



SOCIETIES CONSORTIUM

ON SEXUAL HARASSMENT IN STEMM

An initiative to advance *professional and ethical conduct, climate & culture*

CASE STUDY LIBRARY

Case Study 1. The Dinner Party Dilemma

Case Study 1 addresses: an “incident occurring in fieldwork, off-campus social gatherings, or labs (outside the classroom), including in isolated areas of campus, and involving alcohol.”

A tenured associate professor, who leads an influential research program that provides paid undergraduate internships, hosts a party at his house, serving students alcohol and engaging them in a sexually provocative ice breaker. As the party is ending, one of the students, who is also applying for an internship, visits the research laboratory with the professor and reports on Twitter that the professor subjected her to inappropriate sexual innuendos and advances.

Case Study 1. Volume III

- I. Facts and Scopes of Issues
- II. Facilitator Guide: Reflections
- III. *Facilitator Guide: Analysis***

Overview – Facilitator Guide: Analysis

This guide, which identifies and analyzes key issues raised by Case Study 1’s facts and associated pause and process questions, is for review by facilitators to prepare for group discussion. It may also be used during facilitation. Each of its color-coded segments corresponds with the same color-coded segment of Case Study 1, Volume I (Facts and Scopes of Issues) and Volume II (Facilitation Guide-Reflections). Review suggested “Actions” for discussion ideas and steps societies and institutions can take to enhance their policies and practices to create more inclusive and equitable climate and culture within their organizations and fields more broadly.

Identity-based harassment and bias can have disparate and devastating impact on individuals who are early in their careers¹ or have less social capital in a field (disproportionately, but not always, women, women of color, members of the LGBTQ+ community, or people who identify as members of other marginalized groups in STEM). Our analysis and discussion of this case study examines points throughout the experiences detailed to shine a light on – and create understanding and empathy for -- the various perspectives involved. Power differentials are often at play in instances of sexual harassment, assault, and intersecting racial and gender-based harassment. However, peers and those in earlier stages of education or career can also cause harm.²

It is important to consider the case study from two perspectives (1) What happened, and what was done well or could have been done better in relation to these facts? and (2) In light of the effective policies and practices addressed in Supplemental Volume 4, what actions can be taken beyond the case at hand to advance a more inclusive, equitable and ethical climate and culture in the institution, society, and field?

¹ “Early career” can include post-doctoral scholars, residents, non-tenure track faculty/researchers, untenured tenure-track faculty (e.g., assistant professor), and other professionals with less power. Graduate and undergraduate students are also included, although their positions are distinct. Within this group, there are differences in the experience and agency of each role in relation to the others that may influence the effect on them of others’ misconduct and the response.

² In discussing these power differentials, the analysis uses terms such as “a mid-career professional.” This is a person who has past entry-level and, for faculty, typically has been tenured (i.e., tenured associate professors). A “late-career professional” is generally a person who has been promoted to top tenured faculty ranks and/or has gained honors or other substantial renown and influence in a field (e.g., tenured full professors, distinguished professors, endowed professors, emeritus professors and researchers with world renown and top honors).

1

Introduction

1. **From the University's and AAB's perspectives**, what are the potential benefits and pitfalls of regulating or not regulating networking, and other informal employment opportunities at an off-campus, social event? Is it clear in the Codes of Conduct and Ethics whether off-campus events are regulated?

RESPONSE:

- Participation in informal networking opportunities with faculty can be a valuable tool. It may provide less seasoned, or marginalized members, the opportunity to learn more about the field, discover research opportunities, develop professional relationships with peers and potential mentors, and, as in this case, provide a convenient opportunity for candidates to be informally reviewed for specific advancement opportunities.
- There is also the significant potential for such opportunities to instead blur boundaries of the trusting and respectful relationship between faculty, or other advisors, and students that are critical to academic responsibility and professional conduct. The threat can be exacerbated when, as here, an off-campus, social event involves the consumption of alcohol that reduces inhibitions and may have contributed to inappropriate and unprofessional behavior.
- In addition, inequities are created when students and post-docs do not feel they have agency to object to harmful conduct. This threat is exacerbated, as here, when informal interview opportunities that are pivotal for advancement require individuals to be participate in a social event. It is also unclear in this case study whether Dr. Smith provided informal networking opportunities for all students that applied for his research internship.

ACTIONS TO PREVENT OR REMEDY:

- **It is essential to continually establish, communicate, and orient individuals to the core professional, equitable and inclusive aims, policies, and conduct norms** of the university and society—with concrete examples of expected/inclusive vs. prohibited/harmful conduct at every level (students, early career professional, faculty, staff and leadership) and in all activities (formal and informal). This is particularly true when decision makers for advancement opportunities are among the perpetrators of exclusionary and inequitable behavior.
- **It is important to be clear that a conduct policy applies wherever and whenever actions may affect the organization's mission, program, or its community members**; to provide specific examples of what is expected and what can go wrong; and to emphasize vigilance and erring on the side of caution when in doubt about the inclusive or harmful effect of conduct. **Be clear that the person in the more powerful role will be accountable if there is a misunderstanding.**

