



UNIVERSITY OF
Miami
FACULTY SENATE

MEMORANDUM

TO: President Edward T. Foote II

FROM:  Kamal Yacoub 
Chair, Faculty Senate

DATE: November 27, 1995

SUBJECT: Faculty Senate Legislation #95003(B) - Faculty Policy on Sexual Harassment (Revision of Faculty Senate Legislation #94009(B))

The Faculty Senate, at its meeting on October 30, 1995, voted to approve Faculty Senate Legislation #95003(B) - Faculty Policy on Sexual Harassment (Revision of Faculty Senate Legislation #94009(B)). The revised document is attached.

This legislation is now forwarded to you for your action.

KY/b

Attachment

cc: Provost Luis Glaser
Mr. Robert Blake, General Counsel
Drafting Committee Members:
Professors M. Coombs, C. Gowing,
J. Knoblock and E. Clasby, Chairman

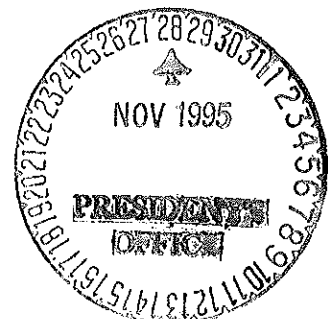
1/13/96

Mr. Chairman,

✓ approved

Dr. Foote

EFF



FACULTY POLICY ON SEXUAL HARASSMENT

P. 73
on manual

Sexual Harassment by any member of the university community is prohibited. The University and its faculty are committed to a work environment free of sexual harassment, and violations of the University policies against sexual harassment are regarded as grounds for sanctions as defined in this policy. Serious cases of sexual harassment by a member of the university community may result in dismissal in accord with the appropriate policy.¹

DEFINITION

Sexual harassment is defined as unwelcome sexual conduct, such as unwelcome advances, requests for sexual favors, or other conduct of a sexual nature when:

1. Such conduct is engaged in under circumstances implying that one's response might affect academic or personnel decisions that are subject to the influence of the person engaging in that conduct; or
2. Such conduct is directed at an individual or a group and is either (a) abusive or would be considered severely humiliating by a reasonable person at whom it was directed, or (b) persists despite the objection of the person(s) targeted by the conduct; or
3. Such conduct is so clearly unprofessional that it creates a hostile environment that may substantially impair the work or academic performance of colleagues, coworkers or students.

EXAMPLES

Sexual harassment may encompass any unwelcome sexual conduct outlined above. Examples of verbal or physical conduct that is prohibited include:

- A. explicit or implied threats that submission to sexual advances may be a condition of employment, work status, promotion, grades, or letters of recommendation;
- B. unwelcome propositions of a sexual nature by a supervisor or individual with authority at the University over the status of the complainant, or such propositions by any faculty member that persist despite the objections of the person to whom they are made.

¹This policy is designed to recognize and protect the rights of all parties. Insofar as applicable state or federal law, now or in the future, may provide greater substantive and procedural rights within the university context to any party, this policy should be read as incorporating any and all such rights, in addition to those specifically set out herein.

- C. a pattern of unwelcome speech directed at a person, as an individual or as a member of a group, that is abusive or would cause severe humiliation to a reasonable person or that persists despite the objection of the person targeted, and that includes: (i) suggestive comments of a sexual nature; or (ii) sexually explicit statements, questions, jokes, or anecdotes;
- D. a pattern of unwelcome conduct that is either (1) abusive or that would cause severe humiliation to a reasonable person at whom it was directed, or (2) persists despite the objection of the person targeted, and that includes: (i) unnecessary and inappropriate touching, patting, hugging, or brushing against that person's body; (ii) remarks of a sexual nature about that person's clothing or body; or (iii) remarks about a person's sexual activity or speculations about the previous sexual experience of that person.

This list is intended to be illustrative, not exhaustive; sexual harassment is established by determining whether the particular facts and circumstances of each case meet the definitions of this policy.

Important differences exist between the classroom and the ordinary workplace, and the academic functions of teaching and scholarship must take place in an environment of academic freedom. Nothing in this policy censures the content, method, or language of academic courses that deal with sexual topics in an explicit fashion and examine in detail such issues as gender, sexuality and sexual beliefs, feelings, actions, and practices. The University protects the academic freedom and First Amendment rights of all members of the University community. Faculty members are expected not to introduce into their teaching controversial matter that has no relation to their subject, to avoid any exploitation, harassment, or discriminatory treatment of students, and to respect students as individuals. Students are entitled to an atmosphere conducive to learning and to even-handed treatment in all aspects of the teacher-student relationship. Evaluation of students is to be based on academic performance professionally judged and not on matters irrelevant to that performance.

PROCEDURES

I. GENERAL MATTERS

A. Responsibility of Deans, Chairs, and Faculty

Each Dean and Chair is responsible for pursuing sexual harassment complaints immediately upon becoming knowledgeable of their existence. Faculty members should report complaints of sexual harassment to the appropriate office (see *Informal Procedures* below).

B. Confidentiality

To the extent possible, the investigation and proceedings under this policy shall be conducted in a manner to ensure the confidentiality of all parties.

C. Archive of Records

At the conclusion of informal or formal procedures all records of proceedings and actions of the Faculty Sexual Harassment Officer and the Committee on Professional Conduct shall be placed in an archive maintained by the Provost's Office. In an informal procedure, the record shall include only a description of the complaint, any response to the complaint by the faculty member, and any action or agreement in response to the complaint. In a formal procedure, the record shall include only the findings of the Faculty Sexual Harassment Officer and the conclusions of the Committee on Professional Conduct. Access to the records shall be restricted to the Faculty Sexual Harassment Officer in the context of a subsequent complaint. Records shall be kept for a maximum of seven years after the conclusion of the investigation and then sealed. Such records may not be used in any subsequent proceeding except when they are incorporated in an intervening (i.e., less than seven year old) proceeding, or when, after investigation, the Provost determines that the new allegations, if true, are serious enough to warrant initiation of dismissal for cause proceedings. The Office of General Counsel may keep appropriate records, and these records shall be sealed after seven years under the same terms. No other record of proceedings or actions may be kept, except that a Chair or Dean may keep a record of any action, agreement, or sanction. These limitations do not apply, however, when it is necessary to comply with applicable law or, court order, or valid subpoena or request for production.

D. Right to Resist and Report

No faculty member or University official shall retaliate or take any other adverse action against any person because that person resists sexual harassment, plans to report acts of harassment in accordance with the procedures of this Policy, or reports acts of sexual harassment in accordance with those procedures. However, persons who knowingly make false claims of sexual harassment are subject to disciplinary action.

E. Time Limits

Complaints of sexual harassment, both formal and informal, should be filed within 30 calendar days from the date the most recent incident occurred. A complaint that is not filed within 30 days but that is filed within four years of the incident may still be subject to University action.

II. TYPES OF PROCEDURE

Any individual who believes that he or she has been subjected to sexual harassment has available two methods for resolving the matter within the University:

1. through an informal procedure, or
2. through a formal procedure. A formal procedure requires the complainant to submit a written statement of the complaint.

The Human Resources Office and the Faculty Sexual Harassment Officer are available to assist the complainant at any point during these procedures. The complainant may choose another University employee to provide assistance. In all proceedings, formal and informal, every effort shall be made to ensure due process and to protect the rights of both the complainant and the accused.

III. INFORMAL PROCEDURES.

A. Making a Complaint

Any individual who encounters sexual harassment is encouraged to seek an informal resolution of the problem at the department or school level. Instances of sexual harassment may be reported to the appropriate Chair or Dean or to any of the following individuals or offices:

1. Faculty Sexual Harassment Officer (appointed by the Provost)
2. Human Resources Office
3. University Student Ombudsperson
4. Designated School or College counselor (a list of counselors may be obtained through the Provost, Dean of Students, or the Human Resources Office)
5. Provost

Complaints received by these individuals or offices shall be reported to the appropriate Chair or Dean.

