

## Report on Faculty-Student Relationships at Peer and PAC 12 Institutions

This report should be prefaced by a caveat, since it is based on a variety of sources ranging from statements from the Office of the President or Provost, to the Board of Regents or Trustees, as well as from offices of Equal Opportunity and Affirmative Action, Equality and Inclusion, and Human Resources. Material was also taken from Manuals of Policies and Procedures, Handbooks of Procedures, Academic Handbooks, and Undergraduate Bulletins. Similarly, while some documents are undated, the others range from 1996 to 2014, when there seems to be a flurry of activity.<sup>1</sup>

After a review of the terms chosen by Peer and PAC 12 institutions to refer to this issue, the report classifies policies from Peer and PAC 12 institutions according to whether they prohibit faculty-student relationships in the context of supervisory activities only or not. Then, the report analyzes the apparent displacement of the focus on consent to conflict of interest and the newfound stress on the unexpected effect of these relationships on the (learning) environment. Finally, the report examines suggestions regarding alternative paradigms, such as adhering to the code of ethics, or the code of the professions.

Interestingly, the terms chosen by Peer and PAC 12 institutions differ. Peer institutions tend to prefer "Consensual Relationships" (8), closely followed by "Sexual Relationships" (6). "Amorous" and "Romantic Relationships" came last (3). Some institutions such as the University of Wisconsin associate all three terms ("Consensual Sexual and Romantic Relationships"). Others, such as Rutgers link "Romantic Relationships" to sexual harassment.<sup>2</sup> PAC 12 institutions wavered

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<sup>1</sup> University of Washington-Seattle (UW-Seattle), Ohio State University (OSU), Rutgers University (RU) & Stanford University updated their documents in 2014.

<sup>2</sup> Choice of terms in Peer institutions: *Consensual*: University of California-Los Angeles (UCLA), University of Connecticut (UCONN), Michigan State University (MSU), University of Illinois at Urbana Champaign (UIUC),

between "Sexual Relationships" and "Consensual Relationships" (6), over "Romantic Relationships" (5). In fact, three institutions resorted to "Consensual," "Sexual" and "Romantic" interchangeably (OSU, UO, WSU). "Amorous Relationships" was the least preferred.<sup>3</sup> Thus, on average, while "Consensual" (14) and "Sexual" seem to be interchangeable (12), "Romantic" (8) is more prevalent than "Amorous" (5).

Whereas most institutions prohibit faculty-student relationships if supervisory duties are involved, the University of Maryland does not, "in order to respect an individual's rights and freedoms."<sup>4</sup> Divergence also arises regarding students not subject to direct supervision. For instance, while UCLA states that faculty-student relationships are "unacceptable" if there is a chance of future supervision, policies from UCONN, PSU, Rutgers and UT Austin "strongly discourage" or urge faculty "to be aware of their professional responsibilities and to avoid conflict of interest, favoritism, or bias" (FSU, Undergraduate Bulletin).<sup>5</sup> Along these lines, Indiana University urges faculty to distance themselves "from any decisions that may reward or penalize a student with whom he or she has or has had an amorous or sexual relationship, even outside the instructional context, especially when the faculty member and student are in the same academic

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University of Minnesota (UMN), University of Texas at Austin (UT Austin), UW-Seattle & University of Wisconsin Madison (UW-Madison); *Sexual* Florida State University (FSU), Indiana University-Bloomington (IUB), University of Maryland (UM), Michigan State University (MSU) & Pennsylvania State University (PSU); *Amorous*, IUB, MSU & OSU; *Romantic* OSU, PSU & RU-introduced as sexual harassment.

<sup>3</sup> Choice of terms in PAC 12 institutions: *Consensual* UCLA-in both lists Peer & PAC12, Oregon State University (OSU), Washington State University (WSU), University of Washington (UW)-same documents as Seattle & in both lists Peer & PAC12, University of California, Berkeley, (UC Berkeley) & University of Arizona (UA); *Sexual* OSU, UO, WSU, University of Southern California (USC), Stanford & University of Utah (Utah); *Amorous*, University of Colorado (UC) & Arizona State University (ASU); *Romantic* OSU, University of Oregon (UO), WSU, Stanford, Utah.

<sup>4</sup> These policies seem to be tied to Title IX of the Education Amendments Act of 1972 ("Title IX"), Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, and related laws. Title IX states as follows: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Discrimination on the basis of sex (i.e. sex discrimination) may include sexual harassment, sexual assault, and sexual violence (UIUC).

