

**Comments and Changes in Response to Feedback from UIUC Senate:
Draft Policy on Intimate Personal Relationships**

April 25, 2020

Dear Rob and Senate Colleagues:

Thanks so much for the careful reading of this policy and for the thoughtful feedback you provided. We have made a number of important changes to the proposed policy, as outlined below. In a small number of cases, we did not make changes in accord with your recommendation but we provide a rationale for those decisions. I consulted with our internal legal counsel and with the outside legal firm that specializes in sexual harassment and misconduct matters in making these changes. President Killeen supports the changes as well.

I believe the Senate feedback, the discussions we have had, and the subsequent revisions have all made the policy stronger. Please know that we will continue to fine-tune these policies as we go forward and as we develop implementation procedures in the coming months. I want to thank you and your Senate colleagues for all your hard work, especially under a tight timeline and when we are all challenged by the COVID-19 pandemic. I am very grateful.

Best,
Barb Wilson, EVP

UIUC Senate Feedback, with responses/changes in purple:

- (1) **Management Plan Language:** Clarify that “management plans” are plans to manage conflicts and potential harms to other institutional interests, not to manage relationships. For example, one might rename these plans something like “Conflict Management Plans.” For another example, one might consider rewording the sentence on the top of p.3 (first full sentence) from “Undergraduate Students’ broad educational opportunities and experiences are such that management of relationships is typically inadequate to address these issues” to something like “Undergraduate Students’ broad educational opportunities and experiences are such that plans to manage these important issues are typically inadequate to address the issues.”

We have made a number of these changes. We inserted the word “conflict” in front of every reference to “management plan” throughout the document, so as to be clear that we are not trying to manage relationships per se. We also re-worded the sentence about undergraduate students in the second paragraph on p. 1 of the policy to:

Undergraduate Students’ broad educational opportunities and experiences are such that plans to manage these important issues are typically inadequate as a remedy.

- (2) **Exceptions:** Consider changing the text in “Other Exceptions” from “will be granted in rare instances and only when” to “will be granted when but only when.” We suggest this change because several commenters indicated that it is currently unclear how often exceptions may need to be granted on purely noncontroversial grounds in some contexts; and cautioned against exceptions not being granted when relationships do not cause or are not likely to cause the problems that this policy targets. It may also help to clarify that exceptions will be granted when but only when *a workable plan to manage the risks to the University of Illinois System’s interests is in place and has been agreed to by all parties.* The point is to manage risks, not relationships. Many comments we received expressed the view that the institution should not be granting permission to be in relationships but rather seeking to manage risks to the institution that can arise when the risks arising from some relationships with supervisory or other power dynamics are not managed well. It is possible that this is all the original draft policy meant to target but this aim could be made clearer and alleviate a lot of possible concern among some senators.

We agree that the term “rare” is vague, especially given that we need to have experience with the implementation of the policy in order to know this. Thus, we deleted the reference to “rare instances” and inserted the phrase “when and only when” in the sentence about exceptions being granted (in Other Exceptions section). We did not add the suggested language about a workable plan being in place and agreed to by all parties because that is really an implementation issue and will be dealt with in that process. There may be some cases where an exception actually cannot be granted, regardless of whether parties think they can agree to a “workable” plan, because the unit is small and there is only one supervisor. Moreover, a university may approve an exception verbally or otherwise as a first step, before actually completing a formal conflict management plan signed by all parties.

- (3) **Sanctioning Language:** Consider adding a sentence to the section on “Consequences for Violations of this Policy” that says: “Any disciplinary action taken will be commensurate with the nature of the wrong and will take into account the degree to which the relationship is actually non-problematic to the U of I System’s missions and/or any special reasons for not disclosing a relationship that is non-problematic.” We make this suggestion because a number of senators commented on the vagueness of the current language about consequences and the importance that disciplinary actions, if any, are commensurate with the degree of wrongdoing.

The language under Consequences for Violations is intentionally a bit underspecified because there are a variety of disciplinary documents and procedures for different types of employees, and they sometimes vary across our universities. The implementation plans will be more detailed as they are worked out for the various groups such as tenure system and non-tenure system faculty and unionized and non-unionized staff. In the meantime, we have inserted the following sentence in the

Consequences for Violations section, to acknowledge the senators' concerns that the nature of the violation as well as other relevant factors should be taken into account:

Any disciplinary action taken will be commensurate with the nature of the violation and will consider factors and circumstances relevant to each specific case.

