II. **9:00 a.m.   All Regents — Symphony Room**

1. Calling of the roll

2. Approval of the minutes of the June 2018 meeting

3. Report of the President of the Board
    a. Reports of the Wisconsin Technical College System Board and the Higher Educational Aids Board
    b. Additional items that the President may report to the Board

4. Report of the President of the System
    a. Update on recent events
    b. News from the UW System

5. Report and approval of actions taken by the Capital Planning and Budget Committee

6. Report of the Research, Economic Development and Innovation Committee

7. Report of the Audit Committee

8. Report and approval of actions taken by the Business and Finance Committee

9. Report and approval of actions taken by the Education Committee

10. UW Colleges and UW-Extension Restructuring—implementation update

11. Personnel files and reference checks—implementation update

12. Sexual Violence and Harassment Priorities Working Group—implementation update

13. Resolution of Appreciation for UW Colleges and UW-Extension Chancellor Cathy Sandeen

14. Regent communications, petitions, and memorials

15. Closed Session – Sonata Room
    Move into closed session to consider personnel evaluations of chancellors, as permitted by s. 19.85(1)(c), Wis. Stats.

Adjourn

UW COLLEGES AND UW-EXTENSION RESTRUCTURING:
AUGUST 2018 PROGRESS REPORT

EXECUTIVE SUMMARY

BACKGROUND

In October 2017, UW System President Ray Cross announced a proposal to restructure UW Colleges and UW-Extension, integrating UW Colleges' campuses with UW four-year institutions, and assigning divisions within UW-Extension to UW-Madison and UW System Administration. The impetus for President Cross's restructuring proposal included declining enrollment projections due to Wisconsin's changing demographics, as well as the need for closer alignment between research and practice.

In November 2017, the Board of Regents approved President Cross's restructuring proposal with the approval of Resolution 10956. This resolution joined each of the UW Colleges' 13 campuses with a four-year UW System institution, and joined the UW-Extension's Cooperative Extension Division and the UW-Extension Conference Centers with UW-Madison. The remaining divisions within UW-Extension – the Division of Business and Entrepreneurship, the Division of Broadcasting and Media Innovations, and the Division of Continuing Education, Outreach, and E-Learning, as well as UW Colleges Online – were moved to UW System Administration.

Since that initial resolution, the Board of Regents, through its Executive Committee, approved additional restructuring actions. In January 2018, all UW institutions were authorized to offer the Associate of Arts & Sciences degree in the online format effective July 1, 2018, as a Collaborative Online Degree Program. In addition, UW-Milwaukee was authorized to offer the Associate of Arts & Sciences degree in the UW Flexible Option format. In February 2018, the Executive Committee approved moving Wisconsin Public Radio, Wisconsin Public Television, and UW-Extension's Department of Labor Education to UW-Madison, effective July 1, 2018.

At the Board's August meeting, Interim Vice President of Academic and Student Affairs Karen Schmitt and Associate Vice President of Academic Programs and Educational Innovation Carleen Vande Zande will provide an update on the approval for the restructuring by the Higher Learning Commission (HLC) in June 2018, and provide a progress report on key areas of the restructuring efforts, and preview follow up actions required by the HLC after six months of implementation.

REQUESTED ACTION

Information only.

DISCUSSION

On June 28, 2018, the Board of the Higher Learning Commission approved the UW System's January 2018 application for a change of structure within the UW System. The UW Colleges and UW-Extension restructuring project began the formal implementation of the restructuring on July 1, 2018. As outlined in the application, restructuring Phase 1 began on July 1, 2018 and will end June 30, 2019. During this phase, the two-year branch campuses are now joined with the receiving four-year institutions. Many functions will continue to be provided centrally to ensure continuity of operations to students and employees in 2018-19. Each receiving institution now has an MOU in place to ensure that services to students, academic programs, governance, assessment processes, administrative oversight, financial allocations, and operational components of the transition are clearly outlined. The longer-term state of certain functions, such as human resources, information technology, and procurement, will be designed in 2019 as part of the Commitment to Operational Reform and Excellence (CORE) initiative, an element of the *2020FWD* strategic framework.

Throughout the spring semester and during the summer, the planning and design phase of the project transitioned to the implementation stage guided by a detailed project management timeline developed collaboratively across the UW System. Functional planning teams, as well as multiple campus level teams, have been working diligently to meet these objectives. After July 1, 2018, the following key transition activities have been accomplished:

- Change of in reporting for UW Colleges and UW-Extension employees
- Launch the revised EApp for the 2019-20 academic year (applications opened for fall 2019 on August 1, 2018)
- Transition of the UW Colleges catalog to the receiving institutions
- Faculty tenure transfer from the UW Colleges to the receiving institutions
- Proposed name changes for branch campuses submitted for Board approval

The Higher Learning Commission will conduct campus evaluation visits six months after the implementation of the branch campuses in spring of 2019. These visits are conducted to ensure quality of academic offerings, adequacy of student support services, physical and technological resources, qualified staffing, and assessment and evaluation processes to guide continuous improvement. Each receiving institution will prepare a report and supporting evidence on the progress made in launching the branch campus, the implementation of the business plan and the current operations of the campus including enrollment, budget, and staffing. HLC teams will interview faculty, staff, students and administration at the branch campus.

