

UNIVERSITY of NEW HAMPSHIRE

June 2, 2003

U.S. DEPT. OF EDUCATION
REGION 1
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Thomas J. Hibino, Director
Office for Civil Rights
U.S. Department of Education, Region 1
J. W. McCormack Post Office and Courthouse, Room 701
Post Office Square
Boston, MA 02109

Dear Mr. Hibino,

The U.S. Department of Education, Office for Civil Rights (OCR) has, during the last years, conducted a proactive compliance review of sexual harassment issues at the University of New Hampshire (UNH) in Durham. In the letter to then President Joan R. Leitzel dated April 9, 2001, you indicated that your goal was to work with this administration in a collaborative manner to identify strengths and weaknesses in UNH's approach to sexual harassment issues on campus. You also indicated in the letter that reviews are not necessarily prompted by complaints and your staff informed us that this review was not prompted by complaints. We have been pleased to work with the OCR team as they gathered relevant information, including policies and grievance procedures, and discussed the environment and prevention efforts on campus regarding sexual harassment with students, faculty, staff and administrators. We trust that our plans, as we have discussed them with your staff, meet with your approval.

I would also note that the members of the team have informed us that they have found a spirit of cooperation on the part of this university, an eagerness to improve our policies and processes, and a sense that things are moving steadily in the right direction. I am reassured to be informed of this, as UNH strives at all times to prevent discrimination and harassment, and to maintain a campus climate that is not hostile to students but that is welcoming and supportive, exhibiting concern for the dignity and civil rights of all members of the community.

Our plans to improve our policies and procedures, to enhance our prevention efforts, and to foster a positive environment are set out below. We will continue to work with you and your staff as you monitor our progress.

OFFICE OF THE PRESIDENT

Thompson Hall 105 Main Street Durham, New Hampshire 03824 Phone: 603-862-2450 Fax: 603-862-3060

POLICIES AND PROCEDURES

Primary jurisdiction over discrimination and discriminatory (including sexual) harassment policies and procedures, and responsibility for promulgating and enforcing them, belong to the Special Assistant to the President for Affirmative Action who is the Title IX Coordinator and responsible for the UNH Discriminatory Harassment Policy, and to the Vice President for Student Affairs and the Judicial and Mediation Programs Office who are responsible for Student Rights, Rules and Responsibilities [(SRR&R)/Code of Conduct].

These officials and offices are responsible for implementing the relevant policies and procedures designed to promptly and equitably resolve complaints including those of sexual harassment. The judicial process for students is constantly being reexamined and monitored to insure that it is responsive to the needs of complainant and accused, and that it serves the needs of individuals and the University community as a whole. An outside consultant most recently reviewed this procedure in 2001.

The UNH Discriminatory Harassment Policy is implemented when the accused is a university employee or a third party at the University who is, for example, conducting business with UNH. The SRR&R/Code of Conduct is used when another UNH student is the accused.

The UNH Discriminatory Harassment Policy:

The Harassment and Sexual Harassment Policy on-line version has been in effect since 1996, and the Discriminatory Harassment Policy (in handbook form) was promulgated five years ago; they are currently being revised. OCR had the opportunity to comment on the policy, as did the UNH community, including the Sexual Harassment and Rape Prevention Program [SHARPP] on campus, and the Office of General Counsel at USNH. The revisions include updates of state law regarding the reporting of sexual harassment of students, as well as clarification regarding the informal and formal processes, the manner in which the process provides for prompt and equitable resolution of complaints pursuant to Title IX, and more information regarding external compliance agencies (such as the EEOC, the New Hampshire Commission on Human Rights, and OCR). The policy handbook will include such information as timeframes by which one must file complaints with these agencies. The policy emphasizes the existence and role of the Title IX Coordinator.

A draft revision of the policy has been reviewed and approved by OCR. The policy as further revised will be circulated to appropriate offices and organizations in UNH for comment during May 2003, with the expectation that it can be adopted during Fall Semester Academic Year (AY) 04 and implemented immediately thereafter. OCR will be consulted regarding any changes to the draft during this process. A copy of the final adopted policy will be provided to OCR following approval by the President. Documentation regarding notice to the UNH community about the revised policy will be provided to OCR during AY 04.

SRR&R/Code of Conduct:

As explained above, the judicial procedures of the SRR&R/Code of Conduct are implemented when the accused is a student. The UNH Discriminatory Harassment Policy will ultimately govern discriminatory (including sexual) harassment complaints to ensure their prompt and equitable resolution under the SRR&R/Code of Conduct. One of the issues regarding the processing of complaints where the SRR&R/Code of Conduct is applicable raised by OCR was the practice of relying on a student complainant to present his or her case, rather than using a separate or independent investigator. In response to this concern, a separate investigation procedure has been established. An alleged victim of sexual harassment will not have the burden of presenting his or her case, but rather any complaint of such harassment is being independently investigated by a UNH employee. An appointed investigator gathers relevant information from both parties, and presents findings to the Associate Director of Student Life, who will decide whether to proceed to a hearing. At such a hearing, the complainant and the accused student would have the opportunity to present witnesses and other relevant information in response to the investigator's findings. In addition, as is already the case, the alleged victim and the accused will be afforded the same due process rights.