B. Actions of the Chair or Dean

Each Chair or Dean is responsible for resolving sexual harassment complaints immediately upon becoming knowledgeable of their existence. Where a complaint is

directed against the Chair or Dean, the complaint shall be reported to that person's immediate supervisor, who shall have the responsibility for resolving the complaint.

If the Chair or Dean, after consultation with the Faculty Sexual Harassment Officer, determines that the facts described in the complaint would not, in the meaning of the law or policy, constitute sexual harassment, the Officer shall so advise the complainant.

The Chair or Dean shall make every reasonable effort to inquire into the facts regarding the complaint including: speaking with the complainant; speaking with other persons identified by the complainant; speaking with the faculty member; and speaking with other persons identified by the faculty member. This inquiry should be completed as soon as practicable, usually in ten academic days. When the inquiry is complete, the accused faculty member shall immediately be provided with a description of the complaint, including the name of the complainant, where appropriate, the time and circumstances of the conduct, and other material facts.

In all cases of sexual harassment, the Chair or Dean is to notify the Faculty Sexual Harassment Officer of the complaint and the action taken to resolve the matter. This notification normally will be submitted at the end of the inquiry. The Faculty Sexual Harassment Officer may inform the Provost that a complaint has been made where the circumstances warrant this action to protect the University and its personnel.

C. Resolution by Action or Agreement

At the conclusion of the inquiry, the Chair or Dean, in consultation with the Sexual Harassment Officer, may take appropriate administrative action to resolve the complaint or may attempt to resolve the complaint informally and by voluntary means. If administrative action is taken or an agreement satisfactory to all persons involved is reached, the terms of the action or agreement shall be summarized by the Chair or Dean and placed in the Archives by the Faculty Sexual Harassment Officer, together with a record of the complaint. Where no agreement is reached, the complainant may file a formal complaint within 20 academic days of the termination of the informal procedures.

IV. FORMAL PROCEDURES

If no agreement is reached under the informal procedures, or if an individual wishes to follow the formal procedures, a formal complaint may be filed.

A. Making a Complaint

The formal complaint shall be in writing and shall set forth: the facts and circumstances pertaining to the alleged harassment; the name of the complainant and the accused; the date, time and place of the incident(s); the names of other persons with

knowledge of the incident(s); and the desired resolution. The formal complaint shall be filed with the Faculty Sexual Harassment Officer. If the Faculty Sexual Harassment Officer determines that the facts described in the complaint would not, in the meaning of the law or policy, constitute sexual harassment, the Officer shall so advise the complainant. If the Officer determines that an investigation is warranted the Officer shall notify the accused faculty member, the appropriate Dean or Chair, and the complainant.

B. Investigation

The Faculty Sexual Harassment Officer shall conduct the investigation, shall make every reasonable effort to interview the complainant, the faculty member, and other persons identified by the complainant or the faculty member as having direct knowledge of the matters, and shall examine appropriate records.

C. Hearing

Upon completion of the investigation, the Faculty Sexual Harassment Officer shall report the results of the investigation in writing to the Committee on Professional Conduct and recommend whether or not a hearing should be held. The Committee shall determine whether or not a hearing shall be held and shall conduct any such hearing in accordance with Committee policies and procedures.

The Faculty Sexual Harassment Officer shall inform the complainant, the faculty member, the Provost, the Chair of the Senate, and the appropriate Chair or Dean of the outcome of the hearing of the Committee on Professional Conduct.

V. REPORTS

Each year the Faculty Sexual Harassment Officer and the Committee on Professional Conduct shall separately submit written reports on all actions taken or findings made. These reports shall be made to the Provost and the Chair of the Senate and shall briefly describe the nature of the harassment and the outcomes in each case without identifying individuals.

CAPSULE: Faculty Senate Legislation #9500²(B) - Faculty Policy on Sexual Harassment
(Revision to Faculty Senate Legislation #94009(B))

RESPONSE BY THE PRESIDENT:

DATE: 1/18/96

APPROVED: Yes [Signature]

OFFICE OR INDIVIDUAL TO IMPLEMENT OR PUBLISH: [Signature]

EFFECTIVE DATE OF LEGISLATION: _____

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____



MEMORANDUM

To: Professor John Knoblock, Department of Philosophy
Professor George Alexandrakis, Department of Physics
Professor Eveleen Lorton, Department of Teaching and Learning
Professor Irwin Berman, Department of Medicine

From: Steven Green
Chair, Faculty Senate

A handwritten signature in cursive script, appearing to read "Steve", written over the printed name "Steven Green".

Date: 30 March, 1999

Subject: Faculty Policy on Sexual Harassment

Now that we have had some experience with the Faculty Policy on Sexual Harassment, it is time for a review of our success with its implementation. Thank you for having volunteered to serve on ad hoc committees of the Faculty Senate; I am asking that you serve as a member of an ad hoc committee to examine whether the sexual harassment policy and/or its procedures should be modified in light of our experience. By means of this memo, I am also asking that Eveleen Lorton convene your committee and serve as its chair.

Please use as resources those individuals who have commented on the system, including, but not limited to:

- S. Green
- S. Ullmann
- M. Gaines
- M. Huerta

SG/kl


cc: Luis Glaser
Steve Ullmann
Michael Gaines
Manuel Huerta

325 Ashe-Admin. Bldg.
Coral Gables, Florida 33124-4634
305-284-3721
Fax 305-284-5515



MEMORANDUM

TO: President Edward T. Foote II

FROM: Kamal Yacoub 
Chair, Faculty Senate

DATE: January 17, 1996

SUBJECT: Pending Legislation

The following is a list of Faculty Senate legislation that was forwarded to you during the Fall semester and are still pending.

#95001(B) - Amendments to Termination for Cause Procedures

#95003(B) - Faculty Policy on Sexual Harassment
(Revision of Faculty Senate Legislation #94009(B))

If there is a problem with either of these, perhaps we can discuss them at our scheduled meeting tomorrow, Thursday, January 18 at 3:00 p.m.

KY/b

Proposed Amendments to the Faculty Policy on Sexual Harassment

1. The following amendment is proposed as a note to the policy, appended to the introduction:

This policy is designed to recognize and protect the rights of all parties. Insofar as applicable state or federal law, now or in the future, may provide greater substantive and procedural rights within the university context to any party, this policy should be read as incorporating any and all such rights, in addition to those specifically set out herein.

2. The following amended language is proposed for Section C:

C. Archive of Records

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11/30/95

FACULTY POLICY ON SEXUAL HARASSMENT

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E. Time Limits

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II. TYPES OF PROCEDURE

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The Chair or Dean shall make every reasonable effort to inquire into the facts regarding the complaint including: speaking with the complainant; speaking with other persons identified by the complainant; speaking with the faculty member; and speaking with other persons identified by the faculty member. This inquiry should be completed as soon as practicable, usually in ten academic days. When the inquiry is complete, the accused faculty member shall immediately be provided with a description of the complaint, including the name of the complainant, where appropriate, the time and circumstances of the conduct, and other material facts.

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B. Investigation

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C. Hearing

Upon completion of the investigation, the Faculty Sexual Harassment Officer shall report the results of the investigation in writing to the Committee on Professional Conduct and recommend whether or not a hearing should be held. The Committee shall determine whether or not a hearing shall be held and shall conduct any such hearing in accordance with Committee policies and procedures.

The Faculty Sexual Harassment Officer shall inform the complainant, the faculty member, the Provost, the Chair of the Senate, and the appropriate Chair or Dean of the outcome of the hearing of the Committee on Professional Conduct.

