

# Forty-Seven Questions and One Answer

## *A Framework for Developing a Consensual Relationship Policy*<sup>12</sup>

### 1. Why Is Such a Policy is Necessary?

As an institution where any person can find instruction in any study, Cornell demands ethical and conscientious behavior from all who are engaged in its mission of teaching, research, service, and outreach. Romantic and/or sexual relationships between instructors and students risk the integrity of that mission. Professional and institutional power differentials raise questions as to the student's ability to refuse advances or freely leave the relationship. There are added concerns when those involved have different perceptions of the underlying power differential.

Even where fully consensual, such relationships can create lasting harm to the overall academic environment. They risk compromising the instructor's judgment and impartiality then and in the future, impacting grading, distribution of resources, academic or professional recommendations, and more. They often undermine collegial dynamics among the students themselves through real or perceived favoritism. They can tarnish the academic reputation of the instructor, the student, the field, and Cornell itself. When these relationships end, or when favoritism becomes apparent, they raise the specter of legal action against the instructor and Cornell. Regardless of their outcome, their presence can linger within the careers of both parties, potentially driving the student from their discipline or hampering their lifelong academic and professional progress.

This policy is concerned with more than just relationships between students and instructors. It applies to romantic and/or sexual relationships in which one party is a student, post doc, or veterinary resident and the other party has the power to affect the academic progress, professional progress or employment possibilities of that person. Thus, the individual with authority may be a faculty member or [any academic title holder](#), a teaching assistant or grader, an administrator or a coach, or in fact, any member of the staff.

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<sup>1</sup> Terminology used in this document. By a **relationship** we mean a relationship between two people that involves romance and/or sex. By a **concern** we mean a concern about one's professional or academic standing. A relationship between two people is **consensual** if both individuals are, at all stages in the relationship, engaging in the relationship willingly and voluntarily. **Harassment** becomes an issue when one party tries to initiate or maintain a relationship by exploiting the concerns of the other party against the other party's wishes. A **power differential** exists in a relationship between two people if one individual's job responsibilities enable that individual to affect the academic or professional progress of the other individual. The person who has the measure of control is the **authority** and the individual who is subject to that control is the **subordinate**.

<sup>2</sup> Produced by the [Consensual Relationships Policy Committee](#) December 1, 2017

## **2. What Constitutes Risky Behavior and the Radius of Authority?**

- 2.1 How can ethical behavior be promoted without chilling the normal friendly socializing that attends academics? (E.g., after-seminar get-togethers, lunch, dinner at a conference, holding class in one's house, etc.)
- 2.2 What should the policy say about authority that carries forward in time? For example, letters of recommendation can be an issue for several years. On the matter of letters of recommendation, is there a distinction between academic versus non-academic career tracks?
- 2.3 What should the policy say about authority that extends far beyond the "home department"? (E.g., given interdisciplinary work, graduate students may have contacts "far away" from their departmental base. )
- 2.4 What should the policy say about indirect authority? (E.g., the relationship is with a close friend of the thesis advisor.)
- 2.5 Is it possible to characterize situations where the power differential not a factor?
- 2.6 What should the policy say about risky behavior that is exhibited by the student?
- 2.7 What should the policy say about risky behavior that is exhibited by the authority?
- 2.8 Are there contexts in which it is never acceptable to initiate a relationship that involves romantic or sexual interactions?

## **3. What Needs to Be Said About Power Differentials?**

Suppose A and B are in a consensual relationship and that A has the potential to exercise authority over B.

- 3.1 How should the policy assess the magnitude of the A-to-B power differential? Does the magnitude of the differential correlate with the duration of its effect?
- 3.2 How can the policy discourage underestimations of the power differential by both A and B?
- 3.3 How can the policy sensitize both A and B to the fact the power differential may lead to different definitions of what constitutes ethical behavior?
- 3.4 How might perceptions of the power differential evolve as the relationship evolves?

- 3.5 How should A respond if B is the one pursuing a relationship and initiating romantic or sexual interactions?
- 3.6 What about the argument that says many relationships in the workforce have a power differential so students better get used to dealing with it?
- 3.7 Different cultures may have different assumptions or standards as to what constitutes a power differential in an academic relationship. How should the policy address this fact?
- 3.8 Is it possible for a relationship be fully consensual when there is a significant power differential?

