



**A Special Meeting of the
Committee on Human Resources and Administration
BOARD OF REGENTS FOR HIGHER EDUCATION
Boardroom 123, 39 Woodland Street, Hartford, CT
1:00 p.m., Thursday, September 15, 2016**

**REVISED
AGENDA**

1. Call to Order
2. Approval of Meeting Minutes of July 21, 2016
3. Executive Session
 - a) Discussion: strategy related to collective bargaining
 - b) Discussion: update on pending litigation
 - c) Discussion: appointment or evaluation of a public officer or employee
4. Discussion: Human Resources Policies for Management Confidential Professional Personnel
5. Discussion: Code of Conduct for CSCU Personnel

ACTION ITEMS:

6. Policy Regarding Faculty Consulting and Research with Public or Private Entities
7. Affirmative Consent Legislation/CSCU Policy on Consensual Relationships
8. Adjournment

Committee members

Naomi K. Cohen, Chair
Yvette Melendez
Richard J. Balducci
Elease Wright
David Jimenez

**BOARD OF REGENTS FOR HIGHER EDUCATION
HUMAN RESOURCES & ADMINISTRATION COMMITTEE**

Minutes – Special Meeting

1:00 p.m., Thursday, July 21, 2016

1st Floor Boardroom, 39 Woodland Street, Hartford, CT

REGENTS PRESENT

Naomi Cohen, Chair
Richard Balducci (Telephonic)
David Jimenez (Telephonic)
Yvette Melendez
Gordon Plouffe
Elease Wright

CSCU STAFF PRESENT

Mark Ojakian, President
Alice Pritchard, Chief of Staff
Steven Weinberger, Vice President for Human Resources
Michael Lopez, Director of Human Resources Administration
Karen Stone, Director of Internal Audit
Ernestine Weaver, Counsel
Rosalie Butler, Administrative Assistant

CSCU REPRESENTATIVES

Cheryl Cyr, Interim Associate Director of Human Resources, Asnuntuck Community College

CALL TO ORDER

With a quorum present, Chair Cohen called the meeting to order at 1:04 p.m.

APPROVAL OF MEETING MINUTES FROM JUNE 2, 2016

The minutes of the June 2, 2106 meeting were unanimously approved.

EXECUTIVE SESSION

At 1:05 p.m., on a motion by Regent Wright, seconded by Regent Jimenez, the Committee voted to go into Executive Session for the purpose of discussion concerning performance, evaluation, health or dismissal of a public officer or employee. Committee Chair Cohen announced that no votes would be taken in Executive Session. Regent Plouffe, President Ojakian, Chief of Staff Pritchard and VP Weinberger were asked to remain with the Committee throughout Executive Session. All other CSCU staff left the meeting.

RETURN TO OPEN SESSION

At 2:19 p.m., Committee Chair Cohen announced that the meeting had returned to Open Session and that no votes were taken in Executive Session. Discussion was limited to the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee.

President Ojakian left the meeting. Director Lopez, Director Stone, Director Cyr, Ms. Weaver and Ms. Butler joined the meeting.

PRESIDENTIAL COMPENSATION GUIDELINES

No discussion was held.

AFFIRMATIVE CONSENT LEGISLATION

Chair Cohen reminded Committee members that at its June 16, 2016 meeting, the BOR amended its policy on Sexual Misconduct Reporting, Support Services and Processes. The BOR also amended the CSCU Student Code of Conduct. Committee members had discussed the current BOR Policy on Consensual Relationships. These actions were taken in order to comply with Public Act 16-106, “An Act Concerning Affirmative Consent,” which went into effect on July 1. As a result, the Committee directed VP Weinberger to review the legislation and to incorporate any necessary updates to the BOR Policy on Consensual Relationships.

Ms. Weaver advised that the CSCU Sexual Misconduct Reporting, Support Services and Processes Policy is comprehensive, applies to all employees, encompasses the issue of sexual harassment, and carries reporting requirements for faculty. Ms. Weaver explained how a grievance, filed by the AAUP over internal reporting requirements, was resolved through the State Labor Board. Regents directed Management to promptly disseminate the policy to ensure all staff are aware. Management will immediately post the revised policies to the CSCU website, promulgate it at all orientations and make it broadly available at each campus.