RELATED BOARD OF REGENTS ACTIONS

- Resolution 10956, Approval of Restructuring of UW Colleges and UW-Extension
- Resolution 10961, Amendment of Resolution 10956, "Approval of Restructuring of UW Colleges and UW-Extension"
- Resolution 10982, Associate of Arts & Sciences Degree Online and Associate of Arts & Sciences Degree in the Flex Format
- Resolution 11010, Transfer of Wisconsin Public Radio and Wisconsin Public Television to UW-Madison
- Resolution 11011, Transfer of the Department of Labor Education to UW-Madison
- Resolution 11047, Approval of the Establishment of a College of General Studies, UW-Milwaukee
- Resolution 11048, Approval of the Establishment of a College of Integrated Studies, UW-Whitewater
- Resolution 11049, 2018 Tenure Transfer Report for UW Colleges
- Resolution 11050, Program Authorization (Implementation) UW Flexible Option B.S. in Business Administration, UW-Parkside
- Resolution 11066, Authority to Rename the University of Wisconsin-Barron County, UW-Eau Claire

August 24, 2018   Agenda Item II.11.

UW SYSTEM EMPLOYEE PERSONNEL FILES
AND REFERENCE CHECKS

EXECUTIVE SUMMARY

BACKGROUND

The UW System Board of Regents is committed to promoting a campus environment free from incidents of sexual violence and sexual harassment. To help achieve this goal, the Board of Regents adopted Regent Policy Document 14-2, "Sexual Violence and Sexual Harassment," directing UW institutions to adopt policies, practices, and educational programs to prevent, respond to, and redress incidents of sexual violence and sexual harassment.

The authority for adopting personnel policies is found in Wis. Stat. § 36.115, which requires the Board and the UW-Madison chancellor to establish and maintain personnel systems separate and distinct from Wisconsin's civil service system as established under Chapter 230 of the Wisconsin Statutes. UW System and UW-Madison have adopted a series of human resource policies to implement the personnel systems.

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.

UW System has developed and modified the attached draft UPS policies (UPS Operational Policy TC 1 regarding Recruitment Policies and UPS Operational Policy HR 13 regarding Personnel Files) applicable to all UW institutions. These draft UPS policies are being presented to the Board in near final form prior to seeking additional feedback and consultation from shared governance groups and other relevant stakeholders in advance of implementation on January 1, 2019.

REQUESTED ACTION

This item is for information only.

DISCUSSION

Following the June 2018 Board of Regents meeting, a work group was created to consider issues and draft the attached policies. The work group included members from multiple UW institutions (UW-Eau Claire, UW-Oshkosh, UW-Milwaukee, UW-Madison, and UW System Administration), and covered a wide range of subject areas and expertise (human resources, Title IX, administration, legal). Additionally, the work group consulted with the Department of Administration - Division of Personnel Management (DPM) for consistency with other state agencies.

The work group performed a current state assessment of personnel file and reference check policies at 37 different institutions including all UW System institutions, all Big Ten institutions, other large systems (including State University New York, Texas, University of California, and California State University), additional universities (including Georgia, North Carolina, and Virginia), as well as the Department of Administration and K-12 institutions.

As part of that review, the work group determined most of the institutions reviewed did not have written policies that directly addressed documenting sexual violence or sexual harassment allegations/investigations <u>within</u> the personnel file, conducting or responding to reference checks regarding allegations/investigations of sexual violence or sexual harassment, or sharing/transferring personnel files between institutions. However, a number of institutions were in the process of reviewing and/or updating their sexual violence and sexual harassment personnel file or reference check policies. Additionally, a number of institutions were interested in reviewing both the UW System work group's research and a copy of the draft and final policies implemented, highlighting the leadership role that the Board of Regents is taking on this issue.

Draft UW System UPS Operational Policy TC 1, regarding recruitment policies, requires that there be consistent disclosure to hiring institutions (both within the UW System and for external employers) of violations of sexual violence and sexual harassment policies. The policy would also require UW institutions to ask about sexual violence and sexual harassment prior to hiring any final candidate. The draft policy clarifies that potentially adverse information is not an automatic disqualifier, and that any disclosures will be weighed as part of the evidence-based hiring process. Additionally, the draft policy does not ask about or require disclosure of unsubstantiated allegations of sexual violence or sexual harassment. The only exception is instances where an employee leaves during an active investigation into allegations of sexual violence or sexual harassment. Overall, the draft policy provides the minimum requirements while providing institutions flexibility for implementation.

Draft UW System UPS Operational Policy HR 13 regarding personnel files standardizes the content of personnel files and requires their transfer between all UW institutions and state agencies upon hire, defines when and with whom personnel files are shared, and ensures appropriate documentation of sexual violence and sexual harassment within the personnel file.

After presentation to the Board, the work group will work with campuses, shared governance groups, and other stakeholders during the consultation and review phase (August-

November 2018). The work group will collect feedback and lay the groundwork for implementation in January of 2019.

RELATED REGENT POLICY DOCUMENTS

Regent Policy Document 14-2, Sexual Violence and Sexual Harassment
Regent Policy Document 20-21, University Personnel Systems
UW System Board of Regents Resolution 11038

The University of Wisconsin System
UPS OPERATIONAL POLICY: TC 1

SUBJECT: Recruitment Policies

_____

Original Issuance Date: July 1, 2015
Last Revision Date: [to be added]

1. POLICY PURPOSE:

The purpose of this policy is to provide a framework for UW System institutions to use in the development of merit-based recruitment, selection, and hiring processes that produce a talented, effective workforce and that reflect UW System's commitment to the principles of equal employment opportunity, non-discrimination, and cultural diversity.

