

A Summary of Key Policies at Penn

In the academic year 1986-87, as in the past, all continuing members of the faculty, staff, and student body should recall certain fundamental policies of the University—particularly those bearing on standards of behavior and fairness to one another. New policies appear in *Almanac* upon adoption, and are then incorporated into various reference manuals available to the faculty, staff and students. Some key policies are reprinted annually in *Almanac* to underscore their importance. To summarize the key policies:

The *Affirmative Action Policy* of the University of Pennsylvania applies to faculty and staff recruiting, appointments, and promotions, as well as to student recruiting and enrollment. One of our prime objectives as a university is to increase the numbers of women and minority faculty, students, and staff on campus. This policy, which appears in the *Handbook for Faculty and Academic Administrators* (page 17), is a key element in achieving that goal.

A second document, on *Conduct and Misconduct* on the campus, states certain obligations required for membership in the University community. Along with a third key document, the *Policy on Sexual Harassment*, the *Conduct and Misconduct* statement of 1983 helps to underscore and interpret the University's *General Conduct Policy* (found in various handbooks and bulletins), which reads: "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." Moreover, these two documents make explicit the obligations not only of students but of faculty, teaching assistants, administrators and support staff to recognize the dignity and worth of each person at the University. These policies can be found in the *Academic Bulletin* of each school and in *Policies and Procedures*.

All three of these were reprinted in an *Almanac Supplement* October 14, 1986, in conjunction with two new reports, offered For Comment, which propose new policies and procedures for dealing with sexual harassment and with racial or ethnic harassment. We urge you to review that supplement and express your views and suggestions.

The fourth policy is embodied in the *Guidelines on Open Expression*, which appears in the following two pages, in the *Handbook* (p. 79), the *Academic Bulletin* of each School and in *Policies and Procedures*. This policy sets out the ways in which we ensure full expression of views while limiting interference with the rights and activities of others. The policy is monitored by the University Committee on Open Expression. The Guidelines are undergoing review this year with a view to strengthening the protection of open expression and of the rights of others. Pending the results of this review, these are the rules we live by, and we urge all members of the University to familiarize themselves with the spirit as well as the letter of the Guidelines.

All of these policies are of central importance, and we ask that particular attention be paid to them to ensure a campus free of bigotry, misuse of power, or invasion of others' rights. The University also has numerous other policies and guidelines. Some of these originate internally, while others are codifications of public laws. Important examples are the University's alcohol and drug policies, which appear on page IV of this issue. The full policies can be found in the *Academic Bulletin* of each school and in the University's handbook on *Policies and Procedures*. All are available in the central offices of the Schools and non-academic centers and in department offices. All faculty and staff should be familiar with those that may be applicable to their work. For example:

Teaching and Research: A new policy in this area, on the *Protection of Students on Research Grants*, appears on page 10 of this issue, and will be incorporated into the next editions of the *Research Investigators Handbook*, *Handbook for Faculty and Academic Administrators*, and *Policies and Procedures*. Policies on conflicts of interest and on photocopying of copyrighted materials for educational purposes are reprinted in the 1983 edition of the *Handbook for Faculty and Academic Administrators* as is the University patent policy. Both also appear in the *Academic Bulletin* for Undergraduates and the *Research Investigators Handbook*. Questions concerning federal copyright law should be addressed to the General Counsel of the University, Shelley Z. Green, Esq., at 110 College Hall. Information for patent policies, assistance with patent processes, and on corporate-sponsored research can be obtained from the Director of Research Administration, Anthony Merritt, 409 Franklin Building.

Disclosure of Information: University policy on confidentiality of student records, which incorporates our policy in compliance with the Buckley Amendment, can be found in both the *Academic Bulletin*, the *Handbook for Faculty and Academic Administrators*, and *Policies and Procedures*. Confidentiality of records of faculty and staff is covered in the *Handbook for Faculty and Academic Administrators* and in the *Personnel Policy Manual*, issued to each University office by the Office of Human Resources, 737 Franklin Building.

All University policy documents, rules and regulations can also be examined at the Office of the Secretary of the University, 121 College Hall. As a first step, however, we urge that faculty members turn to their department offices, non-academic personnel to their administrative offices or the staff relations section of the Office of Human Resources, and students to the Office of Student Life.

Finally, the Office of the Ombudsman, Dr. Wesley Smith, is a key resource for questions concerning both rights and responsibilities of faculty, staff and students.



Guidelines on Open Expression

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.

II. Committee on Open Expression

A. Composition

1. The Committee on Open Expression consists of twelve members: five students, five faculty members, and two representatives of the administration.

