

Annual Report to APA Board of Officers from the APA Committee on Inclusiveness August 2009

Participating Committee Members July 2008-August 2009:

Cheshire Calhoun, Chair

Teresa Burke (disability representative)

Abigail Gosselin

Omar Mirza

Hye-Ryoung Kang

Gary Mar (Committee on Asian and Asian-American Philosophers and Philosophies)

Thomas Norton-Smith (Committee on the Status of Indigenous Philosophers)

Anna Stubblefield (Committee on Blacks in Philosophy)

Patrick Goodin (Associate Chair, Committee on Blacks in Philosophy; official appointment commenced July 2009)

Eduardo Mendieta (Committee on Hispanics)

Mary Bloodsworth-Lugo (Committee on the Status of Lesbian, Gay, Bisexual and Transgender People in the Profession)

Talia Bettcher (incoming Chair of LGBT Committee; official appointment commenced July 2009)

Erin Mckenna (Committee on the Status of Women)

Anita Silvers (incoming Associate Chair, official appointment commenced July 2009)

Meeting:

There was a productive breakfast meeting at the Eastern Division, December 27, 2008, however most business is conducted via email.

Sponsored Sessions:

- Eastern Division, December 2008

Author Meets Critics: Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing*
Sponsored by the APA Committee on Inclusiveness and the APA Committee on the Status of Women

- Central Division, February 2009-cancelled

Racial and Ethnic Group Terms

Sponsored by the Committee on Inclusiveness

Work of the Committee:

1. *Chair and Member's Manual*. So that incoming chairs and incoming members will be fully aware of the information that is relevant to their serving on the committee, a Chair and Members Manual has been compiled and will be available at the Inclusiveness Committee Webpage. Other APA Committees may find this a useful resource and/or a template for constructing their own committee manuals. The Manual is now available on line under the IC's webpage.
2. *Response to the Petition and Counter-Petition Concerning Enforcement of the APA Nondiscrimination Statement*. The response document has been circulated to all of the members of the six diversity committees, the members of the Inclusiveness Committee,

and the chairs of the Committee on Academic Placement and Career Opportunities and the Committee for the Defense of the Professional Rights of Philosophers. (See Appendix A).

3. *Review of Grant Proposals.* The committee reviewed and submitted its recommendations with respect to three grant proposals submitted this year.
4. *Endorsement of the Women in Philosophy Taskforce request.* A non-APA group concerned with the status of women in philosophy made a request to the APA Committee on the Status and Future of the Profession that journal manuscript evaluation practices be reviewed and a best practices statement be formulated. The principal concern was with the effect of nonanonymous refereeing on the acceptance rate of papers by female and racial minority philosophers. This request was circulated to the members of the Inclusiveness committee and endorsed by all nine responding members. (See Appendix B).

Future Tasks for the Committee:

1. **Updating Syllabi Project.** At the December 2008 meeting, those attending the meeting agreed to consult their committee members in order to collect syllabi and topical reading lists for courses devoted to or including components on diversity-related philosophy. This has, in the past, been a well-used resource and there is already a link on the APA webpages set up for the syllabus project.
2. **Annual Report Template.** There is currently no information provided by the APA about what should be included in the annual report from committee chairs. We agreed that the diversity committee chairs should formalize their own reporting, adopting a shared template. Eduardo Mendieta has done initial work on such a template. Among the items to be reported would be a head count of attendees at sessions organized by the various diversity committees (this could be done by the session chair). Initial

Resolved issues:

1. **JFP advertizing webpage.** The “Advertizing in JFP” webpage has been immensely improved so that it is very clear to advertisers what APA statements (including the Nondiscrimination Statement) they are required to read and are expected to comply with.

