

Higher Education Compliance – 2022 Year in Review

SCCE Higher Education Compliance Conference

JUNE 9, 2022

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Welcome

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Higher Education Compliance 21-22: The Year in Review

1. The Great Resignation & Higher Education
2. Freedom of Speech & Academic Freedom
3. Maintaining Higher Education Information Security
4. Bullying in Higher Education
5. The War in Ukraine
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The Great Resignation & Higher Education



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The Great Resignation & Higher Education

2021 – 2022 Statistics

“The Great Resignation” has left universities and other institutions short-staffed.

430,000
jobs lost at public/private institutions between February and December in 2020¹

That deficit has now shrunk to
40,000
as of March 2022¹

35%
of institutions reported higher turnover rates²

UT Arlington lost
20%
of its financial aid office³

UNC School Systems faced a
77%
increase in turnover⁴

39%
of employees plan to quit their job unless allowed to work remotely⁵

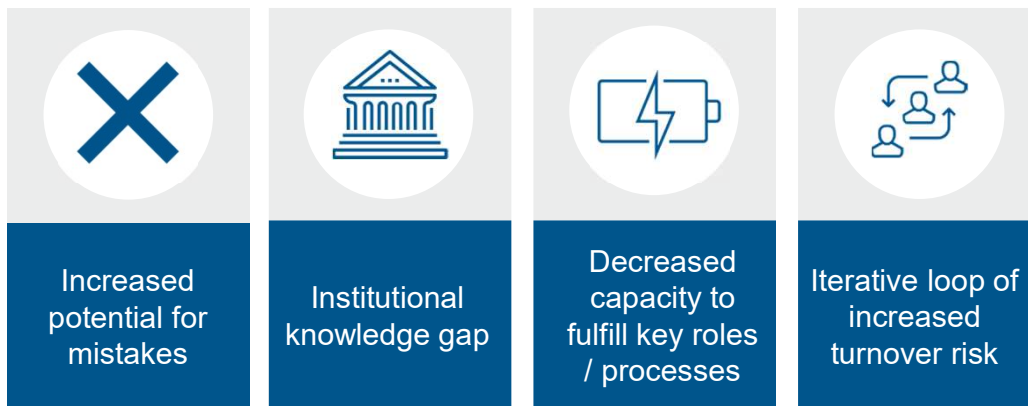
The average turnover rate of 125 different administrator positions was
34%
between 2018 and 2021⁶

Sources: ¹ [Chronicle.com](https://www.chronicle.com) | ² [PlanSponsor.com](https://www.planponsor.com) | ³ [InsideHigherEd.com](https://www.insidehighered.com) | ⁴ [Chronicle.com](https://www.chronicle.com) | ⁵ [ChangingHigherEd.com](https://www.changinghighered.com) | ⁶ [Higher Education Publications](https://www.highereducationpublications.com)

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The Great Resignation & Higher Education

Compliance Linkage



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The Great Resignation & Higher Education

Institutional Response

“In the end, schools can pay now -- by hiring and retaining staff -- or pay later, when they are found out of compliance and face possible federal fines and penalties.”
- Justin Draeger, CEO/President of NASFAA¹



Focus training materials and efforts to provide smoother, less stressful onboarding of new employees



Cross-train employees and develop transition materials to mitigate dangers of turnover and to retain institutional knowledge

