

VII. REPORTS OF STANDING COMMITTEES (CONTINUED)

A. Academic Council (Continued)

5. Proposed Amendments to APM 015 – Faculty Student Relations (Action)

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Proposed Revisions to APM 015 --Policy on Faculty-Student Relationships*

Endorsed by the Academic Council

on

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There is currently a proposal under review by the Academic Senate to modify the Faculty Code of Conduct with regard to faculty-student relationships. In essence, this proposal would prohibit a faculty member from engaging in a romantic or sexual relationship with a student for whom the faculty member has academic responsibility or should reasonably expect to have such responsibility.

What are the origins of this proposal? Twenty years ago, in November of 1983, the UC Academic Assembly passed a resolution on this issue, adopting a position taken by the previous year's University Committee on Privilege and Tenure. The resolution discussed the harmful consequences that ensue when a faculty member initiates a romantic or sexual relationship with a student or acquiesces in the initiation by a current student. The resolution also instructed UCP&T to consider proposing an addition to the Faculty Code of Conduct to give force to this resolution. However, there is no record of such a policy being proposed. In subsequent years, several Divisions adopted positions on romantic or sexual liaisons between faculty and students.

Much later, in 2001, UCP&T proposed (and the Academic Assembly approved) various procedural modifications to the Faculty Code of Conduct. When the revisions to the Code were approved by the Board of Regents, one Regent did inquire about the existence of a UC policy on sexual liaisons between faculty and students. Subsequently, UCP&T considered this question and submitted a draft proposal to the Academic Council, which modified it slightly at its January 03 meeting and again on the basis of the discussion at Academic Assembly in March 03.

A review of policies at other universities in the United States shows a wide variety of enforceable policies regarding sexual and romantic relationships between faculty and students. These policies include (1) strictly prohibiting all sexual or romantic relationships between faculty and either all students or all undergraduate students, (2) prohibiting a faculty member from teaching or supervising any student with whom the faculty member has such a relationship, (3) requiring full disclosure when a faculty member has a relationship with a student, (4) discouraging faculty members from having such relationships with students, and (5) no discernable policy at all.

***For additional background information previously provided to the Assembly, please refer to:**

<http://www.universityofcalifornia.edu/senate/underreview/facrel.pdf>

The American Association of University Professors has expressed considerable concern about such relationships. The AAUP states in part:

"Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect... In their relationships with students, members of the faculty are expected to be aware of their professional responsibilities and to avoid apparent or actual conflict of interest, favoritism, or bias. When a sexual relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision of the student."

The current proposal before the Academic Assembly is adapted from the Yale University Faculty Handbook. It involves two pieces: (1) an addition to the ethical principles governing faculty behavior regarding teaching and students, and (2) the explicit addition of two examples of unacceptable conduct regarding faculty-student relationships. According to the Faculty Code of Conduct, to face disciplinary action, a faculty member's behavior must both violate the ethical principles and harm the University. More specifically, the Code states:

"University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions. The Types of Unacceptable Conduct listed below in Sections A through E are examples of types of conduct that meet the preceding standards and hence are presumptively subject to University discipline."

The procedures and rules by which the University disciplines faculty members are set forth in the Faculty Code of Conduct, the University Policy on Faculty Conduct and the Administration of Discipline (APM 016), and systemwide Senate Bylaw 336 governing how Divisional Privilege and Tenure committees handle disciplinary matters. If a faculty member is found in violation of the Faculty Code of Conduct, then that faculty member can face any of six different disciplinary sanctions, set forth in APM 016 and in the Code, ranging from a letter of censure to dismissal from the University. The only standards of behavior with which faculty members must comply in order to avoid disciplinary action are the standards set forth in the Faculty Code of Conduct.

The actual processes by which faculty face disciplinary action can vary somewhat among the campuses in their early stages, but not when the matter reaches a Privilege and Tenure hearing. What follows is a brief summary of the process. Once charges are filed, a campus administrator delegated with this authority from the Chancellor (usually the EVC) refers the matter to a faculty committee (which is an administratively appointed faculty committee on some campuses or a Divisional Senate committee on other campuses) for investigation. After receiving the recommendation of this faculty committee, the administrator must determine whether there is probable cause to believe that the Faculty Code of Conduct has been violated and if so, which disciplinary sanction would be appropriate. If discipline is proposed, the

matter is referred to the Divisional Privilege and Tenure Committee. Absent a negotiated resolution of the matter, the Divisional P&T Committee establishes a Hearing Committee, which then holds a full, formal evidentiary hearing on the matter. The Hearing Committee may recommend disciplinary action against an accused faculty member only if it finds "clear and convincing evidence" that the faculty member has violated the Code of Conduct, and in that case, the Hearing Committee may recommend a disciplinary sanction no more severe than what was originally proposed. This recommendation goes to the Chancellor, who, depending on the severity of the sanction, either makes a decision or passes on a recommendation to the President of UC for Regental action. APM 016 and Senate Bylaw 334 contain a mechanism to resolve any differences between the Chancellor and the P&T Committee, but in all cases, the Divisional Privilege and Tenure Committee should report agreement or disagreement with the Chancellor to the full Division.