REVIEW:

- **Section 4 Elements** to learn more about effective practices to elevate and infuse equity principles
- Visit the **Consortium LinkedIn Platform (CLIP)** -- **A members-only space for collaboration and thought-partnership for members of the Societies Consortium.**
- Societies Consortium Roadmap Towards Excellence and Integrity in STEMM (**Roadmap**), particularly Stage 1 -- "First Steps: Starting Somewhere" (access **Roadmap** from Consortium's **Homepage/Latest News/May 28, 2020** entry)
- Societies Consortium 5-Step Slide Guide (**5-Step Guide**), with more detailed guidance on first steps to create basic inclusive conduct expectations and some informal process (access **5-Step Guide** through **Roadmap/Stage 1** (click on **5-Slide Guide** link in gray box))

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The Dinner Party

2. **From Professor Smith’s, the University’s, and AAB’s perspectives**, was it appropriate for Professor Smith to serve alcohol at a dinner at his home attended by students and early career professionals?

RESPONSE:

- The University’s policy prohibiting any university staff member from serving alcohol to minors at university events evidences some understanding regarding the complications of serving alcohol to students. However, “staff” does not include faculty—as “all employees (faculty and staff)” would. Also, by basing the policy solely on the illegality of underage drinking—and not on faculty and staff responsibility to students, those they are training (e.g., post-docs, residents), and those in positions with less agency than their own—the policy falls short of its inclusive aims. Age and ID-checking should be included. But, most importantly, this policy does little to encourage faculty or staff to consider the potential for alcohol to reduce inhibitions and negatively impact boundaries of professional behavior, particularly when serving alcohol to those in a subordinate relationship such as students or postdocs. And by limiting its alcohol policy to University events, the University fails to address that faculty members’ responsibility to conduct themselves— whenever and wherever they engage—in a manner that is professional and honors their relationship of trust with students and the university community.

ACTIONS TO PREVENT OR REMEDY:

- It is essential to continually establish, communicate, and orient individuals to the core professional, equitable and inclusive aims, policies, and conduct norms of the university and society—with concrete examples of expected/inclusive vs. prohibited/harmful conduct at every level and in all activities (formal and informal). **Specific guidelines, including Dos and Don’ts, related to faculty/student socializing and the serving of alcohol would have been quite helpful and could be included in accessible student and faculty handbooks, student and faculty orientations, and participation guidelines.**
- In addition to the guidance above, a **bright line rule** allowing alcohol only at registered university or society events (with proper protocols) and against faculty and staff otherwise providing alcohol to undergraduate students, or serving alcohol in any setting where they are present, may be the preferred route due to alcohol’s potential impact on behavior, exacerbating the harmful effects on these students of the power imbalance.

REVIEW:

- **Roadmap/Stage 1//Dos and Don’ts/Meetings & Ethics Short Form Policies** (click on links to documents in gray box)
- **5-Step Guide/Step 1: Determine and Document the Society’s Values-based, Inclusive, and Other Conduct Aims** (and accompanying, linked Consortium Resources)
- **5-Step Guide/Step 2: Socialize Inclusive Conduct Norms and Expectations** (and accompanying, linked Consortium Resources)

3 The Ice Breaker

3. **From a student’s, post-doc’s, and faculty member’s perspectives**, did the University’s or AAB’s conduct policies help them understand expected conduct norms at the dinner party?
4. **From a student’s and post-doc’s perspectives**, did the conduct policies offer guidance on how to respond to the ice breaker if they were uncomfortable?

RESPONSE:

- Professor Smith’s provocative and sexualized conduct with students, his lack of awareness of the pitfalls of serving alcohol, the postdoc’s and students’ inaction despite participants’ obvious discomfort as events unfolded at the party, some of the comments in response to Jennifer’s Twitter “report” expressing opinions that nothing untoward had happened in what Jennifer described, all suggest a broad absence of community awareness regarding expectations of

top-line ethical and professional conduct. They also indicate lack of awareness that a “zero-tolerance” policy exists, or what that even means. Prohibiting sexual relations between professors and students does not address the full array of unprofessional or unethical behavior that can occur, particularly when such a power differential is at play. Also absent is an awareness that such conduct expectations apply beyond the classroom and formal university events.

- Statements by Dr. Smith seem to indicate that his conduct was intended to make him more approachable, as a first step to being a helpful mentor for those students wishing to pursue a career in biology. His own social awkwardness as a student and experience of friendship with his mentor and gradual treatment more as a peer than student, may have shaped this perception. At 36, he also may not have felt (or wanted to feel) old in comparison to his post-doc, graduate students, and even upper-class undergraduates. None of this excuses his conduct, but all of it contributes to the complexity and vulnerabilities in academic communities. Sexually provocative conversations have no role in professional settings (where unrelated to the substance of the work)—and certainly have no role in a faculty or other evaluator/mentor-student relationship. However, it may be helpful to consider Dr. Smith’s experiences and perspectives in shaping an effective response (*see* Response to Question # 10 below).
- It is unclear whether Professor Smith’s colleagues knew about his behavior with students. The ease with which he used sexually explicit language suggests this was not his first time, which raises questions about whether there were rumors. The facts do not reveal whether there were rumors or whether Smith’s peers and senior department members knew how, or felt responsible, to ask a Title IX Coordinator, ombudsperson, or student affairs expert to check on what was happening and whether students were in need of protection or assistance. We also don’t know what the University’s policies provide about options for looking into rumors. Smith’s department kept funding an internship under his supervision and, if there were rumors, it would have been incumbent on the department head to address them properly.
- Professor Smith’s prominence in the field and his ability to bring in research funds, could have influenced the University and department members to rationalize away any rumors and avoid offending Smith.