2. POLICY BACKGROUND:

Wis. Stat. § 36.09(1)(e) authorizes the Board of Regents to appoint the requisite number of limited appointees, faculty, academic staff, and other employees. Several Regent actions have served to delegate much of the appointment authority to the System President, who in turn further delegates this authority to the chancellors.

Wis. Stat. § 36.115 requires the Board and the UW-Madison chancellor to establish and maintain personnel systems separate and distinct from Wisconsin's civil service system as established under Chapter 230 of the Wisconsin Statutes. After the Board of Regents adopted Resolution 11038 (adopted June 7, 2018) for all UW institutions regarding employee personnel files and reference checks, this policy was modified to address concerns related to sexual violence and sexual harassment.

Faculty and academic staff recruitment policies are outlined in UWS 3.02 and UWS 10.02(1) of the Wisconsin Administrative Code, respectively. The majority of limited appointee recruitments follow established university recruitment policies. However, recruitment procedures for chancellors, senior vice presidents or vice presidents are outlined in Regent Policy Document 6-4, Search and Screen Procedures for Chancellors, Senior Vice Presidents or Vice Presidents.

3. POLICY DEFINITIONS:

Please see UPS Operational Policy GEN 0: General Terms and Definitions for a list of general terms and definitions.

Definitions specific to this policy:

"Employee" means any individual who holds a faculty, academic staff, university staff, or limited appointment with any UW System institution.

"Equal Opportunity and Affirmative Action" means an active effort to improve the educational and employment opportunities of members of minority groups and women.

"Merit" means the qualifications, experience, standard of work performance, and capabilities of those persons that are relevant to the performance of those duties.

"Sexual harassment" has the same meaning as in Regent Policy Document 14-2: Sexual Violence and Sexual Harassment

"Sexual violence" has the same meaning as in Regent Policy Document 14-2: Sexual Violence and Sexual Harassment

"State agency" means a Department or Independent Agency as defined under Wis. Stat. §15.01(5) and §15.01 (9).

"UW System institution" means any of the following: UW-Eau Claire; UW-Green Bay; UW-La Crosse; UW-Madison; UW-Milwaukee; UW-Oshkosh; UW-Parkside; UW-Platteville; UW-River Falls; UW-Stevens Point; UW-Stout; UW-Superior; UW-Whitewater; UW System Administration

4. POLICY:

It is the policy of the University of Wisconsin System that merit-based principles are used in the recruitment and selection process. Recruitment must be an active process consistent with sound personnel management practices and in done a manner to recruit a diverse, highly qualified group of applicants. Selection must be made according to merit selection principles through a competitive process. As appropriate, internal recruitment may be utilized if consistent with equal employment and affirmative action objectives as well as UW System institutional policies or practices.

UW System institutions must consider affirmative action principles and inclusive excellence in all recruitments to ensure that equal employment opportunity, diversity, and affirmative action goals are addressed. Depending on institutional policies or practices, this may include, but is not limited to, activities such as participation in review and/or approval of a recruitment plan which includes consideration of affirmative action goals and targets for advertising to increase diversity of pools, appointment and orientation of search and screen committee members, development of position descriptions, development of interview questions, and review of finalists.

UW System institutions provide equal employment opportunity by ensuring that all personnel actions including hire, promotion, tenure, and any term, condition, or privilege of employment are based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, disability, sex, national origin, ancestry, sexual orientation, gender identity or expression, or political affiliation.

Responsibilities:

UW System institution human resource departments are responsible for providing oversight and guidance during the recruitment process. UW System institutions may also delegate recruitment responsibilities to other appropriate departments and designate who is the authorized to respond to reference checks on behalf of the institution.

Required Questions for the Final Candidate

 At a minimum, a final candidate must be asked prior to hire whether they:

- were ever found to have engaged in any sexual violence or sexual harassment; or,
- left employment during an active investigation into allegations of sexual violence or sexual harassment

Sample questions can be found in Appendix 4.

Obtaining Employment References

Job related reference information is required as part of the recruitment and selection process for all prospective employees.

When to ask:

Reference checks must be performed at a minimum for a final candidate for any UW System institution position prior to hire.

What to ask:

When checking references, it is a good practice to ask whether disciplinary problems were encountered. At a minimum, reference check questions must be asked about a final candidate prior to hire as to whether they:

- were ever found to have engaged in any sexual violence or sexual harassment; or,
- left employment during an active investigation into allegations of sexual violence or sexual harassment

Sample questions can be found in Appendix 4.

Who to ask:

Reference checks must be conducted at a minimum with a final candidate's most recent employer and with all previous UW System institution and State agency employers.

Appendices 2 and 3 provide additional reference check guidelines.

Other considerations:

Whether an applicant was previously an employee of a UW System institution or State agency should be determined through an application process where there is a requirement for applicants to disclose any prior UW System institution or State agency employment.

Depending on the specific facts, past misconduct is not an automatic disqualifier. Reference information that reveals past misconduct (including any violation of sexual violence or sexual harassment policies) must be reviewed on a case-by-case basis prior to making any hiring decisions and, when appropriate, legal counsel should be consulted.

<u>**Providing Employment References**</u>

UW System institutions must follow certain minimum procedures for when a potential employer makes a reference check regarding a current or former employee.

