

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

**Minutes – Special Meeting**

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

**1<sup>st</sup> Floor Boardroom, 39 Woodland Street, Hartford, CT**

**REGENTS PRESENT**

Naomi Cohen, Chair  
Richard Balducci  
Yvette Melendez  
Elease Wright

**REGENTS ABSENT**

David Jimenez

**CSCU STAFF PRESENT**

Mark Ojakian, President  
Alice Pritchard, Chief of Staff  
Erika Steiner, Chief Financial Officer  
Steven Weinberger, Vice President for Human Resources  
Karen Stone, Director of Internal Audit  
Ernestine Weaver, Counsel  
Erin Fitzgerald, Associate for Board Affairs  
Rosalie Butler, Administrative Assistant

**CALL TO ORDER**

With a quorum present, Chair Cohen called the meeting to order at 1:02 p.m.

**APPROVAL OF MEETING MINUTES FROM JULY 21, 2016**

*The minutes of the July 21, 2106 special meeting were unanimously approved.*

*With consent of Committee members, items were discussed out of agenda order.*

**POLICY REGARDING FACULTY CONSULTING AND RESEARCH WITH PUBLIC OR PRIVATE ENTITIES**

Chair Cohen turned to CFO Steiner for further explanation. CFO Steiner stated this item arose from discussion at an Audit Committee meeting and is also embedded in the Internal Audit Plan, which is approved annually by the Audit Committee. She advised the amendment to the above Policy was intended to remove undue administrative burden from the Internal Audit department. The amendment eliminates the requirement to audit “each institution” annually. Discussion followed regarding scope, frequency and establishing a system-wide policy.

*Amendment to the Policy Regarding Faculty Consulting and Research with Public or Private Entities, as amended in Attachment 1, was unanimously approved on a motion by Regent Wright, seconded by Regent Balducci.*

### ***EXECUTIVE SESSION***

*At 1:20 p.m., on a motion by Regent Balducci, seconded by Regent Melendez, the Committee voted to go into Executive Session for the purpose of discussion concerning strategy related to collective bargaining, an update on pending litigation, and appointment or evaluation of a public officer or employee. Committee Chair Cohen announced that no votes would be taken in Executive Session. President Ojakian, Chief of Staff Pritchard, VP Weinberger and Ms. Weaver were asked to remain with the Committee throughout Executive Session. All other CSCU staff left the meeting.*

### ***RETURN TO OPEN SESSION***

*At 2:07 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 strategy related to collective bargaining, an update on pending litigation, and the appointment or evaluation of a public officer or employee.*

*Ms. Butler rejoined the meeting.*

### **AFFIRMATIVE CONSENT LEGISLATION/CSCU POLICY ON CONSENSUAL RELATIONSHIPS**

Chair Cohen turned to VP Weinberger for further explanation. Public Act 16-106 requires that higher education institutions in Connecticut use a standard of “affirmative consent” when determining, in the context of policies, whether sexual activity is consensual. The BOR policy on Consensual Relationships had been silent as to the standard used. For this reason the HR & Administration Committee recommends the Policy be amended to include references to the affirmative consent standard.

*The CSCU Policy on Consensual Relationships, as amended in Attachment 2, was unanimously accepted on a motion by Regent Melendez, seconded by Regent Wright.*

### **HUMAN RESOURCES POLICIES FOR MANAGEMENT CONFIDENTIAL PROFESSIONAL PERSONNEL**

President Ojakian indicated his desire to open a dialogue regarding possible modifications to the BOR compensation policy levels for Management and Confidential Professional Employees. Hiring at a salary range above the top of the second quartile (i.e. above the median) currently requires the recommendation and approval of the President and approval of the full Board when the affected employee is at the level of Dean or above (for Community Colleges), Vice President or above (for Universities), or reports directly to the CSCU President. President Ojakian encouraged the committee to consider modifications in light of salary compression between managers and union members, as well as increases in health care contributions for management but not for bargaining unit employees. He reflected that offers have been declined because they are too low. Prospective hires are instead accepting union-protected positions to ensure raises,

job security and longevity. He further cited the slim likelihood of future raises for these employees.

Regent concerns included the need for checks and balances and the understanding that the class and compensation policies were developed based on national data after more than a year of study by a consultant experienced in this topic. Regents asked for a report of examples of how the policy is or is not working, recommended policy changes and recommendations for BOR exercising best oversight of its fiduciary responsibilities. This discussion will continue at the next HR & Administration Committee meeting.

#### **CODE OF CONDUCT FOR CSCU PERSONNEL**

*This item was deferred to the next meeting. No discussion was held.*

#### **ADJOURNMENT**

*With no further business to consider, the meeting was adjourned at 2:52 p.m. on a motion by Regent Wright, seconded by Regent Melendez.*

**Due to scheduling conflicts, Chair Cohen requested the October 6<sup>th</sup> regular meeting be rescheduled.**

**ATTACHMENT 1**

**Board of Regents for Higher Education  
Connecticut State Colleges and Universities**

**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~~ institution compliance with the established internal procedures and this policy annually.

## ATTACHMENT 2

### Policy on Consensual Relationships

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.

**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.**

#### **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. **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.**

### **Sanctions**

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