

UNIVERSITY of PENNSYLVANIA

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To the University Community:

Reprinted herein is the University's Harassment Policy, as published originally in the Almanac of June 2, 1987.

The intent of the policy is to make students, faculty and staff aware that means exist to address claims of racial and sexual harassment; and to make it clear that harassment at Penn will be dealt with in the firmest terms possible. I urge all members of our community to familiarize themselves with the policy, so that they know what resources are available to deal with incidents of harassment.

Within the next two weeks the Administration will publish further information on the implementation of the policy, specifically on the appointment and training of special advisors in the schools and administrative units. In the meantime, individuals with questions should contact Dr. Valarie Swain Cade, Assistant Provost, at 106 College Hall (x8-6841) or Dr. Barbara Butterfield, Vice President for Human Resources, at 737 Franklin Building (x8-6884.)

Sheldon Hackney

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Harassment Policy

I. Conduct

Our community depends on trust and civility. A willingness to recognize the dignity and worth of each person at the University is essential to our mission.

It is the responsibility of each person on campus to respect the personal dignity of others. We 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 to Penn 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 also are needed. We should delight in our differences, and should seek to appreciate the richness and personal growth which our diversity provides to us as members of this community.

The University is committed to freedom of thought, discourse and speech, and the attainment of the highest quality of academic and educational pursuits and daily work. Policies and regulations implementing this commitment include the Statement on Academic Freedom and Responsibility, the Guidelines on Open Expression, and the Code of Academic Integrity.

The University also has established policies on behaviors that interfere with these freedoms. Foremost among these policies is the University's Statement on Non-Discrimination, which prohibits discrimination on the basis of race, color, sex, sexual preference, religion, national or ethnic origin, handicap or disability.

The University has also adopted the following policies concerning racial and ethnic harassment and sexual harassment. The terms "harassment" and "sexual harassment" as used throughout are defined as a matter of University policy, and are not necessarily identical or limited to the uses of that term in external sources, including governmental guidelines or regulations.

II. Purposes and Definitions

A. Racial and Ethnic Harassment

1. Purpose

Racial and ethnic harassment will not be tolerated at Penn—not only because they are reprehensible and discriminatory, but because they

constitute forms of unprofessional conduct that seriously undermine the atmosphere of trust and mutual respect that is essential to academic pursuit.

2. Definition

For the purposes of University policy, the term "racial and ethnic harassment" refers to any behavior, verbal or physical, that stigmatizes or victimizes individuals on the basis of race, ethnic or national origin, and that:

- Involves a stated or implicit threat to the victim's academic or employment status;
- Has the purpose or effect of interfering with an individual's academic or work performance; and/or,
- 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. The prohibition against racial and ethnic harassment applies to all interactions occurring on campus, in University facilities, or within the context of University-related activities. It also applies to acts of retaliation against members of the community who have filed complaints under this policy.

As noted in the *Handbook for Faculty and Academic Administrators*, in *Penn Policies and Procedures*, in the *Academic Bulletin*, and other University publications, persons engaged in such harassment within the University setting are subject to the full range of internal institutional disciplinary actions, including separation from the institution.

Not every act that might be offensive to an individual or a group necessarily will be considered as harassment and/or a violation of the University's standards of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom and advocacy.

B. Sexual Harassment

1. Purpose

For many years the University has stressed that sexual harassment is not tolerated at Penn. As an employer, and as an educational institution, the University is committed to eradicating sexual harassment.

Sexual harassment in any context is reprehensible and is a matter of particular concern to an academic community in which students, faculty,

and staff must rely on strong bonds of intellectual trust and dependence.

2. Definition

For the purposes of University policy, the term "sexual harassment" refers to any unwanted sexual attention that:

- a. Involves a stated or implicit threat to the victim's academic or employment status;
- b. Has the purpose or effect of interfering with an individual's academic or work performance; and/or
- c. Creates an intimidating or offensive academic, living, or work environment.

The University regards such behavior, whether verbal or physical, as a violation of the standards of conduct required of all persons associated with the institution. Accordingly, those inflicting such behavior on others are subject to the full range of internal institutional disciplinary actions, including separation from the University. Likewise, acts of retaliation will be subject to the same range of disciplinary actions.