ACTIONS TO PREVENT OR REMEDY:

- **As this case study demonstrates, zero-tolerance policies are ineffective.** People in a range of roles, stages of career, influence, and experiences in the field and society-at-large are likely to attribute widely different meaning to what is harmful or prohibited if left to their own perspectives and interpretations. Instead, effective policy requires policy or conduct norms to be tied to *specific* aims of inclusion, diversity, ethical conduct, and excellence—backed by a range of real world examples of behavior that is harmful and exclusionary and, therefore, unprofessional and unethical.
- **To be effective, the examples should be developed with input by people of many identities and stages of career** to help individuals (particularly those in the dominant roles) to “walk in others’ shoes” and to explain why the conduct is harmful. Clear definitions of key terms (with examples) are also important. Conduct that is “obviously” harmful to some, may not be understood as harmful by all. Offering specific examples of “Dos and Don’ts” (in flyers, posters and handbooks), including some addressing expectations for socializing between faculty and students, will make expectations more concrete and understandable for people in all roles to practice.
- **Inclusive conduct norms and expectations must be socialized** -- known, owned, shared, and accessible. Having policy available in limited places, and contained in lengthy documents, make knowledge and ownership extremely unlikely. While robust policies are needed to assure authority to enforce them, highlights (with links to full policies) should be shared in accessible formats such as summaries of key elements and participation instructions addressing university and society activities, after-hours laboratory work, and student/faculty socialization. Policy aims and specific expectations can be included in student, staff, and faculty handbooks, made part of each group’s orientation and can be practiced through role-play using case studies. **This is not a “one and done” endeavor.** Members of the community need to be introduced, reintroduced, and provided multiple opportunities to engage with conduct policy and explore their real-world application.
- **Mentoring strategies that diminish the outsize influence and power of one faculty member can minimize opportunities for abusive conduct.** Consider providing committee-based mentoring and advising (rather than solo mentors) and a centralized fund for research experiences, as well as training

administered by a committee.

REVIEW:

- **Roadmap/Stage 1/Meetings & Ethics/Conduct Short Form Policies/Dos and Don'ts**
- **5-Step Guide/Step 2—Socializing Inclusive Norms and Conduct Expectations** (and accompanying, linked Consortium Resources)
- **Societies Consortium Model Ethics/Conduct-Harassment Policy** (access under Consortium's **Library/Model Policies**, or through **Roadmap/Stage 2: "Chose Your Adventure: Policy Development"/Meetings & Ethics/Conduct Polices** (click on links to documents in gray box))
- Societies Consortium Compendium of Existing Resources (**Compendium**)(access **Compendium** in the **Library/Practical Implementation Tools/Understanding the Compendium**/(click on to access: Sexual Harassment of Women, Climate, Culture, and Consequences in Academic Sciences, Engineering and Medicine (**National Academies June 2018 Report**), Chapter 6 Changing the Culture and Climate in Higher Education/Diffusing Power Structure and Reducing Isolation
- **Outcome Vision & Research Framework** document (Consortium adaptations, for societies, of outcome-actions from **NASEM's June 2018 Report** and key research from the Report related to the Consortium's strategic plan) (access from Consortium's **Homepage/About/Key Documents**)
- **Compendium/Mentoring/National Academies of Science, Engineering and Medicine (NASEM), The Science of Effective Mentorship in STEMM**

5. What might have been the impact if the postdoc had interrupted the ice breaker at the beginning, taken Smith aside, and quietly said, "Professor Smith, I know you're just trying to have some fun and help students get to know each other better, but this game's focus on body and sex can make people uncomfortable and land as harassment. Even if they don't want to play, the students will feel compelled because you're their professor. You could say you have another idea, and ask each person to share a talent, or interest, or an experience, and add an aspiration about themselves that the group might not know"?

RESPONSE:

- The postdoc tried to redirect the kind of "truths and lies" being shared, but abandoned his efforts when unsuccessful, and left the party early without offering any guidance to the students left behind. His redirection did not address head-on that the ice-breaker was unprofessional or harassment. It also does not appear that he reported the professor's misconduct. This suggests that despite his seniority relative to students, he didn't know how to navigate the situation well, and was concerned about the repercussions of directly addressing Dr. Smith or reporting what happened. The postdoc's conduct likely contributed to a perception that, though the professor's conduct was undesirable and might be at odds with the University's policy (if known to the post-doc and students), the professor's behavior was just how things are done (or at least tolerated) at the University. That perception likely included a sense that outright objecting might, in fact, have negative consequences for the post-doc and students.
- That the University's policies never mention postdocs leaves postdocs with no guidance on expectations for their conduct and responsibility. It was unclear where post-docs could even look for guidance or policies that apply to them and whether policies for students, faculty or other employees apply to them.

