




Office of Compliance

HR Learning Series 2024



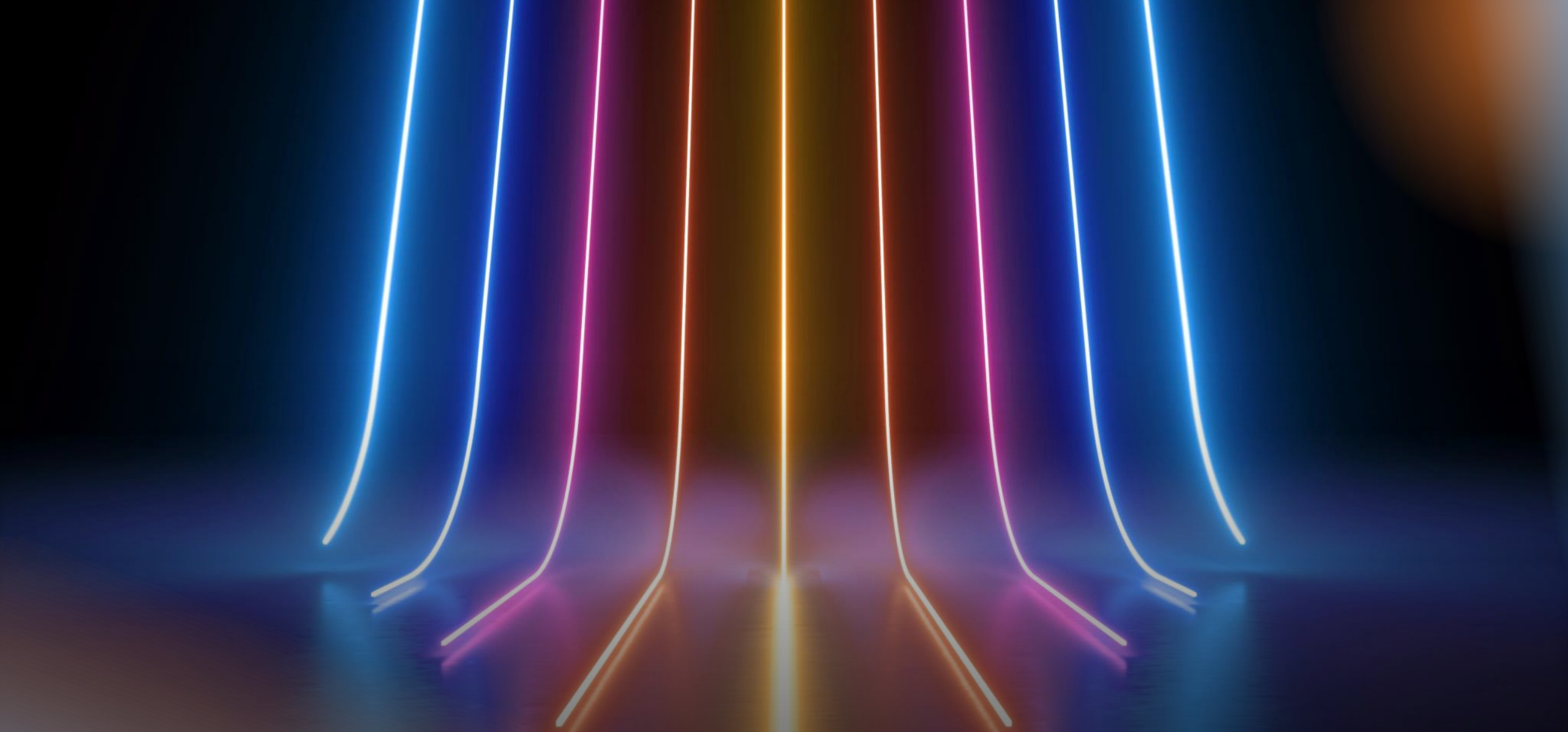
361
OFFICE OF
COMPLIANCE

A photograph of two men sitting at a desk in an office. The man on the left is wearing a white short-sleeved shirt, a patterned tie, and suspenders. He has a surprised or questioning expression. The man on the right is wearing a dark suit, a white shirt, and a patterned tie. He has a neutral expression. The background shows an office with cubicles and fluorescent lighting. Overlaid on the image is the text "WHAT WOULD YOU SAY YOU DO HERE?" in large, bold, black capital letters. Below it is the subtitle "A Brief Journey Through The Office of Compliance" in a smaller, bold, black font.

WHAT WOULD YOU SAY YOU DO HERE?

