Working Collectively to Tackle the “Pass the Harasser” Problem

National Academies of Sciences, Engineering and Medicine
Action Collaborative on Preventing Sexual Harassment in Higher Education
First Annual Public Summit - November 19, 2019

Sheila O’Rourke, Senior Campus Counsel
University of California, Davis
UC Davis Faculty Reference Checks Pilot Program

Pilot program for 2018-20 academic years

- Initiated in consultation with Senate
- Applies only to tenured hires
- Enables UC Davis to contact previous employers and
- Obtain information about serious misconduct related to teaching, research and/or clinical care
UC Davis Faculty Reference Checks - Process

- All job postings include statement that we will request this information
- All applicants are required to sign a release form when they apply
- If not signed, the application is not complete, and not eligible for review
- Only finalists for appointments with tenure are subject to the check
UC Davis Faculty Reference Checks

Authorization to Release Information

- **Covers** “any misconduct related to teaching, research and service (and clinical care if applicable).”

- **Includes** “release of information of a confidential or privileged nature, or any data or materials which have been sealed or agreed to be withheld pursuant to any prior agreement or court proceeding involving disciplinary matters.”
The process ties sexual misconduct to academic qualifications:

“The University considers sexual misconduct and other forms of harassment or discrimination

- with students or trainees to be related to teaching;
- with staff or colleagues to be related to service; and
- (if applicable) with patients to be related to clinical care.”
Authorization to Release Information

“I hereby release, discharge, and exonerate the University, its agents and representatives and any person furnishing information to the University, from any and all liability of every nature and kind arising out of the furnishing and inspection of such documents, records and other information. This release shall be binding on my legal representatives and successors.”

UC Davis Faculty Reference Checks - Process

- Chair or dean notifies Academic Affairs when a finalist for tenured appointment is selected
- Academic Affairs staff sends email to the vice provost or equivalent at the previous institution
- Academic Affairs asks for any available records consistent with the release form
If there are records:

- Chair or dean notifies Academic Affairs when a finalist for tenured appointment is selected
- Academic Affairs staff sends email to the vice provost or equivalent at the previous institution
- Academic Affairs asks for any available records consistent with the release form
UC Davis Faculty Reference Checks - Results

• After one academic year
  - 15 finalist candidates
  - 23 institutions contacted
  - 100% response rate
  - All reported no records of discipline

• Decision to extend pilot one more year and assess results
UC Davis Faculty Reference Checks - Process

What happens if:

- We don’t get a response from an institution
- An institution refuses to provide records

First, we ask the faculty member to contact the institution
Second, our Vice Provost Academic Affairs will contact his counterpart at the other institution
If no results, we evaluate the overall record of responses
Other Strategies

Include language in faculty offer letters:

*By signing this letter, the undersigned represents that they are not currently the subject of any disciplinary proceeding at their present academic institution/place of employment and/or by a professional licensing or certification body, nor have they in the past 5 (five) years been formally disciplined at any academic institution/place of employment and/or by a professional licensing or certification body.*
For More Information

UC Davis Faculty Reference Checks

https://academicaffairs.ucdavis.edu/reference-checks

Sheila O’Rourke
Senior Campus Counsel and Special Assistant to the Vice Provost for Academic Affairs
University of California, Davis
sorourke@ucdavis.edu