- (4) **Exceptions Team:** Consider allowing campuses to decide at the point of implementation whether a “unit” will be granting exceptions or whether there is some better mechanism or group that might be delegated that authority (i.e., some group that can simultaneously maintain confidentiality, produce uniformity, and identify needed exceptions to the main policy prohibition to prevent overly broad impositions and address noncontroversial cases—possibly with faculty or other stakeholder input).

The reference to “relevant unit” under the Policy section is meant to be broad and flexible, allowing for multiple options that could include a department, a college, an office or a specially charged committee. Such options are being explored by the implementation committee and ultimately could vary by university. Thus, we left the current language as is.

- (5) **Repeat Exceptions Language:** Consider inserting (for repetition) “Unless an exception is granted” in the section on “Relationships Between Faculty or Staff and Graduate/Professional Students.” We suggest this revision because this was one place where several senators felt that there might need to be humane exceptions at times, given some examples of healthy and nonproblematic relationships. This revision would send a less harsh message about nonproblematic relationships and even marriages on campus that will be continuing very publicly, regardless of the proposed policy change, without changing the meaning or application of the draft policy.

We did not insert this “exception” language because we made a substantial change to the policy concerning faculty/graduate students, as described below under #12.

- (6) **Terminology of “Faculty”:** Change the term “faculty” in the definitions section to something like “covered faculty,” so that this policy does not create different definitions of “faculty” among different system-wide and campus policies.

Again, this may need to be specified in the implementation plan. The term “faculty” as defined by the *Statutes* is currently under review by the USC and the meaning of the term also varies a bit across our three universities as does the terminology used (e.g., clinical faculty, specialized faculty). Rather than getting bogged down by these intricacies, we chose to focus on the roles or functions of “faculty” that set up special

connections to students, including teaching, mentoring, advising, evaluating and the like. Such roles are obviously the focus of this particular policy. If you have particular language to suggest or to add around roles, we would be happy to look at those.

- (7) **Soften Some Criticism of Intimate Personal Relationships:** Consider changing the first sentence in the full first paragraph on p. 3 from “Intimate Personal Relationships between Faculty or Staff and Graduate/Professional Students are also problematic” to “Intimate Personal Relationships between Faculty or Staff and Graduate/Professional Students can also be problematic”—given that there are exceptions and we do not want to inadvertently condemn healthy relationships that are not problematic in overly general terms.

Very helpful suggestion and this change was made.

- (8) **Acknowledge Importance of Healthy Relationships in Purpose:** Consider inserting the following sentences into the beginning of the “Purpose” section: “There are many healthy and professional relationships among faculty or other employees and students that enhance students’ learning experiences and the mission of the U of I system. Intimate personal relationships can also be a healthy and vital part of the lives of the members of any institution.” Then consider inserting “and Students” and “nevertheless” into the next sentence so that it reads: “Sexual, amorous, dating, and romantic relationships between Faculty, Staff, or Teaching Assistances and Students or where a party to the relationship has a supervisory or evaluative authority over the other party can nevertheless interfere with achievement of the U of I System’s institutional mission by undermining the integrity of professional roles.” Prefatory remarks like these may help the community understand that what this policy is targeting is problematic relationships, not intimate personal relationships more generally.

We completely agree that this policy is not intended to diminish or undercut professional relationships between faculty and students. We have inserted the following language to underscore this point:

Professional and supportive relationships among faculty or staff and students are at the heart of the education and research missions of the University of Illinois System. Indeed, faculty and staff routinely and effectively serve as mentors, advisors, role models and teachers both in and out of the classroom. This policy in no way is intended to interfere with such professional relationships.

The recommended sentence about intimate personal relationships being a healthy part of the lives of members of any institution seems a bit outside the realm of this policy,

especially given that some people are not in such relationships, some relationships are not very healthy, and many of said relationships are with people who are not part of our universities. Instead, we acknowledge that intimate personal relationships do in fact exist inside our institution and that under “some circumstance” they can interfere with U of I System missions.

There are also intimate personal relationships that exist among colleagues and staff members across our universities and in the UI Hospital. Nevertheless, sexual, amorous, dating, and romantic relationships under some circumstances can interfere with achievement of the U of I System’s institutional mission by undermining the integrity of professional roles.

On balance, we believe these contextual additions help to acknowledge the importance of healthy and supportive professional relationships between faculty/staff and students, which are at the heart of excellence in higher education, and to focus more clearly on those intimate relationships that can pose conflicts of interest and/or problematic power differentials.

