

Utah Tech University Policy

302: Professional Boundaries in Relationships



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I. Purpose

- 1.1 To define the professional boundaries that must be maintained in consensual relationships between:
 - 1.1.1 Utah Tech University (“the University”) students and any University employee or University representative, or
 - 1.1.2 University employees and anyone in their chain of supervision.
- 1.2 To identify what actions should be taken to address situations that violate such professional boundaries.
- 1.3 This policy is meant to encourage student, employee, and University success by fostering an environment that equitably addresses the inherent power dynamics of employment and educational relationships. It is in not meant to interfere with or intrude upon employees’ and students’ private sexual and romantic lives.

II. Scope

- 2.1 This policy applies to all official University employees whether they are full- or part-time, staff or faculty. See Policy 301.

III. Definitions

- 3.1 **Employee:** an individual employed by the University, including all faculty and staff with their associated classifications.
- 3.2 **University Representative:** an individual that is officially recognized by and acts on behalf of the University, but is not classified as an employee.

Examples include official University volunteers or specifically identified independent contractors compensated for services connected to the University.

- 3.3 ***Special Trust Employee***: includes any employee or University representative in a position of authority which enables the individual to exercise undue influence over a subordinate student. This includes faculty members, advisors, Resident Assistants/Managers, mentors, counselors, coaches, athletic managers, Student or Administrative Affairs personnel, etc.
- 3.4 ***Romantic Relationship***: any consensual intimate, romantic, sexual, or dating relationship and/or experience whether casual or serious, short-term or long-term. Platonic friendships, even those of a very close nature, are not romantic relationships.
- 3.5 ***Pre-Existing Romantic Relationship***: any current romantic relationship including marriages and engagements that began before and continued after passage of this policy or began before and continued after the establishment of a student/employee or supervisor/subordinate relationship.
- 3.6 ***Prior/Concluded Romantic Relationship***: any romantic relationship having occurred less than five (5) years in the past, but that is not current.
- 3.7 ***Direct Employee Benefit or Penalty***: any action or decision that affects an employee's or prospective employee's status, benefits, or compensation. Includes but is not limited to employment, retention, promotion, tenure, salary, leave of absence, discipline, and/or award.
- 3.8 ***Direct Student Benefit or Penalty***: any action or decision that affects a student or prospective student's status. Includes but is not limited to grading, scholarship evaluation, and discipline.
- 3.9 ***Disclosure***: a formal written or verbal statement on the existence of a prior/concluded, pre-existing, or current romantic relationship. Such statement need not include intimate and private details, but must be sufficiently specific, particularly with regard to dates, to allow for analysis of policy compliance. See Addendum 7.1 for examples.

IV. Policy

4.1 Professional Boundaries in Employment Relationships

- 4.1.1 Subject to limited exceptions herein, no employee or University representative may engage in any romantic relationship with an

employee within their direct chain of supervision. This may include those subordinates of a secondary, tertiary, or further level. No supervisor shall initiate or participate in University decisions involving a direct employee benefit or penalty to a person with whom that individual currently has, or previously had within the last five (5) years, a romantic relationship.

- 4.1.1.1 For pre-existing romantic relationships between a subordinate and those in their direct chain of supervision, the supervisor must immediately disclose the relationship to their direct supervisor.
- 4.1.1.2 A supervisor should, but is not required to, disclose a prior/concluded romantic relationship. Notwithstanding such non-disclosure, the supervisor must maintain compliance with Section 4.1.1's prohibition on initiating or participating in a direct employee benefit or penalty. This avoidance of prohibited actions may be accomplished informally such as when there are several levels of direct supervision between the supervisor and subordinate. If avoidance of prohibited actions cannot be accomplished informally, the supervisor will be required to disclose the prior/concluded relationship to their direct supervisor.
- 4.1.1.3 After disclosing a romantic relationship, a supervisor will be required to abide by the terms of a written plan to address such romantic relationship, if such a plan may be reasonably approved by the Executive Director of Human Resources in consultation with the General Counsel. Such a plan must remove any direct supervisory authority over the subordinate and exclude the supervisor from initiating or participating in University decisions involving a direct benefit or penalty to the subordinate.
- 4.1.1.4 Should a supervisor, in contravention of this policy, enter into a relationship with an employee within their direct chain of supervision, the supervisor must immediately report such conduct to their direct supervisor. Such conduct may be grounds for corrective or disciplinary action, and failing to report may be grounds for disciplinary action, up to and including termination.

