

**RESOLUTION FROM THE FACULTY AFFAIRS COMMITTEE
OF THE FACULTY SENATE
PROPOSED FOR ADOPTION AT A MEETING OF THE
FACULTY SENATE TO BE HELD ON
March 2, 2015**

WHEREAS, under Article III, Section 2.G. of the Bylaws of the Faculty Senate, the Faculty Affairs Committee of the Faculty Senate “is responsible for reviewing proposed revisions and recommending changes to the *Faculty Handbook* in accordance with the amendments procedures set forth in the *Faculty Handbook*,” and for reviewing proposed revisions and recommending changes to the *Manual for Faculty Evaluation* in accordance with the amendments procedures set forth in the *Manual for Faculty Evaluation*,” and

WHEREAS, amorous and/or sexual relationships between faculty and students can be damaging to the student, expose the faculty member and the University to charges of sexual harassment, and compromise the learning atmosphere; and

WHEREAS, the numbering of the sections in Section 2 of the *Faculty Handbook* is inconsistent with the other sections; and

WHEREAS, under Section 8.3 of the *Faculty Handbook*, the Faculty Senate Faculty Affairs Committee “is responsible for recommending changes, which should have input from the chancellor, the vice president, and their administrative staff including deans for consideration by the Faculty Senate Executive Council and final consideration by the full Faculty Senate;” and

WHEREAS, the Faculty Senate Faculty Affairs Committee has reviewed and sought consideration by the Faculty Senate Executive Council on the various sections of the *Faculty Handbook* and the *Manual for Faculty Evaluation* related to this issue;

THEREFORE, BE IT RESOLVED THAT Section 2 of the *Faculty Handbook* for The University of Tennessee, Knoxville, be amended and restated as set forth below (with existing language underlined and deleted language struck through):

- ~~2.11~~-2.1.1 Academic Freedom
- ~~2.12~~-2.1.2 Tenure
- ~~2.13~~-2.1.3 Freedom as a Citizen
- ~~2.21~~-2.2.1 The Importance of Scholarship
- ~~2.22~~-2.2.2 Teaching
- ~~2.23~~-2.2.3 Research / Scholarship / Creative Activity
- ~~2.24~~-2.2.4 Service
- ~~2.25~~-2.2.5 Professional Conduct

2.2.6 Relationships With Students

2.2.6.1 Definitions. This policy applies to all faculty as defined in chapters 3 and 4 of the *Faculty Handbook*, whether employed full-time or part-time, whether paid or unpaid. For the purpose of this policy, “relationship” includes any amorous or sexual conduct, whether occurring one time, occasionally, or regularly. Amorous conduct is defined to be those behaviors that are distinct from sexual actions and yet indicate a special relationship that is outside of the accepted norms for teacher-student relationships. Colleges, departments, offices, or other units may impose more restrictive policies governing relationships with students, which shall take precedence over this policy except to the extent such policies violate any Board of Trustees policy or conflict with law.

2.2.6.2 Purpose. The purpose of this policy is to preserve the trust and respect that are essential to the faculty-student relationship and the instructional mission of the University of Tennessee. Trust and respect are diminished when a person in a position of authority abuses – or appears to abuse – his or her power. Faculty members are in positions of authority and exercise power over students in many ways, whether in giving praise or criticism, evaluating academic or clinical work, evaluating research, making recommendations for further studies or future employment, or in many other subtle expressions of authority over students. An amorous or sexual relationship with a student greatly increases the potential for a faculty member’s abuse of power because of the inherently unequal status of the persons involved in the relationship. Even in cases where such a relationship begins with the mutual consent of the participating persons, it can result in exploitation of the student or the creation of a hostile learning or work environment for the student. Other students and employees may also be adversely affected by the amorous or sexual relationship because the faculty member is positioned to favor or advance one student’s interest at the expense of others. In all such cases, the trust and respect essential to the university’s instructional mission are diminished.