ACTIONS TO PREVENT OR REMEDY:

- **Early-career professionals can play an important role as allies and role models but they need to clearly understand the expected conduct norms with concrete examples**, as well as how those norms relate to their role in the community. Early career professionals also require training, mentoring and support to fulfill these roles confidently and without suffering adverse career impact. This may require engaging the Consortium's case studies in self-learning or attending facilitated sessions offered by a university or society using the case studies. **Section 3. Facilitator Preparation and Practices** may be enough to support internal facilitation. An internal facilitator or, if needed, an outside expert, could train and mentor other internal facilitators.

- Including people from a diversity of backgrounds and stages of career, with equal voices, in key aspects of faculty leadership and decision making, can systematically surface and ameliorate problematic behavior within a department.

REVIEW:

- **Compendium/Bias Research & Resources and Training**
- **Compendium/Training**
- **Compendium/Mentoring**

6. What might have been the impact if a few students had banded together to say they didn't feel comfortable and suggest a different game?

RESPONSE:

- We don't know whether the University's policies addressed consent and power differentials. The facts raise a serious question about consent—who can give it and how. Students at the dinner party did not explicitly object to the game, but their initial reactions and attempts to focus the “truths and lies” on non-sexual attributes evidenced their discomfort. Their relatively powerless positions, compared to that of the professor whose favor is important to their educational and career opportunities, suggest that consent was not, and likely could not, have been given.
- The students were targets of harassment and appeared to lack guidance from the University to empower them to respond in a self-protective manner. While they should not have been put in this difficult position, once there, it is possible, if a few students sitting next to each other had voiced concern and suggested a different game, that may have invited other objections or suggestions and changed the course of the evening. Alternatively, if a few students got up to leave (on their own or with the post-doc), others might have joined them, and the evening might have ended.

ACTION TO PREVENT OR REMEDY:

- It is not always easy even with peers to speak up in the face of misconduct, particularly when the perpetrator is a faculty member. But **peers can play an important role in demonstrating a university's mission and aims to promote diversity and inclusion**—as well as in reflecting the desired climate and culture at the institution. To contribute to these aims and protect themselves when systems fail, students and early career professionals require concrete policy, guidance, and training on what behavior is expected and inclusive vs. harmful and unacceptable, and how to respond effectively when those standards aren't met. Concrete examples, case-studies, and hands-on role-playing may be very helpful.
- **Ally and bystander training can be effective in empowering peers** to speak up to support one another.

REVIEW:

- **Compendium/Training A. Advocate & Ally Training**
- **Compendium/C. Bystander Training/Trainers**
- **Compendium/National Academies June 2018 Report**, Chapter 6/Reducing Bias and Responding to Harassment—Including Bystander Intervention

4 Late-Night Visit to the Lab

7. From Jennifer's, Dr. Smith's, the University's and AAB's perspectives, did the University's or AAB's conduct policies provide meaningful guidance to help them understand what professional and inclusive vs. harmful conduct looks like? Were the policies clear on the conduct norms and expectations for people in Jennifer's and Dr. Smith's positions in the laboratory and in the internship application process?

RESPONSE:

- Professor Smith's conduct in the lab is contested. However, even Professor Smith's account indicates potential areas of concern (whether or not his true motives were misinterpreted), in the context of visiting a laboratory late at night, with only one student, and standing in “very close proximity.”

- According to Jennifer’s version, Professor Smith’s conduct constitutes sexual harassment. He pressed unwelcome sexual attention on Jennifer—in his comments, physical proximity and touching. He contrasted the sexual inactivity of the mice with what he hoped would be his “getting some” that night, presumably from Jennifer. A reasonable student in Jennifer’s position would likely regard his comments as sexual overtures. He also appeared to be suggesting that Jennifer provide sexual favors in exchange for an internship, even if he did not expressly condition the internship on Jennifer’s acquiescence to sex. That Jennifer immediately “reported” the events at the party and in the laboratory through Twitter indicates her awareness that the conduct she experienced was wrong.
- Jennifer’s account also evidenced her awareness of some effective techniques to remove herself from a bad situation promptly (moving away, finding an excuse to leave). Given the lateness of the evening and the likelihood that the lab would be isolated, another good protective strategy for Jennifer could have been to invite another student to join her once Professor Smith invited himself along, or to have feigned a text that required her to abandon plans to go to the lab in the first place. This is not to suggest that Jennifer had an obligation to anticipate and avoid the situation—understandably, she may have felt trapped.

