

## University of Illinois System Policy on Consideration of Sexual Misconduct in Prior Employment

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### I. Background and Rationale

The University of Illinois System strives to enable all employees to contribute to a safe and welcoming working environment conducive to the education of students. To foster such an environment, the U of I System has determined that it is vital to consider whether a candidate for employment has been found to have engaged in Sexual Misconduct or Sexual Harassment in the course of prior employment. A candidate may be removed from consideration or a contingent offer of employment withdrawn if it is determined that such action is warranted based on prior Sexual Harassment or Sexual Misconduct.

### II. Scope

This Policy applies to all candidates for employment at the University of Illinois System, including the universities at Urbana-Champaign, Chicago, and Springfield; the University of Illinois Hospital & Health Sciences System (“Hospital”), and the System Offices (collectively, the “U of I System”, individually the “University”) that fall into the following employee groups: Faculty, Post-Doctoral Research Associates, Interns, Residents, Academic Professionals, and Civil Service. Excluded from this policy are extra help, academic hourly, graduate students, undergraduate student employees, pre- or postdoctoral fellows, volunteers, individuals appointed to non-paid positions, and contractors.

### III. Definitions

For purposes of this Policy, terms will be defined as follows:

“Findings” means a documented conclusion that an individual has engaged in Sexual Misconduct or Sexual Harassment, resulting from an official investigation or adjudicative process not subsequently reversed through a formal review process. Official investigations include, but are not limited to:

- Any investigation of alleged Sexual Misconduct conducted pursuant to Title IX of the Education Amendments of 1972 (“Title IX”);
- Any investigation of Sexual Harassment by the office responsible for making findings regarding allegations of sexual harassment or sexual misconduct, or the office responsible for determining sanctions for such conduct.

Allegations are not documented “Findings” for purposes of this policy unless and until they are substantiated through an official investigation or adjudicative process.

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“Sexual Misconduct” and “Sexual Harassment” will be defined to include:

1. Conduct that would violate university policies and procedures, including the System and University policies on Sexual Misconduct and Sexual Harassment, as they may be modified from time to time; and
2. Conduct that violates current or former employer’s policies concerning Sexual Misconduct or Sexual Harassment, or the equivalent.

### **IV. Requirements**

#### **a. Notice of Duty to Disclose**

The U of I System will include in the application process a notice to potential applicants that inquiries regarding past Findings of Sexual Misconduct or Sexual Harassment will be made of them and prior employers. Applicants also will be notified that final candidates are required to authorize current and former employers to disclose Findings of Sexual Misconduct or Sexual Harassment as part of the hiring process.

#### **b. Candidate’s Duty to Disclose and Authorize Disclosures of Past Findings**

The three Universities, the Hospital and the System Offices shall, upon acceptance of a contingent offer of employment, require the final candidate to disclose if there have been Findings of Sexual Misconduct or Sexual Harassment. The hiring processes across the U of I System shall also require the candidate to sign and submit a written authorization and release form granting the U of I System authorization to seek information from current and former employers regarding any Findings of Sexual Harassment or Sexual Misconduct regarding the employee, and consenting to disclosure of such information by those employers. A candidate’s failure to respond to the inquiry or sign or submit any necessary authorizations will result in withdrawal of any contingent offer of employment and removal from further consideration.

#### **c. Findings within the University System**

Each University, the Hospital, and the System Offices shall transmit final dispositions of Sexual Misconduct or Sexual Harassment Findings to the System Human Resources Office, which shall be responsible for maintaining a database of Findings. If a candidate for employment is or was previously employed within the U of I System, designated individuals in University or System human resources shall consult the database to determine if any Findings exist and shall evaluate available information as set forth in this Policy and applicable law.

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### **d. Findings by Other Employers**

Once a final candidate has accepted a contingent offer of employment, the respective human resources office will begin the process of checking for sexual misconduct Findings. Even if the final candidate reports that there has never been a Finding against them, human resources may contact appropriate current and former employer(s) for verification. If the contacted current or former employer declines to respond or does not do so in a timely manner, human resources will document their good faith efforts.

If the final candidate reports there has been a Finding against them, human resources shall contact the appropriate current and/or former employer(s) to obtain a copy of any Findings. If the contacted employer(s) decline to provide a copy of the Findings or do not otherwise respond adequately, human resources will request that the candidate obtain and provide a copy of the Findings or relevant documentation. If the candidate is unable to do so despite documented, good faith efforts, human resources may investigate the Findings, as deemed appropriate. The results of this investigation may result in removal from consideration or withdrawal of a contingent offer of employment.

