April 2, 2018

To: Dean Van Galen, Chancellor
116 North Hall
University of Wisconsin – River Falls

From: Mialisa Moline, Chair
Faculty Senate
University of Wisconsin – River Falls

Re: UWRF Faculty Senate Motion 2017-18/102

The following motion was approved with 18 in favor, 1 opposed, and 1 abstention by the Faculty Senate on March 21, 2018:

Motion from Faculty Welfare and Personnel Policies Committee (Doug Margolis, Chair) to approve the following changes to 8.9 Statement on Consensual Relationships:

REMOVE CURRENT TEXT BELOW IN ITS ENTIRETY.

Chapter VIII: UWS and UWRF Policies

8.9 Statement on Consensual Relationships

[FS 91/92 #26] Consenting romantic and/or sexual relationships between persons where a power differential exists (e.g., faculty and student, supervisor and employee, tenured and nontenured faculty) are strongly discouraged and should be avoided. Consensual relationships are of concern for two primary reasons: (1) conflict of interest and (2) abuse of power differential. Conflicts of interest may arise in connection with consensual romantic and/or sexual relationships when there is an imbalance of power in the relationship (e.g., between faculty of different ranks, faculty or other instructional staff and students, between supervisor and employee). General ethical principles, reflected in the University’s nepotism policy, preclude individuals from evaluating the work or academic performance of relatives, family members and/or spouses and from making hiring, salary or similar financial decisions concerning such persons. The
same principles apply to consensual romantic and/or sexual relationships. Should such relationships develop, appropriate arrangements for objective decisionmaking (e.g., grades, promotion, salary determination, hiring) must be made. Although conflict of interest issues can be resolved, in a consensual romantic and/or sexual relationship involving a power differential the potential for serious consequences remains. Although the policy does not expressly forbid romantic and/or sexual relationships between individuals when a power differential exists, it discourages such conduct. Individuals entering into such relationships must recognize that the reasons for entering such a relationship may be a function of the power differential. A person entering a romantic and/or sexual relationship where a power differential exists (e.g., faculty and student, supervisor and employee, tenured and nontenured faculty) must realize that if a charge of sexual harassment is subsequently lodged, even in a seemingly consensual relationship, there are limited after-the-fact defenses against charges of sexual harassment. The individual with the power in the relationship will bear the burden of accountability. Liability protection under Wisconsin statute will probably not apply to protect the accused in subsequent litigation arising out of the relationship's effect on the student or employee. See Regents Policy 14-8.

REPLACE WITH TEXT BELOW

Chapter VIII: UWS and UWR Policies

8.9 Consensual Relationships Policy

The purpose of this policy is to reference the Board of Regents policy on consensual romantic and/or sexual relationships. On July 12, 1991, the Board of Regents adopted a policy on consensual relationships, and it amended the policy in 2016. That policy, now Regent Policy Document 14-8, Consensual Relationships Policy (RPD 14-8), delineates when consensual romantic or sexual relationships where a power differential exists are prohibited. The below policy covers all UW System employees, students, and affiliated individuals.

Regent Policy Document 14-8 (formerly 91-8)

Consensual Relationships

Scope

This policy describes the Board of Regents’ expectations with respect to consensual romantic or sexual relationships where a power differential exists. This policy covers all UW System employees, students, and affiliated individuals.

Purpose
The purpose of this policy is to ensure that the employment and academic environment is free from real or perceived conflicts of interest when UW employees, students, and affiliated individuals, in positions of unequal power, are involved in consensual romantic or sexual relationships.

Definitions

Consensual Relationships: A consensual relationship refers to any relationship, either past or present, which is romantic, physically intimate, or sexual in nature, and to which the parties consent or consented. This includes marriage.

1. Conflict of Interest: A conflict of interest exists when there is incompatibility between private/personal interests and official/professional responsibilities.

2. Instructor: An instructor includes faculty and academic staff members who serve in instructional roles in relation to students. The instructional context includes: academic instruction, advising, direct or indirect evaluation of a student’s work, research collaboration or assistantships, and coaching.

3. Power Differential: A power differential exists when individuals possess different degrees of power or influence due to their professional or student standing.

4. Employees: Employees include, but are not limited to, administrators, faculty, academic staff, university staff, student staff, graduate assistants, and interns.

5. Students: Students are individuals enrolled in courses at the university, including online.

6. Affiliated Individuals: Affiliated individuals include, but are not limited to, volunteers, vendors, and contractors. In this policy, all references to employees should also be considered references to affiliated individuals.

