

## ***General Policy - Consensual Relationships***

### **Policy:**

Bismarck State College is concerned about consensual relationships involving romantic or sexual relationships in which both parties appear to have consented, but where there is a definite power differential within the College between the two parties.

### **These relationships are of concern for two reasons:**

1. First, there is a potential conflict of interest when individuals evaluate the work or academic performance of other individuals with whom they have intimate relationships. It is a generally accepted ethical principle in our society that one avoids situations in which one makes official evaluations of relatives, family members, spouses, or other persons with whom one has an intimate relationship. Such a relationship, combined with a responsibility for evaluation, is considered a “conflict of interest.” In a college, examples of such evaluations are the assignment of grades, and participation in decisions to hire, retain, promote, discipline or determine salaries.
2. Second, any relationship involving a power differential has the potential for serious consequences because the relationship may exist only as a result of the power differential. This may lead to sexual harassment charges at a later time.

### **Explanation:**

1. Consenting romantic and sexual relationships between instructor (meaning all who teach at the College--faculty members, other instructional personnel), and student (meaning any person studying with or receiving advising from the instructor); between supervisor (meaning any person in a position of authority over another--to hire and fire, to grant raises and oversee task performance) and employee (meaning any person working for the supervisor); and between employee and student (where there is an instructional, advisory, or an employment relationship between them) have the potential for extremely serious consequences and ought to be avoided. This list is not all-inclusive, but gives examples of the types of relationships that are covered by this policy.
2. Codes of ethics for most professional associations forbid professional-client sexual relationships. The relationships enumerated above should be viewed in this context. In the case of instructor and student, for example, the respect and trust accorded the instructor by the student, as well as the power exercised by the instructor in giving grades, advice, evaluations, and recommendations for further study and future employment, may greatly diminish the student's actual freedom of choice concerning a romantic or sexual relationship.

3. Because of the possible difficulties associated with the power differential and because of potential conflicts of interest, Bismarck State College discourages all such consensual relationships.

HOWEVER, IF A ROMANTIC OR SEXUAL RELATIONSHIP EXISTS OR DEVELOPS BETWEEN INDIVIDUALS HAVING A POWER DIFFERENTIAL WITHIN THE COLLEGE, THE PERSON WITH GREATER POWER SHALL REPORT IT TO AN APPROPRIATE SUPERVISOR.

For example, an instructor shall report the matter immediately to the department chair, and an employee shall report it to his/her supervisor. In each case, the administrative supervisor shall make suitable arrangements for the objective evaluation of the student's, employee's, or prospective employee's academic or job performance and for the protection of individual and College interests.

4. All instructors, supervisors, and other employees should understand that there are substantial risks in consenting relationships where a power differential exists. Even if the conflict of interest issues are resolved, charges of sexual harassment may develop. An instructor's or supervisor's protection under state law and representation by the Attorney General may not apply because such relationships may be outside the scope of one's employment. Furthermore, in administrative actions or lawsuits resulting from allegations of sexual harassment, consent may be very difficult to prove where a power differential exists. Even relationships in which there is no direct power differential may cause difficulties because faculty or staff engaged in such a relationship may, in the future, be placed in a position of responsibility for the student's or employee's instruction or evaluation.

#### **Reference:**

State Board of Higher Education Policy Manual Section 603.1

#### **History of This Policy:**

First policy draft October 10, 1997.

Revisions – September 17, 2015; October 18, 2016.