ACTIONS TO PREVENT OR REMEDY:

- **It is clearly the responsibility of academic and professional societies, IHEs, and other research entities to have policies, practices and norms in place that effectively demonstrate and prohibit harmful conduct.** It is also essential to have practices and procedures in place intended to prevent vulnerable situations before they occur.
- We do not know if the University’s lengthy policy addressed professional conduct expectations in research laboratories. It should do so – in an accessible format such as a lab handbook -- including relatable, concrete examples of both inclusive and harmful behavior (Dos and Don’ts). Expectations for professional conduct may be heightened, or other special requirements might be considered, in light of the fact that labs can be in isolated settings, work in laboratories can take place “after-hours,” and a single faculty member may have outsized authority in the laboratory (in part for legitimate research and safety reasons). These conditions can potentially result in the absence of the usual safeguards of public visibility.
- Also, if the University had **well-known and safe options for reporting concerns**, Jennifer might not have reported on Twitter and a repeat might have been avoided (*see* further discussion to Pause & Reflect Question 9, below)
- **Permitting anonymous reporting, providing confidential advice** (e.g., from ombudspersons or others who are knowledgeable about options for addressing issues and are trained to advise), and conducting climate surveys can be effective ways to elevate understanding among university and society leaders about the actual occurrence of, and real harm caused by, exclusionary, unprofessional, and inequitable conduct. These systems and resources can help members of the community, including students and early career professionals, to elevate and resolve concerns effectively. **REVIEW:**
- **Compendium/Field Research Experience**
- **Compendium/Data & Self-Assessment resources**
- **Compendium/Surveys**

8. **From a student’s and faculty member’s perspectives**, did the University or AAB’s conduct policies help them to understand the criteria that would or should be used to select interns?

RESPONSE:

- One Twitter comment, which expressed a wish that “he were female so he could get an internship,” indicates that he may think it’s okay for female students to be asked for sexual favors—or at least worth it to have the “opportunity” if necessary (that he believes he “unfairly” lacks as a man) to give sexual favors to get ahead. Presumably, this commentator had not raised a concern to the University about possible misconduct against women, or a related potential violation of faculty responsibility to maintain a relationship of trust with students and meet academic and ethical standards for selecting interns (which affect all students).

ACTION TO PREVENT OR REMEDY:

- **It is important for universities and societies to prioritize elevating understanding about conduct that constitutes harassment and why it is harmful to everyone—as well as the responsibility that accompanies academic freedom.** Again, this requires policies, as well as concrete examples, and engaging members of the community in difficult conversations. Incorporating case studies and role playing in orientation, department meetings, retreats, and other programs can help people “walk in others’ shoes” and internalize learning.
- **Gender-neutral, job-related work/internship requirements can reduce biased and stereotyped assumptions about who will be hired.** It is imperative to orient decision makers on the imperative and means of practicing and demonstrating ethical conduct and criteria – in reality and perceptions – in all aspects of hiring and conferral of benefits – both formal and informal. The fallout from the incident, including the resulting perception of unfairness needs to be addressed by the university.

9. Why did Jennifer post about her experiences on Twitter rather than discuss her concerns with University staff, or report their concerns to the University or AAB?

RESPONSE:

- That Jennifer immediately “reported” the events at the party, and the events in the laboratory, through Twitter indicates her awareness that the conduct she experienced was wrong. At the same time, however, her use of Twitter may indicate a belief that she needed to make a “public “splash” because the University’s policy does not prohibit such conduct or, at least, the policy isn’t seriously implemented and the conduct is tolerated. It could also indicate that she ultimately felt the internship was worth losing and wanted to reveal misconduct that would otherwise be “swept under the rug.” These perceptions may have been amplified by the fact that the post-doc left the party, but did not voice any objection to the Professor’s conduct or offer guidance to others.
- It is also possible that – despite the fact that the University had several reporting options available -Jennifer was unaware of how to report a conduct concern. The reporting process was buried in a lengthy document. While policy needed to detail the process, reporting contacts and reporting options may not have been highlighted in easily accessible, summary form online, in students handbooks, and other prominent places.

ACTION TO PREVENT OR REMEDY:

- If the University had well-known and safe options for reporting and resolving concerns, Jennifer might not have reported on Twitter. **It is a good practice to offer a range of reporting and resolution options** (anonymous, informal, and formal); provide for confidential guidance on the pros and cons of each option (e.g., by an ombudsperson); and prohibit retaliation. Jennifer’s reaction offered the University an opportunity to improve and more effectively communicate its offerings for the future.
- Encouraging and implementing effective reporting is not enough. **A key lever for prevention is to change any reality and perception** (even if the perception isn’t accurate) that a society or institution tolerates harassment or won’t enforce policies when leaders or distinguished researchers are the perpetrators. The benefits for targets of reporting must outweigh the perceived risks, considering the experience of people in a range of roles with the existing power structure. Creating accurate and positive perceptions requires adopting and consistently applying adequate conduct policies and norms, as well as reporting back to its community about the kinds and frequency of misconduct and the kinds of response (even without specific details to protect privacy). Doing so will help the community internalize that prohibitions against unprofessional and unethical conduct are seriously enforced. With that confidence, people are more likely to report concerns.

