

11-1991

University Policies

Anwar Shaikh PhD

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Principles and Procedures for Faculty Grievances at the New School for Social Research

Introduction

University policies and procedures can help the academic community function better. When faculty grievances arise, faculty members and administrators will benefit from having clearly established guidelines and procedures to be followed. Of course, it is not possible to foresee the circumstances under which members of the faculty will believe that they have been treated unfairly – by other faculty members in their department, their chair, or their Dean. Often, further information and communication will clarify decisions and expectations. In any case, experience has shown that it is helpful to all parties when there are clear procedures for the presentation and resolution of faculty grievances.

The principle of the faculty member's right to appeal decisions

The New School for Social Research is committed to the principle that all full-time and part-time faculty members in each academic division have the right to appeal decisions of their department, chair, or Dean.

At the same time, the University requires the Dean of each academic division to determine the teaching needs of the academic division and ensure the fitness and competence of its faculty members. As indicated in the Guidelines on the Rights and Responsibilities of Faculty Members, detailed and rigorous procedures are followed in the consideration of fitness and competence. Faculty members have the right to appeal the procedural aspects of decisions that bear on the determination of their fitness or competence. They do not have the right to appeal the substantive conclusions of such decisions.

The University procedure for hearing faculty grievances

- A. The membership and responsibilities of faculty grievance committees

Each academic division should have a grievance committee of at least four members of the division including at least two faculty members. The grievance committee is charged to receive and hear grievances of faculty members of that academic division. The Dean of the academic division ordinarily will designate the membership including the chair. The Dean should consult with the established faculty council or executive committee before selecting and announcing the membership.

The academic divisions should be sensitive to potential conflicts of interest in designating the individuals to hear faculty grievances. The Dean is responsible for informing the Provost of the University whenever there is a concern about the possibility of a conflict of interest in hearing a particular grievance. The Dean and the Provost may make changes in the membership of the grievance committee to eliminate a potential conflict of interest.

B. The grievance procedure

Faculty members should present a brief summary of their grievance (1 or 2 pages) in writing to the chair of the grievance committee. The committee may decide to hear oral testimony only, or require a fuller written statement of the grievance. It should attempt to resolve the outstanding issues through conversation with the faculty member who brings the grievance and the individual or department against whom the grievance is brought, before reaching a conclusion to its consideration of the grievance. At the end of the hearing, a short written statement on the consideration of the grievance and all findings should be presented to the Dean as well as to the faculty member and the other party.

The faculty member should schedule a conversation with the committee chair promptly after receiving the report on the hearing. The committee chair and the faculty member should discuss the issues raised in the grievance and review together the findings.

C. The right to appeal the outcome of the initial hearing of a grievance

Faculty members have the right to appeal the findings and the recommendations of the initial hearing of their grievance to their Dean. If, after discussing the matter with the committee chair, the faculty member chooses to appeal the outcome of the first hearing, the Dean should also attempt to resolve the issues at dispute through conversation with the parties. If a resolution still cannot be reached, the Dean will prepare a written report on his or her consideration of the grievance, with recommendations to the Provost. The Provost may choose to accept the recommendations of the Dean, or to conduct a final hearing of the grievance. If the recommendations are accepted, the Provost will release the report and the recommendations to the faculty member.

If the grievance involves a decision about the faculty member's fitness or competence, the procedures and standards of review expressed in the Guidelines on the Rights and Responsibilities of Faculty will apply. The Provost will make the determination of whether a faculty grievance is considered to involve fitness or competence.

The application of the faculty grievance procedure in the academic divisions

All of the academic divisions are expected to make known to their faculty members the University procedure for enabling faculty members to grieve. The Dean of the academic division should discuss with its faculty how the University's grievance procedure will be implemented in the academic division. The procedure of every academic division must be fully consistent with the principles and procedures for faculty grievances stated above.



To: Pam Landberg
Greggory Keith Spence
Joel Lester
Robert A. Gates
Heriberto Dixon
✓ Anwar Shaikh
Sheila Slaughter
Enas Abdallah
Mirangela Buggs
Laura Poitras
Ursula Wolfe-Rocca

From: Barbara W. Emerson
Date: December 10, 1997

Barbara W. Emerson

Attached are copies of resumes received for the University Ombudsperson position. The position is included in ads currently running in Black Issues in Higher Education and Hispanic Outlook. Also, it has been distributed to several organizations and professional mailings with a December 19, 1997 deadline. As my office receives additional resumes, they will be forwarded to you for your review.

Please hold December 19, 1997 at 1:00 -3:00 p.m. as a time to meet to review resumes and select candidates for interviews which I would hope to schedule for the week of January 5, 1998.

DRAFT: 11/1/94

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NEW SCHOOL FOR SOCIAL RESEARCH

**66 WEST 12TH STREET
NEW YORK, N.Y. 10011**

(212) 229-6656

OFFICE OF THE PRESIDENT

September 1, 1993

Dear Judith:

The handling of the promotion cases for Professors Jose Casanova and Diane Davis raises a number of central issues about the standards for promotion now prevailing in the Graduate Faculty. They are difficult issues, but I would like to open a discussion on them at the start of your deanship.

Both cases came forward with strong endorsement from the department and from the tenure committee. Dean Wolfe did not forward the Casanova recommendation and sent forward the Davis recommendation with clear reservations about the quality of her scholarship.

In my view, neither case should have been brought forward by the tenure committee. I enclose my letter of April 30 to Dean Wolfe concerning Professor Hattam's tenure in which I articulated the standard I thought should prevail for tenure decisions:

I do not think the Graduate Faculty should award tenure on the basis of a single book (the revised and expanded dissertation) just published and not yet reviewed. In the best of circumstances, I would want to see at least the manuscript for the second project and one or two articles from that project published in referred journals.

I believe the Graduate Faculty should have a tenure standard equal to the most distinguished institutions in the United States. It should not regard itself as an institution at a comparative disadvantage, and therefore offer tenure early in order to gain a competitive edge. Because it is small, makes few appointments, and has no margin for error, the Graduate Faculty should grant tenure in most cases, based chiefly on a solid record of scholarly accomplishment and not on promise, although there will always be unusual cases where we should respond to exceptional promise.

Page Two

I also expressed my concern that tenuring a candidate from outside prematurely would lower the overall standard for tenure. It seemed to me that might especially affect the process for internal candidates where the standard had not been high enough in some cases.

Professor Hattam was further along than either Professors Davis or Casanova, since she had already published a book and there had been response to it in the academic world. With reservations I acceded to the faculty's wishes and approved tenure for Hattam, but I explained that I would not react favorably to another recommendation that I considered premature. I said that I expected no more premature recommendations from the political science department nor would I expect to see such recommendations from other departments except in the rarest of circumstances.

The issue of the standard for internal tenure has been a serious concern of mine throughout my presidency. I enclose a copy of a letter to Dean Katznelson on January 12, 1988 in which I indicate the reasons why I think tenure from within the Graduate Faculty will not be a frequent occurrence. A process through which the faculty, you, the Provost, and I can talk through these issues and reach consensus is much needed.

