

North Dakota State University

Policy Manual

SECTION 162.1 CONSENSUAL RELATIONSHIPS

SOURCE: Faculty Senate

1. CONSENSUAL RELATIONSHIPS that are of concern to North Dakota State University are those romantic or sexual relationships in which both parties appear to have consented, but where there is a definite power differential within the University between the two parties. These relationships are of concern for two reasons.
 - 1.1 First, there is a potential conflict of interest when individuals evaluate the work or academic performance of other individuals with whom they have intimate relationships. It is a generally accepted ethical principle in our society that one avoids situations in which one makes official evaluations of relatives, family members, spouses, or other persons with whom one has an intimate relationship. Such a relationship combined with a responsibility for evaluation is considered a "conflict of interest." In a university, examples of such evaluations are the assignment of grades, and participation in decisions to hire, retain, promote, discipline or determine salaries.
 - 1.2 Second, any relationship involving a power differential has the potential for serious consequences because the relationship may exist only as a result of the power differential. This may lead to sexual harassment charges at a later time.
2. Consenting romantic and sexual relationships between *instructor* (meaning all who teach at the University—faculty members, other instructional personnel, and graduate or undergraduate students with teaching, advising, or tutorial responsibilities) *and student* (meaning any person studying with or receiving advising from the instructor); between *supervisor* (meaning any person in a position of authority over another—to hire and fire, to grant raises and oversee task performance) *and employee* (meaning any person working for the supervisor); and between employee and student (where there is an instructional, advisory, or an employment relationship between them) have the potential for extremely serious consequences and ought to be avoided. This list is not all-inclusive, but gives examples of the types of relationships that are covered by this policy.
3. Codes of ethics for most professional associations forbid professional-client sexual relationships; the relationships enumerated above should be viewed in this context. In the case of instructor and student, for example, the respect and trust accorded the instructor by the student, as well as the power exercised by the instructor in giving grades, thesis advice, evaluations, and recommendations for further study and future employment, may greatly diminish the student's actual freedom of choice concerning a romantic or sexual relationship.
4. Because of the possible difficulties associated with the power differential and because of potential conflicts of interest, North Dakota State University discourages all such consensual relationships. **HOWEVER, IF A ROMANTIC OR SEXUAL RELATIONSHIP EXISTS OR DEVELOPS BETWEEN INDIVIDUALS HAVING A POWER DIFFERENTIAL WITHIN THE UNIVERSITY, THE PERSON WITH GREATER POWER SHALL REPORT IT TO AN APPROPRIATE SUPERVISOR.** For example, an instructor shall report the matter immediately to the department chair; a teaching assistant shall report it to the professor in charge of the course; and an employee shall report it to his/her supervisor. In each

case, the administrative supervisor shall make suitable arrangements for the objective evaluation of the student's, employee's, or prospective employee's academic or job performance and for the protection of individual and University interests.

5. All instructors, supervisors, and other employees should understand that there are substantial risks in consenting relationships where a power differential exists. Even if the conflict of interest issues are resolved, charges of sexual harassment may develop. An instructor's or supervisor's protection under state law and representation by the Attorney General may not apply because such relationships may be outside the scope of one's employment. Furthermore, in administrative actions or lawsuits resulting from allegations of sexual harassment, consent may be very difficult to prove where a power differential exists. Even relationships in which there is no direct power differential may cause difficulties because faculty or staff engaged in such a relationship may, in the future, be placed in a position of responsibility for the student's or employee's instruction or evaluation.

HISTORY:

New	October 11, 1993
Housekeeping	February 14, 2011