



Kristin M. Lowe, Esq.
Assistant to the President, Title IX and Inclusion

Consensual Relationships Policy

Executive Summary of Feedback Received January 11, 2018

Fourteen (14) responses were received in the portal regarding the proposed Consensual Relationships Policy during the 30-day posting period. The Faculty Association (“FA”) submitted the attached written memo directly to me and Melissa Fingar, Assistant to the President, Human Resources and Organizational Development.¹ Some commenters supported the intent of the proposed changes and recommended edits for clarification. Other commenters voiced significant concerns with the proposed changes. The concerns are summarized below:

1. The broadness of the definition of “student” and the lack of a definition of “sexual or romantic relationship”
2. The appropriateness of a complete prohibition on consensual sexual or romantic relationships between employees and students
3. The impact on pre-existing employee-employee or employee-student relationships
4. The requirement to disclose a pre-existing relationship or marriage
5. The impact on the tuition waiver benefit under article 49 of the FA contract
6. The impact on relationships between student employees and other students
7. The impact on enrollment
8. The impact on current employees who enroll in classes at MCC

The recommendations included in this memo are reflected in a second proposed draft of the Consensual Relationships policy. The recommendations are based upon input from the MCC community summarized in this memo and research of similar policies in place at other institutions, including SUNY community colleges and several League for Innovation in Community Colleges schools.²

1. The Broadness of the Definition of “Student” and the Lack of a Definition of “Sexual or Romantic Relationship”

The proposed policy included a definition of “student” taken from the 2018-2019 Monroe Community College Student Code of Conduct. Several commenters felt that the proposed definition is overly broad. This was a “primary concern” of the Faculty Senate. The Faculty Senate commenter opined that “[t]his seems difficult to enforce, since it could encompass a significant portion of Monroe County and the surrounding region.” The FA memo also noted that the definition is “excessively broad” in that it includes “any individuals who partake in any

¹ The FA memo is attached as Exhibit I.

² An appendix to this memo summarizes the background research referenced above.

credit or non-credit bearing course at MCC.” One commenter stated that the proposed definition “is so broad that it could encompass a huge proportion of the Rochester community” Another stated, “I fully agree that a faculty member should not have a relationship with a student in their class because of the power differential, but the overly broad definition of ‘student’ intrudes into places where there is no relevant power differential.” Others said: “As defined, people in the dating game could possibly not date anyone in Monroe County” and “[S]omeone could take a course through the corporate college from their workplace, and an MCC employee from another area might not even know that was going on . . . and therefore could be in violation of the policy without even knowing so.”

Recommendation: Add a definition of “student” specific to the Consensual Relationship Policy that is narrower than the definition of “student” in the MCC Student Code of Conduct.

- **Student** – All persons taking courses at Monroe Community College, both full time and part time, credit and non-credit bearing. Persons who are not officially enrolled for a particular term are not considered students under this policy.

One commenter pointed out that the proposed policy did not include a definition of a “sexual or romantic relationship.”

Recommendation: Add a definition of “sexual or romantic relationship:”

- **Romantic or Sexual Relationship** – Any intimate, sexual, or other type of romantic or amorous relationship, whether casual or serious, short or long term. A single sexual encounter is considered a sexual relationship under this policy. Conversely, the relationship does not have to include physical intimacy if a romantic relationship exists that is beyond the reasonable boundaries of a collegial or professional relationship. If there is any doubt about whether a relationship falls under this policy, individuals should seek guidance from the Office of Human Resources.

2. The Appropriateness of a Complete Prohibition on Consensual Sexual or Romantic Relationships Between Employees and Students

The current MCC Consensual Relationships policy (approved by the Board of Trustees in April 2018) prohibits romantic or sexual relationships between employees and students “over whom they have current, or might reasonably be expected to have, evaluative, supervisory, instructional, or other professional responsibility.” The proposed changes reflected a shift to a *complete* prohibition on any consensual sexual or romantic relationships between employees and students. This proposed change drew concern from several commenters. One wrote, “I do not find that an outright prohibition on employee-student relationships is appropriate for our college community” Another wrote, “While the intent of this may be to stop relationships between our younger students and faculty/staff, the banning of all relationships isn’t feasible.” Similarly, the FA memo stated, “A complete prohibition on any consensual relationships between employees and students is unrealistic and unnecessarily restrictive.” The FA memo further stated, “By law, adults have the personal liberty to engage in a consenting romantic relationship with another adult. This policy is a violation of the rights of privacy and freedom help by both adult employees and adult students.”