I do not take lightly overturning a faculty recommendation endorsed by the Dean. In only one previous case over 11 years, that of Professor Malatesta, have I implemented an independent judgment at variance with the faculty and the Dean's recommendation. I have tried to indicate my discomfort about a number of decisions along the way, with the hope that the faculty would be sensitive to my concerns. The recommendations of Casanova and Davis clearly depart from the standard I have articulated. Thus I am left with no choice but to fulfill my responsibility to protect the standard of appointment and conclude that neither Casanova nor Davis should receive tenure at this point. I have an alternative proposal for each of these colleagues which is the subject of separate letters to you.

Page Three

I look forward to participating in whatever process you and the faculty devise to discuss the tenure standard for the Graduate Faculty.

Sincerely,


Jonathan F. Fanton

JFF/es

Enclosure

Dean Judith Friedlander
Graduate Faculty
AL/Room 240

Sheikh
ECO

MEMORANDUM

November 1, 1991

TO: General Faculty
RE: Faculty Research and Travel Committee
FROM: Jacob Landynski, Chairman

The Faculty Research and Travel Committee, consisting of one representative from each department, was established in 1967 to administer a budget of \$6,000 allocated that year (for the first time) by the Board of Trustees for travel and research by members of the Graduate Faculty. The current budget is \$25,000. Past experience shows that the lion's share of the budget is used to assist faculty members attending national and regional professional meetings, with the remainder devoted to pressing research needs.

What follows is a summary of the priorities, reimbursement rules, and procedures adopted by the Committee over the years.

PRIORITIES

If the sum of \$25,000 were to be evenly divided among the 70 members of the executive faculty, each member would receive \$357.14 annually. The budget is thus clearly inadequate to completely fund all travel and research needs of the faculty. A system of priorities is therefore considered essential. Those applying after the \$25,000 has been exhausted cannot be supported. The Committee grants priority status to requests for:

1. **Travel**

- a. Attendance at professional meetings in North America in a participatory capacity (e.g., presentation of paper, discussant, program chairperson). Reimbursement is not provided for attendance at local meetings (New York City area).
- b. Attendance in a non-participating capacity where the faculty member is the sole representative of his/her department and attendance is regarded as essential by the department chairperson. Limited to major professional meetings at which placement services are provided.
- c. Attendance in a non-participating capacity at a major professional meeting. Limited to one meeting annually and to a maximum reimbursement of \$100.

2. Typing

Assistance is provided for typing of manuscripts for articles to appear in scholarly journals and periodicals at \$2.00 per double-spaced page.

3. Reprints

Reimbursement is provided for up to 100 reprints of scholarly articles published by faculty members. (Where the journal in question provides contributors with a number of free copies but fewer than 100, the committee will reimburse for the difference. Thus, the receipt of 50 free copies allows reimbursement for only 50 more. Requests should therefore state if, and how many, reprints were received without cost.)

All other requests are considered to have a lower priority but will nevertheless be sympathetically considered by the Committee. Funds have been allocated in recent years for, among other things, attendance at scholarly meetings abroad (maximum reimbursement of \$600); xeroxing of research materials not available in the New School library; hiring of a research assistant with foreign language skills not possessed by work-study students; hiring of a student for special research assistance (reimbursement at rates paid by the New School for type of work involved); payment of human research subjects; purchase of special laboratory equipment; typing of a book-length manuscript; translating and editing. Requests of a lower priority nature must be submitted for approval to the Research and Travel Committee (c/o GF Dean's Office).

REIMBURSEMENT RULES

1. The Committee authorizes reimbursement for travel and research expenses incurred by faculty members but does not make cash advances. Normally this creates no difficulty since most travel bills are charged directly to the University travel agent or to credit cards. In cases of urgent financial need, requests for advances should be submitted to the Dean's Office.
2. Reimbursement for travel to scholarly meetings includes full train or plane (tourist class only) fare, transportation to and from airport or train stations, registration fee and \$65 per day for hotels and meals.
3. a. Reimbursement for typing expenses is limited to \$2.00 per double-spaced page (with the exception of technical materials such as graphs).

- b. The Committee does not reimburse for the typing of manuscripts which are likely to yield a profit to their authors when published (e.g., textbooks, books of general interest).
- c. The maximum expense for typing of scholarly manuscripts which will be reimbursed in one academic year is \$500.
4. Authorization for purchase of equipment by a colleague is made contingent upon assurance that ownership of the equipment will revert to his/her department upon conclusion of the experiment.
5. To assure that all members of the faculty are equitably treated, a limit of \$900 has been placed on funds allocated to any faculty member, each academic year. (This sum may require revision by the Committee, depending on demands on available resources.)
6. Emeriti and full-time visiting professors are entitled to draw on the Committee's funds.

PROCEDURES

The procedures are as follows:

1. In the case of the "priority" items listed above (travel to meetings in the United States or Canada; typing of article manuscripts; article reprints) it is not necessary to submit prior application. The Committee will try to honor all legitimate requests for reimbursement upon receipt of a properly filled-out check disbursement form accompanied by the required bills or receipts (hotel, plane, typing, etc.) Requests not accompanied by a check disbursement form, receipts, or other required documentation will promptly be returned. Please note that the Accounting Department will not make reimbursements without original bills or receipts. Requests for reimbursement should be forwarded to Deborah McTigue in the Dean's Office.
2. In all other cases, prior application should be made to the Committee. A letter or memo should be forwarded to Deborah McTigue briefly and accurately stating the nature and significance of the research, as well as the expense involved. The request will be submitted as expeditiously as possible to the Chair and other members of the Committee for review and approval. The applicant will be informed in writing of the outcome. If the application is approved, reimbursement will take place following submission of a check disbursement form accompanied by

original bills or receipts. Reimbursement checks will be mailed directly to your home so be sure to include a complete and current mailing address on the check disbursement form.

OFFICE OF THE DEAN/ GRADUATE FACULTY/ NEW SCHOOL FOR SOCIAL RESEARCH

September 25, 1990

TO: Members of the Executive Faculty

FROM: Alan Wolfe *AW*

RE: Special Faculty Meeting (Monday, 10/8, 2:30-4 pm, Rm. 242)

In preparation for our meeting on October 8 to discuss the University's policy on discriminatory harassment, I am circulating three recent articles on the subject: (1) Thomas Grey's article from Reconstruction outlining the Stanford policy; (2) a critique of the Stanford policy by Nat Hentoff from The Village Voice; and (3) brief materials from Chaplinsky v. New Hampshire, the Supreme Court case that first used the term "fighting words."

Are People of Color Entitled to Extra Freedom of Speech?

There comes a time when freedom of speech is not in the best interest of this country, and we've reached that point.

—Representative Jim Inhofe, Republican of Oklahoma, supporting the flag-protection amendment to the Constitution, *Tulsa World*, June 12

Now we have minorities and feminists and the left allied with fundamentalists who believe... group rights are more important than individual rights.

—Nadine Strossen, professor, New York Law School and general counsel to the ACLU, where she is a leader in the internal battle to prevent the ACLU from bowdlerizing the First Amendment

Once you open certain doors, they swing both ways.