TRAINING PORTAL UPDATE

Director Lopez provided Regents with an update on the Systemwide employee training portal. He reported all online courses are now “gated”, meaning employees must complete each course in a specific module and pass a test to be compliant. Completion numbers are available. He reaffirmed the portal will continue to be used until such time as the CT Education Academy can make needed modules available.

ADJOURNMENT

With no further business to consider, the meeting was adjourned at 2:43 p.m. on a motion by Regent Balducci, seconded by Regent Wright.

The next regular committee meeting is scheduled for Thursday, September 1, 2016, at 1:00 p.m.

ITEM

Amendment to Policy Regarding Faculty Consulting and Research with Public or Private Entities (Attached)

BACKGROUND

The Board of Regents approved the above-reference policy on 11/21/13. The requested amendment is a minor modification intended to take some undue burden off of the Internal Audit department.

ANALYSIS

The current language included in the referenced policy requires that the Internal Audit Department audit “each institution’s compliance with the established internal procedures and this policy annually.”

In order to comply with the policy as written, the Department would require 17 weeks, at one week each, in order to plan, execute, document, and report on compliance with the established policy.

The requested amendment would eliminate the requirement to audit “each institution” annually. An annual audit requirement would remain and the Department shall establish a schedule that would enable the department to rotate institutions annually, with the ability to consider risk, audit coverage, and available resources. This schedule would mirror actions currently taken with all other areas of audit. The compliance with ethics and standards of conduct are considered an important area of audit coverage and, accordingly, it is proposed that the institutions will be audited on a three year cycle. However when non-compliance is determined, the audit frequency of the respective institution(s) will be accelerated.

Internal Audit recently conducted audits of six of the CSCU institutions for compliance with this referenced policy, and the general conclusion was that the processes are not yet mature enough to conduct a detailed audit.

RECOMMENDATION

Amend the Policy Regarding Faculty Consulting and Research with Public or Private Entities as requested in the attached draft.

Board of Regents for Higher Education
Connecticut State Colleges and Universities

Approved by the Board of Regents 11/21/13

Policy Regarding Faculty Consulting and Research with Public or Private Entities

Faculty professional activities such as consulting or engaging in a research project for a public or private entity often are useful in maintaining and enhancing the faculty member's academic scholarship and competence. However, the primary responsibility of full-time faculty during the academic year is to the Board of Regents for Higher Education of the Connecticut State Colleges and Universities and their respective institution. The value of these outside activities is recognized through Collective Bargaining Agreements and statute and regulation.

For the purposes of this policy, consulting shall be defined as the provision of services for compensation to a public or private entity by a member of the faculty or member of the faculty bargaining unit: (i) when the request to provide such service is based on such member's expertise in a field or prominence in such field, and (ii) while such member is not acting in the capacity of a state employee.

For the purposes of this policy, research shall be defined as a systematic investigation, including, but not limited to, research development, testing and evaluation, designed to develop or contribute to general knowledge in the applicable field of study.

Faculty is expected to comply with the applicable provisions of the aforementioned Collective Bargaining Agreement, state statute and regulation. As such, no faculty member may engage in consulting agreement or research project that (A) inappropriately uses the institution's proprietary information in connection with such agreement or project; (B) interferes with the proper discharge of his or her employment with the university; and/or (C) inappropriately uses such member's association with the institution in connection with such agreement or project.

Each institution shall establish internal operating procedures that shall ensure, to the extent possible: (i) the disclosure, review, and management of conflicts of interest relating to any such agreement or project; (ii) the approval of the chief academic officer and dean of the institution prior to any such member entering into any such agreement or engaging in any such project; and (iii) the referral of any failure to comply with the provisions of this policy or institution procedure to the applicable disciplinary process outlined in the Collective Bargaining Agreement. Each institution shall provide a report to the Office of the BOR President of any such approved activities on or before May 1 and November 1 of each year. In addition, the Director of Internal Audit for the Connecticut State Colleges and Universities shall audit each institution's compliance with the established internal procedures and this policy annually.

