Due Process in Sexual-Harassment Complaints

The statement that follows was approved by the Association's Committee A on Academic Freedom and Tenure in June 1991 and adopted by the Association's Council in November 1994.

The Association's report, *Sexual Harassment: Suggested Policy and Procedures for Handling Complaints*, sets forth specific procedural requirements in processing a complaint against a member of the faculty. If a grievance officer is unable informally to effect a mutually acceptable resolution, the complaint is to be submitted to a faculty committee. That committee, if it decides that the complaint warrants further attention, is to invite the parties to the dispute to appear before it and to confront any adverse witnesses, to gather other information as deemed necessary, and to reach a determination on the merits of the complaint. If the faculty committee's findings do not lead to a mutually acceptable resolution, and if the committee has determined that reasonable cause exists for seeking sanctions against an accused faculty member, the matter is to be submitted to the chief administrative officer. That officer or his or her designate is to proceed in accordance with the applicable provisions in the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*, assuming the burden, if a severe sanction is sought, of demonstrating adequate cause in an adjudicative proceeding before a faculty hearing body.

Committee A has been informed by the Association's staff of a disturbing number of cases in which a severe sanction has been imposed on a faculty member accused of sexual harassment with no opportunity having been afforded for a hearing before faculty peers. Investigations of complaints of sexual harassment, often conducted by the campus affirmative-action officer or another official appointed to an administrative position, have led in many instances to peremptory administrative action against the accused faculty member without faculty review of the charges and a faculty hearing of record. Accused faculty members, at institutions that purport to adhere to Association-supported standards of academic due process, have been suspended from their responsibilities before any hearing, without any reason to believe that their continuance would threaten immediate harm to themselves or others. Administration-imposed suspensions have been allowed to linger on, with no faculty hearing on cause for suspension in prospect and with the duration of the suspension and the conditions for lifting it equally uncertain.

These instances of avoiding or shortcutting recognized safeguards of academic due process in treating complaints of sexual harassment may be motivated partly by fear of negative publicity or of litigation if prompt and decisive action does not appear to be taken, or they may be motivated by a well-meaning desire to cure a wrong. Nonetheless, sexual harassment—which Committee A certainly does not condone, be the offender a faculty member or anyone else—is not somehow so different from other kinds of sanctionable misconduct as to permit the institution to render judgment and to penalize without having afforded due process. In dealing with cases in which sexual harassment is alleged, as in dealing with all other cases in which a faculty member's fitness is under question, the protections of academic due process are necessary for the individual, for the institution, and for the principles of academic freedom and tenure.