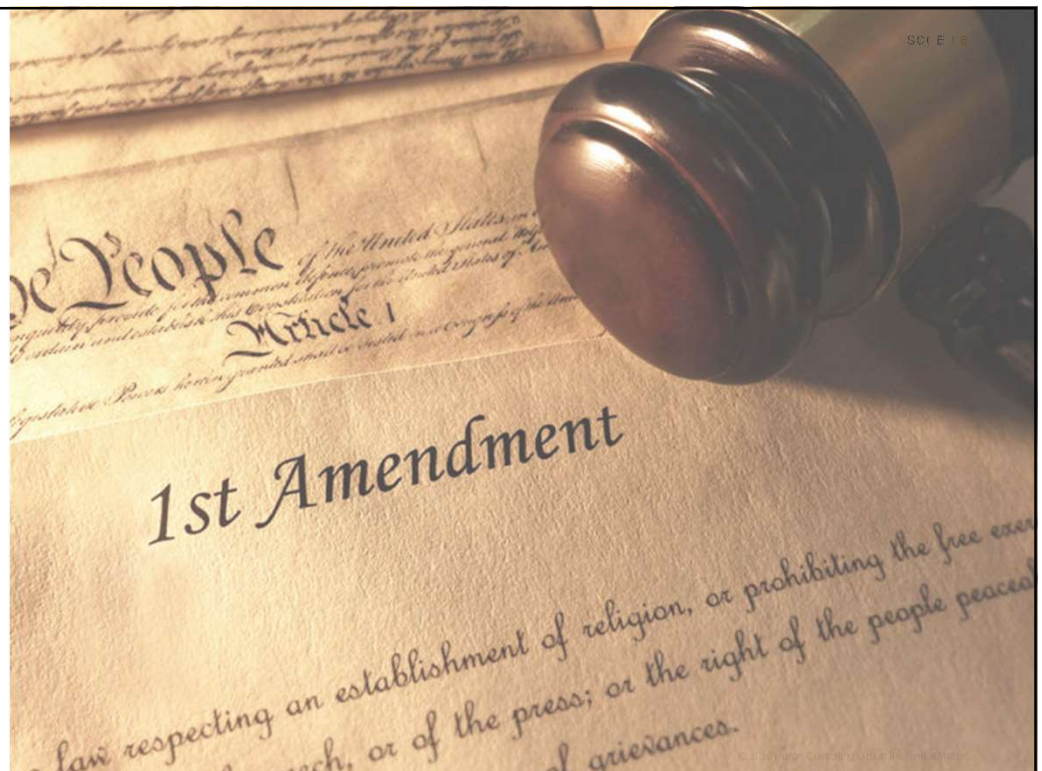


Expand recruitment to both experienced personnel (from retirement?) and college students to be employed immediately after graduation

Source: ¹ [InsideHigherEd.com](https://www.insidehighered.com)

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Freedom of Speech & Academic Freedom



Freedom of Speech & Academic Freedom

2021 Case Study

- UNC Board of Governors **denied tenure for Nikole Hannah-Jones**
 - Allegedly due to her co-creation of the **1619 Project**
- In response, students and community members hosted protests on campus
 - NHJ retained legal counsel, stating the university **"...seeks to prohibit the free exchange of ideas, silence Black voices and chill free speech."**¹
 - UNC altered its decision after public backlash and legal threats.



Source: ¹[NYTimes.com](https://www.nytimes.com)

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Freedom of Speech & Academic Freedom

2021 Case Study

- Multiple professors **sued the University of Florida** for violating free speech rights by trying to prevent them providing expert testimony in a state voting rights case.
 - Compliant: **Violation for First Amendment** rights
 - University is **discriminating based on viewpoints to be expressed** and preventing their expert testimony on issues of overwhelming public importance.
 - **Board of Trustees:** Faculty members had "taken advantage of their positions" by using their university jobs "to improperly advocate personal political viewpoints to the exclusion of others."



Source: ¹[The Gainesville Sun](https://www.gainesville.com)

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Freedom of Speech & Academic Freedom