2. Members of the committee are appointed by the steering committee in the following manner:

- a. Student members shall be nominated from undergraduate students, graduate students, and graduate professional students through existing mechanisms for each student body.
- b. Faculty members shall be nominated by the Senate Advisory Committee. The administration members shall be nominated by the president.
- c. Each member shall be selected for one year. Any individual may not serve for more than two consecutive terms.

3. The chair of the committee shall be selected by the steering committee from among the members of the Committee on Open Expression.

B. Jurisdiction

The Committee shall have competence to act in all issues and controversies involving open expression under these guidelines. The committee's responsibilities include, but are not limited to, the following:

1. Giving advisory opinions interpreting the guidelines at the request of an interested member of the University community. If the committee does not give a requested opinion, it should indicate its reasons for not doing so.

2. Reviewing administrative decisions made under these guidelines without prior consultation for any such rule to be effective.

3. Issuing rules for interpreting or implementing the guidelines. Before adopting a rule, the committee should hold an open hearing on the text of the proposed rule and receive the views of interested individuals or groups. An affirmative vote of eight members is required for any such rule to be effective.

4. Recommending to the University Council any proposals to amend or repeal the guidelines. An affirmative vote of seven members is required to make such recommendations.

5. Publishing an annual report to the Council and the University on the status of the committee's work in the University journal of record.

6. Advising administrative officials with responsibilities affecting freedom of expression and communication, including particularly the use of University facilities for meetings and the use of force to terminate a meeting or demonstration.

7. Mediating in situations that threaten to give rise to incidents that may possibly violate the guidelines.

8. Evaluating and characterizing incidents that have resulted or may result in a member or members of the University community's being charged with a violation of the guidelines. The committee shall not attempt to decide whether the individuals involved have in fact committed the acts charged, but rather whether the acts in question constitute a violation of the guidelines. This interpretation of the guidelines shall be conclusive in any disciplinary proceedings that may ensue.

9. Investigating and reporting on incidents alleged to have been an infringement of the right of open expression of a member or members of the University community.

- a. Such investigations may be initiated at the request of any member of the University community. If the committee decides not to proceed with a requested investigation, it shall give its reasons for not doing so to the requesting party.
- b. the committee shall attempt to discover and recommend remedies for any failures in communication that may have caused or contributed to the incident.
- c. As a result of such investigations, the committee may decide that the lines have been violated. Under such circumstances, all evidence gathered shall be provided to the judicial investigating officer, along with any conclusions the committee may draw based upon such evidence.

10. Adopting procedures for the functions of the committee, varied to suit its several functions, consistent with these guidelines. Procedures that are not wholly matters of internal committee practice shall be published in advance of implementation.

C. Procedures

1. Seven members of the committee constitute a quorum. No member may participate in the consideration or decision of an issue in which he or she is, or may become, involved.

2. The committee can authorize subcommittees, selected from its own members, to act for the committee in any matter except the issuance of rules interpreting or implementing the guidelines or the making of recommendations to amend or repeal the guidelines.

3. The committee shall respect the privacy of individuals as its general policy and shall maintain the right to declare the confidentiality of its proceedings.

- a. If a person appearing before the committee requests that his or her testimony or information be kept confidential, the committee shall consider such a request. The committee then shall determine whether to honor that request and shall inform that person of its decision before testimony is given.
- b. Minutes of particular committee meetings may be declared confidential by the committee or be so declared at the discretion of the chair subject to review by the committee.
- c. All committee documents containing confidential material, as determined by the chair, shall be clearly marked "confidential" and shall carry a warning against unauthorized disclosure. **continued past insert**

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.

IV. Responsibilities for Enforcement

A. It is the responsibility of the Vice Provost for University Life (hereafter referred simply as the "vice provost") to maintain the right of open expressions under these guidelines.

B. Observation of meetings or demonstrations, when deemed necessary by the vice provost to protect and maintain open expressions, shall be the responsibility of the vice provost, who may delegate such responsibility. This delegate shall have full authority to act in the name of the vice provost under these guidelines.

1. An observer shall announce himself or herself as such to those responsible for the meeting or leading the demonstration.

2. The vice provost shall attempt to inform the chair of the committee of upcoming meetings or demonstrations to which an observer shall be sent. The chair then may ask a member or members of the committee to accompany and advise the observer. Such a committee representative shall also be announced.

3. Except in emergencies, the vice provost's authority under these guidelines may not be delegated to employees of the University department of public safety. The role of public safety personnel at a meeting or demonstration is defined below, in section IV-C-3.

4. An observer or committee representative who attends a meeting or demonstration shall respect the privacy of those involved. If there has been no violation of these guidelines, other University regulations, or applicable laws, an observer, committee representative, or public safety employee who attends a meeting or demonstration shall not report on the presence of any person at such meeting or demonstration.

