Effective Date: **January 16, 2023**

POLICY

EMPLOYMENT

Sexual Misconduct Hiring Disclosure Policy

RESPONSIBLE OFFICES

Equal Opportunity Office, Human Resources

Purpose

Boston University is committed to providing an environment where all members of our community can work, study, and live, free from gender-based harassment, sexual harassment, and sexual misconduct. The University has implemented a number of initiatives to advance this commitment among our students, faculty, and staff.

Historically, the University's hiring process has not included an inquiry into whether a candidate for employment has been found responsible for sexual misconduct by a current or past employer. Along with many of our peer institutions, including members of the Association of American Universities, BU has identified this as an area where we can implement process changes to enhance our efforts to prevent sexual harassment and misconduct from taking place on our campuses. Toward that end, this policy would provide a mechanism for the University to determine whether a candidate for a faculty or staff position has been found responsible for sexual misconduct by a current or past employer.

Covered Positions

All newly-hired employees at Boston University will eventually be covered by this policy. The policy will be implemented in a phased manner, as outlined below:

- Phase 1 (beginning in Academic Year 2022-23):
  - Unmodified assistant, associate, and full professors in the School of Public Health, Goldman School of Dental Medicine, School of Medicine (not including BU Medical Group), and all schools and colleges on the Charles River Campus
  - Executives with faculty titles
- Phase 2 (beginning in Academic Year 2023-24):
  - Those with professorial titles modified by “research,” “clinical,” “of the practice,” and “adjunct”
  - Medical School faculty, including all BU Medical Group hires, not otherwise included in Phase 1 or 3
  - Staff (including academic researchers)
- Phase 3 (beginning in Academic Year 2024-25):
  - Lecturers of all ranks
  - Instructors
  - Visiting professors employed by BU

The phased implementation will allow for evaluation, data gathering, and process modifications as necessary during the first year of implementation. There is some variation in the hiring processes for these populations. Thus, the details of policy implementation may vary slightly across populations. However, the basic policy, as outlined below will apply to all new employees.

University Policy

A. Boston University will contact current and past employers of finalists who have been offered a covered position to determine whether, in the past seven years, the candidate has been found responsible for sexual misconduct (as defined by the employer's applicable policy) and, if so, what discipline was imposed (if any). A confirmation that a candidate has been found responsible for sexual misconduct will not automatically disqualify the candidate from employment at Boston University, but will trigger consideration by a review board as described in section 4.D(iii).

B. In general, the current job posting and hiring process will be unchanged by this policy. Departments will post the job; review, interview, and select a finalist; and make an offer to their finalist pursuant to their typical hiring process.

> **i.** All job postings covered by the current implementation phase must include standard language [see Appendix A] alerting applicants that, before being hired at Boston University, they will be required to authorize BU to contact their current and past employers regarding substantiated findings of sexual misconduct [see Appendix B].
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> **ii.** All offer letters must include standard language [see Appendix C] through which candidates must consent to BU's contacting their current and prior employers to request information regarding substantiated findings of sexual misconduct, warrant that there are no such findings or disclose any such findings, and agree that if findings are discovered after hiring, they may result in corrective action by BU, up to and including termination of employment.

C. The University will initiate the process of contacting current and prior employers once a candidate has accepted a job offer. Once a candidate has accepted a job offer by returning a signed offer letter or otherwise indicating acceptance, Boston University Human Resources will initiate the check process. Human Resources will seek to contact current and past employers, specifically the past seven years of employment, for each incoming employee. Human Resources will ask the employee to provide contact information for each of these employers.

D. There are three potential outcomes to the check process:

> i. No Substantiated Findings or Unable to Respond. If Human Resources receives responses from the candidate's current and past employers that the candidate had has not been found responsible for sexual misconduct, the check is considered complete. In addition, if Human Resources receives responses that the employer's

policies do not permit them to respond to the inquiry, the check is considered complete. In such cases Human Resources will notify the hiring department that the individual is clear to begin work at the university.

ii. No Response. If, after two weeks, Human Resources has not received a response from the candidate's current or past employers, the check is considered complete. Human Resources will notify the hiring department that the individual is clear to begin work at the university. If a past employer responds to BU's inquiry at a later date and discloses that the candidate was found responsible for sexual misconduct, the University retains the right to revisit the employment relationship.

iii. A Finding of Responsibility for Sexual Misconduct (Substantiated Findings).
If Human Resources receives a response from a current or past employer that the employee was found responsible for sexual misconduct, the candidate will be permitted to provide a written response or explanation. This response, along with the original information from the current or past employer, will be communicated to a review board that includes members representing the Offices of the Provost, General Counsel, Human Resources, and Equal Opportunity. The Review Board will consider the available information and will make a final determination as to whether the incoming employee can be employed by Boston University. The review board's decision, which is final, will be communicated to the appropriate dean, vice president, or associate provost.

See appendices on following pages on:

- *Appendix A – Advertising Text/Job Posting*
- *Appendix B – Authorization to Release Information*
- *Appendix C – Offer Letter Language*

END OF POLICY TEXT

Additional Resources Regarding This Policy

Effective Date

The Sexual Misconduct Hiring Disclosure Policy took effect beginning in the spring 2023 semester.

History

This Sexual Misconduct Hiring Disclosure Policy was drafted by the University Council Committee on Faculty Policies and approved by the University Council on 12/13/22.

Related Policies

Related Policies

- Sexual Misconduct Policy
- Policy on Consensual Relationships with Students
- Sexual Misconduct Hiring Disclosure Policy
- Sexual Misconduct/Title IX Policy and Procedures - Applying to conduct occurring on or before August 13, 2020

Categories: Employment, Sexual Misconduct Keywords: background check, hiring, onboarding, sexual misconduct