

**To: MPSA Membership**

**From: Sarah Binder (MPSA president) and Gretchen Casper (Council Member, 2018-21)**

**Re: MPSA Council findings and recommendations regarding complaint of misconduct**

**Date: September 8, 2019**

## BACKGROUND

On February 11, 2019, Complainant #1 filed a complaint with the Midwest Political Science Association (MPSA) Council. Complainant #1 alleged that the MPSA executive director (William Morgan), then president (Professor Elisabeth Gerber), then immediate past president (Professor Vincent Hutchings), and *AJPS* editorial board members under the previous *AJPS* editor, Professor William Jacoby, participated in a conspiracy with Professor Jacoby to defame and retaliate against Complainant #1 and Complainant #2 for filing complaints against Professor Jacoby in 2018 about inappropriate conduct. Under the then-operative MPSA [Council Member's Code of Conduct](#), the Council's president-elect and two vice presidents appointed a task force of the Council to conduct an investigation of the complaint.<sup>1</sup>

Complainant #1's letter caused MPSA to put its insurance carrier on notice of a possible claim under one of the MPSA's insurance policies. This led the task force to engage (through MPSA's insurance carrier) attorneys from the law firm O'Hagan Meyer of Richmond, VA, to review the actions of the MPSA officers and *AJPS* board members identified in Complainant #1's complaint.<sup>2</sup> O'Hagan Meyer provided an investigatory report on June 27, 2019 (and issued a final report with a non-material revision on August 8, 2019). The report is available to MPSA members.

The task force deliberated over the findings of the O'Hagan Meyer investigatory report on July 2, 2019, and emailed preliminary findings and recommendations to each of the affected parties on July 30, 2019, inviting their responses to the investigatory and task force reports. Following the process adopted in April 2019 and described below, the affected parties were given fourteen calendar days (with a deadline of August 14, 2019) to provide a response to the task force. Professors Hutchings and Gerber, as well as Executive Director Morgan, each responded to the task force report before August 14. As of September 10, 2019, Complainant #1 had not responded. The task force considered the responses received and generated a revised report on August 15, 2019, for consideration by the MPSA Council during its meeting in Washington, D.C. on August 30<sup>th</sup>, 2019.

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<sup>1</sup> The Code of Conduct assigns the immediate past president, president, and president-elect responsibility for appointing a task force. However, because Complainant #1's charge named the president and immediate past presidents as targets of the complaint and because the complaint did not name then president-elect (Sarah Binder), Professor Binder worked with the two most senior MPSA Council vice presidents to name a task force. Consistent with Recommendation #3 of this report, the MPSA Council has instituted a Committee on Professional Ethics to handle future complaints.

<sup>2</sup> The insurance carrier selected the O'Hagan Meyer firm.

## TASK FORCE MEMBERS

Sarah Binder (MPSA president, 2019-20)  
Gretchen Casper (MPSA Council, 2018-2021)

## PROCESS

At the MPSA Council meeting in Chicago in April 2019, the Council adopted in executive session a resolution that created a process for handling Complainant #1's complaint. The process established that the task force would review the O'Hagan Meyer investigatory report and determine whether any misconduct had occurred, and would grant the parties the opportunity to review and provide feedback (within fourteen calendar days) regarding the task force's preliminary decision. After reviewing any responses to the preliminary decision, the task force was charged with either affirming or modifying its preliminary finding.

Pursuant to the resolution, the task force drafted a revised report on its final decision and recommendations. The Council met on August 30<sup>th</sup>, 2019, to review and vote on the task force's decision and recommendations. By majority vote, the Council adopted the recommendations in full (subject to revisions).

No party associated with the complaint participated in the Council's adoption of the process for handling the complaint, the Council's consideration of or vote on the task force findings or recommendations, or the Council's mandated revisions.

## TASK FORCE FINDINGS

Complainant #1 charged that Professor Gerber, Professor Hutchings, and Executive Director Morgan conspired with Professor Jacoby and the former *AJPS* editorial board to defame and retaliate against Complainant #1 and Complainant #2 for filing complaints against Professor Jacoby in 2018 that alleged misconduct by Professor Jacoby prior to becoming editor of *AJPS*. Informed by the O'Hagan Meyer investigatory report, the task force makes the following findings:

1. The task force finds that Professor Jacoby abused his position as editor of *AJPS* (and thus as a member of the MPSA Council) by improperly using the journal's public website to deny the sexual harassment accusations against him.
2. Based on the legal analysis detailed in the investigative report, the task force finds no evidence for Complainant #1 charge of a conspiracy between the Council and its officers, the *AJPS* editorial board, and Professor Jacoby to defame or retaliate.
3. The task force finds that no MPSA Council member or officer—including then President Gerber—viewed, consented to, approved of, nor ratified the text of the message that Professor Jacoby posted on the *AJPS* website that included his denial of the harassment allegations against him. We find that MPSA leadership did have knowledge that

