

Conduct and Misconduct on Campus

The outset of a new academic year is an appropriate time for all members of the University community to reflect on their personal obligations to other members of the community. Over the course of the summer, we have given substantial thought to those obligations.

We have been aided by the insights of some 75 staff and faculty members who met over a two-day period last June, under the sponsorship of the Office of University Life. The group considered conduct on the campus, particularly in light of recent incidents involving both sexual exploitation and intolerance of racial, religious, ethnic, and sexual-preference differences. Many views were expressed, and understandably not all participants agreed on any single strategy to address the issues. The group was in agreement, however, that we must communicate more effectively our expectations for conduct that respects the essential dignity of every member of our community.

I.

We list here four matters on which the group reached substantial consensus followed by the steps already taken on those matters.

(1) *The University policies relating to personal conduct should be republished periodically.*: We are publishing the Sexual Harassment Policy and the Policy on Equal Opportunity with this memorandum and will do so again from time to time. We are also republishing excerpts from the Guidelines on Open Expression to emphasize that respect for the rights of others is consistent with and reinforces the freedom of thought and expression that is central to our mission as a university.

(2) *Each dean and administrative officer should stress to department chairpeople, administrators, faculty members, graduate students, and others, the importance of understanding and following the University policies on sexual harassment and nondiscrimination.* We have already discussed these matters with the deans and administrative officers, and each has undertaken to emphasize them in clear terms.

(3) *A special Task Force of faculty, students and staff should be appointed to review the range of possible further steps that might be adopted.* We agree and have requested the Faculty Senate, the Undergraduate Assembly, and GAPSA to nominate members to serve on this Task Force as we will do as well. We have asked Vice Provost Bishop to co-chair the Task Force with a faculty member. This body will begin meeting in September and we will ask its members to consider carefully how best to resolve the many questions that were raised at the conference. The Task Force will be expected to propose constructive solutions—not to reiterate problems that are well known. It will be asked to provide a report before the end of the term on its progress to date.

(4) *In the interim before the Task Force concludes its efforts, the University Administration should issue a statement concerning campus conduct.* We agreed and our statement follows.

II.

Any community depends on trust. No set of rules and regulations, no codes of conduct, can legislate or take the place of mutual respect. A willingness to recognize the dignity and worth of each person at the University is essential for membership in our community.

Incidents have occurred in the past on the campus that are contrary to this minimal standard. Some of those incidents evinced racial, ethnic, religious, sexual, or sexual-preference intolerance. Some involved unwanted sexual acts and remarks. In all of these cases, the actions violated the personal obligations we must maintain toward other members of our community.

Racial, religious, sexual, and ethnic slurs are inconsistent with the responsibility of each person on campus to respect the personal dignity of others. We do not, of course, expect everyone to like everyone else. We do, however, expect members of our University community to demonstrate a basic generosity of spirit that precludes expressions of bigotry.

Penn properly celebrates the diversity of its community. We come from many different backgrounds and include different races, religions, sexual orientations, and ethnic ancestries. Learning to understand the differences among us, as well as the similarities, is an important dimension of education, one that continues for a lifetime. Tolerance alone, however, is not enough. Respect and understanding are also needed. We should delight in our differences, should seek to understand them and appreciate the richness such diversity provides for our community.

Treating others with respect for their personal dignity also precludes behavior that we define as sexual harassment, a frequently misunderstood term. We use the term here, following the University policy, to mean "any unwanted sexual attention that: (1) involves a stated or implicit threat to the victim's academic or employment status; (2) has the purpose or effect of interfering with an individual's academic or work performance; or (3) creates an intimidating or offensive academic or work environment." The University policy strongly condemns such behavior. Sexual harassment most frequently happens when one person has some power and authority over another; it can occur in a workplace, in an academic department, in a residence hall, in a classroom, or elsewhere.

Because the relationship between teacher and student is central to the academic mission of the University, we believe it is essential to establish that the standard of expected conduct in that relationship goes beyond the proscription against sexual harassment as defined in the University's policy. No nonacademic or personal ties should be allowed to interfere with the academic integrity of the teacher-student relation. That integrity is at risk when sexual relations occur between them. What might appear to be consensual, even to the parties involved, may in fact not be so. On this basis, we believe that any sexual relations between any teacher and a

student of that teacher are inappropriate. In this category we include relations that may occur between a graduate student and an undergraduate when the graduate student has some supervisory academic responsibility for the undergraduate. Although we do not have the means to enforce an absolute prohibition against such relations, our judgment is that they are unethical.