Conduct an Institutional Risk Assessment


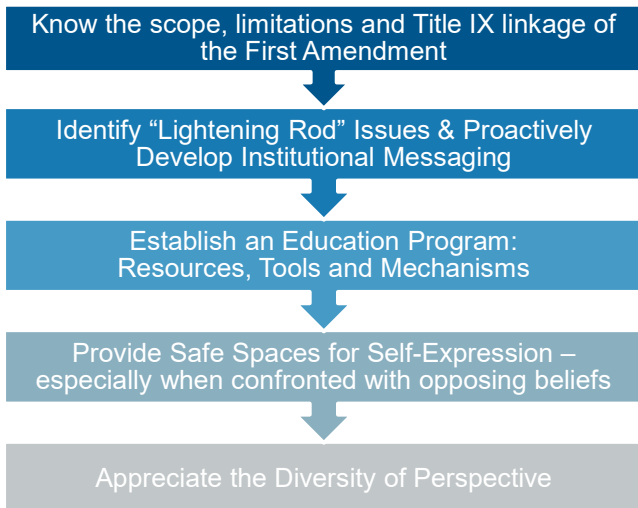


Freedom of Speech & Academic Freedom

Institutional Response

"Academic administrators, students, and even professors risk “cancellation” when expressing viewpoints deemed unacceptable by the progressive ideologues ruling our colleges and universities."

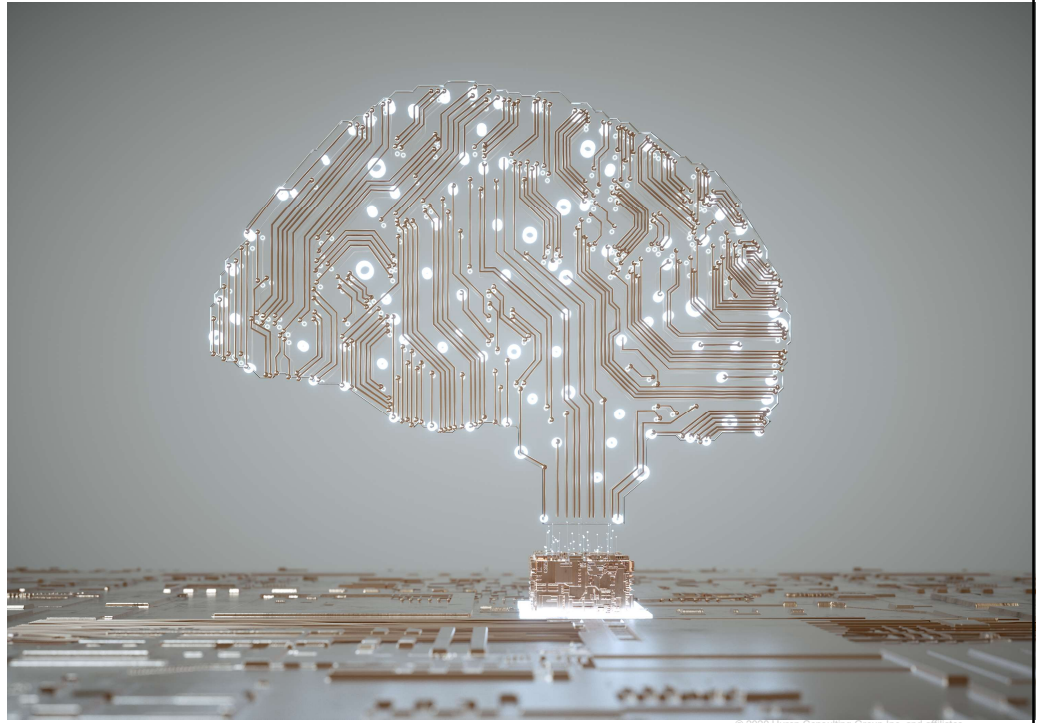
National Association of Scholars,
David Acevedo

Source: ¹ InsideHigherEd.com

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Maintaining Higher Education Information Security



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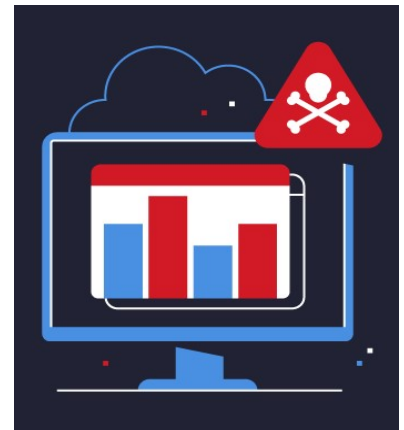
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Maintaining Higher Education Information Security

