

Professional Concerns Committee
Meeting Minutes for September 20, 2018
UC 414
3:15 pm

Members in Attendance: Shannon Alexander, Kalyani Ankem, Judy Audas, Tom Bowers, John Farrar, Kathleen Fuegen, Nicole Grant, Jane Hammons, Christopher (Collin) Herb, Jim Kirtley, Alexis Miller, Kevin Muenta, Gary Newell, Tracy Songer, Mauricio Torres, Michael Washington, Maggie Whitson, Jackie Wroughton

Members Not in Attendance: Blas Puente-Baldoceda, John Clarkin, Linda Dynan, Ban Mittal

1. Call to Order, Adoption of the Agenda

- a. Nicole Grant - Motion
- b. Maggie Whitson – 2nd
- c. Unanimously approved

2. Approval of the Minutes from the September 6, 2018 PCC meeting.

- a. Kevin Muenta – Motion
- b. Tracy Songer – 2nd
- c. Minutes unanimously approved
 - i. Correction – Jim Kirtley was in attendance on 9.6.18 – Final, approved minutes reflect update.

3. Chair's Report and Announcements

- a. Faculty Senate Executive Committee: From meeting Sept. 10th
 - i. Discuss recommended nominees for Strategic Framework
 - 1. Faculty Senate was taking into consideration Diversity and with this these three faculty for the core team
 - Matthew Zecate – Senate President
 - Amber Oneroto – Assistant Professor of Chemistry
 - Leslie Hammond – NTTR at Steely
 - 2. Faculty Senate Resource Advisory Team recommendations
 - Janel Bloch
 - Lisa Cuntz – Nursing
 - 3. In response to the chair's report of the Sept. 6th PCC meeting to the Faculty Senate Executive Committee, the FS noted that the evaluation of teaching and the syllabus boiler plate were referred to TEEC.
 - 4. The consensual relations policy is a Faculty Senate priority.
 - See attached Appendix A
 - 5. The Faculty Senate Executive Committee also asked that PCC push the previously passed item on phased retirement as a resolution for the item on part-time faculty service on RPT committees, rather than creating a separate resolution. J. Farrar reached out to Lori Southwood, who has yet to respond as of the Sept. 20th PCC

meeting. J. Farrar will continue to reach out before this is considered resolved to PCC

6. Next Meeting for Faculty Senate, Monday September 24th

b. Priority Survey Results – See attached

i. Top 3 from last meeting

1. A statement on tenure was ranked in the top three by 71% of respondents.
2. Updating the IP policy was ranked in the top three by 43%, ranked #1 by 22%
3. Updating and resolving conflicts in Section 16 was at 43% for the top three, but 29% had it #2 with only 7% at #1.

ii. Bottom 3 from last meeting

1. A resolution on closed searches was ranked in the bottom 3 by 57%.
2. An investigation of contract procedure, particularly AP was also rated in the bottom 3 by 57%.

iii. Middle

1. Course load inequities, particularly AP was a top 3 priority for 36%, but also a bottom 3 for 50%.
2. Evaluation procedures for administrators was top 3 by 29% and bottom 3 by 29%
 - This is in the middle – but would need to happen faster if we wanted something to happen by spring

iv. Research Misconduct Allegations

1. PCC is clearly divided, which seems to reflect the faculty community, on the research misconduct allegations. It averages 5.5 out of 8 in the ranking. It is rated as top 3 by 29%, but bottom three by 57%, with 43% listing as the bottom priority.

v. Chair Proposal for priorities (there is also indicated that there are work groups to take on an item and report to PCC

1. Tenure Statement
2. Intellectual Property Policy – came back to PCC from FS to modify from last year. Work group:
 - Maggie Whitson
 - Kevin Muenta
 - Kaylani Ankem
 - John Farrar
3. Section 16 Faculty Handbook changes. Work Group
 - Collin Herb
 - Judy Audas
 - **NEED ONE MORE**
4. Evaluation of Administrators
5. Course Load Inequities

