



# HARASSMENT CONSULTATION CENTER NEWS



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In this issue, we are providing information that you should take the time to review as someone in a management position.

We would like for this to be an opportunity not just for managers and supervisors at departments and schools/graduate schools, but also for faculty/staff members in charge of managing research rooms to think about working, its laws, and the difference in position between students and faculty/staff members.

If you are in a position of management, for example, instructing students, managing research rooms, hiring people, having subordinates, etc., it is very important that you consider the safety and health of these people. In addition to harassment prevention and mental health care, it is important to know about employment agreements, etc. (Don't answer carelessly without checking laws, contracts, etc.) The relationship between a student and the University is called an enrollment agreement, and the University (faculty and staff members) has an obligation to provide students with educational services. If you are in a position to hire individuals (in an appointing and supervising position), you are required to have knowledge of the labor laws, etc.

## Examples of Consultations at the Harassment Consultation Center



From a staff member: My superior always gets angry at me, and when I try to explain, he scolds me further telling me to "Stop making excuses". He/she constantly tells me "If you are not satisfied with your work, you may resign " and "It's up to me whether to renew your contract or not", and I am scared that he/she is pressing me to resign... Dismissal is not something that can be done freely by employers, and workers cannot be dismissed unless there are objectively reasonable grounds and it is considered appropriate to be dismissed in general societal terms (Article 16 of the Labor Contract Act). If the contract is deemed to be a labor contract without a definite contract period due to repeated renewals, or if it is expected that continued employment is considered reasonable, termination of employment (not renewing the contract after the end of the contract period) is prohibited unless there are objectively reasonable grounds and it is considered appropriate in general societal terms (Article 19 of the Labor Contract Act).



From a faculty member: I started work after being welcomed with good pay, but the working conditions were not the same as what I had been told, and I am being forced to do a lot of work at low pay because of the discretionary work system... When a labor contract is agreed upon, the employer is obligated to clearly indicate the working conditions to the employee. In addition, for highly important matters, the employer must do so by issuing a written document, etc. to the employee and not by a verbal agreement (Article 15 of the Labor Standards Act).



From a student: I understand that it is for research, but it's tough that I can't take any days off. I can't get enough sleep and my health is being affected... "The University, due to the enrollment agreement with undergraduate/graduate students, must understand that based on the principles of good faith and fair dealing, in addition to the obligation to ensure safety, the university has an obligation to ensure education and research in an environment without sexual harassment, etc." (Campus Sexual Harassment and University Obligations of Education and Research Environments, Katsumi Matsumoto, 2001, Research in Language and Culture, Vol. 13, Issue 3, p. 131-144)  
"As the relationship between a National University Corporation and a student during enrollment is the relationship under the agreement, it can be said that the University, based on the principles of good faith and fair dealing, should have an obligation to ensure safety and protect their lives and health against any possible dangers in the course of education and research arisen from the controlling individuals and physical environments. Academic harassment by a supervising professor towards a student may occur as the supervising professor, having authority over approving the student's credits, graduation, paper submission, etc., is in a position of power over the student, as well as the research room being a closed environment. It goes without saying that students being subject to academic harassment receive both physical and psychological damage."  
(From judgement by Kobe District Court, November 27, 2017)

Precedent Court Case: A department head professor made statements towards a lecturer with few research papers denying the lecturer's research achievement as well as their educational activities. The professor was tried for unlawful responsibility (Article 709 of the Civil Code). (Judgement made by Tokyo District Court, May 30, 2007)

"It is not that any methods can be taken for supervision, but methods considered appropriate in general societal terms must be taken and must not unreasonably infringe upon the personal rights of those receiving supervision. Given that the professor at the University in this case has authority over important matters in the department such as personnel affairs, degree review and research fund allocation, they must be extremely careful with their methods of supervision, namely choice of words, place, and timing, as their inappropriate conduct towards those receiving supervision may cause not only unnecessary mental distressed more than necessary, but also infringe upon their personal rights."

From Research Literature

"The true nature of an educational relationship is not one of subordination, but one of supervision based on individual autonomy. Hence, the issue at hand is how to prevent it from turning into one of subordination."

Instructors have the authority to instruct and assess undergraduate/graduate students, however, it does not necessarily mean they have "power" (Gewalt), but rather they have authority over instruction. Additionally, this authority is one given by the University to provide undergraduate/graduate students with education and supervision to acquire sufficient academic/research ability, and they have an obligation to do so. (From Matsumoto, 2001 above)

Harassment in the University often occurs due to the closed environment in undergraduate/graduate schools, seminars, and research rooms. Some people have difficulties speaking up because they want to keep good academic and workplace relationships and do not want to ruin such relationships and the atmosphere. Also, intimate relationships in clubs and circles can also lead to closed environments, and harassment may occur even in relationships with no positional superiority. It is important that each of us respect personal rights and self-monitor ourselves so as not to become a perpetrator or victim. Additionally, if you happen to find someone who may be in trouble around you, please don't be a bystander and have the courage to ask if they are okay. If you think you are being victimized or your University life becomes stressful, please consult someone you can rely on or visit the Harassment Consultation Center.



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**Consultation services are also offered at the Tsurumai and Daiko campuses.**

**For further information, please visit our website.**

**<http://www.sh-help.provost.nagoya-u.ac.jp>**