

We Can Act:
**A report recommending best practices to be implemented by the APA
regarding sexual harassment in the discipline**

submitted by the members of the APA Sexual Harassment Ad Hoc Committee
for discussion at the November 2013 National APA Board Meeting

This committee was formed in February of 2013 with the charge to develop and recommend best practices for addressing sexual harassment in the discipline. Since our formation, the discipline has engaged in significant public discussion of the rates of incidence in our profession, and the definitions of sexual harassment. We recognize that both incidence rates and definitions can be contested. However, in what follows, we suggest strategies for taking responsibility as a profession for the occurrences and effects of sexual harassment, whatever its incidence rates in Philosophy in particular, and with appreciation for the legal and ordinary-language definitions of the term discussed below. Our Introduction is followed by two sections: I. Recommendations for departments and institutions, and II. Recommendations for action on the part of the APA.

Introduction.

The academic discipline of philosophy flourishes when everyone who would study and work in it is able to reach her or his highest potential as a student, teacher, or philosopher. Among other things, this requires that the philosophy community take steps to prevent discrimination against any of its participants on the basis of their sex, gender identification, and sexual orientation. Similarly, social justice more broadly requires that everyone have an equal opportunity to engage in education and work without discrimination. Among its deleterious effects, sexual harassment is now rightly understood to be a form of discrimination, with the effect of unjustly disadvantaging those who are subjected to it, and preventing their fully fruitful participation in the activities of philosophy.

The ratio of men to women among the professoriate and graduate students of philosophy in the United States and elsewhere suggests that there are continuing hindrances to the equal participation and achievement of women in the discipline. Especially in comparison to trends and current statistics in other academic disciplines and professions in which men have historically been predominant, the current state of the discipline of philosophy appears anomalous, and merits both concern and explanation. Accounts of the experiences of philosophers, including accounts widely published and those shared with members of this committee, suggest that women, sexual minorities, and members of marginalized groups participating in philosophy continue to be subjected to various forms of sexual harassment, some severe and others more mundane.

In what follows, we suggest strategies by which departments and members of the discipline can curtail the incidence of sexual harassment and redress its effects. Because the term “sexual harassment” is, among other things, a legal category with legal implications, it comes attached to specific criteria and required institutional policies that have been established through administrative and case law. It is useful for institutions to have clear guidance about what kinds of behavior are legally actionable, and to establish offices and procedures through which those subject to sexual harassment can raise complaints safely and seek fair redress. However, not all sexual harassment is flagrant or egregious enough to warrant adversarial administrative proceedings, even though it may yet contribute to discriminatory circumstances for some people.

For this reason, philosophers of good will should become aware of the many different ways that traditionally acceptable forms of social interaction can be disadvantageous to some members of the community, and take steps to ensure that we do not engage in such activities as part of our academic responsibilities. This includes providing criticism and guidance to others in the discipline when they engage in behavior liable to disadvantage others unfairly. Hence, the “best practices” we recommend include recommendations for both institutional policies that can enhance access to effective remedies for serious incidents of sexual harassment, as well as ways to foster education, informal practices, and individual initiatives that can improve the climate for individuals in under-represented categories. As [Jennifer Saul](#) recommends, “We absolutely should take formal action in those cases where it’s possible and appropriate. But that’s not all: we should also take action in many cases where formal action isn’t possible or appropriate.”¹

Sexual harassment includes, but is not limited to, conduct that is criminal in nature. [According to AAUP counsel Donna R. Euben](#), “Sexual harassment is a form of sex discrimination recognized under laws such as Title VII of the Civil Rights Act prohibits sex discrimination in the terms and conditions of employment [and] Title IX of the Education Amendment prohibits sex discrimination with regard to educational programs and activities (applies most frequently to students).”² She notes that the law categorizes two types of sexual harassment, Quid pro quo (“when the terms or conditions of employment, or educational benefits, are conditioned on the performance of sexual favors”), usually committed by an individual in some position of authority, and Hostile Environment:

¹ See this paper in “Downloads” on Prof. Jennifer Saul’s publication page [<http://www.shf.ac.uk/philosophy/research/publications/saulj>], or the stable URL: http://www.shf.ac.uk/polopoly_fs/1.263832!/file/V3StopThinking.docx

² Sexual Harassment Policies (2002): “Sexual Harassment In The Academy: Some Suggestions For Faculty Policies & Procedures,” by Donna R. Euben, AAUP Counsel, available at the following URL: <http://www.aaup.org/issues/sexual-harassment/policies-2002>.

