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## Racy photo lands student in trouble

*Junior faces sexual harassment charges after posting photo of students appearing to have sex*

By **JASON SCHWARTZ**  
 November 30, 2005

What started out as two risqué pictures has turned into a very serious matter for one Penn student.

According to confidential University memos obtained by *The Daily Pennsylvanian*, an Engineering junior -- who snapped photos of two students appearing to have sex in the window of a Hamilton College House dorm room -- currently faces sexual harassment and other charges from the University.

The student remains anonymous because all identifying information was blacked out of these documents.

These photos and others were widely circulated via e-mail on Penn's campus and one now appears on the popular Web site collegehumor.com.

The University has alleged that by featuring the photo on his personal Penn Web site, the photographer violated the school's code of student conduct, sexual harassment policy and policy on acceptable uses of electronic resources.

Psychology graduate student Andrew Geier is serving as the photographer's advisor throughout the disciplinary process. He maintains that because the pair was visible in the window, the photos were taken in public and are completely legal.

"The worst [he] is guilty of is poor taste," Geier said.

"If somebody chooses to make a public spectacle of themselves then they get what goes with that."

His representative received a letter last month from the Office of Student Conduct notifying Geier of a complaint filed against the Engineering junior.

It stated that at the end of September the student "posted naked pictures of another University of Pennsylvania student on [his] personal Web site through the University's servers, without that student's authorization and in a manner highly invasive of the student's privacy."

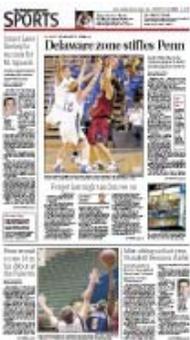


A photo of two students appearing to have sex in Hamilton College House has been circulating. University officials have charged a student with sexual harassment for posting one such photo on a personal Penn Web site.

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After completing an investigation earlier this month, the OSC proposed a resolution in which the photographer acknowledges that he violated the codes and policies.

But the student has not admitted wrongdoing.

Protocol states that if a student rejects a proposal, he must offer an alternative set of sanctions or request a disciplinary hearing.

Geier said that his advisee -- who was not made available to comment on the matter -- has not yet decided whether or not he will seek amended sanctions for a resolution or push the matter to a hearing.

The OSC investigation found that the photographer's personal Web site featured two photographs of the sex scene for over two weeks.

He gave the user name and password to friends to allow them to view the pictures and listed that information on his AOL Instant Messenger profile.

The memos also note that the photographer said he took a picture of the entire high-rise building so that others could tell which room it was.

According to the memo, this caused one of the pictured students "serious distress" and created "an intimidating living environment for her."

The OSC proposal also called for the photographer to be placed on disciplinary probation until graduation, write an essay "discussing what was wrong with the conduct you were involved in" and write a letter of apology.

The photographer's transcript would not reflect the disciplinary measures, but an outside agency or organization seeking a legal background check on him could gain access to the information.

Geier -- who is one of many members of the University who voluntarily advises students dealing with the OSC -- believes that the charges against his advisee are "way out of line."

The Office of Student Conduct declined to give any specific comment on the matter.

"This is an insult to people who actually are sexually harassed," Geier said.

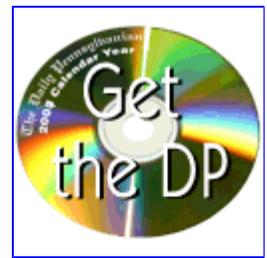
He also believes that there are First Amendment issues at stake, alleging that the people having sex -- whose names *The Daily Pennsylvanian* has chosen to withhold -- were engaging in a public event.

Edwin Baker, a Law professor at the University specializing in issues of free speech, said that he believes that what occurred was a public event and the photographer was therefore not out of line in taking the pictures.

"When you're in a space that's publicly viewable, you generally have no legitimate expectation of privacy," he said.

"I believe the dominant view is that it would be viewed as protected photography and the distribution is permissible."

Baker did add, though, that because the University is a private institution, it does not have to adhere to the First Amendment.



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Still, he said, the University's own Guidelines on Open Expression -- which outline the school's policies -- have been fairly consistent with the First Amendment.

Geier said that his advisee is not the only photographer involved in this issue. He said that there were multiple photographers and though he did not know the details of the case, at least one other one is facing disciplinary measures.

Geier said that the picture featured on collegehumor.com was not taken by his advisee.

Geier and the photographer plan to meet again with the OSC tomorrow or Friday.

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