Continuing issues:

1. **membership data collection.** Those attending the December committee meeting agreed that acquiring demographic data on APA membership is imperative. The plan, dating from Michael Kelly’s tenure as executive director, to acquire membership data via the personal profiles pages at the APA website is not effective—the existence of the profile pages is difficult to advertize, and completion of those pages depends on the members’ using the initiative to go to those pages and fill them out. Were the APA to follow other professional organizations and commit to doing membership registration and renewal on-line rather than via paper copy, data collection

would be simplified. Other organizations direct their members through a demographic information page prior to the dues payment page.

2. Hiring data collection. . The Committee on the Status of Women conducted a one-time email survey of departments advertising in the October and November 2007 JFP (print and web). Departments were asked to report either “no hire” or the name of the hire. The APA paid for a graduate student worker to assist in this project. Data was then analyzed by Miriam Solomon (CSW), David Schrader (APA exec-dir), and John Clarke. The CSW then drafted a suggested template of a form to be completed by departments once the hiring season is over and is recommending that the APA use something like this to continue tracking employment data. This year, collection of data on hiring results was taken over by the National Office. As of August 2009, feedback had been received from only 168 of the 710 new ads published in JFP in the 2008-2009 hiring season. Getting people to respond to requests for information on hiring results continues to be a problem. Among possible ways of obtaining a higher response rate would be a notice to the search committee contact at the time the ad is placed notifying them that this information will be requested.

3. JobSeekers Data base. The JobSeekers data base continues to be off-line. The most efficient way of securing demographic information about those currently on the job market is to make entry of one’s demographic information into the Job Seekers database part of registering to use the APA Placement Services. This would mean that registration would have to be online. Such a procedure would help insure that this database is in fact a useful resource for hiring department who wish to reach candidates from underrepresented groups.

APPENDIX A RESPONSE AND RECOMMENDATIONS CONCERNING THE PETITION TO ENFORCE THE APA NONDISCRIMINATION STATEMENT

The following Report on the APA Non-Discrimination Statement and Recommendation for Implementation was reviewed by the members of the Committee for Inclusiveness in the Profession and the members of the six diversity committees. All responding members of the Inclusiveness Committee (11 out of 12; one did not reply), including the incoming Associate Chair, voted to support the report and recommendation. All members of the Committee on the Status of LGBT Persons in the Profession (8 out of 8) voted in support. All responding members of the Committee on the Status of Women in the Profession (8 out of 11; 3 did not reply) voted in support. Five of 7 responding members of the Committee on the Status of Asian and Asian-American Philosophers and Philosophies voted in support; two did not support. The report and recommendations were also circulated to the Committee for the Defense of the Professional Rights of Philosophers as well as the Committee for Academic Placement and Career Opportunities.

Two comments, not included in the report deserve mention: First, it is not at all clear what falls under “homosexual conduct” and “homosexual behavior” in the codes of conduct at issue, so that codes of conduct proscribing homosexual conduct may be overly broad. Some institutions’ disambiguating language—for example, that homosexual behavior includes hand holding or announcing a romantic relationship—are worrisome insofar as they place restrictions on lesbian and gay persons that are not similarly placed on heterosexual persons at those institutions. Second, the listing of homosexual activities among sexual violations such as rape and sexual harassment in some policies appears to reflect a hostility toward same-sex conduct that far exceeds the hostility toward premarital heterosexual relationships. The report and recommendations below do not take up either of these issues.

REPORT ON APA NON-DISCRIMINATION POLICY

Petitioners and Counter-Petitioners disagree in their interpretations of the APA Nondiscrimination Statement. Petitioners request that the APA “enforce its policy and prohibit institutions that discriminate on the basis of sexual orientation from advertising in 'Jobs for Philosophers' or (2) clearly mark institutions with these policies as institutions that violate our anti-discrimination policy.” Counter-petitioners request that the APA “should continue its current practice” and, if necessary, clarify that, although it “prohibits advertising by institutions that discriminate on the basis only of sexual orientation, or their status with regard to any the other listed categories, it does not necessarily prohibit advertising by institutions that, because of their religious or moral commitments, have conduct codes, which might disproportionately burden employees depending on their sexual orientation, their sex or one of the other listed characteristics.”