6. Resolution on closed searches
 - c. Grace Hiles will set up a Canvas site for us
4. **Update about PAR as it concerns winter pay.**
 - a. Jackie Wroughton brought forth the idea with the last PCC meeting and talked with the provost who said she would follow up. At this time the chair of Math and Statistics says it automatically splits into the PAR. Jackie got conflicting statements from the Provost and the Dean. Their response was that IF the PAR is in on time, you will be paid in both months.
 - b. Action: J. Farrar will follow up with all parties
5. **New Business: Discussion Item, Consensual Relations Policy** – See Attached
 - a. Background – Last year, PCC created a memo through the former chair Ken Katkin about the Consensual Relations Policy **See Appendix B**
 - b. The Chair reports that people think our policy is too lenient and proposed a different policy **See Appendix C**
 - c. After much discussion for pros and cons of a revised policy, the consensus was to modify the current Handbook language with an addition of a disclosure statement IF there is a relationship between faculty and student. J. Farrar will work on language for the statement.
6. **New Business: Discussion Item, Research Misconduct Allegations against President Vaidya**
 - a. The President did send a response to Faculty Senate, but it didn't address the majority of faculty concerns.
 - b. There are concerns about the cost of acting and also the cost of not acting. If the allegations become public, PCC should be prepared to put forward a strong faculty position.
 - c. Solution: PCC drop the allegations of research misconduct and use it as background knowledge to inform a resolution on the process of a closed search.
 - d. Action: The PCC will publish a statement to Faculty Senate to explain the reasons we decided not to pursue an investigation or statement at the October meeting so that all of the faculty feels heard around the motion. PCC will work on a resolution on closed searches, but not as a high priority.
 - i. Motion: Nicole Grant
 - ii. 2nd Collin Herb
 - iii. Approved
7. **New Business: Discussion of a resolution on tenure**
 - a. The PCC will create a Faculty Senate resolution with a suggested statement for action by the President, Administration, and Board of Regents to publicly support tenure.
8. Adjournment 5:15pm
Respectfully Submitted, Tracy Songer PCC Secretary

APPENDIX A 9.20.18

CONSENSUAL RELATIONSHIPS

POLICY NUMBER: RESERVED FOR FUTURE USE

POLICY TYPE: HYBRID - ACADEMIC/ADMIN

RESPONSIBLE OFFICIAL TITLE: INTERIM CHIEF ADMINISTRATION OFFICER; VICE PRESIDENT, STUDENT AFFAIRS; PROVOST

RESPONSIBLE OFFICE: STUDENT CONDUCT, RIGHTS, & ADVOCACY; HUMAN RESOURCES; PROVOST

EFFECTIVE DATE: UPON APPROVAL

NEXT REVIEW DATE: APPROVAL PLUS FOUR YEARS

SUPERSEDES POLICY DATED: N/A

REQUIRES LEGAL/COMPLIANCE REVIEW:

(PER SECTION V. OF THE APPROVED POLICY REQUEST FORM) YES NO

REQUIRES I.T. POLICY COUNCIL REVIEW:

(PER SECTION V. OF THE APPROVED POLICY REQUEST FORM) YES NO

REQUIRES HUMAN RESOURCES REVIEW:

(PER SECTION V. OF THE APPROVED POLICY REQUEST FORM) YES NO

BOARD OF REGENTS REPORTING (CHECK ONE)::

(PER SECTION V. OF THE APPROVED POLICY REQUEST FORM):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM):

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

Northern Kentucky University (NKU) is committed to maintaining a working and academic environment free from conflict of interest, favoritism, and exploitation. This policy addresses romantic relationships and/or sexual interactions that, although consensual, may create actual and perceived conflicts of interest and create the possibility of favoritism or exploitation.

II. ENTITIES AFFECTED

All NKU employees (faculty, staff, administrators, and student workers) and students.