Policy Statement

It is the policy of the University of Wisconsin System Board of Regents that consensual relationships that might be appropriate in other circumstances are not appropriate when they occur between (1) an employee of the university and a student over whom the employee has or potentially will have supervisory, advisory, evaluative, or other authority or influence, or (2) an employee of the university and another employee over whom the employee has or potentially will have supervisory, advisory, evaluative, or other authority or influence. Even where negative consequences to the participants do not result, such relationships create an environment charged with potential or perceived conflicts of interest and possible use of academic or supervisory leverage to maintain or promote the relationship. Romantic or sexual relationships that the parties may view as consensual may still raise questions of favoritism, as well as of an exploitative abuse of trust and power.
The following two types of consensual relationships are addressed in this policy: (1) employee with a student; and (2) employee with another employee.

A. Employee with a student:

1. It is a violation of this policy for an instructor to commence a consensual relationship with a student currently under their instruction or whom the instructor reasonably believes in the future may be under the instructor’s instruction. If an instructor and a student are already in a consensual relationship when the student comes under the instructor’s instruction, then the provisions of A.2. apply.

2. A consensual relationship between (1) an employee, who is not an instructor as defined by this policy, and a student over whom the employee has supervisory, advisory, evaluative, or other authority or influence, or (2) an instructor and a student where the instructor has supervisory, advisory, evaluative, or other authority or influence over the student, and where the instructor and student were already in a consensual relationship prior to the student coming under the instructor’s instruction, is a violation of this policy unless:
   a. The employee immediately reports the relationship to their supervisor/department chair, to the hiring official, or to the administrator who supervises the hiring official; and
   b. The employee cooperates in actions taken to eliminate any actual or potential conflicts of interest and to mitigate adverse effects on the other party to the relationship.

3. The supervisor or university official who receives the report shall treat the information sensitively and shall promptly:
   a. Consult with the director of equity/diversity and/or human resources; and
   b. In cooperation with the director of equity/diversity and/or human resources, eliminate conflicts of interest and mitigate adverse effects on the other party to the relationship, by:
      i. Documenting the steps taken, providing all parties a copy; and
      ii. Transferring one of the individuals to another position; and/or
      iii. Transferring the student into a different class or section; and/or
      iv. Transferring supervisory, evaluative, academic, or advisory responsibilities; and/or
      v. Securing a source of funding for the student that is not dependent upon the employee with whom the student is in a consensual relationship, if applicable.

B. Employee with another employee:
1. A consensual relationship between an employee and another employee where one employee has supervisory, advisory, evaluative, or other authority or influence over the other employee or where the employee reasonably believes the employee will have supervisory, advisory, evaluative, or other authority or influence over the other employee, is a violation of this policy, unless:
   a. The employee with the supervisory, advisory, evaluative, or other authority or influence over the other employee immediately reports the relationship to their supervisor/department chair, to the hiring official, or to the administrator who supervises the hiring official; and
   b. The employee with the supervisory, advisory, evaluative, or other authority or influence over the other employee cooperates in actions taken to eliminate any actual or potential conflicts of interest and to mitigate adverse effects on the other employee.

2. The supervisor or university official who receives the report shall treat the information sensitively and shall promptly:
   a. Consult with the director of equity/diversity, and/or human resources; and
   b. In cooperation with the director of equity/diversity and/or human resources, eliminate conflicts of interest and mitigate adverse effects on the other party to the relationship, by:
      i. Documenting the steps taken, providing all parties a copy; and
      ii. Transferring supervisory, evaluative, academic, or advisory responsibilities; and/or
      iii. Securing a source of funding for the employee that is not dependent upon the employee with supervisory, advisory, or evaluative responsibility with whom the employee is in a consensual relationship, if applicable.

C. Violations

It is a violation of this policy for an instructor to commence a consensual relationship with a student currently under their instruction, and may result in disciplinary action against that employee. If an instructor or other employee fails to meet the requirements for disclosing the relationship with a student or another employee, or fails to cooperate in the actions described above, such a failure constitutes a violation of this policy and may result in disciplinary action taken against that employee. If the employee is also a student, it may also result in disciplinary actions under Chapter UWS 14 and/or 17, Wis. Admin. Code.

To report potential violations of this policy, individuals should contact either the Director of Human Resources or the Title IX Coordinator.

Retaliation against persons who report concerns about potential violations of this policy is prohibited.

Each UW institution shall publish this policy in a location accessible to faculty, staff, students, and the public.
Each institution shall educate faculty, staff, and students on the requirements of the policy.

Oversight, Roles, and Responsibilities

Each chancellor or his or her designee shall be responsible for implementing institutional procedures consistent with this policy.

Related Regent Policies and Applicable Laws

UPS Operational Policy GEN 8, “Consensual Relationships”
UPS Operational Policy GEN 28, “Sexual Misconduct”
RPD 14-2, “Sexual Violence and Sexual Harassment”
RPD 14-6, “Discrimination, Harassment, and Retaliation”


SEE ALSO:

UPS Operational Policy GEN 8, Consensual Relationship

[UW System Administrative policies are included for reference and are separate from Regent Policy Documents adopted by the Board.]

Approved

Disapproved

Dean Van Galen, Chancellor 4/3/18