

History Department Policy on Harassment and Discrimination

Statement of Policy

The Department of History will not tolerate harassment or any other form of discrimination perpetrated by any of its members, whether faculty, staff, or student. When an allegation of harassment or discrimination is made, the department will do its best to guard the privacy of both the aggrieved party and the person said to have offended. Maintaining the protection may become impossible, however, once a formal complaint has been filed. The department will try to resolve fairly case at the lowest administrative level possible, but it will not hesitate to bring in university officers outside the department when regulations or the seriousness of the matter mandate such action.

Harassment and Discrimination

Harassment and discrimination can take many forms. Of immediate concern in an academic environment are sexual harassment, problems stemming from consensual relationships, discrimination in employment, discrimination in the delivery in student services, programs, and courses, and discrimination in access to facilities. Acts of violence, or even threats of it, also fall under that rubric.

Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:

- Submission to such conduct is a condition of employment or academic benefit;
- Submission to or rejection of such conduct influences employment or academic decisions; or
- The conduct interferes with an employee's work or student's study; or creates an intimidating, hostile, or offensive work or learning environment.

Quid Pro Quo Sexual Harassment occurs when employment or academic decisions or expectations (hiring, promotions, salary increases, shift or work assignments, performance standards, grades, assistance with school work, etc.) are based on an employee or student's grant or denial of sexual favors. Examples include:

- Demanding sexual favors in exchange for a promotion, raise, job, or high grade.
- Disciplining or fining an employee or student who ends a romance.
- Changing work expectations after an employee or student refuses invitations for a date or other private and social meetings.

Hostile Environment Sexual Harassment occurs when unwelcome verbal, non-verbal, or physical behavior focusing on sexuality or a person's gender is severe and pervasive enough to interfere with an employee's work or a student's learning environment or be intimidating or offensive to a "reasonable person." Examples include:

Verbal

- Sexual jokes or insults, flirting.
- Comments about a person's body or sex life.
- Sexually demeaning comments.
- Invitations for dates.
- Abusive language directed exclusively or disproportionately at members of one gender.

Non-Verbal

- Hand gestures, winking, leering at the body, standing too close.
- Display of sexually suggestive posters, cartoons, pornography.
- Sexually suggestive "gifts."

Physical

- Touching, hugging, kissing, or patting.
- Brushing against a person's body.
- Restraining or blocking a person's movement.

The interpretation of sexual harassment in university policy and in the law provides that:

- Sexual harassment generally carries a component of power differential between individuals and can occur between men and women or between members of the same sex.
- An employee or student does not have to suffer economically before harassment can be found.
- A person who, on the surface, consents to sexual advances might still be subjected to harassment.
- Whether conduct is welcome or unwelcome depends on the "eye of the beholder" and a "reasonable person" test.
- Offenders can be supervisors, co-workers, or non-employees such as vendors, customers, or suppliers.
- A third person can be offended by harassing behavior among willing participants.
- Harassment does not have to be reported soon after it occurs to be redressed.
- A single incident or few incidents, generally, will not be illegal harassment; however, a single incident of unwanted touching or a person's intimate body part could be sexual harassment.
- Non-sexual but abusive, hostile, rude, or harsh treatment of members of one gender may also constitute harassment.

Consensual Relationships

Professional risks are associated with consensual romantic and/or sexual relationships between members of the university community where a conflict of interest and/or a power differential between the parties exists. Persons entering such relationships must recognize that:

Conflicts of Interest may arise when such relationships occur between and among faculty, staff, students and prospective employees. University policies and ethical

principles already preclude individuals from evaluating the work or academic performance of others with whom they have intimate familial relationships, or from making hiring, salary or similar financial decisions concerning such persons. The same principles apply to consensual romantic and/or sexual relationships and require, at a minimum, that appropriate arrangements be made for objective decision-making.