REVIEW:

- **Section 4 Elements** to learn more about effective practices for communicating policies and options
- **5-Step Guide**, Step 3 -- Create and communicate Ways to Raise Concerns (and accompanying, linked Consortium Resources)
- **Compendium/Ombuds Programs**
- **Compendium/National Academies June 2018 Report**, Chapter 6/Ombuds Offices
- **Societies Consortium Model Template -- Reporting Out on Conduct Concerns** and accompanying Design Guide (access under **Library/Practical Implementation Tools**)

10. From the University's and AAB's perspectives, were their mission statements and policies sufficient to determine if a faculty or society member was in violation of the terms and spirit of statements and policies?

RESPONSE:

- Pronouncements such as the University's zero-tolerance ring hollow; they establish unrealistic goals (that are not taken seriously); and do not change conduct or hold people accountable. Robust and specific policies that incorporate aims and standards, address preventative measures, as well as responsive actions when standards aren't met, are needed along with (1) concrete examples of expected and prohibited conduct to achieve the stated aims; (2) broad dissemination and highlights to elevate understanding and broad ownership; and (3) serious preventative and response actions, applied consistently to everyone, regardless of role and stage of career. Clear definitions of key terms (with examples) are also important. Harmful conduct might be "obvious" to some, but may not be understood by those of other identities and stages of career.
- AAB's Code of Ethics did address, more specifically, the unique, trust-based relationship between students and advisors, and the resulting heightened ethical requirements. However, the code limited its reach to conduct occurring in society activities. As a policy matter, a society's code of ethics can recognize that a member's conduct in multiple settings, and their conduct outside of society-associated activities, can impact the society's mission, program, other members' ability to participate in society activities, and professional relationships within the society. An ethics code can be made to apply to any member's professional conduct that adversely affects these interests of the society.

REVIEW:

- **5-Step Guide/Steps 1 & 2**
- **Roadmap/Stage 1/Dos and Don'ts**
- Societies Consortium Model Glossary of Key Terms (**Model Glossary**) (access under **Library/Model Policies**)
- **Societies Consortium Model Ethics/Conduct-Harassment Policy, Part A.2 & D**

11. Given that the dinner party incident occurred, that Smith and Jennifer did go to the lab, though they don't agree on what happened there, and the fallout from Jennifer's tweet, what could the University and AAB have done in response?

RESPONSE:

University

- The overarching aim of responding to conduct concerns is to advance professional, ethical, inclusive, and equitable conduct, climate, and culture for the excellence and integrity of the entity's and field's communities and contributions going forward. Also important is to determine and address the needs of those most directly affected by the harm. The kind and extent of response will differ depending on the nature of the concern and available information. It is also important to determine whether Jennifer or the other students, as well as Dr. Smith, prefer a resolution process that could result in a formal "finding" (one way or the other) about responsibility, which requires investigation and an equitable process for all involved (notice of the allegations, opportunity to be heard, fact-finding, and evidence-based decision-making). Alternatively, it is important to consider whether a less formal process -- that elevates understanding and results in ownership of the harm caused, stops it, and prevents recurrence -- would be possible, and better serve the needs of the entity, its community, and the people most directly involved.
- It is possible that interim measures would be necessary to protect students while fact-finding proceeds. The question arises whether a tweet alone provides a credible allegation before communicating directly with anyone involved. Jennifer's account of what transpired at the dinner (the sexually explicit game and availability of alcohol—which Professor Smith admitted), as well as suspicions regarding potential ethical failures in the internship application process

may justify an interim suspension of Professor Smith or prohibiting Professor Smith from participating in internship selection. Some further outreach for information (from Jennifer, the professor, or others) beyond the tweet would first be warranted.

- Where imposing consequences is the desired response, at a minimum the institution must already have in place: well understood aims and conduct expectations; some degree of process (even informal) with identified decision makers; and authority granted for some limited types of consequences that can be taken in response to a violation of specific conduct expectations.

The University must consider whether a punitive consequence would be required if Professor Smith were found responsible for the reported misconduct. If Jennifer's account of what happened in the lab is found credible (which raises serious issues of sexual overtures and the potential of quid quo pro harassment), protective consequences would likely be appropriate such as suspension or termination of Dr. Smith's internship program, teaching, and ability to have students work in his lab. A formal finding of responsibility, in a process that includes basic attributes of fairness (*see* above), would be required. However, punishment alone (or at all) and a full-blown investigation are not always the best way to achieve an institution's, community's and individuals' aims — though such actions are sometimes necessary for safety or when those who caused harm will not accept responsibility.³ In this case study, considerations may include the potential harm to students from the loss of the internship program and the fact that students may not be seeking a formal process or punishment but rather that the offending conduct stop and another professor take over the internship selection and leadership. In other words, there are circumstances when it will be important not to get bogged down in process, and making technical determinations of policy violations, as they will not best serve the aims of the policy.

