

Protecting the Human & Constitutional Rights of University Faculty with Clinical Depression and other Psychiatric Disorders: Recommendations

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(Parts of this manuscript taken from the Declaration on the Rights of Disabled Persons , Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975, *Charter of the United Nations*)

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Preamble

Reaffirming its faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice proclaimed in the University's Charter, ...

Emphasizing that the University's policies clearly imply the necessity of protecting the rights and assuring the welfare and rehabilitation of faculty members with various government-protected disabilities, ...

Bearing in mind the necessity of preventing physical and mental disabilities and of assisting disabled faculty to continue to develop their abilities and scholarship in their respective fields and disciplines and of promoting their integration as far as possible in university life, ...

Proclaims this Declaration on the Rights of Disabled Faculty and calls for campus and national action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The term "disabled faculty" means any faculty member unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or academic life, as a result of a psychiatric disorder, either congenital or not, in his or her physical or mental capabilities.
2. Disabled faculty shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled faculty without any exception whatsoever and without distinction or discrimination on the basis of race, color, sex, language, religion, political or other opinions, national or social origin, state of wealth, or birth.
3. Disabled faculty have the inherent right to respect for their human dignity. Disabled faculty, whatever the origin, nature and seriousness of their disabilities, have the same fundamental

rights as their fellow-colleagues, which implies first and foremost the right to enjoy a decent academic life, as normal and full as possible.

4. Disabled faculty have the same civil and political rights as other human beings.
5. Disabled faculty are entitled to the measures designed to enable them to become as self-reliant as possible, while simultaneously enjoying the benefits of campus-based support system.
6. Disabled faculty have the right to medical, psychological and psychiatric treatment, to medical and social rehabilitation, education, campus-based services, counseling, and other services which will enable them to continue to develop their scholarly and academic capabilities and skills to the maximum and will hasten the processes of their social integration or reintegration into campus life and into their professional field.
7. Disabled faculty have the right to economic and social security and to a decent level of living during their tenure as faculty.
8. Disabled faculty are entitled to have their special needs taken into consideration at all stages of university (and Department/School) planning.
9. Disabled faculty have the right to participate in all intellectual, social, creative and recreational activities provided by the University. No disabled faculty shall be subjected to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom.
10. Disabled faculty shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature. [see references to *Americans with Disability Act* below]
11. Disabled faculty shall be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and constitutional rights. If judicial or administrative proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.
12. Organizations of disabled persons may be usefully consulted in all matters regarding the civil and constitutional rights of disabled faculty.
13. Disabled faculty, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Declaration.¹

¹ Adapted from the Declaration on the Rights of Disabled Persons , Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975, *Charter of the United Nations*

Recommendations (specifically regarding faculty afflicted with a form of *clinical depression* or other form of *psychiatric disorder*, and who fall under the constitutional protections of *Americans with Disabilities Act, 1991*) (see <http://www.ada.gov/>);

The / A University shall:

- (1) Provide an office to house at least one *state licensed attorney* with a specialization in Disability Rights, and the *Americans with Disability Act*. Institutional measures shall be instituted to protect attorneys from political pressure from the university administration. Such attorneys, working to serve university faculty, shall have strong connections to government agencies ready to safe-guard attorneys from pressures from university administration.
- (2) Provide an office to house at least one *Clinical Licensed Social Worker (LCSW)* trained in “case management” and with expert knowledge on the administrative system of the university. The university will contract with its county’s *Department of Mental Health*, thus, insuring that the case manager would be independent of the university hiring apparatus, and never subject to political pressure by the university to restrict systematic efforts to fully inform the client of his or her legal and constitutional rights. Among the services and forms of assistance provided by on-campus case manager are the following:

Assessment and Referrals

- (a) provide a preliminary assessment of the faculty member’s psychiatric condition (including developing a record of the client’s history of psychiatric illness and previous treatments) (copy to be provided to client, to be shared with prospective psychotherapist and psychiatrist);
- (b) assess faculty member’s needs for professional mental health services;
- (c) knowledgeable referrals to *culturally-competent* psychotherapists who are easily accessible to client (on campus therapists; therapists located in faculty member’s community) (including information regarding insurance coverage);
- (d) knowledgeable referrals to highly-reputable psychiatrists (on campus physicians; physicians located in faculty member’s community);

Stress Management

- (a) assess major stressors that exist in the principal environments that the faculty member participates in, and recommend strategies, classes, workshops and services to help faculty member better cope with stressors in those environments;
- (b) assess major stressors that exist within the campus environment and within the faculty member’s department or School; develop plan for effectively addressing those stressors (effective coping strategies; administrative procedures; legal recourses)

*[University-based] **Case Managers:** case managers are responsible for a variety of tasks, ranging from linking clients to services to actually providing intensive clinical services themselves. Other core functions include outreach to engage clients in services (within and outside the university), assessing individual needs, arranging requisite support services, monitoring use of services, and advocating for the faculty member's rights and entitlements.

Formal University Policies and State and Federal Laws that Protect Faculty & Employees Living & Working with a Depressive Disorder or a Psychiatric Condition

On-campus *case manager*, working in tandem with campus attorneys [as faculty advocates], provides literature (and other *educational media*), while thoroughly explaining to afflicted faculty member those formal university policies and **state and federal laws** that protect faculty & employees living & working with a depressive disorder or a psychiatric condition:

- (a) formal university policies prohibiting and sanctioning an administrator's harassment of a faculty member based on his or her psychiatric disability; (see <http://chronicle.com/article/Academic-Bullies/2321>)
- (b) formal university procedures for reporting [alleged] abusive behavior by a campus/department/School administrator or colleague;
- (c) procedures for filing a formal university *grievance* against a campus/department/ School administrator alleged to be engaged in abusive or discriminatory behavior against a faculty member with a formally-diagnosed and formally-ADA-recognized psychiatric disability;
- (d) constitutional protections afforded to employees who have a psychiatric disorder and diagnosed psychiatric disability—specifically, *The Americans with Disability Act* (1990, 1991, 2010) (see <http://www.ada.gov/>);
- (e) constitutionally-specified actions by an employee (i.e., faculty member) for immediately triggering the university's legal responsibility for following **ADA** requirements;
- (f) *step-by-step* administrative procedures, initiated by afflicted faculty member, for activating federal protections afforded by *The Americans with Disability Act*--first and foremost, procedures for properly notifying executive administrator (i.e., department chair, School dean) that one has a formally and medically-diagnosed disability, and for formally requesting "accommodations"—as guaranteed by ADA law. Faculty members learn that such procedures must include (i) informing administrator of ADA laws (by presenting federal documents); (ii) arranging and following through with formal meeting with chair/Dean that includes: (1), representative from *Personnel Office*, (2), executive member of *Academic Senate* (or Union), and (3), a tenured faculty colleague and ally selected by afflicted faculty member. Procedures to include presenting Chair/Dean with proper documents: (1), written medical diagnosis, signed by physician/psychiatrist—to include physician's recommended "accommodations," (2) whatever university policy documents exist that specify university's adherence to ADA laws.

- (g) university guidelines and suggestions for *recording* and documenting meeting (e.g., university-approved procedures for audio-recording meeting);
- (h) near-comprehensive list of “reasonable accommodations,” obtained from national case studies, that have proven to be effective in enabling faculty to continue working (teaching, scholarly writing, service) while managing and recovering from a psychiatric disorder; include “job restructuring.”

