

Snowmass2021 - Letter of Interest

[Community Support for Enforcing Collaboration Codes of Conduct]

CEF Topical Groups: (check all that apply /■)

- (CEF1) Applications & Industry
- (CEF2) Career Pipeline & Development
- (CEF3) Diversity & Inclusion
- (CEF4) Physics Education
- (CEF5) Public Education & Outreach
- (CEF6) Public Policy & Government Engagement
- (Other) *[Please specify frontier/topical group(s)]*

Contact Information:

Erica Smith
Indiana University, Bloomington
ess3@iu.edu

Authors: Ashley Back¹, Robert Bernstein², Kirsty Duffy², Erin V. Hansen³, Michelle J. Dolinski⁴, Mark D. Messier¹, Lisa Kaufman⁵, Naoko Kurahashi Neilson⁴, Kendall Mahn⁶, Thomas Rainbolt¹, Kate Scholberg⁷, Erica Smith¹, Erica Snider², Jon Urheim¹, Lindley Winslow⁸, Jeremy Wolcott⁹, Justin Vasel¹

Abstract: Sexual harassment is unfortunately common within STEM fields. In physics, sexual and sexist harassment is experienced by 3/4 of undergraduate women; this harassment decreases sense of belonging which is a key factor in the retention of women in the field [1]. Collaborations within high energy physics have recognized this and responded by creating codes of conduct. However, collaborations have little power to conduct investigations or impose meaningful disciplinary actions, and institutions where incidents take place may not take up cases if involved members are not part of their immediate community. This institutional betrayal only serves to retraumatize victims of harassment and assault within our community. This LoI reflects the need for consistent codes of conduct empowered and enforced by policies across the field to acknowledge and address this systemic issue. We suggest improvements for community discussion, guided by the NASEM [2] report.

¹Indiana University, Bloomington

²Fermilab

³University of California, Berkeley

⁴Drexel University

⁵SLAC

⁶Michigan State University

⁷Duke University

⁸Massachusetts Institute of Technology

⁹Tufts University

Sexual harassment is unfortunately common within STEM fields. A 2018 report from the National Academies of Sciences, Engineering, and Medicine (NASEM) on Sexual Harassment of Women stated that 58% of women academic faculty and staff and 20-50% of women students experienced sexual harassment [2]. In a 2015 study of 474 astronomers and planetary scientists, 30% of women reported that they felt unsafe in the workplace because of their gender and 13% of women reported skipping professional events because they did not feel safe attending [3]. This is an extraordinary loss of professional opportunities. A 2017 survey of undergraduate women in physics *conducted at APS CUWiP* reported 74.8% had experienced at least one form of sexual harassment [1].

Anecdotally, many of us have heard that “this isn’t happening in our collaboration” from individuals who have not personally been harassed or heard reports of harassment. The reality is that collaborations are a subset of a field in which harassment and unwelcoming and unsafe environments are well documented. Regardless of whether official reports have been made to collaboration leadership, harassment is certainly happening.

Many collaborations have implemented codes of conduct, a necessary first step toward a safer working environment. These codes have been successful in raising awareness of the issues and effective in addressing less severe violations. Though these codes often include potential disciplinary measures for severe violations, collaborations may be unable to follow through with these measures as they often require assistance from outside institutions which may be unwilling or unable to provide the support needed. If collaborations do not have the means to enforce sanctions for severe violations, this may lead to additional harm via institutional betrayal; this refers to wrongdoings perpetrated by an institution upon individuals dependent on that institution, including failure to prevent or respond supportively to wrongdoings (e.g. sexual assault) committed within the context of the institution [4]. Institutions who cannot support those reporting misconduct have the power to cause additional harm to survivors; women who report institutional betrayal surrounding an experience of sexual harassment or assault have more trauma-related symptoms than those reporting in a supportive environment [5]. When codes of conduct are unenforceable, collaborations become an unsupportive environment.

Furthermore, the greatest predictor of the occurrence of sexual harassment is organizational climate, evaluated on three elements: (1) perceived risk to those who report sexual harassment, (2) a lack of sanctions against offenders, and (3) the perception that a report of sexual harassment will not be taken seriously [2]. Without the ability to enact sanctions, we risk collaborations being an environment in which sexual harassment flourishes despite the existence of a code of conduct.

This LoI reflects on the need for our community to address recommendations 3 and 4 from the NASEM report in order to enforce potential disciplinary actions put forth in many collaboration codes of conduct: institutions moving beyond legal compliance to address culture and climate, and improving transparency and accountability. As a community, we need to pressure institutions to implement policies that go beyond symbolic legal compliance, which protect institutions from legal liability but do not prevent harassment. These institutions need to develop “clear, accessible, and consistent policies” on harassment and standards of behavior which should include “a range of clearly stated, appropriate, and escalating disciplinary consequences” for those found to have violated policies and/or law [2].

Inability to execute disciplinary actions: Disciplinary actions taken should correspond to the severity and frequency of the harassment [2]. In theory, a variety of possible actions may be taken for violations, including: leadership speaking to the perpetrator, mediation, temporary or permanent removal from in-person meetings, temporary or permanent removal from authorship lists, or removal from the collaboration. In practice, many of these actions are not possible. Collaborations do not have trained mediators on hand, nor the money to hire one. One might look within the collaboration for a mediator; however, the tight-knit nature of collaborations make navigating such relationships difficult, if not impossible, resulting in biased mediation. Other, more serious disciplinary action that might have consequences for a collaborator’s career require an investigation, lest the collaboration governing body who implements these disciplinary actions be at risk for legal action.