The central questions at issue are whether the APA Nondiscrimination Statement is reasonably interpreted as predicated on a status-conduct distinction such that institutional prohibitions on “homosexual behavior” or “homosexual acts” would not qualify as discriminatory. If not, what kind of conduct prohibitions are excluded by the APA’s anti-discrimination policy?

The APA Statement on Nondiscrimination is not framed in terms of the status-conduct distinction. The Statement simply “rejects as unethical all forms of discrimination based on race, color, religion, political convictions, national origin, sex, disability, sexual orientation, gender identification or age.”

The APA Statement is, however, clear that there is no exemption for discriminatory practices predicated on moral or religious beliefs (e.g., that God separated the races or that marriage is only between a man and a woman). The only religion-based exemption is as follows: “it is not inconsistent with the APA's position against discrimination to adopt religious affiliation as a criterion in graduate admissions or employment policies when this is directly related to the school's religious affiliation or purpose, so long as these policies are made known to members of the philosophical community and so long as the criteria for such religious affiliations do not discriminate against persons according to the other attributes listed in this statement” (emphasis added).

The counter-petitioners argue a) that the APA nondiscrimination statement prohibits discrimination on the basis of status, not conduct, and thus applying the APA statement to conduct regulations represents a “change” of APA policy; b) that prohibiting “homosexual behavior” is compatible with not discriminating on the basis of sexual orientation status; c) that such conduct prohibitions, which have a disproportionate impact on gay or lesbian persons are analogous to prohibitions on adultery, which have a disproportionate impact on married persons; and d) that were the APA to object to conduct codes that prohibit “homosexual behavior” as part of a general prohibition of non-marital sex, the APA could do so only on the basis of a moral viewpoint about marriage not on the basis of discrimination, and the APA should not adopt positions on controversial moral issues.

In response:

The APA Nondiscrimination Statement is not reasonably interpreted as predicated on a status-conduct distinction. Were the APA Statement interpreted as *only* prohibiting discrimination on the basis of status, the following patently discriminatory practices would not qualify as discriminatory under the APA statement:

- not discriminating on the basis of racial status but denying admission to applicants engaged in an interracial marriage or known to advocate interracial marriage or dating (as was done by Bob Jones University; see *Bob Jones University v. United States*, 461 U.S. 574 (1983)).
- not discriminating on the basis of religious status, but requiring employees to sign a statement affirming that they will not attend synagogue, wear a yarmulke, or participate in any other Jewish religious practices.
- not discriminating against those whose status is female, but terminating the employment of any employee who gets pregnant.

- not discriminating against the status of being transgendered, but requiring employees to sign a statement affirming they will not have a sex change operation, take hormones that change their apparent sex, or wear clothing of the opposite sex.
- not discriminating on the basis of disability, but prohibiting employees from bringing a seeing eye dog into any campus building.

In short, conduct regulations cannot be assumed to be nondiscriminatory simply because they are consistent with admitting or employing individuals who have the statuses mentioned in the Nondiscrimination Statement.

Specifically at issue in the Petition and Counter-Petition is whether an institutional Code of Conduct that prohibits students and faculty from engaging in “homosexual behaviors” or “homosexual acts” at any time and in any place discriminates against those who are gay or lesbian. It is difficult to see how they do not, even if the policy applies equally to both heterosexual and nonheterosexual *persons*.

