

CONSENSUAL SEX AND AMOROUS RELATIONS POLICY

Category: Equity and Campus Diversity
Responsible Office: Equity and Campus Diversity Office

Date Established: 07/29/1997
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POLICY**Policy Statement**

Students should be free to develop relationships that supplement formal classroom instruction, and employees should be free to develop friendships and engage in social contact with supervisors and fellow employees. In most cases, social interaction among supervisors and employees, fellow employees, faculty and staff members, and students will benefit the academic community by promoting the interchange of ideas, building mutual trust and respect, facilitating communication, and reducing misunderstandings.

However, when a person in a position of power and authority abuses or appears to abuse that position, mutual trust and respect are lost, and the academic environment suffers. Buffalo State University faculty, staff members, and supervisors exercise power and authority over Buffalo State University students and employees over whom they have current or potential evaluative, supervisory, instructional, or other professional responsibility. This inherent power imbalance makes consent within any sexual or amorous relationship between a supervisor and employee or between a faculty or staff member and student suspect and may impede the real or perceived freedom of the student or employee to terminate thereafter or otherwise alter the relationship. The relationship may create real or apparent impropriety, loss of objectivity, and a conflict of interest in any evaluative, supervisory, instructional, or other professional role that the faculty or staff member may have or may develop in relation to the student or employee and may expose the individual faculty or staff member, as well as Buffalo State University, to possible legal charges and liability. Therefore, to avoid the breakdown of mutual trust and respect, which may result within the academic community from such sexual or amorous relationships, **it is the policy of Buffalo State University:**

Commencement, upon either person's initiative, of a sexual or amorous relationship between a Buffalo State University faculty or staff member and a student with respect to whom such faculty or staff member has current professional responsibility shall be prohibited. Any Buffalo State University faculty or staff member who nevertheless engages in a sexual or amorous relationship shall be required to remove him or herself from any evaluation of the student and from any activity or decision that may or may appear to reward, penalize, or otherwise affect the student or student employee, and to take appropriate action otherwise to minimize any potential preferential or adverse consequences to the student, or to other members of the University community from any such sexual or amorous relationship. It shall also be the responsibility of the administrative head of the faculty or staff member's academic or administrative unit, if he or she is aware or made aware of the relationship, to ensure that the foregoing steps are taken.

- In addition to being required to take the foregoing steps, any faculty or staff member who engages in a sexual or amorous relationship with a student or student employee shall be subject to, but not limited to, counseling, reprimand, probation, suspension, and discharge, or other action consistent with applicable collective bargaining agreements, contracts, and procedures.

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- A student shall not be subject to sanction for such a relationship. A student employee may be transferred from the position to a similar position without demotion or other adverse effect on the benefits, terms, or conditions of employment and making alternative arrangements, if feasible, to prevent interference with educational opportunities, which gives the faculty or staff member current professional responsibility for the student.
- If such a relationship exists or existed before any current professional responsibility arose for the faculty or staff member in relation to the student, the faculty or staff member shall be prohibited from thereafter undertaking professional responsibility for the student with whom she/he has or has had a sexual or amorous relationship. In no case, however, shall such prohibition result in a demotion or otherwise adversely affect the benefits, terms, or conditions of employment. In the case of the student, reasonable alternative arrangements shall be made, if feasible, to prevent interference with educational opportunities. Sexual or amorous relationships between a faculty or staff member and a student to whom the faculty or staff member does not have a current professional responsibility are **strongly discouraged**.
- Sexual or amorous relationships between a supervisor and a non-student employee to whom such supervisor has current or reasonable foreseeable professional responsibility are **strongly discouraged**. Where such a relationship exists, previously existed, or develops, it shall be the responsibility of the supervisor and their supervisor to remove the supervisor from any evaluation of the employee and from any activity or decision which may or may appear to reward, penalize, or otherwise affect the employee, and to take appropriate action otherwise to minimize any potential preferential or adverse consequences to the employee or to other members of the University community from any sexual or amorous relationship. An employee shall not be subject to sanction for such a relationship but may be removed or transferred from a position (without demotion or adverse effect on the employee's benefits, terms, or conditions of employment), which gives the supervisor the power to evaluate, reward, penalize, or otherwise affect the employee.
- If a student or employee makes a complaint of sexual harassment against a faculty or staff member or supervisor that arises from a sexual or amorous relationship between the faculty or staff member and the student or employee, the faculty or staff member or supervisor charged with sexual harassment shall have the burden of proving by a preponderance of the evidence that the relationship was entirely consensual and uninfluenced by the faculty or staff member's or supervisor's professional relationship with the complainant. If a sexual harassment complaint is made by a third person with respect to the sexual or amorous relationship of a faculty member or supervisor to a student or employee who is not the complainant, consent to the relationship between the faculty member or supervisor and the student or employee shall not constitute a defense to the third person's complaint, insofar as the allegations concerning the relationship between the faculty member or supervisor and student or employee support the complaint of the third person.

Grievance Procedure

As appropriate/needed: This policy with respect to sexual and amorous relations should be enforced consistently but with a high degree of flexibility and discretion, with minimal intrusion upon the personal privacy of the participants and with initial reliance upon confidential counseling with an appropriate professional. Any decision to impose sanctions should be made in light of the policy considerations set forth in the policy guidelines above as they apply to the particular circumstances being considered. Any person may make an inquiry or request for consultation to the Equity and Campus Diversity Office concerning an alleged violation of this policy, and any person may file a

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complaint alleging a violation of this policy with the Equity and Diversity Office, pursuant to the Buffalo State University Grievance Procedure for Review of Allegations of Discrimination. Complaints are filed in the Equity and Campus Diversity Office.

RELATED INFORMATION

Documents and Forms:

[Charge of Discrimination Complaint Form](#)

[Discrimination Complaint Procedure](#)

Related Links:

[Equity and Campus Diversity Office](#)

CONTACT INFORMATION

Equity and Campus Diversity Office
Cleveland Hall, Room 517
1300 Elmwood Avenue
Buffalo, NY 14222

Phone: (716) 878-6210

Fax: (716) 878-6234

Website: <http://equity.buffalostate.edu/>

Email: eeoequity@buffalostate.edu

REVISION HISTORY

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Brief description of edit: Updated to new format

Date of change: 05/27/2016

Brief description of edit: Reformatted to standard template

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Brief description of edit: Updated campus designation of the university and reformatted to a standard template.

APPROVAL

State University of New York Office of General Counsel