- (9) **Avoid Inadvertently Criticizing Healthy Intimate Personal Relationships:** Consider changing the first sentence of the last paragraph of the “Purpose” section from “This policy is intended to address these conflicts and to reduce the risks of any actual or potential conflict of interest resulting from Intimate Personal Relationships” to “This policy is intended to address these conflicts and to reduce the risks of any actual or potential conflict of interest resulting from Intimate Personal Relationships that may prove problematic”—again, because we probably do not want to suggest that Intimate Personal Relationships are problematic, only that problematic ones are.

We agree with the recommendation and made the following insertion (underlined):

This policy is intended to address these conflicts and to reduce the risk of any actual or apparent conflict of interest resulting from particular types of Intimate Personal Relationships.

- (10) **Avoid Inadvertently Criticizing Healthy Intimate Personal Relationships:** In the first sentence of the “Policy” section, consider changing “Intimate Personal Relationships are strongly discouraged where their development impedes the U of I System’s institutional mission and are prohibited...” to “Intimate Personal Relationships between Covered Faculty, Staff, Teaching Assistants, or Persons with Supervisory or Evaluative Authority over a Student and a Student are strongly discouraged where their development impedes the U of I System’s institutional mission and are prohibited...”—again to make it clearer that this is not a policy against intimacy but only certain classes of relationships that may prove problematic to the University of Illinois System’s missions.

We believe the additions to the front end of the policy more clearly underscore that the policy is not intended to critique or prohibit all types of intimate personal relationships. The sentence in the subsequent Policy section already states that only certain types of said relationships are discouraged or prohibited so we did not make this suggested change.

(11) Clarify Relationship to Sexual Misconduct and Sexual Harassment Policies:

Consider changing the sentence in the first paragraph of the Purpose section from “The fact that a relationship was initially consensual does not insulate either conduct from a claim of sexual misconduct, nor does it guarantee that said relationship will remain consensual to the parties” to “The fact that a relationship was initially consensual does not insulate either conduct from a claim of sexual misconduct or sexual harassment, nor does it guarantee that said relationship will remain consensual to the parties.” Then consider adding as an insertion: “Claims for sexual misconduct and sexual harassment are governed by separate policies.” We suggest these revisions because several senators were confused about the relationship between this policy, which prohibits or attempts to manage conflicts and other potential problems with consensual intimate relationships, and other policies against sexual misconduct and sexual harassment—which typically involve unwelcome and nonconsensual conduct.

We agree with these recommendations and made the following changes (insertions are underlined):

The fact that a relationship was initially consensual does not insulate either party from a claim of sexual misconduct or sexual harassment (which are governed by separate policies), nor does it guarantee said relationship will remain consensual between parties of varied positional powers.

(12) Possibly Defer Any Policy Language Relating to Graduate Students and TAs for Further Discussion at the Implementation Phase:

Consider removing, for now, the policy language that applies to relationships between faculty and graduate students in the same unit or department. Instances of such relationships will already be covered in cases where there is any evaluative or supervisory authority. A broader policy may also be warranted, but it might help to develop that broader policy language with more Senate input over the next year so as to ensure that the final policy is targeting what is harmful while preserving a place for healthy and nonproblematic relationships, which cause no harm to the University of Illinois System’s interests. Similarly, it may be wise to remove the language relating to TAs for now and consider broader coverage only with more time for Senate input over the next year.

We have removed the prohibition concerning relationships between faculty and graduate/professional students in the same unit and instead focus on those relationships that involve supervisory or evaluative authority. The policy now reads:

Faculty or Staff members are prohibited from entering into an Intimate Personal Relationship with any Graduate/Professional Student over whom they have direct or indirect Supervisory or Evaluative Authority.

We still acknowledge in the Background section that conflicts of interest *can* exist when faculty or staff are in relationships with graduate/professional students in the same department, even when no supervisory or evaluative relationship exists. But we have removed the prohibition because we agree, it deserves further consideration. We encourage the Senates from all three universities to work with us and with administrative leaders at each campus on this topic in the coming year. Many challenging questions exist about how to manage potential and/or perceived conflicts of interest in such cases, especially in smaller departments where evaluative responsibilities are often widely shared, informal and/or fluid.

Note: Please note that we re-ordered some of sections and re-titled the first section to conform to other policy templates.