—Anna Quindlen, *The New York Times*, August 12

Index on Censorship is an international monthly based in England that exposes suppression of speech wherever it occurs. Like in the United States. In the June issue, Gara LaMarche, program director of the Freedom-to-Write Committee of PEN American Center, tells the world about grim doings in the United States: creeping censorship on college campuses.

He cites a quote by a black student-government leader at Stanford a couple of years ago: "We don't put as many restrictions on freedom of speech as we should."

Also, at Stanford, among the strongest supporters of a proposed student speech code that would punish users of racist and other offensive speech were the "Asian, Black, Jewish, and Native American Law Students Associations."

From their ranks—and their counterparts at more and more colleges and universities—will come the judges, law professors, lawyers, and journalists of the first part of the next century.

A woman I know who works more than full-time on civil-liberties cases says: "The generation coming up—with exceptions—is largely ignorant of civil liberties." And many in that generation do believe that the First Amendment is too permissive. Certain highly offensive words and ideas should not be allowed.

At first, during the debate at Stanford as to whether there should be speech police on campus, I was somewhat encouraged. Professor Gerald Gunther, arguably the nation's leading scholar in constitutional law, was among those leading the fight for free expression. And I came in contact with a group of Stanford students who were astounded that so great a university would even consider censoring speech.

But there were a good many students on the other side. And most important, a substantial number of faculty members—including, I kid you not, professors at the law school.

Toward the end, when it looked as if the righteous censors were going to win, the one hope left was the

president of Stanford, Donald Kennedy, who had the authority to overrule the adoption of a speech code. Kennedy had been steadfastly against censorship on campus, having pointed out last year that once speech is restricted, ideas will also inevitably be policed, and self-censorship will become the normal way of survival for a Stanford student.

But this year, Kennedy knew which way the wind was finally blowing, and he asserted his leadership by following the apparent majority on campus.

So now, at this renowned institution of free inquiry, there are categories of prohibited words. From the Stanford speech code:

"Speech or other expression constitutes harassment by personal vilification if it:

"a) is intended to insult or stigmatize an individual or small number of individuals on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin; and

"b) is addressed directly to the individual or individuals whom it insults or stigmatizes; and

"c) makes use of insulting or 'fighting' words or non-verbal symbols."

At Stanford, you now have to police yourself before you speak, but even that won't help because the new policy is as clear as mud. How do you determine that someone *intended* to insult? Intended to "stigmatize"? Which "non-verbal symbols" can get you suspended or expelled?

And what is a "fighting word"? To whom?

Fighting words, according to the Stanford speech code, are words that by their "very utterance inflict injury or tend to incite to an immediate breach of the peace."

That hardly helps prevent you from getting into trouble unless you know, in advance, what particular set of words will ignite each particular student. The least Stanford can do is interview every student and then provide all students with a list of the specific words that will cause each of the other students to explode. And, by the way, when does a word "tend" to incite?

Stanford—like the University of California system, Emory, the University of Wisconsin (now being sued by the state affiliate of the ACLU), the University of Buffalo Law School, and many other campuses—is now in the business of sifting and weighing the utterances of its students in order to determine the worthiness of their speech.

Stanford prides itself on being one of the elite universities, and yet the majority of its faculty and students have yet to learn so basic a historical truth as this—stated by Eleanor Holmes Norton, former chair of the federal Equal Opportunity Commission under Jimmy Carter and now a law professor at Georgetown:

"It is technically impossible to write an anti-speech code that cannot be twisted against speech nobody means to bar.

It has been tried and tried and tried, but this college is spectacularly stupid. In one decision, Stanford has made itself a foolish institution.

And it has diminished its students. Steven Rhode, a constitutional lawyer and co-chair of the Los Angeles Bar Association-Bill of Rights Bicentennial Committee, points out:

"A university campus, whether public or private, must be a place for robust, wide-open, and free discussion. Students bring to college all their prejudices, their fears, their doubts, their misconceptions. If they spend four years cooped up under repressive regulations, they might well dutifully obey the rules, offend no one, and leave with all their prejudices, fears, doubts, and misconceptions firmly intact.

"Punishing bigoted speech only treats the symptoms, not the disease. It often creates martyrs and drives them underground, where they attract new, impressionable followers on the pretext that they themselves [the bigots] are an

"It is technically impossible to write an anti-speech code that cannot be twisted against speech that nobody means to bar."

'oppressed minority,' whose 'truths' are so powerful they are banned by the Establishment."

But Stanford has also gone beyond the continuous chill of speech codes to openly institute the policy that some people should have more free speech than others.

One of the leading supporters of the speech police is law professor Robert Rabin, who is chairman of the Student Conduct Legislative Council. During the debate in the Faculty Senate on whether the Stanford speech code should pass, Professor Michael Brautman offered Rabin a hypothetical:

In an angry exchange with a white student, a black student calls him a "honky son-of-a-bitch." I assume, said Brautman, that language would be prohibited under the speech code.

"No," said Professor Rabin. As reported in a document of the Student Conduct Legislative Council, Rabin went on to explain that the proposed Stanford speech policy takes the position that the white majority, as a whole, should not be protected from hateful speech as much as groups that have suffered discrimination.

Accordingly, "calling a white a 'honky,'" said Professor Rabin, "is not the same as calling a black a 'nigger.'"

Behold the new, innovative Stanford Sliding Scale of Free Speech!

Under this notion that some people deserve more free speech than others, punishment of bad speech is measured by which groups have been more discriminated against over time. Members of those groups get extra free speech.

One assumes, then, that a student charged with anti-Semitism will get a heavier punishment than someone who has insulted a WASP because Jews, lord knows, have been discriminated against more often and certainly longer than any other religious group.

As for ethnicity, what about Native Americans? In view of the length of their brutal mistreatment here, shouldn't they be more protected from harassing speech than any other ethnic group? What about Italian Americans? They claim, with justification, that they have historically been the targets of deep-rooted discrimination. Will a Stanford student suffer greater punishment for insulting an Italian Catholic student by contrast with making a Presbyterian feel bad?

Am I trivializing Stanford's good intentions? No, Stanford did that all by itself.

A visiting professor at the law school there is Mari J. Matsuda, who has become one of the more renowned advocates nationally of a sliding scale of free speech. According to *The New York Times* (June 29), she says—as paraphrased by the *Times*—that "freedom of speech should belong mainly to the powerless rather than those in power. In her view, the powerless are all members of 'outsider' groups, like blacks and women, no matter how affluent and influential the individual."

In some circles, this is a version of "communitarianism." (The values and priorities of the group should be paramount.) The individual, therefore, acquires his or her deepest identity as a member of the group. And he or she will be rewarded as a member of the group. Part of that reward will be free speech—more free speech than members of lesser groups.

But what will happen if the individual uses his or her free speech to criticize his or her group? Will he or she still be entitled to any free speech at all?

No matter what today's communitarians say, speech remains free only so long as each individual remains free to speak against any and all groups.

The history of any country at any time will bear that out. Our own history has abundant evidence in that regard. Our colleges and universities are now mindlessly adding to that evidence.