A Brief Journey Through The Office of Compliance





First Up: Data Privacy & Transparency

Data Privacy & Transparency (1/3)

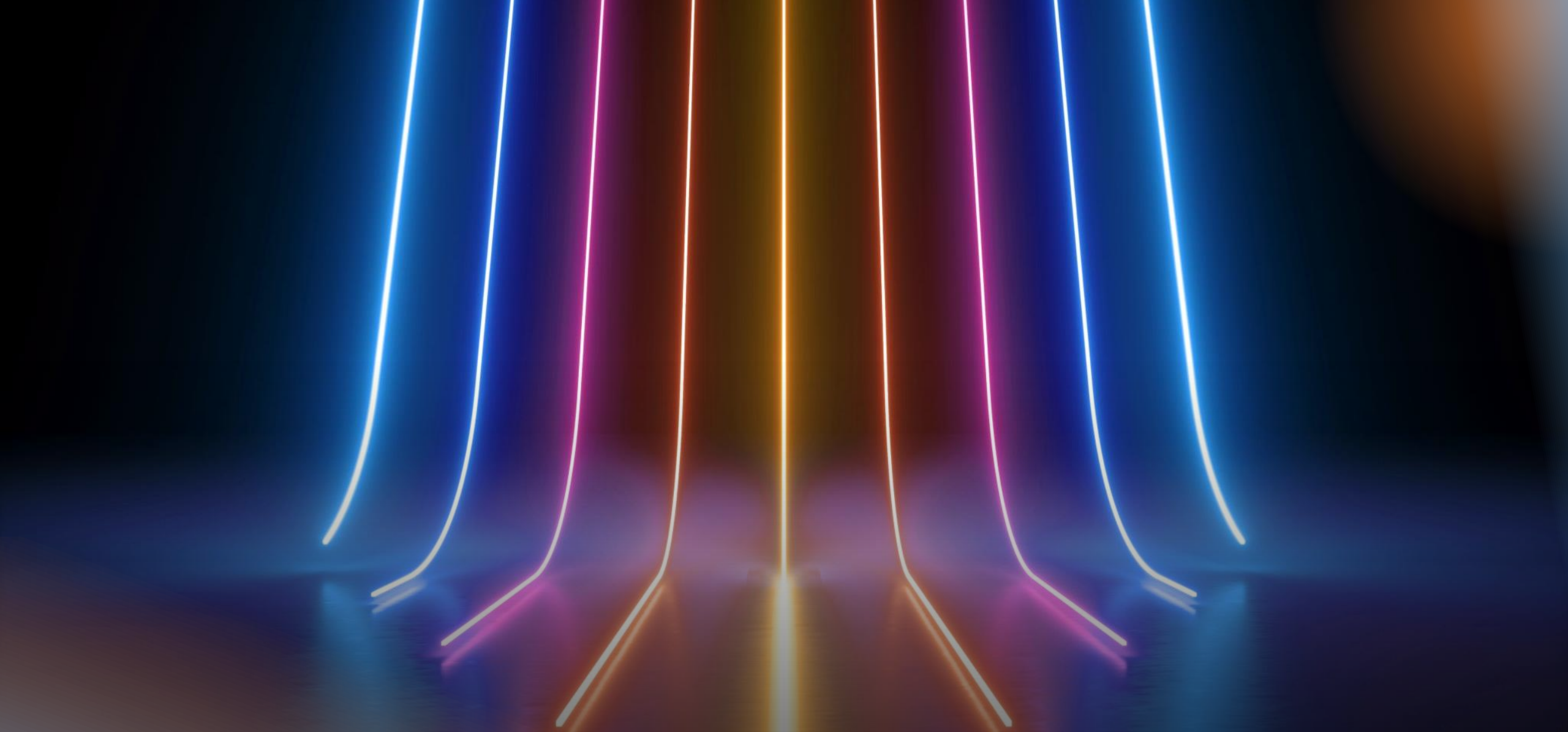
- We are made up of a variety of functional areas:
 - The UW-Madison Public Records Office
 - The UW-Madison HIPAA Privacy Office
 - And home of OC's general data privacy knowledge and strategic guidance

Data Privacy & Transparency (2/3)

- What is data privacy?
 - In general, the ability of people to understand and control how information about them is used.
 - It is a part of data protection, along with Security
 - Focuses on the collection, use, sharing, and even deletion of data. For example, to know what personal data is being collected about them; Know whether their personal data is sold; Access their personal data.
 - Data privacy is not a single process or approach, and is currently evolving
 - Data is a business asset, we need to handle it responsibly. When we do so, it is even more useful
 - Given our distributed campus, collaboration and common understandings are key

Data Privacy & Transparency (3/3)

- Not a chief privacy officer, but...
 - Surveying campus to understand where our data lives, how it's used, and how we can make it better
 - A collaborator and convenor of groups to help set policy and practice in data privacy, transparency, and access
- Noting emerging trends in law and values
 - Identifying laws, regulations, policies, and beyond
 - Moving to a practice of anticipation rather than reaction
 - Co-creating central guidance and viewpoint in data privacy and transparency that is used campus-wide



Next Up: Public Records

Public Records

- State law that the university must comply with or face legal sanction.
 - Contained in Wis. Stat. §§ 19.31-19.39
- Policy Statement: “[I]t is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.”
- This is one of the strongest declarations of policy found in the Wisconsin statutes.