Recommendations:

- Maintain the language in the current MCC Consensual Relationships policy prohibiting employee-employee sexual or romantic relationships where one employee has current (or might reasonably be expected to have) evaluative, supervisory, instructional, or other professional responsibility over the other employee.
- Maintain the language in the current MCC policy prohibiting employee-student sexual or romantic relationships where the employee has current (or might reasonably be expected to have) evaluative, supervisory, instructional, or other professional responsibility over the student.
- Add language stating that the College *strongly discourages* employee-student consensual sexual or romantic relationships even where there is no current or reasonable expectation of evaluative, supervisory, instructional, or other professional responsibility based on potential perceived conflicts of interest. Add a requirement that such relationships must be reported to the College.

3. The Impact on Pre-Existing Employee-Employee and Employee-Student Relationships

Several commenters shared personal stories about how the proposed policy would impact them or their partners. One wrote, “I am a full time, tenured faculty member and my wife is a longtime adjunct. If this policy were to be enacted as written, we would have to divorce in order for either of us to audit a class, or even take a training through corporate college.” Another wrote,

I moved to Rochester to live with my boyfriend over 5 years ago. We are not married. I have been a full-time employee at the college for 2 years. Last year, he decided he wanted to go back to school and change careers. He is currently enrolled and on track to graduate this May. If this policy was in place, he would have been forced to seek educational opportunities elsewhere in order to protect my career.

Another commenter wrote, “A partner in an existing relationship may encourage their boyfriend/girlfriend to continue their education at MCC. I wouldn’t think we would want to discourage this.” Another writer commented, “As defined my wife and I would have to separate for a semester if she were to take a class here.” Finally, “There are many spouses, boy/girl friends that take a class or are going for a degree at MCC. This would mean that these individuals would have to stop attending or not consider MCC.”

Recommendations:

- Add a statement that romantic or sexual relationships where one employee has no evaluative, supervisory, instructional, or other professional responsibility over the other employee are not prohibited under the policy.
- Add a statement requiring employees disclose to Human Resources if their spouse or domestic partner enrolls in a course(s) and the employee may reasonably be expected

to have evaluative, supervisory, instructional, or other professional responsibility over their spouse or domestic partner so that so that alternative supervisory roles may be established.

- Clarify that it is not necessary to report an employee-employee relationship or marriage that pre-dates this policy if one employee has no current (and is not reasonably expected to have) evaluative, supervisory, instructional, or other professional responsibility over the other employee.
- Clarify that it is necessary to report a current employee-student relationship or marriage that pre-dates this policy, even if the employee has no current (and is not reasonably expected to have) evaluative, supervisory, instructional, or other professional responsibility over the student.

4. The Requirement to Disclose Pre-Existing Relationships or Marriages

Several commenters expressed concern about having to disclose pre-existing relationships or marriages. One wrote, “[M]y spouse takes a class under [the FA] contractual tuition benefit, so now my spouse is a student, and by this policy, we have to report our relationship to Big Brother/Sister.” Another wrote, “Now we have to document and ‘report’ pre-existing relationships and marriages?!” The FA memo stated, “The requirement to disclose previous relationships is discriminatory against LGBTQ members of our community who may not be comfortable discussing their relationships at work.” The FA memo further stated, “This language assumes a level of comfort and disclosure that is inherently heteronormative and not shared by some of the LGBTQ members of our community.”

Recommendation: None. Employees must already disclose to the College the name of their spouse or domestic partner in order to access the FA tuition waiver benefit. Article 49 of the FA contract states, “All normal registration procedures will apply to individuals using this benefit except that application for this benefit must be made to the Office of Human Resources at least five weeks prior to the start of classes.”

5. The Impact on the Tuition Waiver Benefit Under the FA Contract

Concerns were expressed by the Faculty Senate, several commenters in the portal, and in the FA in the memo the proposed changes impact the tuition waiver benefit under the FA contract. The FA memo stated,

The prohibition of any consensual relationship between an employee and a student is a violation of Article 49 of the contractual agreement between the Faculty Association and the Board of Trustees. FA employees are granted the contractual right to provide tuition waivers for their spouses and domestic partners. A complete prohibition on consensual relationships would deny employees and their partners access to this contractual benefit.

Recommendation: None. As reflected in item #2 above, the revised policy draft does not include a complete prohibition on any consensual sexual or romantic relationships between employees and students.

6. The Impact on Relationships Between Student Employees and Other Students

Some commenters questioned the impact of this policy on consensual sexual or romantic relationships between student employees and other students.

Recommendations:

- Clarify that this policy is not intended to prohibit consensual sexual or romantic relationships between student employees and other students.
- Add a statement that if such a relationship were to present an actual or perceived conflict of interest, the student employee's supervisor should be informed of the relationship so that alternative supervisory roles may be established.

