



OP 01.28: CONSENSUAL RELATIONSHIPS

Policy and Purpose

Professionalism in interpersonal relationships between university employees, and between employees and students, is important to the mission and proper functioning of the university. Consensual romantic and/or sexual relationships between individuals in such groups can present conflicts of interest, the appearance of such conflicts, or a risk of exploitation. The purpose of this policy is to outline when consensual romantic and/or sexual relationships between such individuals are prohibited and under what circumstances such relationships may be permissible after appropriate steps are taken.

Rules and Procedures

A. Scope

This policy governs consensual relationships involving at least one University employee. For purposes of this policy only, the term “employee” includes both full-time and part-time faculty and staff, intermittent employees, and graduate assistants. For purposes of this policy, undergraduate student workers are not considered employees. However, an “undergraduate” does not refer to any full-time employee of the University taking undergraduate courses.

B. General Policy

A “power differential relationship” is defined as a romantic or sexual relationship or interaction in which one participant’s status as a University employee creates the potential for him or her to teach, manage, supervise, advise, evaluate, or have disciplinary authority over the other participant regardless of whether the other participant is a student, employee, or guest. A power differential relationship may consist of a single interaction.

Power differential relationships are generally prohibited. However, some power differential relationships may be managed by a mitigation plan. Because of the potential risks involved, no power differential relationship should begin unless the University has affirmatively granted a waiver and/or issued a mitigation plan.

C. Prohibited Relationships

While all power differential relationships must be disclosed, the following power differential relationships are prohibited unless a waiver is granted. It is presumed that these relationships have such an inherent risk of exploitation that they cannot be adequately addressed by a mitigation plan:

1. Relationships between any University employee and any student currently enrolled as an undergraduate student at the University.
2. Relationships between any graduate student and any University employee who teaches, advises, supervises, or evaluates that graduate student in their academic and/or research capacity.
3. Relationships between any intercollegiate athletic coach or other employee working principally in intercollegiate athletics, and any student-athlete or other undergraduate student associated with an intercollegiate athletic program.

D. Reporting Obligation

It is the duty of the employee in the position of authority to report the existence of any power differential relationship promptly to the Chief Human Resources Officer. Additionally, a department head or other person with supervisory authority has a duty to report a power differential relationship involving a subordinate employee. Other individuals are not required to report potential power differential relationships but are encouraged to do so.

E. Determination of Eligibility for Mitigation

Where a power differential relationship is reported, a committee consisting of the University's General Counsel, Civil Rights Compliance Officer, and Chief Human Resources Officer will determine whether the matter is one that may be addressed by a mitigation plan.

The committee shall begin with the presumption that the Prohibited Relationships listed above cannot be effectively mitigated. If sufficient information is presented to rebut that presumption, then the committee may grant a waiver of the prohibition and move to consider eligibility for a mitigation plan.

In determining eligibility for mitigation, the committee may consult with any person it deems appropriate, and may consider factors including, without limitation: (1) whether the relationship was initiated while both parties were in the positions giving rise to the prohibited status or prior to that point; (2) whether the relationship was reported promptly and in good faith; (3) the relative authority, age, and sophistication of the parties; (4) whether any potential exists for one party to teach, manage, supervise, advise, evaluate, or have disciplinary authority over the other; and (5) whether the relationship would call into question the fairness or integrity of any University program.

The committee should issue a written determination stating whether or not the matter is eligible for a mitigation plan and granting or denying a waiver, if required. This decision is final and not appealable.

F. Mitigation Plan

Where a determination is made that mitigation is feasible, Human Resources

Management will prepare a written mitigation plan outlining specific steps to eliminate the potential for conflicts of interest and/or exploitation while prioritizing fair treatment of the party not in a position of power as well as any third parties potentially affected by the relationship. This may require transferring supervision or other authority to another employee, transferring an employee to a different assignment or position, or implementing external review or monitoring.

A copy of the mitigation plan or waiver will be provided to the participants in the relationship and to relevant administrators, supervisors, and other appropriate individuals. This decision will be final and is not appealable. The plan may, however, be revised or reassessed at any time at the request of any party or any relevant supervisor or administrator. Compliance with the terms of the plan is mandatory.

If a denial of a mitigation plan or waiver is issued, the employee in the position of authority will be responsible for ensuring that the power differential relationship does not continue or develop.

Failure to follow this or any other University policies can result in disciplinary action up to and including termination. Nothing in this policy limits the ability of the University to impose disciplinary action for conduct that adversely affects the institution or any division thereof.

G. Non-Retaliation

As stated in OP 01.07, retaliation against any person who makes a good faith report under this or any other university policy is prohibited. Retaliation should be reported immediately to the Director of Civil Rights Compliance, and is an independent basis for disciplinary action, regardless of the outcome of any other review under this policy.

For purposes of this policy, retaliation includes any intimidation, coercion, discrimination, threat, adverse employment action, or other action against any individual that would deter a reasonable person from reporting, testifying, assisting, or cooperating with an investigation or proceeding.

Review

This policy and procedure will be reviewed by the Provost and Executive Vice President at least every four years or whenever circumstances require immediate review.

REVIEWED BY:

/s/ Brett Harvey
Director of Civil Rights Compliance

5/24/2021
Date

/s/ Leslie Corey
Chief Human Resources Officer

5/24/2021
Date

/s/ David Shaw
Provost and Executive Vice President

5/24/2021
Date

/s/ Tracey Baham
Director, Institutional Research & Effectiveness

5/24/2021
Date

/s/ Joan Lucas
General Counsel

5/24/2021
Date

APPROVED:

/s/ Mark E. Keenum
President

5/24/2021
Date