In order to discourage such relations, in acting on complaints that come to our attention—at least until we have received and considered the advice of the Task Force—we will presume that any complaint of sexual harassment by a student against an individual is valid if sexual relations have actually occurred between them while the individual was teaching the student. The presumption might be overcome, but the difficulties in doing so would be substantial. In short, any teacher enters at peril into sexual relations with a student.

Many situations involving administrators, advisors, coaches, and others serving in mentor relationships also create the potential for abuses. By focusing particular attention on teachers and students, naturally we do not suggest that we countenance those abuses.

Student sexual misconduct in relation to other students is governed by the General Conduct Policy of the University: "All students of the University must conduct themselves at all times in a mature and responsible manner. The rights and property of all persons are to be respected regardless of time or place." A further question for the Task Force is whether more specific standards are needed regarding student misconduct concerning other students.

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To all members of the Penn community, we call for a year in which each of us helps to strengthen the human bonds of our community.

Sheldon Hackney *Tom Ehrlich*

REGULATIONS

OF RECORD



University Policy on Sexual Harassment

It is the purpose of this statement to reiterate the University's policy on sexual harassment and to identify the resources available to individuals who believe they have been subjected to such coercion. Provost's Memorandum #3-80, issued on May 6, 1980, defines the University's responsibilities in matters of sexual harassment:

"As an employer, the University seeks to ensure that the workplace is free from harassment. As an educational institution, the University's commitment to eradicating sexual harassment goes beyond the Equal Employment Opportunity Commission guidelines."

Sexual harassment in any context is reprehensible, and is a matter of particular concern to an academic community in which students, faculty, and staff are related by strong bonds of intellectual dependence and trust. Sexual harassment most frequently occurs when one person has some power and authority over another. For purposes of University policy, the term "sexual harassment" refers to any unwanted sexual attention that: (1) involves a stated or implicit threat to the victim's academic or employment status; (2) has the purpose or effect of interfering with an individual's academic or work performance; or (3) creates an intimidating or offensive academic, living, or work environment. The University regards such behavior as a violation of the standards of conduct required of all persons associated with the institution. Accordingly, those inflicting such behavior on others within the University setting are subject to the full range of internal institutional disciplinary action, including separation from the institution.

Any student, faculty member, or other employee who believes he or she is a victim of sexual harassment may report the complaint to his or her advisor or supervisor or to the supervisor of the person who is behaving objectionably; the individual who receives such a complaint has the responsibility to pursue the matter and may draw upon University resources. The person receiving the complaint must treat it as confidential, to be communicated only to the appropriate authorities. In addition, all persons who believe they are victims of harassment, including those who are reluctant to raise the matter with a supervisor, are encouraged to use the other avenues within the University through which guidance and counseling can be obtained, formal and informal complaints can be made, and corrective action, as appropriate, can be taken.

The following University resources and grievance mechanisms are available:

A. General Resources

1) The *Women's Center* will aid students, faculty and staff with counseling, advocacy, advice and referral concerning formal and informal avenues of redress in matters of sexual harassment. The Women's Center does not conduct investigations, and will keep all information confidential.

2) The *Office of the Ombudsman* exists to help resolve grievances of all members of the University community—students, faculty and staff—on a confidential and informal basis, and can assist persons with complaints about sexual harassment to decide on the course of action that they want to take. The office is independent of the University's formal administrative structure and grievance mechanisms. The Office of the Ombudsman may also be requested by the Office of Student Life to undertake a formal investigation of charges of sexual harassment of students (see B-1a below).

B. Additional Resources

1) *Students:* In addition to the General Resources listed in Section A above, students may call upon the following resources:

a) The Director of the *Office of Student Life* is responsible for dealing with student grievances arising under Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education. Grievances associated with student employment may also fall within the Director's purview. Complaints by students of sexual harassment may be made to the Director, who will supervise, or delegate to the Ombudsman, an investigation into the matter.

b) Student complaints of sexual harassment by faculty may be brought by the student or an advocate on behalf of the student to the department chair or dean of the faculty member. The appropriate *School Committee on Academic Freedom and Responsibility* may investigate the case, either on its own initiative or at the request of an academic administrator.

c) Victims of harassment may seek assistance from the *University Counseling Service*, *Gay and Lesbian Peer Counseling* and the *psychiatry section of the Student Health Service*. Contacts with these services are strictly confidential and may be particularly helpful to students desiring assistance in dealing with their feelings about their experience with sexual harassment.

2) *The University Staff and Faculty:* In addition to the General Resources listed in Section A above, nonacademic staff may utilize the formal grievance mechanism described in Personnel Policy #801. Faculty may utilize the Faculty Grievance Procedure described in the *Handbook for Faculty and Administration*.