“An institution has a duty to provide a nondiscriminatory work and learning environment. A hostile academic environment exists when harassment is sufficiently severe, pervasive or persistent so as to limit or interfere with the terms and conditions of employment or educational benefits. A hostile environment can be created by anyone involved in a university program or activity--administrators, faculty members, students, and even guests.”

Sexual harassment, so understood, affects not just those individuals who directly receive harassing attention, but also those who may see themselves as similarly situated and so liable to suffer similar disadvantages and unfair treatment by those engaging in harassment and by those who support or remain indifferent to it. Thus its effects tend to be multiplied and magnified when others fail to actively oppose it.

Under most definitions, sexual harassment comprises at least the following two kinds of phenomena: (a) gender and sexual-orientation harassment, and (b) unwanted sexual attention and coercion. Gender and sexual-orientation harassment involves behaviors that degrade or marginalize people because of their gender identity or their sexual orientation.³ Unwanted sexual attention and coercion include behaviors such as uninvited sexual advances, repeated sexual insinuations, sexual impositions or assaults.⁴ In addition, a number of characteristics of work environments have been found to be correlated with increased rates of sexual harassment, and so may be considered “risk factors” for sexual harassment. These include lack of knowledge of grievance procedures, sexist attitudes, unprofessional work environments, and skewed sex ratios in the workplace.⁵ These four key risk factors interact in complex ways. Departments can take measures to address each of them individually, but they can also adopt practices that try to correct two or more of them simultaneously and try to address their interrelations. In what follows we suggest some of the practices that the APA could recommend departments to adopt in order to create healthy climates and environments that prevent sexually harassing behavior.

We base many of the following recommendations for departments and institutions on the responsibilities of institutions, especially with respect to Title IX, as articulated on the U.S. Department of Education’s [website for the Office of Civil Rights](#): “All public and private elementary and secondary schools, school districts,

³ While gender harassment is widely recognized as part of sexual harassment, sexual-orientation harassment is often not included. But there are many who see connections and similarities between the degrading sexist attitudes/behaviors and degrading heterosexist attitudes/behaviors.

⁴ Some scholars treat unwanted sexual attention and sexual coercion as separate phenomena. See, for example, Elizabeth O’Hare and William O’Donahue (1998), “Sexual Harassment: Identifying Risk Factors,” *Archives of Sexual Behavior* (27:6).

⁵ O’Hare and O’Donahue (1998), “Sexual Harassment: Identifying Risk Factors.”

colleges, and universities ... receiving any Federal funds must comply with Title IX.”
Those responsibilities include preventing as well as responding to incidents:

- A school has a responsibility to respond promptly and effectively. If a school knows or reasonably should know about sexual harassment or sexual violence that creates a hostile environment, the school must take immediate action to eliminate the sexual harassment or sexual violence, prevent its recurrence, and address its effects.
- Even if an individual does not want to file a complaint or does not request that the school take any action on the student’s behalf, if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.
- A criminal investigation into allegations of sexual harassment or sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.⁶

Every school must have and distribute a policy against sex discrimination, must have a Title IX officer, and must adopt and publish grievance procedures for students to file complaints of sex discrimination, including complaints of sexual harassment or sexual violence. We add that Philosophy departments can and should take responsibility to ensure that the employees and students affiliated with it know where to find their school’s policies, officers, and grievance procedures.

I. Recommendations to Philosophy Departments and Institutions.

The following includes recommendations pertaining to prevention as well as response.

(1) Advertise Sexual Harassment Statements, Grievance Procedures, and Policies.