Selection of 2021 Case Studies

- **August 15, 2021:** California State University Chico student records data breach on confidential information from COVID-19 vaccine exemptions for religious purposes¹
- **September 7, 2021:** Howard University Ransomware Attack²
- **March 7-11, 2021:** North Carolina A&T Ransomware Attack over Spring Break³
- Additional Universities and Colleges hit with ransomware this year:
 - Ohlone College
 - Savannah State University
 - University of Detroit Mercy
 - Centralia College
 - Phillips Community College of the University of Arkansas
 - National University College



Sources: ¹ [LATimes.com](#) | ² [NYTimes.com](#) | ³ [TheRecord.Media](#)

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Maintaining Higher Education Information Security

The Federal Landscape & Institutional Obligations

October 2021

- The DOJ announced a new Civil Cyber-Fraud Initiative to **hold accountable entities** which put U.S. information or systems at risk by knowingly misrepresenting their cybersecurity practices or protocols/**violating their obligation to monitor and report cybersecurity incidents** and breaches.

Federal Contracts

- FAR and DOD contracts frequently include **clauses that require contractors to maintain internal controls** and conduct due diligence to prevent and detect criminal conduct, or to **“rapidly report” discovery of any cyber incidents within 72 hours**

Federal Grants

- The Uniform Guidance contains provisions which could be triggered by a cyber breach or **other prohibited actions that resulted in a breach**

New enforcement focus on mandatory incident reporting requirements increases risk for universities, who are frequently the target of cyber attacks

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Maintaining Higher Education Information Security

Institutional Response

"This is a critical moment to accelerate our work to improve domestic cybersecurity and bolster our national resilience."

Statement by President Biden on our Nation's Cybersecurity March 21, 2022¹

Develop Response Plan

Document Reporting Methods

Train (and Practice)

Engage Assistance (if needed)

Source: ¹[WhiteHouse.Gov](https://www.whitehouse.gov)

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Bullying in Higher Education



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Bullying in Higher Education

Background (and Compliance Linkage)

Bullying is unwanted, aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time.¹

- Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and the Americans with Disabilities Act of 1990 (ADA)²
 - No federal laws address bullying specifically but there is overlap with discriminatory harassment under civil rights laws enforced by U.S. Department of Education.
 - States differ in legislation passed for bullying, hazing, and harassment for students and workplace harassment for employees.
 - Bullying can be verbal, social, or physical.
 - ✓ Cyberbullying is usually addressed in the same manner

Sources: ¹ StopBullying.gov | ² EEOC.Gov

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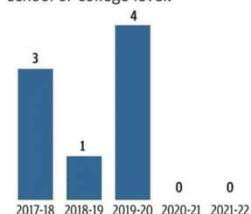
Bullying in Higher Education

2021 Case Study

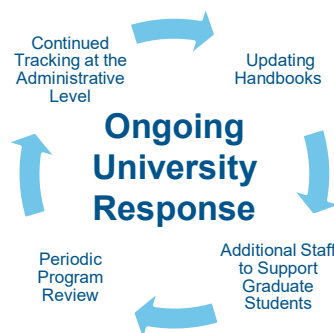
University of Wisconsin-Madison

UW-Madison faculty bullying cases

The Provost's Office investigated and substantiated eight cases of hostile and intimidating behavior since 2017. Other cases determined not to be egregious enough to be referred to the Provost's Office were investigated at the school or college level.