Barriers to performing an investigation: Collaborations are not able to perform their own investigations into violations of codes of conduct as they do not have trained investigators, and physicists are in no position to be

investigating their peers, especially if the misconduct was egregious.

Outsourcing the investigation is, in practice, quite difficult. Collaborations with member institutions from all over the world have regular in-person meetings at single participating institutions¹⁰. If there is an incident at an in-person meeting, the likelihood that this happens between two collaborators who are not members of the host institution is high. Who is then responsible for the investigation? Under existing policies, the host institution is unlikely to investigate if neither collaborator is associated with that institution. As many institutional procedures protect the liability of the institutions [2], the victim's and the perpetrator's institutions may not investigate.

National labs hosting our experiments may be the only legal entity that collaborators have in common, and one might hope that these labs would investigate violations of codes of conduct. However, they are not obligated to investigate if neither collaborator is an employee of the lab. Some labs do state that they will treat issues between visitors of the lab in the same way as issues between employees of the lab, but this is not consistent between all labs, and investigations of harassment should not depend on the generosity of a lab. Often, experiences with human resources and legal counsel leave an impression that their objective is to protect the institution, and that resolutions to such cases prioritize the institution over victims [6, 7]. In many instances, this may mean that it is best, from the standpoint of institution representatives, for the institution not to handle the case.

Shortcomings of outsourced investigations: Assuming that a lab is willing to investigate, many labs are not equipped to handle egregious cases of harassment or assault, nor able to prevent retaliation after reporting. Victim-centered approaches seek to minimize retraumatization associated with an investigation by providing victim advocates and other services, engaging victims throughout the process, and giving victims the opportunity to be involved in forming disciplinary actions. Existing policies differ between labs and often do not take any of these factors into consideration; this results in unbalanced investigations strongly dependent on where the incident took place. Lab-based disciplinary measures may be limited to restricting site or computing access. Because removal of computing privileges is in effect removing the ability of a collaborator to continue to work, labs may be hesitant to take these steps. Furthermore, because of privacy issues, labs may not be able to send the findings of the investigation to collaborations who could take less drastic action.

An independent third party investigator could provide a report to collaboration leadership, who could then vote on disciplinary measures. However, collaborations do not have funding allocated for this. It may be possible to request money from funding agencies, but as it would be requested on an as-needed basis, collaborations would need to wait until the money is available before hiring an investigator. In addition, someone from the collaboration will need to seek out an investigator; there are no investigators on retainer at institutions or labs.

Conclusions: Many collaborations have created codes of conduct to address systemic issues within the community. Such codes are laudable and may be useful for less severe violations, but without reliable access to an investigative body, collaborations cannot enforce disciplinary actions for severe violations. This leaves victims with no recourse. We support existing codes of conduct, but must acknowledge that unenforceable disciplinary measures lead to a climate in which harassment flourishes and victims experience greater trauma. This is not a failure of the code of conduct, but rather systemic issues which make enforcement impossible.

It is important to note that the authors of this LoI are not experts in sexual harassment in physics. Because of this we suggest potential improvements, to be discussed as a community, guided by the NASEM report. Some possible implementations include: labs lowering the threshold for disciplinary actions and increased transparency regarding the nature of investigations that have taken place and how many have resulted in sanctions; funding agencies providing easy access to funding for third party investigators, or keeping an investigator on retainer themselves for collaboration use; professional organizations supporting calls for disciplinary action in their codes of conduct and following through with removal of perpetrators from conferences and workspaces; funding agencies providing mechanisms through which individuals can report misconduct, then executing disciplinary actions.

¹⁰This LoI does not address the case where collaborations send junior scientists to non-member institutions for workshops or summer schools where violations can occur, but one can imagine the same difficulties with investigation and enforcement in such situations.

References

- [1] Lauren M. Aycock, Zahra Hazari, Eric Brewwe, Kathryn B. H. Clancy, Theodore Hodapp, and Renee Michelle Goertzen. Sexual harassment reported by undergraduate female physicists. *Phys. Rev. Phys. Educ. Res.*, 15:010121, Apr 2019.
- [2] National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. The National Academies Press, Washington, DC, 2018.
- [3] Kathryn B. H. Clancy, Katharine M. N. Lee, Erica M. Rodgers, and Christina Richey. Double jeopardy in astronomy and planetary science: Women of color face greater risks of gendered and racial harassment. *Journal of Geophysical Research: Planets*, 122(7):1610–1623, 2017.
- [4] Melissa Platt, Jocelyn Barton, and Jennifer J Freyd. A betrayal trauma perspective on domestic violence. *Violence against women in families and relationships*, 1:185–207, 2009.
- [5] Carly Parnitzke Smith and Jennifer J. Freyd. Dangerous safe havens: Institutional betrayal exacerbates sexual trauma. *Journal of Traumatic Stress*, 26(1):119–124, 2013.
- [6] Ellen Peirce, Carol A. Smolinski, and Benson Rosen. Why sexual harassment complaints fall on deaf ears. *The Academy of Management Executive (1993-2005)*, 12(3):41–54, 1998.
- [7] Rebecca Greenfield. Why Your HR Department Can't Stop Sexual Harassment. *Bloomberg*, October 2017.