<sup>5</sup> Peer universities that prohibit consensual relations under supervisory capacity: UCLA, UCONN, UIUC, FSU, OSU, PSU, Rutgers, UT Austin, MSU, UW Seattle & UW-Madison, IU. See Fleming, Marka A., Amanda Harmon Cooley, Gwendolyn McFadden-Wade, "Legal Implications Surrounding University Policies Enacted to Govern the Consensual Professor-Student Relationship." *Southern Law Journal* 140.19 (Fall 2009): 121-40.

unit or in units that are allied academically" (Academic Handbook, 2008). Finally, the Policy on Nepotism and Consensual Relationships of the University of Minnesota is more radical, since in addition to prohibiting "members of the University community from directly influencing the University employment or academic progress of a University community member with whom they have a personal relationship, [t]he policy now also prohibits relationships in which there is no direct influence, but the relationship has a negative impact on the educational or work environment" (EOAA, May 2012).<sup>6</sup>

With the exception of Washington State University, all PAC 12 Institutions prohibit faculty-student relationships in a supervisory context. As the University of Maryland, Washington State University notes that its "employees, regardless of position, rank, or professional relationship, may rightfully develop consensual relationships." Nonetheless, "as a matter of sound judgment," the university urges, "faculty, graduate teaching and research assistants [to] accept responsibility to avoid any apparent or actual conflict of interest" (Executive Policy #28, Approved by Board of Regents, May 4, 2007). Finally, coinciding with the University of Minnesota, Stanford prohibits "sexual or romantic relationships [between] teachers and *undergraduate* students—even if the teacher does not teach, evaluate, or advise the student, currently or in the future (and) teachers and *any* students, when a teacher has had—or might be expected ever to have—academic responsibility over the other party" (Relationships In the Workplace and Educational Setting, 01/21/2014). In other words, while Stanford initially spells out "undergraduate students," graduate students could be read into the "*any*" student of the following clause.

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<sup>6</sup> For another abbreviated Consensual Relationships Policy Table from the Faculty Senate of Oregon State University see <http://oregonstate.edu/senate/agen/reports/2005/06b.html>.

Seven institutions probe the inherent imbalance of power in faculty-student relationships.<sup>7</sup> Eleven universities dwell on the actual issue of consent in these relationships,<sup>8</sup> and twelve of them question the implicit conflict of interest in consensual relationships.<sup>9</sup> UCLA's policy illustrates these points as it argues that faculty-student relationships "pose a potential conflict of interest . . . when one individual has responsibility for supervising, directing, overseeing, evaluating, advising, or influencing the employment or educational status of the other." It notes that the unequal standing among the partners allows for "an abuse of power, coercion, exploitation, favoritism, or unfair treatment of others" (Office of the President, 2004). Similarly, PSU's policy states that, "Given the fundamentally asymmetric nature of the relationship where one party has the power to give grades, thesis advice, evaluations, recommendations, promotions, salary increases or performance evaluations, the apparent consensual nature of the relationship is inherently suspect" (University Policy AD85). Along these lines, Rutgers adds that, "These types of sexual relationships are especially vulnerable to exploitation" (Policies and Procedures, 2014). Finally, UCLA's policy concedes, "even a romantic relationship that begins as consensual may evolve into a situation that leads to a charge of sexual harassment that violates University policy" (Office of the President, 2004), and Rutgers' policy echoes the warning: "the attempts of a teacher to show a romantic interest in a student may constitute sexual harassment" (Policies and Procedures, 2014).<sup>10</sup>

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<sup>7</sup> Peer institutions such as UM, IU, UCLA, FSU, PSU, UCONN and PAC 12 institutions such as UW explore the asymmetric nature of the relationship.

<sup>8</sup> Peer institutions such as UCLA, UM, UCONN, PSU, Rutgers, and PAC 12 institutions such as Stanford, UC, WSU, UW, OSU & UW-Madison focus on whether or not the relationship is consensual.

<sup>9</sup> Peer institutions UT Austin, PSU, MSU, UM (Maryland), FSU, IUCU, UCLA, and PAC 12 institutions: OSU, WSU, UW, UW (Wisconsin) explore possible Conflicts of Interest.

<sup>10</sup> The 2005 Ohio State University "Task Force Examining the Policy on Consensual Relationships Report and Recommendations" notes that, "professionals who work with undergraduates frequently identify the decision to engage in a consensual sexual relationship, including between a student holding a staff position and another student, as a recurring moral dilemma" <http://hr.osu.edu/public/documents/policy/resources/115report.pdf?t=2014812135825>.