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Each year the Faculty Sexual Harassment Officer and the Committee on Professional Conduct shall separately submit written reports on all actions taken or findings made. These reports shall be made to the Provost and the Chair of the Senate and shall briefly describe the nature of the harassment and the outcomes in each case without identifying individuals.

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35 nature about that person's clothing or body; or (iii) remarks about a person's sexual activity
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54 upon becoming knowledgeable of their existence. Faculty members should report complaints of
55 sexual harassment to the appropriate office (*see Informal Procedures* below).

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58 be conducted in a manner to ensure the confidentiality of all parties.

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99 reported to the appropriate Chair or Dean or to any of the following individuals or offices:

- 100 1. Faculty Sexual Harassment Officer¹
- 101 2. Human Resources Office
- 102 3. University Student Ombudsperson
- 103 4. Designated School or College counselor (a list of counselors may be obtained through
104 the Provost, Dean of Students, or the Human Resources Office)
- 105 5. Provost

106 **Complaints received by these individuals or offices shall be reported to the appropriate Chair**
107 **or Dean.**

108 *B. Actions of the Chair or Dean*

109 Each Chair or Dean is responsible for resolving sexual harassment complaints immediately
110 upon becoming knowledgeable of their existence. Where a complaint is directed against the Chair
111 or Dean, the complaint shall be reported to that person's immediate supervisor, who shall have the
112 responsibility for resolving the complaint.

113 If the Chair or Dean, after consultation with the Faculty Sexual Harassment Officer,
114 determines that the facts described in the complaint would not, in the meaning of the law or policy,
115 constitute sexual harassment, the Officer shall so advise the complainant.

116 The Chair or Dean shall make every reasonable effort to inquire into the facts regarding the
117 complaint including: speaking with the complainant; speaking with other persons identified by the
118 complainant; speaking with the faculty member; and speaking with other persons identified by the
119 faculty member. This inquiry should be completed as soon as practicable, usually in **ten academic**
120 **days**. When the inquiry is complete, the accused faculty member shall immediately be provided with
121 a description of the complaint, including the name of the complainant, **where appropriate**, the time

122 ¹Appointed by the Provost

123 and circumstances of the conduct, and other material facts.

124 In all cases of sexual harassment, the Chair or Dean is to notify the Faculty Sexual
125 Harassment Officer of the complaint and the action taken to resolve the matter. This notification
126 normally will be submitted **at the end of the inquiry**. The Faculty Sexual Harassment Officer may
127 inform the Provost that a complaint has been made where the circumstances warrant this action to
128 protect the University and its personnel.

129 *C. Resolution by Action or Agreement*

130 At the conclusion of the inquiry, the Chair or Dean, **in consultation with the Sexual**
131 **Harassment Officer, may take appropriate administrative action to resolve the complaint or**
132 may attempt to resolve the complaint informally and by voluntary means. If **administrative action**
133 **is taken** or an agreement satisfactory to all persons involved is reached, the terms of the **action or**
134 agreement shall be summarized by the Chair or Dean and placed in the Archives by the Faculty
135 Sexual Harassment Officer, together with a record of the complaint. Where no agreement is reached,
136 the complainant may file a formal complaint **within 20 academic days** of the termination of the
137 informal procedures.

138 **IV. FORMAL PROCEDURES**

139 If no agreement is reached under the informal procedures, or if an individual wishes to follow
140 the formal procedures, a formal complaint may be filed.

141 *A. Making a Complaint*

142 The formal complaint shall be in writing and shall set forth: the facts and circumstances
143 pertaining to the alleged harassment; the name of the complainant and the accused; the date, time
144 and place of the incident(s); the names of other persons with knowledge of the incident(s); and the
145 desired resolution. The formal complaint shall be filed with the Faculty Sexual Harassment Officer.
146 If the Faculty Sexual Harassment Officer determines that the facts described in the complaint would
147 not, in the meaning of the law or policy, constitute sexual harassment, the Officer shall so advise the
148 complainant. If the Officer determines that an investigation is warranted the Officer shall notify the
149 accused faculty member, the appropriate Dean or Chair and the complainant.

150 *B. Investigation*

151 The Faculty Sexual Harassment Officer shall conduct the investigation, shall make every
152 reasonable effort to interview the complainant, the faculty member, and other persons identified by
153 the complainant or the faculty member as having direct knowledge of the matters, and shall examine
154 appropriate records.

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C. Hearing

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Upon completion of the investigation, the Faculty Sexual Harassment Officer shall report the results of the investigation in writing to the Committee on Professional Conduct **and recommend whether or not a hearing should be held.** The Committee shall determine whether or not a hearing shall be held and shall conduct any such hearing in accordance with Committee policies and procedures.

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The Faculty Sexual Harassment Officer shall inform **the complainant**, the faculty member, the Provost, the Chair of the Senate, and the appropriate Chair or Dean of the outcome of the hearing of the Committee on Professional Conduct.

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V. REPORTS

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Each year the Faculty Sexual Harassment Officer and the Committee on Professional Conduct shall separately submit written reports on all actions taken **or findings made.** These reports shall be made to the Provost and the Chair of the Senate and shall briefly describe the nature of the harassment and the outcomes in each case **without identifying individuals.**

FACULTY POLICY ON SEXUAL HARASSMENT

Sexual Harassment by any member of the university community is prohibited. The University and its faculty are committed to a work environment free of sexual harassment, and violations of the University policies against sexual harassment are regarded as grounds for sanctions as defined in this policy. Serious cases of sexual harassment by a member of the university community may result in dismissal in accord with the appropriate policy.

DEFINITION

Sexual harassment is defined as unwelcome sexual conduct, such as unwelcome advances, requests for sexual favors, or other conduct of a sexual nature when:

1. **Such conduct is engaged in** under circumstances implying that one's response might affect academic or personnel decisions that are subject to the influence of the person **engaging in that conduct**; or
2. Such speech or conduct is directed **at an individual or a group** and is either abusive or severely humiliating, **or persists despite the objection of the person(s) targeted by the speech or conduct**; or
3. Such conduct is so clearly unprofessional that it creates a hostile environment that **may substantially impair the work or academic performance of colleagues, coworkers or students.**

EXAMPLES

Sexual harassment may encompass any unwelcome sexual conduct outlined above. Examples of verbal or physical conduct that is prohibited include:

- A. explicit or implied threats that submission to sexual advances **may** be a condition of employment, work status, promotion, grades, or letters of recommendation;
- B. unwelcome propositions of a sexual nature by a supervisor or individual with authority at the University over the status of the complainant, **or such propositions by any faculty member that persist despite the objections of the person to whom they are made.**
- C. a pattern of unwelcome speech directed at a person, as an individual or as a member of a group, that is abusive or would cause severe humiliation to a reasonable person or that persists despite the objection of the person targeted, and that includes one or more of the following; (i) suggestive comments of a sexual nature; or (ii) sexually explicit statements, questions, jokes, or anecdotes;

32 D. a pattern of unwelcome conduct that would cause humiliation to a reasonable person at
33 whom the conduct was directed **that is abusive or severe**, or that persists despite the
34 objection of the person at whom it is directed, and that includes one or more of the
35 following: (i) unnecessary and inappropriate touching, patting, hugging, or brushing
36 against that person's body; (ii) remarks of a sexual nature about that person's clothing or
37 body; or (iii) remarks about a person's sexual activity or speculations about the previous
38 sexual experience of that person.

39 This list is intended to be illustrative, not exhaustive; sexual harassment is established by
40 determining whether the particular facts and circumstances of each case meet the definitions of
41 this policy.