7. The Impact on Enrollment

Multiple commenters expressed concern that this policy would result in a decrease in enrollment if spouses or domestic partners of employees were deterred from enrolling in courses at MCC.

Recommendation: None. This concern is addressed by the recommendations under items #3 and #5 above.

8. The Impact on Current Employees Who Enroll in Classes at MCC

One commenter wrote, "I am an employee, but if I take a class using my contractual tuition waiver, I am a student, and by this policy, cannot have a relationship with a fellow employee."

Recommendation: None. This concern is addressed by item #2.

Note: The date for applicability within the policy should be revised to reflect the date the policy takes effect.

Appendix

Definition of Student

- “All those enrolled full-time or part-time in any program.” (BP 4120 *Consensual Relationships*, San Diego Community College District, approved December 2006)
- “A student is considered to be any person currently enrolled in a credit or non-credit class at one of the colleges or centers within Maricopa County Community College District.” (4.18 *Consensual Relationships*, Maricopa County Community College District, approved February 2009)

Definition of Sexual or Romantic Relationship

- “A sexual or romantic relationship is any intimate, sexual, or other type of romantic or amorous relationship, whether casual or serious, short or long term, and whether or not consensual. A single sexual encounter is considered a sexual relationship under this policy. Conversely, the relationship does not have to include physical intimacy if a romantic relationship exists that is beyond the reasonable boundaries of a collegial or professional relationship. If there is any doubt whether a relationship falls under this policy, individuals should seek guidance from their supervisor or an MIT human resources professional.” (9.5 *Consensual Sexual or Romantic Relationships in the Workplace or Academic Environment*, Massachusetts Institute of Technology, updated January 2018)
- “Consensual Romantic or Sexual Relationship” means any consensual interaction between two individuals that is romantic or sexual in nature, and can include even a single incident or occurrence in the form of visual, physical or verbal conduct.” (C23.0 *Policy on Consensual or Romantic Relationships*, Rochester Institute of Technology, revised August 2018)
- “Consensual relationships – Any freely and mutually agreed to dating, romantic, or sexual relationship between individuals.” (BP 4120 *Consensual Relationships*, San Diego Community College District, approved December 2006)
- “Consensual sexual relationships include romantic, intimate or sexual relationships in which both parties agree to participate in the relationship.” 3354:1-30-03.12, *Sexual Misconduct Policy*, Cuyahoga Community College, effective June 2018)
- “A consensual relationship is any relationship willingly undertaken by both parties that is romantic and/or sexual in nature.” (*Consensual Relationships*, Anne Arundel Community College, date not indicated on website)
- “Consensual relationships are defined as romantic, amorous and/or sexual relationships between consenting employees or between employees and adult (18

years or older) college students currently enrolled at one of the community colleges.”
 (4.18 *Consensual Relationships*, Maricopa Community Colleges, approved February 2009)

Summary of Policy Research About Consensual Relationships between Employees and Students

Community College	Policy Information re Consensual Relationships between Employees and Students	Date
Anne Arundel CC	<ul style="list-style-type: none"> - Prohibits an employee from providing academic instruction to and/or assessing a student with whom the employee has a consensual relationship. - Strongly discourages consensual relationships between faculty members and adult students where no evaluative and/or supervisory role exists. 	Date not indicated
Cuyahoga CC	<ul style="list-style-type: none"> - Prohibits consensual sexual relationships between faculty and the students enrolled in class or a class sequence taught, advised, counseled, coached or supervised or over whom the faculty member has direct impact on the student's academic enrollment or success. - Discourages faculty members from engaging in consensual sexual relationships with active status students. 	Jun. 2018
Erie CC	<ul style="list-style-type: none"> - Strongly discourages intimate relationships between faculty members and students. 	Date not indicated
Maricopa CCs	<ul style="list-style-type: none"> - Prohibits an employee from engaging in a consensual relationship with a student who is currently enrolled in the employee's class or a student whom the employee otherwise instructs, coaches, counsels, or advises. 	Feb. 2009
Onondaga CC	<ul style="list-style-type: none"> - Prohibits consensual sexual relationships between persons in positions of authority or perceived authority and students over whom they have any authority or responsibility, either directly or indirectly. 	Jun. 2010
Rockland CC	<ul style="list-style-type: none"> - Strongly discourages consensual relationships between faculty members and students. 	Jan. 1999
San Diego CC District	<ul style="list-style-type: none"> - Prohibits consensual relationship between an employee and a student "actually under that employee's authority." 	Dec. 2006
Ulster County CC	<ul style="list-style-type: none"> - Strongly discouraged if the faculty members has professional responsibility over the student. 	Mar. 2014

January 4, 2019

Credit Contact Hour Policy

Executive Summary of Feedback Received from the Portal

Last October, the draft Credit/Contact Hour Policy was opened for comment on the College's Portal. A total of six comments were submitted, one with two suggestions. In total, three comments concerned the interpretation of the definitions; two requested changes to the hyperlinks in the "Other Related Documents" section of the policy; and two were editorial in nature.

