

Comparing the Complementary Roles and Effects of the Ethical Transparency Tool (ETT) and Other Disclosure Tools

ETT Ecosystem-wide Screening Consent and Disclosure	Transactional Full File/Conversation Consent and Disclosure—and Self-Disclosure
<ul style="list-style-type: none"> • IMPACT: By automating consents for use by all ETT-Registered Entities to request—and all of a person’s professional affiliations (past, present, and future) to make—disclosures, ETT helps to create a norm of transparency across the higher ed-research ecosystem re: the existence, date, and generic types of sex, gender, racial (and licensure, financial, and research) misconduct, with ecosystem-wide deterrent and accountability effect. ETT advances healthy climate across the ecosystem. A person can learn lessons, change conduct, and regain trust, but transparency about misconduct in a person’s multiple work settings is critical for an organization’s independent policy- and decision-making. • USEFUL PERIOD: A person’s ETT Consent to disclosures has a 10-year life (if not rescinded or renewed). It can be used throughout that period. • BENEFITED ENTITIES: During an ETT Consent’s 10-year life, it (a) authorizes all of a person’s professional affiliations field-wide to make disclosures (whether or not they register to use ETT) and (b) can be used by any ETT-registered entit(ies) to request disclosures in connection with each entity’s independent decisions. • BENEFITED DECISIONS: ETT Consents and Disclosures of findings may be used to inform any number of decisions (e.g., about honors; leadership, governance, employment; mentoring roles) made independently by any number of ETT-registered entities during the Consent’s 10-year life and relating to a person whose conduct may impact climate in multiple work settings. • EASE, EFFICIENCY: ETT automates the Consent and Request for Disclosure processes and provides a check-the-box Disclosure Form to make disclosures easier and more likely. ETT disclosures include the existence, year, and generic kind of finding, facts that are hard to dispute. ETT Disclosure Forms are relatively easy and efficient for the disclosing entity to produce and the receiving entity to review. • VALUE, UTILITY: A completed ETT Disclosure Form is of high value. Considering the date and generic types of findings against a person via an ETT Disclosure Form, the type of honor, employment, or role being decided, and input from the person, may be enough to inform a requesting ETT-registered entity’s decision in many situations. These facts are hard to dispute. 	<ul style="list-style-type: none"> • IMPACT: A transactional full file/information consent and disclosure advance climate at one entity. They are useful supplements to ETT Disclosure Forms in situations when an entity independently decides that more information is needed to inform its decision about a person. But one entity cannot alone advance ecosystem-wide climate change, as ETT can. • USEFUL PERIOD: Transactional full file/information consents to disclosure are frozen at a moment in time and effective only for that moment. • BENEFITED ENTITIES: Transactional consents only authorize disclosure of full files/information to one Requesting Entity at one moment in time (and may not authorize disclosures by all of a person’s multi-sector professional affiliations). • BENEFITED DECISIONS: A transactional consent and disclosure may be used to inform only one specific decision of one requesting entity. • EASE, EFFICIENCY: Full files and information are not shared easily, quickly, or at all by many entities, even with a consent. Full file production requires nuanced redaction to avoid disclosure of victims and witnesses, SSNs, etc. Conversations can create exposure (e.g., if exceeding a consent) if trained participants are not involved—that staffing is limited. • VALUE, UTILITY: Full files or conversations with Disclosing Entities are useful in some cases when, e.g., despite a finding in an ETT Disclosure Form, an ETT-registered entity wants to continue to consider a person for an honor, employment, or role and needs more information. But a requesting entity can’t relitigate another entity’s finding—and the requesting entity’s access is normally only to the person against whom the finding is made, not to witnesses or victims. Consents for additional disclosures would be outside of the ETT but could complement the ETT when needed. Also, self-disclosures can fill in a gap when an entity won’t make any disclosure. But self-disclosure provides only the person’s characterization of a finding—which is important but does not substitute for the Disclosing Entity’s disclosure about a finding. And an unforthright person may cause a problem before being discovered. ETT, full files, discussions, and self-disclosure are “and” not “or” propositions.

An example of a supplemental consent is below but is not an Ethical Transparency Tool (ETT) form. An ETT-registered entity would develop its own form with its lawyer, sensitive to its jurisdiction and process, and complementing the ETT Consent Form, if the entity independently decides to seek more information in particular cases.

EXAMPLE SUPPLEMENTAL CONSENT [NOT LEGAL ADVICE TO ANY ENTITY]

With my consent, a finding of responsibility for [specify the generic kind of] misconduct in [specify year] about me has been shared with [Requesting Entity name] using the Ethical Transparency Tool (ETT). As a condition of [Requesting Entity name] further considering me for [insert specific position or honor], I:

- (1) give to [insert Disclosing Entity name] my consent for it to disclose to [Requesting Entity name], orally or in any medium, any and all information associated with [Choose either: “the above-referenced finding of responsibility for misconduct” or “any finding of responsibility for misconduct”] that [insert Disclosing Entity name] has made or adopted about me, including but not limited to whether there is any associated litigation or ongoing investigation/review that is threatened or pending; and
- (2) **waive my right to enforce any non-disclosure, non-disparagement, confidentiality, and any other relevant limitation** of such disclosure imposed under any agreements and (to the greatest extent allowed by law) under any law; and
- (3) **waive and release all claims and liabilities of every kind against [insert Disclosing Entity name] and/or [Requesting Entity name]** (and their respective directors/trustees, partners, officers, personnel, agents, stockholders, members, and/or representatives), associated with the disclosures and use of disclosures to which I am consenting.

A “finding of responsibility for misconduct” may include any of the following occurrences, as defined by the [Disclosing Entity name]’s policies:

- When [Disclosing Entity’s name] makes or adopts a final determination that a person violated its polic(ies), with all internal rights of appeal concluded or expired;
- When [Disclosing Entity’s name] imposes – or a person agrees to accept – “discipline” (as defined by [Disclosing Entity’s name]’s policy) related to concerning conduct; and/or
- When [Disclosing Entity’s name] provides an option to a person to resign—and the person resigns—in lieu of an investigation, finding, or discipline .

I am at least 18 years old, have had the time to consult with anyone I wish, and understand and knowingly and voluntarily give this consent, waiver, and release. An electronic signature and copies of this consent have the same effect as an original for all purposes.

Signature:

Print Name:

Date: