



Feedback to Develop a Framework Associated with a Consensual Relationships Policy

BACKGROUND

In March 2019, a proposal recommending the development of a policy prohibiting consensual relationships between faculty and the students they supervise or instruct was submitted to the Senate. The proposer noted that a conflict of interest arises when faculty develop amorous/sexual relationships with students in their classes, in campus organizations, or in any situation in which the student might fear reprisals or expect special treatment. The proposer also stated that there is an inherent power imbalance between faculty and students and that perceptions of retaliation or favoritism and liability for the University could ensue as a result of these relationships.

The proposal recommends developing a policy that prohibits consensual relationships between faculty and the students that they supervise or instruct because the University's Sexual Misconduct Policy "discourages" but does not prohibit these types of relationships. The proposal also included links to stand-alone consensual relationship policies at other institutions.

The SEC reviewed the proposal and voted to charge the Faculty Affairs Committee (FAC) with its review. In fall 2020, it was determined that the number of matters under review by the FAC was so substantial that some charges should be referred to a subcommittee. The charge on the proposal for a consensual relationship policy was among the matters referred to the subcommittee.

FEEDBACK NEEDED FROM THE SENATE

The subcommittee considered the feedback provided by the SEC and FAC as well as the Student Affairs Committee. Based on these considerations, the subcommittee now is considering whether to propose a policy based on the following principles:

- Prohibiting dating and romantic relationships between faculty and undergraduate students under the age of 21; and
- Prohibiting dating and romantic relationships between faculty and students where faculty members are aware that they have or can reasonably expect to have academic or supervisory authority over the other relationship participant.

The FAC and its subcommittee are seeking input from the Senate on the following:

1. Should all consensual relationships between faculty and undergraduate students be prohibited?
2. Should consensual relationships between faculty and undergraduate students of a certain age be prohibited? If so, what age would be an appropriate threshold (e.g., under 18 years old or under 21 years old)?

3. Should marriage be excluded from the definition of consensual relationship (and therefore allowed without reporting or management) or should marriage between faculty and students be an exception to the policy that must be requested by a faculty member?
4. Should consensual relationships between faculty and graduate students or post-doctoral associates be prohibited when an academic or supervisory relationship exists between them?



**Proposal to Establish a Consensual Relationships Policy
(Senate Document #18-19-37)
Faculty Affairs Committee | Chair: Daniel P. Lathrop**

The Senate Executive Committee (SEC) and Senate Chair Lanford request that the Faculty Affairs Committee review the *Proposal to Establish a Consensual Relationships Policy*.

Specifically, it asks that you:

1. Review the University of Maryland Sexual Misconduct Policy & Procedures ([VI-1.60\[A\]](#)).
2. Review policies regarding consensual relationships and sexual misconduct at Big 10 and other peer institutions.
3. Consult with the proposer.
4. Consult with a representative of the Office of Faculty Affairs.
5. Consult with a representative of University Human Resources.
6. Consult with a representative of the Office of Civil Rights and Sexual Misconduct (OCRSM).
7. Consult with a representative of the Office of General Counsel on the legal implications of consensual relationships between employees and students.
8. Consider whether consensual relationships should be prohibited between employees (i.e. faculty, graduate assistants, staff) and students (i.e. undergraduate, graduate).
9. If the committee determines that relationships between employees and students should be prohibited, it should:
 - a. Consult with a representative of the Office of Civil Rights and Sexual Misconduct (OCRSM) on how best to incorporate such a prohibition in University policy.
 - b. Consider what types of employees and in what situations (i.e. instructional, supervisory) a consensual relationships policy should apply.
 - c. Consider whether the policy should be limited to relationships that involve a power imbalance or a conflict of interest.
 - d. Consider whether the policy should provide a mechanism for requesting/approving exceptions from prohibitions and a process for how relationships with exceptions will be managed once they are approved.
 - e. Consider whether a prohibition on consensual relationships should be addressed in the University's sexual misconduct policy or whether a separate policy should be developed.

- f. Consider how a prohibition on consensual relationships should be implemented.
- 10. If the committee determines that a consensual relationships policy should be developed and it should apply to multiple constituencies, the committee should form a subcommittee with representatives from the relevant Senate constituency-based committees to develop a draft policy for review by each of the three committees before it is finalized by the Faculty Affairs Committee.
- 11. Consult with a representative of the Office of General Counsel on any proposed changes to University policy.
- 12. Provide a preliminary update to the Senate Executive Committee in May 2020.
- 13. If appropriate based on the committee's consideration of the above items, recommend whether the University should establish a consensual relationships policy or whether existing University policy should be revised.

We ask that you submit a report to the Senate Office no later than **November 6, 2020**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



Proposal to Establish a Consensual Relationships Policy

Table with 4 rows: NAME/TITLE (Steve Rolston, Professor and Chair), EMAIL (rolston@umd.edu), PHONE (X55946), UNIT (Physics), CONSTITUENCY (Faculty)

DESCRIPTION OF ISSUE

A conflict of interest arises when faculty develop amorous/sexual relationships with students in their classes, in campus organizations, or in any situation in which the student might fear reprisals or expect special treatment.

The University's Sexual Misconduct Policy includes a section on Consensual Relationships and Professional Conduct (XIII) as follows:

Sexual relationships that occur in the context of educational or employment supervision and evaluation present potential conflicts of interest. Relationships in which one party maintains a supervisory or evaluative responsibility over the other also reflect an imbalance of power...

Because of the potential conflicts of interest, persons involved in consensual sexual relationships with anyone over whom they have supervisory and/or evaluative responsibilities must inform their supervisor(s) of the relationship(s).

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

The University's Sexual Misconduct Policy "discourages" but does not prohibit these types of relationships between faculty and students. There have been cases where these types of relationships have been problematic...

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

Develop a specific policy to prohibit consensual relationships between faculty and the students that they supervise or instruct, because of the inherent conflict of commitment and power imbalance.

ADDITIONAL INFORMATION

University of Maryland Sexual Misconduct Policy & Procedures VI-1.60(A)

- Sample Policies at other Institutions:
http://theuniversityfaculty.cornell.edu/dean/report-archive/consensual-relationships-policy-committee/final-6-x/
http://policies.cua.edu/eo/sexharass.cfm
http://counsel.cua.edu/fedlaw/nacuanoteamorousrelationships.cfm

<https://policies.utexas.edu/policies/consensual-relationships#responsibilities-procedures>

<https://www.wisconsin.edu/regents/policies/consensual-relationships/>

https://policies.northwestern.edu/docs/Consensual_Relations_011314.pdf

<https://provost.illinois.edu/about/committees/advisory-to-vice-chancellor-for-academic-affairs-and-provost/consensual-relationship-policy-task-force/>