- First, in *Loving v. Virginia*, the State of Virginia claimed that a (conduct) bar to interracial marriage applies equally to all races, and thus did not discriminate on the basis of race. The Supreme Court rejected this argument on the grounds that such a (conduct) bar was integrally connected with the maintenance of white supremacy. Prohibition of same-sex conduct has been similarly integrally connected with the view that gay men and lesbians suffer a psychopathology, are physically abnormal, and are morally suspect kinds of persons.
- Second, the explicit prohibition of “homosexual behavior”—as well as its implicit prohibition when institutions ban nonmarital sex while also regarding homosexual behavior as intrinsically nonmarital-- has a significantly disproportionate impact on heterosexuals versus nonheterosexuals. Such conduct regulations substantially interfere with the private intimate and social lives of gay and lesbian students and faculty, because it in essence requires them to adopt a celibate lifestyle as a condition of admission or employment. The disproportionate impact of a ban on “homosexual behavior” is not analogous to the disproportionate impact that a ban on adultery has on married persons. Married persons have no social history of being subjected to penalties and burdens that the unmarried are not similarly subjected to; prohibition of adultery does not make meaningful expression of one’s marital status impossible; the effects of the regulation are avoidable (through divorce); and marital status is not mentioned by the APA Nondiscrimination Statement.
- The primary issue, however, is not disproportionate impact but the fact that hostility to the conduct cannot be cleanly separated from hostility to the status. A defining feature of the status gay or lesbian is precisely the disposition to engage in same-sex conduct, where that includes not just sexual activity, but announcing a romantic attraction, holding hands and the like (a range of behavior that Azusa Pacific University specifically notes in its bar on “Homosexual acts or behavior (proclamation of a romantic same sex relationship, hand holding, etc.)”) A bar on “homosexual conduct” no matter where, no matter when thus bars the actualization of the status and thereby prohibits individuals from *being* gay or lesbian in any meaningful sense. It is analogous to barring those whose religious status is Jewish from actualizing that status by attending Synagogue, wearing a yarmulke, or celebrating Yom Kippur.
- Codes of conduct, like the ones at issue in the Petition and Counter-Petition, that regulate behavior no matter when, no matter where, are quite different in effect from codes of conduct that apply only to employees and students while on campus or at campus sponsored events. Compare, for example, Belmont University’s *limited* sexual conduct regulation: “Specific behaviors of sexual misconduct are those which occur on campus or at a university sponsored activity (on or off campus) and include, but are not limited to: sexual relations outside of marriage, homosexual behavior, sexual harassment, rape (date, acquaintance and stranger rape), other non-consensual sex offenses and possession or distribution of pornographic materials.”

In sum, a meaningful anti-discrimination policy cannot be limited to prohibiting discrimination based on status while permitting all conduct regulations regardless of the historical connection of such conduct prohibitions with invidious status-based discrimination, or the disproportionate impact of those conduct regulations on persons with

different statuses, or their impact on the possibility of meaningfully occupying a particular status. The Nondiscrimination Statement must extend to discrimination on the basis of conduct that is integrally connected to that status, where “integrally connected” means (a) the conduct is a normal and predictable expression of the status (e.g., sexual conduct expressive of a sexual orientation), or (b) the conduct is something that only a person with that status could engage in (e.g., pregnancy), or (c) the proscription of that conduct is historically and routinely connected with invidious discrimination against the status (e.g., interracial marriage).

Finally, Counter-petitioners claim that they are themselves being discriminated against for holding the view that “no homosexual relationship is rightly regarded as a marriage” and they claim that this is a view held by the majority of American citizens.

The counter-petitioners may be right that the majority of Americans regard marriage as requiring one man and one woman. What is at issue, however, is not the definition of marriage but whether it is reasonable, because nondiscriminatory, to deny employment or admission to individuals who enact their sexual orientation identity. The point of this discussion is to insist that it is not. The rationales behind prohibitions of “homosexual conduct” are not easily distinguishable from the rationales that have historically supported systematic and invidious discrimination against gays and lesbians. And the unlimited prohibition of the conduct, no matter where, no matter when, is not easily distinguishable from hostility to the status given that the defining feature of the status is a disposition to “homosexual conduct”.

RECOMMENDATION FOR BOARD ACTION CONCERNING IMPLEMENTATION OF APA NON-DISCRIMINATION POLICY

1) Require agreement with the following statement as part of JFP ad submission process:

"This employer complies with the APA Statement on Nondiscrimination, which rejects as unethical all forms of discrimination based on race, color, religion, political convictions, national origin, sex, disability, sexual orientation, gender identification, or age."

