



Executive Policy Chapter 1, General Provisions

Executive Policy EP 1.203 – Policy on Consensual Relationships

Effective Date: April 2016

Prior Dates Amended: new policy

Responsible Office: Office of the President

Governing Board of Regents Policy: RP 1.205 – Policy on Nondiscrimination and

Affirmative Action and RP 9.204 – Employment of Relatives

Review Date: April 2019

I. Purpose

The University of Hawai'i (University) is committed to ensuring a safe, civil, learning and working environment in which the dignity of every individual is recognized and respected. All members of the University share equal responsibility in this regard. All relationships between University employees and its students adhere to principles of professionalism, integrity, mutual trust, and respect. Any relationship that calls these principles into question jeopardizes the University's ability to effectively carry out its mission and maintain public trust.

Within an academic environment, the issue of consensual relations within the working and/or learning environment deserves special attention. When such a relationship involves individuals with a power and/or control differential, it is of special concern because of the potential for conflict of interest, appearance of such conflicts, and/or abuse of power. All education and employment decisions shall be made free from bias or favoritism. Certain decisions may come into question when made by a person who has a romantic, dating, or sexual relationship with a person who may benefit from or be harmed by the decisions. The mere appearance of bias or impropriety resulting from a consensual romantic, dating, or sexual relationship may seriously disrupt the learning or working environment. Equally important, such relationships have the potential to undermine the University's sense of community, mutual trust, and support.

Therefore, the University prohibits initiating or engaging in a new consensual relationship between employees and between employees and students wherein a power and control differential exists, including but not limited to situations in which one member has an evaluative and/or supervisory responsibility for the other. The University views these consensual relationships where a power and/or control differential exists as inadvisable and fraught with risk, especially when students are involved. It is important to note that the potential for sexual harassment exists in consensual relationships when there is a power and/or control differential.

II. Definitions:

A. Consensual Relationship

The term “consensual relationship” is defined as a relationship in which two individuals are engaged by mutual consent in a romantic, dating, or sexual relationship.

B. Employee

The term “employee” is defined as all individuals classified as administrators, faculty, staff, temporary hires, casual hires, and student staff, employed by the University. Staff includes, but is not limited to, instructors, graduate/teaching assistants, graders, athletic coaches, and residence hall staff.

C. Power and/or control differential

The term “power and/or control differential” is used to describe the situation that results when one individual in a relationship has direct supervision, direction, instruction, oversight, evaluation, advisement, or substantial influence over the employment or educational status of another.

D. Retaliation

Retaliation is defined as adverse actions taken against a person because of their participation in the following types of protected activities:

1. Seeking advice or assistance about this consensual relationship policy;
2. Reporting or filing an informal or formal complaint regarding an alleged violation of this policy;
3. Testifying, assisting, or participating in an investigation or other proceeding related to an alleged violation of this policy.

Adverse actions are actions that would dissuade a reasonable person from making or supporting a complaint of violation of this policy.

Examples of adverse actions that might constitute retaliation include a significant change in one’s status, such as suspension, unsatisfactory or

unfair evaluations, unfair grades, unfair assignments, firing, failing to promote, reassignment with significantly different responsibility or a decision causing a significant change in benefits, direct or implied threats, coercion, harassment, intimidation, or encouragement of others to retaliate.

E. Student

The term “student” is defined as any individual enrolled in credit or non-credit courses and programs through any campus of the University of Hawai'i system.

F. University

The term “University” encompasses any campus of the University of Hawai'i system or any University sponsored programs, activities, or services.

III. Executive Policy

A. Statement on Consensual Relationships

It is a violation of this policy for an employee to initiate or engage in a romantic, dating, or sexual relationship with another employee or a student whom he/she currently supervises, directs, instructs, evaluates, advises, or has substantial influence over wherein a power and control differential exists.

Certain employees of the University who are licensed professionals must adhere to the rules of professional responsibility and ethics in their field addressing consensual relationships (e.g., student health service providers, school psychologist or licensed counselors).

Violations of this policy include, but are not limited to:

1. Entering into a consensual relationship where a power and/or control differential currently exists
2. Not disclosing the existence of a consensual relationship when a new University-related relationship is established that involves a power and/or control differential and potential conflict of interest

3. Not adhering to an established a plan to manage and/or resolve the conflict of interest

The University has the obligation to manage the potential conflicts of interest created by consensual relationships where a power and/or control differential between individuals exists to ensure the integrity of the working and learning environments in the University. Steps that may be taken to manage such conflicts of interest are listed in part III.C. below.

B. Proposed Consequences

Sanctions may be imposed against any employee who is found to have violated this policy. Possible sanctions include, but are not limited to, suspension or termination from employment for excluded employees, and disciplinary actions pursuant to collective bargaining agreement provisions for included employees.

C. Circumstances for Disclosure and Conflict of Interest Management of Consensual Relationships

The University also recognizes that a consensual relationship may exist prior to the passage of this policy or prior to the time an individual is assigned to a direct supervisory, instructive, or evaluative position or responsibility. In this situation, all employees who are in a consensual relationship have an obligation to disclose the existence of that relationship and cooperate with managing potential conflicts of interest, as follows:

Consensual relationships of the following nature shall require disclosure and the development and adherence to a plan to manage the potential conflicts of interest as described in this policy:

1. Employee with any student that is currently under their supervision, direction, instruction, oversight, evaluation, advisement and/or that is under their substantial influence as to his/her employment or educational status; or
2. Employee with a direct-line supervisor (e.g., vice president, dean, director, department chair) or any other employee in a position of authority to hire, supervise, or influence the employment or salary of another employee.