In the content of their webpage, departments should publicize links to their university policies and available grievance procedures concerning sexual harassment. At the same time, in addition to university regulations, departments should also be encouraged to issue their own clear statements about promoting a safe environment that does not tolerate (hetero-)sexist attitudes and the behaviors that display it.⁷ It should be made clear,

⁶ Excerpted from “Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School,” available on the U.S. Department of Education website for the Office of Civil Rights; stable URL:
<http://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>.

⁷ Research conducted by the Canadian Philosophical Society’s Equity Committee includes the note that of workplace climate concerns studied, “almost all of the identifiable trends would be ameliorated by visible, well-known, accessible policy;”

depending on institutional rules, whether complaint procedures automatically trigger the sharing of knowledge of a complaint with anyone besides the office receiving the complaint (such as a student's supervisors), especially since complainants may actually be *deterred* by (potentially mistaken) beliefs that if they say anything, they will unleash a cascade of institutional processes. ("I didn't complain because I didn't want to ruin anyone's life," one student explained years after an experience with harassment. "It turned out that other, less drastic responses were available, and I didn't know it.") The safeguards for both complainants and those they identify in complaints should be known to all.

(2) Invite a Site Visit or hold "Bystander Training" for the department.

Take the lead in discussing the importance of climate; everyone affiliated with a department contributes to its culture. The APA Committee on the Status of Women has established a [site visit program](#). There are also [bystander strategies](#) about which departments could have annual discussions, in a collective effort to improve climates, environments, and professional practices, to detect and correct (hetero-)sexist attitudes and the sexualization of women, trans-gendered people, and racial and sexual minorities in the workplace.

(3) Offer a clear connection to a Sexual Harassment Officer and/or Ombudsperson.

Departments should, at a minimum, provide contact information to all faculty, staff, and students for their school's federally mandated Title IX officer. Better practices include having at least one person (and ideally two, if the department's size allows it) within the department in the role of a Sexual Harassment Officer and/or Ombudsperson, with whom individuals can consult if they have questions about possible sexist and unprofessional behaviors or about the policies and procedures available, to whom concerns and worries about harassing behavior can be raised (anonymously, if institutional and regional rules permit this), and who can take these problems not only to the chair of the department or the faculty, but also higher up: to Deans and Provosts, and possibly also to the APA Ombuds for Nondiscrimination.

The Sexual Harassment Officer(s) and/or Ombudsperson(s) should be elected by the whole department (not designated from above). Student representatives should be asked to nominate faculty for this role, since students (graduate and undergraduate) are among the populations most likely to be vulnerable to harassing behavior. Having more than one person in this role makes it more likely (although it does not guarantee) that people have at least one person they feel comfortable discussing these issues with

see their "Final Analysis of CPA Equity Survey Responses" at http://www.acpcpa.ca/documents/equity_survey2013.pdf.

(and, for this reason, people in this role should be different from those who are already in a position of authority, such as chair, Director of Graduate Studies (DGS) or Director of Undergraduate Studies (DUS)).

(4) Regularly schedule discussion of sexual harassment prevention and intervention as a feature of new faculty orientation and/or new student orientation.

Departments should ensure that the importance of prevention and avenues of responding to sexual harassment are on the agenda in orientation meetings when these are appropriate, in order to guarantee that everybody who enters a community is aware of their rights and their responsibilities to attend to the features of harassing behavior, and the existing grievance procedures to address it.

In these meetings faculty and students should be given information about the phenomenon of sexual harassment, the opportunities for bystanders and witnesses to prevent and respond to it as well as victims of harassment, and the protections and procedures (including grievance procedures) that are available. Widely held mistaken beliefs that could be corrected through these meetings include, for example, the assumption that only the victim of sexually harassing behavior can or should file a complaint, when in fact in most cases this course of action is available to *anyone* who witnesses such behavior. The incorrect belief that a formal complaint is the *only* response that can be given to sexually harassing behavior is also hasty; in fact, multiple sorts of responses may be possible (from offering support to the victim to reprimanding the agent of the behavior informally and without necessarily being prompted by a proven complaint). The assumption that all formal procedures necessitate drastic consequences is also important to correct; again, the clear posting of the grievance procedures can assist in correcting this assumption.