The addition to the ethical principles proposed here raises the concern that a personal relationship of a romantic or sexual nature between a faculty member and a student jeopardizes the integrity of the educational process. It characterizes such relationships as inappropriate even if they are apparently consensual. In proposing this addition to the ethical principles, UCP&T has taken a middle ground between requiring disclosure of such relationships (which does not necessarily guarantee fairness) and forbidding all such relationships with any student (which would not necessarily be broadly supported by the faculty and might consequently be difficult to enforce).

The two additional examples of unacceptable conduct follow from this added ethical principle. One of these prohibits a faculty member from academically supervising a student with whom the faculty member has a pre-existing romantic or sexual relationship. Such supervision would include teaching and grading them in a class and supervising their independent work in an independent study or in thesis research. The other example prohibits a faculty member from entering into a relationship with a student for whom the faculty member either has or should reasonably expect to have in the future an academic instructional, evaluative, or supervisory responsibility.

The clause about reasonably expecting to have future supervisory responsibility is intended to protect the student's future academic career. For example, if in pursuit of a degree, a student must take a course from a faculty member, then it would be irresponsible for a faculty member to enter into a relationship with that student, thereby either jeopardizing that student's ability to take the course or giving the appearance of conflict of interest by the faculty member. One might ask how a faculty member can be held accountable for predicting future responsibilities toward a student. A faculty member teaching a course required of all majors or all graduate students can reasonably expect a major or a graduate student in the department to take that course. In addition, a faculty member who is a specialist in an academic area known to the faculty member to be of interest to a student should expect that student to come under the faculty member's supervision. However, few faculty members could reasonably expect a student enrolled in a different School on campus to take the faculty member's graduate course; similarly, one would not expect a senior majoring in a different field to take one's introductory course in a faculty member's department. Once again, the standard of proof required is clear and convincing evidence, so to be disciplined for violating this clause, there must be clear and

convincing evidence that a faculty member should have reasonably expected to have supervisory responsibility over that student.

Who would be covered by this proposal? Formally, the Faculty Code of Conduct applies to only Senate faculty members, so that this change would affect only members of the Senate. However, we expect that if this proposal is approved, the University will modify its academic personnel policies so that a similar prohibition will apply to other University instructors such as Unit 18 lecturers and teaching assistants.

Under this proposal, precisely with which class of individuals would a faculty member be precluded from having a romantic or sexual relationship? This section of the Code of Conduct defines the term "student" to be all individuals under the academic supervision of faculty. It is understood that faculty have academic responsibility for such persons. However, the prohibition would not apply to faculty relationships with University staff such as administrative assistants or secretaries (who are not under the academic supervision of faculty). Perhaps (in part II C) the Code should be modified to include policies governing faculty sexual relationships with staff, but that change would be dependent on further University initiatives regarding employee-to-employee relationships. The policy would also not apply to fellow faculty members, who are not under the "academic supervision" of their colleagues.

Proposed Amendments to APM 015—The Faculty Code of Conduct

Part II – Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

(Proposed new language underlined)

A. Teaching and Students

Ethical Principles. “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflects each student’s true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.” (AAUP Statement, 1966; Revised, 1987) ~~In this section, the term student refers to all individuals under the academic supervision of faculty.~~

The integrity of the faculty-student relationship is the foundation of the University’s educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Whenever a faculty

member is responsible for academic supervision of a student, a personal relationship between them of a romantic or sexual nature, even if consensual, is inappropriate. Any such relationship jeopardizes the integrity of the educational process.¹

In this section, the term student refers to all individuals under the academic supervision of faculty.

Types of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including:
 - (a) arbitrary denial of access to instruction;
 - (b) significant intrusion of material unrelated to the course;
 - (c) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;
 - (d) evaluation of student work by criteria not directly reflective of course performance;
 - (e) undue and unexcused delay in evaluating student work.
2. Discrimination, including harassment, against a student on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of disability.
4. Use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons.
5. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.
6. **Entering into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future, academic responsibility (instructional, evaluative, or supervisory).**
7. **Exercising academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship.**

¹ This section is modeled on the Yale University Faculty Handbook, XI.B. "Teacher-Student Consensual Relations." (http://www.yale.edu/provost/handbook/handbook_xi_other_university_policies_a.html#T3)