III. REASON FOR POLICY

University community members must be able to participate in university academic and/or workplace activities that are free from conflicts of interest, favoritism, and exploitation. Relationships between certain categories of individuals that are associated with the university risk undermining the educational purpose of the university and can disrupt the working and educational environment.

IV. DEFINITIONS

Consensual Relationship – A romantic relationship and/or sexual interaction agreed to by the involved parties (even if it is a single interaction).

Consent – Consent is clear, knowing, and voluntary. Silence, in and of itself, cannot be interpreted as consent. Verbal consent is not a requirement of this policy; however, consent may be given by words as long as those words create mutually understandable, clear permission regarding willingness to engage in sexual activity.

Consent to one form of sexual activity does not imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts.

APPENDIX B – 9.20.18

MEMORANDUM

To: PCC
From: K. Katkin, Chair
Re: Draft Consensual Relations Policy
Date: March 15, 2018

In late February, the NKU administration released a proposed draft policy on “Consensual Relations.” We discussed this draft at our PCC Meeting of March 1, 2018. The following comments are intended to capture that discussion in the form of a recommendation that PCC can make to Faculty Senate concerning the draft policy.

* * * * *

On February 22, 2018, the NKU administration released a proposed draft policy on “Consensual Relations.” The PCC discussed this draft at our Meetings of March 1, 2018 and March 15, 2018. The PCC recognizes that Section 16.9 of the NKU Faculty Handbook—which governs consensual relations between faculty members and students—may be in need of revision. The PCC and the Faculty Senate are willing to work with the Provost’s office to achieve a mutually satisfactory revision to Section 16.9. Adoption of the proposed draft administrative policy, however, would violate the NKU Faculty Handbook and would create more new practical problems than it would solve. Accordingly, as discussed herein, the PCC recommends that Faculty Senate vote to oppose the adoption of the proposed policy. Moreover, if this policy is first adopted without Senate approval, the PCC recommends that Faculty Senate should vote to oppose any subsequent amendment to the NKU Faculty Handbook that would bring the Handbook into conformity with this policy.

BACKGROUND

In November 2016, the NKU administration released a proposed draft administrative policy on “Consensual Relations.” In the policy flow routing information listed at the top of the draft policy, the checkbox for “REQUIRES Professional Concerns Committee REVIEW” appropriately was checked. Accordingly, at our meeting of January 19, 2017, NKU Senior Advisor to the President for Inclusive Excellence & Title IX Coordinator Kathleen Roberts met with PCC to receive faculty input and to seek PCC’s recommendation. As noted in the Minutes of that meeting (appended to this Memorandum), the PCC expressed a number of concerns with the November 2016 draft policy, and did not approve its adoption. At the conclusion of this meeting, Ms. Roberts stated that she would redraft portions of the draft policy to reflect some of PCC’s discussion. She requested that PCC members with suggestions for inclusion should send written comments to her or to K. Katkin.

Thirteen months later, on February 22, 2018, a revised draft “consensual relations” policy proposal was released by the administration for notice-and-comment on the Policy.nku.edu Web Site. During the thirteen-month interim, there was no further communication about this issue between the administration and Faculty Senate. Moreover, the revised proposal was never presented to PCC or Senate. In fact, although PCC had never approved its predecessor, the policy flow routing information listed at the top of the revised draft policy released in February

2018 no longer contained any checkbox for “REQUIRES Professional Concerns Committee REVIEW.”