42 Important differences exist between the classroom and the ordinary workplace, and the
43 academic functions of teaching and scholarship must take place in an environment of academic
44 freedom. Nothing in this policy censures the content, method, or language of academic courses
45 that deal with sexual topics in an explicit fashion and examine in detail such issues as gender,
46 sexuality and sexual beliefs, feelings, actions, and practices. The University protects the academic
47 freedom and First Amendment rights of all members of the University community. Faculty
48 members are expected not to introduce into their teaching controversial matter that has no relation
49 to their subject, to avoid any exploitation, harassment, or discriminatory treatment of students,
50 and to respect students as individuals. Students are entitled to an atmosphere conducive to
51 learning and to even-handed treatment in all aspects of the teacher-student relationship.
52 Evaluation of students is to be based on academic performance professionally judged and not on
53 matters irrelevant to that performance, whether personality, gender, religion, degree of political
54 activism, or personal beliefs.

55 PROCEDURES

56 I. GENERAL MATTERS

57 *A. Responsibility of Deans, Chairs, and Faculty*

58 Each Dean and Chair is responsible for pursuing sexual harassment complaints
59 immediately upon becoming knowledgeable of their existence. Faculty members should report
60 complaints of sexual harassment to the appropriate office (see *Informal Procedures* below).

61 *B. Confidentiality*

62 To the extent possible, the investigation and proceedings conducted under this policy shall
63 be conducted in a manner to ensure the confidentiality of all parties.

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C. Archive of Records

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At the conclusion of informal or formal procedures all records of proceedings and actions of the Faculty Sexual Harassment Officer and the Committee on Professional Conduct shall be placed in an archive maintained by the Provost's Office. **In an informal procedure, the record shall include only a description of the complaint, any response to the complaint by the faculty member, and any action or agreement in response to the complaint. In a formal procedure, the record shall include only the findings of the Faculty Sexual Harassment Officer and the conclusions of the Committee on Professional Conduct. Access to the records shall be restricted to the Faculty Sexual Harassment Officer in the context of a subsequent complaint. Records shall be kept for a maximum of seven years after the conclusion of the investigation and then sealed and they may not then be used in any subsequent proceeding. The Office of General Counsel may keep appropriate records, and these records shall be sealed after seven years and may not then be used, except when they are incorporated in an intervening proceeding. No other record of proceedings or actions may be kept, except that a Chair or Dean may keep a record of any action, agreement, or sanction.**

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D. Right to Resist and Report

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No faculty member or University official shall retaliate or take any other adverse action against any person because that person resists sexual harassment, plans to report acts of harassment in accordance with the procedures of this Policy, or reports acts of sexual harassment in accordance with those procedures. However, persons who knowingly make false claims of sexual harassment are subject to disciplinary action.

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E. Time Limits

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Complaints of sexual harassment, both formal and informal, should normally be filed within 30 calendar days from the date the most recent incident occurred. **With good cause, a complaint that is not filed within 30 days but filed within four years of the incident may still be subject to University action.**

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F. Due Process

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All persons accused of sexual harassment are entitled to due process in all proceedings.

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II. TYPES OF PROCEDURE

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Any individual who believes that he or she has been subjected to sexual harassment has available two methods for resolving the matter within the University:

- 96 1. through an informal procedure, or
97 2. through a formal procedure. **A formal procedure requires the complainant to submit a**
98 **written statement of the complaint.**

99 The Human Resources Office and the Faculty Sexual Harassment Officer are available
100 to assist the complainant at any point during these procedures. The complainant may choose
101 another University employee to provide assistance. In all proceedings, formal and informal, every
102 effort shall be made to protect the rights of both the complainant and the accused.

103 **III. INFORMAL PROCEDURES.**

104 *A. Making a Complaint*

105 Any individual who encounters sexual harassment is encouraged to seek an informal
106 resolution of the problem at the department or school level. Instances of sexual harassment may
107 be reported to one of the following individuals or offices :

- 108 1. Faculty Sexual Harassment Officer¹
109 2. Human Resources Office
110 3. University Student Ombudsperson
111 4. Chair or Dean
112 5. Designated School or College counselor (a list of counselors may be obtained through the
113 Provost, Dean of Students, or the Human Resources Office)
114 6. Provost

115 *B. Actions of the Chair or Dean*

116 All complaints received by persons other than a Chair or Dean shall be reported to the
117 appropriate Chair or Dean. Each Chair or Dean is responsible for resolving sexual harassment
118 complaints immediately upon becoming knowledgeable of their existence. Where a complaint is
119 directed against the Chair or Dean, the complaint shall be reported to that person's immediate
120 supervisor, who shall have the responsibility for resolving the complaint.

121 ¹Appointed by the Provost

122 If the Chair or Dean, after consultation with the Faculty Sexual Harassment Officer,
123 determines that the facts described in the complaint would not, in the meaning of the law or
124 policy, constitute sexual harassment, the Officer shall so advise the complainant.

125 The Chair or Dean shall make every reasonable effort to inquire into the facts regarding
126 the complaint including: speaking with the complainant; speaking with the Reporting Officer;
127 speaking with other persons identified by the complainant; speaking with the faculty member;
128 and speaking with other persons identified by the faculty member. This inquiry should be
129 completed as soon as practicable, usually in **ten academic days**. When the inquiry is complete,
130 the accused faculty member shall immediately be provided with a description of the complaint,
131 including the name of the complainant, **where appropriate**, the time and circumstances of the
132 conduct, and other material facts.

133 In all cases of sexual harassment, the Chair or Dean is to notify the Faculty Sexual
134 Harassment Officer of the complaint and the action taken to resolve the matter. This notification
135 normally will be submitted within **ten academic days** from the time the complaint was filed. The
136 Faculty Sexual Harassment Officer may inform the Provost that a complaint has been made
137 where the circumstances warrant this action to protect the University and its personnel.

138 *C. Resolution by Action or Agreement*

139 At the conclusion of the inquiry, the Chair or Dean **may take appropriate**
140 **administrative action to resolve the complaint** or may attempt to resolve the complaint
141 informally and by voluntary means and, in this effort, should obtain the assistance of the Faculty
142 Sexual Harassment Officer. If **administrative action is taken** or an agreement satisfactory to all
143 persons involved is reached, the terms of the **action or agreement** shall be summarized by the
144 Chair or Dean and placed in the Archives by the Faculty Sexual Harassment Officer, together
145 with a record of the complaint. Where no agreement is reached, the complainant may file a
146 formal complaint **within 20 academic days** of the termination of the informal procedures.

147 IV. FORMAL PROCEDURES

148 If no agreement is reached under the informal procedures, or if an individual wishes to
149 follow the formal procedures, a formal complaint may be filed.

150 *A. Making a Complaint*

151 The formal complaint shall be in writing and shall set forth: the facts and circumstances
152 pertaining to the alleged harassment; the name of the complainant and the accused; the date, time
153 and place of the incident(s); the names of other persons with knowledge of the incident(s); and
154 the desired resolution. The formal complaint shall be filed with the Faculty Sexual Harassment
155 Officer. **If the Faculty Sexual Harassment Officer determines that the facts described in the**

156 **complaint would not, in the meaning of the law or policy, constitute sexual harassment, the**
157 **Officer shall so advise the complainant.** If the Officer determines that an investigation is
158 warranted the Officer shall notify the accused faculty member, and the appropriate Dean or Chair
159 of the complaint.

160 *B. Investigation*

161 The Faculty Sexual Harassment Officer shall conduct the investigation, shall make every
162 reasonable effort to interview the complainant, the faculty member, and other persons identified
163 by the complainant or the faculty member as having direct knowledge of the matters, and shall
164 examine appropriate records. Persons shall be not required to provide information against their
165 will.

166 *C. Hearing*

167 Upon completion of the investigation, the Faculty Sexual Harassment Officer shall report
168 the results of the investigation in writing to the Committee on Professional Conduct and
169 **recommend whether or not a hearing should be held.** The Committee shall determine whether
170 or not a hearing shall be held and shall conduct any such hearing in accordance with Committee
171 policies and procedures.