The potential employer should receive an objective evaluation of the candidate's training, experience, skills, abilities, and job performance as they relate to the duties and responsibilities of the job for which the candidate is being considered.

When contacted by a potential employer for a reference check of current or former employee, UW System institutions must notify the potential employer of the appropriate UW System institution 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. The appropriate UW System institution contact must disclose whether the employee has ever been found to have engaged in, or left during an active investigation into allegations of, sexual violence or sexual harassment.

When the potential employer is another UW System institution or State agency, the personnel file of the current or former employee must be shared upon hire (see UPS Operational Policy HR 13: Personnel Files).

Sample language and procedures can be found in Appendix 4.

<u>**Special considerations under the Wisconsin Public Records Law:**</u>

Wis. Stat. § 19.36(7)(b) provides that applicants for positions may indicate in writing that his or her identity should be kept confidential. Except for certain high-level positions described below, only the identity of the individual who is hired for the position may be the subject of a public records request.

The following confidentiality language should be included in all UW job announcements (except for those for high level positions described below):

The University of Wisconsin System will not reveal the identities of applicants who request confidentiality in writing, except that the identity of the successful candidate will be released. See Wis. Stat. §. 19.36(7).

For the positions of President, Vice President, or Senior Vice President of the University of Wisconsin System; Chancellor, and the Vice Chancellor who serves as deputy at each institution (usually the Provost), the following confidentiality language should be included in the UW job announcement:

The University of Wisconsin System will not reveal the identities of applicants who request confidentiality in writing, except that the identities of finalists must be revealed upon request.   See Wis. Stat. §. 19.36(7).

Letters of Appointment

The terms and conditions of an appointment should be specified in a written letter of appointment. The appointment letter must be signed by an authorized official of the UW System institution and should contain details regarding the following:

- type of appointment (e.g., fixed term, probationary, or expectation of continued employment);
- duration of the appointment (starting date, ending date);
- salary (hourly for nonexempt; salary for exempt);
- general position responsibilities;
- definition of operational area;
- duration of the probationary period (if appropriate); and
- recognition of prior service as part of the probationary period (if appropriate).

Accompanying the appointment letter must be an attachment detailing the applicable UW System institution employment regulations, rules, and procedures. If the appointment is subject to the approval of the Board of Regents, a statement to this effect must be included in the letter.

5. **RELATED DOCUMENTS:**

Appendix 1 – Options for University Staff Recruitment and Assessment
Appendix 2 – Reference Check Guidelines
Appendix 3 – Reference Check Questions
Appendix 4 – Sample Language Recommendations for Questions and Disclaimers
UPS Operational Policy HR 13: Personnel Files
Regent Policy Document 14-2: Sexual Violence and Sexual Harassment
UW System Administrative Policy 420: Travel &Expense – Meal and Incidental Expense (M&IE)
Per Diem allowance Reimbursements

6. **POLICY HISTORY:**

Reviewed by the Board of Regents, December 7, 2012
Board of Regents Resolution 11038 adopted, June 7, 2018

Options for University Staff Recruitment and Assessment

Recruitment and Assessment Options

It is the Board of Regent's policy to promote the development of university personnel systems that allow UW System institutions to attract, develop, and retain a diverse and highly qualified workforce that will effectively and efficiently pursue the missions of all UW System institutions. These university personnel systems must include merit-based recruitment and assessment policies and practices.

Each UW System institution is responsible for its recruitment and assessment processes consistent with the applicable laws and policies. These processes may include: criteria for determining the scope of recruitments (internal v. external); vacancy posting criteria (how, where and how long should vacancies be announced); establishment of screening or assessment criteria (what knowledge, skills and abilities are essential to the specific vacancy); choice of assessment tool(s) (which recruitment tool or combination of tools provides the most effective/efficient screen of the applicant pool).

Scope of Recruitment (Internal and External)
At the beginning of the recruitment process institutions will determine if the recruitment will be an internal or external recruitment as described below.

- UW System institution level (internal): consideration is available only to employees (both those employees with an expectation of continued employment and temporary employees) within the UW institution.
- UW System level (internal): consideration is available to employees (both those employees with an expectation of continued employment and temporary employees) across all UW System institutions.
- External posting: consideration is provided to all applicants internal to the UW System as well as outside the UW System.

The recruitment options may occur simultaneously. The order of applicant consideration is determined by each UW System institution's process. Included in the process will be determining if a more qualified and diverse applicant pool may be found by broadening the recruitment area. Consistent with equal opportunity and affirmative action goals, an external search would be recommended if the job category is underutilized within the UW System institution.

University Staff (Nonexempt) Assessment Options
Numerous options are appropriate for assessing applicants. For example:

- Written Assessment**:** Develop a short screening tool which includes criteria based on position duties and responsibilities. Per instructions, applicants would detail their experience/training related to the identified criteria. More than one individual who is familiar with the job responsibilities or knowledgeable about the critical aspects of the position would screen the applicant pool.

- Observational Assessment**:** Applicants perform a hands-on task to demonstrate their skill level. Computer-based simulation or manual demonstration may be appropriate, depending on the position. Examples include a typing test, a customer service phone call scenario, a file

organization task, memo composition, software application tests (such as developing an excel spreadsheet), etc.