(check off one and only one)

This employer complies with the APA's Nondiscrimination Statement.

This employer does not comply with the APA's Nondiscrimination Statement.

2) Accept ads in JFP only from institutions that comply with the APA's Nondiscrimination Statement.

3) Deny access to advertising in JFP and to APA Placement Services to (a) institutions that have formal employment and admissions policies that violate the APA nondiscrimination statement and (b) departments that have engaged in discriminatory hiring practices. Denial of access to JFP and Placement Services will be pursuant to certification by the Board of Officers, upon the recommendation of the Committee for the Defense of the Professional Rights of Philosophers, that the institution's formal hiring and admissions policies or the department's hiring practices have violated the APA Nondiscrimination Statement. If at a time when issues of JFP will appear before the next meeting of the Board of Officers, the Executive Director may deny access to JFP and Placement Services upon the recommendation of the Committee for the Defense of the Professional Rights of Philosophers.

Institutions shall be barred from advertising in JFP or using the placement services so long as their formal policies are in place; and departments shall be barred from advertising in JFP or using the placement services for a period of time to be determined by the Board in each case.

Rationale:

1. The proposed enforcement policy is consistent with APA past practice:

Currently, each issue of JFP lists by number job ads by institutions that are on the AAUP's list of censured institutions, or that have been certified by the APA Board of Officers as having prima facie violated the professional rights of philosophers, or that the APA Executive Director determines have engaged in questionable employment practices when JFP must be issued before the Board meets.

Advertisers in JFP have in the past been asked to agree to the Statement on Nondiscrimination. There are current plans to have a check off box on the form for submitting a JFP ad affirming compliance with the APA nondiscrimination policy.

2. Effective enforcement of the Nondiscrimination Statement is consistent with the APA's increasing commitment to diversifying the profession and supports the charge to the various diversity committees to increase equality of opportunity and eliminate discriminatory practices.
3. The enforcement policy amounts to the APA's refusing to assist the job searches of institutions whose employment and admissions practices discriminate against some members of the APA. While the policy would disable some institutions from advertising jobs of interest to APA members, those institutions have other recruitment venues open to them (such as *The Chronicle of Higher Education*), venues that are also standardly made use of by APA members seeking jobs. The enforcement policy also does not interfere with religious institutions' ability to enact whatever policies and codes of conduct they see fit; it merely restricts access to an advertising outlet for those who opt, as a matter of policy, to violate the APA's Nondiscrimination Statement. While restricting access has some effect on these schools, it cannot be construed to interfere with their governance in any strong sense.

APPENDIX B ENDORSED LETTER TO THE CSFP

August 17, 2009

Dear Peter Markie,

I am writing to you in my role as ex officio member of the Committee on the Status and Future of the Profession and on behalf of the Women in Philosophy Task Force, the APA Committee on Inclusiveness in the Profession, and the APA Committee on the Status of Women.

One of the important roles that the Committee on the Status and Future of the Profession has played is in drafting informational statements that have been widely used, such as the Statement on the Major, Philosophy: A Brief Guide for Majors, and The Role of Philosophy in Higher Education.

We believe that the APA would be doing a great service to its membership were it to conduct a review of the policies and practices that journals use in evaluating submissions, to make public the variation in journal practices, and to formulate a Best Practices statement that would serve as a guide for authors in selecting journals to submit their work to and that might also serve as a guide for philosophical journals in the ongoing development of their policies.

This is a timely moment for the APA to formulate a Best Practices statement. There has been lively discussion of journal policies and practices on blogs including Leiter Reports and Certain Doubts. In addition, the APA Committee on the Status of Women will be sponsoring a session at the December 2009 Eastern Division meetings devoted to journal practices.