Effective Strategies for Defending One’s Legal & Constitutional Rights in the Face of the University’s (or Chair/Dean’s) Efforts to Harass or Discriminate a Faculty Member with a Formally-diagnosed and ADA-recognized Psychiatric Disability

On-campus *case manager*, working in tandem with *campus attorneys* [as faculty advocates], educate faculty regarding:

- (a) administrative procedures for filing a formal *complaint* or *grievance* against problem administrator (*via* Academic Senate, or Union);
- (b) effective strategies for holding executive members of the *Academic Senate* accountable for not effectively advocating for a faculty member’s legal rights and for not effectively informing afflicted faculty of protections documented in university policies (e.g., Faculty Handbook);
- (c) knowledgeable referrals to highly-reputable [off-campus] ***disability attorneys*** (with significant knowledge of higher education) or to highly-reputable attorneys with familiarity with higher education *and* with sufficient expertise with *disability law*;
- (d) help with locating appropriate attorney or law firm, and supplying faculty member with: (a) attorney’s professional record, as reported by the state bar association (online information), (b) supplying faculty member with attorney’s career record and résumé of previous cases where attorney represented a faculty member with an ADA disability;
- (e) database of other faculty (within university), or within universities within region, that have effectively defended their constitutional rights when harassed or discriminated by their respective university (or Chair/Dean) due to their psychiatric disability; connecting afflicted faculty member with these faculty members that effectively defended their legal rights;
- (f) *step-by-step* procedures for filing formal complaint with the EEOC (*Equal Employment Opportunity Commission*) <http://www.eeoc.gov/>
- (g) guidance and secretarial assistance with keeping and properly organizing all documents, emails, and campus communications pertinent to case;

- (h) building a robust and expansive national social network of colleagues (across the campus and country) who will testify (in writing and in person) to afflicted faculty member's scholarship, professional contributions, academic reputation, and moral character.

Many universities require all faculty to undergo [computer] **online training** to learn about *sexual and racial harassment* on campus, and about the university's procedures for investigating and adjudicating complaints, the university shall require all faculty and administrators to undergo *online training* to learn about:

The Basic Facts of Clinical Depression and other Psychiatric Disorders

- (a) the different forms of psychiatric and depressive disorders (including symptoms, and behaviors possibly displayed by afflicted colleagues);
- (b) the incidence of clinical depression and psychiatric disorders among the adult population in the country; (i.e., approximately 20.9 million American adults, or about 9.5 percent of the U.S. population age 18 and older in a given year, have a mood disorder.) <http://www.nimh.nih.gov/health/publications/the-numbers-count-mental-disorders-in-america/index.shtml>

Shattering the Myths about People Living with a Depressive Disorder or a Psychiatric Condition

- (a) the **online program** shall emphasize the ability of many afflicted individuals to continue to work (and make substantial contributions to their field and to the university) when a proper *support system* is developed by the department/school in coordination with the university's case manager; (illustrative case studies of faculty existing in the media: e.g., newspaper articles, documentaries);
- (b) long-standing departmental and School practices and beliefs (by colleagues and administrators) that have been shown to exacerbate a faculty member's psychiatric disorder;

Serving as an Ally to a Colleague with a Psychiatric Disability

- (a) discrete and confidential methods for reporting harassment or discrimination of a fellow colleague by a campus or department administrator, [harassment, discrimination] based on the colleague's psychiatric disability—before and after the colleague's disability has been formally assessed by physician and formally recognized by ADA guidelines;
- (b) ways in which a colleague or administrator can be a *source of support* and an *ally* to another fellow colleague's management of a depressive or psychiatric disorder.

Campus Services for Faculty Living & Working with a Depressive Disorder or a Psychiatric Condition

- (a) the campus' *Center for Faculty Mental Health Services*, the formal duties of the social work/case manager, the forms of assistance provided, and the political independence of the case manager from the administrative sector of the university—the case manager's primary affiliation with the county's *Department of Mental Health*;
- (b) the *Center for Faculty Mental Health Services*, in collaboration with the university administration, present afflicted faculty members with opportunities to remain partially and meaningfully “integrated” in campus and department life while on *disability leave* and while recovering and being treated for clinical depression or other psychiatric disorder.