- Oral Assessment**:** A preliminary phone interview/assessment is conducted which incorporates behavioral interview questions that reveal the extent to which a candidate possesses the core characteristics or competencies desired. Questions are pointed, probing, and more specific than traditional interview questions and geared towards exploring the candidates' demonstrated behaviors in their previous work experience. Instead of asking how a candidate would behave, the interviewer would ask how a candidate did behave. Behavioral interview questions should be the preferred method of assessment for all interviews – preliminary and final.

- Security (Police Officer) Candidate Assessment**:** Applicants would be required to demonstrate minimum qualifications by obtaining a Law Enforcement Standards Board certification. Additional assessment options might include background checks, personality tests, and physical agility tests.

<u>Continuous Recruitment</u> (suitable for positions with a high turnover rate):
Job vacancies may be posted continuously on the UW System institution website. Applicants complete an initial screening questionnaire, and those applicants considered minimally qualified are interviewed, preferably by a minimum two-person panel. The panel evaluates these applicants further based on job related criteria to determine whether they should become active members of the applicant pool. They may remain in the pool for the next six months (or until it is determined that the applicant pool needs replenishment) at which time the pool expires and the process may be repeated.

<u>Secondary Screens:</u>
If the applicant pool is still large after an initial assessment, secondary screens may be developed and used prior to a final interview process. Examples of secondary screens could include a brief phone interview or utilizing a job expert to rate application materials based on important job requirements in the position description.

<u>University Staff Temporary Appointments:</u>
UW System institutions will develop their own recruitment and assessment method for hiring temporary staff.

<u>WiscJobs</u> :
WiscJobs registers may be utilized, at an additional cost to the UW System, for vacancies at the UW institutions. The registers may be 'polled' to obtain interested, eligible candidates. The expanded certification rules within WiscJobs regarding veterans, minorities, women, and handicapped eligible individuals will not be utilized.

<u>Training</u>

Education and training on recruitment and assessment practices will be offered to all human resources staff, supervisors and appointing authorities. Topics include: development of position descriptions; development of a recruitment plan that ensures diversity of applicants and consideration of affirmative action goals; and interview and assessment processes and criteria. Orientation also will be provided to search and screen committees relevant to their roles in the recruitment and assessment process.

Reference Check Guidelines

People who make hiring decisions must check references as part of the selection process. At a minimum, reference checks must be performed for the final candidate for any UW System institution position prior to hire.   Reference checks must include the candidate's most recent employer and any previous UW System institutions or State agencies where the candidate was previously employed.

Checking multiple references demonstrates that reasonable care was used in the hiring process. Information from references through telephone calls or letters of recommendation is likely to prove very useful in evaluating a candidate's skills, training, experience, and ability to perform position duties. Multiple references allow supervisors to look for consistency among comments.

When seriously considering a candidate, who is a current or former UW System employee, hiring administrators, supervisors or HR staff should conduct a reference check that would include current or former supervisors. Hiring administrators are encouraged to check relevant HR systems, such as Human Resources System (HRS), to access a finalist's available historical employment data.

Verify licenses and degrees if they are important to the position. One of the most common résumé deceptions is claiming to hold a degree that was never conferred or a license that was never issued. If appropriate, call the state licensing board or the college or university registrar's office for confirmation that a critical degree or license was granted.

Some candidates will ask their references to submit letters on their behalf. Others will simply list the names and addresses of references to be contacted. Telephone references are the most effective means of covering specific topics and asking follow-up questions to get more information about a candidate.

The most useful references generally come from former supervisors. Peers and subordinates are also excellent references.

Take notes during the reference check and place them in the candidate's folder.

You can modify the form of Sample Reference Check Questions below to use as a guide to meet your particular needs. Remember to give candidates advance notice that you will be checking their references, which may include contacting people they did not identify as a reference. Hiring administrators, supervisors or HR staff should contact current or former supervisors even if the finalist did not provide supervisory references. Use the following guidelines to conduct all telephone reference checks, regardless of whether the candidate is an internal employee or an external candidate:

- Introduce yourself and explain why you are calling.
- Ask whether it is a convenient time to talk.
- Briefly describe the position the candidate applied for.
- Confirm the relationship between the person giving the reference and the candidate.
- Verify basic duties such as job title, duties, salary, and dates of employment.
- Be consistent. Ask the same questions about all final candidates and weigh the information equally; what disqualifies one candidate should disqualify any candidate.
- Request personal and work references.
- Don't request information about race, color, religion, gender, sexual orientation, national origin, disability, or age.
- Don't ask questions that can be answered with "yes" or "no." Be sure that all questions are open-ended and relate directly to job performance.
- Don't ask a reference any questions that you're not permitted to ask the candidate

REFERENCE CHECK QUESTIONS

Date: _____

Candidate's Name: _____

Reference Check provided by: _____

Organization: _____

Title: _____

Phone Number: _____

Employment Dates: _____

Required Questions:

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

Other Potential Questions

1. What was the nature and length of your relationship with the candidate?

2. How long have you known, worked with or supervised this individual?

3. What were the candidate's beginning and ending employment dates?

4. What position(s) did the candidate hold? What was the salary history?

5. What were the candidate's most recent job duties?

6. How would you describe the candidate's institutional and personnel leadership skills?

7. Please describe the candidate's ability to make good judgements and work with senior leadership?

8. Why did the candidate leave the position? (if relevant)

9. Describe how the candidate reacted in stressful situations. Be specific.

10. How does the candidate handle difficult people and work to resolve conflict?

11. Has the candidate mainly served the role of implementer or initiator of projects and proposals?

12. What balance does the candidate achieve between working independently and checking in with stakeholders and supervisors?

