

## **Institutional Reference Checks for Appointments Conferring Tenure**

Beginning July 1, 2023, the University of Wisconsin-Madison is undertaking a three-year pilot program of the use of Institutional Reference Checks (IRCs) to ascertain whether a final candidate for an academic appointment conferring tenure has engaged in any misconduct, or whether the candidate left employment during an active investigation into allegations that the candidate engaged in misconduct, at their current or most recent employer. At the end of the second pilot year, a Faculty Senate-University Administration workgroup will be convened by the Provost to examine the results of the program and consider converting the pilot program into policy.

The pilot program will enable UW-Madison to gather information about candidates' conduct in their previous appointments that may be important to appointment decisions.

For the purposes of the pilot, "misconduct" is defined as:

Any violation of employer policy addressing misconduct. Such policies may address, but are not limited to, discrimination, harassment, assault, bullying, inappropriate relationships with subordinates or students, violation of ethical duties, theft, financial mismanagement, research misconduct, insubordination, or absenteeism not protected by laws relating to medical leave or disability accommodations.

IRCs do not include or replace criminal background checks. In addition to the IRC, a criminal background check and sexual harassment/sexual violence reference check must be conducted on any final candidates, consistent with UW-Madison policy.

The pilot program will follow the following steps for all recruitments posted on or after July 1, 2023, for appointments conferring tenure at UW-Madison:

1. The campus shall include a statement in the job ad posting for all academic positions conferring tenure that provides notice to applicants that UW-Madison will conduct an IRC on the final candidate in a given search prior to hiring.
2. Applicants for faculty appointments conferring tenure will be required to upload a signed "Authorization to Release Information" form into Jobs AT UW. If the candidate does not include the signed authorization in Jobs AT UW, the application will be incomplete, and, as with any incomplete application, will not receive further consideration.
3. When the decision of the first-choice candidate has been made by the department and Dean, the department chair will notify the candidate of the selection and shall inform the candidate that the IRC will be initiated. The candidate will communicate whether they wish to proceed, or may choose to withdraw their application, in which case the candidate will be removed from consideration. If the candidate wishes to proceed, the

department chair will submit the search report with the candidate identified as the selected applicant.

4. OHR shall contact the academic personnel office (or equivalent) of the candidate's current or most recent employer. This may occur concurrently with department negotiations with the candidate or after initial appointment terms have been determined. When the IRC is initiated, OHR will provide the signed release to the current or most recent employer and ask the following questions:

1. Has the candidate been found to have engaged in misconduct? For the purposes of these questions, "misconduct" is defined as:

Any violation of employer policy addressing misconduct. Such policies may address, but are not limited to, discrimination, harassment, assault, bullying, inappropriate relationships with subordinates or students, violation of ethical duties, theft, financial mismanagement, research misconduct, insubordination, or absenteeism not protected by laws relating to medical leave or disability accommodations.

2. Did the candidate leave employment during an active investigation into allegations that the candidate engaged in misconduct, as defined in question one?

OHR will not contact the candidate's current or previous academic department unless there is no other office of record for faculty misconduct at the employer and only after notifying the (UW-Madison) department chair.

In addition, OHR will provide the candidate with an opportunity to self-disclose misconduct by asking the following questions:

1. Have you been found to have engaged in misconduct? For the purposes of these questions, "misconduct" is defined as:

Any violation of employer policy addressing misconduct. Such policies may address, but are not limited to, discrimination, harassment, assault, bullying, inappropriate relationships with subordinates or students, violation of ethical duties, theft, financial mismanagement, research misconduct, insubordination, or absenteeism not protected by laws relating to medical leave or disability accommodations.

2. Did you leave employment during an active investigation into allegations that you engaged in misconduct, as defined in question one?

5. OHR may ask follow-up questions (of the same office(s) originally contacted) relevant to information received. OHR will limit its inquiry to misconduct (see definition above). In accordance with the signed authorization from the applicant, UW-Madison may request and receive this information from the applicant's current or most recent employer.
6. If an employer does not respond, OHR will make the request a second time, and, if no response to the second request, OHR will make the request a third time. After the third request, OHR will not make another request of the employer for that candidate. If an employer does not respond, the hire can proceed.
7. OHR will assemble an individualized IRC dossier of all information received, including the nature and duration of the conduct, the length of time passed since the conduct occurred, and any corrective action taken. OHR will share the information with the candidate and allow the candidate the opportunity to respond to the material. Alternatively, the candidate may choose to withdraw their application, in which case no further action will be taken and the candidate will be removed from consideration. The full IRC dossier, including any explanation/s offered by the candidate will be forwarded to the Vice Provost for Faculty and Staff Affairs. The VPFSA will consult with the Provost, Dean, Department Chair and others as appropriate, to determine whether the candidate is still eligible for consideration for the position.
8. If there is no positive finding, the department will proceed to assemble an appointment file for consideration by campus reviewers. The IRC dossier information will not be added to the appointment file or shared with campus reviewers.
9. If there is a positive finding, the Department Chair will notify the candidate. A second-choice candidate may be considered, subject to the IRC process. However, a positive finding does not necessarily make a candidate ineligible. If a Department and Dean wish to pursue the hiring of a candidate with a positive finding, the Department Chair and Dean must discuss the candidate and the finding with the Vice Provost for Faculty and Staff Affairs and the Provost who will make the final determination if the hire can proceed.
10. This pilot program applies to final candidates selected for appointment, regardless of current or prior UW-Madison appointments. This program includes candidates for any appointment conferring tenure, whether the candidate is being considered for appointment following an open recruitment or as the result of a search waiver. If the IRC is not 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 IRC results are unacceptable.

11. In order to protect a candidate's privacy, all information received in connection with the IRC process will be treated as confidential and retained in accordance with UW-Madison policy, but may be subject to disclosure pursuant to applicable state and federal law. Should the candidate be offered and accept a position, any IRC information received shall be securely maintained and held by OHR.

Any questions regarding this pilot program may be directed to the Vice Provost for Faculty and Staff Affairs: [vpfsa@provost.wisc.edu](mailto:vpfsa@provost.wisc.edu)