

University of Wisconsin  
Madison

PROHIBITED HARASSMENT: DEFINITIONS AND RULES GOVERNING  
THE CONDUCT OF UW-MADISON ACADEMIC STAFF

Part I: Sexual Favors as a Basis for Actions Affecting an Individual's Welfare as a Student or Employee.

- I. A member of the University academic staff is subject to discipline if he or she behaves, while engaged in official University business, toward another University employee, student, or recipient of services in any of the following ways:
  - A. Uses, offers to use, or threatens to use one's status as a member of the University academic staff to bring about decisions or assessments affecting an individual's welfare on the basis of submission to, or rejection of, requests for sexual favors.
  - B. Accepts an offer of sexual favors in exchange for an agreement to use one's status as a member of the University academic staff to bring about favorable decisions or assessments affecting an individual.

Part II: Flagrant or Repeated Sexual Advances, Requests for Sexual Favors, and Physical Contacts Harmful to Another's Work or Study Performance or to the Work, Study, or Service Environment.

- II. A member of the University academic staff is subject to discipline if, in a work- or learning-related setting, he or she makes sexual advances, requests for sexual favors, or physical contacts commonly understood to be of a sexual nature, and if
  1. the conduct is unwanted by the person(s) to whom it is directed, and
  2. the actor knew or a reasonable person could clearly have understood that the conduct was unwanted, and
  3. because of its flagrant or repetitious nature, the conduct either
    - a. seriously interferes with work or learning performance of the person(s) to whom the conduct was directed, or
    - b. makes the University work, learning, or service environment intimidating or hostile, or demeaning to a person of average sensibilities.

Part III: Repeated Demeaning Verbal and Other Expressive Behavior in Noninstructional Settings that is Harmful to Another's Work or Study Performance or to the Work, Study, or Service Environment.

- III. A member of the University academic staff is subject to discipline if, in a noninstructional but work-related setting, he or she:
- A. Repeatedly addresses or directs to individuals or groups epithets, comments or gestures that explicitly demean their gender, race, cultural background, ethnicity, sexual orientation, or handicap if
    1. the gestures, comments or epithets are commonly considered by members of the group demeaned to be demeaning to that group, and
    2. repetition of such conduct either
      - a. seriously interferes with the work or study performance of the person(s) to whom the conduct is addressed or directed, or
      - b. makes the work, study, or service environment hostile or intimidating, or demeaning to members of average sensibilities of the group demeaned.
  - B. Displays visual materials, alters visual materials displayed by others or makes statements if
    1. the intent of the actor is to interfere with the work or study performance of a University employee or student or to make the work, study, or service environment hostile, intimidating, or demeaning to persons of a particular gender, race, cultural background, ethnicity, sexual orientation, or handicap, and
    2. such displays, alterations, or statements are commonly considered by members of the group in question of average sensibilities to be demeaning to members of that group, and
    3. the person making the display, alteration or statement had previously been asked not to engage in such conduct or conduct of substantially the same kind, and
    4. the display, alteration, or statement either
      - a. seriously interferes with the work or study performance of an individual, or
      - b. makes the work, study, or service environment hostile or intimidating, or demeaning to members of the group in question of average sensibilities.

Part IV: Demeaning Verbal and Other Expressive Behavior in Instructional Settings.

IV. Discipline of academic staff members because of expressive behavior in an instructional setting shall be governed by the following definitions and rules:

A. Definitions. For purposes of Part IV:

1. An "instructional setting" is a situation in which a member of the academic staff is communicating with a student(s) concerning matters the academic staff member is responsible for teaching to the student(s). These situations include, but are not limited to, such communication in a classroom, in a laboratory, during a field trip, and in an academic staff member's office; advising and counseling situations are not included.
2. "Expressive behavior" is conduct in an instructional setting through which an academic staff member seeks to communicate with students. It includes, but is not limited to, the use of visual materials, oral or written statements, and assignment of visual, recorded, or written materials.

B. Protected Expressive Behavior.

1. Expressive behavior related to subject matter.

- a. An academic staff member's selection of instructional materials shall not be a basis for discipline unless an appropriate hearing or review finds that the academic staff member's claim that the materials are germane to the subject of the course is clearly unreasonable.
- b. If an academic staff member claims that expressive behavior constituted an opinion or statement germane to the subject matter of the course in which the behavior occurred, the behavior shall not be a basis for disciplinary action unless an appropriate hearing or review finds that the academic staff member's claim is clearly unreasonable. Expressive behavior that falls within the prohibition of subsection C.2 below shall not be considered an opinion or statement germane to the subject matter of the course.

2. Expressive behavior related to teaching techniques.

An academic staff member's selection of teaching techniques shall not be a basis for discipline unless an appropriate hearing or review finds clearly unreasonable the academic staff member's claim that the objective cannot be accomplished as effectively by techniques less likely to cause harm of the kind described in C.1.(c.) below. If a technique falls within the prohibition of C.2 below, the academic staff member's claim shall be found to be clearly unreasonable.

C. Unprotected Expressive Behavior Subject to Discipline.

1. An academic staff member's expressive behavior in an instructional setting may be the basis for discipline if any claims that the behavior is protected under section B have been rejected, and
  - a. the behavior is commonly considered by persons of a particular gender, race, cultural background, ethnicity, sexual orientation, or handicap to be demeaning to members of that group, and
  - b. the person engaging in such conduct has previously been asked not to engage in such conduct or conduct of substantially the same kind, and
  - c. the conduct either
    - (i) seriously interferes with the academic work of a student(s) in the course, or
    - (ii) makes the instructional setting hostile or intimidating, or demeaning to members of the group of average sensibilities.
  
2. In addition, an academic staff member is subject to discipline if, in addressing a student(s) in an instructional setting, he or she repeatedly uses epithets, comments or gestures that explicitly demean gender, race, cultural background, ethnicity, sexual orientation, or handicap condition, and if
  - a. the epithets, comments or gestures are commonly considered by members of the group demeaned to be demeaning to members of that group and
  - b. repetition of such conduct either
    - (i) seriously interferes with the learning or other academic performance of the student(s) to whom the academic staff member referred, or
    - (ii) makes the instructional setting hostile or intimidating, or demeaning to members of average sensibilities of the group demeaned.