Power Differentials between the parties in a consensual romantic and/or sexual relationship may cause serious consequences even when conflicts of interest are resolved. Persons entering into such relationships must recognize that:

- the reasons for entering, maintaining, or terminating such a relationship may be a function of the power differential;
- where power differentials exist, even in a seemingly consensual relationship, there are limited after-the-fact defenses against charges of sexual harassment. Furthermore, under certain situations consensual relationships may be outside the scope of employment for University employees and if so, a person would not be covered by the state's liability protection in subsequent litigation; and
- it is almost always the case that the person with the power or status advantage in the relationship will bear the burden of accountability.

Reporting Policy

Where a conflict of interest exists, or may exist, in the context of a consensual romantic and/or sexual relationship, the person with the power or status advantage shall notify his or her immediate supervisor. The supervisor shall have the responsibility for making arrangements to eliminate or mitigate a conflict whose consequences might prove detrimental to the university or to either party in the relationship.

Discrimination

Student Services, Programs, Courses, and Facilities

Federal law prohibits discrimination in the delivery of student services, programs, and courses and in access to facilities on account of race, color, national origin, sex, religion, and disability. State law extends the protections to include ancestry, creed, age, sexual orientation, marital status, pregnancy, and parental status.

Employment

Federal law prohibits discrimination in employment on account of race, color, national origin, sex, religion, being age 40 or over, disability, and status as a disabled or Vietnam Era veteran. It also prohibits discrimination in the form of retaliation against an employee. State law extends the protections to include ancestry, creed, age, sexual orientation, marital status, arrest or conviction record, and Guard or Reserve status.

Violence

Most incidents of workplace violence are not lethal, yet have devastating physical and emotional consequences for vulnerable victims. Such incidents incur huge costs for employers. Examples on non-lethal violence include:

- Teasing and practical jokes that cause anger and humiliation
- Intimidation, bullying
- Angry outbursts
- Verbal abuse, name calling, biting sarcasm or obscene language
- Threats (verbal, written or gesticulated)
- Harassment (general and sexual)
- Theft, vandalism and sabotage
- Throwing or breaking objects
- Hitting, pushing, poking, slapping, grabbing, and other forms of physical battery
- Romantic obsessions and stalking
- Sexual assault and rape

Grievance Procedures

Graduate and Undergraduate Student Grievances against Faculty

A student who believes that she or he has been the victim of behavior that may fall under the categories of harassment or discrimination should consider, if the incident is only mildly discomfiting, discussing the situation with the person who gave offense. Misunderstandings occur, insensitivity does not always involve malice, and persons of good will are willing to learn from their mistakes. Nevertheless, the person offended is free at any time, whether or not an effort to discuss the problem with the professor said to have given offense has been made, to bring the matter to the attention of responsible personnel inside or outside the department.

Within the Department

When a student encounters what seems to constitute harassment or discrimination, he or she may bring it to the attention of any member of the faculty or academic staff in the department. The student may also approach any member of the Harassment and Discrimination Committee.¹ Finally, the student should feel free to contact the administrative leaders of the department, including the Chair, the Associate Chair/Director of Undergraduate Studies, and the Director of Graduate Studies.

Faculty and staff members should listen sympathetically to complaints that students bring to their attention. They should offer them their most prudent counsel, and help them clarify whether or

¹ The Harassment and Discrimination Committee consists of the director of undergraduate studies, the director of graduate studies, two tenured professors appointed by the chair, two graduate students appointed by the chair in consultation with the director of graduate studies, the graduate advisor, and graduate student representatives, and a member of the departmental staff. The Associate Chair of the Department will chair the committee. A list with the names of the members of the committee will always be available to all persons who request it, and will be prominently displayed on a bulletin board in the departmental office.

not harassment or discrimination has actually occurred. At no point should faculty or staff members attempt to discourage an aggrieved student from seeking other forms of advice or sources of redress. The faculty or staff member contacted may attempt to resolve the matter – without identifying the student – through informal, personal communications with the professor in question. Should that approach either not be possible or be unsuccessful, the faculty or staff member should strongly advise the student to consult with the department chair. Should the student desire the intervention of a go-between, the faculty or staff member may present the matter to the chair without disclosing the identity of the student. Should the student, at this point or any subsequent point in the department's efforts to resolve the issue, desire to discuss the situation with the professor in question and to have faculty member present, the chair will take steps to accommodate that request.

