The Board of Trustees policy on [*Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation*](http://www.maine.edu/about-the-system/board-of-trustees/policy-manual/section402/)prohibits sexual harassment of any kind between members of the University of Maine System community.

There are situations in which seemingly consenting relationships may constitute sexual harassment. When a professional power differential exists between members of the University of Maine System and a romantic or sexual relationship develops, there is a potential for abuse of that power, even in relationships of apparent mutual consent. Faculty and staff members are strongly advised not to engage in such relationships. Further, the University prohibits the abuse of power in romantic or sexual relationships.

To assure that power is not abused and to maintain an environment free of sexual harassment, a faculty or staff member must eliminate any current or potential conflict of interest by removing himself or herself from decisions affecting the other person in the relationship. Decisions affecting the other person include grading, evaluating, supervising, or otherwise influencing that person’s education, employment, housing, or participating in athletics or any other University activity. These guidelines explain the responsibilities of faculty or staff who may become involved in such a relationship and the responsibilities of campus administrators, supervisors, and Equal Opportunity Officers once there is a reasonable basis to believe that a consenting relationship may exist.

# ****Types of Relationships Covered****

To fall within these consenting relationship guidelines, a relationship must:

1. Appear to be consensual, and

2. Be romantic or sexual in nature, and

3. Develop between two individuals one of whom has power or authority over the other.

A consenting relationship is one between two adults, both of whom appear to freely choose to enter into and continue a romantic or sexual relationship. The policy strongly discourages consenting relationships when one of the participants has power of authority over the other, but does not prohibit them outright. The University discourages such consenting relationships because the power differential creates a strong possibility that the relationship may not be truly consensual, or if consensual may not permit a later decision by the person with less power to discontinue the relationship out of concern for the possible effect on his or her employment or educational status.

If one of the individuals involved does not welcome the relationship, it should be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct. Relationships which are not consensual are prohibited under the Board of Trustees policy on [*Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation*](http://www.maine.edu/about-the-system/board-of-trustees/policy-manual/section402/). Consenting relationships that may result in complaints of sexual harassment or sexual favoritism and that create a conflict of interest include, for example, those between:

* A faculty member and student who is enrolled in the faculty member’s course, who is enrolled in a program for which a course taught by the faculty member is a requirement, who is an advisee of the faculty member, or whose academic work is being supervised by the faculty member;
* A faculty or staff member and a student if the faculty or staff member is in a position to evaluate or otherwise influence the student’s education, employment, housing, or participation in athletics or any other University activity (staff members include, for example, graduate assistants, administrators, coaches, advisors, program directors, counselors, health center staff, and residential life staff);
* A supervisor and an employee under that person’s supervision; a department chair and a faculty member in the same department; an administrator and a faculty or staff member in a department under that administrator’s direction;
* A tenured faculty member and an untenured faculty member if the tenured person participates in peer recommendations about the untenured person.

Consenting relationships between two co-workers, two faculty or staff members in different departments, two students, and a faculty or staff member and student between whom no professional power differential exists and which are welcomed by both parties involved are not subject to these guidelines.

# ****Why Consenting**** Relations are Regulated

Positive relationships between faculty and other staff and students, and between supervisors and their employees enrich the University environment and should be strongly encouraged. It is also natural that academic or employment-related interactions between some individuals may lead to personal friendships, which do not pose problems as long as they do not create a conflict of interest that could cloud academic or employment decisions. The guidelines on consenting relationships are in no way intended to chill the development of constructive relationships between individuals one of whom has power or authority over the other. However, romantic or sexual relationships are fundamentally different and raise serious concerns.

A consenting romantic or sexual relationship between a faculty or staff member and a subordinate student or employee may be exploitative in nature, leads to a conflict of interest for the person who is in the position of power, and can affect the environment for other students, faculty, or staff members, or the manner in which they are treated. The sexual or romantic relationship, per se, is not the problem; rather the problem is the conflict of interest and the potential discriminatory or damaging impact of the relationship when a power differential is involved.

Codes of ethics for most professional associations forbid professional-client sexual relationships. These codes offer guidance in the University setting. Student respect for and trust in faculty and other staff greatly restrict their actual freedom to reject sexual advances, and make them vulnerable to unintentional sexual exploitation. The power of faculty and other staff to give or withhold rewards such as praise, grades, and recommendations further limits the extent to which a sexual relationship between faculty and staff and student can be considered consensual. Even if a subordinate student or employee does not appear to object to participation in a sexual relationship, this does not mean that the individual welcomes the relationship. The student fearing adverse consequences from noncompliance may feel compelled to enter into or to continue an undesired intimate relationship with a faculty or other staff member. There are similar problems with an apparently consenting relationship between supervisor and employee.