RESOLUTION

concerning

**Policy Regarding
Faculty Consulting and Research with Public or Private
Entities**

September 16, 2016

- WHEREAS, The Board of Regents in accord with of the Connecticut State Colleges and Universities recognize that the faculty professional activities such as consulting or engaging in a research project for a public or private entity often is useful in maintaining and enhancing the faculty member's academic scholarship and competence; and
- WHEREAS, The primary responsibility of full-time faculty during the academic year is to their respective college or university; and
- WHEREAS, Section 1-84(r)(2) of the General Statutes requires the board to adopt a policy regarding faculty consulting agreements and research projects with public and private entities, requires that procedures be promulgated at the institutions to manage and account for such agreements and projects, and provide information semiannually;
- WHEREAS, From time to time policies require revision to reflect Board policy changes or other needed changes or clarifications; therefore, be it
- RESOLVED, That the Board of Regents adopts the amended "Policy Regarding Faculty Consulting and Research with Public or Private Entities" (Attachment A) effective immediately.

A True Copy:

Erin A. Fitzgerald, Secretary
CT Board of Regents for Higher Education

Board of Regents for Higher Education
Connecticut State Colleges and Universities

Policy Regarding Faculty Consulting and Research with Public or Private Entities

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Each institution shall establish internal operating procedures that shall ensure, ~~to the extent possible:~~ (i) the disclosure, review, and management of conflicts of interest relating to any such agreement or project; (ii) the approval of the chief academic officer and dean of the institution prior to any such member entering into any such agreement or engaging in any such project; and (iii) the referral of any failure to comply with the provisions of this policy or institution procedure to the applicable disciplinary process outlined in the Collective Bargaining Agreement. Each institution shall provide a report to the Office of the ~~CSCU BOR~~ President of any such approved activities on or before May 1 and November 1 of each year. In addition, the Director of Internal Audit for the Connecticut State Colleges and Universities shall audit ~~each institution's~~ institutions' compliance with the established internal procedures and this policy annually. Each institution shall be audited at least once every three years, with the Director authorizing more frequent audits when the Director deems it appropriate.

Approved by the Board of Regents 11/21/13
Draft Amendment 9/15/16

ITEM**Affirmative Consent Legislation/BOR Policy on Consensual Relationships****BACKGROUND**

On November 21, 2013, the Board adopted its “Policy on Consensual Relationships”, a copy of which is appended hereto as Attachment “A”.

The Consensual Relationships Policy notes:

“[A]lthough these relationships may begin and remain consensual, they may easily be later characterized as non-consensual and could potentially head to sexual harassment charges.”

And similarly:

“Anyone who enters into a romantic, dating or sexual relationship where a professional power differential exists must realize that if a charge of sexual harassment is subsequently filed, it may be difficult to defend the charge by claiming that there was mutual consent.”

However, the Policy is silent as to the standard to be used in determining whether sexual activity was consensual.

Effective July 1, 2016, Public Act No. 16-1106, requires that higher education institutions in Connecticut use a standard of “affirmative consent” when determining in the context of policies such as the Policy on Consensual Relationships whether sexual activity is consensual. For this reason, the Human Resources and Administration Committee recommends that the Policy be amended to include a reference to the affirmative consent standard, as follows:

Add a new paragraph four:

“Affirmative consent is the standard used to determine whether sexual activity was consensual. As defined by Public Act 16-106, “Affirmative consent” means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.”

In the section entitled, “In the event of a Sexual Harassment Charge”, add new sentences three and four:

“Affirmative consent is the standard used to determine whether sexual activity was consensual. As defined by Public Act 16-106, “Affirmative consent” means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.”

RECOMMENDATION

Adopt the amended Policy appended hereto as Attachment “B”.

9/15/16 HR & Administration Committee
9/16/16 BOR

ATTACHMENT A

Policy on Consensual Relationships

BOR approved 11/21/13; annual distribution to employees required. Rescinded Connecticut State University System Policy regarding Consensual Relationships adopted pursuant to BR#05-13

The Board of Regents for Higher Education (BOR) of the Connecticut State Colleges and Universities' respects that the educational mission of its institutions is founded on an atmosphere of mutual trust and respect between all members of the academic community. Faculty members, as well as those individuals upon whom the institution confers managerial, supervisory, or evaluative responsibilities, (including graduate assistants or undergraduate teaching assistants) carry a special responsibility to adhere to the highest ethical and professional standards and to avoid any actions that may appear to undermine this atmosphere of trust and respect and thereby hinder the institution's educational mission.