Should an individual who is involved in a consensual relationship where no power and/or control differential exists, subsequently be placed in a relationship where a power and/or control differential results, the existence of the consensual relationship must be disclosed to the individual's immediate supervisor (i.e., chair, director, dean, vice chancellor, chancellor, etc.) or, if necessary, the next higher level supervisor not involved in the relationship. Impermissible relationships between a graduate/teaching assistant and a student should be reported by the faculty member that advises/oversees the student to that faculty member's immediate supervisor.

The immediate supervisor referred to above is responsible for advising the individuals and determining the appropriate method to manage and/or resolve the conflict of interest that may exist due to this relationship. The immediate supervisor may choose to confer with their campus Human Resources offices, Equal Employment Opportunity/Affirmative Action (EEO/AA) Coordinators, and/or Title IX Coordinators to assist in determining the appropriate conflict resolution for the reported relationship.

Methods to manage and/or resolve the actual conflict of interest created by a consensual relationship may include, but are not limited to:

1. Recusal or removal of an employee from the evaluative process (i.e., contract renewal) concerning the other individual
2. Assignment of an additional, impartial individual or individuals to ensure the integrity of the actions of the individuals involved in the relationship
3. Removing an advisor from their involvement as a student's advisor or committee member
4. Except for Unit 7 Faculty, a possible relocation of a UH employee to another supervisory area may be taken.

D. Retaliation Prohibited

The University prohibits and will not tolerate retaliation against persons who report violations of this policy. Persons who commit retaliation in violation of this policy are subject to appropriate disciplinary action. "Retaliation" is defined in part II.D above.

E. Confidentiality

In order to encourage disclosure of consensual relationships prohibited under this policy and to empower members of the University community to voice concerns and file complaints when appropriate, the University will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. The University cannot guarantee confidentiality in all cases, however.

F. Examples of Prohibited Relationships

The following examples are provided for illustrative purposes only. This is not intended to be an exhaustive list of situations in which this policy applies.

1. Student A is enrolled in a class taught by Employee B. This policy prohibits a romantic, dating, or sexual relationship between faculty members and students in classes they instruct.
2. Employee A is the Master's thesis advisor for Student B. This policy prohibits a romantic, dating, or sexual relationship between advisors and students they advise.
3. Employee A serves on Student B's graduate committee. This policy prohibits a romantic, dating, or sexual relationship between a student and an employee with influence over that student's educational status.
4. Employee A is the faculty advisor for student organization Y. Student B is a member of organization Y. This policy prohibits a romantic, dating, or sexual relationship between advisors and students they advise.
5. Employee A is an assistant coach for the team that Student B, an athlete (scholarship or walk-on) plays on. This policy prohibits a romantic, dating, or sexual relationship between coaches and players they coach.
6. Employee A is dating Student B. Student B is not enrolled any courses taught by Employee A and is majoring in a different department. This policy does NOT prohibit a romantic, dating, or sexual relationship provided Employee A does NOT supervise,

direct, instruct, evaluate, advise, or have substantial influence over Student B's educational status.

7. Employee A and Employee B are faculty members in the same department and are in a romantic, sexual, or domestic partner relationship. This policy requires the faculty member to disclose the relationship to the department chair and to recuse him/herself when evaluative situations arise relating to his/her partner (e.g., evaluative review or voting on special salary adjustment, contract renewal, promotion, tenure, etc.).
8. Employee A and Employee B are staff members in the same department. Neither is direct supervisor of the other. This policy does NOT prohibit a romantic, dating, or sexual relationship between them since the employees do NOT supervise, direct, instruct, evaluate, advise, or have substantial influence over each other's employment status.
9. Employee A is the Dean of a college and Employee B is a faculty member in that college. This policy prohibits a romantic, dating, or sexual relationship since the Dean evaluates and makes employment decisions regarding the faculty member's promotion, tenure, contract renewal, special salary adjustments, etc.

In a situation where Employee B is a faculty member in a college where Employee A is not Dean, this policy does NOT prohibit a romantic, dating, or sexual relationship.

10. Employee A is Chancellor of the campus. Employee B is a direct report to the Chancellor. This policy prohibits a romantic, dating, or sexual relationship.

In a situation where Employee B is not a direct report to the Chancellor, this policy does NOT prohibit a romantic, dating, or sexual relationship.

IV. Delegation of Authority

Vice Presidents and Chancellors are hereby directed with the authority to implement this policy on Consensual Relationships.

V. Contact Information

To report a violation of this policy or to file a complaint, contact the campus Human Resources (HR) office. Confidentiality is not absolute.

Individuals may request information on policies and procedures from a campus HR office, campus EEO/AA Coordinator, or the UH System EEO/AA Office without needing to disclose their name or specific situation.

Prior to reporting a violation of this policy or filing a complaint, individuals who wish to consult with someone about a specific situation on an informal basis or to learn more about enforcement of the policy may contact the following neutral parties or offices:

- A. Supervisor
- B. Director/Chair of department
- C. Dean or Vice Chancellor of college/division
- D. Campus EEO/AA Coordinator
- E. Campus Title IX Coordinator

Subject Matter Expert

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UH System Office of Equal Employment Opportunity/Affirmative Action (EEO/AA)

www.hawaii.edu/eeo

VI. References

- A. Link to superseded Executive Policy E1.203 in old format
<https://www.hawaii.edu/policy/archives/ep/e1/e1203.pdf>
- B. Link to Executive Policy EP 1.204 – Policy and Procedure on Sex Discrimination and Gender-Based Violence
<http://hawaii.edu/policy/docs/temp/ep1.204.pdf>
- C. Administrative Procedure AP 9.335 - Employment of Relatives (Nepotism)
<http://hawaii.edu/policy/docs/temp/ap9.335.pdf>

Approved:

_____<signature>_____ _____
<Name of Approving Authority> <Date>
<Title of Approving Authority>