The chair has the ultimate responsibility for maintaining a discrimination-free environment in the department. The chair, therefore, needs to be informed and will treat seriously any allegation of harassment or discrimination directly or indirectly brought to his or her attention. If the gravity of the accusation makes such action advisable or legally necessary, the chair will consult with university officers and offices outside the department. Among possible contacts are the Dean of L&S, the Associate Dean entrusted with addressing harassment and discrimination, the Dean of Students, the Equity and Diversity Resource Center, the Employee Assistance Office, the Office of Administrative Legal Services, and Police and Security. During these initial consultations, the chair will make every reasonable effort to preserve the anonymity of the aggrieved student and of the faculty member whose behavior is in question.

Should consultations with the outside contacts indicate that the department is an appropriate first locus for addressing the problem, the chair will inform the student of that opinion, or will request the intermediary who acted on behalf of the student to deliver that message. The chair will also advise the student, directly or through the intermediary, of his or her options to seek redress through other university offices. Of course, if university officials have informed the chair that the matter in question demands attention from bodies outside the department, she or he will inform the student, directly or through the intermediary, of that judgment.

The chair will do his or her utmost to maintain the privacy of the parties, particularly as long as the possibility of an amicable or non-confrontational resolution of the differences between the aggrieved party and the professor exists. In situations in which resolution at the department level is possible, the chair should speak with the professor in question. The chair may be able, without identifying the student, to point out that certain words or deeds have bothered at least one person, and she or he may be able to convince the professor to refrain from using that language or taking those actions in the future.

Should the professor in question deny having done anything to give offense, the chair will convey that message to the student. If the student does not find the professor's statement or explanation convincing, the chair will inform her or him, directly or through the intermediary, of possible next steps. The chair will inform the student about the protections against retaliation afforded to complainants, but he or she will also explain that continued pursuit of the matter may not be possible without the submission of a written and signed statement containing the

allegations. Guaranteeing the anonymity of the parties involved will also become impossible once a signed complaint is submitted.

If the chair can resolve the problem through mediation between the parties, he or she need not bring the incident to the attention of other members of the department. Should such a resolution not be possible, or should the student file a written complaint, the chair will bring the matter to the attention of the Faculty Council. With the agreement of that body, information gathering will begin. The chair will immediately inform both the aggrieved student and the professor said to have given offense of the situation and of the Faculty Council's position. The chair will also remind the complainant of the alternatives available to her or him. The Harassment and Discrimination Committee will then carry out the information gathering. The chair of the committee may delegate the responsibility for the information gathering to a subset of the members, who will subsequently report to the whole committee.

Should the Faculty Council direct the chair not to set the information gathering process in motion, she or he may report that action to the Dean with a personal recommendation whether or not an office outside the department should pursue the matter. Should the chair be the subject of the complaint, he or she will ask the Dean's Office to consult with the Faculty Council regarding the need for and the procedure for the information gathering. Should any of the other departmental officers mentioned above be the subject of the complaint, the chair and the Faculty Council will choose another faculty member to replace her or him on the information gathering committee.

Upon conclusion of the information gathering, the committee will construct a summary of its understanding of the situation. Through the chair, the committee will communicate that understanding to the student and to the professor and, if possible, try once again to create an appropriate resolution acceptable to both parties. Should such a solution be found, the chair will then report the committee's understanding and the accepted resolution to the Faculty Council.

Should the information gathered indicate that, in word or deed, harassment or discrimination may well have occurred, and should no resolution between the parties be possible, the chair will report those conclusions to the Faculty Council. The department cannot exercise discipline against a faculty member. The department can issue an informal reprimand, provided that it does not become part of the faculty member's personnel file. Should the Faculty Council agree that such a statement is warranted, the chair will issue one, verbally or in writing, to the faculty member. Should the Faculty Council deem such a statement unwarranted, inadequate, or otherwise inappropriate, should the professor object to the statement, or should the student find such a statement an unsatisfactory form of redress, the chair will refer the issue and the information gathered to the Dean's Office. The chair will inform both the faculty member and the student of the action, will remind the student of the other venues to which he or she may take the complaint, and will advise the faculty member of possible options for seeking assistance and counsel.