—Thomas Ehrlich, Provost

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Guidelines on Open Expression (Excerpts)

The following excerpts (Parts I and III) of the Guidelines on Open Expression are printed at the request of the Committee on Open Expression. Part II deals with the makeup and responsibilities of the Committee on Open Expression, Part III sets forth the responsibilities of the vice provost for University life in maintaining the right of open expression under the guidelines, and Part V covers the application of the guidelines to non-University groups. The full guidelines are published in Intro To Penn and are available in the Office of the Secretary, 121 College Hall.

I. Principles

A. The University of Pennsylvania, as a community of scholars, affirms, supports, and cherishes the concepts of freedom of thought, inquiry, speech and lawful assembly. The freedom to experiment, to present and to examine alternative data and theories; the freedom to hear, express, and to debate various views; and the freedom to voice criticism of existing practices and values are fundamental rights which must be upheld and practiced by the University in a free society.

B. Recognizing that the educational processes can include meetings, demonstrations, and other forms of collective expression, the University affirms the right of individuals and groups to assemble and to demonstrate on campus within the limits of these guidelines. The University also affirms that right of others to pursue their normal activities within the University and to be protected from physical injury or property damage.

C. The University should be vigilant to ensure the continuing openness and effectiveness of channels of communication among members of the University on questions of common interest. To further this purpose, a Committee on Open Expression has been established as a standing committee of the University Council. The Committee on Open Expression has as its major task: monitoring the communication process to prevent conflicts that might emerge from failure of communication, recommending policies and procedures for improvement of all levels of communication, interpreting these guidelines, investigating alleged infringements of the right of open expression of any member or members of the University community, advising administrative officers where appropriate, and participating in evaluation and resolution of conflicts that may arise from incidents or disturbances on campus.

D. For the purposes of these guidelines, the "University community" shall mean the following individuals:

1. Persons who are in attendance as students or who have been in attendance in the past and are currently on an unexpired official leave of absence.
2. All persons who are employed by the University. This includes faculty, staff and administrative employees.
3. Trustees and associate trustees of the University.

E. For the purposes of these guidelines, a distinction is drawn between the terms "meeting" and "demonstration." A meeting is a gathering in a University facility previously reserved for the purpose. A demonstration is a gathering in a University facility not previously reserved for the purpose.

III. Standards

A. The right of individuals and groups peaceably to assemble and to demonstrate shall not be infringed.

B. The substance or the nature of the views expressed is not an appropriate basis for any restriction upon or encouragement of an assembly or a demonstration.

C. The University should permit members of the University community, upon suitable request, to use any available facility or meeting room for purposes of open or private discussion.

1. The policies and procedures for assigning University facilities should be determined by the president or his delegates.

2. The Committee on Open Expression should be consulted in the determination of the substance of the policies and procedures and the manner of their publication by the University.

3. The policies and procedures should specifically address situations involving groups composed entirely or predominantly of persons not members of the University community.

4. Before a request of a University group to use any facility is rejected, for reasons other than the prior commitment of the facility or the like, the president or his delegate should consult with the Committee on Open Expression to obtain the advice and recommendations of that body.

D. Groups or individuals planning or participating in meetings or demonstrations should conduct themselves in accordance with the following standards:

1. Conduct that causes injury to persons or damage to property or which threatens to cause such injury or damage, or which attempts to coerce action under threat of such injury or damage, is not permissible.
 - a. Demonstrations should not be held inside laboratories, museums, computer facilities, libraries, offices which contain records protected by law or by existing University policy such as educational records or student-related or personnel-related financial records or the like, because of the risk of loss, damage or destruction of rare or irreplaceable documents, collections or equipment.
 - b. Meetings and demonstrations should not be held in places where there is a significant hazard of fire or building collapse or falling objects.
 - c. Meetings and demonstrations should not interfere with the operation of hospitals, emergency facilities, communication systems, utilities, or other facilities or services vital to the continued functioning of the University.
2. Meetings and demonstrations should be conducted in a manner that keeps within reasonable bounds any interference with or disturbance of the activities of other persons. The reasonableness of conduct may be determined by such factors as the time and place of the demonstration and the general tenor of conduct.
 - a. Demonstrations should not be held inside libraries or private offices, or inside classrooms or seminar rooms in which meetings or classes are being held or are immediately scheduled.
 - b. Meetings and demonstrations should not interfere with free and unimpeded movement in and out of buildings and rooms and through all passageways. This will generally be satisfied if at least one-half of each entrance, exit, or passageway is free from obstruction of any kind.
 - c. Noise level is not of itself a sufficient ground for making a meeting or demonstration improper, but may possibly, in particular circumstances, interfere and disrupt the activities of others in an impermissible way.