RESPONDING TO ABUSIVE SPEECH ON CAMPUS: A MODEL STATUTE

Thomas C. Grey

In recent years, Stanford, like many other American universities, has witnessed a number of incidents in which students have abused their colleagues with racist and homophobic speech. Authorities have had to decide what, if any, forms of abusive speech should be held to violate the University's student code of conduct. There has been much debate on campus about how to balance competing values of non-discrimination and decency on the one hand and free expression on the other.

The campus disciplinary system is governed by an Honor Code, which covers offenses against academic integrity, and a Fundamental Standard, which requires students to show "such respect for the rights of others as is expected of good citizens." Over the years, this latter provision has been enforced mainly against physical assaults and property offenses committed on campus. In matters implicating freedom of expression, Stanford, though a private university not bound by the First Amendment, has nonetheless committed itself in recent years to complying with federal constitutional free speech doctrine.

As a teacher at Stanford Law School who has served on the campus judicial council, I have proposed the following provision for adoption by the University's legislative body. The proposal attempts to mesh a concept drawn from anti-discrimination policy—the idea that maintaining a hostile environment may constitute invidious discrimination—with one of the recognized, though controversial, exceptions to the First Amendment's ban on content-based restrictions of free expression—the so-called "fighting words" doctrine.¹

¹ Editorial note: Below Professor Grey describes "fighting words" as "words, pictures or other symbols that, by virtue

I believe that racist, homophobic, and other types of abusive speech are serious problems. I also think that some of the efforts to deal with these problems threaten to stifle salutary debate on issues involving race, sexual preference, and other concerns. Here I have tried to define for prohibition a limited form of expression that is discriminatory, assaultive, and plays no essential part in the exposition of ideas. I offer it for discussion and for whatever practical help it may provide to others who are trying to deal with verbal abuse on American campuses.

of their form, are commonly understood to convey direct and visceral hatred or contempt for human beings on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin." The term became part of federal constitutional law in 1942 when the Supreme Court upheld the conviction of a person prosecuted for having called a police officer "a God damned racketeer" and "fascist." According to the Court

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Chaplinsky v. New Hampshire, 315 U.S. 568, 571-72 (1942).

What is required in addition is that the *form* of expression used must include the standard abusive epithets or their equivalents—for example, terms such as “nigger,” “kike,” “faggot,” or the use of KKK symbols directed at African-American students or Nazi symbols directed at Jewish students. The expression “commonly understood” is added to *narrow* the discretion of enforcement authorities; it is meant to ensure that forms of expression thought to be insulting or offensive by a social group or certain members of a group do not qualify as vilification unless those forms of expression are generally so understood across society as a whole. For example, the Confederate flag, though experienced by many African-Americans as a racist endorsement of slavery and segregation, is still widely enough accepted as an appropriate symbol of regional identity and pride that it would not, in my view, fall within the “commonly understood” restriction.

7. *Does not the narrow definition of vilification imply approval of all “protected expression” that falls outside the definition?*

Not every form of speech or conduct that is “protected” in the sense of being immune from disciplinary sanction is thereby approved or endorsed by the Stanford community. For example, while interference with free expression by violence or threat of violence violates the Fundamental Standard, less overt forms of silencing of diverse expression, such as too hasty charges of racism, sexism, and the like, generally do not. Yet the latter form of silencing is hurtful to individuals and bad for education; as such, it is to be discouraged, though by means other than the disciplinary process.

Similarly, while personal vilification violates the Fundamental Standard, even extreme expression of racial hatred and contempt does not, so long as it is not addressed to individuals. Yet the latter form of speech causes real harm and it can and, in my opinion, should be sharply denounced throughout the University community. Less extreme expressions of bigotry (including off-hand remarks that embody harmful stereotypes) are also hurtful to individuals and bad for education. They too should be discouraged, though again by means other than the disciplinary process.

In general, the disciplinary requirements that form the content of the Fundamental Standard are not meant

to be a comprehensive account of good citizenship within the Stanford community. They are meant only to set a floor of minimum requirements of respect for the rights of others, requirements that can be reasonably and fairly enforced through a disciplinary process. The Stanford community should expect much more of itself by way of tolerance, diversity, free inquiry and the pursuit of equal educational opportunity than can possibly be guaranteed by any set of disciplinary rules.

8. *Is the proposal consistent with the First Amendment?*

Though Stanford as a private university is not bound by the First Amendment as such, it has for some years taken the position that, as a matter of policy, it would treat itself as so bound. I agree with the policy, and I believe that this proposal is consistent with First Amendment principles as the courts have developed them. However no court has ruled on the constitutionality of a harassment restriction based on the “fighting words” concept, and no one can guarantee that this approach will prove acceptable. What in my view is virtually certain is that any broader approach, for example one that proceeds on the basis of a theory of group defamation, or (like the University of Michigan regulation recently struck down by a federal court) on the basis of the tendency of speech to create a hostile environment, without restriction to “fighting words” (or some equivalent such as “intentional infliction of serious emotional distress”), will be found by courts applying current case law to be invalid. ■

To all the people who think the press goes too far sometimes, consider the alternative.

WASHINGTON (AP) — New details about the Navy's 1965... details such as which ship was involved, where it was desuned and where it was bound. It did concede in 1986 that the incident was classified as among its...
 handler of Greenpeace, said their research had established that many other have...
 To learn more about the role of a Free Press and how it protects your rights, call the First Amendment Center at 1-800-542-1600.

If the press didn't tell us, who would?

A public service message of The Ad Council and The Society of Professional Journalists

Free Expression and Discriminatory Harassment

1. Stanford is committed to the principles of free inquiry and free expression. Students have the right to hold and vigorously defend and promote their opinions, thus entering them into the life of the University, there to flourish or wither according to their merits. Respect for this right requires that students tolerate even expression of opinions which they find abhorrent. Intimidation of students by other students in their exercise of this right, by violence or threat of violence, is therefore considered to be a violation of the Fundamental Standard.
2. Stanford is also committed to principles of equal opportunity and non-discrimination. Each student has the right of equal access to a Stanford education, without discrimination on the basis of sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin. Harassment of students on the basis of any of these characteristics contributes to a hostile environment that makes access to education for those subjected to it less than equal. Such discriminatory harassment is therefore considered to be a violation of the Fundamental Standard.
3. This interpretation of the Fundamental Standard is intended to clarify the point at which protected free expression ends and prohibited discriminatory harassment begins. Prohibited harassment includes discriminatory intimidation by threats of violence, and also includes personal vilification of students on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin.
4. Speech or other expression constitutes harassment by personal vilification if it:
 - a) is intended to insult or stigmatize an individual or a small number of individuals on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin; and
 - b) is addressed directly to the individual or individuals whom it insults or stigmatizes; and

- c) makes use of "fighting" words or non-verbal symbols.

In the context of discriminatory harassment, "fighting" words or non-verbal symbols are words, pictures or other symbols that, by virtue of their form, are commonly understood to convey direct and visceral hatred or contempt for human beings on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin.