- This is where community building becomes an essential tool to stem the harm caused, not only to individuals, but the larger society's or institution's mission and community. This tool can elevate broad understanding and ownership of the nature and harmful impact of unethical conduct, such as gender harassment, and result in actions that resolve the harm, even without the benefit of a full investigation and facts sufficient for a formal finding of responsibility. Also, sometimes, the target and witnesses are unwilling to participate in a resolution and there is insufficient information to make a finding. Community building can be used, when there is a generalized concern, to focus on building, and raising awareness and broad ownership of, inclusive values and norms of conduct in the entity's community.
- If Jennifer and Professor Smith agreed to participate in a community-building process, Professor Smith could come to own that his behavior was unprofessional and caused harm, understand why, learn how to conduct himself differently in his relationship with students going forward, commit to not repeating the harmful conduct, and agree to some consequences that assure he's learned the necessary lessons and protect students from further harm. These may include another faculty member selecting the interns and leading the internship in the coming year, with Professor Smith cooperating but not being in a decision-making or supervisory role; Professor Smith himself not drinking alcohol with—and not offering alcohol to—any students or post-docs in any setting and not hosting student dinners for a period of time; small group training with role-playing on academic responsibility and relationships of trust of faculty with students; and check-ins with Professor Smith and students who participate in the internship over the coming semester to assure a change in his conduct going forward. Other considerations would include whether Smith needs to agree in the process to a suspension from teaching and having students in his lab—with monitoring upon his return—for the resolution to be complete.

REVIEW:

- **5-Step Guide/Step 4** -- Create an Informal Resolution Process With Inclusive Community Building Aims and Practices (and accompanying, linked Consortium Resources)
- **5-Step Guide/Step 5** -- Obtain Society Board Authorization for Basic Response Actions When Needed for Safety, Non-disruption (and accompanying, linked Consortium Resources)
- **Societies Consortium Model Informal Resolution Process** (access under **Library/Model Policies**, or through **5-Step Guide/Step 4/Consortium Resources**, or through **Roadmap/Stage 2/Investigation/Resolution Resources** (click on linked documents in gray box))
- **Societies Consortium Pyramid Tool** (interactive chart aligning possible responsive action with type of process required and aligned consequences) (access through **5-Step Guide/Step 5/Consortium Resources**, or through **Roadmap/Stage 2/Investigation/Resolution Resources**)

³ If a report of misconduct is not credible because it is physically impossible for the bad act to have occurred (e.g., there is certainty that the person alleged to be present wasn't), the action is to make that credibility determination. If there is clear evidence of a bad faith report, the response will focus on the reporter.

- **Societies Consortium Model Investigations, Resolutions and Consequences Policy Guide**, particularly Part G.3.IB.b, which includes requirements and specific policy language for taking effective and ethical interim safety measures (access under **Library/Model Policies**, or **Roadmap/Stage 2/Investigation/Resolution Resources**)
- **Model Glossary/Credible question** (of professional and ethical conduct) – which includes both a definition of “credible” and factors to consider to determine if a credible question exists.
- **Roadmap/Stage 3: “Navigate Change: Community Building”**
- **Societies Consortium First Annual Members Convening/Important Characteristics of Community and Restorative Actions**
- **Model Glossary/Restorative Actions**
- **Compendium/Community Building and Restorative Action Resources and Initiative**

AAB

In addition to the above considerations, which, in many respects, also apply to the Society's response, additional considerations include:

Reporting Policy.

- AAB had a reporting policy; however, the policy was only available through the Members-Only webpage. For such information to be useful and accessible, it should be prominently displayed in a variety of members' materials, readily identify points of contact for raising concerns, and be easily found by anyone (including non-member witnesses) who have facts of relevance.
- AAB required a formal complaint to trigger an investigation. However, informal (e.g., no written complaint) and anonymous reporting are important reporting options that should be considered by the society. Such options might limit the extent to which an entity can fully review, make a formal determination of responsibility, and impose a consequence. However, such reporting options can be effective to surface conduct concerns early, lead to policy changes, and implement other preventative measures (preventative community building) before potential harm escalates.
- As discussed above, a formal investigation is not a necessary predicate for determining that the society's ethical and inclusive aims are not being met and imposing consequences if a person owns the harm caused. Nor is a formal investigation necessary to determine the need for a community building process to elevate understanding and ownership of the society's ethical and inclusive aims for the entire community.

Process governance and decision-making.

- AAB called on its entire board to make decisions pertaining to concerns about Professor Smith's conduct and how the concerns would be resolved. Depending on the size and training of the board, this could make confidentiality,

and integrity in the fact-finding and resolution process, difficult to maintain. The board has a fiduciary duty to implement a protocol that can reasonably be expected to provide an ethical resolution process.

