

Sample Language Recommendations for Questions and Disclaimers

Required Questions for a Final Candidate

All final candidates must be asked, prior to hire, whether they have been found to have engaged in, are currently under investigation for, or left employment during an active investigation in which they were accused of sexual violence or sexual harassment.

To satisfy this requirement, UW System 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?
- Are you currently under investigation for or have you ever left employment during an active investigation in which you were accused of sexual violence or sexual harassment?

Each UW System institution is responsible for creating a process to ensure these questions are asked of final candidates before hire. Possible solutions include a supplemental questionnaire, inclusion of the questions on the criminal background check, or asking the questions during an interview.

Obtaining Employment References

UW System institutions must ask whether a final candidate has been found to have engaged in, is currently under investigation for, or left during an active investigation in which they were accused of any sexual violence or sexual harassment.

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

- Was the candidate ever found to have engaged in any sexual violence or sexual harassment?
- (current employer) Is the candidate currently under investigation for accusations of sexual violence or sexual harassment?
- (previous employer) Did the candidate leave your employment prior to the completion of an investigation in which they were accused of sexual violence or sexual harassment?

Providing Employment References

A UW System institution 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 employee 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, is currently under investigation for, or left during an active investigation in which they were accused of sexual violence or sexual harassment.

To satisfy this requirement, a UW System institution must 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 any misconduct. A UW System institution could use the following sample disclaimer:

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.

The UW System institution may also, although discouraged, 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, is currently under investigation for, or left during an active investigation in which they were accused of any sexual violence or sexual harassment.

Providing Advanced Notice of Required Questions

Because questions about sexual violence and sexual harassment are not yet standard industry practice, it is recommended that you provide notice early and often that these questions will be asked (similar to a criminal background check).

Announcing a Vacancy

All vacancy announcements (including advertisements) should contain the statement:

Employment will require a criminal background check. It will also require you and your references to answer questions regarding sexual violence and sexual harassment.

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 or the reference check process 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 and the reference check process that includes questions regarding sexual violence and sexual harassment. If the results are unacceptable, the offer will be withdrawn or, if you have started employment, your employment will be terminated.