

UNIVERSITY OF NEBRASKA-LINCOLN POLICY CONSENSUAL SEXUAL OR ROMANTIC RELATIONS¹

Applies to: All members of the Members of the Professional Staff, as described in Regents Bylaws 3.1.1, and all other individuals with supervisory, evaluative, or advisory responsibilities for students.

Context: This policy supplements existing policies, including those described in Appendix A.

I. Background

This policy is intended to clearly set forth expectations with regard sexual or romantic relationships in which one individual holds greater professional/educational power or responsibility than the other, and to provide procedures to be followed should these expectations not be met.

The University of Nebraska-Lincoln is committed to promoting and maintaining a climate of equity and the fair use of power. In hierarchical institutions such as a university, there may be unequal power in professional relationships. The exercise of power must be thoughtful, fair, and based on standard procedures. Abuse of power will not be tolerated.

One area in which unequal power is especially problematic is in the area of sexual relations, including consensual sexual relations between individuals, particularly when one person holds educational or professional power or responsibility over another. The following potential concerns can arise:

- The potential for conflict of interest, exploitation, and bias stemming from a romantic or sexual relationship undermines the professionalism required in a supervisory, evaluative, or advisory situation.
- Romantic or sexual relationships can have an adverse impact on the broader learning or work environment, both during the time of the relationship and after a possible break-up.
- When a power differential exists in a relationship, the nature of consent is problematic. The heightened vulnerability of the less powerful partner, the potential for coercion, and other possible factors may result in a non-consensual relationship even though the person in power may believe it is consensual.
- Romantic or sexual relationships may lead to situations that expose the person in power and the University to liability for violation of laws concerning sexual misconduct or sex discrimination. A partner or former partner in the relationship, or third parties affected by the relationship (such as students or employees), may file a formal or informal complaint if they believe sexual misconduct has occurred.

II. Prohibitions

¹ This document is a working draft prepared by the Task Force on Professional Conduct (see Appendix B for a list of Task Force Members), and heavily based on the College of Arts and Sciences policy adopted in April 2018. It is currently in the process of being reviewed at multiple levels including: Academic Affairs Leadership Team; Chancellor's Executive Leadership Team; Expanded Deans Council; General Counsel's Office; Faculty Senate; ASUN; GSA; UAAD; UNOPA.

In an effort to create a hospitable and equitable learning and working environment for students and employees and to reduce the conflicts of interest that inherently arise in these situations, the University of Nebraska-Lincoln **prohibits** romantic or sexual relationships in the following situations:

1. Whenever one partner has, or can reasonably be expected to have in the near future, any sort of supervisory, evaluative or instructional role towards the other partner.
2. Whenever one partner is a faculty member and the other is either an undergraduate student anywhere at the University of Nebraska-Lincoln or a graduate student who has a major or minor in the faculty member's unit or works in the same lab, program, center, or other related unit as the faculty member. Pre-existing relationships between a faculty member and a student must be reported and handled as outlined in the Section III.A.1 Procedures for Self Reporting.

III. Procedures

A. Procedures for Self-Reporting

1. Preexisting Relationships

If a romantic or sexual relationship already exists between two people and the situation changes to one in which the relationship becomes one that is prohibited under this policy based upon the employment position/role and/or reporting structure, it is incumbent on the person in power to recuse themselves from having such power. In particular, the person possessing the greater power can in no way have any say in the other person's employment, evaluation, resource distribution, and supervision or management. The employee in the position of greater power must also notify the appropriate University authority (supervisor, chair, dean, vice chancellor). The person with the greater power must ensure that the handling of the situation is transparent and that the environment of the unit remains hospitable, equitable, and free from conflicts of interest.

2. Developing Relationships Involving Employees Only

If an employee is or becomes involved in a romantic or sexual relationship with another employee and there is a supervisory or evaluative relationship between the employees, the employee in the position of greater power must recuse themselves from supervisory responsibility over the employee with less power. The employee in the position of greater power must also notify the appropriate University authority (supervisor, chair, dean, vice chancellor) and a nepotism plan must be put in place. If the relationship ends, each employee must recuse themselves from supervising, managing, advising or evaluating the other employee until the chair, dean, or vice chancellor determines the recusal is no longer necessary and both employees agree. In cases where an individual is both a student and an employee, the individual's status as student takes precedent.

