

To: Legislative History

From: Robert Payne, Deputy General Counsel and Allyson Hicks, Director, University Regulations

Policy Owner(s): HR Director of Employee Relations, Associate Vice Presidents for Faculty and/or Academic Affairs designated by the Senior Vice President for Academic Affairs and Health Sciences

Date: September 29, 2022

Re: Revision 1 of Policy 1-020: Required Professional Boundaries in Relationships

Introduction and Background

Policy 1-020: Required Professional Boundaries in Relationships establishes requirements related to professional boundaries for University employees with respect to immediate family members and romantic relationships. We are proposing two changes related to this policy:

- Revising the policy to prohibit University Representatives from sharing sexually explicit information or images with a current student in the same academic area, unless the information is related to an academic activity
- Repealing Policy 5-105: Employment or Supervision of Immediate Family

Proposed Changes

Required New Provision Related to Sharing of Sexually Explicit Information Based on Statutory Change

The revision adds the following provision to Policy 1-020 in response to a statutory change in Utah Code Subsection 63G-7-301(4):

3. No University Representative including any faculty member, course instructor, athletics coach, advisor, mentor, or preceptor, may share any sexually explicit communication, image, or photograph for non-academic reasons with a student currently participating in their class, the same academic unit or otherwise within the representative's area of responsibility.

a. Section IV.C.3 does not prohibit a University Representative from sharing a sexually explicit communication, image, or photograph if the material:

i. is shared with the student in the context of an academic activity, including but not limited to a class, a research activity, or a lecture; and

ii. has a relevant pedagogical connection to the subject of the academic activity.

Repeal of Policy 5-105

Policy 5-105: Employment or Supervision of Immediate Family duplicates the portion of Policy 1-020 related to employment or supervision of immediate family members. A similar policy, which duplicated the portions related to consensual romantic relationships was deleted in 2018, and so we repealed Policy 5-105 as well and made editorial changes as needed in other regulations to change references to Policy 5-105 to Policy 1-020.

Coordination with Stakeholders

These proposed policy changes were review by the Institutional Policy Committee. In addition, a working group of members of the Academic Senate Executive Committee worked with the Office of General Counsel on the specific wording of the revision.

Policy 1-020: Required Professional Boundaries in Relationships-

Revision #01. Effective date: ~~July 1, 2018~~[October 11, 2022](#)

I. Preamble 1

II. Purpose and Scope 2

III. Definitions 2

IV. Policy 4

 A. Professional Boundaries with Respect to Immediate Family..... 4

 B. Professional Boundaries in Supervision 5

 C. Professional Boundaries in Academic Instruction and Student Experience of Current Students..... 5

 D. Preventative Actions and Reporting Obligations 6

 E. Sanctions 8

V. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources

 89

VI. References 89

VII. Contacts 9

VIII. History [910](#)

I. Preamble

In order to foster student success by preparing students from diverse backgrounds for lives of impact as leaders and citizens, the University of Utah is committed to providing a campus climate that supports and sustains its outstanding faculty, staff, and students. Essential to this climate is ensuring equitable treatment among all members of the university community. Romantic and sexual relationships between a person in a position of power and a subordinate student or employee raise issues of exploitation, conflict of interest, and disruption of collegiality and mutual trust within a unit. In addition, supervision of or responsibility for the educational experience of immediate family members also raises concerns about conflict of interest. This policy is intended to provide clear guidance for appropriate practice in such instances.

Generally, the policy is aimed at encouraging professional boundaries in supervisory and instructional situations and discouraging conflicts of interest in these professional relationships. In those instances in which mitigation of potential and/or apparent conflicts of interest is possible, the policy provides a transparent process to govern those cases.

II. Purpose and Scope

A. Purpose.

To define the professional boundaries that must be maintained in relationships between (A) students and any representatives of the University with any official role in their student experiences, or (B) between employees and their supervisors. This Policy also identifies what actions should be taken to prevent situations that violate these professional limits.

B. Scope.

This Policy applies to all University Representatives (as defined here), including without limitation all employees and all volunteers who may serve as faculty members, athletics coaches, mentors, advisors, preceptors, and supervisors.

III. Definitions

The following definitions apply for the limited purposes of this policy and any associated regulations

- A. “Course Instructor” is any person who is assigned, either jointly or alone, to instruct or assist in instruction (such as in a role as a teaching assistant) of any course or supervise any Educational Experience of a student at the University.
- B. “Athletics Coach” is any person who is assigned by the Athletics Department to serve in a supervisory role for an Athletics team under NCAA rules or is assigned by any other unit at the University to serve as the supervisor of an athletic sport team or club.
- C. “Advisor” or “Mentor” is any person who is assigned to, or who assumes, the role of advising or mentoring a student, staff member, or faculty member.
- D. “Employee” is an individual who both receives compensation for work or services in which the University has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the result of the work or service and receives compensation which has been appropriated from funds controlled by the University regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked.
- E. “Immediate Family” is defined to include the following relatives: spouse, grandparents, grandchildren, parents, step-parents, children, step-children, siblings, uncles, aunts, nieces, nephews, first cousins, parents-in-law, siblings-in-law, children-in-law, and the spouses of any members of the employee's Immediate Family. Immediate Family also includes an individual who has

certified or would meet the certification criteria as a Domestic Partner of an employee as defined in Policy 5-200. This also includes Domestic Partners' parents, siblings, children, and their spouses.

