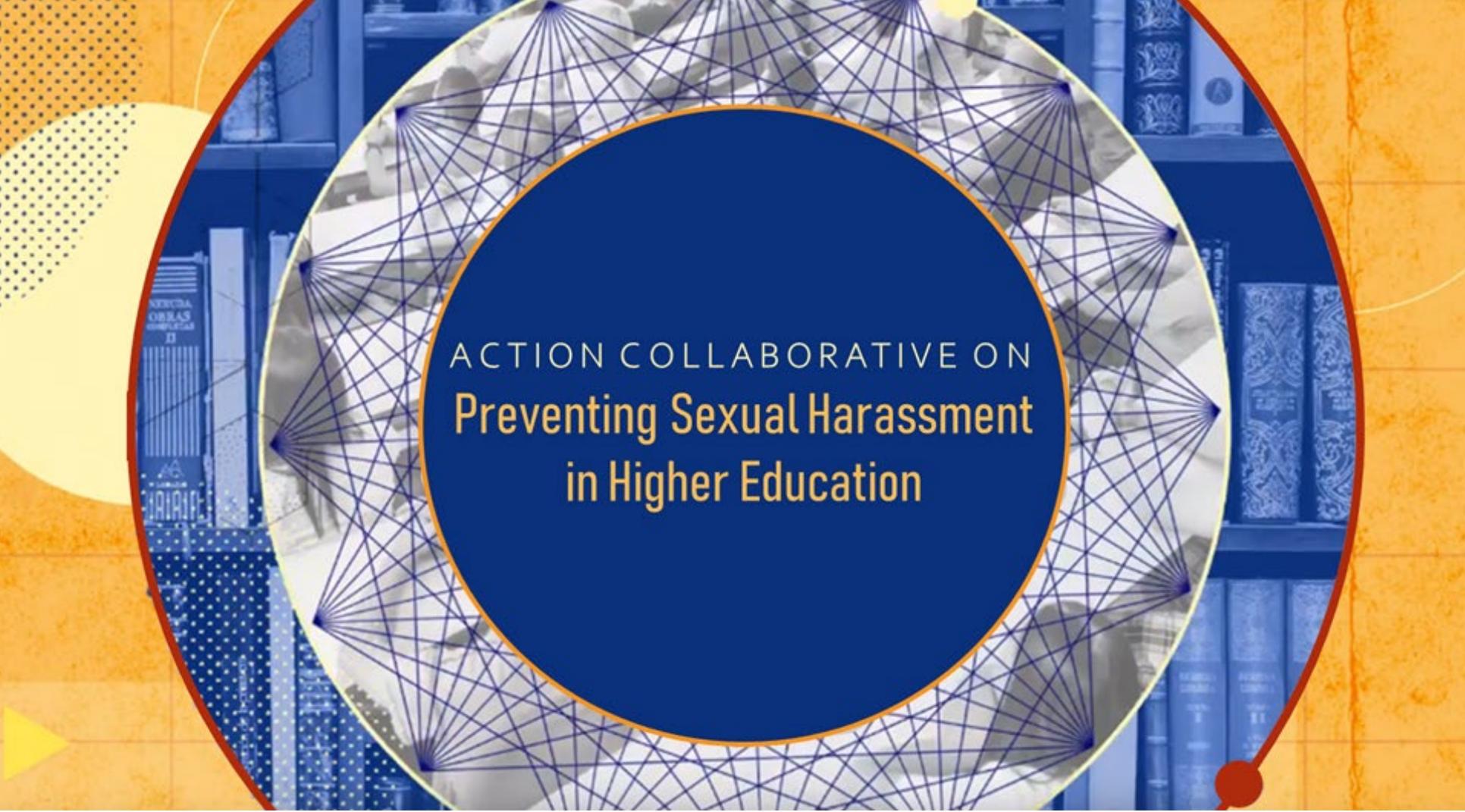
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This brief is based on the findings and recommendations in *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine* (2018). Copies of the Report are available from the National Academies Press, (800) 624-6242; <http://www.nap.edu> or at [www.nationalacademies.org/sexualharassment](http://www.nationalacademies.org/sexualharassment).

Available at [www.nationalacademies.org/sexualharassment](http://www.nationalacademies.org/sexualharassment)

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ACTION COLLABORATIVE ON  
**Preventing Sexual Harassment  
in Higher Education**

**<http://nationalacademies.org/SexualHarassmentCollaborative>**

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# 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

## Working Groups

### 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

# First Annual Summit of the Action Collaborative



**November 19-20, 2019 at the University of Washington**

**<http://www.nas.edu/ACSummit2019>**

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# 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.

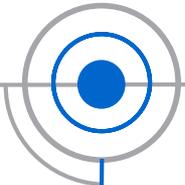
**“UW students accuse teachers of sexual harassment in more than half of all campus cases”**