172 The Faculty Sexual Harassment Officer shall inform **the complainant,** the faculty
173 member, the Provost, the Chair of the Senate, and the appropriate Chair or Dean of the outcome
174 of the hearing of the Committee on Professional Conduct.

175 **V. REPORTS**

176 Each year the Faculty Sexual Harassment Officer and the Committee on Professional
177 Conduct shall separately submit written reports on all actions taken **or findings made.** These
178 reports shall be made to the Provost and the Chair of the Senate and shall briefly describe the
179 nature of the harassment and the outcomes in each case **without identifying individuals.**

in the Distinguished Professor legislation. The President expressed his view that stipends should be negotiated between the distinguished faculty member and the administration and should not be included in legislation. Dr. John Masterson summarized the former freshman teaching awards program and explained the revised process of nomination for such awards. He explained that, after review and recommendation by a faculty committee, excellence will now be rewarded at all levels of undergraduate education. The *motion carried*. It was *moved* and seconded to delete the stipend from the University Professor legislation. A *substitute motion* was offered by Dr. Knoblock changing "shall" to "should" in the last sentence of paragraph 1. The *motion failed* by a vote of 11 in favor and 12 opposed. The original *motion* to delete the sentence referring to the stipend *failed* by a vote of 12 in favor with 13 opposed. The Senate agreed to define the voting faculty for Distinguished Professor to be a 2/3 vote of the faculty of the department and for University Professor to be a 2/3 vote of the faculty of the school or college. Professor Clasby suggested that the Faculty Senate revisit the matter of recognizing excellence in teaching in order that the awards might be institutionalized. It was *moved* and seconded to place the matter on the agenda of the first meeting of the Senate in the fall. The *motion carried*.

Policy on Sexual Harassment

Professor Barbara Woshinsky, Chair of the Senate's Committee on Women and Minorities, introduced the proposed legislation on sexual harassment involving faculty. She then introduced Ms. Lourdes LaPaz, Associate General Counsel for the University, who presented transparencies showing a flow chart of the sexual harassment procedure. It was *moved* and seconded to approve the Faculty Policy on Sexual Harassment, Sections I and II. The *motion carried*. It was *moved* and seconded to approve the Procedures, Section I, General Matters. Following discussion, it was *moved* and seconded to amend Section IE as follows: "Complaints of sexual harassment, both formal and informal, should be filed as soon as possible, preferably within 30 days. In special circumstances, they may be reported at any subsequent time, but that the Federal law provides for a limit of 300 days". The *amendment carried*. The *motion as amended carried*. Section II, Types of Complaint, was *approved* in principle. During discussion of Section III, Informal Procedures, item A, it was suggested that a letter be sent to the administration informing them that the sense of the Senate is that at least one counselor in each school should be a woman. It was *moved* and seconded to approve Section III, item A, with the attachment of the letter to the Provost and the President. The *motion carried*. Section III, B4, was amended to read: "The Affirmative Action Officer shall make every reasonable effort to inquire ...". It was *moved* and seconded to adopt Sections III, A and B, paragraphs 1 and 2 on page 3. The *motion carried*. It was *moved* and seconded to *amend* Section III, B3, to provide for notification of the accused and that the Provost shall be advised. The *motion carried*. It was *moved* and seconded to *amend* Section III, B4, to read: "The Affirmative Action Officer shall inquire into...; he or she shall make every reasonable effort to speak with the complainant; that the accused will be notified of the complaint giving the name of the accuser, the nature of the

complaint and the desired outcome and that the Provost shall be informed. The *motion carried*. Section III, D, was revised to Section III, C, to follow the sequence in items. It was *moved* and seconded that the intent of a second paragraph to be added to Section III, B4 would be as follows: In the event that a voluntary agreement cannot be reached, and if the University's Affirmative Action Office believes the charges are substantiated, they may, after consultation with the Committee on Professional Conduct, give the faculty member a warning. That warning shall be placed in the archives and in the personnel file of that person. That person then has a right to write a letter of rebuttal to be placed in the same file. The *motion carried*. Section IV, A1, was *approved* on a *motion* duly made and seconded. It was *moved* and seconded to *amend* page 3, Section II, Types of Complaint by adding the following paragraph: "Both the complainant and the accused shall be treated fairly in the application of these procedures." The *motion carried*. Dr. Knoblock suggested withdrawing Section IV, A, for the purpose of refining the language and resubmitting the section in the fall. Section IV, B, was *approved* on a *motion* duly made and seconded. It was *moved* and seconded to approve Section IV, C and D, sentences 1 and 2, stopping with "...knowledge of the matters." The *motion carried*. It was *moved* and seconded to drop discussion of the examination of records from Section IV, D, to Section IV, E and to add "The accused shall receive a copy of the report, and has the right to introduce evidence in rebuttal" at an appropriate place in the document. The *motion carried* to approve the modified Section IV, D and E. It was *moved* and seconded to approve Section IV, F and G. The *motion carried*. It was *moved* and seconded to include in Section IV, E, parallel considerations concerning record keeping that are included in the Informal Procedures. The *motion carried*. It was *moved* and seconded that the Committee take the issue of pathological complaints under advisement and report back to the Senate at the same time the deferred section is discussed. The *motion carried*. The Senate granted authority to the Committee to make appropriate editorial changes for the purpose of consistency.

Statement on Consensual Sexual Relationships. Dr. Knoblock presented the *motion* from the Advisory Council and summarized the statement on consensual sexual relationships. It was suggested that the statement needed clarification regarding non-spousal relationships, and the resignation of supervisory positions and the addition of appropriate reference to the Nepotism Policy. The *motion carried*.

Committee on Professional Conduct. Dr. Knoblock introduced the Advisory Council's *motion* to approve the Committee on Professional Conduct revision. He stated that the bolded sentence "A subcommittee of three persons..." should be deleted from the text. The *motion carried*.

In the fall, a finalized draft will be presented, along with the two unresolved sections. In the interim, the policy and the document will be in effect. Dr. Whelan expressed the Senate's appreciation to everyone involved in preparing the document, with a special thanks to Dr. Knoblock for his guidance in completing the process.

STATEMENT ON CONSENSUAL SEXUAL RELATIONSHIPS.

Faculty members shall not enter into a consensual romantic and sexual relationship with students when they are in a supervisory relationship. Codes of ethics for many professional associations forbid professional-client sexual relationships. The power exercised by a professor in giving praise or blame, grades, recommendations for further study and future employment, as well as the respect and trust accorded a professor by a student, greatly diminish the student's actual freedom of choice in consensual romantic and sexual relations. Supervisory relationships include teaching, coaching, evaluating, or allocating money or privileges. A faculty member and a student are in a supervisory relationship when, for example:

- 1) a student is currently registered in a course by the instructor;
- 2) the faculty member is formally counselling the student as a departmental or school advisor or as a member of a thesis or dissertation committee;
- 3) the student's activities are being directly supervised or evaluated by the instructor, for sample as a teaching assistant supervisor; or
- 4) the faculty member is the Dean, Chair, Associate Dean or Chair, Assistant Dean or Chair, or other equivalent title, of the student's school or department.

Persons who begin consensual romantic or sexual relationships with students are expected to resign any supervisory position which they may hold when the relationship begins. If any person having such a relationship has not resigned, the appointing authority shall not reappoint that person to any supervisory position.

Faculty who are in a supervisory role are warned against the possible costs of even an apparently consenting relationship, in regard to the academic efforts of both faculty member and student. A faculty member who enters into a sexual relationship with a student where a professional supervisory relationship existed must realize that, if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to prove immunity on grounds of mutual consent.

This statement does no apply to individuals who are married to each other or are otherwise covered by the University Policy on Nepotism.