13. Does the candidate always interact with others in a tactful manner? Explain.

14. What are the candidate's key accomplishments or impacts on the organization?

15. What can you tell me about the quality and quantity of the candidate's work?

16. How would you describe this person's ability to meet deadlines?

17. What kind of supervision did this person require?

18. How well did this person get along with management and peers?

19. In what ways is this person a team player?

20. How would you describe this candidate's attitude toward work?

21. How would you describe the candidate's overall performance?

22. How was this person's attendance? Was he or she punctual?

23. Why did this individual leave your organization?

24. Would you reemploy this person if you had the opportunity?

25. Is there any more job-related information you would like to add?

Optional questions to ask when the candidate has applied for a professional or managerial position:

26. How would you describe this candidate's leadership, managerial, or supervisory skills?

27. Describe the quality of this candidate's written and verbal communication skills.

28. How do you rate this candidate's ability to plan short-term? Long-term?

29. Provide examples in which this person had to make sound and timely decisions. What were the results?

30. Did this person plan and administer a budget? If so, what was the size, and how did this person manage it?

31. How would you describe this candidate's technical skills?

32. How well did this person manage crisis, pressure, or stress?

33. How many people did this person directly supervise, for how long, and what were their levels (professional, administrative, blue collar, technical)?

34. What area of development could the candidate focus on?

35. If you were to offer advice on how best to guide this person, what would it be?

36. Would you hire or want to work with this person again? _____ Yes _____ No (If no, then why?)

Sample Language Recommendations for Questions and Disclaimers

Questions for a Final Candidate

In accordance with UPS TC1, all final candidates, prior to hire, must be asked whether they have been found to have engaged in, or left during an active investigation into allegations of, any sexual violence or sexual harassment.

To satisfy this requirement, UW institutions could ask final candidates the following sample questions prior to hire:

- In any previous employment, have you ever been found to have engaged in any sexual violence or sexual harassment?
- Have you ever left a previous employer prior to the completion of an investigation into allegations of sexual violence or sexual harassment?[NS1]

Obtaining Employment References

In accordance with UPS TC1, a UW institution must ask during a reference check whether a final candidate has been found to have engaged in, or left during an active investigation into allegations of, any sexual violence or sexual harassment.

To satisfy this requirement, UW personnel conducting a reference check could ask the following sample questions of a final candidate:

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

Providing Employment References

In accordance with UPS TC1, a UW Institution that is contacted by a potential employer for a reference check regarding a current or former employee must notify the potential employer of the appropriate UW System institution contact for any questions regarding that employee's misconduct (including any violation of sexual violence or sexual harassment policies), even if the potential employer does not specifically ask. The appropriate UW System institution contact must disclose whether the employee has ever been found to have engaged in, or left during an active investigation into allegations of, sexual violence or sexual harassment.

To satisfy this requirement, a UW Institution could mandate the use of a disclaimer by the supervisor or designated individual responding to a reference check regarding a current or former employee. The disclaimer could be disclosed either at the beginning or the end of the reference check, as long as the potential employer has been notified of the option to obtain information regarding the employee's misconduct. A UW Institution could use the following sample disclaimer:

- One thing that we let all employers who call in for reference checks know is that if you have any questions related to any employee misconduct (including any violation of sexual violence or sexual harassment policies) those questions must be addressed by [insert appropriate UW System institution contact]. Please understand that by telling you this I am not suggesting that there is a misconduct issue, only that by University policy, I cannot answer any such questions if you have them. If you do want to make any inquiries regarding misconduct, you may contact [insert appropriate UW System institution contact].

The UW Institution may also satisfy this requirement by referring all reference checks to the designated UW System institution contact.

In either case, when contacted by the potential employer, the appropriate UW System institution contact will review the current or former employee's personnel file and disclose to the potential employer if the employee has ever been found to have engaged in, or left during an active investigation into allegations of, any sexual violence or sexual harassment.

Disclaimer Language

- Job Posting Disclaimers
    - Current UW-Madison HR Policy language
        - **Announcing a Vacancy** – All vacancy announcements (including advertisements) should contain the statement "**Employment will require a criminal background check.**" This statement is included in the campus human resources systems (JEMS) for insertion in all position materials.
    - Recommend adding the following disclaimer language "Employment will require answering questions regarding sexual violence or sexual harassment by both yourself and your references."
- Appointment Letters
    - Current UW-Madison HR Policy language
        - **Appointment Letters** – If a check cannot be completed before an offer is made, the appointment letter must state that the offer will be withdrawn or the employment terminated if the individual's criminal background check results are unacceptable. The following statement must be used in the appointment letter.
            - "This offer of employment is conditional pending the results of a criminal background check. If the results are unacceptable, the offer will be withdrawn or, if you have started employment, our employment will be terminated."
        - Recommend adding the following language if a criminal background check or reference checks cannot by completed before an offer is made: "This offer of employment is conditional pending the results of a criminal background check and reference check process that includes inquiries regarding sexual violence or sexual harassment."