At this time, to begin the process, the following language has already been inserted in the policy [SRR&R]:

The Associate Director of Student Life will appoint an independent investigator to investigate allegations of student misconduct involving discriminatory harassment, and provide recommendations to the Associate Director whether conduct charges should be filed. All information and relevant documentation gathered by the independent investigator shall be given to the Associate Director and may be used as evidence in a student conduct case.

The Judicial and Mediation Programs office will selectively recruit and train members of the faculty and staff at UNH to serve as investigators for future cases. The appointed investigator would possess the level of requisite experience and skills to maximize the effectiveness of the investigation. UNH will draw on its own resources, such as its counsel, campus police, and SHARPP in training its investigators. OCR has also offered technical assistance in this area. UNH will establish the training curriculum and provide it to OCR during Fall Semester AY 04. At least one investigator will be trained by Fall Semester. OCR will receive documentation of the training when it is completed, including the agenda, the names of the trainers and attendee(s) and any material used in the training. In order for UNH and OCR to monitor the implementation of the independent investigator mechanism for the next academic year, UNH will track and keep records for complaint investigations for the purpose of assessing the practical effect of the new system and determining adjustments that might be necessary.

In one case during AY 03, brought to the attention of the Associate Director, a report of an alleged incident of sexual harassment was made. An experienced senior administrator was assigned to do a preliminary assessment, and he determined that there was insufficient evidence to bring the case forward (on the sexual harassment charges, as opposed to other charges). This administrator had significant investigative and judicial process experience. As we work to perfect a process, UNH and OCR will work together to evaluate and ultimately insure a system that satisfies the independent investigation element which UNH is utilizing to satisfy the requirements of equitable processing of complaints pursuant to Title IX.

All major time frames and deadlines related to filing and processing a student complaint or appealing a finding, for all actions to be taken (including by administrators) within the student judicial process, have been clearly spelled out in the SRR&R/Student Code which will be provided to OCR when the new SRR&R is published for AY 04.

Role of the Title IX Coordinator:

A process for maintaining liaison with the Special Assistant to the President for Affirmative Action (Title IX Coordinator) for all cases of sexual harassment and assault is being established. The Associate Director of Student Life responsible for Judicial Programs will promptly notify the Title IX Coordinator in writing (preferably by email) of all discriminatory harassment complaints received by the Judicial Programs Office. The Title IX Coordinator will monitor the progress of the case until resolution. UNH will provide records of such coordination to OCR at the end of the academic year.

Faculty and Staff Training on Policies and Procedures:

Faculty and staff professional development and training is, like other issues addressed here, part of ongoing analysis by Academic Affairs, Affirmative Action, Human Resources, and the Office of General Counsel. The efforts to reach new faculty (and the teaching and research graduate students) during their orientations are successful and will be continued this summer. Orientation for new academic department chairs, which was originally scheduled for the beginning of AY 03, will now be part of annual professional development for all department chairs and will take place in August 2003. UNH and OCR have noted that there is a gap in training of some faculty who have been at UNH for several years. We believe, as does OCR, that because faculty are often individuals to whom students report harassment, they should be informed about applicable policies and grievance procedures as well as resources on campus. To this end, programs to reach faculty who have not had recent access to these orientation programs or related professional development opportunities is being studied, with expectations of a pilot program to reach faculty in selected academic departments to begin in AY 04.

Many staff members at UNH are deeply involved in student issues and need to be available to students, and are often trained at the department level (e.g., student affairs employees and housing employees). Additional training for staff is being studied.

Planning for an enhanced employee orientation program, directed primarily at new staff, is underway. Human Resources surveyed all campus departments to assist in planning. The program, "Getting Started @ UNH," is being presented by Human Resources, and there has been input from the Affirmative Action Office. May 12, 2003 was the first presentation as it is being piloted. We will provide OCR with a description of the program including agenda, presenters and attendees, and how it is being implemented during Fall Semester AY 04.

While UNH's responses to the primary issues identified by OCR are addressed above, UNH and the OCR team also discussed prevention efforts and the environment on campus as related to sexual harassment. We wanted to take this opportunity to share some of our prevention efforts and also discuss matters that both UNH and OCR have identified as areas of concern.