Committee on Professional Conduct

A panel of ~~five~~ nine senior tenured Faculty Members shall be elected annually by the Faculty Senate. The committee hearing a specific charge shall consist of three members of the panel. Matters involving the professional conduct of Faculty Members may be brought before this committee by a complainant (a Faculty Member, a director of an academic program, an academic dean, the Provost, or the President), after all reasonable efforts to reach an informal settlement at the department or school level have failed. Matters involving sexual harassment may be brought by the Affirmative Action Office at the completion of its investigation. ~~A subcommittee of three persons shall be formed to hear cases of sexual harassment to assure continuity and consistency.~~ Those who bring matters of professional conduct to the committee shall provide the committee with a written statement of specific charges. If the committee decides that the charges warrant further inquiry, a copy of the charges shall be forwarded to the Faculty Member concerned and hearings shall be held. At the hearing, the Faculty Member shall have the right to choose any member of the University Faculty as academic council and the right to hear all evidence presented to the committee. As a result of its deliberations, the committee shall inform the Faculty Member, Chair of the Senate, and the President of the opinion of the committee as to whether the Faculty Member's conduct conforms to acceptable professional standards or constitutes sexual harassment. If the matter cannot be resolved at this point, the committee may recommend to the Faculty Senate a specific sanction of censure or the special sanctions provided for cases of sexual harassment (see the policy and special procedures on sexual harassment, pp. xx). If the committee recommends that procedures for dismissal for cause be initiated, it shall so advise the Chair of the Senate and transmit this recommendation to the President for further consideration and action. If the committee recommends sanctions short of dismissal, except for censure, such recommendation will be transmitted to the President who may impose the recommended sanction or a lesser sanction or forward the matter to the Hearing Committee provided for in the Termination for Cause procedure ~~elsewhere in this Manual~~ (see pp. xx). The period of time from receipt of a complaint through final recommendation by the committee shall not exceed 30 academic working days, unless an extension of fifteen academic working days is requested of and approved by the President.

The following suggestions reflect Prof. Oxman's comments at the discussion of the documents dealing with sexual harassment at the Faculty Senate meeting of April 26, 1993.



Faculty Policy on Sexual Harassment:

Item IID, line 2: Delete "which causes discomfort or humiliation, or both," and substitute the relevant text from item IIE, namely, "*that would cause discomfort or humiliation, or both, to a reasonable person at whom the conduct was directed*".

Procedures:

Item II: Add, "*Both the complainant and the accused shall be treated fairly in the application of these procedures.*"

Item IVD: Delete all after "direct knowledge of the matters" on line 3.

Item IVE: Add a new paragraph after the first paragraph: "*The accused faculty member has the right to be informed of the report and all evidence brought before or examined by the Committee, and to introduce evidence in rebuttal.*"

Statement on Consensual Sexual Relationships:

First sentence: Comment. There are three problems with the first sentence, the first two of which were noted at the meeting. 1) The faculty member and student may be married to each other. 2) The sexual relationship may antedate the supervisory relationship, and indeed may antedate the status of either or both parties as faculty or student. 3) As drafted, the prohibition appears to be directed to both faculty and students, although the rest of the text makes clear that it is faculty conduct that is the object of the statement. In regard to the first two points, it was noted at the meeting that one should distinguish between prohibited sexual activity and nepotism or conflict of interest constraints. The latter apply independently of this statement.

The following changes are suggested to deal with these problems:

Rewrite the first sentence as follows: "*Faculty members shall not enter into consensual romantic and sexual relationships with students when they are in a supervisory relationship.*"

In addition, add the following sentence at an appropriate point: "*This statement does not apply to individuals who are married to each other, or affect the application of rules regarding nepotism or conflict of interest.*"

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in the Distinguished Professor legislation. The President expressed his view that stipends should be negotiated between the distinguished faculty member and the administration and should not be included in legislation. Dr. John Masterson summarized the former freshman teaching awards program and explained the revised process of nomination for such awards. He explained that, after review and recommendation by a faculty committee, excellence will now be rewarded at all levels of undergraduate education. The *motion carried*. It was *moved* and seconded to delete the stipend from the University Professor legislation. A *substitute motion* was offered by Dr. Knoblock changing "shall" to "should" in the last sentence of paragraph 1. The *motion failed* by a vote of 11 in favor and 12 opposed. The original *motion* to delete the sentence referring to the stipend *failed* by a vote of 12 in favor with 13 opposed. The Senate agreed to define the voting faculty for Distinguished Professor to be a 2/3 vote of the faculty of the department and for University Professor to be a 2/3 vote of the faculty of the school or college. Professor Clasby suggested that the Faculty Senate revisit the matter of recognizing excellence in teaching in order that the awards might be institutionalized. It was *moved* and seconded to place the matter on the agenda of the first meeting of the Senate in the fall. The *motion carried*.

Policy on Sexual Harassment

Professor Barbara Woshinsky, Chair of the Senate's Committee on Women and Minorities, introduced the proposed legislation on sexual harassment involving faculty. She then introduced Ms. Lourdes LaPaz, Associate General Counsel for the University, who presented transparencies showing a flow chart of the sexual harassment procedure. It was *moved* and seconded to approve the Faculty Policy on Sexual Harassment, Sections I and II. The *motion carried*. It was *moved* and seconded to approve the Procedures, Section I, General Matters. Following discussion, it was *moved* and seconded to amend Section IE as follows: "Complaints of sexual harassment, both formal and informal, should be filed as soon as possible, preferably within 30 days. In special circumstances, they may be reported at any subsequent time, but that the Federal law provides for a limit of 300 days". The *amendment carried*. The *motion as amended carried*. Section II, Types of Complaint, was *approved* in principle. During discussion of Section III, Informal Procedures, item A, it was suggested that a letter be sent to the administration informing them that the sense of the Senate is that at least one counselor in each school should be a woman. It was *moved* and seconded to approve Section III, item A, with the attachment of the letter to the Provost and the President. The *motion carried*. Section III, B4, was amended to read: "The Affirmative Action Officer shall make every reasonable effort to inquire ...". It was *moved* and seconded to adopt Sections III, A and B, paragraphs 1 and 2 on page 3. The *motion carried*. It was *moved* and seconded to *amend* Section III, B3, to provide for notification of the accused and that the Provost shall be advised. The *motion carried*. It was *moved* and seconded to *amend* Section III, B4, to read: "The Affirmative Action Officer shall inquire into...; he or she shall make every reasonable effort to speak with the complainant; that the accused will be notified of the complaint giving the name of the accuser, the nature of the

complaint and the desired outcome and that the Provost shall be informed. The *motion carried*. Section III, D, was revised to Section III, C, to follow the sequence in items. It was *moved* and seconded that the intent of a second paragraph to be added to Section III, B4 would be as follows: In the event that a voluntary agreement cannot be reached, and if the University's Affirmative Action Office believes the charges are substantiated, they may, after consultation with the Committee on Professional Conduct, give the faculty member a warning. That warning shall be placed in the archives and in the personnel file of that person. That person then has a right to write a letter of rebuttal to be placed in the same file. The *motion carried*. Section IV, A1, was *approved* on a *motion* duly made and seconded. It was *moved* and seconded to *amend* page 3, Section II, Types of Complaint by adding the following paragraph: "Both the complainant and the accused shall be treated fairly in the application of these procedures." The *motion carried*. Dr. Knoblock suggested withdrawing Section IV, A, for the purpose of refining the language and resubmitting the section in the fall. Section IV, B, was *approved* on a *motion* duly made and seconded. It was *moved* and seconded to approve Section IV, C and D, sentences 1 and 2, stopping with "...knowledge of the matters." The *motion carried*. It was *moved* and seconded to drop discussion of the examination of records from Section IV, D, to Section IV, E and to add "The accused shall receive a copy of the report, and has the right to introduce evidence in rebuttal" at an appropriate place in the document. The *motion carried* to approve the modified Section IV, D and E. It was *moved* and seconded to approve Section IV, F and G. The *motion carried*. It was *moved* and seconded to include in Section IV, E, parallel considerations concerning record keeping that are included in the Informal Procedures. The *motion carried*. It was *moved* and seconded that the Committee take the issue of pathological complaints under advisement and report back to the Senate at the same time the deferred section is discussed. The *motion carried*. The Senate granted authority to the Committee to make appropriate editorial changes for the purpose of consistency.