- F. “Acting in the Instruction or Educational Experience” of a student includes, but is not limited to, assigning grades, evaluating clinical performance, serving on the student's graduate committee, awarding scholarships or research opportunities, or in an official capacity providing references or recommendations.
- G. “Official Role” is defined as any role conferred or sanctioned by the University.
- H. “Preceptor” is any individual assigned in the Health Sciences to an Official Role in the health education of a student.
- I. “Student” is any person currently enrolled at the University as a student in any credit-bearing course or any credentialed academic program, as described in Policy 6-500.
- J. “Student Experience” is defined to include a student’s Instruction and Educational Experience and all related experiences as a student at the University of Utah.
- K. “Supervisor” is defined to include direct and indirect supervisors.
- L. “University Representative” includes any Course Instructor, Athletics Coach, Advisor or Mentor, Preceptor, or Supervisor, as defined above, or other person who acts on behalf of the University in regard to any Student or Employee.

IV. Policy

- A. Professional Boundaries with Respect to Immediate Family
 - 1. No person, including any faculty member, athletics coach, advisor, mentor, or preceptor, or other University Representative, may act on behalf of the University as a course instructor or otherwise in any official capacity in the instruction or educational experience of a student who is a member of their Immediate Family.

2. ~~(a)~~ No University Representative or other employee of the University may act on behalf of the University to exercise any direct supervisory authority over another employee who is also a member of their Immediate Family. In addition, a subordinate supervisor may not exercise any direct supervisory authority over another employee who is a member of their direct supervisor's Immediate Family.

3. ~~(b)~~ No person may participate in votes, meetings, discussions, reviews or other decision-making within the University on any matter concerning the terms, conditions or privileges of employment, including but not limited to hiring, appointment or reappointment, retention, promotion, tenure, salary, or discipline, of any member of their Immediate Family or any member of their direct supervisor's Immediate Family.

B. Professional Boundaries in Supervision

1. No University Representative or other employee of the University may act on behalf of the University to exercise any direct supervisory authority over another employee with whom they have, or had within the last five (5) years, a sexual or romantic relationship. In addition, a subordinate supervisor may not exercise any direct supervisory authority over another employee with whom their direct supervisor has, or had within the last five (5) years, a sexual or romantic relationship.

2. ~~(b)~~ No person may participate in votes, meetings, discussions, reviews or other decision-making within the University on any matter concerning the terms, conditions or privileges of employment, including but not limited to hiring, appointment or reappointment, retention, promotion, tenure, salary, or discipline, of any employee with whom they have, or had within the last five (5) years, a sexual or romantic relationship.

C. Professional Boundaries in Academic Instruction and Student Experience of Current Students

1. No University Representative including any faculty member, course instructor, athletics coach, advisor, mentor, or preceptor, may engage in a sexual or romantic relationship with a current student:
 - a. who is in the same academic unit (department or single-department college or equivalent) as the University Representative; or
 - b. for an athletics coach, compliance staff, mentor, advisor, or preceptor of students, who is in their area of responsibility.

2. For this purpose, any student who is currently enrolled in any credit-bearing course offered by, or on record as seeking a credentialed academic program (degree, minor, certificate or other program of study per Policy 6-500) offered by the academic unit, is considered to be a current student in the same academic unit as the University Representative. For those University Representatives who work in Athletics, their area of responsibility is considered to include all of Athletics.

3. No University Representative including any faculty member, course instructor, athletics coach, advisor, mentor, or preceptor, may share any sexually explicit communication, image, or photograph for non-academic reasons with a student currently participating in their class, the same academic unit or otherwise within the representative's area of responsibility.
 - a. Section IV.C.3 does not prohibit a University Representative from sharing a sexually explicit communication, image, or photograph if the material:
 - i. is shared with the student in the context of an academic activity, including but not limited to a class, a research activity, or a lecture; and
 - ii. has a relevant pedagogical connection to the subject of the academic activity.

4. ~~2.~~ No University Representative, including any faculty member, athletics coach, advisor, mentor, or preceptor, may act on behalf of the University as a course instructor or otherwise in any official capacity in the instruction or

educational experience of a current student with whom the University Representative had within the last five (5) years, a sexual or romantic relationship.