Outside the Department

Persons who believe that they have been subject to harassment or discrimination and who do not want to seek redress through the History Department may contact the following offices regarding:

*Complaints or allegations involving **Faculty**:*

Executive Assistant to the Provost, 265-5975

*Complaints or allegations involving **Academic Staff**:*

Academic Personnel Office, 263-2511

*Issues involving **Classified Staff**:*

Classified Human Resources Office, 262-3233

*Issues involving **Students**:*

Interim Dean of Students, 263-5700

*Legal Issues involving **Personnel**:*

Administrative Legal Services, 263-7400

*Issues involving **Equity and Diversity including Discrimination or Harassment**:*

Equity and Diversity Resource Center, 262-2378

Personal Issues or Interpersonal Conflicts; Evaluation of Potential for Violence in Workplace:

Employee Assistance Office, 263-2987

Threats or Indications of Violence or Crime:

Police and Security, Emergency calls: 911

Campus Police, 262-2957

Allegations of Misconduct in Scholarly Research:

Dean of the Graduate School, 262-1044

General Assistance or Notice to the Provost:

Executive Assistance to the Provost, 265-5975

More information regarding discrimination and harassment can be found at the **Equity and Diversity Resource Center**, <http://www.wisc.edu/edrc>

Undergraduate Student Grievances against Teaching Assistants

Among other possible scenarios for harassment or discrimination, the situation that would seem most to resemble a grievance of a student versus a faculty member would be one involving an undergraduate student who allegedly suffers harassment or discrimination by a teaching assistant. The History Department recommends that the offended student first attempt to discuss the matter with the teaching assistant. If that is not possible or proves unsuccessful, the department advises her or him to bring the matter to the attention of the professor in charge of

the course. If that approach is not viable or does not yield a solution, the student may bring the problem to the attention of any other member of the faculty or academic staff in the department. Members of the Harassment and Discrimination Committee, the Chair, the Associate Chair/Director of Undergraduate Studies, and the Director of Graduate Studies are faculty members whom students should expect to be especially ready to listen to them. At all times, of course, the student has the right to go to offices outside the department.

Once a complaint against a teaching assistant comes to the attention of the Chair, the initial procedures run parallel to those applicable to situations in which a professor is alleged to have given offense. Both parties must agree that departmental involvement is an appropriate avenue for seeking a reconciliation or for gathering information about the incident or behavior that sparked the trouble. Should either party decline the department's offer, the chair will refer the matter to the appropriate university office. Should the information gathering process indicate that, in word or deed, harassment or discrimination may well have occurred, and should no resolution between the parties be possible, the chair will refer the conflict to the Graduate School.

All Other Cases

The policy initiatives embodied in this document focus on the department's reactions to situations in which students are the offended parties and professors or teaching assistants allegedly have spoken or acted inappropriately. Those are primary incidents striking directly at the heart of the department's educational mission. In a building and university populated by professors, teaching assistants, project assistants, academic staff, classified employees in a wide variety of jobs, graduate students, and undergraduates – with some persons simultaneously holding multiple roles, the possible permutations in harassment and discrimination complaints far outnumber the limited set involving students possibly mistreated by their teachers. The extent to which the History Department can or should take action in non-primary cases is problematic.

The department is ready to offer its good services when one of its members or workers is involved in a dispute with another person. In particular, the department may be able to help overcome misunderstandings and to help parties to reconcile with each other. The department, however, is probably not the proper unit to carry out a formal process on information gathering when at least one of the parties is neither a student nor a teacher. That is especially true when the person who allegedly gave offense is neither a teaching assistant nor a professor. In such cases, the Chair will advise both parties to consult one or more offices outside the department and will help them to identify the proper persons to contact.