OF RECORD



Policy Statement on Nondiscrimination

Over the past months I have been considering advice from many within the University community on whether to restrict the use of University placement facilities by organizations interested in recruiting our students.

After careful reflection, I have concluded that the wisest course is to assure that University placement facilities be available for use by any potential employer of University students, unless—in accordance with procedures of the University Career Placement Office—an investigation, following a complaint by a student, establishes that an employer has acted unlawfully in dealing with University students seeking employment.

The issues in this matter are extremely difficult because they involve conflicting principles. I am fully aware that different people on campus are strongly pulled in opposing directions by those differing principles, though it is somewhat heartening to note that one of the most serious clashes relates much less to ends than to the means to the realization of those ends. Thus, there has been little dissent from our intramural nondiscrimination policies; rather, disagreements have focused on (1) the extent to which the University should, and can with any practical effect, act as an agent of reform in the larger society, and (2) the extent to which, in affording access to its facilities, the University is implicated in practices that, although legal, are offensive to many in our community.

I have been most impressed by the depth of feelings and well-reasoned analyses expressed by students and faculty. The discussion in the University Council session last month was a particularly useful one. Basic principles were forcefully and eloquently expressed and the comments on the implications of applying those principles were thoughtful.

As the Provost stated at the Council session, he and I came to that meeting with working presumptions about several underlying issues. First, we presumed that the campus should be open, with minimum restrictions on access to our facilities. Second, we presumed that Penn should be very reluctant to take an institutional position on the restrictive employment practices of outside organizations if those practices are within the law.

As a corollary to our second presumption, we presumed that students should have access to the widest possible range of career as well as intellectual choices; we seek diversity both in our student body's composition and in the opportunities available to them.

As the Provost also stated at the Council meeting, we were open to arguments that might have controverted those presumptions. In fact, however, our inclinations in favor of our presumptions have been reinforced, not altered, by the comments in the Council's debate, as well as by those offered in the advice we have received from other sources.

The U.S. armed forces were a focus of attention during the past months because of their policies of limiting employment on the basis of sex, age, handicap, and particularly sexual preference. Those policies of the U.S. armed forces are not now illegal in Philadelphia or elsewhere. Like other employers whose policies differ from those established by the University for itself, the U.S. armed forces will, therefore, be allowed continuing use of the University's placement facilities.

At the same time, in order to promote maximum opportunity for Penn students, I will continue to urge that the armed forces review their restrictive employment policies, including those concerning enlistment and retention of homosexuals. I have already begun discussions with other universities and colleges looking toward development of a collective approach and will continue to encourage the American Council on Education to pursue its efforts on this issue.

I close by reaffirming my commitment to the University policies on nondiscrimination, which deal with the University's own conduct. I support those policies completely and will see that the University follows them.

—Sheldon Hackney, President

Brainstorming the Issues

At a June 21-22 retreat called by the Provost, some 75 faculty staff members explored campus conduct and ways to counteract misconduct. They recommended a high-level task force, and proposed some questions for its agenda — excerpted below from Dr. Kim Morrison's 11-page report (available from her at VPUL, 112 CH/CO). The President and Provost are now forming the task force, and invite comment or additional questions.

• **Adequacy of Mechanisms:** Are the present reporting resources adequate to ensure comfortable access for students, faculty, and staff with complaints? Is confidentiality sufficiently protected ...? Should there be a centralized mechanism to coordinate information flow? What is the most effective mechanism to conduct investigations ...? How much information about incidents and sanctions should be made available ... and by what means?

• **Education of the Community:** Should presentations be made to each school on campus of the kinds of incident information presented at the conference? What kinds of literature and orientation information would be most effective for introducing the subject of harassment and other offensive behaviors to new faculty, staff, and students on campus? How can we ensure that definitions are sufficiently understood so that harassment can be identified when experienced or when practiced? Is there need for a central source to coordinate all information relating to [such] education? What are the most effective ways to provide training for teaching assistants on expectations ... for department chairs and others in supervisory positions ... to promote ... to [an] environment ... free from insensitive behaviors?

• **Educational and Curricular Agenda:** Should the University take special 'time out' to introduce themes of sexism, racism and related issues in workshops, lectures and other formats, seeking the participation of the entire community? Should we explore the introduction of courses ...?

• **Examination of our Community:** With so many different lifestyles and residential options available to students on campus (e.g. quadrangle, high rises, fraternities), what is the best way to ensure that all of them contribute to the development of a sense of community and concern for others represented by the statement of community conduct standards? How can we encourage students to involve themselves actively in the eradication of racism, sexism, and other offensive behaviors? In the wake of the creation of special support resource groups for women, for minorities, for gays and lesbians, should we be encouraging the development of such a group for men to help them deal with their role in a changing society?