Comments

The Fundamental Standard requires that students act with "such respect for... the rights of others as is demanded of good citizens." Some incidents in recent years on campus have revealed doubt and disagreement about what this requirement means for students in the sensitive area where the right of free expression can conflict with the right to be free of invidious discrimination. This interpretation is offered for enactment by the Student Conduct Legislative Council to provide students and administrators with some guidance in this area.

The interpretation first restates, in Sections 1 and 2, existing University policy on free expression and equal opportunity respectively. Stanford has affirmed the principle of free expression in its Policy on Campus Disruption, committing itself to support "the rights of all members of the University community to express their views or to protest against actions and opinions with which they disagree." The University has likewise affirmed the principle of non-discrimination, pledging itself in the Statement of Nondiscriminatory Policy not to "discriminate against students on the basis of sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin in the administration of its educational policies." In Section 3, the interpretation recognizes that the free expression and equal opportunity principles conflict in the area of discriminatory harassment, and draws the line for disciplinary purposes at "personal vilification" that discriminates on one of the bases prohibited by the University's non-discrimination policy.

1. *Why prohibit "discriminatory harassment," rather than just plain harassment?*

Some harassing conduct would no doubt violate the Fundamental Standard whether or not it was based on one of the recognized categories of invidious discrimination—for example, if a student, motivated by jealousy or personal dislike, harassed another with repeated middle-of-the-night phone calls. Personal vilification that is not discriminatory might in some circumstances fit within the same category. The question has thus been raised why we should then define *discriminatory harassment* as a separate violation of the Fundamental Standard.

The answer is suggested by reflection on the reason why the particular kinds of discrimination mentioned in the University's Statement on Nondiscriminatory Policy are singled out for special prohibition. Obviously it is University policy not to discriminate against *any* student in the administration of its educational policies on any arbitrary or unjust basis. Why then enumerate "sex, race, color, handicap, religion, sexual orientation, and national and ethnic origin" as specially prohibited bases for discrimination? The reason is that, in this society at this time, these characteristics are the target of socially pervasive invidious discrimination. Persons with these characteristics tend to suffer the special injury of *cumulative* discrimination: they are subjected to repetitive stigma, insult, and indignity on the basis of a fundamental personal trait. In addition, for members of certain vulnerable groups, a long history closely associates verbal abuse with intimidation by physical violence, so that vilification is experienced as assaultive in the strict sense. It is the cumulative and socially pervasive discrimination, often linked to violence, that distinguishes the intolerable injury of wounded identity caused by discriminatory harassment from the tolerable, and relatively randomly distributed, hurt of bruised feelings that results from single incidents of ordinary personally motivated name-calling, a form of hurt that we do not believe the Fundamental Standard protects against.

2. *Does not "harassment" by definition require repeated acts by the individual charged?*

No. Just as a single sexually coercive proposal can constitute prohibited sexual harassment, so can a single

instance of vilification constitute prohibited discriminatory harassment. The reason for this is, again, the socially pervasive character of the prohibited forms of discrimination.

3. *Why is intent to insult or stigmatize required?*

Student members of groups subject to pervasive discrimination may be injured by unintended insulting or stigmatizing remarks as well as by those made with the requisite intent. In addition, the intent requirement makes enforcement of the prohibition of discriminatory harassment more difficult, particularly since proof beyond a reasonable doubt is required to establish charges of Fundamental Standard violations.

Nevertheless, I believe that the disciplinary process should only be invoked against intentionally insulting or stigmatizing utterances. The kind of expression defined in Section 4(c) does not in my view reach the level of "fighting words" unless used with intent to insult. For example, a student who heard members of minority groups using the standard insulting terms for their own group in a joking way among themselves might—trying to be funny—insensitively use those terms in the same way. Such a person should be told that this is not funny, but should not be subject to disciplinary proceedings.

The threat of prosecution for possibly thoughtless or insensitive misuses of the kind of terminology or symbolism defined in Section 4(c) also creates the danger of chilling campus discussion of race, gender, and other sensitive issues, in which these terms and symbols will naturally be mentioned, and where some may naturally mistake quotation or mention for deliberately insulting use. Confining the disciplinary offense of harassment to intended direct insults or fighting words, backed by the requirement of proof beyond a reasonable doubt, should prevent any serious chilling effect of this kind, thus preserving the necessary breathing space for vigorous and free debate on these topics.

4. *Why is only vilification of "a small number of individuals" prohibited and how many are too many?*

The principle of free expression creates a strong presumption against prohibition of speech based upon

its content. Narrow exceptions to this presumption are traditionally recognized, among other categories, for speech that is defamatory or assaultive, and (a closely related category) for speech that constitutes "fighting words." The interpretation adopts the concept of "personal vilification" to help spell out what constitutes the prohibited use of fighting words in the discrimination context. Personal vilification is a narrow category of intentionally insulting or stigmatizing statements *about* individuals (4a), directed *to* those individuals (4b), and expressed in viscerally offensive form (4c).

This excludes "group defamation"—insulting statements concerning social groups directed to the campus or the public at large. The purpose of this limitation is to give extra breathing space for vigorous public debate on campus, protecting even extreme and offensive utterance in the public context against potentially chilling effect of the threat of disciplinary proceedings.

The expression "small number" of individuals in 4(a) (rather than "group" or "determinate group") is meant to make clear that prohibited personal vilification does not include "group defamation" as that term has been understood in constitutional law and in campus debate. The clearest case for application of the prohibition of personal vilification is the face to face insult of one individual by another. Of course more than one person can be insulted face to face, and vilification by telephone is not essentially different from vilification that is literally face to face.

For reasons such as these, the exact contours of the concept of insult to "a small number of individuals" cannot be defined with mechanical precision. One limiting restriction is that the requirements of 4(a) and 4(b) go together, so that a "small number" of persons must be no more than can be and are "addressed directly" by the person conveying the vilifying message.

For example, I believe that a poster placed in the common area of a student residence might be found to constitute personal vilification of all the students living in that residence who possess the characteristic subject to attack. Any such finding would depend, however, upon an individualized determination of the knowledge and intent of the person or persons placing the poster.

5. *What do "fighting words" have to do with fighting?*

The term "fighting words" means words (or other forms of expression) so intolerable in our society that they are likely in normal circumstances to provoke violent response. The expression has become a term of art in connection with free speech issues. The term does not imply that violence is considered an acceptable or appropriate response, even to discriminatory vilification; disciplinary proceedings are meant to substitute for, not supplement, violent response. The term also does not mean that a threat or prediction of violent response can by itself turn protected speech into unprotected "fighting words"; any such principle would establish a veto over free expression on the part of anyone willing to threaten violence. Nor, for similar reasons, should the term be read to imply that an actual threat or likelihood of violent response is a necessary element for application of the "fighting words" concept; statements that in themselves constitute "fighting words" do not become protected speech simply because their immediate victims are, for example, such disciplined practitioners of non-violence, or so physically helpless, or so cowed and demoralized, that they do not, in context, pose a realistic physical threat. In my view, "fighting words" should be considered essentially equivalent to words that would justify imposition of tort liability for intentional infliction of emotional distress.