The U of I System reserves the right to make inquiries even if the candidate has not disclosed prior Findings. Failure to provide written Findings or information may result in removal from consideration or withdrawal of a contingent offer of employment.

### **e. Consideration of Findings**

In the event a Finding has been made against a candidate, the candidate shall be permitted an opportunity to provide an explanation for consideration prior to a final decision. The information will be evaluated, and a decision will be made regarding whether it is deemed in the best interest of the U of I System to withdraw a candidate from consideration or withdraw an offer of employment at any stage of the application process. Relevant factors to be considered include but are not limited to:

- The nature and severity of the conduct at issue;
- When and under what circumstances the conduct occurred;
- Whether the conduct involved an abuse of power or authority, such as involvement of subordinate employees or students;
- The nature of the position for which the candidate is being considered;
- The candidate's subsequent conduct and work history;
- Evidence of rehabilitation.

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### **f. Failure to Respond, Disclose or Dishonesty**

A candidate's failure to respond to an inquiry about Findings of Sexual Harassment or Sexual Misconduct, any dishonesty in response to inquiries about Sexual Harassment or Sexual Misconduct, or failure to consent to the release of Findings of Sexual Misconduct or Sexual Harassment, will be grounds for removal of a candidate from further consideration, withdrawal of any offer of employment already extended to a candidate, or, if discovered after a candidate has begun employment with the U of I System, discipline up to and including termination of employment, subject to disciplinary rules and procedures applicable to the employee.

### **V. Confidentiality and Retention**

All records obtained through the reference checking process will be maintained in accordance with the confidentiality, record retention, and other applicable policies and procedures established by each university, UI Health, and the System Office, and in accordance with applicable law.

### **VI. External Inquiries Made to the University**

All inquiries regarding Findings of Sexual Misconduct or Sexual Harassment shall be directed to the System Human Resources Office. That office will evaluate requests for information consistent with applicable laws and authorizations provided. The U of I System reserves the right to require submission of its own authorization documents prior to disclosing information to external parties.

### **VII. Implementation Responsibility**

#### Candidates

- Complete, sign, and submit the “Authorization to Release Information” form.
- Satisfy any requirements previous employers may have to release Findings or other relevant documentation.
- Provide complete and accurate information relating to Findings of Sexual Misconduct and Sexual Harassment in prior employment.

#### Equity and Diversity Offices

- Transmit Findings of Sexual Misconduct or Sexual Harassment to the System Human Resources Office in a timely manner, or within a timeframe specified by the System.

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### Each Human Resources Department, UI Health and System Office

- Ensure that their respective policies, guidelines, and/or procedures developed by the University, UI Health and System Office and all of their respective units (e.g. Colleges, Departments, Offices) comply and are consistent with this Policy.
- Develop, oversee, administer and manage this Policy and any policies, guidelines and/or procedures developed in accordance with this Policy.
- Communicate and provide necessary training regarding this Policy and any policies, guidelines, and/or procedures developed to comply with this Policy to all individuals responsible for compliance and implementation.

### System Human Resource Services

- Maintain a record of all Findings of Sexual Misconduct and Sexual Harassment in a centralized database.
- Facilitate System-wide compliance with this Policy, including the triennial review.
- Provide information and/or data related to this policy to System leaders and the Board of Trustees, as requested.
- Facilitate the development, administration and implementation of this Policy within the System Offices.
- Communicate and provide necessary training regarding this Policy with respect to individuals employed by or otherwise associated with the System Offices.

## VIII. Periodic Review and Assessment

The U of I System shall review this Policy at least every three years. This review shall include an assessment of any impact of the Policy on the academic quality, workforce diversity, and international reputation of the U of I System. Representative stakeholders, including administration, faculty and staff of each university, the System Office, and UI Health, will conduct this review and its results will be shared with appropriate governance bodies.

## IX. Policy Information

**Policy Title:** Sexual Misconduct and Sexual Harassment Inquiries during the Hiring Process Policy

**Policy Owner:** TBD

**Responsible Official:** TBD

**Approved by:** University of Illinois Board of Trustees

**Dated Approved:** TBD

**Effective Date:** TBD



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**Targeted Review Date:** TBD

**Contact:** TBD

**Related Policies:**

### X. Related Laws, Guidance, and Policies

Illinois Human Rights Act, 775 ILCS 5/101 *et seq.*

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e

Title IX of the Education Amendments of 1972

[Cross-reference appropriate system policies on sexual misconduct, if any]