Consenting relationships involving a power differential also pose serious liability for the University under the standards used by the courts in judging cases of quid pro quo sexual harassment. (In quid pro quo harassment, a supervisor or faculty member who makes unwelcomed sexual demands of a subordinate employee or student bases tangible job or educational rewards or penalties on whether the subordinate submits to the sexual request.) Additionally, a third party may claim that the participant in a consenting relationship received preferential treatment and may file a complaint of sex discrimination against the faculty member or supervisor.

# ****Policy Implementation****

1. Responsibilities of faculty and staff

Faculty and staff are strongly encouraged to avoid any romantic or sexual relationship with a student or employee over whom they have any authority. If a faculty or staff member does become romantically or sexually involved with a subordinate student or employee, the faculty or staff member must remove himself or herself from any decisions affecting the other person as soon as practicable in order to avoid a conflict of interest and the potential for sexual harassment or sexual favoritism. The faculty or staff member may consult with the campus Equal Opportunity Officer and should speak with his or her supervisor about appropriate ways to transfer such responsibilities. Even if the relationship is terminated, it may be necessary for the faculty or staff member to avoid any role in future decisions affecting the other person to avoid a perceived or actual conflict of interest or a claim of sexual harassment.

A faculty or staff member who fails to disclose his or her involvement in a consenting relationship with a subordinate student or employee to his or her supervisor, or who fails or refuses to remove himself or herself from decisions affecting the other person will be subject to disciplinary action.

Evidence of a pattern of consenting relationships between a faculty or staff member and subordinate students or employees may subject the faculty or staff member to disciplinary action.

Faculty and staff members are urged to be sensitive to the possibility that a consenting relationship which presently involves no power differential becomes problematic if they are unexpectedly placed in a position of responsibility for the student or employee with whom they have become involved.

2. Responsibilities of administrators, supervisors, and Equal Opportunity Officers

Universities should make reasonable efforts to ensure that all faculty and staff members receive a copy of the [*Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation*](http://www.maine.edu/about-the-system/board-of-trustees/policy-manual/section402/) policy.

In each situation involving an apparent consenting relationship, a determination about what measures are appropriate should be made on a case-by-case basis from the facts of the particular situation. However, the following guidelines should normally be followed:

In general, the law holds the University responsible for sexual harassment about which it knew or should have known. Consequently, information about apparently consenting relationships that comes to the attention of a supervisor, administrator, or Equal Opportunity Officer must be investigated to protect the University from a potential charge that it knew or should have known about unwanted sexual conduct or a relationship which turned out to be nonconsensual. Although it is not necessary to explore every rumor alleging a consenting relationship, rumors which form a reasonable basis for believing that an alleged relationship exists that is subject to University policy should be investigated.

An administrator or supervisor who has a reasonable basis to believe that an alleged romantic or sexual consenting relationship is occurring that is covered by University policy must therefore immediately consult with the campus Equal Opportunity Officer. The purpose of this consultation is to allow for a joint assessment of the situation and a decision about who will be responsible for reviewing it. If there is any indication that the alleged relationship may not be welcome to either of the participants, the Equal Opportunity Officer should normally conduct the review to determine whether sexual harassment may have occurred. If the alleged relationship appears to be consenting but presents a conflict of interest for one of the participants, an appropriate supervisor, administrator, or Human Resources staff member should normally conduct the review to determine whether a conflict of interest exists. An appropriate University official should meet with the faculty or staff member to:

1. Determine to the extent possible whether a romantic or sexual relationship exists, explore whether it appears to be consensual, and determine whether a conflict of interest exists,
2. Inform the faculty or staff member of his or her responsibilities under University policy,
3. Explore and assist with options for the appropriate transfer of responsibility for the subordinate student or employee.
4. Encourage the faculty or staff member to terminate the current relationship, if appropriate, and/or to avoid such relationships in the future, and
5. Follow-up to ensure that the transfer of responsibility occurs.

A University official who is reviewing an alleged consenting relationship that poses a conflict of interest and who receives information that the relationship may not be welcome to one of the participants should immediately contact the Equal Opportunity Officer. If there is a reasonable basis to believe that the relationship is not consensual for one of the individuals, the Equal Opportunity Officer should meet with that person.

If a faculty or staff member fails to promptly disclose a relationship or fails or refuses to remove himself or herself from decisions affecting the other person as soon as practicable, the Equal Opportunity Officer, administrator, or supervisor will review whether disciplinary action may be necessary and will make his or her recommendation to the appropriate University administrator.

November, 2014