Because the relationship between teacher and student is central to the academic mission of the University, 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 non-academic or personal ties should be allowed to interfere with the academic integrity of the teacher-student relation. With respect to sexual relations in particular, what might appear to be consensual, even to the parties involved, may in fact not be so.

On this basis, any sexual relations between any teacher and a student of that teacher are inappropriate. This category includes relations between a graduate student and an undergraduate when the graduate student has some supervisory academic responsibility for the undergraduate. In addition, it includes relations between an administrator, coach, adviser, program director, counselor, or residential staff member who has supervisory responsibility for a student, and that student. Although the University does not have the means to enforce an absolute prohibition against such relations, the University deems them to be unethical. The Provost, Deans, Department Chairs, and other administrators should respond to reports brought to them of inappropriate and unethical behavior and act to help ensure that the integrity of the University is maintained.

In order to discourage such relations, in acting on complaints that come to the University's attention it will be presumed that any complaint of sexual harassment by a student against an individual is valid if sexual relations have occurred between them while the individual was teaching or otherwise had supervisory responsibility for the student. The presumption might be overcome, but the difficulties in doing so would be substantial. In short, any teacher or person in a supervisory capacity enters at peril into sexual relations with a student.

III. Resources

School and administrative units should make known to all of their members the available resources and the informal and formal procedures for resolving complaints of sexual harassment or racial and ethnic harassment within the unit or at the University level. During each phase of the processes every effort will be made to protect the privacy and confidentiality of the parties involved. There are circumstances in which the issues raised may be discussed with other sources. In those instances the parties will be informed to ensure that they are fully aware of the reasons for the disclosure.

A. Information, Counseling and Support

The following University resources are available to members of the University community who seek information and counseling about University policies on harassment, standards of behavior, informal and formal mechanisms for resolving complaints and resources for complainants and respondents.

- Special advisors should be designated by the deans of individual schools and directors of major administrative units from among their faculty, staff, and students to serve as advisors on issues of sexual harassment and racial and ethnic harassment. These individuals should be informed about the issues of harassment, the techniques of mediation and about University policies and resources. The advisors should be available to meet in confidence with persons who believe they are being harassed to provide information as to informal and formal grievance procedures, to counsel and to support, and to provide information as to additional university resources for support and counsel.

- *The Women's Center* aids students, faculty and staff with counseling, advocacy, advice and referral concerning formal and informal avenues of redress in matters of sexual and racial or ethnic harassment. The Women's Center does not conduct investigations.

- *The Office of the Ombudsman* exists to help resolve grievances of all members of the University community—students, faculty and staff—on an informal basis, and helps persons with complaints about sexual harassment decide on a course of action. The Office is independent of the University's formal administrative structure and grievance mechanisms.

- *Deans, department chairs, directors, and individual faculty and staff* are available to provide information and counseling.

- *University Counseling Service, Gay and Lesbian Peer Counseling, and the psychiatric section of the Student Health Service* provide assistance to student victims of harassment. Contacts with these services may be particularly helpful to students who desire assistance in dealing with harassment.

- *The Office of Affirmative Action* is responsible for developing and implementing the University's Affirmative Action Program, for providing a formal liaison between the federal, state, and city compliance agencies and the University and for overseeing programs designed to increase the representation of minorities, women, and disabled persons throughout the University. The Office is also responsible for overseeing the mechanisms for resolving nonacademic grievances as they relate to equal opportunity and affirmative action.

- *The Faculty/Staff Assistance Program* provides counseling, support and assistance to individuals concerned with issues of harassment. The Office works in consultation with the Office of Affirmative Action and the Ombudsman and it helps individuals resolve complaints and develop strategies for change.

- *Victim and Security Support Services of the Department of Public Safety* counsels members of the University community on a range of matters including racial and ethnic and sexual harassment. The Office works closely with the Office of Affirmative Action, the Ombudsman, and the Department of Public Safety, conducts investigations in cooperation with the other offices, and assists in the informal resolution of complaints. The Office also provides advice to members of the University community who have complaints of harassment against non-University individuals.

