

3364-25-65 Consensual romantic and/or sexual relationships.**(A) Policy statement**

The university seeks to ensure that consensual romantic and/or sexual relationships between and among faculty, staff, students, residents, interns, and fellows do not interfere with the operations of the university or compliance with the law.

(B) Purpose

To explain the university's position on consensual romantic and/or sexual relationships among and between its faculty, staff, students, residents, interns, and fellows.

(C) Scope

This policy covers all university faculty, staff, students, residents, interns, and fellows.

(D) Policy

- (1) Romantic and/or sexual relationships between individuals in a supervisory, teaching, evaluation, advising, coaching, or counseling relationship might constitute a conflict of interest. Faculty/staff and other regular employment appointments within the university of Toledo have an inherent institutional power which can differ in instances involving students. The person in the position of higher institutional authority has the responsibility to disclose and/or work with university officials to eliminate any conflict of interest. The conflict of interest must be eliminated in a way which minimizes potential for harming the person with lower institutional authority.
- (2) If a faculty/staff member with higher institutional authority has supervisory responsibility over a student and or staff with whom he or she is having or has had a romantic and/or sexual relationship, the faculty/staff with higher institutional authority must disclose in writing the relationship. Faculty members must disclose, in writing, the relationship to the dean and faculty labor relations and academic inclusion office "FLRAIO." Staff members must disclose, in writing, the relationship to the appropriate administrator at a higher level (e.g., vice president, manager or

director) and human resources.

- (3) Once the faculty/staff with higher institutional authority has disclosed the conflict the appropriate administrative team shall determine if a conflict exists, and if so, develop a written plan to eliminate the conflict. The plan must consider the needs of the person with lower institutional power and if it is a student, it must preserve and maintain the student's immediate and long-term educational opportunities, ability to meet program requirements, and career progression. Final approval of the plan is the responsibility of the non-supervisory administrators copied on the disclosure. HR and FLRAIO a written record of the approved conflict resolution plan must be kept and annually reported to the title IX office.
 - (4) If a plan is not approved or if the approved plan is rejected by the person with lower institutional authority the romantic and/or sexual relationship must be discontinued until supervisory responsibility no longer exists.
 - (5) When the facts establish that an institutional power differential existed within the relationship and an allegation of sexual harassment results, the university will closely scrutinize a defense that the relationship was consensual.
- (E) Prohibited relationships
- (1) Involving students, residents, interns, and fellows
Romantic and/or sexual relationships are prohibited whenever there are direct supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities between:
 - (a) Administrators, faculty, staff, graduate or undergraduate teaching assistants and students.
 - (b) Attending physicians and medical residents, interns, or fellows.
 - (c) Medical residents and medical students. Alternative academic and/or supervisory arrangements must be made to avoid being in a prohibited relationship; if alternative arrangements are not feasible, the relationship cannot continue.

(2) Involving employees

Romantic and/or sexual relationships between direct supervisor and employee are prohibited. No person involved in a romantic and/or sexual relationship will have direct responsibility for evaluating the performance or for making decisions regarding the hiring, promotion, tenure, compensation, discipline, or termination of the other party to the relationship. Supervisors, including faculty supervisors, must take immediate steps to make alternative arrangements regarding their supervisory responsibility for the other party to avoid a conflict of interest. If alternative arrangements are not feasible, the relationship cannot continue.

(F) Alternative arrangements and approved conflict resolution plans

Alternative arrangements include removing any supervisory, teaching, evaluation, advising, coaching, or mentoring relationships between the person with institutional power and the student or employee. The alternative arrangements should avoid negative consequences for the student or employee. If alternative arrangements are not feasible, the relationship cannot continue.

(G) Important advisory statement on romantic/sexual relationships

Even if the relationship is not prohibited by the above provisions, individuals in positions of power should be aware that romantic or sexual relationships with students or employees pose a legal risk to both the individual and the institution and may result in either disciplinary action up to and including termination or removal.

There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions of power. These relationships may be subject to concerns about the validity of consent and unfair treatment of other students or employees. Such relationships can undermine the atmosphere of trust essential to the educational process and the employment relationship. They may, moreover, be less consensual than the individual whose position confers power believes. The apparent consensual nature of the relationship is inherently suspect due to the fundamental asymmetry of power in the relationship and it thus may be difficult to establish consent as a defense to a complaint of sexual harassment. Even when both parties consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for or preclude a charge or subsequent finding of sexual harassment based upon subsequent unwelcome conduct.

For all of these reasons, the university discourages all romantic and/or sexual relationships between faculty, employees and students, even when those relationships do not officially violate this policy.

Effective: 11/19/2020

CERTIFIED ELECTRONICALLY

Certification

11/09/2020

Date

Promulgated Under:	111.15
Statutory Authority:	3364
Rule Amplifies:	3364
Prior Effective Dates:	05/31/2018