University Medical Benefits and Health Insurance Options that Afford Afflicted Faculty to go on Short-term Medical Leave

- (a) medical benefits / insurance-backed benefits that afford afflicted faculty the opportunity to go on *short-term disability leave*, and the procedures for activating these benefits;
- (b) national *case studies* (including court cases) that have documented the unethical ways that some university-contracted insurance companies have tried to withdraw disability benefits from faculty on disability leave;

What To Do When University-contracted Insurance Company Attempts to Withdraw Disability Benefits While Afflicted Faculty Member is on Disability Leave

- (a) effective legal strategies for successfully combating university-contracted insurance companies that try to withdraw disability benefits from faculty on disability leave;
- (It is common practice of some insurance companies to ignore the diagnosis and the latest psychiatric assessments of the faculty member's personal physician—specifically when the physician places the faculty member on *formal medical leave* from the university. While on medical leave, the insurance company will require that the faculty member be assessed by a psychiatrist contracted by the insurance company. The psychiatrist is often unscrupulous, and in order to maintain a business partnership with the insurance company, the psychiatrist will submit a physician's report to the insurance company claiming that the afflicted individual is not suffering from clinical depression or from the previously diagnosed mental illness. Upon receiving the report from the contracted psychiatrist, the insurance company, with the complicity of the university, will stop month disability benefits. At the point, the afflicted faculty member must hire an attorney and file a case in state court.)

<http://www.ada.ufl.edu/services/arf.htm>

The Americans with Disabilities Act of 1990/1991 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. To be protected under the ADA, an individual must have, have a record of, or be regarded as having a substantial (as opposed to a minor) impairment. A substantial impairment is one that significantly limits or restricts a major life activity.

This form is designed to assist employees in requesting a reasonable accommodation. What is a reasonable accommodation? A **reasonable accommodation** is:

....any change or adjustment to a job or work environment that does not cause an undue hardship on the department or unit and which permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, **allowing part-time or modified work schedules**, reassigning an individual, adjusting or modifying examinations, modifying training materials or policies, providing readers and interpreters or making the workplace readily accessible to and usable by people with disabilities.

“....to perform the essential functions of a job”? [for faculty?most especially, to exercise our intellect in teaching and in research]

Useful Literature Advocating for the Human and Civil Rights of Faculty with Clinical Depression and other forms of Mental Illness

- (1) **“In Academic Culture, Mental-Health Problems Are Hard to Recognize and Hard to Treat,”** By Jennifer Ruark, February 16, 2010, *Chronicle of Higher Education*

<http://chronicle.com/article/In-Academe-Mental-Health/64246/>

"Academic culture really neglects issues of the psychological health of its workers," says David Yamada, a law professor at Suffolk University and founding director of the New Workplace Institute, a nonprofit research center. His particular expertise is bullying.

Less Reaching Out to Faculty Members

While student mental-health awareness and services have improved, especially since the shootings at Virginia Tech, in 2007, Mr. Yamada says most colleges do not have programs designed to promote mental health among faculty members—"maybe because we haven't yet had a poster case for it."

- (2) Very powerful story in the *Chronicle of Higher Education* issue dated November 25, 2009, under Advice, **"Mental Illness in Academe,"** by USC Law Professor, Elyn R. Saks.

<http://outofthejungle.blogspot.com/2009/11/self-revealing.html>

(3) Although my latest journal article focuses on the empowerment of youth, the framework I present also applies to the ways that *faculty colleagues and administrators* can assume the role of "institutional agent," and engage in forms of authentic social support that would truly empower those faculty colleagues & friends who suffer from different forms of mental illness or depressive disorders, but who still have the great capacity to continue to produce first-rate scholarship and to the educate and enlighten countless students.

Stanton-Salazar, R. D. (2010, December). **A social capital framework for the study of institutional agents and of the empowerment of low-status youth.** *Youth & Society*, 42 (2).

<http://yas.sagepub.com/content/early/2010/10/05/0044118X10382877.abstract>

- (4) Turner, C. S. V. & S. L. Myers, Jr. (2000). **Faculty of color in academe: Bitter success.** Needham Heights, MA: Allan and Bacon.

