

	<b>Policy on Conflict of Interest in Faculty/Instructor-Student Relationships</b>	
<b>CATEGORY:</b> 8010 Human Resources/Diversity & Equity	<b>APPROVAL DATE:</b> December 5, 2016	
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<b>SPONSOR:</b> Vice-President, Academic & Provost		
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<b>PREVIOUS VERSIONS:</b> None		

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**1. PURPOSE**

OCAD University (“OCAD U” or “the University”) is committed to fostering and maintaining a learning environment that provides equitable conditions and treatment to all students. It is important to the University that fair methods of evaluation are applied to all students and to remove any perception of bias that may stem from faculty/instructor-student relationships.

OCAD U is committed to maintaining an environment free of sexual and gender-based harassment and discrimination in accordance with the *Ontario Human Rights Code (2015)* (“the Code”) and recognizes that education providers have a legal obligation to provide students with a learning environment that is free from such harassment and discrimination.

This policy outlines the obligations placed on faculty members, instructors and other employees when it comes to their relationship with students, and provides procedures on how to address any potential perceived or actual conflict of interest and/or bias.

**2. SCOPE**

This policy applies to all OCAD U faculty members, instructors and other employees responsible for teaching, evaluation, academic supervision and/or related activities for credit and non-credit courses, research, tutorials, and workshops. Such employees are hereafter referred to as ‘faculty/instructors’.

For the purposes of this policy, students include any person taking one or more courses at the University, either full-time or part-time, in all programs of study, including Continuing Studies and special students. For clarity, a student is a person who is: registered in an OCAD U course of study and/or engaged in any academic work that leads to the assigning of a mark, grade or statement of performance by the appropriate authority within the University and/or entitled to a valid student ID who is between semesters.

### **3. POLICY**

In order to ensure the continuing integrity of academic standards, to promote a teaching/learning environment free from harassment and to avoid the potential for perceived or actual conflicts of interest and/or bias, faculty members/instructors are required to disclose any close personal relationship they have with a student to their Dean of Faculty or other managerial supervisor, or designate, and to avoid any supervisory, advisory or evaluative responsibility for the student, unless granted prior written approval from their managerial supervisor.

#### **3.1 Close Personal Relationships**

Close personal relationships include:

- 3.1.1 Close family relationships, which include: spouse; parent; child; stepchild; sibling; parent-in-law; child-in-law; sibling-in-law; grandparent; grandchild; aunt; uncle; niece; or nephew.
- 3.1.2 Sexual or intimate relationships, which currently exist or previously existed.

#### **3.2 Conflict of Interest and/or Bias**

Conflict of interest and/or bias exists when a current or former relationship with a student could improperly influence a faculty/instructor's judgment, and/or could reasonably create a perception of bias.

- 3.2.1 Situations where conflict of interest and/or bias could arise include, but are not limited to:
  - 3.2.1.1 the decision to admit a student to a course or program;
  - 3.2.1.2 the provision of instruction, supervision or advice;
  - 3.2.1.3 the evaluation of a student;
  - 3.2.1.4 the awarding of scholarships, awards, financial assistance and/or other benefits;
  - 3.2.1.5 the awarding of teaching or research assistantships or other remunerative employment, either within the University or using funds administered by the University.

#### **3.3 Ontario Human Rights Code Provisions**

##### **3.3.1 Sexual Harassment**

- 3.3.1.1 In Ontario, the *Human Rights Code* prohibits all forms of discrimination based on sex and this includes sexual harassment in education and employment. *The Code* sets out the basic right to equal treatment without discrimination because of sex, to be free from harassment based on sex and inappropriate gender-related comments and conduct.

##### **3.3.2 Sexual Solicitation**

- 3.3.2.1 *The Code* states that every person has a right to be free from a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

### 3.3.3 Consent

- 3.3.3.1 Consent refers to the voluntary agreement of an individual to engage in a sexual act. Consent is positive, active and ongoing, and can be revoked at any time. Consenting to one kind of sexual act does not mean that consent is given for another sexual act or kind of activity. Consent is NOT obtained where a person is incapable of consenting - for example if the person is incapacitated as a result of intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.
- 3.3.3.2 Even in situations where the engaged parties may not see a conflict of interest and/or bias, faculty/instructors should be aware that relationships between faculty/instructors and students involve trust and disparities in power. Despite a relationship being considered consensual, it may actually be unwanted and/or lead to an allegation or complaint of sexual harassment or sexual solicitation under the University's *Respectful Work and Learning Environment Policy*, the *Policy on the Prevention and Response to Sexual and Gender-based Violence*, and/or the *Ontario Human Rights Code*. The *Code* stipulates that a person does not have to object to the harassment or solicitation when it occurs for there to be a violation, or for the person to make a claim under the *Code*. A power imbalance can negate consent in intimate relationships, and give rise to an abuse of trust even with when there has been no harassment.