D. Preventative Actions and Reporting Obligations

1. To prevent a violation of this Policy:
 - a. With respect to Immediate Family relationships, the supervisor or University Representative (faculty member, course instructor, athletics coach, advisor, mentor, preceptor, or other employee/volunteer) must report the relationship in writing to their supervisor and follow all terms of an approved plan as detailed in part 2 below.
 - b. With respect to employees that had a past sexual or romantic relationship with a supervisor or University Representative within the five (5) years preceding the employment or student experience of the individual, the supervisor or University Representative (faculty member, course instructor, athletics coach, advisor, mentor, preceptor, or other employee/volunteer) must report the past relationship in writing to their supervisor and follow all requirements of an approved plan as detailed in part 2 below.
 - c. The University strongly discourages starting a new sexual or romantic relationship within a supervisory or instructional relationship, because of the intrinsic conflict of interest and risk of harm. Such relationships may be initiated after the supervisory or instructional relationship has clearly ended. In unusual circumstances, with respect to current students and employees with whom a supervisor or University Representative is interested in pursuing a sexual or romantic relationship, before any sexual or romantic relationship begins, the supervisor or University Representative (faculty member, course instructor, athletics coach, advisor, mentor, preceptor, or other employee/volunteer) must discuss the potential relationship with their supervisor, and then, if they do pursue

the relationship, must report the anticipated relationship in writing to their supervisor and follow all requirements of an approved plan as detailed in part 2 below.

- d. In order to prevent a situation in which the subordinate supervisor supervises any member of their direct supervisor's Immediate Family, or anyone with whom their direct supervisor has, or had within the last five (5) years, a sexual or romantic relationship, the employee must report the relationship and follow all requirements of an approved plan as detailed in part 2 below.
2. A supervisor who has received a report under Section IV-C.1 of this Policy will determine whether a reasonable written plan can be developed in consultation with the reporting individual, Human Resources and/or Faculty Affairs (as appropriate), and with the cognizant Dean or Vice President, that removes the individual from any responsibility or influence over the student or employee, including but not limited to reassigning all evaluations (including for salary, awards, scholarships, or other benefits), reporting responsibilities, and grade assignments to other qualified individuals. This includes, but is not limited to, any aspect of the Student Experience (as defined here) and any aspect of the terms, conditions or privileges of employment, including but not limited to hiring, appointment or reappointment, retention, promotion, tenure, salary, or discipline. If such a plan can be developed and is approved by the supervisor and cognizant Vice President/Dean, a copy of the plan signed by the cognizant Vice President/Dean, the supervisor, and the reporting individual must be kept in the reporting individual's employee or other personnel file.

In order to facilitate approvals for (1) relationships that occurred prior to a person becoming a student or an employee, (2) relationships that occurred before a person became a supervisor or University Representative, and (3) family relationships, a standard form will be developed to disclose the relationship and to provide a template for reassigning responsibilities in those situations.

E. Sanctions

Any person who violates the requirements of this Policy or the terms of any written plan developed pursuant to this Policy has engaged in unprofessional behavior, which is cause for discipline under the appropriate University Policy, including Policy 5-111 Corrective Action and Termination Policy for Staff Employees, or Policy 6-316 Code of Faculty Rights and Responsibilities

This policy will be reviewed two years after its passage and regularly thereafter to evaluate its effectiveness as well as its compliance with all relevant guidance and rules.

Sections IV- VII are for user information and are not subject to the approval of the Academic Senate or the Board of Trustees. The Institutional Policy Committee, the Policy Owner, or the Policy Officer may update these sections at any time.

V. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources

- A. Policies/ Rules. [reserved]
- B. Procedures, Guidelines, and Forms.
- C. Other Related Resources. [reserved]

VI. References

[A. Utah Code Title 63G, Chapter 7, Part 3, Waivers of Immunity](#)

[B. ~~A.~~ Policy 1-012: University Non-discrimination Policy](#)

[C. ~~B.~~ Policy 5-001: Employee Definitions](#)

~~[C. Policy 5-105: Employment or Supervision of Immediate Family](#)~~

D. Policy 5-106: Equal Opportunity and Nondiscrimination Employment

E. Policy 5-111: Corrective Action and Termination Policy for Staff

F. Policy 6-400: Code of Student Rights and Responsibilities

G. Policy 6-316: Code of Faculty Rights and Responsibilities

VII. Contacts

The designated contact officials for this regulation are

- A. Policy Owner(s) (primary contact person for questions and advice): HR Director of Employee Relations, Associate Vice Presidents for Faculty and/or Academic Affairs designated by the Senior Vice Presidents for Academic Affairs and Health Sciences.
- B. Policy Officer(s): Senior Vice Presidents for Academic Affairs and Health Sciences, and Chief Human Resource Officer, jointly

See Rule 1-001 for information about the roles and authority of policy owners and policy officers.

VIII. History

- A. Current version. Revision ~~0~~1.
 - 1. Approved by [Academic Senate August 29, 2022 and Board of Trustees](#) ~~May 8, 2018~~[October 11, 2022](#) with Effective Date ~~of October July 11, 2018~~[2022](#).
 - 2. Legislative History for ~~Current Version~~[Revision 1](#)
 - 3. Editorial Revisions
- B. Previous Versions
 - 1. [Revision 0. Effective July 1, 2018](#)
 - 2. ~~4.~~ Previously number as Policy 5-107 Revision 1. Effective March 17, 2004
 - 3. ~~2.~~ Policy 5-107 Revision 0. Effective July 18, 1994
- C. Renumbering

Renumbered from Policy and Procedures Manual 2-6A to Policy 5-107 and then renumbered to Policy 1-020.