**Milwaukee Journal Sentinel, January 29, 2018**

# TIMELINE

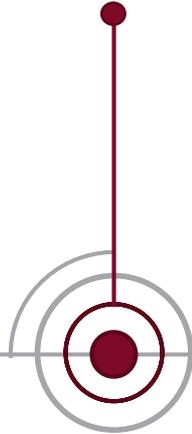


Jan 2018



Milwaukee Journal  
Sentinel Article

Beitz Story Breaks



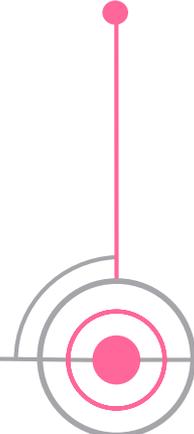
Mar 2018

Apr 2018



Wilson story breaks

BOR Resolution 11038



June 2018

# UW System Board of Regents Response

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

Training Period

June 22<sup>nd</sup>  
2018

Aug-Oct  
2018

Jan 1<sup>st</sup>  
2019

August 24<sup>th</sup>  
2018

Nov-Dec  
2018

Feedback Period

Policies Go-Live

Sexual Misconduct  
Policy Work Group  
Charge Meeting

# Charge Meeting

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

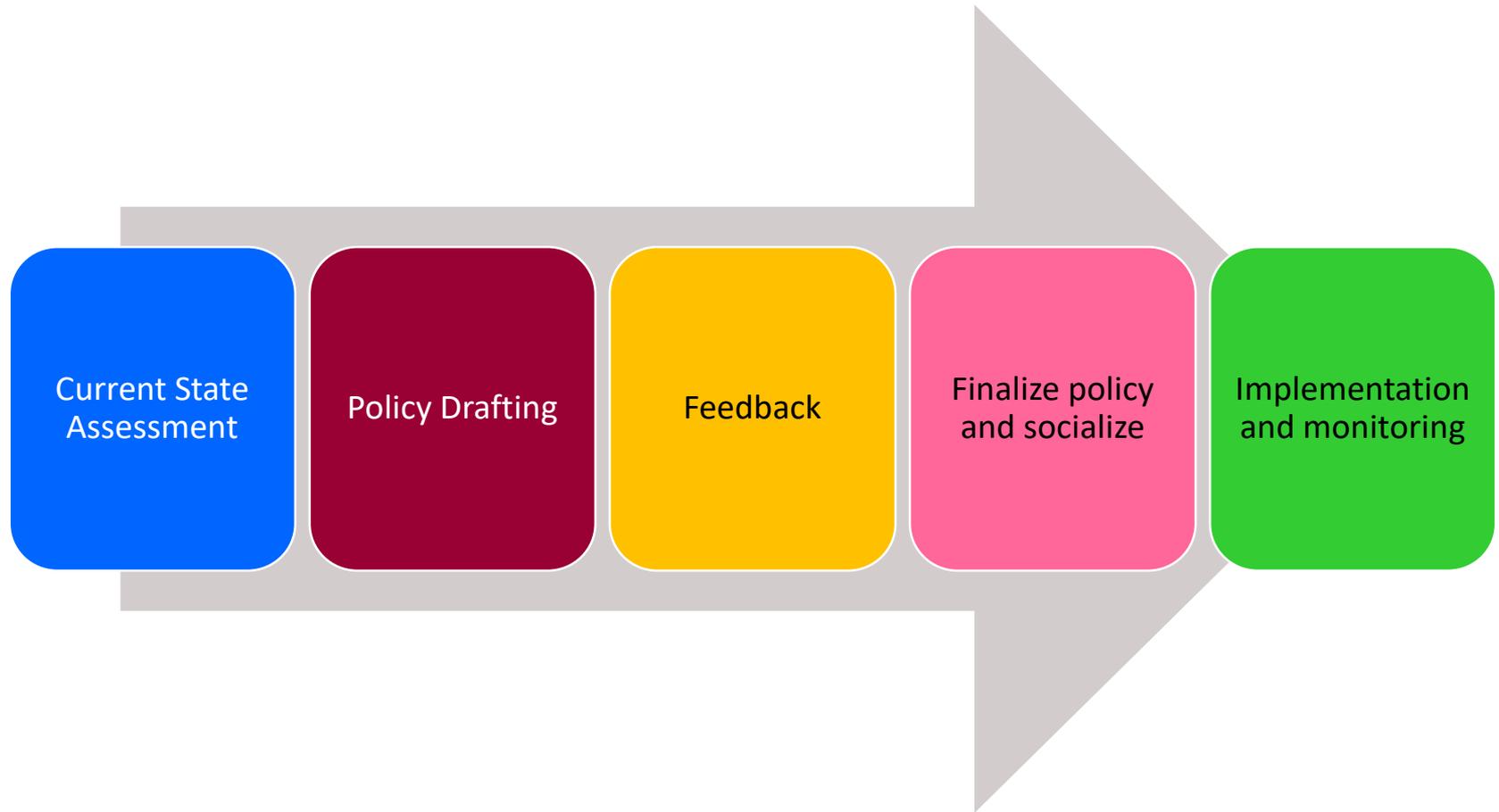


## Important Tools

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



# Stages





# 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

# Campus Leadership Perspective

**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

# HUMAN RESOURCES PERSPECTIVE

Related to changes in management of personnel files and sexual harassment and sexual misconduct checks



# Personnel File Policy Changes

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## 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**



**Process**

- number of checks
- Within the UW or State of Wisconsin



**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

| Employment Relationship              | Responsibilities:   |
|--------------------------------------|---|
| Supervisor                           | <ul style="list-style-type: none"><li>• Must provide caller with contact for any questions regarding employee misconduct<ul style="list-style-type: none"><li>• Must provide contact whether asked or not</li></ul></li></ul> |
| HR Contact                           | <ul style="list-style-type: none"><li>• Must provide caller with information regarding employee misconduct</li></ul>  |
| Colleague<br>(no supervisory duties) | <ul style="list-style-type: none"><li>• Nothing required by policy</li></ul>  |

# 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?



# Response Script

“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](https://youtube.com/user/mhec12)

# Feedback

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

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