Faculty of Color in Academe focuses on inequities based on racial and ethnic differences within the professional workplace in higher education. This book draws on a comprehensive study of African American, Asian, Pacific American, American Indian, and Latino faculty in eight mid-western states. By using both narrative and statistical data, this book provides an in-depth view of the issues surrounding the successful recruitment, retention, and development of faculty of color. **Key Topics:** The authors attempt to capture and describe some of the similarities and differences experienced by faculty among each of the above mentioned racial/ethnic groups. Includes a comprehensive discussion of what needs to be done in order to achieve diversity in the teaching profession.”

<http://www.paperbackswap.com/Faculty-Color-Academe-Bittersweet-Success/book/0205278493/>

<http://www.multiculturaladvantage.com/recruit/higher-education/Diverse-Student-Bodies-Diverse-Faculties.asp>

FACTS ABOUT DEPRESSION:

<http://www.indepression.com/depression-statistics.html>

Ricardo D. Stanton-Salazar, Ph.D.

Stanton-Salazar is a nationally-recognized expert and author on urban education and urban minority students. He is former resident fellow of the *Woodrow Wilson International Center for Scholars*, Washington, D.C. (2004). He is an educator, social theorist, and student advocate with 30 years experience, and began his career as a bilingual elementary school teacher. His research and scholarship focuses on issues related to the influence of social class, race, ethnicity, and poverty on adolescent development, academic achievement, and educational attainment. His scholarship has focused on the social networks and social development of urban Latino youth. His most current work has been in collaboration with researchers at the *Center for Urban Education (CUE)*, at the *University of Southern California*. Stanton-Salazar was recently invited to give a series of lectures at three universities in *Taichung, Taiwan* (The Republic of China).²

PROFESSIONAL HISTORY

Associate Professor, Rossier School of Education, *University of Southern California*, Los Angeles, CA, 2000-May, 2011

Research Consultant, Center for Urban Education, Rossier School of Education, *University of Southern California*, 2009-present

Associate Director, Center for American Studies and Ethnicity, *University of Southern California*, 2001-2002

Assistant Professor, Department of Sociology, *University of California, San Diego*, 1992-2000

Elementary School Teacher, National School District, San Diego, CA. Grades taught: 3, 4, 5, 6, model "bilingual maintenance" program; 1980-83.

EDUCATIONAL BACKGROUND

- Ph.D. Education, Stanford University, July 1990
- M.A. Education, Stanford University, 1984
- B.A. Sociology, University of California, San Diego, 1979

FELLOWSHIPS & HONORS

Woodrow Wilson International Center for Scholars, Washington, D.C.
Visiting Scholar Fellowship, 2003-2004 [Winter, Spring]

² A *Google* search using "Stanton-Salazar" produces about 1,310,000 results.

American Sociological Association Latino Section Award for Distinguished Contributions to Research, 2003 recipient

*Choice: Current Reviews for Academic Libraries, “Outstanding Title,” (“**Manufacturing Hope & Despair**,” Teachers College Press, 2001), book reviewed in March, 2002, by R. S. Guerra, University of Texas--Pan American. (“Choice” is a premier source for reviews of academic books, electronic media, and Internet)*

Book: ***Manufacturing Hope and Despair: The School and Kin Support Networks of U.S.-Mexican Youth.*** Teachers College Press, Columbia University, 2001.

(research conducted in 3 urban neighborhoods in San Diego, CA, and one high school)

<http://store.tcpres.com/0807741086.shtml>

CENTER FOR URBAN EDUCATION, USC

http://cue.usc.edu/tools/stem/institutional_agents.html

Institutional Agents: What They Do

Institutional Agents are individuals who possess resources—both intellectual and social—and use those resources on behalf of students. Potential agents might not be aware of how they can use their resources to aid students. They belong to multiple social networks and hold a position of authority. The combination of the desire to act and the know-how to act effectively makes these people institutional agents. Institutional agents are smart, motivated, action oriented and resourceful.

USC Professor and CUE contributor **Ricardo D. Stanton-Salazar** has described the different ways you can act as an institutional agent.
