



# PA State System of Higher Education Board of Governors

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**Effective:** August 13, 2020

## **Policy 2020-02: *Amorous Relationships***

### **See Also:**

BOG Policy 2012-01: *Conflict of Interest*

BOG Policy 1985-04-A: *University External Financial Support*

BOG Policy 1985-05: *State System of Higher Education External Financial Support*

BOG Policy 2014-01-A: *Protection of Minors*

Procedure/Standard 2013-15: *Relationships with Affiliated Entities*

Procedure/Standard 2015-21: *Background Clearances and Reporting Requirements*

**Adopted:** August 13, 2020

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### **A. Purpose**

One of the core missions of Pennsylvania's State System of Higher Education (State System) is to provide a productive educational environment and a professional workplace that is based on trust, mutual respect and the integrity of all members of the university community. Such trust and respect are undermined when State System employees and officials engage in amorous relationships with students or with employees for whom the individual has supervisory, instructional or professional responsibilities. Due to actual or perceived differences in authority, these relationships create actual or perceived conflicts of interest and raise the potential for exploitation or bias. In order to establish the professional standards expected of members of the university community, the Board of Governors establishes this personnel policy. Universities may establish policies for their institution that provide greater restrictions than this personnel policy.

### **B. Definitions**

- **“Amorous Relationship”** means a consensual relationship or encounter of a romantic, intimate, sexual or dating nature between persons who are not married to each other. The relationship may or may not involve physical contact and can include relationships conducted via electronic communications, such as text or social media platforms.

- **“Discipline”** means the penalty imposed on an employee for violating this policy, subject to applicable collective bargaining agreement provisions or State System or university policies, up to and including separation from employment.
- **“Employee”** means an individual who is employed by the State System (either at a State System university or in the Office of the Chancellor) including, but not limited to, faculty members, coaches, staff, managers and graduate student employees. Undergraduate students shall not be considered employees for purposes of this policy.
- **“Official”** means a member of a Council of Trustees or the Board of Governors or their respective designees.
- **“Volunteer”** means a recognized volunteer or any individual who represents or acts on behalf of the university or whose actions may bind the university, regardless of whether the individual receives monetary or other compensation. For purposes of this policy, employees and officials of recognized affiliated entities, ROTC instructors, visiting professors and unpaid camps and conference personnel will also be considered volunteers.
- **“Sanction”** means the penalty for violating this policy as applicable to one’s status as an official or volunteer. This penalty may include the removal or the request for removal of the official or volunteer from their respective position.
- **“Student”** means any individual enrolled in one or more regularly scheduled undergraduate or graduate courses or noncredit-bearing instruction or certification programs at any State System university. The term “student” shall include employees, volunteers and officials where the employee, volunteer or official otherwise meets the enrollment criteria set forth in this definition.
- **“Supervisory Responsibilities”** means the authority to assign work to another; evaluate the performance or conduct of another; direct another; or otherwise make, recommend or influence decisions that affect the hiring, appointment, reappointment, promotion, assignment of duties, evaluation or terms and conditions of another’s employment, volunteer status or student status.
- **“Instructional Responsibilities”** means the authority to evaluate or supervise the performance or conduct of a student; instruct, advise or coach a student; or otherwise make, recommend or influence decisions that affect the individual’s status as a student at a State System university.
- **“Professional Responsibilities”** means job or appointment-related responsibilities that could influence the student’s education or professional career.

## **C. Policy**

### **1. Amorous Relationships with Students**

All employees, volunteers, and officials are prohibited from entering into amorous relationships with students where the employee, volunteer or official has supervisory, instructional or professional responsibilities concerning the student.

An amorous relationship between an employee, volunteer or official and a student not otherwise prohibited under this policy is strongly discouraged as it may create an actual or perceived conflict. If there is any doubt whether a relationship falls within the scope of this policy, individuals should disclose the facts to and seek guidance from the chief human resources officer rather than fail to disclose. Failure to disclose a relationship as required by this policy could result in discipline or sanctions.

Student members of a Council of Trustees or the Board of Governors are not prohibited from having amorous relationships with other students under this policy because of their status as officials.

### **2. Amorous Relationships with Employees or Volunteers**

All employees, volunteers, and officials are prohibited from entering into amorous relationships with other employees, volunteers or officials where one party has supervisory, instructional or professional responsibilities concerning the other party.