PREVENTION

OCR noted that UNH has a prevention infrastructure in place. To validate its visibility, we ask students regularly on many surveys whether they are aware of specific programs and services available to them, and we also ask whether students have identified at least one staff or faculty member to whom they can go when they have questions or concerns. Our results suggest that students are aware of the resources available to them, and/or they have someone to whom they can turn if they have questions. The existence of SHARPP, and its expansion into the Panhellenic world, is positive. The use of liaisons in each fraternity [and sorority] to work directly with SHARPP is positive, but will need continuing examination to insure that the system works, and that mature, committed members act as the liaisons. We will monitor and study the effectiveness of the liaison group to determine its impact on the Greek community. Student Affairs administrators will be evaluating the arrangement and will share the results of this evaluation with OCR during Fall Semester AY 04.

Both prevention and environment issues include a concern for alcohol abuse. In this area, UNH has multiple assessment tools already in place to monitor the extent of abuse, student awareness of accurate information about UNH use of alcohol and other drugs, the degree to which new students entering UNH have already established their socializing, drinking and drug use behaviors, and the extent to which students report changes in their behaviors and attitudes after being at UNH for two or more years. We have begun to use the National College Health Assessment on a biannual basis, to monitor health-related attitudes and behaviors. We also participate biannually in the New Hampshire Higher Education Alcohol, Tobacco, and Other Drug Survey, which enhances our ability to compare UNH to other institutions in New Hampshire on student attitudes and behaviors around use/abuse of alcohol and other drugs and their consequences. We are in the fourth year of a Social Norms campaign, designed to address students' misperceptions of the extent of alcohol and other drug abuse at UNH, and are beginning to notice a downturn in the extent of student drinking.

The planning for, and implementation of, orientation programs [including those for new faculty, graduate students, (teaching and research assistants), resident assistants in residence halls, and new students] does encompass issues of sexual harassment, sexual violence and other discriminatory harassment concerns. UNH continues to examine the most effective way to extend this orientation and professional development information to other employees and to improve the range of information provided to students.

The Freshman Days [now "Wildcat Days"] student players' production ("WildActs") present these and other social and behavior issues to the incoming class. The material presented and the use of discussion groups in the course of the academic year has been broadened in scope and content for the benefit of new students. The presentations for new students at the beginning of the AY 03 were revised to improve the presentations and sharpen the focus. This includes issues of prevention and safety measures which were emphasized by the Residence Hall Directors (RHDs) and Resident Assistants (RAs) during the post-play discussions, rather than permitting the students to focus on other areas to the detriment of sexual violence and harassment. Orientations for new faculty, graduate students (teaching and research assistants), and for new academic department chairs continue to emphasize the importance of these issues. [See further comments below.] We look forward to sharing with OCR during Fall Semester AY 04 any additional changes to the RA training program and WildActs performances during freshmen orientation and information about residence hall discussions that emphasize safety issues and sexual harassment on campus.

There is a range of prevention measures, which exist now and are being constantly assessed and frequently expanded, that provide the reality and the perception of safety for students and others. The "Blue Lights" on safety phones on campus are a physical security measure. The provision of "safe zones" training on GLBT concerns (especially in the residence halls), the shuttle services, escort services, and SHARPP outreach, are visible to the community. The discussion of, and working towards, solutions on these issues by the Vice President for Student Affairs' Expanded Group, the coordination of the Sexual Assault Response Team, the hiring of a victim advocate, and the ongoing surveys and studies on climate and related issues, provide an underpinning for these efforts. One of our major, ongoing efforts is to expand educational and marketing outreach to insure that potential users are aware of these support systems.

ENVIRONMENT

The prevention efforts noted above obviously affect the environment on campus. Looking toward improvements, we will be focusing on areas that we have discussed with OCR. One area is that of the Greek community. Both UNH and OCR noted that much of the student socializing and high-risk conduct occurs in Greek houses. In the past several years, the trend towards greater accountability on the part of the houses, the willingness of UNH to impose appropriate sanctions when fraternity houses or individual members violate university norms, and the emphasis on having cooperation in areas involving Greek houses and SHARPP (as noted above) contribute to the changing climate of fraternities and sororities on campus.

One of the areas pointed out to us is a limited coordination between the Greek coordinator and the sororities, which are stakeholders in these concerns and whose members are often at risk. This will be improved during the coming academic year and we look forward to updating OCR on progress in this area.

In addition, academic requirements will be enforced in order for freshmen to pledge. Study hours and faculty advisors are part of the upgrading of standards. We believe an increased focus on academic success will also contribute positively to the climate in Greek houses. We recently provided OCR with our new academic plan for Greek members that was developed jointly with the administration and the Interfraternity Council and Panhellenic Council. We are in the process of monitoring the implementation of the plan and look forward to providing information to OCR regarding its impact on climates in Greek houses during Fall Semester AY 04.