Source: UW-Madison Lee Enterprises graphic



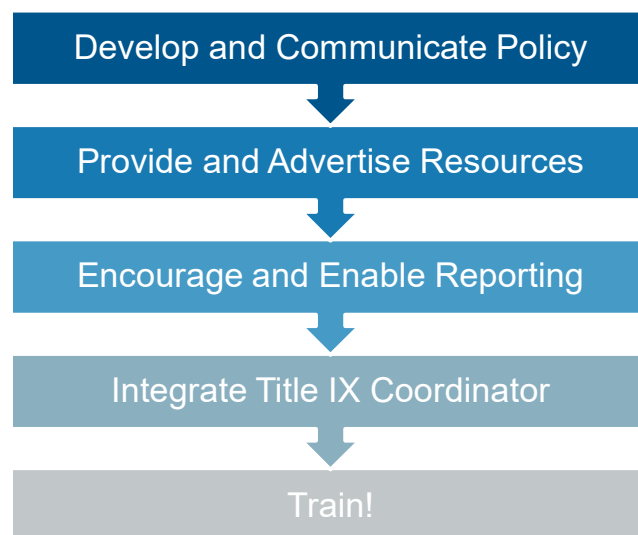
Source: ¹ Madison.com

Bullying in Higher Education

Institutional Response

“We must address instances of hostile and intimidating behavior (HIB) head on, particularly in relationships where power differentials exist...”

UW-Madison Chancellor



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The War in Ukraine



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The War in Ukraine

Background

The war in Ukraine extends into the world of higher education – especially due to sanctions placed on Russia in response to the war.

- MIT has dissolved its partnership with the Skolkovo Institute of Science and Technology¹
- Scholarly conferences to be held in Russia have been canceled.
- Academic journals are refusing to publish papers from researchers at Russian institutions.¹
- Universities have moved (or have plans) to withdraw funding from Russian holdings as urged by Governors in Colorado, Arizona, Virginia, and Ohio.¹
- **The suggestion that some or all Russian students should forfeit the opportunity to study in America has drawn new attention to the role of universities in global disputes.²**

Sources: ¹ [Chronicle.com](https://www.chronicle.com) | ² [NPR.org](https://www.npr.org)

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The War in Ukraine

Background (and Compliance Linkage)

Federal regulation updates affect international collaboration and create a need for universities to update their risk-based export compliance programs.

- The Bureau of Industry and Security / Department of Commerce has added new Russia license requirements and licensing policies to the Export Administration Regulations (EAR)
 - In alignment with Russia's updated designation in International Traffic in Arms Regulations (ITAR), further restrictions are now in place under Export Administration Regulations (EAR)
 - The Russia foreign "direct product" rules establish license requirement for all items on the Commerce Control List (CCL).

Sources: 1 [FederalRegister.Gov](https://www.federalregister.gov)

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The War in Ukraine

Conduct an Institutional Risk Assessment

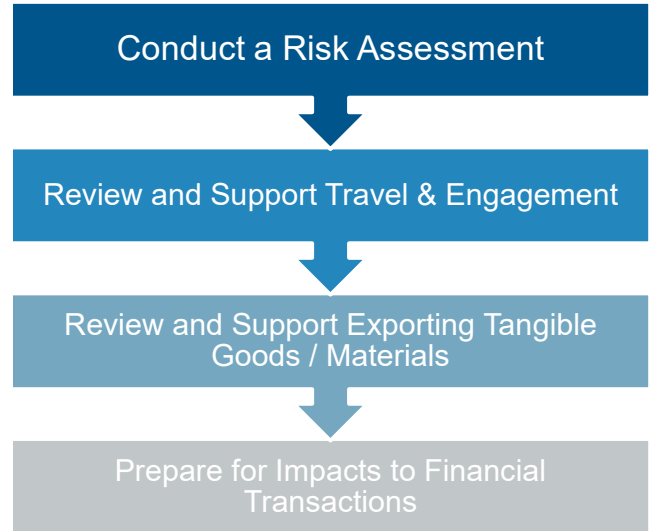


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The War in Ukraine

Institutional Response

"In our country, we do not punish children for the crimes of their parents... You have to think carefully about the consequences of targeting people because of their country of origin."
- Barbara Snyder, president of the American Association of Universities¹



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Taking Action in 2022



Getting Work Done in a Rule-Based World

A compliance program is inherent in the culture of an organization that carries a message to the community and demonstrates commitment to doing the right thing, and righting wrongs that arise.



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Thank You!

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