#### **4. How Should a Consensual Relationships Policy Relate to a Harassment Policy?**

- 4.1 How can an initially consensual relationship with an underlying power differential drift into a harassment situation over time?
- 4.2 Perhaps by using examples, describe what you think is the difference between a harassment situation and a consensual relationship?
- 4.3 Knowing that the [Title IX Office](#) reviews all questions and concerns about sexual misconduct, how should that office be involved in the implementation of a consensual relationships policy?
- 4.4 What should the policy say about a situation where the participants maintain that their relationship is consensual and but an objective third party disagrees?

#### **5. What Needs to Be Said About Pre-Existing Relationships?**

- 5.1 How might the following situation be managed? PhD student X and undergraduate Y are romantically involved at another university. X becomes a faculty member at Cornell and Y becomes a PhD student in the same Cornell department.
- 5.2 How might the following situation be managed? Faculty member X and PhD student Y, both new to Cornell and in very different fields, become romantically involved. Over time, Y's research area has increasing overlap with X's research area to the extent that a close colleague of X is now a member of Y's Special Committee.
- 5.3 If you do actually think that both of the above situations are manageable, then what makes pre-existing relationships (as in 1 or 2) different from comparable relationships that do not involve physically moving to Cornell or academically moving into a new research area or professionally moving into a new position of employment?

## **6. What Needs to Be Said About Faculty-Undergraduate Relationships?**

- 6.1 Some universities have outright strictly prohibit relationships between faculty and undergraduate students. Is that advisable?
- 6.2 If relationships between faculty and undergraduate students are not prohibited, then should there be specific language calling attention to the enhanced vulnerability of that group of students?
- 6.3 Are there strategies to follow that would guard against the formation of relationships between faculty and undergraduate students?

## **7. What Needs to be Said about Student-Student Relationships When One Has Authority Over the Other?**

Suppose A and B are students.

- 7.1. What should the policy say about a situation where in a large undergraduate course, A is one of several graduate student TAs and B is an undergraduate in a lab or section run by A?
- 7.2. What should the policy say about a situation where in a small undergraduate seminar-type class, A is a graduate student and the instructor and B is an undergraduate?
- 7.3. What should the policy say about a situation where in a graduate-level class, A is a graduate student and TA and B is a graduate student?
- 7.4. What should the policy say about a situation where in a fieldwork setting, A oversees the work of B?

## **8. What Would Make a Disclosure Mechanism Effective?**

- 8.1. Disclose to who? Chair? Dean? Someone HR or the Title IX Office? When should those in the recipient-of-disclosure pool communicate amongst themselves?
- 8.2. Should the authority or the subordinate have the responsibility to disclose? What if the subordinate disagrees with the authority and prefers not to disclose?
- 8.3. How should third-party disclosures be handled?
- 8.4. Should the policy mandate a point at which disclosure is required? If so, when?

- 8.5 What should the policy say about nondisclosure when the parties involved are in a relationship that is explicitly prohibited?
- 8.6 Should undisclosed relationships be treated as nonconsensual and placed under Policy 6.4 if discovered?
- 8.7 Are there situations where disclosure “beyond the department” is unnecessary?
- 8.8 Is it possible to have a disclosure mechanism without chilling the environment of collegiality that is so essential to the life of the university?

### **9. What Needs to Be Said About Enforcement and Adjudication?**

- 9.1 Without thinking about specific infractions, what range of sanctions should be available?
- 9.2 To what extent should sanctions take into account the accused's disciplinary history or employment history?
- 9.3 To what extent should sanctions take into account the magnitude of the underlying power differential?
- 9.4 Should Cornell's academic hiring process take into account the candidate's compliance with related policies at past institutions?
- 9.5 Who adjudicates?

### **10. Are There Effective Strategies For Managing Conflict of Interest?**

- 10.1 What strategies are there for mitigating conflict of interest concerns that arise out of relationships?
- 10.2 How can situations be managed so as to avoid actual bias or unfair treatment of the subordinate in a relationship? How these situations be managed so as to avoid the impression of bias to everybody else?
- 10.3 How might the rigors of a management strategy match the intensity of the underlying power differential?