The Proposed Policy Violates The NKU Faculty Handbook

Section 16.9 of the Faculty Handbook (appended to this Memorandum) governs consensual relations between faculty members and students or other NKU employees. Section 16.9 contains few blanket prohibitions on such relations, instead choosing to rely primarily on a system of confidential disclosure and mitigation of harm. For example, Section 16.9.3 governs consensual relations between faculty members and students who are enrolled in their classes. It says:

Consensual relationships in situations involving direct supervision (e.g., between a faculty member and student in his/her class, or between a faculty member and student he/she is supervising in independent laboratory research, or between a supervisor who has the power to evaluate, promote, or grant raises and his/her employee) should be avoided. If such relationships arise, arrangement should be made to remove one of the parties from the supervisory situation or to have evaluations of the supervised party made in another way. For example, in the case of faculty and student, the student should be placed in another course or be paired with another thesis or laboratory instructor. In cases where this is not possible, the department chair or the dean of the college should determine the best means for impartial evaluation of the student’s work after consulting with the parties involved. Consideration should be given to having another faculty member evaluate the student’s work. Faculty members should also remove themselves from other situations (awards committees, etc.) in which their decisions may reward or punish students with whom they are currently (or with whom they have been previously) involved.

The proposed draft policy, in contrast, would flatly prohibit all consensual relations between faculty members and undergraduate students, including relationships that involve no such direct or indirect supervision. And it would also subject faculty members who engage in such relations to disciplinary action up to and including termination. In these and other respects, the proposed administrative policy could lead NKU faculty members to be disciplined for conduct that Section 16.9 of the Faculty Handbook expressly tolerates. Indeed, in some instances, the proposed administrative policy could lead NKU faculty members to be disciplined for making disclosures to their department chairs that Faculty Handbook Section 16.9.3 expressly requires them to make.

While the PCC understands that the acceptance of consensual relations codified in Section 16.9 may reflect more lenient standards of a prior era than are optimal today, we are dismayed that the administration has proposed to address this concern by adopting an administrative policy that would violate the NKU Faculty Handbook, rather than by forthrightly proposing to amend the pertinent language of the Handbook. If the proposed policy is adopted, then NKU administrators will be called upon to take action that is inconsistent with the Faculty Handbook.

Proposing To Adopt A Policy That Violates The Faculty Handbook Is Uncollegial

The Preamble to the NKU Faculty Handbook states that:

This Faculty Handbook is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members. All of the material in this Handbook has been approved by the Northern Kentucky University Board of Regents and, as such, constitutes official University policy.

By this language, NKU administrators must respect the rights and obligations of NKU Faculty Members as defined in the Faculty Handbook. Proposing to adopt and enforce administrative policies that violate those faculty rights and obligations breaches this duty of respect. Similarly, the preamble to the Statement of Collegial Governance at NKU (set forth in Appendix C of the Faculty Handbook) states that:

All colleagues in the system, regardless of their respective roles as faculty or administrators, have an obligation to honor and support the decisions reached through the collegial process.

Section A.1.7 of the Statement of Collegial Governance at NKU likewise reaffirms that: Colleagues are bound by the decisions relating to or affecting matters which are reached through collegial processes.

Notably, every provision of the Faculty Handbook (including Section 16.9) reflects a decision that has been reached through the collegial process. Accordingly, NKU administrators have an obligation to honor and support the decisions that are codified in the Faculty Handbook. Promulgating administrative policy proposals that would require those Handbook provisions to be routinely dishonored violates this duty of honor and support. And if the present draft “consensual relations” policy proposal is adopted, its subsequent enforcement would regularly cause additional breaches of administrators’ obligation to honor and support decisions reached through the collegial process that would remain codified at Section 16.9 of the Faculty Handbook.

If an NKU academic administrator (or faculty member) believes that a provision in the Faculty Handbook should be amended, the Faculty Handbook itself provides a collegial process for making such an amendment. Specifically, Section 15 of the Faculty Handbook provides:

Amendments to this Handbook may be proposed by any member of the full-time, tenure-track or tenured faculty, by a department chair, by a dean, by the provost, or by the president. The proposed amendment must be in writing and must be accompanied by the rationale for the change; it must point out all sections of this Handbook that would be altered or deleted if the amendment were to be adopted. The proposed amendment and supporting documentation must be presented to the Faculty Senate Executive Committee and to the provost, simultaneously, for the purpose of initiating the amendment process.