Professor Jacoby intended to issue *some* general public statement about his resignation. Professor Jacoby emailed Professor Gerber on April 11, 2018, that he intended to pare down a message he had emailed to the *AJPS* editorial board and post the modified message to the journal website. Professor Jacoby asked Professor Gerber whether she wanted to review the pared down post, and she declined. However, despite his indication that the message would be pared down, Professor Jacoby did not significantly revise the message. Instead, he posted a message to the *AJPS* website on April 17<sup>th</sup> that abused his power and moved MPSA leaders on April 18<sup>th</sup> to call for an emergency Council meeting on April 19<sup>th</sup> to dismiss him. (Professor Jacoby resigned effective immediately before the Council met that evening.)<sup>3</sup>

The O’Hagan Meyer investigatory report (Finding 15, p. 11) suggests that MPSA leaders did not—but could and should have—taken a more proactive approach to monitoring any public statements by Professor Jacoby on the matter. However, as the investigators correctly acknowledge, Professor Gerber believed that based on MPSA’s institutional culture, MPSA leaders lacked authority to prohibit Professor Jacoby from communicating the circumstances of his resignation given the independent nature of the journal and its editorial process. (Moreover, MPSA leaders trusted that Professor Jacoby would exercise discretion and pare back his message as he stated that he intended.) The task force observes that neither MPSA by-laws nor long-established association norms explicitly provide such responsibility or authority to the MPSA president to authorize or prohibit communications made by the *AJPS* editor in his/her professional capacity. Nor has the MPSA Council, to the task force’s knowledge, ever given the MPSA president power to monitor and potentially censor such communications.

In hindsight, the outcome might have been different had there been a precedent of MPSA oversight of the editor of the journal and his/her use of the website.

4. The task force finds that more robust communication—with the MPSA membership, Council, and affected parties-- might have alleviated concerns raised by MPSA members and the complainants about MPSA’s handling of their investigation into charges of misconduct by Professor Jacoby in the winter of 2018 and his subsequent resignation in April 2018.

The task force recognizes that MPSA leaders felt constrained in the information it could publicly share regarding a potential legal and personnel-related matter, especially given the Council’s tradition of granting *AJPS* editorial independence and by the feeling amongst Council officers that formal Title IX investigations conducted by Michigan State University and the University of Michigan should be concluded prior to making a

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<sup>3</sup>The O’Hagan Meyer investigatory report states (p. 6) that “By this date, the Council was unanimous that Dr. Jacoby had abused his position as editor of the journal and had to be removed.” During the emergency Council meeting on April 19, 2018, the Council took one recorded roll call—voting unanimously to accept Professor Jacoby’s resignation.

decision regarding Professor Jacoby's editorship. Moreover, the MPSA's attorney emphasized that sensitive information regarding and learned during the investigation should not be publicized, leading MPSA leaders to be very cautious about what information they released. And in retrospect, the officers of the MPSA were placed in a difficult situation when asked to discipline and terminate an independent contractor in response to allegations of harassment that were not associated with nor contemporaneous with his editorship of the journal. Because it took some time for MPSA officers to understand their own role and the claims raised, some members of the Council were left in the dark about the decision-making process, and MPSA officers were criticized by those who wanted the Council to relieve Professor Jacoby from his role in a more timely and transparent manner.

Still, the task force finds that MPSA officers should have provided more information to its constituents about the ongoing issues it was facing and the investigation it was conducting. To be clear, MPSA leaders issued an initial statement in January 2018 stating MPSA's commitment to the highest standards of professional conduct from its officers and members. And they posted a subsequent statement in late March 2018 as events unfolded that winter and spring. However, MPSA leaders did not share with the MPSA membership as a whole their decision that-- given the slow pace of the universities' Title IX reviews-- MPSA's own counsel would conduct an investigation for the Council.

In hindsight, providing a procedural update to the membership during the winter of 2018 before the annual April meeting would have been appropriate to assure members that the charges of misconduct were being taken seriously, to demonstrate that the MPSA leaders were being proactive in light of the slow pace of the Title IX investigations, and to make clear that MPSA was committed to creating an environment where victims of harassment, bias, and/or discrimination could voice their concerns without threat of recrimination or reprisal. The task force acknowledges that MPSA officers' legitimate concerns about due process discouraged them from more frequent and public communications about the matter.