Public Records – Key Points

- Assume that any record that you create is accessible to any member of the public upon request (emails, Teams messages, HIB investigations, personnel files, Letters of Expectation)
- UW Madison has public records process in Compliance, call if you have questions regarding records or if someone requests records from you.
- Response must be provided “as soon as practicable and without delay.”
- University business on personal devices is subject to the law and must be turned over, texts, emails, chats all considered records.

Personnel Records Requests

- UW Madison current or former employees seeking their own personnel files are making a Wis. Stat. 103.13 request for their records, local HR fulfills these. Redactions/withholdings may be needed, ask OLA and see <https://docs.legis.wisconsin.gov/statutes/statutes/103/13> Public records refers employee requests back to local HR units. Time limits exist.
- Public records requests from other people for employee personnel records will mean a reach out from the Compliance records team seeking these personnel records.
- Public Records office also requests local unit employee **data** from HR teams.

Strong Records Hygiene

- The intersection of management of the public records you are responsible for as a public employee and the public records law is what we call **strong records hygiene**.
- Gone are the days of file cabinets and rolodexes where you pull old records when they get full and ask Bob if you can get rid of something.
- Public employees should know where the records they keep, create, and hold fall in the records retention schedules. These are your decisions as you are responsible for these records.
- Public employees should actively set aside time to manage their records.
<https://www.library.wisc.edu/archives/records-management/uw-madison-records-retention-schedules-and-disposition/> I would guess Human Resources and Administrative cover 80 percent of your records.
- **Top tips on Records Management:**
 - do not keep convenience copies
 - Manage your email regularly deleting records you can ie. Box notifications, Newsletters, want coffee?
 - if you recorded a meeting to make minutes, delete the recording after you made the minutes
 - be thoughtful about your emails, start a new email string when you are on a new topic
 - organize your emails by retention requirements once they are not actively being used
 - understand if you are responsible for program records beyond your own records and manage them accordingly
 - do not share your personal notes with others, then they are not personal notes anymore
 - call for help when you are struggling (Sarah Grimm, UW Madison Records Manager, (608) 262-3284)
 - start tomorrow, give yourself a break for yesterday



Q&A: Public Records



Next Up: HIPAA Privacy

HIPAA Privacy

- “HIPAA” refers to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH). It applies to individual healthcare providers (like physicians, nurses, pharmacists) and to institutional providers (such as hospitals and health systems), and to their workforce, including students. HIPAA applies to all forms of Protected Health Information (PHI), including paper, electronic, visual, and verbal within the covered entities.
- UW-Madison is an institutional healthcare provider subject to HIPAA. It is a “hybrid entity” for HIPAA compliance purposes.
 - This means only some areas of campus must comply with HIPAA. The portions of campus subject to HIPAA comprise the UW-Madison Health Care Component (UW HCC).
 - See [HIPAA Policy UW-100](#) for a complete listing of the areas of campus included in the UW HCC.
 - Tip: Pay special attention to Section VIII. 6.
- HIPAA consists of three related core components: **Privacy Rule**, Security Rule, Breach Notification Rule

HIPAA Privacy and HR

- Areas in which HIPAA Privacy may overlap with Human Resources work at UW-Madison include:
 - Employee disciplinary matters involving members of the UW-Madison Workforce (i.e. individuals employed within the UW HCC) where conduct includes inappropriate access to or disclosure of PHI
 - Onboarding and offboarding UW-Madison Workforce members (e.g. granting and terminating access to platforms containing PHI, ensuring devices properly configured for use with PHI, reporting use of personal devices with PHI)
 - Referring employees to the online “HIPAA Incident Reporting Form” on the Office of Compliance website when alerted to an incident potentially involving PHI
 - Ensuring proper HIPAA Authorization has been signed by an employee for any necessary health-related information UW-Madison may require from their health care provider (more on next slide)
 - Tracking HIPAA training completion
 - Law enforcement requests for PHI
 - Responding to court orders or subpoenas for PHI

HIPAA Privacy and Employment Records

- HIPAA does not apply to employment records, even those containing “health information”
 - For employees of a covered health care provider, such as the UW HCC:
 - The Privacy Rule does not apply to employment records
 - The Rule *does* protect medical or health plan records if the employee is also a patient of the provider
- An employer can request a "doctor's note" or other health information from an employee if needed for:
 - Sick leave
 - Workers' compensation
 - Vaccination requirements
 - Wellness programs
 - Health insurance

