

Policy: 2-6A Rev:0

Date: July 18, 1994

Subject: SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS**I. PURPOSE**

To outline the university's policy against sexual harassment and to set forth the university's policy regarding romantic or sexual relationships between a supervisor and an employee or between a faculty member or staff member and a student or between peers in order to foster an academic and work environment free of sexual harassment for students, faculty, staff and participants.

II. REFERENCES

[Policy and Procedures 2-5](#), Employment or Supervision of Immediate Family

[Policy and Procedures 2-6](#), Equal Opportunity and Nondiscrimination Employment

[Policy and Procedures 2-9](#), Termination of Nonacademic Staff and Disciplinary Sanctions

[Policy and Procedures 2-25](#), Employment Grievances

[Policy and Procedures 2-32](#), Discrimination and Sexual Harassment Complaint Procedures

[Policy and Procedures 8-10.10](#), Student Code

[Policy and Procedures 8-12.4](#), Code of Faculty Responsibility

[Policy and Procedures 8-12.5](#), Code of Faculty Responsibility

III. DEFINITIONS**Sexual harassment**

As used in this policy and in [Policies and Procedures 2-32](#), sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment or participation in a university activity;
- (2) submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a university activity; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, living environment, or participation in a university activity.

The free and open discussion of issues or theories relating to sexuality or gender in an academic or professional setting, when appropriate to subject matter, will be presumed not to constitute sexual harassment even if it offends or embarrasses an individual unless other factors are involved. Such factors include targeting the discussion to an individual or carrying out the discussion in terms that are

both patently unnecessary and gratuitously offensive.

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated occurrences generally create a stronger claim, a single occurrence may constitute sexual harassment.

Sexually-related conduct may form the basis of a sexual harassment claim if a reasonable person would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational or employment performance or participation in a university activity or living environment.

Sexual harassment most often occurs when one person has actual or apparent power or authority over another, but that is not always the case. Sexual harassment may occur between males and females and between persons of the same gender.

Faculty or faculty member

As used in this policy, the terms "faculty" or "faculty member" mean all those who teach or conduct research, of any rank, at or under the auspices of the university and include graduate students with teaching or research responsibilities and other instructional personnel.

Participant

As used in this policy, participant means a person, other than a student, faculty or staff member, who is participating or attempting to participate in, or is receiving or attempting to receive the benefits of, any program, service or activity conducted under the sponsorship or auspices of the university, including but not limited to applicants for admission, applicants for employment, patients, clients, spectators, visitors, and volunteers.

Staff or staff member

As used in this policy, the terms "staff" or "staff member" means a person other than a faculty member who receives compensation for work or services from funds controlled by the university, regardless of the source of the funds, the duties of the position, or the amount of compensation paid.

Student

As used in this policy, a student means a person duly registered in any class or program of instruction or training offered by the university at any level, whether or not for credit.

Employee

As used in this policy, the term "employee" refers to faculty and staff.

IV. POLICY

A. Sexual harassment

It is the policy of the University of Utah to maintain an academic and work environment free of sexual harassment for students, faculty, staff and participants. Sexual harassment subverts the educational, research, service and scholarly missions of the university and threatens the careers, educational experience and well-being of students, faculty, and staff. Sexual harassment will not be tolerated at the University of Utah.

Sexual harassment violates the university's policy against discrimination on the basis of sex. Sexual harassment is also illegal. It violates Title VII of the 1964 Civil Rights Act, Title IX of the Educational Amendments of 1972 and Utah's Anti-Discrimination statute.

A claim under this policy may be brought by an administrator acting on behalf of the university or by a faculty, staff member, student or participant in university services based on the conduct of any university employee or student that is related to or in the course of university business. The Office of Equal Opportunity and Affirmative Action (OEO/AA) will handle all alleged sexual harassment matters pursuant to the procedures set forth in Policy and Procedures [2-32](#).

Any student, staff, faculty member, or participant in university services or activities who believes that there is or has been sexual harassment should contact any of the following:

1. the cognizant academic chair of the department or the dean of the college within which the conduct occurred;
2. the immediate supervisor or director of the operational unit within which the conduct occurred;
3. the Human Resources Department;
4. directors or deans of Student Affairs and Services; or
5. the Office of Equal Opportunity and Affirmative Action.

Once informed, the supervisor, chair or dean shall consult with OEO/AA as appropriate. Similarly, OEO/AA shall advise as appropriate the cognizant dean, staff director or administrator of any complaints of sexual harassment OEO/AA receives concerning a member of his/her faculty, staff or student body.

Sexual harassment can be a very serious matter having far-reaching effects on the lives and careers of individuals. Thus the charge of sexual harassment is not to be taken lightly by a charging party, an accused party, or any member of the university community. A person who knowingly and intentionally files a false complaint under this policy will be referred to the appropriate agency within the university for possible disciplinary action as described in [Policy and Procedures 2-9](#) (staff), [8-10](#) (students) and [8-12](#) (faculty).

B. Confidentiality

The confidentiality of all parties involved in a sexual harassment complaint or concern shall be respected insofar as it does not interfere with the university's legal obligation to investigate allegations of misconduct and to take corrective action or as otherwise provided by law.

C. Consensual Relationships

Romantic or sexual relationships between a staff supervisor and a staff member or between a faculty member (or a supervisor or staff member) and a student are generally unwise because of the power imbalance in the relationship. Even when both parties have consented to the development of such relationships, they can raise serious questions about the validity of the consent, conflicts of interest, and unfair treatment of others.

Because the relationship between a faculty member and a student lies at the heart of the academic enterprise, and because this relationship necessarily involves an imbalance of power,

the university believes it important to speak explicitly and directly to some of the potential hazards facing faculty. When the faculty member has any direct professional responsibility for evaluating the student's academic performance or professional future, such as assigning grades, evaluating clinical performance, serving on the student's graduate committee or awarding scholarships, a romantic or sexual relationship between faculty member and student, even a mutually consenting one, will be considered to constitute a violation of this policy and to be a cause for discipline under Policy and Procedures 2-32 unless the situation is remedied by reassigning performance evaluations, reporting responsibilities, or grade assignments to other qualified individuals. Faculty who engage in such consensual relationships and do not take steps to resolve the conflict of interest may be subject to the filing of a complaint under [Policy and Procedures 2-32](#) or under the Code of Faculty Responsibility, [8-12](#).

The respect and trust accorded a faculty member by a student, as well as the power exercised by the faculty member in giving praise or blame, grades, recommendations for further study and future employment, greatly diminish the student's actual freedom of choice should sexual favors be included among the faculty member's other legitimate demands or expectations.

Many of the issues identified here apply equally to other university employees. When a supervisor has any direct supervisory authority over an employee and is at the same time involved in a sexual or romantic relationship with that employee, unless corrective measures are taken, the supervisor is in violation of this policy and may be disciplined under [Policy and Procedures 2-32](#).

Anyone who enters into a romantic or sexual relationship where a professional power differential exists must realize that if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to sustain a defense on grounds of mutual consent. In addition, Utah law may preclude the university from defending and indemnifying an employee in such circumstances.

The university's nepotism policy ([PPM 2-5](#)) precludes individuals from evaluating the work performance of others with whom they have intimate familial relations or from making hiring, salary, promotion or tenure decisions. The same principles apply to consensual relationships in the context of work or academic evaluation.

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