

October 18, 2004

To the Members of the Davis Division of the Academic Senate

Dear Colleagues:

At the end of the 2002-2003 academic year, the UC Representative Assembly, the governing authority of the University of California Academic Senate, approved a revision to the Faculty Code of Conduct that expressly prohibits faculty from engaging in a "romantic or sexual relationship" with a student. The Faculty Code of conduct may be found on the Web at <http://www.ucop.edu/acadadv/acadpers/apm/apm-015.pdf>. The campus administration has indicated that there are a number of questions among the faculty regarding the application of this relatively new policy. With the endorsement of the Executive Council of the Davis Division of the Senate, this letter is an attempt to address some of the issues that have been raised.

Paragraph 015, Part II. A. subsections 6 and 7, of the Academic Personnel Manual (APM) define unacceptable faculty conduct as including the following:

6. Entering into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future, academic responsibility (instructional, evaluative, or supervisory).
7. Exercising academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship.

The APM also indicates that "the term student refers to all individuals under the academic supervision of faculty." A footnote to subsection 6 indicates that, "A faculty member should reasonably expect to have in the future academic responsibility (instructional, evaluative, or supervisory) for (1) students whose academic program will require them to enroll in a course taught by the faculty member, (2) students known to the faculty member to have an interest in an academic area within the faculty member's academic expertise, or (3) any student for whom a faculty member must have academic responsibility (instructional, evaluative, or supervisory) in the pursuit of a degree." Since we as members of the Academic Senate have supervisory authority over all of the courses and curricula in our Schools and Colleges, and indeed, for the campus as a whole, the language of this footnote could be broadly interpreted to apply to any student and any faculty member at UC Davis (although no one anticipates such an expansive interpretation).

The specific language of the romantic relationship provision should be read in the context of the broader ethical principals of APM 015, which are quoted from a statement by the American Association of University Professors.

As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as

intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

The integrity of the faculty-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Whenever a faculty member is responsible for academic supervision of a student, a personal relationship between them of a romantic or sexual nature, even if consensual, is inappropriate. Any such relationship jeopardizes the integrity of the educational process.

The new policy requires that we separate consensual romantic relationships from our responsibility and authority over academic decision making. Unfortunately, however, it is too easy to simply say "just don't do it." Although it has undoubtedly always been a bad idea for faculty to be engaged in a romantic relationship with a student, such relationships are inevitable. Indeed, we all know of long-term successful partnerships between faculty members and former or current students. There are undoubtedly existing faculty-student romantic relationships that began before the new policy was promulgated. There inevitably will be a situation where a long-time spouse or partner of a faculty member decides to enroll on the campus as a student in a degree program that may be closely related to his or her partner's academic work. One thing that is pretty clear under the policy is that any faculty member in a romantic relationship with a student should distance him or her self as far as possible from any potential supervisory role over the student/partner's academic program.

Many of us are also aware of faculty-student relationships that have evolved into claims of sexual harassment on the termination of the relationship. One important aspect of the new policy is that a faculty member may be subject to discipline under the new policy for a consensual relationship, even if the relationship might not be considered as sexual harassment.

The new Faculty Code of Conduct provision on romantic relationships requires our understanding, support, and self administration. As members of the Academic Senate we are collectively responsible for the academic integrity of our campus and we need to collectively respond to this important issue. Individual faculty members must observe the standards of the Faculty Code of Conduct in order to insure that integrity. Also note that the Faculty Code of Conduct contains important standards to protect the academic freedom of the faculty.

At UC Davis, the Executive Council, Chairs of several Senate Committees, and Academic Privilege Advisors have undertaken to discuss the new Code of Conduct

requirements to answer questions and work with the administration to insure successful compliance without the need for unwarranted disciplinary actions.

There are several questions that have already come up that we can specifically address:

- Who can I talk to about specific situations?
 - Senate Office (752-2231)
 - Vice Provost of Academic Personnel's Office (752-2072)
 - Deans/Department Chairs
 - Director of Sexual Harassment Education (752-9255)
 - Senior Associate Vice Chancellor - Sexual Harassment Compliance Officer (752-3383)
 - Academic Privilege Advisors
 - Professor Howard Day 752-2882
 - Professor Ines Hernandez-Avila 752-4394
 - Professor Leslie Kurtz 752-7766
 - Professor Diane Ullman 752-3799
 - Professor Martha West 752-2322
 - Colleagues
- Do I have a responsibility to report, and to whom, cases of potential violation of the Code?

There is no express requirement that faculty members (as opposed to supervisors or management personnel such as department chairs) report violations of the Faculty Code of Conduct. Our advice is that non-supervisory members of the faculty should consider reaching out to their colleagues to inform them of the Code of Conduct and the implications of any potential violation.

Although some faculty may be very reluctant to discuss this issue, it should be understood that a colleague who may need advice is put into jeopardy by not receiving it.

As faculty members, we must also be sensitive to the potential negative impact that a romantic relationship between members of a department or a laboratory can have on other persons within the department or laboratory.

Our advice to supervisory members of the faculty is to both discuss cases with colleagues and report these cases to either the Dean's Office or Vice Provost of Academic Personnel's Office.

- If a faculty member enters into or is in a consensual relationship, will they be disciplined pursuant to the Code?

Discipline is not the first step. It is important to understand that there are actions that a faculty member can take to remedy the situation.

- Where should I communicate a formal complaint?

Formal complaints should be directly referred to the Chancellor or the Vice Provost for Academic Personnel.

- The members of my department have many questions. What is the best process to obtain some answers?

We recommend that faculty discuss this and all other Faculty Code issues at departmental meetings so that a standard of performance is clearly understood within the department.

I recognize that this new provision may be a difficulty issue today or sometime in the future for many of our colleagues. These rules require our collective attention, understanding, and good faith compliance. I thank you for taking the time to read through this lengthy memorandum. If I can be of any help in answering your questions please don't hesitate to contact me at the Senate office or by email to academicsenatechair@ucdavis.edu.

Sincerely,

Daniel L. Simmons
Chair Davis Division of
the Academic Senate
Professor of Law

C: Chancellor Vanderhoef
Vice Provost Horowitz
Associate Vice Chancellor Shimek