B. Procedures for Third-Party-Reporting

Any person, including a third party, can submit a complaint if they believe this policy has been violated. Complaints can be submitted to the complainant's supervisor; to the supervisor of the person with academic/work responsibility over the partner; to a chair/director, dean, or vice chancellor; to a victim advocate; or to the Title IX office, if appropriate. The person receiving the complaint should contact the immediate supervisor of the person in the position of greater power,

unless it has been disclosed to a confidential victim advocate, and that immediate supervisor should conduct an inquiry to determine whether the policy applies. If the determination is made that the policy does apply, the immediate supervisor must take the necessary steps to manage the conflict of interest caused by the relationship, including, if appropriate, creating a management plan and any sanctions, if appropriate.

C. Sanctions

Violations of this policy may result in disciplinary actions. Self-disclosure by either partner at the beginning of a relationship may result in a more lenient disciplinary action depending on the facts and circumstances, and the impact of the relationship on the institution. Disciplinary actions will be commensurate with the severity and/or repetition of the violation of the policy and may include written warnings, loss of privileges, mandatory training or counseling, probation, suspension, demotion, expulsion, and a recommendation of termination of employment and, if applicable, revocation of tenure.

C. Confidentiality

To encourage self-disclosure or the bringing of complaints concerning the violation of this policy, the University of Nebraska-Lincoln will make every reasonable effort to conduct all proceedings in a way that protects the confidentiality of all parties. However, while the University guarantees that reasonable efforts will be made to keep the confidentiality of the parties involved, it cannot guarantee confidentiality in all cases. Resolving the complaint might necessitate the disclosure of the parties' identities if doing so is necessary to appropriately manage the situation.

D. Communication

All colleges, departments, and programs shall publicize this policy to students, faculty and staff at the beginning of each academic year, and to new undergraduate and graduate students, new instructors (including lecturers and undergraduate and graduate TAs), and new faculty and staff. It is the responsibility of students, faculty and staff to familiarize themselves with the policy and expectations.

APPENDIX A: CURRENT RELATED POLICIES AT THE UNIVERSITY OF NEBRASKA-LINCOLN

A.1 Sexual Misconduct

The University has clearly laid out policies on sexual misconduct: “Rape, acquaintance rape, domestic violence, dating violence, sexual assault, sexual harassment and stalking are against the law and are unacceptable behaviors under University of Nebraska policy. These unacceptable behaviors are hereafter referred to as sexual misconduct. Retaliation against the Complainant or a third party in an attempt to prevent or otherwise obstruct the reporting or remediation of sexual misconduct is prohibited” (<http://www.unl.edu/equity/employee-sexual-misconduct-procedures>). Processes for reporting, investigating, and resolving these complaints are similarly clearly laid out.

Sexual harassment is a specific type of sexual misconduct that involves “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment” (<http://asun.unl.edu/student-legal-services/what-sexual-harassment-workplace>). Specifically, sexual harassment occurs when:

- submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment or academic standing;
- submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working/academic environment” (4.1.2. in UNL's Unlawful Discrimination policy, “Policy and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment”).

It is against the law to retaliate against individuals who bring a charge of sexual harassment against someone. Individuals are encouraged to contact [Institutional Equity and Compliance](#) for further information on processes. Violators of University policies on sexual misconduct will be subject to disciplinary action.

A.2 Nepotism

The University of Nebraska-Lincoln policies on nepotism are laid out both in Board of Regents Bylaws and in UNL policies. According to Board of Regents Bylaws 3.2.2.1, “an official or employee in the University shall not engage in nepotism.” The Bylaws further define who and what actions fall under the nepotism policy:

“(a) Family member means an individual who is the spouse, child, parent, brother, sister, grandchild, or grandparent, by blood, marriage, or adoption, of a University official or employee; (b) Nepotism means the act of hiring, promoting, or advancing a family member in the University or recommending the hiring, promotion, or

advancement of a family member in the University, including initial appointment and transfer to other positions in the University; and (c) Supervisor means an individual having authority, in the interest of the University, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, responsibility to direct them or to adjust their grievances, or effectively to recommend any such action, if the exercise of such authority is not merely of a routine or clerical nature but requires the use of independent judgment” (3.2.2.2).

If university employees become a supervisor of a family member not through activities stemming from nepotism, they must notify the President or Chancellor within seven days (3.2.2.4(b)). Violation of these policies surrounding nepotism may lead to disciplinary action (3.2.2.3).