UNH will continue to pursue improved cooperation between campus and town police on policing issues; continue to spotlight the problems caused by non-recognized "fraternities" and work with the town of Durham to solve these problems, and continue the campus emphasis (including "positive norming" and other strategies) to create greater awareness of issues involving drinking, socializing, and sexual harassment and violence. Because of significant incidents ["riots" in the press] in Durham during AY 03, there is increased awareness of these issues, and a more coordinated approach to studying the problems and finding solutions. Our databases on crime statistics, police log activity, and judicial cases are all used to monitor our effectiveness in addressing behavioral concerns within our off campus facilities, both Greek and non-Greek.

The residence halls are the subjects of ongoing consideration for making them safer and more secure for residents. Training of RHDs and RAs this past summer emphasized more issues of personal safety of residents, the right and duty of RAs to seek assistance if they or residents are threatened or harassed and the nature of institutional support at every level for taking appropriate action. The issues of propped-open doors and other efforts to admit non-residents to the halls were the subject of additional examination for the Fall Semester AY 03, and will be again for Fall Semester AY 04. RHDs and RAs will continue to upgrade their education programs to focus on the need for keeping doors closed. During summer Orientation for incoming students and their parents in 2002, University Police discussed this concern, and alerted parents to the importance of the safety measures. Sites where there appear to be significant problems adhering to safety rules will be reviewed for more intense action. The initial letter from the Director of Residential Life to new students emphasizes door and safety issues as well as information on alcohol policies. We routinely collect data about which doors have been propped, which of those are doors in need of repair (they fail to latch when pushed shut), and which need to be equipped with a card reader. We can usually tell from the way the open door reads out on the computer printout whether we are dealing with a propped open or broken door. We anticipate increased monitoring of this problem and will share information on the monitoring and documentation of any new safety measures with OCR during Fall Semester AY 04.

Other general issues of climate, or environment are monitored annually on at least three separate surveys to students. We ask questions ranging from whether the person feels safe on campus, to whether they think the social atmosphere promotes alcohol abuse, to general awareness on the part of the student about what activities and events are available.

Because we believe that the environment in the classroom is a significant influence on the campus climate, we also annually monitor students' perception of the classroom environment as intellectually stimulating, the extent to which the student feels a lack of intellectual challenge, and whether students would enroll in a class just because they heard it was easy. We have also made it a goal for the University to add a full day of Friday classes to the schedule of course offerings. This will continue to be studied by UNH and we will keep OCR informed of any changes in this area.

In regard to "at-risk" populations, particularly those of freshman women and sorority members, we believe that one of the best ways to increase awareness of concerns and emphasize safety is to increase the level of educational exposure to these concerns early in their academic experience. The use of WildActs and similar vehicles (see "PREVENTION," above) to focus more closely on this is one way. The further emphasis on residence hall program planning throughout the year, combined with linkages to the Greek community (see first paragraph in "ENVIRONMENT," above) should assist in creating a greater emphasis on these concerns. The distribution of Emergency contact cell phone stickers to all students assists in raising their awareness level and improves their ability to seek assistance quickly. A copy of this sticker, information and training documentation by police for parents and incoming students is being provided at the June orientation regarding safety issues; and a letter to new residents, emphasizing safety will be provided to OCR during Fall Semester AY 04. The UNH ID card now includes emergency telephone numbers on its face; the revised cards are being provided to all recipients as new or replacement cards.

We will continue to educate both women and men in these issues, and encourage men as well as women to be activists in the activities (e.g., SHARPP, residence hall programs, fraternity and sorority programs) that will help improve the environment. The continuing efforts to enhance the undergraduate experience, the emphasis on first year programs and the relationship of the academic and student life spheres will also examine these areas of concern on an ongoing basis. Concerns over student affairs and academic affairs coordination for the benefit of students is the subject of an ongoing analysis, and the implementation of the Academic Plan will continue to emphasize these efforts. Greater efforts to provide more social and educational programs in the residence halls will continue, as is reflected in the upward trend of the past several years. All-campus event planning (especially on Friday and Saturday nights, de-emphasizing alcohol consumption) will continue to be promoted (with imaginative marketing). Student Affairs staff teams will be out on campus and in Durham on busy weekends, to be a presence and a resource. This program, ongoing during AY 03, has resulted in both Student Affairs staff and other staff and faculty creating a presence on campus and in

Durham during periods of peak nighttime social activity. We have and will continue to share with OCR what this programming consists of during Fall Semester 04.

We look forward to working with you to continue to improve our campus climate and practices. The hard work, dedication and expertise of your staff have been evident during the review, and we appreciate the time that they have taken to work with us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Weaver Hart".

Ann Weaver Hart
President