The Executive Committee may refer the proposal to a committee, which shall report its recommendation to the Faculty Senate. Proposed amendments to this Handbook must be considered by both the Faculty Senate and the provost prior to action by the Board of Regents.

The preamble to the Faculty Handbook also makes explicit what Section 15 implies:

All changes or revisions to the Faculty Handbook must be approved by the Faculty Senate and the Board of Regents.

In sum, the Faculty Handbook contemplates that amendments shall be made only after due deliberation, careful drafting, and consensus-building. Adoption of the proposed draft administrative policy on “consensual relations” would effectively amend Section 16.9 of the Handbook, but would do so without complying with any of the essential elements of Section 15.

In particular, the proposed policy falls short of the Section 15 requirements in each of the following respects:

- Not proposed by a department chair, dean, provost, or president.
- Not accompanied by the rationale for the change.
- Doesn't point out all—or any—sections of this Handbook that would be altered or deleted if the amendment were to be adopted.
- Was not presented to Faculty Senate Executive Committee.
- Approval of Faculty Senate has not been sought.

To be sure, Section 16.1.1 of the Faculty Handbook acknowledges that “[t]he Policies that appear in this Handbook are those ordinarily published in a faculty handbook and are representative policies. They are not intended to be all-inclusive.” And Section 16.1.2 further provides that “[a]dditional policies will be adopted from time to time that also require faculty participation or compliance, such as policies set forth in the Student Handbook, including the grade appeal and sexual harassment policies.”

But the language of Sections 16.1.1-2 necessarily refers to policies that cover subjects that are not addressed by the Faculty Handbook (such as grade appeals). This language does not provide the administration with *carte blanche* to ignore the Faculty Handbook or to effectively amend it without complying with Section 15. To the contrary, Section A.1.8 of the Statement of Collegial Governance at NKU makes clear that:

All colleagues are bound equally by the results of the system and seek to implement those decisions. Of course, a colleague is free to seek to change policy within the collegial system. Leaders of the faculty (e.g., president, provost, senate president, deans, chairs.) have a particular responsibility to implement the decisions of the system.

The Provost thus has a particular responsibility to oppose the adoption of administrative policies that would undermine or contravene decisions that have been made within the collegial system and that have been codified in the Faculty Handbook. To fail in this particular responsibility is to undermine the system of collegial governance at NKU.

Adopting A Policy That Violates The Faculty Handbook Is Ineffective

In addition to being uncollegial, promulgation of administrative policies that contradict or contravene the Faculty Handbook is also likely to be impractical and ineffective. When such policies are adopted without amending the Handbook, the result is that the university's policies become self-contradictory, and thus fail in their essential purpose of facilitating compliance. For example, a faculty member considering pursuit of a consensual relationship with a student in a separate academic unit might consult the NKU Faculty Handbook to determine whether such pursuit is permissible. The Handbook, after all, purports “to define the rights and obligations of the Northern Kentucky University administration and faculty members” and to “constitute[] official University policy,” and it contains a provision entitled “Consensual Relations.”

In such a case, the faculty member would learn from Faculty Handbook Section 16.9.4 that a consensual relationship with a student in a separate academic unit “can have negative consequences” of which the faculty member “should be aware . . . and should enter relationships with caution.” Based on this language, the Faculty member would reasonably conclude that such relationships are discouraged but not prohibited at NKU, and might proceed

to pursue such a relationship despite the admonition. If the primary purpose of the proposed administrative regulation is to deter faculty members from seeking to form such relationships with students, then this purpose would be more effectively served by amending the Faculty Handbook than by quietly adopting an administrative regulation that is in conflict with the Faculty Handbook.

