

Year 1 Public Description of Work for  
Action Collaborative on Preventing Sexual Harassment in Higher Education

University of Washington

**Addressing Harassment in Employment Practices**

**This Action Applies to Rubric Item(s):** Response #15

**Description of Work:**

Washington State Engrossed House Bill 2327 went into effect June 11, 2020. UW staff, faculty and other academic personnel, and community members provided input on the bill and testified in front of legislative committees in support of the bill. The law addresses many of the priorities outlined in the 2018 NASEM report. For example, the bill requires institutions of higher education in the state of Washington to share findings of harassment during reference checks, to ban the use of non-disclosure agreements, and to share publically the results of any climate surveys. The state law, as described below, is specifically in response to harassment of students by employees; however, UW is expanding our procedures and compliance to include harassment of students *and* employees. Further information about the law follows.

Investigations and records. While UW had already made a commitment to completing investigations, the law now requires that unless a victim requests otherwise, a post-secondary institution will complete investigations of alleged sexual misconduct regardless of whether the employee voluntarily or involuntarily leaves employment with the institution. Written findings of completed investigations are required, and substantiated findings against an employee will be included in the employee's personnel file. If at the end of an investigation, allegations have not been substantiated, information about the allegations may be expunged.

Declaration of applicants. Prior to an offer of employment, an applicant is required to sign a statement declaring whether they have ever been found responsible for any sexual misconduct at their current or a prior place of employment—and, if so, an explanation of what happened; the declaration also requires the applicant to indicate if an investigation is currently underway and to authorize current and past employers to disclose substantiated misconduct and/or current investigations. If applicants do not sign this statement, institutions cannot hire them.

Required reference checks. Prior to hiring an applicant, colleges and universities must request from any postsecondary institutions at which the applicant currently works or has worked any records about any substantiated findings of sexual misconduct. If information obtained regarding an applicant indicates an issue of concern, the UW will take appropriate next steps.

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Required response to other institutions' reference checks. The law also requires all post-secondary institutions to respond to reference checks from other post-secondary educational institutions by disclosing any substantiated findings of sexual misconduct and to provide information (documents, records, etc.) about any substantiated findings of sexual misconduct to any employer inquiring about one of their applicants regardless of whether such information is specifically requested. In order to comply with this section of the law, each institution must establish procedures to provide information about substantiated findings of sexual misconduct when another institution request any such findings and ensure that those procedures will not disclose identifying information about a complainant or witnesses.

Ban non-disclosure agreements. The law states that settlement agreements may not include provisions prohibiting employees, institutions, survivors, and/or others from disclosing information that an employee is or was the subject of an on-going investigation about sexual misconduct or of an investigation that yielded findings of sexual misconduct. Settlement agreements may include provisions allowing non-disclosure of identifying information about complainants or witnesses. Identifying information of complainant/witnesses also is not subject to disclosure through public records requests.

Share results of climate assessments. When a climate assessment is conducted, post-secondary institutions need to share with the governor and appropriate legislative committees summaries of any climate assessment designed to gauge prevalence of sexual misconduct. In addition, institutions must include a description of efforts to reach out to and obtain information from traditionally marginalized students or those who disproportionately experience impacts of systemic oppression based on protected categories (e.g. race, ethnicity, nationality, sexual orientation, gender identity, gender expression, and disability) along with information about how the results of the assessment were used to design or improve policies, programs, and resources for the campus community.

This Washington state law went into effect in June 2020 with an October 1, 2020 compliance date for applicant declaration, a July 1, 2021 compliance date for the reference check requirement, and a December 2023 date for the sharing of any climate assessment information. UW is currently working to establish procedures within Human Resources and the Office of Academic Personnel that includes, among other things, centralizing records that contain findings and ensuring that they can be shared in compliance with state law.

### **Website for further information (if applicable):**

<http://lawfilesexst.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/2327-S.SL.pdf?q=20200416122655>

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