UNL’s Unlawful Discrimination policy, embodied in “Policies and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment,” broadens the categories that fall under the nepotism policy. Supervisory or evaluative roles must be relinquished if members of the university community “share sexual, romantic, or domestic relationships” (4.2). The policy further puts the burden on the supervisor or evaluator: “should a personal relationship develop between members of the UNL community who are also in a supervisory or an evaluative relationship, the person in the position of great authority shall recuse himself or herself; that is, shall relinquish (with or without explanation) the supervisory or evaluative role and make suitable arrangements for the objective performance or academic evaluation of the other” (4.2.1). The person who is being supervised or evaluated must be informed in writing of the recusal (4.2.4).

A.3 Conflict of Interest/ Consensual Intimacy

Board of Regents Bylaws

3.8 Conflict of Interest. No employee of the University shall engage in any activity that in any way conflicts with duties and responsibilities at the University of Nebraska. The Board of Regents has adopted Regents Policy 3.2.8 and authorized the implementation of related policies and directives to properly avoid, disclose and manage potential conflicts of interest.

A.4 Faculty Senate Professional Ethics Statement (January 12, 2016)

5. FAMILIAL RELATIONSHIPS AND CONSENSUAL INTIMACY

Faculty members must not participate in decisions involving a direct benefit, including hiring, promotion, salary, performance appraisals, work assignments, or other working conditions for family members or those in the same household, or partners not living in the same domicile.

Such authority or influence includes, but is not limited to, employment-related decisions such as hiring, evaluations or discipline, and academic-related decisions such as grading, transfers, evaluations, formal mentoring or advising, supervision

of research, employment of a student as research or teaching assistant, exercising substantial responsibility for honors or degrees, or considering academic disciplinary action involving the student.

Any faculty member who is a spouse or partner of a student at the time of the student's enrollment or of an employee at the time of employee's hiring must not evaluate the performance of that student or employee, or otherwise exercise authority, supervision or influence over that person. Faculty members involved in such a relationship must disclose the existence of the relationship to the head of their unit (or other suitable entity) at the time of the student's enrollment or the employee's hiring.

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APPENDIX B: TASK FORCE ON PROFESSIONAL CONDUCT

The Task Force on Professional Conduct was created in March 2017, and charged by the Executive Vice Chancellor and Chief Academic Officer to “make recommendations regarding potential campus policies around professional conduct for faculty, and suggestions for how the university should respond when our professional code of conduct is violated.” The following is a list of those who have served on the task force, along with their titles at the time that they were appointed to serve:

- Toni Anaya, Associate Professor, University Libraries
- Mark Balschweid, Professor and Head of the Department of Agricultural Leadership, Education, and Communication
- Renee Batman, Assistant Vice Chancellor for Academic Affairs
- Richard Bischoff, Associate Vice Chancellor for Faculty and Academic Leader Success, IANR
- Layton Brooks, Director of Compensation, Employment and Employee Relations
- Scott Fuess, Professor and Chair, Department of Economics
- Frauke Hachtmann, Professor of Advertising and Associate Dean in the College of Journalism and Mass Communications
- Ted Hamann, Professor of Teaching, Learning, and Teacher Education and member of the Graduate Council
- Deb Hamernick, Interim Associate Vice Chancellor for Research
- Kevin Hanrahan, Associate Professor, Glenn Korff School of Music and President, Faculty Senate
- Dan Hoyt, Professor of Sociology and Research Integrity Officer & Institutional Official
- Sharon Kuska, Professor of Architecture
- Daniel Linzell, Professor and Chair of the Department of Civil Engineering
- Ali Moeller, Professor of Teaching, Learning, and Teacher Education and Chair, Academic Rights and Responsibilities Committee
- Peter Pinnell, Professor, School of Art, Art History & Design
- Sarah Purcell, Extension Educator and President-Elect of the Faculty Senate
- Jeff Rudy, Professor of Practice, Nutrition & Health Sciences and President-Elect of the Faculty Senate
- Jennifer Ryan, Professor and Chair, Supply Chain Management & Analytics
- Michael Scheel, Professor of Educational Psychology
- Steven Schmidt, Clinical Associate Professor, College of Law
- Tami Strickman, Assistant to the Chancellor and Title IX Coordinator
- Elizabeth Theiss-Morse, Professor of Political Science and Associate Dean for Faculty in the College of Arts and Sciences
- Judy Walker, Interim Associate Vice Chancellor for Faculty Affairs
- Steven Willborn, Professor of Law (not yet confirmed)
- David Woodman, Professor of Practice in the School of Biological Sciences and President of the Faculty Senate
- Ron Yoder, Associate Vice Chancellor for the Institute of Agriculture and Natural Resources