HIPAA Privacy and Employment Records (cont'd)

- However, if an employer asks an employee's health care provider directly for information about the employee, the provider cannot give the employer the information without patient authorization unless other laws require them to do so
- Generally, the Privacy Rule applies to the disclosures made by an employee's health care provider, not the questions an employer may ask



Q&A: HIPAA Privacy



Next Up: Civil Rights

Three Areas of Civil Rights Compliance

- Sexual Misconduct
 - Title IX
 - University Policy on Sexual Harassment and Sexual Violence
- Protected Class Discrimination and Harassment
 - Related to age, race, disability, sex/gender, etc. (see [full list](#))
 - Title VII, Title VI, ADA, ADEA, etc.
 - RPD 14-6, Discrimination, Harassment and Retaliation
- Disability Rights
 - Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act

Sexual Misconduct Resource and Response Program

- Enforces Title IX and University Policy on Sexual Harassment and Sexual Violence
- Offers support resources (academic, employment, housing, etc.), protective measures (such as No Contact Directives and exclusion orders), and formal investigations.
- All HR Reps (with minor exceptions) are Responsible Employees
- Case Managers will work with HR to facilitate support & protective measures and alternative resolutions
- HR should always involve SMRRP in matters related to sexual harassment and sexual violence

Civil Rights Investigations

- Five Civil Rights Investigators
- Investigate alleged violations of the SHSV policy, as well as allegations of protected class discrimination and harassment
- S/C/D HR Rep will be copied on Notice of Investigation
- Will work with HR to coordinate related HIB investigations
- OC will make conclusions about violation of policy, but will refer back to unit for appropriate response (with possible recommendations)

Title IX Updates

- New regulations published in April 2024. Updates must be implemented by August 1, 2024.
- There will be new reporting requirements regarding allegations of sex discrimination and sex-based harassment, including:
 - Pregnancy
 - Gender identity
 - Sexual orientation
- There will be new annual training on all Title IX misconduct before August 1, 2025.
- More information and training sessions will be forthcoming.

ADA

- Civil rights statute
- No qualified individual with a disability shall, due to their own disability, be excluded from participation in or be denied the benefits of a public entity's services, programs, or activities.
- ADA's employment scope:
 - Recruitment, advertising, job application procedures
 - Hiring, promotion, tenure, demotion, transfer, layoff, termination, rehiring
 - Rates of pay; job classification and assignments
 - Leave and fringe benefits
 - Essential job functions
 - Social and recreational programs sponsored by a covered entity

ADA, continued

- Recognizing an accommodation request
 - Any workplace difficulty related to one's own medical or health condition
 - Connect individual to their Divisional Disability Representative
- Employee Disability Resources Office manages and guides DDR program
- HR and ADA coordinator interactions:
 - Reasonable accommodation appeals investigation



Q&A: Civil Rights



& Last: Institutional
Compliance

Institutional Compliance

- Compliance Matrix: <https://matrix.compliance.wisc.edu/>
- Meeting the elements of US DOJ's effective compliance program framework
- Universities of Wisconsin (System) Office of Compliance & Risk Management

Legal Obligation Search

Search

-- Any Tag --

-- Any Institutional Lead --

All A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Showing 1 to 10 of 245 entries Previous 1 2 3 4 5 ... 25 Next Show 10 per page

Obligation Name	Primary Manager	Responsible Office	Institutional Lead	Tags
Academic Progress of Student Athletes	Scott Owczarek, Enrollment Management	Scott Owczarek, Enrollment Management	Charles Isbell, Provost/Vice Chancellor for Academic Affairs	Athletics
Access to Higher Education: WI State Statutes 106.56	Mari Magler, McBurney Disability Resource Center	Jaimee Gilford, Office of Compliance	Nancy Lynch, Vice Chancellor for Legal Affairs	Disabilities
	Ruben Mota, Office of Compliance	Fernie Rodriguez, Identity and Inclusion	Lori Reesor, Vice Chancellor for Student Affairs	
Access to Higher Education: WI State Statutes 106.57	Mari Magler, McBurney Disability Resource Center	Jaimee Gilford, Office of Compliance	Nancy Lynch, Vice Chancellor for Legal Affairs	Disabilities
	Ruben Mota, Office of Compliance	Fernie Rodriguez, Identity and Inclusion	Lori Reesor, Vice Chancellor for Student Affairs	
Affirmative Action / Equal Employment Opportunity	Maddie Blanchard, Division of Diversity,	LaVar Charleston, Division of Diversity,	Charles Isbell, Provost/Vice	Diversity/Affirmative Action,



Q&A: Institutional Compliance (or anything else!)