Statement on Consensual Sexual Relationships. Dr. Knoblock presented the *motion* from the Advisory Council and summarized the statement on consensual sexual relationships. It was suggested that the statement needed clarification regarding non-spousal relationships, and the resignation of supervisory positions and the addition of appropriate reference to the Nepotism Policy. The *motion carried*.

Committee on Professional Conduct. Dr. Knoblock introduced the Advisory Council's *motion* to approve the Committee on Professional Conduct revision. He stated that the bolded sentence "A subcommittee of three persons..." should be deleted from the text. The *motion carried*.

In the fall, a finalized draft will be presented, along with the two unresolved sections. In the interim, the policy and the document will be in effect. Dr. Whelan expressed the Senate's appreciation to everyone involved in preparing the document, with a special thanks to Dr. Knoblock for his guidance in completing the process.

STATEMENT ON CONSENSUAL SEXUAL RELATIONSHIPS.

Faculty members shall not enter into a consensual romantic and sexual relationship with students when they are in a supervisory relationship. Codes of ethics for many professional associations forbid professional-client sexual relationships. The power exercised by a professor in giving praise or blame, grades, recommendations for further study and future employment, as well as the respect and trust accorded a professor by a student, greatly diminish the student's actual freedom of choice in consensual romantic and sexual relations. Supervisory relationships include teaching, coaching, evaluating, or allocating money or privileges. A faculty member and a student are in a supervisory relationship when, for example:

- 1) a student is currently registered in a course by the instructor;
- 2) the faculty member is formally counselling the student as a departmental or school advisor or as a member of a thesis or dissertation committee;
- 3) the student's activities are being directly supervised or evaluated by the instructor, for sample as a teaching assistant supervisor; or
- 4) the faculty member is the Dean, Chair, Associate Dean or Chair, Assistant Dean or Chair, or other equivalent title, of the student's school or department.

Persons who begin consensual romantic or sexual relationships with students are expected to resign any supervisory position which they may hold when the relationship begins. If any person having such a relationship has not resigned, the appointing authority shall not reappoint that person to any supervisory position.

Faculty who are in a supervisory role are warned against the possible costs of even an apparently consenting relationship, in regard to the academic efforts of both faculty member and student. A faculty member who enters into a sexual relationship with a student where a professional supervisory relationship existed must realize that, if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to prove immunity on grounds of mutual consent.

This statement does no apply to individuals who are married to each other or are otherwise covered by the University Policy on Nepotism.

Committee on Professional Conduct

A panel of ~~five~~ nine senior tenured Faculty Members shall be elected annually by the Faculty Senate. The committee hearing a specific charge shall consist of three members of the panel. Matters involving the professional conduct of Faculty Members may be brought before this committee by a complainant (a Faculty Member, a director of an academic program, an academic dean, the Provost, or the President), after all reasonable efforts to reach an informal settlement at the department or school level have failed. Matters involving sexual harassment may be brought by the Affirmative Action Office at the completion of its investigation. ~~A subcommittee of three persons shall be formed to hear cases of sexual harassment to assure continuity and consistency.~~ Those who bring matters of professional conduct to the committee shall provide the committee with a written statement of specific charges. If the committee decides that the charges warrant further inquiry, a copy of the charges shall be forwarded to the Faculty Member concerned and hearings shall be held. At the hearing, the Faculty Member shall have the right to choose any member of the University Faculty as academic council and the right to hear all evidence presented to the committee. As a result of its deliberations, the committee shall inform the Faculty Member, Chair of the Senate, and the President of the opinion of the committee as to whether the Faculty Member's conduct conforms to acceptable professional standards or constitutes sexual harassment. If the matter cannot be resolved at this point, the committee may recommend to the Faculty Senate a specific sanction of censure or the special sanctions provided for cases of sexual harassment (see the policy and special procedures on sexual harassment, pp. xx). If the committee recommends that procedures for dismissal for cause be initiated, it shall so advise the Chair of the Senate and transmit this recommendation to the President for further consideration and action. If the committee recommends sanctions short of dismissal, except for censure, such recommendation will be transmitted to the President who may impose the recommended sanction or a lesser sanction or forward the matter to the Hearing Committee provided for in the Termination for Cause procedure elsewhere in this Manual (see pp. xx). The period of time from receipt of a complaint through final recommendation by the committee shall not exceed 30 academic working days, unless an extension of fifteen academic working days is requested of and approved by the President.

OPEN SESSION

Chairman's Report

The Chairman informed the Senate that Dr. Boardman, Senator for the School of Music, is leaving the University. The Senate congratulated Dr. Boardman on her appointment at Pennsylvania State University.

Dr. Whelan reported on the status of the legislation approved by the Senate this year. The Senate had approved 25 pieces of legislation, including the reorganization of the Faculty Senate and the legislation on Distinguished and University Professors and University Fellows. Legislation on Overtime Teaching Compensation and the Non-Discrimination Policy had not yet been signed by the President. The legislation on Administrative Assignments was still to be submitted while the legislation on the closure of the Counseling Center was still pending the outcome of negotiations to place the faculty elsewhere.

Policy on Sexual Harassment

Professor Knoblock reported on the status of the proposal for policy on Sexual Harassment. It was *moved and seconded* to approve the third paragraph on page 3. *The motion carried.* The paragraph on time limits is to be revised as per previous Senate action. Dr. Oxman requested to review the bold sentence on page 3 and to compare it with the sentence approved during the last Senate meeting.

Terms of Office of Senators

The second Vice Chair Dr. Yacoub stated that with the charter change of the size of the Senate (30 ~ 50), the minimum number of Senators per school from two to one senator, and the length of term from 2 to 3 years, it will be necessary for the 1993-94 Senate to reapportion the 94-95 Senate. Eventually, one third of the Senate will be elected every year. However, it will not be possible to decide on the actual term for each Senator until the size of the 1994-95 Senate is determined in the fall.

Committee on General Welfare

The Chairman stated that under the new provisions for Senate reorganization, the Committee on General Welfare for 1993-94 should be appointed at this meeting. However, due to the amount of continuing business still in hand, the Chairman proposed that the current Committee remain in existence until the first meeting of the Senate in the fall.

FACULTY POLICY ON SEXUAL HARASSMENT

Sexual Harassment by any member of the university community is prohibited. The University and its faculty are committed to a work environment free of sexual harassment, and violations of the University policies against sexual harassment are regarded as serious grounds for disciplinary action. Serious cases of sexual harassment by a member of the university community may result in dismissal in accord with appropriate policies.

I. Definition.

Sexual harassment is defined as unwelcome sexual conduct, such as unwelcome advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- A. Submission to said conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity; or
- B. Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or
- C. Such conduct is sufficiently severe or pervasive so as to create an environment which unreasonably interferes with an individual's work or educational performance, or as to create an intimidating, hostile, or offensive environment for work or learning.

II. Examples of Sexual Harassment.

Sexual harassment may encompass any unwelcome sexual conduct outlined above. Examples of verbal or physical conduct which are prohibited include, but are not limited to:

- A. physical assault;
- B. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
- C. direct unwelcome propositions of a sexual nature by a supervisor or individual with authority at the University over the status of the complainant;

NOTE: The following paragraph is inadequately worded and needs improvement, so that legitimate course content is not excluded by the sensitivities of some individual student. See below proposed additional language.