The University of Wisconsin System
UPS OPERATIONAL POLICY: HR 13

SUBJECT: Personnel Files

_____

Original Issuance Date: July 1, 2015
Last Revision Date: [to be added]

1.   **POLICY PURPOSE:**

The purpose of this policy is to provide guidance regarding information that must be included in each employee's personnel file; to outline the requirements on when personnel files must be shared with other UW System institutions and State agencies; and to provide references to the policies that govern the retention and disposition of personnel records.

2.   **POLICY BACKGROUND:**

Wis. Stat. § 36.115 requires the Board and the UW-Madison chancellor to establish and maintain personnel systems separate and distinct from Wisconsin's civil service system as established under Chapter 230 of the Wisconsin Statutes. After the Board of Regents adopted Resolution 11038 (adopted June 7, 2018) for all UW institutions regarding employee personnel files and reference checks, this policy was modified to address concerns related to sexual violence and sexual harassment.

3.   **POLICY DEFINITIONS:**

Please see UPS Operational Policy GEN 0: General Terms and Definitions and Regent Policy Document 14-2: Sexual Violence and Sexual Harassment for a list of general terms and definitions.

Definitions specific to this policy:

"Employee" – means any individual who holds a faculty, academic staff, university staff, or limited appointment with any UW System institution.

"Final personnel decisions" - means personnel decisions that relate to any employee that include, but are not limited to, dismissal, demotion, suspension, written reprimands, notice of non-renewal, layoff or end of appointment, other disciplinary actions, and violations of the UW System institution's sexual violence and sexual harassment policy. A personnel decision is not a final personnel decision until all applicable administrative appeals are concluded.

"Negotiated resolution" – means, at the discretion of the UW System institution, an agreement between parties without the need for a full investigation or findings.

"Settlement agreement" – means a contractual agreement in writing between parties to actual or potential litigation by which each party agrees to a resolution of the underlying dispute. All settlement agreements for personnel matters must at a minimum be reviewed by the applicable legal counsel and approved by applicable UW System institution's Chancellor or President or their designee. A non-disclosure or confidentiality agreement must not be included as a term in any settlement agreement that resolves a sexual violence or sexual harassment allegation. Non-written settlement agreements are prohibited.

"State agency" means a Department or Independent Agency as defined under Wis. Stat. s. 15.01(5) and (9).

"UW System institution" means any of the following: UW-Eau Claire; UW-Green Bay; UW-La Crosse; UW-Madison; UW-Milwaukee; UW-Oshkosh; UW-Parkside; UW-Platteville; UW-River Falls; UW-Stevens Point; UW-Stout; UW-Superior; UW-Whitewater; UW-System Administration

4. **POLICY:**

A. Contents of the Personnel File

Every employee's personnel file must contain but is not limited to the following employment records:

a) Letters of application

b) Research proposal (at hire, if required)

c) Resume or curriculum vitae (CV)

d) Letters of recommendation, reference or commendation

e) Letter(s) of offer, appointment, reappointment, assignment or promotion

f) Letter of acceptance of employment, tenure, or indefinite appointment

g) Position description

h) Reclassification or reallocation records

i) Employment contracts

j) Interchange agreements

k) Personnel action forms

l) Pay-related actions, such as base rate or title change requests and actions or other actions affecting employee's pay status

m) Equity and performance awards

n) Requests for/decisions on leaves of absence

o) Faculty sabbatical leave

p) Staff awards

q) Emeritus or distinguished service recognition

r) Performance reviews or evaluations including evaluations during probationary periods, but excluding student evaluations

s) Awards or grants; notifications of named professorships

t) Records that relate to final personnel decisions

u) Any relevant negotiated resolution or settlement agreement(s) or reference to those records identifying and describing the resolution or agreement and where the resolution or agreement can be found if not in the personnel file

v) Documentation of active investigations or administrative appeals during which the employee resigns, or otherwise leaves service

   1. Upon conclusion of the investigation or administrative appeal, if the employee is found not to have violated the policy, documentation of the investigation must be removed from the personnel file

   2. Upon conclusion of the investigation or administrative appeal, if the employee is found to have violated the policy, documentation of the conclusion of the investigation must be included in the personnel file

w) Letters of resignation or retirement

B. Maintenance of Personnel Files

UW System institution's personnel files must be maintained by that UW System institution's human resources department.

All employment records, including electronic records, must be appropriately maintained securely and confidentially.

Not all employment records should be maintained in an employee's personnel file. The following records are examples of documents excluded from the personnel file that are generally maintained in secure and separate files that are identified as confidential.

- Medical information relating to the employee from any source, including medical documentation supporting a disability accommodation request or FMLA leave
- Letters of reference provided under assurances or with the expectation of confidentiality
- Investigative materials excluding the documents described in 4.A.t and u.

UW System institutions must maintain a personnel file, but that requirement does not prohibit supervisors from maintaining a confidential, local working file, containing copies of pertinent personnel-related records that the supervisor utilizes on an operational basis. The supervisor may also maintain personal notes in the working file, which are not considered to be a personnel record so long as they are prepared by the supervisor for their own use and are not shared with anyone else.

The items described in 4.A. must be added to the personnel file whenever created and cannot be removed from the personnel file except in extraordinary circumstances, and then only upon the review and approval of the UW System institution's human resources department, the Chancellor or their designee, and the applicable legal counsel. Any records removed would still need to be maintained pursuant to the applicable General Records Schedule absent any authority to destroy them. Documents described in 4.A.t. regarding violations of the UW System institution's sexual violence and sexual harassment policy included in the personnel file cannot be removed.