4.2 Professional Boundaries in Educational Relationships

4.2.1 No employee or University representative that occupies a position of

a special trust employee to that undergraduate or graduate student may engage in any sexual conduct with that student or engage in sharing of any sexually explicit or lewd communication, image, or photograph.

- 4.2.2 Subject to limited exceptions detailed in Section 4.2.4.3, no employee or University representative may engage in a romantic relationship with any University undergraduate student:
 - 4.2.2.1 Who is enrolled in courses or majoring in a subject within the employee or University representative's academic college or school.
 - 4.2.2.1.1 This includes employees and University representatives that teach in such college or school as well as administrators and support staff.
 - 4.2.2.2 For whom the employee or University representative serves as an Academic Advisor, Resident Advisor, Resident Manager, or Mentor.
 - 4.2.2.3 Who is a student-athlete when that employee or University representative works or volunteers in the Athletic Office.
 - 4.2.2.4 If that employee is at the Assistant Director level or above as reflected in the employee's job description.
 - 4.2.2.5 If that employee or University representative works within the University Office of General Counsel or University Public Safety.
- 4.2.3 No employee or University representative shall initiate or participate in University decisions involving a direct benefit or penalty to a student with whom that individual has, or has had within the last five (5) years, a romantic relationship.
- 4.2.4 Student Employees and Work-Study Employees (see Policy 310 for definitions) shall not be subject to the prohibition on romantic relationships with other students. However, students employed in positions such as Resident Advisors, Resident Managers, or Teaching Assistants may not engage in a romantic relationship with any University student for whom they occupy an official University position of authority.
- 4.2.5 For pre-existing romantic relationships between an employee or University representative and a University student, the employee or

University representative must immediately disclose the relationship to their direct supervisor.

- 4.2.5.1 An employee or University representative should, but is not required to, disclose a prior/concluded romantic relationship with a University student. Notwithstanding such non-disclosure, the employee or University representative must maintain compliance with Section 4.2.1's prohibition on initiating or participating in a direct student benefit or penalty. This avoidance of prohibited actions may be accomplished informally such as when the employee or University representative does not teach the student. If avoidance of prohibited actions cannot be accomplished informally, the employee or University representative will be required to disclose the prior/concluded relationship to their direct supervisor.
- 4.2.5.2 After disclosing a pre-existing or prior/concluded romantic relationship with a University student, an employee or University representative will be required to abide by the terms of a written plan to address such romantic relationship, if such a plan may be reasonably approved by the Executive Director of Human Resources in consultation with the General Counsel. Such a plan must exclude the employee or University representative from initiating or participating in University decisions involving a direct benefit or penalty to the student.
- 4.2.5.3 Absent extenuating circumstances warranting special consideration, no plan regarding a current romantic relationship between an employee or University representative and a prohibited University student that was not pre-existing will be approved.
 - 4.2.5.3.1 No exceptions will be granted when the employee or University representative occupies a position of a special trust employee to that student.
 - 4.2.5.3.2 An employee or University representative seeking to obtain an exception for a not pre-existing current romantic relationship due to such extenuating circumstances may make a request following the same procedure for disclosing a pre-existing or prior/concluded relationship. An employee or

University representative shall not, in reliance on a future exception, knowingly enter into a prohibited relationship.

4.2.5.3.3 Employees or University representatives seeking to obtain an exception for a contemplated future romantic relationship due to such extenuating circumstances may make a preemptive request following the same procedure for disclosing a pre-existing or prior/concluded relationship.

