

Additional Policy to be added to the 2019 Faculty Handbook

For Faculty Handbook

Approved by UTHSC Faculty Senate 1/8/2019

Approved and immediately adopted by the UT Board of Trustees 3/1/2019.

3.8.7 Relationships with Students

3.8.7.1 Definitions

This policy applies to all faculty as defined in Section 6 of the *Faculty Handbook*, whether employed full-time or part-time, whether paid or unpaid. For the purpose of this policy, "relationship" includes any amorous or sexual conduct, whether occurring one time, occasionally, or regularly. Colleges, departments, offices, or other units may impose more restrictive policies governing relationships with students, which shall take precedence over this policy except to the extent such policies violate any Board of Trustees policy or conflict with law. The term "student" is broadly defined to include undergraduate, graduate and professional students, as well as other trainees.

3.8.7.2 Purpose

The purpose of this policy is to preserve the trust and respect that are essential to the faculty-student relationship and the instructional mission of the University of Tennessee Health Science Center. Trust and respect are diminished when a person in a position of authority abuses - or appears to abuse - his or her power. Faculty members are in positions of authority and exercise power over students in many ways, whether in giving praise or criticism, evaluating academic or clinical work, evaluating research, making recommendations for further studies or future employment, or in many other subtle expressions of authority over students. An amorous or sexual relationship with a student greatly increases the potential for a faculty member's abuse of power because of the inherently unequal status of the persons involved in the relationship. Even in cases where such a relationship begins with the mutual consent of the participating persons, it can result in exploitation of the student or the creation of a hostile learning or work environment for the student. Other students and employees may also be adversely affected by the amorous or sexual relationship because the faculty member is positioned to favor or advance one student's interest at the expense of others. In all such cases, the trust and respect essential to the university's instructional mission are diminished.

3.8.7.3 Prohibited Relationships

Amorous or sexual relationships between a faculty member and a student are prohibited when the faculty member has professional authority over, or responsibility for, the student. This professional authority or responsibility encompasses both instructional and non-instructional contexts as defined below:

1. *Relationships in the Instructional Context.* A faculty member shall not have an amorous or sexual relationship (consensual or otherwise) with a student who is simultaneously enrolled in a course being taught by the faculty member or whose academic or work performance is subject to supervision or evaluation by the faculty member. The instructional context includes but is not limited to teaching in the classroom, direct instruction in didactic, experiential and laboratory settings, as well as academic advising, mentoring, tutoring, or participating in student committees.

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2. *Relationships outside the Instructional Context.* Outside the instructional context, a faculty member shall not take any action or make any decision that may reward or penalize a student with whom he or she has, or has had, an amorous or sexual relationship. Faculty members must be especially cautious to avoid taking any action that rewards or penalizes the student, or influences others responsible for taking such action.

A faculty member violates this policy by engaging in an amorous or sexual relationship with a student over whom he or she has authority or professional responsibility, even when both parties have consented (or appear to have consented) to the relationship or conduct. Relationships that do not fall under the prohibition in 3.8.7.3, above, even if they appear to be consensual, are strongly discouraged. Voluntary consent by a student to an amorous or sexual relationship with a faculty member is inherently suspect, given the fundamentally asymmetrical nature of the relationship. Furthermore, conduct that begins as consensual can become non-consensual at any time. Even when both parties initially consent to particular conduct, past consent does not preclude a finding of sexual harassment if the conduct was unwelcome or if later conduct was unwelcome. Moreover, conduct that is *consensual* for purposes of criminal statutes, may be nonetheless *unwelcome* and therefore may constitute a violation of the University's policy prohibiting Sexual Harassment and Other Discriminatory Harassment (HR0280), Equal Employment Opportunity (HR0220) or UTHSC's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation.

3.8.7.4 Reporting Violations of the Policy

Faculty members who have knowledge of a possible violation of this policy are encouraged to report that concern to the Office of Equity and Diversity (OED) for review or investigation. Certain conduct described in this policy may also trigger a mandatory reporting obligation: (a) if the involved student is a minor; (b) if the conduct appears to violate UTHSC's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation; or (c) if reporting is otherwise required by law or University policy. In the case of uncertainty about the reporting obligation, OED officials may be consulted without providing personally identifiable information (only if they are a confidential resource) in order to clarify the reporting obligation, or to get more information about how OED might handle a possible violation of this policy. Otherwise, all mandatory reporters/responsible employees are required to disclose all details with the Title IX Coordinator or Deputy Title IX Coordinators as required by University policy. If a report is found to have been intentionally false or made maliciously without regard for truth, the reporter may be subject to disciplinary action, in keeping with UTHSC's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation. This does not apply to reports made in Good Faith (as defined by UTHSC's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation).

3.8.7.5 Disciplinary Sanctions

When a faculty member is found to have violated this policy, an appropriate sanction, up to and including termination, may be imposed pursuant to the disciplinary procedures applicable to

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faculty (Board policies, this Faculty Handbook, and HR policies). Disciplinary sanctions may be appealed through any applicable appeal procedures (e.g., Faculty Handbook, Section 7 and Section 8.4).

3.8.7.6 Administrative Actions

Before - or in addition to - any disciplinary sanctions, University officials may take administrative actions (in consultation with the Chief Academic Officer) for any of the following or similar reasons: to ensure the safety of any person; to protect the integrity of an academic course or other program; to end or prevent a hostile learning or work environment; to end or prevent retaliatory conduct; or for any other reason required to comply with state or federal law. Administrative actions may include (but are not limited to): temporary administrative leave pending investigation of an alleged violation of this policy; temporary reassignment of courses; temporary reassignment of research projects; or temporary removal from campus. If there is an appeal process for an administrative action, the faculty member may appeal the action, but the administrative action will not be held in abeyance during the appeal.

3.8.7.7 Retaliation Prohibited

Retaliation is prohibited against any person who reports possible violation of this policy or related policies. Retaliation is also prohibited against any person who participates in an OED investigation. Faculty members who have reason to suspect that the prohibition against retaliation has been violated or are the objects of retaliation themselves are directed to contact the OED.