C. Sharing Personnel Files

Hiring UW System institutions must request the personnel file of any current or former UW System institution or State agency employee upon hire. Upon request of the hiring UW System institution or State agency, UW System institutions must share a copy of the complete personnel file of any current or former UW System institution employee upon hire. The original personnel file should be maintained according to the applicable General Records Schedule.

D. Access to Personnel Records

Wis. Stat. § 103.13 grants employees the right to inspect certain records in their personnel files. If an employee disagrees with information contained in a personnel file, a correction or removal of the information may be mutually agreed upon. If such an agreement cannot be reached, the employee may submit a written statement explaining his or her position, which must be included in the personnel file.

Please reference Wis. Stat. § 103.13(6) for employment records not subject to inspection by an employee or an employee's representative.

E. Retention of Personnel Records

The University of Wisconsin System & UW Madison General Records Schedule, Human Resources and Related Records governs the retention and disposition of the personnel records for all UW System institution employees. Under the General Records Schedule – and under Wisconsin law – a UW System institution may not destroy any records that it generates or receives, including employment records, unless destruction of the record is consistent with the General Records Schedule.

Retention periods for official personnel files begin at final separation from UW System institution employment, but emeritus status does not constitute separation for this purpose. Following the appropriate retention periods, employment records may be destroyed in accordance with the applicable UW System institution policies.

5. RELATED DOCUMENTS:

University of Wisconsin System and UW Madison General Records Schedule – Human Resources and Related Records
Regent Policy Document 14-2: Sexual Violence and Sexual Harassment
Wis. Stat. § 103.13

6. POLICY HISTORY:

[to be added]

Personnel File & Reference Check Policies – Links to Documents for Review

- News articles discussing similar situations regarding sexual harassment and reference checks

    o USF & Northern Colorado
    (https://www.greeleytribune.com/news/local/incoming-university-of-northern-colorado-professor-left-former-job-amid-sexual-harassment-investigation/)

    o USF & Texas Tech
    (http://www.baynews9.com/fl/tampa/news/2016/6/30/controversial_profes.html)

    o Chicago & Princeton/UNC
    (https://www.nytimes.com/2016/02/03/us/chicago-professor-resigns-amid-sexual-misconduct-investigation.html)

    o Berklee College of Music
    (https://www.washingtonpost.com/news/grade-point/wp/2017/11/14/bostons-berklee-college-of-music-reeling-amid-sexual-misconduct-allegations-involving-professors/?utm_term=.23d533643297)

    o Yale & Columbia
    (https://www.nytimes.com/2016/07/09/nyregion/a-yale-professor-is-cleared-of-sexual-harassment-but-concerns-linger.html)

- New California law regarding immunity for employer reference checks regarding questions of sexual harassment

    o California AB 2770
    (https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2770)

- National Academy of Science, Engineering, & Medicine Report

    o Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine
    (https://www.nap.edu/read/24994/chapter/1)

- Wisconsin "Pass the Trash" Legislation (K-12)

    o 2017 WI Act 130
    (http://docs.legis.wisconsin.gov/2017/related/acts/130)

UNIVERSITY OF WISCONSIN SYSTEM PRESIDENT'S
SEXUAL VIOLENCE AND HARASSMENT PRIORITIES
WORKING GROUP

BACKGROUND

In December 2016, President Ray Cross adopted the Report and Recommendations of the UW System Task Force on Sexual Violence and Harassment (Task Force). President Cross identified a three-fold purpose to guide the work of the Task Force: (1) ensure compliance with the new and existing requirements established by state and federal laws and the expectations of enforcement agencies related to this area; (2) advance continued efforts on campus to promote a culture of prevention, timely reporting, and effective response to allegations of sexual misconduct; and (3) serve as a clearinghouse for resources concerning training, research, and best practices.

In order to ensure compliance with the remaining Task Force recommendations and to establish additional expectations, the president's Sexual Violence and Harassment Priorities Working Group has been created and endorsed. This working group will provide recommendations to President Cross on the ongoing UWSA and institutional commitment to enacting the Task Force's recommendations. The working group will be comprised of System administrators and institutional representatives.

REQUESTED ACTION

For information.

DISCUSSION

The President's Sexual Violence and Harassment Priorities Working Group will be led by Shenita Brokenburr, UW System Human Resources, and Quinn Williams, Office of General Counsel. Eleven members have been added to the working group with diverse subject matter expertise from human resources, Title IX, student affairs, and equity and diversity. The Office of Internal Audit will serve as a consultative partner.

The scope of work and deliverables include several items beginning with a review of the current state of sexual harassment and sexual violence claims for UW System. The current state assessment includes an in-depth review of institutional policies and will be conducted in collaboration with UW System Internal Audit. The working group is further charged to develop a proposed advanced training curriculum for first responders and Title IX coordinators, assess record keeping data collection and technology capabilities, and identify best and most common practices.

A review of the current state on policy compliance found UW System institutions have 100% policy compliance with requirements established by state and federal laws, Regent Policy Document 14-2: Sexual Violence and Sexual Harassment, and Regent Policy Document 14-8: Consensual Relationships. The targeted due date for the full report of the working group is October 1, 2018.

RELATED REGENT POLICIES

Regent Policy Document 14-2: Sexual Violence and Sexual Harassment
Regent Policy Document 14-8: Consensual Relationships