Because of the inherent imbalance of power and need for trust, faculty members, supervisory staff, and those with evaluative authority should be aware that dating or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between a staff member and a student as well as when they occur between a supervisor and employee.

Such relationships can create real conflicts, are susceptible to an appearance of exploitation, and can impair the trust and integrity of the teaching, coaching, or other supervisory or evaluative relationship and may cause a perception of favoritism or bias on the part of the staff. In addition, although these relationships may begin and remain consensual, they may easily be later characterized as non-consensual and could potentially lead to sexual harassment charges.

Policy Prohibited

Between employee and student: Consensual romantic, dating, or sexual relationships between any employee and any student over whom that employee exercises direct or otherwise significant academic, supervisory, or evaluative authority or influence are prohibited at all State Universities and Colleges. The evaluative relationship can take a variety of forms, such as teacher to student, advisor to advisee, coach to athlete, supervisor to student employee, or similar relationship.

Strongly Discouraged

Between employee and student: Romantic, dating or sexual relationships between employees and students over whom said employee does *not* have supervisory or evaluative authority are strongly discouraged. Such relationships are not only susceptible to future conflicts of interest, but also may present the appearance of impropriety.

If this situation exists, no employee should agree to supervise or evaluate a student with whom he or she has, or formerly had, a consensual relationship. A faculty member should inform the Dean if such a student wishes to enroll in a credit bearing course that he or she is teaching so that alternate arrangements can be made. Nor should a faculty member direct the student's independent study, internship, or thesis; participate in decisions regarding grades; or write letters of recommendation or reference.

Between employee and employee: BOR discourages employees with supervisory or evaluative authority from engaging in romantic, dating or sexual relationships with employees who they supervise or evaluate. If such a relationship exists or develops, the supervisory employee must notify his/her manager so that arrangements can be made for the unbiased supervision and evaluation of the employee. These situations are handled on a case-by-case basis and may require transfer or reassignment of one or more employees.

In the event of a Sexual Harassment Charge

Anyone who enters into a romantic, dating or sexual relationship where a professional power differential exists must realize that if a charge of sexual harassment is subsequently filed, it may be difficult to defend the charge by claiming that there was mutual consent. Employees could be held personally liable in a criminal or civil lawsuit.

Sanctions

All violations of this policy should be reported to Human Resources for investigation and appropriate administrative action, up to and including disciplinary action.

CT BOARD OF REGENTS FOR HIGHER EDUCATION

RESOLUTION

concerning

Policy on Consensual Relationships

September 16, 2016

- WHEREAS, All employees with managerial, supervisory, or evaluative responsibilities for students or other employees carry a special responsibility to adhere to the highest ethical and professional standards and to avoid any actions that may appear to undermine this atmosphere of trust and respect and thereby hinder the institution's educational mission; and
- WHEREAS, Because of the inherent imbalance of power and need for trust, all employees with evaluative or supervisory authority over students and employees should be aware that dating or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between employees, or between an employee and a student; and
- WHEREAS, Consensual relationships can create real conflicts of interest and appearances of impropriety that can impair the integrity of academic and employment decisions and pose special risks between individuals in inherently unequal positions of power, such as students and teachers or supervisors and employees; and
- WHEREAS, Although these relationships may begin and remain consensual, they may easily be later characterized as non-consensual given the inherent power differential between the parties, and such relationships could potentially lead to sexual harassment charges
- WHEREAS, Public Act 16-106 An Act Concerning Affirmative Consent imposed new requirements on colleges and universities to address sexual violence on campuses; and
- WHEREAS, The Board of Regents, consistent with the goal providing safe environments at all of its campuses for all who frequent them, has reviewed its "Policy on Consensual Relationships" and revised the policy so that it is consistent with the law; therefore be it
- RESOLVED, That the Board of Regents formally amends the "Policy on Consensual Relationships" a copy of which is appended hereto as "Attachment A".

A True Copy:

Erin A. Fitzgerald
Secretary

ATTACHMENT B

Policy on Consensual Relationships

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Affirmative consent is the standard used to determine whether sexual activity was consensual. As defined by Public Act 16-106, "Affirmative consent" means an active, clear and voluntary agreement by a person to engage in sexual activity with another person.

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ATTACHMENT B

Between Employee and Employee

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Sanctions

All violations of this policy should be reported to Human Resources for investigation and appropriate administrative action, up to and including disciplinary action.