- An ethics committee or executive committee may be a better option than the full board for some societies because it is easier to manage training and adherence to process requirements in a smaller group.
- Jennifer placed her information on social media and may have waived her right to confidentiality—but she appears not to have had any guidance from the University about options for reporting. Having a process in place that minimizes the re-exposure of such information and supports an ethical process for everyone involved is important for this incident. It is also important to engender the confidence of others in the process for resolving other incidents in the future.
- It is a priority of an ethical resolution process to assess and address the full impact of misconduct concerns, avoid retraumatizing an identified target, and provide the identified target and accused a chance to be heard. In a one-hour meeting with information limited to Jennifer’s tweet, AAB’s actions fell short on all of these priorities.
- While interim safety measures may have been warranted (including a suspension pending fact-finding), an ethical process would require Professor Smith (and Jennifer, if she desires) to have the opportunity to be heard prior to, or soon after, an interim suspension—as well as prior to finally removing Professor Smith from his chairmanship, which did not occur. It is unclear whether such an opportunity was to be provided before AAB decides further consequences. The period in which Professor Smith would be ineligible for such leadership roles and how this would be communicated to him also wasn’t addressed.
- No follow-up or communication plan was developed. While the AAB identified the issue of further harm to Jennifer, they did nothing to address that, or do anything to elevate Professor Smith’s understanding to prevent the recurrence of the misconduct reported in Jennifer’s tweet.
- Before reaching out to Jennifer, it would likely be helpful for AAB to notify the University’s Title IX coordinator—sticking to the fact that an allegation had been made via Twitter and providing the link, while being clear that AAB had not completed fact-finding or made any determinations. That should, in turn, prompt the University to communicate with Jennifer to assure that she receives appropriate supportive services so that she feels free to make her own decision whether and how to engage. Supportive services also should be available to Professor Smith.
- It is unclear whether AAB’s policies require its own investigation, or permit reliance on an outside entity’s determination, as the basis for deciding whether consequences (such as final removal of chairmanship or suspension of membership) for Professor Smith are warranted. Getting a sufficient record from another entity can be a challenge, particularly when student educational records are involved. It is a generally effective policy to provide flexibility for both investigatory options (internal and reliance on external) to align response with the particulars of each situation.
- AAB could adopt a policy that would require Professor Smith to consent to the University sharing the outcome of its investigation (subject to what student privacy laws allow) as a condition to being eligible at any time in the future for consideration in a leadership role at AAB—and possibly for the continuation of membership.

Public Statements:

- The Society chose not to respond to the tweets publicly. However, it may have been more effective to demonstrate its commitment to the ethical aims of its policy -- to make a statement. It is imperative that any response avoid the appearance of prejudging anyone and generally should not include reference to any involved individuals while the resolution process is pending (and after it is completed)—even if others make public the incident under review. If necessary, it may be possible to state the affiliation status of the accused—e.g., “Professor Smith is a member of AAB and chairs a committee; however, consistent with our policies, when investigations of this nature are pending and without any prejudgment, he will not be engaged in these roles until the matter is resolved.”
- Any public response should focus on clarifying: AAB’s policies provide specifically on expectations of ethical, professional, and inclusive conduct; what that means under its policies; and how its policies address violations.

12. Is legal compliance, while necessary, enough to create inclusive and equitable climate and culture in fields? Is a pronouncement of welcome—or even “zero tolerance” for harassment—in a society’s or institution’s policy enough? What aims and key content define an effective ethics policy? What associated action is needed?

RESPONSE:

- The conduct of Dr. Smith raises questions of legal compliance, particularly the harassing environment he created for students at the dinner party, and Jennifer’s allegations regarding what occurred in the laboratory. However, such a finding is not necessary to conclude that Jennifer and the other students experienced unethical and unprofessional conduct contrary to the stated policies of the University and AAB.
- Policy standards, guidance, training, and enforcement that **satisfy, but exceed, bare legal requirements** are necessary to create professional, ethical, inclusive, and equitable conduct, climate, and culture.

REVIEW:

- **Section 4 Elements** for additional information on best aims and evidence for the creation of policy beyond legal compliance.

13. Given the students and postdoc’s status as early career professionals, how could the behavior they encountered impact their career trajectories? What special concerns and challenges arise when implementing policies in incidents involving early career professional.

RESPONSE:

- Students and early career professionals are highly dependent on the good will of professors, advisors, and mentors as they seek to advance in academics and careers.
- Limited, competitive research opportunities are necessary to succeed, and are often largely controlled by one professor who can enhance or derail a student’s or early career professional’s prospects.
- While the limited number of opportunities speaks to the importance of faculty, post-doc, resident, and student mentorship and sponsorship, it also creates significant potential for abuse of power and requires high ethical standards, including clear boundaries between professional and personal relationships. The same can be said about the relationship among faculty at different stages of career and degrees of influence.
- Leaders or “stars” in the field can have an outsized role in decision-making. **ACTIONS**

TO PREVENT OR REMEDY

- Diminishing the power of single faculty members by providing central funding for student and early career professional enrichment opportunities, including meeting attendance, and providing mentoring committees rather than single mentors, can help minimize abuse of power by an individual. Assuring that mentoring committees include a broad diversity of experiences and identities of people can contribute to practices that are effective for all students—not only those with more social capital.

REVIEW:

- **Compendium/National Academies June 2018 Report**, Chapter 6 Changing the Culture and Climate in Higher Education/Diffusing Power Structure and Reducing Isolation
- **Societies Consortium 3/24/22 Hot Topics Webinar**: Engaging student and early career members in society leadership (access through **Library/Practical Implementation Tools**)