6. *What is the point of the terms "by virtue of their form" and "commonly understood" in the definition of "fighting words?"*

These terms in Section 4(c) are meant to limit vilification to expression using epithets or pictorial representations that are, as a matter of general social consensus, recognized as gut-level insults to those with the characteristic in question. The restrictive term "by virtue of their form" is meant to exclude charges of harassment being brought on the basis that certain social and political views are in and of themselves, simply by virtue of their *content*, offensive and insulting to members of groups that they concern. Thus under this interpretation, the expression of racist, sexist, homophobic, or blasphemous views as such, even with the intent to insult, and personally directed to those known to be vulnerable to that kind of insult, does not by itself violate the Fundamental Standard.

with the passenger's ability to read, converse, meditate, or even doze? How significant is it that the passenger cannot reasonably be expected to leave the vehicle entirely? See *Lehman v. Shaker Heights*, Sec. V infra.

IV. "FIGHTING WORDS," OFFENSIVE WORDS AND HOSTILE AUDIENCES

CHAPLINSKY v. NEW HAMPSHIRE, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942): In the course of proselytizing on the streets of Rochester, N.H., appellant, a Jehovah's Witness, denounced organized religion. Despite the city marshal's warning to "go slow" because his listeners were upset with his attacks on religion, appellant continued and a disturbance occurred. At this point, a police officer led appellant toward the police station, without arresting him. While enroute, appellant again encountered the city marshal who had previously admonished him. Appellant then said to the marshal (he claimed, but the marshal denied, in response to the marshal's cursing him): "You are a God damned racketeer" and "a damned Fascist and the whole government of Rochester are Fascists or agents of Fascists." He was convicted of violating a state statute forbidding anyone to address "any offensive, derisive or annoying word to any other person who is lawfully in any [public place] [or] call[ing] him by any offensive or derisive name," as construed by the state court to ban "words likely to cause an average addressee to fight"; "face-to-face words plainly likely to cause a breach of the peace by the addressee." The Court, per MURPHY, J., upheld the conviction, deeming it "unnecessary to demonstrate" that appellant's epithets were "likely to provoke the average per-

son to retaliation." The Court's opinion contains the following famous passage on what has been called the "two-level" theory of the first amendment:^a

"There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. [S]uch utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

^a See Kalven, *The Metaphysics of the Law of Obscenity*, 1960 Sup.Ct.Rev. 1, 10. See also Haiman, *How Much of Our Speech is Free?*, The Civ.Lib.Rev., Winter, 1975, pp. 111, 123-24; Note, 53 B.U.L.Rev. 834, 836-42 (1973).

As Professor Haiman has pointed out, supra at 123. "this discrimination between two classes of speech made its first U. S. Supreme Court appearance in Cantwell v. Connecticut, [310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940)]." Jehovah's Witnesses had been convicted of religious solicitation without a permit and of breach of the peace. The Court set aside both convictions. It invalidated the permit system for "religious" solicitation, because it permitted the licensing official to determine what causes were "religious," thus allowing a "censorship of religion." In setting aside the breach of peace conviction, because the offense covered much protected conduct and left "too wide a discretion in its application," the Court, per Roberts, J., noted: "One may, however, be guilty of [breach of the peace] if he commits acts or makes statements likely to provoke violence and disturbance of good order. [I]n practically all [such decisions to this effect], the provocative language [held to constitute] a breach of the peace consisted of profane, indecent or abusive remarks directed to the person of the hearer. Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act [under a narrowly drawn statute] would raise no question under that instrument." (Emphasis added.)

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NEW SCHOOL FOR SOCIAL RESEARCH
GRADUATE FACULTY OF POLITICAL
AND SOCIAL SCIENCE
65 FIFTH AVENUE
NEW YORK, N.Y. 10003
(212) 741-5777

OFFICE OF THE DEAN

September 21, 1990

TO: Executive Faculty

FROM: Tom Bowden 

RE: Special Meeting, Monday, October 8, 2:30-4 PM, Ernst Wolff
Conference Room (242)

Dean Wolfe is convening a special meeting of the Executive Faculty, at which President Fanton and Provost Walzer will be present, to discuss the attached proposed University Policy on Discriminatory Harassment, and the Bernstein Committee report, which was distributed earlier. A limited number of the latter will be available in this office.

Please be good enough to mark this date on your calendars.
Many thanks.

OFFICE OF THE DEAN / GRADUATE FACULTY / NEW SCHOOL FOR SOCIAL RESEARCH

September 14, 1990

To: GF Faculty

From: Alan Wolfe *aw*

President Fanton has suggested that I distribute to all of you a copy of the proposed University Policy on Discriminatory Harassment. He welcomes your comments and suggestions on this policy.

UNIVERSITY POLICY ON DISCRIMINATORY HARASSMENT

The New School for Social Research is committed to fostering an atmosphere for teaching and learning within a racially and culturally diverse community that values mutual respect and human dignity and is supportive of intellectual, artistic and professional growth and the principle of individual difference.

However, these benefits are compromised when individuals or groups within the community engage in deliberate acts of discriminatory harassment and coercion against other members of the university. Such acts undermine the fundamental values of the entire community and contribute to a hostile environment which may limit or deny access to the educational process, not just for those subjected to such acts, but to the community as a whole. Discriminatory harassment is, therefore, prohibited.

Prohibited discriminatory harassment is defined as intimidation by threats and/or acts of violence, or personal vilification of university members on the basis of their race, color, religion, sex, sexual orientation, ethnic origin, handicap, age or marital status. Speech or other expression constitutes discriminatory harassment by personal vilification if it:

- a) Is intended to insult or stigmatize, threaten or intimidate an individual or a small number of individuals on the basis of their race, color, religion, sex, sexual orientation, ethnic origin, handicap, age or marital status; and
- b) is addressed directly to the individual or individuals whom it insults or stigmatizes; and
- c) makes use of "fighting" words or non-verbal symbols.

In the context of discriminatory harassment, "fighting words" or non-verbal symbols are words, pictures or other symbols that, by virtue of their form, are commonly understood to convey direct hatred or contempt for human beings on the basis of one or more of the categories of personal attributes contained in this policy and the New School's Statement on Equal Opportunity.

PROCEDURES FOR RESPONDING TO DISCRIMINATORY HARASSMENT

- A. The procedure to be followed in cases of alleged discriminatory harassment consists of the following five (5) steps, which are explained in detail below.
- I. Initial consultation with the divisional ombudsperson or trusted member of the university.
 - II. Discussion of the complaint with the members of the division of the person complained against appointed by the Dean to handle discriminatory harassment complaints and review and resolution of the complaint through informal means.
 - III. Review, of the complaint by the University-Wide Committee on Discriminatory Harassment.
 - IV. Penalty imposed by the Provost
 - v. Appeal to the President
- I. **INITIAL CONSULTATION WITH THE OMBUDSPERSON OF THE COMPLAINANT'S ACADEMIC DIVISION OR TRUSTED MEMBER OF THE UNIVERSITY.**

Anyone who believes that s/he has been the victim of discriminatory harassment or believes s/he has witnessed such behavior is encouraged to consult with his or her divisional ombudsperson appointed by the Dean to discuss these matters. If the individual prefers, s/he may discuss the matter with another trusted member of the university, who will in turn be able to consult with the ombudsperson. It is not necessary for those coming forward to be certain about what has taken place in order to seek advice or to discuss experiences. The ombudsperson shall attempt, if possible, to resolve the matter. All inquiries, at this stage, will be held entirely confidential.