2.2.6.3 Prohibited Relationships. Amorous or sexual relationship between a faculty member and a student are prohibited when the faculty member has professional authority over, or responsibility for, the student. This professional authority or responsibility encompasses both instructional and non-instructional contexts as defined below:

1. *Relationships in the Instructional Context.* A faculty member shall not have an amorous or sexual relationship (consensual or otherwise) with a student who is simultaneously enrolled in a course being taught by the faculty member or whose academic or work performance is subject to supervision or evaluation by the faculty member. The instructional context includes not only classroom teaching and direct instruction, but also academic advising, mentoring, or tutoring.
2. *Relationships outside the Instructional Context.* Outside the instructional context, a faculty member shall not take any action or make any decision that may reward or penalize a student with whom he or she has, or has had, an amorous or sexual relationship. Faculty members must be especially cautious to avoid taking any action that rewards or penalizes the student, or influences others responsible for taking such action.

A faculty member violates this policy by engaging in an amorous or sexual relationship with a student over whom he or she has authority or professional responsibility, even when both parties have consented (or appear to have consented) to the relationship or conduct.

2.2.6.4 Consensual Relationships. Relationships that do not fall under the prohibition in 2.2.6.3, above, even if they appear to be consensual, are strongly discouraged. Voluntary consent by a student to an amorous or sexual relationship with a faculty member is inherently suspect, given the fundamentally asymmetrical nature of the relationship. Furthermore, conduct that begins as consensual can become

non-consensual at any time. Even when both parties initially consent to particular conduct, past consent does not preclude a finding of sexual harassment if the conduct was unwelcome (the standard for sexual harassment) or if later conduct was unwelcome. Moreover, conduct that is *consensual* for purposes of criminal statutes, may be nonetheless *unwelcome* and therefore may constitute a violation of the University policy prohibiting Sexual Harassment (HR0280) or the UTK/UTIA Sexual Misconduct and Relationship Violence Policy.

2.2.6.5 Disciplinary Sanctions. When a faculty member is found to have violated this policy, an appropriate sanction, up to and including termination, will be imposed pursuant to the disciplinary procedures applicable to faculty (Board policies, this Faculty Handbook, and HR policies). Disciplinary sanctions may be appealed through any applicable appeal procedures.

2.2.6.6 Administrative Actions. Before – or in addition to – any disciplinary sanctions, University officials may take administrative actions (in consultation with the Chief Academic Officer) for any of the following or similar reasons: to ensure the safety of any person; to protect the integrity of an academic course or other program; to end or prevent a hostile learning or work environment; to end or prevent retaliatory conduct; or for any other reason required to comply with state or federal law. Administrative actions may include (but are not limited to): temporary administrative leave pending investigation of an alleged violation of this policy; temporary reassignment of courses; temporary reassignment of research projects; or temporary removal from campus. Any such administrative action may be appealed through the applicable appeal process, but the administrative action will not be held in abeyance during the appeal.

2.2.6.7 Reporting Violations of the Policy: Faculty members who have knowledge of a possible violation of this policy are encouraged to report that concern to the Office of Equity and Diversity (OED) for review or investigation. Certain conduct described in this policy may also trigger a mandatory reporting obligation: (a) if the involved student is a minor; (b) if the conduct appears to violate the UTK/UTIA Sexual Misconduct and Relationship Policy; or (c) if reporting is otherwise required by law or University policy. In the case of uncertainty about the reporting obligation, OED officials may be consulted without providing personally identifiable information in order to clarify the reporting obligation, or to get more information about how OED might handle a possible violation of this policy.

2.2.6.8 Retaliation Prohibited. Retaliation is prohibited against any person who reports possible violation of this policy or related policies. Retaliation is also prohibited against any person who participates in an OED investigation. Faculty members who have reason to suspect that the prohibition against retaliation has been violated or are the objects of retaliation themselves are directed to contact the OED.