1. Interpretation of the definitions

One commenter stated that the US Department of Education (USDOE) standard appeared to differ from the New York State standard by requiring a FULL HOUR rather than 50 minutes of instruction and also that most institutions of higher learning in the US, including MCC, would not meet the full hour standard. The commenter noted that the USDOE definition includes the words, "reasonably approximates." The second comment stated that the SUNY definition of semester credit hour is incomplete because it does not include the additional "2 hours of outside learning engagement" requirements stipulated in the USDOE definition. The third comment also dealt with the two hours of outside learning engagement requirement.

Administrative Response:

Given the dominant use in the United States of a 50 minute class for awarding a credit hour over the course of a 15-week semester, the policy is consistent with the "reasonably approximates" requirement in the USDOE definition.

With respect to the completeness of the SUNY definition, the commenter wanted to note that the amount of academic work required for earning a single credit hour is 45 hours for a 15 week semester (one hour per week of instruction and two additional hours of work). We agree that the SUNY definition is incomplete, but the USDOE definition directly address this as, "[O]ne hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately fifteen weeks..."

The third comment regarding the definitions stated that while the USDOE definition cited above was logical, it would assume no one is responsible for documenting the above mentioned two hours of student work.

No changes to the draft policy's definition section is warranted.

2. Citations

Two commenters stated the hyperlink to "Title 8. Education Department, Chapter li. Regulations of the Commissioner, Subchapter A. Higher and Professional Education, Part 50. General" opened a Thomson Reuters Westlaw site which required authentication to access.

Of the commenters cited above, one asked that the Title 34 Higher Education Act 1965 hyperlink be qualified to state it is a federal regulation.

Administrative Response:

We will substitute the link [NY State Higher Education Department, Title VIII; Chapter II, 50.1 Definitions](#) for the Westlaw link, "Title 8. Education Department, Chapter II. Regulations of the Commissioner, Subchapter A. Higher and Professional Education, Part 50. General." The new link takes the reader to the New York State Department of Education, Office of College and University Evaluation page and the definitions are on the page.

In "Other Related Documents," we will change the hyperlink, "Title 34 Higher Education Act 1965," to [Title 34 of the United States Code of Federal Regulations, The Higher Education Act of 1965](#).

3. Editorial Changes

- For clarification under the Semester Hour definition, we will specify the document source. The draft policy stated, "... pursuant to section 52.2(c)(4) of this Subchapter" without noting the specific code reference. We will edit the sentence as follows: "... pursuant to section 52.2(c)(4) of ~~this~~ Subchapter A, Chapter II of Title 8 of the New York Code Rules and Regulations.
- In the policy statement, we will change the word "Stated" to "States."



Kristin M. Lowe, Esq.
Assistant to the President, Title IX and Inclusion

MCC VALUES:
INTEGRITY.
EXCELLENCE.
EMPOWERMENT.
INCLUSIVENESS.
COLLABORATION.
STEWARDSHIP.

**Sexual Harassment Response and Prevention Policy and
Sexual Harassment Complaint and Investigation Procedure**

**Executive Summary of Feedback Received
December 10, 2018**

One (1) response was received in the portal regarding the proposed Sexual Harassment Response and Prevention Policy and Sexual Harassment Complaint and Investigation Procedure during the 30-day posting period. The commenter suggested adding the word “which” to one of the bulleted items in the list of examples of sexual harassment and this suggested edit has been made to the proposed policy.

In addition, the SLCC at its meeting on Tuesday, December 4, 2018 suggested adding language about the mandatory annual training requirement to the proposed policy. Neither the minimum standards nor the Model Policy set forth by the State of New York, nor the SUNY uniform policy statement include language about the annual training requirement under Labor Law 201-g. Nonetheless, other Monroe Community College policies contain references to training requirements and therefore it makes sense to add a “Training” section to the proposed Sexual Harassment Response and Prevention Policy. The “Training” section simply states, “Annual sexual harassment prevention training will be provided to all employees in compliance with applicable laws and policy.”

Note: The date for applicability within the policy and procedure should be revised to reflect the date they take effect.