(5) Acquaint all members of staff with advice for dealing sensitively with individuals with concerns. Members of a department staff must be acquainted with the policies and procedures of an institution, but they should also be provided some guidance as to how to respond supportively to a victim of harassment. For example, we recommend the helpful site of the University of Wisconsin-Madison's [Office for Equity and Diversity](#), on how to deal with individuals who approach them to discuss a particular incident.

(6) Increase awareness about unprofessional work environments and microbehaviors.

As Jennifer Saul observes, the blog *What is it Like to be a Woman in Philosophy* "has [...] made clear the power of small things—microbehaviours or microinequities—to create an unwelcoming environment." Saul is referring here to behaviors that may not rise to the level of harassment, but they can invite, protect, or become complicit with harassing behaviour,

especially if they become routine: for example, (hetero-)sexist jokes or comments that sexualize students or colleagues can create a problematic context that signals a tolerance for more egregious behavior. On the other hand, just as there are microbehaviors that make up harassing environments, there are also microbehaviors that counter them and can prevent the formation of such environments. As Saul puts it, “microbehaviours [such as non-explicit expressions of disapproval] [...] can also create an unwelcoming environment for behaviours of the sort we’d like to stamp out.” (p. 25) People are often unaware of the power of these microbehaviors (positive and negative). Departments should promote discussions about these behaviors so that people become more aware of how they can disable heterosexist attitudes and help to meliorate climates and environments. Positions such as department’s chair, DGS, and DUS are positions with special responsibilities in leading and supervising these collective efforts to discourage harassing microbehaviors and to encourage supportive microbehaviors:

- (a) In the context of **teaching**, the chair, teaching supervisor, DGS and DUS should work together in making sure that people are aware of negative microbehaviors in the classroom and in meetings with students, and how they can be countered or prevented with other forms of microbehaviors.
- (b) In the context of **research**, departments should make sure that in mentoring junior faculty in their research activities, faculty do not experience negative microbehaviors; the chair and the DGS should also make sure that graduate students do not encounter these obstacles in their training as scholars and in the development of their research projects and publications.
- (c) In the context of **service and participation in professional activities**, there is a myriad of ways in which people can feel intimidated or marginalized by mildly harassing microbehaviors; the whole department and especially those in a position of authority should make efforts to prevent such behaviors and should make sure that, when they appear, they are countered with appropriately reactive forms of microbehavior (such as expressions of disapproval or expressions of support for those who may be affected). Countering harassing microbehaviors with supportive microbehaviors is the only way to prevent that the former do not amount to an unwelcoming environment and do not have a significant negative impact in the professional life of the department.

(7) Make relevant data available and promote discussion about risks and vulnerabilities.

Sometimes the relevant data about women and gender-non-conforming and sexual minorities in the profession are not available. In order to address their special vulnerabilities as potential victims of harassing behavior, departments should be encouraged to maintain ongoing records of how women and gender-non-conforming and sexual minorities have fared in their programs, make this information available, and promote discussion about it. For example, at Vanderbilt University graduate students took upon themselves to gather data about how women had done in the Ph.D. program

and compiled a survey that was completed in the Fall of 2007.⁸ The disparities (for example, in time-to-completion rates) between men and women were staggering, and the survey prompted town-hall meetings in the department in which there were fruitful discussions among graduate students and faculty members. Efforts of this sort to gather knowledge and make it available can help departments to create better climates and environments for women and gender-non-conforming and sexual minorities. These efforts can promote awareness of problems, risk factors, and vulnerabilities; they encourage everybody (and especially those in a position of authority) to give more attention to these issues, and they facilitate solidarity with those who are most vulnerable to sexual harassment and discriminatory behavior on the basis of gender or sexual orientation.