Amorous relationships between employees, volunteers and officials not otherwise prohibited under this policy are strongly discouraged as they may create an actual or perceived conflict. If there is any doubt whether a relationship falls within the scope of this policy, individuals should disclose the facts to and seek guidance from the chief human resources officer rather than fail to disclose. Failure to disclose a relationship as required by this policy could result in discipline or sanctions.

### **3. Relationships with Minors**

Regardless of supervisory, instructional or professional responsibilities, all employees, volunteers and officials are prohibited from entering into amorous relationships with persons under 18 years of age.

### **4. Disclosure of Relationships**

Pre-existing amorous relationships where one party has supervisory, instructional or professional responsibilities concerning the other party are not prohibited under this policy, provided the individual with supervisory, instructional or professional responsibilities discloses the relationship to the chief human resources officer within 30 days of the effective date of this policy, and an acceptable conflict management plan is implemented. The conflict management plan will be kept separate from any official personnel file. The Office of the Chancellor and each university shall publish the name and contact information of the chief human resources officer or designee on their respective websites.

Consistent with [Board of Governors' Policy 2012-01: Conflict of Interest](#), employees are required to report any conflict of interest involving an immediate family member, including a spouse, so that necessary and appropriate actions are taken to remedy or avoid the conflict of interest or potential for conflict of interest.

Third parties are not mandated reporters of any prohibited or pre-existing relationship between parties over the age of 18, but may report concerns to the chief human resources officer.

## **5. Management of Conflicts**

For pre-existing amorous relationships, the individual in the relationship who has or may have supervisory, instructional or professional responsibilities must submit a written conflict management plan to the chief human resources officer explaining in detail how the conflict will be managed. The disclosing employee shall submit the conflict management plan within 30 days of the effective date of this policy or upon notice of a change in circumstances that gives one party to the amorous relationship supervisory, instructional or professional responsibilities concerning the other party.

The chief human resources officer (or designee) shall review the submitted conflict management plan and work with the parties involved in the amorous relationship and with other appropriate individuals to make any necessary changes to the proposed plan to effectively and appropriately manage the conflicts. The chief human resources officer (or designee) is responsible for administering the conflict management plan and will notify appropriate individuals of the existence of the conflict management plan.

Conflict management plans may include, but are not limited to, altering supervisory or employment reporting lines; moving a student to another section of the same course; appointing a different individual to serve on an academic, conduct or evaluative committee; moving the parties to other positions of the same or comparable status and duties; or establishing alternative means of evaluation of academic or work performance.

If a relationship involves the chief human resources officer, the matter should be referred to the individual responsible for supervising the chief human resources officer to address the conflict consistent with the mandates of this policy.

## **6. Violations**

A violation of this policy occurs when an employee, volunteer or official: (1) engages in a prohibited amorous relationship; (2) engages in a pre-existing amorous relationship without disclosing; or (3) engages in a pre-existing amorous relationship and fails to cooperate in managing conflicts associated with an amorous relationship covered by this policy.

Violations of this policy by an employee or volunteer constitutes misconduct subject to disciplinary action, up to and including discharge or termination, in accordance with any applicable collective bargaining agreement provisions or State System or university policies. Alleged violations by students may be referred by the university for review in accordance with the code of conduct. Alleged violations by officials may be referred to the appointing authority. Violations of this policy may lead to discipline or sanctions, as appropriate, regardless of how the violation is brought to the attention of the State System or the university.

Amorous relationships under this policy are consensual relationships. Conduct that violates local, state or federal law or relevant State System or university policies should be handled pursuant to applicable policy or by law enforcement, as appropriate. Violations of this policy that result in administrative or legal claims against the State System or a university may result in representation or indemnification being denied to the employee, volunteer or official pursuant to 4 Pa. Code Chap. 39.

### **7. Reporting Violations of this Policy**

A violation of this policy may be reported by any individual to the chief human resources officer (or designee).

Anonymous complaints will be investigated to the extent possible; however, due process considerations may limit the ability to investigate or resolve such complaints.

### **8. Retaliation**

No individual shall retaliate against another individual for making a good faith report or participating in a process under this policy. A complaint is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly filing a false complaint or knowingly making misrepresentations. If an investigation results in a finding that a person has knowingly filed a bad faith report or made misrepresentations, the reporting party may be subject to appropriate discipline or sanctions.

### **9. Confidentiality**

Any disclosures made or conflict management plans developed will be kept confidential to the fullest extent possible under applicable law and policy.

## **D. Effective Date**

This policy is effective August 14, 2020.