MPSA's silence during much of the investigation of Professor Jacoby was interpreted as a defense of Professor Jacoby and lack of support for Complainant #2 and complainants in general. The decision not to rush to judgment was interpreted by some members of the association as a lack of support for female political scientists who had suffered sexual harassment during their careers. Had MPSA communicated more quickly, more strongly and more frequently in the winter and early spring of 2018 that it wished to rely upon the results of the two Michigan investigations and/or conduct its own fact-finding investigation and for that reason would not be taking any immediate action, that might have assuaged parties who felt the MPSA should immediately fire Professor Jacoby. Instead, MPSA's perceived handling of these issues caused deep resentment among some members of MPSA that may have been alleviated with greater communication.

5. The task force finds that MPSA officers' efforts to be mindful of due process concerns while handling the investigation—coupled with the Council's deadlocking on a decision about Professor Jacoby's status in April 2018-- allowed Professor Jacoby to remain in a

position of power over the journal until he resigned just prior to the Council's emergency meeting in April 2018.

6. The task force believes that Professor Jacoby exploited and abused his position by using the journal's website to express his personal opinions regarding the accusations against him.

## RECOMMENDATIONS

The MPSA Council has agreed to take the following actions recommended by the task force.

1. Endorse and make available to the MPSA membership the final task force report and the O'Hagan Meyer investigatory report.
2. Issue a strongly worded statement that the MPSA takes sexual harassment—and those who report it—extremely seriously. MPSA will reiterate that MPSA leaders, members, and members of the discipline must work together to create an environment where victims of harassment, bias, and/or discrimination can voice their concerns without threat of recriminations or reprisals.
3. Finalize adoption of the MPSA's Committee on Professional Ethics (COPE). This committee will address complaints of ethical problems, personal abuse, and/or retaliation allegedly caused by political scientists during their professional capacity at the MPSA. Activities include the investigation and adjudication of complaints and counter-complaints made by: MPSA conference participants regarding the ethical conduct of other conference participants, and MPSA members' complaints about volunteers or leaders in the MPSA (including *AJPS* editors, staff and editorial board members) who are operating in their professional capacities. COPE will be informed by the principles detailed in APSA's Ethics Guide (2012) and will respond to any complaints relating to the MPSA Anti-Harassment Policy, the MPSA Council Member's Code of Conduct, and the Policy on Editorial Conflicts of Interests.
4. Adopt a statement regarding the relationship between the MPSA Council and *AJPS*. The statement will recognize that MPSA owns the journal and is thus broadly responsible for the journal's actions—while respecting the journal's editorial independence from the association (and the editors' legal status as independent contractors).
5. In light of the statement referenced in Recommendation #4, create a Publications Committee charged primarily with oversight of the governance of *AJPS* and any other relevant MPSA-related publications. The committee should propose criteria for terminating an editor's agreement and a process for handling issues that raise potential financial or legal implications for MPSA (if not already covered by COPE's ethics jurisdiction). The committee is empowered to recommend to the Council any new MPSA policies or amendments to the association's by-laws deemed necessary to implement changes. The exact makeup of the committee will be determined, but will likely be comprised of one MPSA Council member, the MPSA immediate past president or

previous past president, and one current member of the *AJPS* editorial board or former *AJPS* editor.

6. Affirmatively prohibit *AJPS* editors from posting personal statements on the *AJPS* website.
7. Continue to communicate to its members that MPSA has [adopted](#) new policies and procedures and will continue to evaluate mechanisms to ensure that any future concern regarding alleged unprofessional or unlawful conduct by one of its members or officers can be addressed more efficiently and more transparently.
8. Make the association by-laws accessible to MPSA members on the MPSA website.
9. Provide organizational support for MPSA's newly created [status](#) committees on gender and sexual minorities and on ethnic and racial minorities.
10. Change the MPSA officer roll-off date to the end of April (instead of the last day of the annual meeting). Because the annual meeting takes place in the beginning of April, changing the roll-off date to the end of April would allow a few weeks of transition for the outgoing president to handle any immediate issues raised at the annual meeting that may make for a smoother transition to the new president.
11. Require orientation for new MPSA Council members. During MPSA annual meeting in April, a one-hour session (most likely on Friday) will be held for all incoming members of the Council to inform them about the activities of MPSA, the role and responsibilities of Council members, the relationship between MPSA and *AJPS*, and general issues of board governance. Orientation for the conference program chairs (potentially extending to section heads if already selected) can be provided at the annual meeting of the APSA. Comparable orientation for *AJPS* editors and editorial board members could also in the future be required during transitions in *AJPS* leadership.
12. Contract with an outside firm to perform an audit of MPSA's non-financial compliance, governance, and risk management process and procedures to ensure the highest governance standards are being met and to help prevent unexpected future liability. The results will be used by both MPSA staff and the Council to inform future improvements in the by-laws and governance of MPSA.
13. Empower MPSA's Director of Communications to identify and propose crisis communications plans when needed that can then be approved by the Council.