In addition to the issues of consent and conflict of interest, eleven institutions focus on the (unintended) effects of faculty-student relationships on the (learning) environment.<sup>11</sup> For instance, the Academic Handbook of Indiana University asserts, "other students and faculty may be affected by such unprofessional behavior because it places the faculty member in a position to favor or advance one student's interest at the expense of others and implicitly makes obtaining benefits contingent on amorous or sexual favors" (2008). Policy at the University of Colorado reaffirms the warning, "others may be adversely affected by such behavior because it places the faculty member or supervisor in a position to favor or advance one student's or employee's interest at the expense of others and implicitly makes obtaining preferences contingent upon romantic or sexual favors" (<http://www.cu.edu/ope/efficiency-and-effectiveness/presidents-task-force-efficiency/aps-5015-conflict-interest-cases>). From another angle, policy of the University of Minnesota underscores possible liabilities, "consensual sexual or romantic relationships may give rise to third-party claims of sexual harassment based on allegations that real or perceived favoritism, or a resulting change in the employment or academic environment, unreasonably interferes with the third party's employment or education by creating an environment that is intimidating, hostile, or offensive" (EOAA).<sup>12</sup> Finally, Washington SU's policy mentions potential "risks to the faculty member, student, supervisor, subordinate, third parties, and unit morale" (Executive Policy # 28, 2007).

UCLA and PSU analyze the unintended effects of faculty-student relationships on the core mission of the institution, since "students and particular members of the University community

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<sup>11</sup> Peer institutions IU, UCLA, MSU, UMN, UCONN, UM (Maryland), and PAC 12 UC, Stanford, OSU, UO, WSU, focus on the environment.

<sup>12</sup> Echoed by Stanford, [consensual relationships may] "Have unintended, adverse effects on the climate of an academic or work environment, which may be impaired for others, either during the relationship or after a break-up" (Relationships In the Workplace and Educational Setting, 01/21/2014).

must be insulated from influences or activities that can interfere with learning consistent with the goals and ideals of the University" (UCLA, Office of the President, 2004). Similarly, Penn State's policy notes that, "perceptions of conflicts of interest or unfair treatment of others . . . undermine the atmosphere of trust essential to the educational process or the employment relationship" (University Policy AD85). From another angle, Stanford's policy underscores the danger of such relationships, since they "undermine the real or perceived integrity of the supervision or evaluation" (Relationships in the Workplace and Educational Setting, 2014).

In order to curb the incidence of faculty-student relationships a number of institutions advise faculty to consider the implied ethical issues, and note that consensual, sexual, romantic and amorous relationships are forbidden in the professions.<sup>13</sup> For example, the University of Maryland "urges members of the campus community to consider the ethical questions" that arise as a result of such relationships given that their inherently unequal power "casts doubt on whether they can be truly consensual." Moreover, the document suggests the need to resorting to "professional codes of conduct (such as those of physicians and psychologists), which prohibit sexual relationships in the context of the profession" (Office of the Provost and Office of Legal Affairs, 2013). Indiana University's policy addresses the issue head on, "The University's educational mission is promoted by professionalism in faculty/student relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions of faculty members and students that harm this atmosphere undermine professionalism and hinder fulfillment of the University's educational mission" (Academic Handbook, 2008).

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<sup>13</sup> For the Code of Ethics of the National Association of Social Workers, which prohibits any sort of sexual relationships with clients, see <http://www.socialworkers.org/pubs/code/code.asp>. For the Code of Ethics of the American Medical Association, and specifically, "Opinion 3.08 - Sexual Harassment and Exploitation between Medical Supervisors and Trainees," see <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion308.page>. For the statement on Professional Ethics of the American Association of University Professors (AAUP) see [up.org/report/statement-professional-ethics](http://www.aaup.org/report/statement-professional-ethics).

In sum, there seems to be a sustained institutional effort to update policies from curbing to prohibiting faculty-student relationships. Institutions focus on the nature of consent in faculty-student relationships within a supervisory context, and question the asymmetrical nature of power and the implicit conflict of interest. More recently, policies analyze the effect of faculty-student relationships on the environment, and determine that they undermine the trust and objectivity expected in the learning experience. In other words, rather than simply underscoring the need to think about the ethical implications of these relationships, institutions are adamantly re-appropriating the professionalism that is at the core of the learning experience, which is the actual mission of the university.

Respectfully submitted,

Cynthia Tompkins  
President - Tempe Senate  
Professor of Spanish  
Head - Spanish & Portuguese Faculty  
School of International Letters and Cultures  
ASU