4.2.5.3.4 Exceptions will be granted on a case-by-case basis taking into account any relevant facts and circumstances.

4.2.5.4 Should an employee or University representative, in contravention of this policy, enter into a relationship with a University student, the employee or University representative must immediately report such conduct to their direct supervisor. Such conduct may be grounds for corrective or disciplinary action, and failing to report may be grounds for disciplinary action, up to and including termination.

4.3 Violations of this policy will be subject to action pursuant to Policy 372 and/or Policy 371 and/or Policy 373.

4.3.1 Violations of this policy and attendant discipline, if any, will be evaluated on a case-by-case basis by the Executive Director of Human Resources and the General Counsel.

4.3.1.1 An employee or University representative's lack of knowledge about the other party's status as a subordinate or student will be considered when making such an evaluation.

4.3.2 Violations of this policy may also, but do not necessarily, constitute violations of Policy 154 and/or Policy 157.

V. References

5.1 University Policy 154: Title IX, Harassment and Nondiscrimination

5.2 University Policy 157: Personal Conduct/Conflict of Interest

5.3 University Policy 301: Personnel Definitions

5.4 University Policy 303: Employment of Relatives/Nepotism

- 5.5 University Policy 310: Part-Time Employment
- 5.6 University Policy 371: Faculty Termination
- 5.7 University Policy 372: Corrective and Disciplinary Action
- 5.8 University Policy 373: Termination and Reduction of Workforce
- 5.9 Utah Board of Higher Education Policy R954, Sexual Harassment and Consensual Relationships
- 5.10 State of Utah Code, Section 63G-7 (Governmental Immunity Act of Utah)

VI. Procedures

- 6.1 In order to provide adequate notice for employees or University representatives with prior/concluded, pre-existing, or current romantic relationships, any disclosures required by this policy will not be due before June 1, 2019. Relevant prohibitions on initiating romantic relationships, however, will be enforced as of the date of enactment.
- 6.2 A supervisor that receives a report of a prior/concluded, pre-existing, or current romantic relationship shall report the relationship to the Executive Director of Human Resources who, in consultation with the General Counsel, will determine whether a reasonable plan may be developed to address the effect of the relationship on the subordinate employee or student. Such a plan must remove the employee or University representative from any responsibility or influence over the employee or student. At a minimum, the plan will require the employee or University representative to affirmatively acknowledge understanding of relevant University policy and exclude the employee or University representative from initiating or participating in any direct employee or student benefit or penalty. The plan may also include additional requirements as determined to be necessary by the Executive Director of Human Resources and the General Counsel. Any request for an exception due to extenuating circumstance pursuant to Section 4.2.3.1 must also be approved by the employee or University representative's Vice President or President's direct report.
 - 6.2.1 If such a plan can reasonably be developed and it is approved by the employee or University representative's direct supervisor, the Executive Director of Human Resources, the General Counsel, and the relevant Vice President or President's direct report, a written copy of the plan will be provided to the employee or University representative and documented with Human Resources. Such a plan,

in and of itself, will not be considered a corrective or disciplinary record. However, if a policy violation is discovered pursuant to this process and discipline is assessed, any documentation related to that violation will be considered a disciplinary record and part of the employee's personnel file.

- 6.2.2 A template Relationship Management form is available from the Office of General Counsel and may be used and adapted as necessary in developing such a plan. See Addendum 7.2.
- 6.3 With the exception of confidential employees identified in Policy 154, all University employees are considered mandatory reporters for the purposes of Title IX compliance. If a disclosure or subsequent meeting with a disclosing employee or University representative includes facts sufficient to raise the suspicion that sexual harassment or sexual assault, as described in Policy 154, has occurred, such facts must be reported to the Title IX Director.
- 6.4 Employees are required to acknowledge their understanding of this policy in writing with Human Resources as a new hire, with training to occur on an annual basis.

VII. Addenda

- 7.1 Sample Disclosure Forms
- 7.2 Relationship Management Plan Form
- 7.3 Employee Compliance & Acknowledgement Form

Policy Owner: Executive Director of Human Resources
Policy Steward: Human Resources, General Counsel

History:

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