

1. Title

Consensual Relationships

2. Rule and Regulation

Sec. 1 General. U.T. System Institutions and System Administration shall adopt policies addressing consensual relationships.

Sec. 2 Policy Requirements. The policies shall comply in all substantive respects with a model developed by the Office of General Counsel, shall be published in the institutional *Handbook of Operating Procedures*, and shall include, at a minimum, the following elements:

2.1 Consensual sexual relationships, romantic relationships, or dating between a university faculty member or other employee and any employee or student over whom the individual has any direct or indirect supervisory, teaching, evaluation, or advisory authority, are prohibited unless the relationship has been reported in advance and a management plan to mitigate the conflict inherent in the relationship has been approved and documented. If mitigation of the conflict is not possible, the relationship is prohibited.

- (a) Such consensual sexual relationships, romantic relationships, and dating can include a single event.
- (b) Direct supervisory, teaching, evaluation, or advisory authority includes situations where the individual has the subject student in his or her class, is a member of a student's thesis committee, is a student's mentor, or is an individual in a position directly senior to one of these individuals or where the individual is the subject employee's direct or senior supervisor.
- (c) Indirect supervisory, teaching, evaluation, or advisory authority includes situations where the individual is a faculty member in a department in which the subject student is majoring or where the

individual is a senior staff member, but not direct supervisor, in the subject employee's department.

- 2.2 Any management plan must be documented in writing and must make it clear that the plan is fully understood by all parties.
- 2.3 U.T. System Administration and institutions may develop and adopt more stringent consensual relationship policies or adopt more stringent policies for specific units where it is not possible to manage the conflict inherent in the relationship.
- 2.4 Athletic departments shall develop and implement stringent consensual relationship policies that prohibit all sexual relationships, romantic relationships, and dating between any member of the coaching or athletics administrative staff and any student athlete or student assigned to or associated with the athletic department, such as interns and student employees.
- 2.5 If there is a complaint of sexual harassment about a relationship covered by Sec. 2.1, above, and the relationship has not been disclosed and a management plan implemented, the burden shall be on the faculty member or supervisor to establish by a preponderance of the evidence that the relationship was consensual and free of sexual harassment. In any event, failure to disclose the relationship and document (Sec. 2.2) and follow a management plan shall constitute a violation of this policy. If sexual harassment is established, it shall constitute a policy violation in addition to a violation of the consensual relationships policy.
- 2.6 The policy shall include procedures for promptly reviewing allegations of violation of this policy, providing the individual alleged to have violated the policy with an opportunity to respond, and suspending that individual if deemed appropriate after taking into account the known facts.

Sec. 3 Counseling and Other Services. U.T. System Administration and each institution shall ensure that confidential counseling services are available to all parties. In addition, one or more

offices shall be designated as offices where students, faculty, and employees can obtain confidential advice about sexual harassment, sexual assault, and consensual relationship concerns without System Administration or an institution being required to file a formal report or begin an investigation over the objection of the individual.

- Sec. 4 Training and Education. U.T. System Administration and each institution shall develop robust information and training programs for all faculty, staff, and students. The respective Executive Vice Chancellor's Office will review the programs annually.
- Sec. 5 Office of General Counsel Review. The Office of General Counsel shall annually review institution and System administration compliance with this policy and provide a report to the Chancellor.

3. Definitions

Sexual Harassment – Unwelcome or unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly *Texas Penal Code Ann. § 39.03(c)*. A public servant acting under color of his/her office or employment who intentionally subjects another to sexual harassment is guilty of official oppression. *Texas Penal Code Ann. § 39.03(a)(3)*. Official oppression is a Class A misdemeanor. *Texas Penal Code Ann. § 39.03(d)*.

Sexual Misconduct- Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the workplace or classroom.

4. Relevant Federal and State Statutes

[Equal Employment Opportunity Commission, Guidelines on Discrimination Because of Sex \(defining sexual harassment\), 29 Code of Federal Regulations § 1604.11\(a\) \(1988\)](#)

[Texas Penal Code Ann. § 39.03 – Official Oppression](#)

5. Relevant System Policies, Procedures, and Forms

[Regents' Rule 30105, Sexual Harassment and Misconduct and Inappropriate Consensual Relationships](#)

[The University of Texas System Administration Policy UTS105, *Sexual Orientation Nondiscrimination Policy*](#)

6. System Administration Office(s) Responsible for Rule

Office of Human Resources

7. Dates Approved or Amended

August 22, 2014