If, at the conclusion of these discussions, the person who believes that s/he has been a victim of discriminatory harassment wishes to file a complaint,

s/he shall be advised of these guidelines and procedures by the ombudsperson.

Persons wishing to file a complaint by proceeding to Step 2 must do so within 30 days of the alleged incident. If the alleged incident takes place within 30 days of the end of the semester, the complainant shall initiate Step 2 within 30 days after the beginning of the following semester.

II. DISCUSSION OF THE COMPLAINT WITH THE MEMBERS OF THE DIVISION OF THE PERSON COMPLAINED AGAINST APPOINTED BY THE DEAN TO HANDLE DISCRIMINATORY HARASSMENT COMPLAINTS AND REVIEW AND RESOLUTION OF THE COMPLAINT THROUGH INFORMAL MEANS.

Each year, the Dean will appoint and publish the names of three or four members of the division who will be responsible for handling discriminatory harassment complaints. This group will be composed of faculty, students and administrative staff who have received orientation training in this area. The complainant has the option of discussing his or her complaint with one or two members of the group or with the group as a whole. The complainant should choose the arrangement with which s/he is most comfortable. The complainant may be accompanied and advised by the person s/he consulted in Step 1 or by any other member of the university.

The purpose of these discussions shall be to make a good faith effort to establish the facts and resolve the complaint. The appointed member(s) of the academic division should use a great degree of discretion and flexibility in deciding what informal means would be most effective, such as having private confidential discussions with the parties involved, or through such other means as they may deem appropriate.

The complainant shall have the option at any point during the course of these discussions to advise the appointed member(s) of the academic division of his or her desire to terminate Step 2 and proceed to Step 3. Similarly, the appointed member(s) of the academic division may advise the complainant to proceed to Step 3 at any point during Step 2 if they conclude that informal resolution of the complaint is impossible.

Step 2 should take no longer than one month to complete.

The appointed member(s) of the academic division shall report the outcome of Step 2 to the Dean. If either the complainant or the person(s) complained against believe

that the matter has not been resolved satisfactorily and choose to continue the process, s/he shall so advise the Dean who will inform the Chair of the University-Wide Committee on Discriminatory Harassment that the case is being forwarded for the Committee's consideration.

III. REVIEW OF THE COMPLAINT BY THE UNIVERSITY-WIDE COMMITTEE ON DISCRIMINATORY HARASSMENT.

The University Committee on Discriminatory Harassment is a standing committee composed of nine members: six faculty (one from each academic division of the New School for Social Research in New York) and three students (one undergraduate, one graduate and one "non-traditional" part-time student) who have received orientation training in the areas covered by discriminatory and sexual harassment. In addition to reviewing discriminatory harassment complaints, the Committee has jurisdiction over sexual harassment and university-wide disciplinary cases. Members of the Committee, as well as its Chairperson, are appointed by the President of the University from nominations submitted by the Deans of the academic divisions. Any member of the Committee with a conflict of interest in a given case may be asked to disqualify him or herself from participating in the case.

Review of discriminatory harassment complaints by the University-Wide Committee on Discriminatory Harassment is initiated by the person(s) who requested review of the case in Step 2 submitting a written statement or complaint to the to the Committee Chairperson who shall then request individual written statements from the other party or parties involved. The Committee may interview the parties, either separately or together, call witnesses and otherwise attempt to establish all relevant facts. Once the Committee has satisfied itself as to the establishment of the facts and circumstances of the case, the Committee shall make a determination as to whether the Policy on Discriminatory Harassment has been violated. If the Committee finds that penalties are warranted it shall inquire of the Provost whether prior similar cases exist in which either of the parties were involved before recommending an appropriate penalty to the Provost. The structure of penalties, in increasing order of severity, is:

1. Warning, verbal and /or written
2. Probationary status
3. Suspension
4. Dismissal or expulsion

5. Any of these penalties combined with a recommendation that the person seek professional counseling.
6. Such other penalties or remedial action as the Committee may suggest as appropriate.

The Committee shall report its findings and recommended penalty, if any, to the Provost. The member of the Committee shall not discuss the case except at Committee sessions.

Step 3 should proceed as promptly as possible and ordinarily should be concluded by the end of the term in which the complaint was brought.

IV. PENALTY IMPOSED BY THE PROVOST

The Provost will review the findings of the Committee and any recommended penalty and inform the person charged promptly. The Provost will keep a record of all cases reviewed by the University-Wide Committee on Discriminatory Harassment as well as a record of complaints handled within the academic divisions, reported by the Deans.

V. APPEAL TO THE PRESIDENT OF THE UNIVERSITY

Any party to a case may appeal to the President of the University if s/he believes and can demonstrate that the procedures set forth herein were not followed properly or where s/he has new information, not previously available. Where new information is presented, the President in his/her sole discretion may remand the case to the University-Wide Committee on Discriminatory Harassment for reconsideration.

After consideration of an appeal, the President may alter the penalty, using the structure of penalties outlined in Step 3.

B. OTHER PROCEDURES

a. Administrative Staff

The University's Policy and Procedures on Discriminatory Harassment are intended to supplement rather than circumscribe the employer's rights. The Director of Personnel, with the approval of the Senior Vice-President for Administration and Finance shall issue separate

guidelines with respect to alleged harassment in the workplace.

b. Mixed Cases

Occasionally, a complainant may believe that s/he has suffered in one incident a violation of the University's Policies on Discriminatory and Sexual Harassment. In such cases, s/he should discuss this with the ombudsperson in Step 1 to determine which procedure to follow.

c. Retaliation Forbidden

It is a violation of the University's rules to retaliate against anyone bringing a complaint of discriminatory harassment. Anyone shown to have threatened, brought false counter-charges, made punitive use of grades, arbitrarily dismissed or denied a promotion to another or to have otherwise retaliated against an individual because of his/her complaint will be subject to disciplinary action. Any indication of retaliation should be promptly reported to the Dean of the academic division (or in the case of administrative staff, to the Director of Personnel) who is responsible for the consideration of the case. S/he will review the facts and recommend appropriate action.

DRAFT #1 - 8/31/92

REVISED UNIVERSITY POLICY ON DISCRIMINATORY HARASSMENT

The New School for Social Research is committed to being an academic community that is racially and culturally diverse, that values mutual respect, human dignity, and individual differences, and that is supportive of intellectual, artistic, and professional growth.

These benefits are compromised when individuals or groups within the community engage in acts of discriminatory harassment and coercion against other individuals or groups, including intimidation by threats and/or acts of violence or personal vilification on the basis of race, color, religion, sex, sexual orientation, ethnic origin, handicap, age, marital status, or other personal attributes. Such acts undermine the fundamental values of the entire community and contribute to a hostile environment which may limit or deny access to the educational process, not just for those subjected to such acts but to the community as a whole.