### 3.4 Confidentiality & Privacy

- 3.4.1 All disclosures, reports and complaints regarding faculty/instructor-student relationships made to the University will be treated in a confidential manner, in accordance with the *Ontario Freedom of Information and Protection of Privacy Act* and in accordance with the provisions of applicable collective agreements or Memoranda of Agreement.
- 3.4.2 All members of the University community who are involved in addressing or investigating a faculty/instructor-student relationship must keep the matter confidential in order to protect the rights of those involved in the allegations, to prevent an unjustified invasion of their personal privacy and to preserve the integrity of a potential investigation.

## 4. PROCEDURES

- 4.1 Faculty/Instructors shall avoid situations in which a conflict of interest and/or bias may arise and deal promptly with any such situation that does arise.
- 4.2 Faculty/Instructors must disclose to their Dean of Faculty or other managerial supervisor, or designate, any close personal relationship they have with a student as soon as it exists, which shall be made before a situation arises that may give rise to a conflict of interest and/or bias or a perceived conflict of interest and/or bias as identified in section 3.2.
- 4.3 In the event that a relationship with a student develops once the faculty member/instructor already has a teaching, supervisory, advisory, or evaluative role with the student, the faculty member/instructor must disclose the relationship immediately to her/his Dean of Faculty or other managerial supervisor, or designate.

- 4.4 One or more of the following methods shall be used to deal with any conflict of interest and/or bias:
- 4.4.1 The faculty member/instructor shall decline or end their teaching, supervisory, advisory, evaluative, or decision-making role with the student, unless the Dean of Faculty or other managerial supervisor, or designate believes that to do so would place undue burden on the student.
  - 4.4.2 When alternative courses or supervision options exist that are reasonable and appropriate to the student's program, the student shall utilize those alternatives.
  - 4.4.3 Where no reasonable or appropriate alternative is available, the Dean of Faculty or other managerial supervisor, or designate shall make arrangements for alternative evaluation methods to ensure equitable treatment of the student. Such arrangements may include:
    - 4.4.3.1 Evaluation by another qualified faculty member/instructor;
    - 4.4.3.2 Oversight of evaluation by the Program Chair, Graduate Program Director, Director, Office of Continuing Studies, or designate.
  - 4.4.4 Where a third party individual is concerned about a potential or actual conflict of interest and/or bias regarding a faculty/instructor-student relationship, that person may raise their concern with the Dean of Faculty or relevant managerial supervisor, or designate, who will:
    - 4.4.4.1 Assess the situation;
    - 4.4.4.2 Investigate as necessary and in a timely and impartial manner; and
    - 4.4.4.3 Confirm with the third party individual that the matter has been addressed.
- 4.5 Where a student is concerned about a relationship, whether it be intimate or not, with a faculty member/instructor, or where that student feels that they are being harassed by a faculty member/instructor they may:
- 4.5.1 Bring the matter to the attention of the appropriate Chair, Graduate Program Director, or Dean, or Director, Office of Continuing Studies, or the Vice-Provost, Students & International, or the Director, Diversity, Equity and Sustainability Initiatives, who will:
    - 4.5.1.1 Address the matter in accordance with OCAD U's *Respectful Work & Learning Environment Policy* and/or *Policy on the Prevention and Response to Sexual and Gender-based Violence*, as well as any relevant collective agreement or Memoranda of Agreement; and
    - 4.5.1.2 Maintain ongoing communication with the student and faculty member/instructor.
- 4.6 Where a faculty member/instructor is concerned about a relationship, whether it be intimate or not, with a student, or where that faculty member/instructor feels that they are being harassed by a student they may:

4.6.1 Bring the matter to the attention of the appropriate Chair, Graduate Program Director, or Dean, or Director, Office of Continuing Studies, or the Director, Human Resources, or the Director, Diversity, Equity and Sustainability Initiatives, who will:

4.6.1.1 Address the matter in accordance with OCAD U's *Respectful Work & Learning Environment Policy* and/or *Policy on the Prevention and Response to Sexual and Gender-based Violence*, as well as any relevant collective agreement or Memoranda of Agreement; and

4.6.1.2 Maintain ongoing communication with the faculty member/instructor.

## **5. BREACH OF POLICY**

5.1.1 Where it is found that a breach of the policy has occurred, the matter may be referred for disciplinary action, to be undertaken in accordance with the provisions of applicable collective agreements or Memoranda of Agreement.

5.1.2 This Policy shall be interpreted and implemented consistent with the terms of any relevant collective agreement or Memoranda of Agreement that may apply.