C. The vice provost or delegate at the scene may instruct anyone whose behavior threatens to violate these guidelines, the fire laws, and other laws, ordinances, or regulations relating to the use of University facilities to modify or terminate such behavior. Failure to obey such instructions promptly will in itself constitute a violation of these guidelines. Persons receiving such instructions who believe that the vice provost's instructions were not justified may subsequently appeal to the Committee on Open Expression for an opinion if and only if they comply with the instructions. Prompt compliance with instructions shall be a mitigating factor to any disciplinary proceedings for the immediate conduct to which instructions refer, unless the violators are found to have caused or consciously threatened injury to person or damage to property or to have demonstrated willfully in a protected area, as defined in III-D-1 and D-2 above.

1. When the vice provost or delegate considers that an individual or a group has violated the guidelines, he or she may request to examine their University identification. Failure to comply with this request is a violation of the guidelines.

2. In carrying out this responsibility for safeguarding the right of open expression, the vice provost shall obtain the advice and recommendation of the Committee on Open Expression whenever feasible.

3. a. The vice provost or delegate may request members of the department of public safety to attend meetings or demonstrations to help protect the open expression rights of those involved.

b. Any person acting as an agent of the department of public safety who attends a meeting or demonstration on campus shall be clearly identifiable as such and in normal duty uniform. (Arms may be carried if they are part of "normal duty uniform.")

c. Public safety personnel may also attend meetings or demonstrations when requested to do so by the person or group responsible for the event, when prominent public figures are involved, or when the director of public safety delegate determines that there exists an imminent danger of violence at the event.

4. Terminating a meeting or demonstration by force is a most serious step and is frequently a mistake, as this action may exacerbate existing tensions and may lead to personal injury and property damage.

a. Avoidance of injury to persons by the continuation of a meeting or demonstration is a key factor in determining whether it should be forcibly terminated. Property damage and significant interference with educational processes also are factors to be considered and may be of sufficient magnitude to warrant forcible termination.

b. Whenever possible, the vice provost should consult with the Committee on Open Expression before seeking a court injunction against those involved in a meeting or demonstration or calling for police action.

c. The vice provost or delegate should attempt to inform those involved that he or she intends to seek an injunction or call for police intervention before he or she does so.

d. When a meeting or demonstration is forcibly terminated, a full statement of the circumstances leading to the event should be published by the vice provost within the University.

D. The department of public safety shall not collect or maintain information about members of the University community, except in connection with alleged crimes, violations of University regulations, or as specifically authorized in writing by the president. This regulation shall not affect personnel information concerning current, past, or prospective employees of the department of public safety. (continued next page)

V. Non-University Groups

These guidelines address themselves explicitly to the forms of individual and collective expression on campus by members of the University community. These guidelines do not automatically extend and apply to groups composed entirely or predominately of persons not members of the University community. The extent to which privileges and obligations of these guidelines may be made applicable in particular circumstances and the regulation of the conduct of meetings and demonstrations by

such groups on the campus shall be determined by the vice provost; all participants in such meetings and demonstrations on campus are required to comply with instructions of the vice provost or delegate. Any decision made by the vice provost or delegate under this article made without prior consultation with the Committee on Open Expression may be reviewed by the committee at its discretion, and such decisions shall be binding and shall be complied with unless and until set aside by decision of the Committee on Open Expression.

The following is an excerpt of the University's policy on the use of alcohol. Other sections of the policy, including Resources and a Summary of Relevant Provisions of the Pennsylvania Liquor Code can be found in the Academic Bulletin of each school and in the University's handbook Policies and Procedures.

University Policy on Use of Alcohol

Introduction

The University of Pennsylvania seeks to encourage and sustain an academic environment that both respects individual freedom and promotes the health, safety and welfare of all members of its community. In keeping with these objectives, the University has established the following policy governing the possession, sale and consumption of alcoholic beverages on the University campus, and conforming to the laws of the Commonwealth of Pennsylvania (see summary of the Pennsylvania Liquor Code, below). Consistent with its educational mission, the University sponsors programs that promote awareness of the physical and psychological, social and behavioral effects of alcohol consumption. The University also assists its members in finding alternatives to alcoholic beverages for promoting social interaction and stress reduction, and it provides services and resources for community members who experience alcohol-related difficulties. Together, Penn's alcohol policy and programs are intended to encourage its members to make responsible decisions about the use of alcoholic beverages, and to promote safe, legal, and healthy patterns of social interaction.