Background and Rationale:

On August 11-13, 2009, Sally Haslanger of MIT convened a new group, The Women in Philosophy Task Force (WIPTF), composed of 21 women philosophers from Universities across the United States, as well as Canada and the UK. The taskforce met for the purpose of addressing the practices in philosophy that contribute to the continuing underrepresentation of women in philosophy. The percentage of women in philosophy currently stands at around 22%, with the percentage of women at the very top universities being significantly lower. This rate of participation in philosophy by women marks the discipline out as an exception to the gender equity achieved across the other humanities disciplines.

Among the practices in philosophy that we believe contribute to the exceptional status of philosophy are journal practices. Journals in philosophy do not have uniform policies and practices for evaluating journal submissions. Some have fully anonymous reviewing at both the editor and referee levels. As many online sources observe, at least one journal's practice is for the editor to make non-anonymous initial cuts. Others use mixed strategies of anonymous refereeing but a non-anonymous final selection at the editorial level. Non-anonymous evaluation practices, from a journal's point of view, may seem both highly efficient, promoting quick turn around times, and a rational market strategy, given that readers often evaluate journals on the basis of the reputes of the authors.

However, when non-anonymous refereeing occurs at any level, the quality of the submission ceases to be the sole factor in the selection of articles. Instead, factors irrelevant to the philosophical merits of the submission, such as the status and reputes of the author as well as the gender and race of the author may intentionally or unconsciously affect manuscript evaluation. In an era when there are increasing pressures to publish, increasing numbers of journal submissions, and diminishing acceptance rates, the fairness of journal evaluation practices—especially for authors who do not yet have tenure—is of great importance. And, of course, it is of general benefit to the profession that the qualitatively best contributions to philosophical thought reach the light of publishing day.

Non-anonymous refereeing practices affect philosophers who are from social groups underrepresented in philosophy in two ways.

First, there is good reason to believe that authors who are female or a racial minority are less likely to have name-recognition status. Women and racial minorities continue to be relative outsiders to the social networks that high status philosophers participate in, are less likely to be employed at the highest status institutions, and are more likely to work in areas of philosophy, such as feminist philosophy or race theory which are not themselves high status areas of philosophy. Female and racial minority authors are thus less likely to be known by the editors and referees evaluating their work or to be regarded as the sort of high status philosophers who have name-recognition value for the journal's readership.

Second, there are now many empirical studies that overwhelmingly demonstrate the unconscious biasing effects on everyone—men and women, whites and racial minorities alike—of attaching names to material under evaluation, whether that be a CV or a journal submission, when those names clearly indicate the individual's gender, race, or ethnicity. I have attached two essays describing the biasing effects of the use of gender schemas in evaluation—Sally Haslanger's "Changing the Ideology and Culture of Philosophy: Not by Reason (Alone)" and Virginia Valian's "Beyond Gender Schemas: Improving the Advancement of Women in Academia."

While our principal concern is that anonymous refereeing is not a uniform journal practice in the discipline of philosophy, we would also note that lack of appropriate referee banks for diversity-related philosophical work is likely to result in a lower success rate for women and racial minorities in placing their philosophical scholarship. Work in diversity-related areas of philosophy continues to be insulated from mainstream philosophical conversations, conferences, curriculum, and so on. Feminist work across the sub-disciplines of philosophy, for example, continues to be regarded as *feminist* rather than as a contribution to a particular subdiscipline. The result is that unless a journal is devoted to feminist work, it is unlikely to have developed an appropriate bank of referees who are familiar with the central issues, literature, and methods of, say, feminist metaphysics. In the absence of an appropriate referee bank, these journal submissions are less likely to receive a fully informed evaluation. As indirect evidence, I have attached Kate Norlock's informal survey of the number of articles in feminist philosophy published by a long list of philosophical journals.

These concerns about the existing refereeing methods employed by philosophy journals raise important questions about the objectivity and fairness of philosophy as a discipline. Given that such central values to the profession--and, in fact, philosophy's reputation within the academy--are at stake, we believe it appropriate for the CSFP to undertake the study and the formulation of Best Practices that we have proposed.