D. a pattern of unwelcome conduct (not legitimately related to the subject of a course, if one is involved) that would cause discomfort or humiliation, or both, to a reasonable person at whom the conduct was directed and that includes one or more of the following; (i) suggestive comments of a sexual nature; or (ii) sexually explicit statements, questions, jokes, or anecdotes; or

E. a pattern of unwelcome conduct that would cause discomfort or humiliation, or both, to a reasonable person at whom the conduct was directed that includes one or more of the following: (i) unnecessary and inappropriate touching, patting, hugging, or brushing against that person's body; (ii) remarks of a sexual nature about that person's clothing or body; or (iii) remarks about the sexual activity or speculations about the previous sexual experience of that person.

This list is intended to be instructive, not exhaustive; the final decision as to whether sexual harassment has occurred is determined by the particular facts and circumstances of each case. *The content of academic courses which deal with sexual topics, including harassment, in an explicit fashion and examine in detail matters concerning sexuality and sexual beliefs, feelings, actions, and practices are not limited by this policy and nothing in policy requires censoring content, method, or language related the topic of such courses.*

The procedures governing sexual harassment complaints against *Faculty Members* are governed by the policies adopted by the Faculty Senate and approved by the President.

PROCEDURES

I. GENERAL MATTERS

A. Responsibility of Deans, Chairs, and Faculty

Each Dean and Chair is responsible for pursuing sexual harassment complaints immediately upon becoming knowledgeable of their existence. Faculty members also should report instances of sexual harassment to the appropriate office (see below *Procedures*). If any supervisor or faculty member fails to do so, they may be held legally liable.

B. Confidentiality

To the extent possible, the investigation and proceedings conducted under this policy shall be conducted in a manner to ensure the confidentiality of all parties. The record of such proceedings shall be kept confidential, but the University reserves the right to disclose any relevant information regarding the complaint and its disposition which may be required by law to other University officials, and to take any necessary action consistent with the above.

C. Archive of Records

Records of all proceedings and actions of the Affirmative Action Office and Committee on Professional Conduct shall be maintained by Affirmative Action Office. Access to the records shall be as required by law.

D. Retaliation

Retaliation against any individual who resists sexual harassment or who reports acts of sexual harassment is prohibited.

E. Time limits

Complaints of sexual harassment, both formal and informal, should normally be filed within 30 calendar days from the date the incident occurred; but in no case later than the 300 days required by federal statutes.

II. TYPES OF COMPLAINT

Any individual who believes that he or she has been subjected to sexual harassment has available two methods for resolving the matter within the University:

1. through an informal procedure, or
2. through a formal procedure.

In all proceeding, formal and informal, every effort shall be made to protect the rights of both the complainant and the accused. *The Complaint Procedures of the University*

III. INFORMAL PROCEDURES.

A. Making a Complaint

Any individual who believes he or she is the subject of sexual harassment by a Faculty Member may contact any one of the following individuals or offices (reporting officer) as soon as possible after the incident:

1. Affirmative Action Office;
2. University Student Ombudsman;
3. Dean or Chair;

4. Designated School or College counselor (a list of counselors may be obtained through the Provost, Dean of Students, or the Personnel or Affirmative Action Office); or

5. Provost, Legal Counsel, or designated faculty officer.

B. Inquiry

1. Within five working days of receipt of the complaint, the Reporting Officer must notify the Affirmative Action Office of the charge.

2. The Affirmative Action Officer will advise the complainant of the process and available options.

3. If the Affirmative Action Officer determines that the substance of the complaint would not, in the meaning of the law or policy, constitute sexual harassment, the officer shall so advise the complainant. A record of the complaint and the disposition shall be placed in the Archives, and the accused faculty member and the Provost shall be advised in writing of this determination.

4. The Affirmative Action Officer shall make every reasonable effort to inquire into the facts regarding the complaint including but not limited to: speaking to the complainant; speaking with the Reporting Officer; speaking with other persons identified by the complainant; speaking with the faculty member charged; and speaking with other persons identified by the charged faculty member. This inquiry should be completed as soon as practicable. When complete, the accused faculty member shall be advised of the name of the complainant, the time and circumstances of the charges, and provided with the supporting evidence and the Provost shall be informed of the complaint.

C. Resolution by Agreement

At the conclusion of the inquiry by the Affirmative Action Officer, if appropriate, the Affirmative Action Officer, and where appropriate with the Reporting Officer, may attempt to resolve the complaint informally and by voluntary means and, in this effort, may obtain the assistance of the Dean or Chair of the faculty member charged with the harassing conduct. If an agreement satisfactory to the persons involved is reached, the terms of actions taken shall be summarized by the Affirmative Action Officer and placed in the Archives, together with a record of the complaint and its disposition. If no agreement satisfactory to both parties results, the Affirmative Action Officer, with the agreement of the Committee on Professional Conduct, may place a warning letter in the archive and in the permanent file of the accused faculty member. The accused faculty member has a right to place a letter of rebuttal in the Archive and in the permanent personnel file.

IV. FORMAL PROCEDURES.

A. Making a Complaint

When a person makes a formal complaint, the Affirmative Action Officer shall immediately proceed with the process outlined in section III, paragraphs B1-4, above. Any complainant who desires to file a formal complaint may do so without the necessity of filing an informal complaint first.

Action deferred until Fall:

~~When the President as a consequence of the inquiry believes that sufficient information is available to support the complaint, it may file a formal complaint against a member of the faculty even if the person making the complaint declines to do so.~~

B. Time

Within 10 academic days of receipt of a final determination of the informal proceeding, the complainant may request that the University take formal action.

C. Charges

The formal complaint shall be in writing and shall set forth: the facts and circumstances pertaining to the alleged harassment; the name of the complainant and the accused; the date, time and place of the incident; the names of other persons with knowledge of the incident; and the desired resolution. The formal complaint shall be filed with the Affirmative Action Office which shall notify the accused faculty member, Provost, Chair of the Faculty Senate, and Dean of the charges.

D. Investigation

The Affirmative Action Office shall conduct the investigation. They shall make every reasonable effort to interview the complainant, the accused, and other persons identified by the complainant or the accused as having direct knowledge of the matters, and shall examine appropriate records. The accused faculty member has the right to be informed of all the facts upon which the charges brought before the Affirmative Action Office are based, ~~to inspect all records examined by it,~~ and to introduce evidence in rebuttal.

E. Hearing

Upon completion of its investigation, the Affirmation Action Office shall report in writing to the Committee on Professional Conduct. The accused person shall be entitled to a copy of the report and all supporting evidence to be brought before or examined by the Committee on Professional Conduct, and shall have the right to introduce evidence in rebuttal.

(It is recommended below that Bylaw 4.15 be amended to create a special sub committee of Committee on Professional Conduct to hear sex harassment cases. This would address the problem of having a two-stop process.)

If the Committee decides that the charges warrant a hearing, the committee shall so advise the faculty member concerned. If the Committee decides that the charges do not warrant a hearing, they shall so advise the complainant, the accused and the Provost. A copy of their finding shall be placed in the Archive and in the personnel file of the accused.

F. Findings

As a result of its deliberations, the Professional Conduct Committee shall make one of the following findings:

1. That the complaint is not substantiated, or inadequately substantiated, in which case the accused and the complainant shall receive a letter stating this conclusion;

2. That the complaint is substantiated, but that the nature of the offense warrants only a recommendation that the accused be given a warning, be required to undergo appropriate counseling and/or therapy provided by the University, be required attend a workshop on sexual harassment, or, with the approval of the Dean, be transferred from the class; or

3. That the complaint is substantiated, and that the nature of the offense warrants imposition of a serious formal sanction. In this case the committee shall forward its recommendation to the Faculty Senate and the President.

G. Formal Sanctions

1. formal reprimand;
2. suspension or prohibition of advising and/or directing theses and dissertations;
3. suspension with pay;
4. termination for cause as provided in the University policy on Dismissal for Cause.

Imposition of these sanctions 1-3 requires approval of the Faculty Senate and the President.