

MEMORANDUM

TO: Joel Seligman

FROM: Gail Norris, Rich Feldman

DATE: April 26, 2016

RE: Recommended Changes to Student Code of Conduct

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In November, students requested that we revise the text in the Student Code of Conduct related to the Discrimination and Harassment Policy so that it provides the same protections as those in the Sexual Misconduct Policy. The student request also stated, “Revisions to the Student Code of Conduct should address hate speech both in person and through social media.”

We have reviewed the Student Code of Conduct and discussed possible changes with the Dean of Students and others in his office.

The students’ concerns about the Discrimination and Harassment Policy for student conduct were entirely appropriate. When we revised the Policy several years ago to separate sexual misconduct from other forms of discrimination and harassment, there was a gap left in the original Policy against Discrimination and Harassment that left the policy incomplete.

The Office of Counsel drafted a new Policy Against Discrimination and Harassment that will be added to the Student Code of Conduct.

The new Policy is consistent with best practices and affords those that experience discrimination or harassment with the protections and resources needed to address the illegal conduct. It parallels the Policy on Sexual Misconduct for students and the Policy on Discrimination and Harassment for faculty and staff to ensure consistency among these three to the extent practical.

The new policy follows the same reporting, confidentiality and support provisions as exist in the Sexual Misconduct Policy. Definitions of discrimination and harassment based on a protected class are consistent with our employee policy, the Department of Education’s Office of Civil Right’s guidance, as well as New York and federal law.

This new policy will afford any student who believes he or she is a victim of discrimination or harassment based on a protected class the same relative rights and resources as those who are victims of sexual assaults. In addition, it provides Department of Public Safety support for those who believe the harassment they suffered might rise to the level of criminal harassment.

With respect to addressing hate speech, we reviewed our Code of Conduct with existing case law, OCR guidance and model codes at our peer institutions. Given existing case law and regulation, we are limited in the extent to which we can adopt changes in a Student Code of Conduct to potential disciplinary action to redress hate speech.

We have proposed the addition of a paragraph to the first page of our Student Code of Conduct detailing what we will do if our Communal Principles are violated but no violation of our Code of Conduct occurs. Effective response to speech that has a negative effect on community members is the expression of disapproval, the reaffirmation of community values, the presentation of different ideas and our argument as to why they are better.

A [copy of the first page of our Student Code of Conduct](#) with the added paragraph and a copy of the [new policy against discrimination and harassment](#) are attached to this memorandum.

We also will also continue to refer speech or other conduct that could be criminal to the District Attorney's Office for prosecution.

We recommend that you adopt the change to our Code of Conduct and the new Policy Against Discrimination and Harassment so that we can incorporate them into the Student Handbook immediately.