II. Recommendations for action on the part of the APA

The duties of our committee included recommending (1) “how the APA should implement its nondiscrimination policy in regard to sexual harassment,” and (2) considering comparison of the practices of the APA with other professional organizations. In the course of doing the latter, we found that the American Academy of Religion (AAR), in particular, is attentive to the role that a professional association can play in receiving complaints, censuring individuals or institutions, and [otherwise taking measures](#) against individuals, such as

- i. A letter of reprimand to the offender.
- ii. Training and education regarding sexual harassment and appropriate and inappropriate behaviors with documentation to the Committee that this training has been completed. Failure to comply may result in the rescinding of membership.
- iii. Rescinding of membership in the AAR for a duration deemed appropriate by the committee.

The [APA Nondiscrimination Policy](#) does not say anything with respect to how the APA ought to respond to individual offenders, although our [Statement on Sexual Harassment](#) does mention that complaints about individual behavior at APA-sponsored events should be brought to the chair of the committee for the defense of professional rights of philosophers.

However, the APA Nondiscrimination Policy does condemn forms of *institutional* discrimination as unethical, and states that we penalize institutions which so discriminate; “Institutions that advertise in the JFP will be asked to indicate whether they comply with the APA Nondiscrimination Statement, and ads from those institutions that will not comply will be

⁸ For the data and a summary of the survey, please contact Carolyn Cusick (Fresno State University) and Sarah Tyson (University of Colorado at Denver).

flagged. Any advertisement in the JFP sponsored by an institution that upon full investigation is found not to be in compliance with the APA Antidiscrimination statement shall be so labeled.” Therefore,

- (1) It is the recommendation of this committee that the APA Statement on Sexual Harassment be updated to reflect the responsibilities of philosophers who are in a position to improve their workplaces, their educational institutions, and APA-associated settings and events. Specifically, after the sentence, “Sexual harassment is a serious violation of professional ethics, and should be regarded and treated as such by members of the profession,” and before the sentence, “Colleges and universities should supply clear, fair institutional procedures under which charges of sexual harassment on campus can be brought, assessed, and acted on,” the APA should add language similar to that of the U.S. Department of Education’s Office of Civil Rights, to the effect that sexual harassment is a form of prohibited discrimination when an institution or individual employee is “aware of a sexually hostile environment and condones, tolerates or allows that environment to exist.”
- (2) It is the recommendation of this committee that the APA Placement Ombuds may be empowered to receive complaints from individuals about institutions that fail to comply with Title IX with respect to sexual harassment or sex-based discrimination, or institutions that the U.S. Department of Education Office of Civil Rights is currently monitoring for compliance with Title IX with respect to sexual harassment⁹,
- (3) and we further recommend that the APA Placement Ombuds may be empowered to at least recommend flagging the advertisements of such institutions when advertising in Jobs for Philosophers (JFP), to the same APA officer that would normally receive news of any institution found not to comply with APA Nondiscrimination policy.
- (4) Relatedly, we recommend that institutions found by the U.S. Department of Education Office of Civil Rights to be in non-compliance with Title IX be automatically flagged, in the year found non-compliant or the year following, when advertising in the JFP. We note that this would mean institutions who resolve and settle Title IX complaints prior to findings of compliance or non-compliance would not be so flagged.¹⁰

⁹ The ongoing monitoring of University of Montana-Missoula, for example, would be sufficient justification for an individual to bring concerns to the APA Placement Ombuds; the university expects to achieve compliance with its agreement with the OCR within two years; see the U.S. Department of Education’s Office of Civil Rights [website](http://www.ed.gov/news/press-releases/departments-justice-and-education-reach-settlement-address-and-prevent-sexual-as) for the details of this resolution [<http://www.ed.gov/news/press-releases/departments-justice-and-education-reach-settlement-address-and-prevent-sexual-as>].

¹⁰ The recent resolution of complaints of Title IX violation at Yale, for example, would not result in Yale’s advertisements being flagged in JFP, because “prior to the conclusion of OCR’s investigation, the University entered into a Resolution

Agreement with OCR;" see the U.S. Department of Education's Office of Civil Rights [website](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/01112027.html) for the details of this resolution [<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/01112027.html>].