This policy statement is not intended to discourage the expression of ideas that, while they may be offensive, are protected by the university's Policy on the Free Exchange of Ideas and the university's Statement on Freedom of Artistic Expression, and by the First Amendment of the Constitution of the United States.

The New School believes that speech or other expression constitutes discriminatory harassment if it:

(a) deliberately insults, stigmatizes, threatens or intimidates an individual or small group of specific individuals on the basis of race, color, religion, sex, sexual orientation, ethnic origin, handicap, age, marital status or other personal attributes; and

(b) is addressed directly to the specific individual or individuals whom it insults, stigmatizes, threatens, or intimidates; and

(c) makes use of "fighting words" or non-verbal symbols.

In the context of discriminatory harassment, "fighting words" or non-verbal symbols are words, pictures or symbols that are, as a matter of common knowledge, understood to convey direct hatred or contempt for human beings and that by their very utterance inflict injury or tend to incite an immediate breach of the peace.

**NEW SCHOOL FOR SOCIAL RESEARCH
Affirmative Action Report**

Fall 1991

TABLE 1: Administrative Staff by Ethnicity

	<i>African American</i>	<i>Latino</i>	<i>Asian American</i>	<i>Native American</i>	<i>Underrep. Groups</i>	<i>*Report Population</i>	<i>Nonresident Africs</i>	<i>Unreported</i>	<i>Total Staff</i>
Central Administration	17 16.3%	3 2.9%	3 2.9%	0 0.0%	23 22.1%	104	0	0	104
Adult Division	1 3.0%	1 3.0%	0 0.0%	0 0.0%	2 6.1%	33	0	0	33
Mannes College	0 0.0%	1 7.1%	0 0.0%	0 0.0%	1 7.1%	14	0	0	14
Graduate Faculty	2 15.4%	0 0.0%	0 0.0%	0 0.0%	2 15.4%	13	0	0	13
Grad School of Management	4 20.0%	1 5.0%	0 0.0%	0 0.0%	5 25.0%	20	0	0	20
Parsons School of Design	4 7.5%	3 5.7%	0 0.0%	0 0.0%	7 13.2%	53	0	0	53
Eugene Lang College	2 22.2%	1 11.1%	0 0.0%	0 0.0%	3 33.3%	9	0	0	9
Jazz Program	1 25.0%	0 0.0%	0 0.0%	0 0.0%	1 25.0%	4	0	0	4
UNIVERSITY TOTALS	31 12.4%	10 4.0%	3 1.2%	0 0.0%	44 17.6%	250	0	0	250

TABLE 2: Administrative Staff by Gender

	<i>Women</i>	<i>Men</i>	<i>Total</i>
Central Administration	51 49.0%	53 51.0%	104
Adult Division	18 54.5%	15 45.5%	33
Mannes College	10 71.4%	4 28.6%	14
Graduate Faculty	9 69.2%	4 30.8%	13
Grad School of Management	12 60.0%	8 40.0%	20
Parsons School of Design	40 75.5%	13 24.5%	53
Eugene Lang College	4 44.4%	5 55.6%	9
Jazz Program	1 25.0%	3 75.0%	4
UNIVERSITY TOTALS	145 58.0%	105 42.0%	250

**NEW SCHOOL FOR SOCIAL RESEARCH
Affirmative Action Report**

Fall 1991

TABLE 5: Full Time Faculty by Ethnicity

	<i>African American</i>	<i>Latino</i>	<i>Asian American</i>	<i>Native American</i>	<i>Total Underrep</i>	<i>*Report Population</i>	<i>Non-res Afes</i>	<i>Unreported</i>	<i>Total Faculty</i>
Adult Division	0 ERR	0 ERR	0 ERR	0 ERR	0 ERR	0	0	0	0
Mannes College	1 3.8%	1 3.8%	1 3.8%	0 0.0%	3 11.5%	26	0	0	26
Graduate Faculty	2 2.9%	1 1.4%	3 4.3%	0 0.0%	6 8.7%	69	0	0	69
Grad School of Management	1 5.0%	2 10.0%	0 0.0%	0 0.0%	3 15.0%	20	0	0	20
Parsons School of Design	1 3.2%	2 6.5%	1 3.2%	0 0.0%	4 12.9%	31	0	0	31
Eugene Lang College	3 25.0%	0 0.0%	0 0.0%	0 0.0%	3 25.0%	12	0	0	12
Jazz Program	1 33.3%	0 0.0%	0 0.0%	0 0.0%	1 33.3%	3	0	0	3
UNIVERSITY TOTALS	9 5.6%	6 3.7%	5 3.1%	0 0.0%	20 12.4%	161	0	0	161

TABLE 6: Full Time Faculty by Gender

	<i>Women</i>	<i>Men</i>	<i>Total</i>
Adult Division	0 ERR	0 ERR	0
Mannes College	9 34.6%	17 65.4%	26
Graduate Faculty	23 33.3%	46 66.7%	69
Grad School of Management	7 35.0%	13 65.0%	20
Parsons School of Design	15 48.4%	16 51.6%	31
Eugene Lang College	7 58.3%	5 41.7%	12
Jazz Program	0 0.0%	3 100.0%	3
UNIVERSITY TOTALS	61 37.9%	100 62.1%	161

NEW SCHOOL FOR SOCIAL RESEARCH Affirmative Action Report

Fall 1991

TABLE 7: Part Time Faculty by Ethnicity

	African Americans	Latino	Asian Americans	Native Americans	Total Underrep	*Report Population	Nos-res AAs	Unreported	Total Faculty
Adult Division	3 10.0%	2 6.7%	2 6.7%	0 0.0%	7 23.3%	30	0	0	30
Mannes College	2 1.0%	4 2.0%	11 5.5%	0 0.0%	17 8.5%	200	0	0	200
Graduate Faculty	0 0.0%	1 3.6%	0 0.0%	0 0.0%	1 3.6%	28	0	0	28
Grad School of Management	11 14.7%	0 0.0%	2 2.7%	0 0.0%	13 17.3%	75	0	0	75
Parsons School of Design	10 3.4%	3 1.0%	7 2.4%	2 0.7%	22 7.6%	290	0	0	290
Eugene Lang College	0 0.0%	1 2.7%	3 8.1%	0 0.0%	4 10.8%	37	0	0	37
Jazz Program	16 47.1%	2 5.9%	0 0.0%	0 0.0%	18 52.9%	34	0	0	34
UNIVERSITY TOTALS	42 6.1%	13 1.9%	25 3.6%	2 0.3%	82 11.8%	694	0	0	694

TABLE 8: Part Time Faculty by Gender

	Women	Men	Total
Adult Division	9 29.0%	22 71.0%	31
Mannes College	96 48.0%	104 52.0%	200
Graduate Faculty	18 64.3%	10 35.7%	28
Grad School of Management	19 25.3%	56 74.7%	75
Parsons School of Design	152 52.2%	139 47.8%	291
Eugene Lang College	21 56.8%	16 43.2%	37
Jazz Program	2 5.9%	32 94.1%	34
UNIVERSITY TOTALS	317 45.5%	379 54.5%	696