

# PERSONNEL FILES & REFERENCE CHECKS POLICIES

# Issue Background

- Emergent state and national issue
  - #metoo movement
  - 2017 WI Act 130 “Pass the Trash” (K12)
  - California AB 2770
  - Numerous high-profile examples in higher education
- Safety and welfare issue
  - National Academy of Science, Engineering, & Medicine Report

# Issues at UW System

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

Additionally, 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.

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

**Milwaukee Journal Sentinel, January 29, 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; and
- iii. exchanging personnel files between all UW institutions and State of Wisconsin agencies.

# Policy Content Overview

## Personnel Files

- **What it does:**

- Updates the list of what must be in personnel files
- Defines when and with whom personnel files are shared
- Requires appropriate documentation of sexual violence and sexual harassment in personnel files

- **What it doesn't do:**

- Doesn't prejudice hiring decisions by providing access to personnel file before hire
- Doesn't require investigative materials to be in personnel files
- Doesn't change who has access to personnel files
- Doesn't include documentation of unsubstantiated allegations of sexual violence and sexual harassment

# Personnel File Policy

- Applies to anyone with a personnel file:
  - faculty
  - academic staff
  - university staff
  - limited appointees
- Doesn't currently apply to categories of employees w/o a p-file:
  - Graduate students
  - Student hourlies

# Personnel File Policy

- Records that relate to final personnel decisions
- Any relevant negotiated resolution or settlement agreement(s) (or reference to their location/contents)
- Documentation of active investigations or administrative appeals during which the employee resigns, or otherwise leaves service (further details on next slide)

# Personnel File Policy

## Active Investigations Letter

- Basic boiler plate letter which says employee left service during an active investigation of violation of policy XXXX.
  - Doesn't include investigatory materials or summary of conduct
- Removed from p-file upon conclusion of investigation
  - **No violation:** no further documentation is added to p-file
  - **Violation:** "Active investigation" letter replaced with findings/discipline letter



# Policy Content Overview

## Reference Checks

- **What it does:**

- Ensures consistent **disclosure** of violations of sexual violence and sexual harassment policies **to hiring institutions**
- Ensures institutions **ask** about sexual violence and sexual harassment **during the hiring process**

- **What it doesn't do:**

- Not an automatic disqualifier
  - Any disclosures will be weighed as part of the evidence-based hiring process
- Doesn't disclose or ask for unsubstantiated allegations of sexual violence or sexual harassment
- Doesn't prevent or limit institutions from responding to reference checks

# Reference Checks

- Reference checks must be conducted at a minimum with:
  - A final candidate's most recent employer
  - All previous UW System institution employers from the past seven years
  - All previous State of Wisconsin agency employers from the past seven years
- Must ask:
  - Was the candidate ever found to have engaged in any sexual violence or sexual harassment?
  - Is the candidate currently under investigation into allegations of sexual violence or sexual harassment?
  - Did the candidate leave your employment prior to the completion of an investigation into allegations of sexual violence or sexual harassment against that candidate?

# Reference Checks

- **References provided by supervisors** must notify the potential employer of the appropriate UWSHR contact for any questions related to employee misconduct (including any violation of sexual violence or sexual harassment policies), *even if the potential employer does not ask.*
- **References provided by non-supervisors** are not required to notify the potential employer of the appropriate UWSHR contact.