Policy

1. The University permits lawful keeping and consumption, in moder-

ation, of alcoholic beverages on its property by persons of legal drinking age (21 years or above).

2. The use of alcohol by members of the University community and external groups of University-owned property and at University sponsored events is governed by the following provisions:

a. University funds may not be used to purchase alcoholic beverages that will be served to persons under the legal drinking age.

b. Individuals or groups sponsoring University events should take reasonable measures to ensure that alcohol is not sold, served, or made available to persons who are under the legal drinking age, or to persons who are obviously inebriated.

c. Publicity for University social events directed primarily toward students should not include advertising the availability of alcohol at these events.

3. Persons in charge of various University facilities should, in consultation with students and others, develop and implement guidelines consistent with this policy, for the use of alcoholic beverages in specific facilities.

4. While the University recognizes that alcohol plays a role in some social activities, it deprecates its misuse and abuse. Alcohol consumption will not be considered an excuse for misconduct, but rather an aggravating factor to the misconduct in question.

University Policy on Drug Use and Abuse

Drug Abuse

The use of narcotics and dangerous drugs on University premises, as elsewhere, is clearly illegal. The University neither is an arm of law enforcement nor will it shield students from the possible legal consequences of individual drug use. When occasions arise indicating drug traffic on campus that lead to student injuries, the University will cooperate with the appropriate law enforcement agencies. University staff members are concerned about the possible physical, emotional, and psychological effects of drug use on the individual user and about the impact that such use has on other members of the University community. Staff and students are working to develop educational programs that give information about the implications of drug use. Students are invited to consult the counseling and medical personnel of the University for confidential discussion of questions and problems encountered in this area.

The following is a brief review of activities related to drug abuse that are prohibited by state and federal law.

I. State Laws

A. The Controlled Substance, Drug, Device and Cosmetic Act, 35 Pa. C.S.A. Sec. 780-110 *et seq.* sets up five schedules of controlled substances based on dangerousness and medical uses. It prohibits the manufacture, distribution, sale, or acquisition by misrepresentation or forgery of controlled substances except in accordance with the act as well as the knowing possession of controlled substances unlawfully acquired. Penalties for violation of the act range from thirty days' imprisonment, \$500 fine, or both for possession or distribution of a small amount of marijuana or hashish, not for sale, to fifteen years or \$250,000, or both, for the manufacture or delivery of a Schedule I or II narcotic. Penalties generally are doubled for the second or any subsequent conviction or for distribution of controlled substances by adults (defined as persons over 21) who are not dependent on drugs to persons under 18 and at least four years their junior.

B. The Pharmacy Act of 1961, 63 Pa. C.S.A. Sec. 390-8 makes it unlawful to procure drugs by fraud, deceit, misrepresentation, or subterfuge or by

forgery or alteration of a prescription. The first offense is a misdemeanor, with a maximum penalty of one year's imprisonment, a \$5,000 fine, or both.

C. The Vehicle Code, 75 Pa. C.S.A. Sec. 3101 *et seq.*, which was amended effective July 1, 1977, prohibits driving under the influence of alcohol or of a controlled substance, or both, if the driver is thereby rendered incapable of safe driving. A police officer is empowered to arrest without a warrant any person who he or she has probable cause to believe has committed a violation, even though the officer may not have been present when the violation was committed. A person so arrested is deemed to have consented to a test of breath or blood for the purpose of determining alcoholic content, and if a violation is found it carries the penalties of a misdemeanor of the third degree, which include imprisonment for a maximum of thirty days.

II. Federal Laws

The federal drug laws, 21 U.S.C.A. Sec. 801 *et seq.*, are similar to the Pennsylvania Controlled Substance, Drug, Device, and Cosmetic Act, but contain, for the most part, more severe penalties. Schedules of controlled substances are established, and it is made unlawful knowingly or intentionally to manufacture, distribute, or possess with intent to distribute or dispense a controlled substance. If the substance is a Schedule I or II narcotic, the maximum penalties are fifteen years' imprisonment, a \$250,000 fine, or both, for the first offense. For subsequent offenses the maximum doubles. For a non-narcotic listed on Schedule I or II (including marijuana) the first offense maximum penalties are five years, \$15,000, or both. The distribution of a small amount of marijuana for no remuneration or simple possession of a controlled substance carries a maximum of one year's imprisonment, \$5,000 fine, or both, with the penalties for the second offense doubling. Probation without conviction is possible for first-offenders. Distribution to persons under twenty-one by persons eighteen or older carries double or triple penalties. There is also an established category of "dangerous special drug offenders," who may be sentenced up to twenty-five years. The import or export of any narcotic or of any non-narcotic controlled substance is also prohibited.