- *The Office of the Associate Vice President for Staff and Labor Relations* provides counseling and support to University staff on all employment related matters, including allegations of racial, ethnic, or sexual harassment. The Office interprets University policies, works closely with the Offices of the Ombudsman and Affirmative Action and administers the nonacademic grievance procedure.

B. Informal Mechanisms for Mediation and Resolution

The special advisors appointed in each school and major administrative unit should serve as primary, accessible contacts to receive complaints and to assist in informal mediation and resolution of incidents of sexual, racial, or ethnic harassment. In addition, the Ombudsman, the Office of Affirmative Action, the Women's Center, the Judicial Inquiry Officer, the Director of Student Life, the Office of Residential Living, the Office of the Associate Vice President for Staff and Labor Relations, Department Chairs, Deans and the Provost are available to assist in the resolution of complaints.

C. Formal Mechanisms for Resolution and Adjudication

The University believes that a strong system of informal resolution, with special advisors receiving and handling most complaints, will encourage reporting and resolution of complaints. When informal resolution is not chosen or is unsatisfactory, complainants are urged to use the appropriate formal mechanism as described below:

1. Complaints of harassment against a faculty member, instructor, or teaching assistant may be brought by a student, staff or faculty member to a Department Chair or Dean of the faculty member. The Department Chair or Dean who receives a complaint is charged with pursuing the matter. While the process depends on the particulars of the complaint, normally the Department Chair or Dean interviews the faculty member. If the matter is not resolved informally, the Department Chair or Dean either conducts an investigation or requests that the Ombudsman or Office of Affirmative Action do so. If the results of the investigation persuade the Dean or Department Chair that sanctions are warranted, he/she consults with faculty members—without disclosing the identity of the individuals involved—to aid in determining an appropriate sanction, including whether there is substantial reason to believe that just cause exists for suspension or termination. If it is determined that action should be taken for suspension or termination, the Dean should refer the matter to the Committee on Academic Freedom and Responsibility of the

School for proceedings in accordance with the procedures set out in section II.E.10. of the *Handbook for Faculty and Academic Administrators* (1983).

2. Complaints of harassment against a staff member may be brought by a student, staff or faculty member to a supervisor of the one complained against. The supervisor who receives the complaint should pursue the matter. While the process will depend upon the particulars of the complaint, normally the supervisor interviews the staff member. If the matter is not resolved informally, the supervisor either conducts an investigation or requests that the Ombudsman or Office of Affirmative Action do so. If the result of the investigation persuades the supervisor that sanctions are warranted, he or she consults with his or her colleagues or supervisor—without disclosing the identity of individuals involved—to aid in determining an appropriate sanction.

3. Complaints by students of harassment also may be made to the Director of the Office of Student Life, in accordance with the Student Grievance Procedure set out in *Penn Policies and Procedures*. Grievances associated with harassment in student employment may also fall within the Director's purview. The director of the Office of Student Life is also responsible for dealing with student grievances arising under Title IX of the Educational Amendments of 1972, which prohibits sex discrimination in education.

4. A complaint of harassment may be brought against a student by filing a complaint under the Charter of the University Student Judicial System, or, if the respondent is a graduate or professional student enrolled in a school which has established a hearing board or other decision-making body, with that body.

5. A tenured or untenured faculty member whether full or part time who believes she or he has been subjected to racial, ethnic or sexual harassment by a faculty member or by any academic administrator may file a grievance under the Faculty Grievance Procedure, *Handbook for Faculty and Academic Administrators*, Part II.E.15, provided the complaint constitutes a grievance as defined in section I of the Procedure. This procedure is administered by the Faculty Grievance Commission composed of three members of the standing faculty with the rank of full professor. Grievances are heard by a panel composed of three faculty members chosen from members of the Standing and Associated Faculty. The panel makes its recommendation to the provost. In cases that involve reappointment, promotion or tenure, and in which the provost has declined or failed to implement the recommendations of the panel to the satisfaction of the grievant, the grievant may obtain a hearing before the Senate Committee on Academic Freedom and Responsibility on the actions of the provost.

6. A faculty member who believes that his or her rights have been violated by another faculty member or administrator under circumstances that relate to academic freedom and responsibility may file a complaint with either the Senate Committee on Academic Freedom and Responsibility or the appropriate School's Committee on Academic Freedom and Responsibility. See *Handbook for Faculty and Academic Administrators*, Part II.A.2.

7. If the matter previously has not been referred to a different panel or committee, a student or staff member who believes that she or he has been subjected to racial, ethnic or sexual harassment by a faculty member, and whose complaint has not been resolved through the mechanisms listed above, may bring the matter to a new Faculty Senate Committee on Conduct. This Committee shall be a standing committee of the Faculty Senate, chaired by the Faculty Senate Chair-elect, with two additional members chosen by the Senate Executive Committee for three staggered terms. At meetings with the Committee, the student or staff member may be accompanied by an advisor who is a member of the University community (faculty, staff or student). The findings and recommendations of the Committee shall be advisory and shall be submitted to the Provost for his or her decision and implementation.

8. A staff member who believes that his or her rights have been violated directly by another staff member or administrator may file a grievance under the University of Pennsylvania Staff Grievance Procedure, as published in January 1984.

D. Central Reporting of Harassment

1. The University believes that a decentralized system of resources encourages resolution of complaints of sexual and racial and ethnic harassment. Such a system also is useful to gather enough information to

make judgments about harassment generally. To that end, and with the consent of the complainant, anyone who has handled through mediation or informal counseling a complaint that was not submitted to a formal hearing board should forward to the Ombudsman a report of the matter. Such reports should not include the names of the persons involved but should include a description of the complaint, the School or Administrative Unit to which the complainant and respondent are attached and the disposition of the complaint. In the case of a large department in a large school, the department should also be identified.

This approach will enable the Ombudsman to identify patterns in the location and frequency of such incidents, and to inform the appropriate dean or administrative supervisor about the existence of such patterns. It also will enable the Ombudsman to act on behalf of the community to conduct whatever investigation he or she deems necessary to determine if University regulations are being violated.

2. Summary reports of formal charges of harassment that have been adjudicated and records of their disposition should be forwarded to the Ombudsman's Office as a matter of information by the persons responsible for such records.

3. Based on the information forwarded to him or her during the previous year, the Ombudsman shall submit to the President who shall make available to the University community on an annual basis a summary report of the number and type of formal and informal charges of sexual harassment and racial and ethnic harassment and their resolution.

E. Education and Prevention

The prevention of harassment and the establishment of effective procedures with due concern for all parties require a thoughtful educational program.

1. The University will provide to special advisors information concerning—

- a. mediation and resolution mechanisms available;
- b. examples of incidents of harassment and possible resolutions;
- c. definitions of harassment;
- d. descriptions of how and when to report; and
- e. sources of support and information for victims and respondents.

2. Deans and heads of major administrative units are encouraged to discuss this policy and issues of harassment generally at meetings of faculty and staff.

3. Training programs for residential advisors, senior administrative fellows, those who meet students in crisis situations and others serving in an advising capacity to students will include training about referrals, resources, and methods for handling instances of harassment. The Office of Affirmative Action and the Women's Center shall assist in the development of such training programs.

4. An overall educational program for students dealing with issues of peer harassment and providing information, definition, support, identification of resources and exploration of behavioral alternatives, will be developed by the Office of Student Life, in consultation with the Office of Affirmative Action, the Penn Women's Center, the Office of Residential Living, the Council of College House Masters, the Council of Senior Faculty Residents involved with the Freshman Year Program, and other appropriate resource groups. Such an educational program should be directed toward new undergraduate and graduate/professional students.

5. The University will publish annually the operative portions of this policy statement, including the resources available to advise, counsel and assist in the mediation of harassment allegations. The information will explain how and where to contact university-wide and school specific resources and will be posted in conspicuous locations.

F. Exit Interviews

The University will periodically survey departing students, faculty and staff to measure the existence and frequency of reports of harassment.

Based on the data yielded by these surveys and the annual reports of the Ombudsman, the University Administration will determine, in consultation with the University Council, whether there is need for further steps to be taken on the issue of harassment.

G. Implementation

The Office of the Provost and the Office of the Senior Vice President will be responsible for the implementation of this policy.