Enforcement of an administrative regulation that violates the Faculty Handbook also would be ineffective and problematic. To be sure, the NKU officials who promulgate and enforce administrative regulations likely will seek to enforce the policies they have promulgated, including against faculty members. But the deans, chairs, and faculty committees who are more directly involved in disciplining (or reviewing the performance of) faculty members all will remain duty-bound to apply the Faculty Handbook, which is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members and which remains the most authoritative source of official faculty policies. Indeed, the Faculty Senate would admonish any faculty committee—including an RPT Committee or a peer disciplinary Committee—never to prioritize a university administrative policy above contradictory language in the NKU Faculty Handbook. Accordingly, adopting administrative regulations that are in conflict with the Faculty Handbook creates an unnecessary and undesirable incoherence about what NKU’s policy actually is. This incoherence likely will lead to unpredictability of outcomes. Nothing good can come from the confusion.

Principles for a Revised Section 16.9

As noted above, the Faculty Senate and the PCC understand that the acceptance of consensual relations currently codified in Faculty Handbook Section 16.9 may reflect more lenient standards of a prior era that no longer are appropriate today. We note that Section 15 of the NKU Faculty Handbook provides a procedure for amending the Faculty Handbook, which can be initiated by any faculty member, including a department chair, dean, provost, or president. We invite any interested administrator of faculty rank to initiate this procedure to propose an amendment to Section 16.9.

We recommend that—like current Section 16.9—the proposed amended provision should continue to apply only to faculty members, in our capacities as teachers and as supervisors. As we believe is currently the case, a separate policy should govern consensual relations among staff, or between staff and students. While the two separate policies might substantially overlap in substance, separate policies are needed to protect both the integrity of the Faculty Handbook as the authoritative repository of policies that define the rights and obligations of faculty members, and the role of the Faculty Senate in our system of collegial governance. “Hybrid” rulemaking of the type exemplified by this policy proposal is destructive of both ends. Its use has as increasingly caused unnecessary and counterproductive dissension between faculty and administration, even on subjects—including the present one—in which the substantive views of faculty and administration may not be very far apart. Abandoning the use of “hybrid” notice-and-comment policymaking in all instances where the subject matter at issue is addressed in the faculty handbook would improve the effectiveness of NKU’s maintenance of academic policies and procedures and would improve the health of relations between faculty and administration relationships and the quality of governance documents.

Bifurcating the current proposal into separate faculty and staff policies would also reduce (but not eliminate) the need to define who is covered by each policy. The current proposal uses the generic terms “faculty,” “student,” and “staff,” but does not define those terms. But at NKU, many students are on work-study, many staffers use their tuition waiver benefits to

enroll in classes, and some staffers without faculty rank teach credit-bearing courses. The Faculty Handbook applies only to people (including adjunct professors) who have faculty rank. An amended Section 16.9—like the present provision—therefor would not need to define who counts as a faculty member to whom the policy applies. An amended staff policy, in contrast, would benefit greatly from explicit provisions explaining how the policy applies to work-study students or to staffers taking classes. Such a staff policy might usefully provide that a staff member who teaches a course is subject to Faculty Handbook Section 16.9 in her capacity as a teacher.

If current consensual relations policies are to be tightened, the Faculty Senate also recommends that the draft proposal's definition of "extended family member" be further liberalized to encompass virtually all consensual relationships—including more casual ones than contemplated in the current draft proposal—that pre-date both parties' arrival at NKU. Without this change, some NKU staffers and faculty members might be obliged to discourage people in their social circles from taking courses at NKU, for fear of running afoul of the policy. Conversely, treating pre-existing dating relationships the same as pre-existing marital or extended family relationships would not seem to be in conflict with any of the purposes or policies underlying the proposal.

CONCLUSION

For the reasons described herein, the Faculty Senate opposes the adoption of the proposed "consensual relations" policy in its current form. The Faculty Senate remains willing to work within the system of collegial governance to amend Section 16.9 of the NKU Faculty Handbook. If the proposed policy is adopted as an administrative regulation without Senate consent, however, the Senate will oppose future initiatives to amend Section 16.9 to bring it into conformity with the administrative policy.

Professional Concerns Committee
Minutes for Jan 19, 2017
SU 109
3:15 pm

Members in Attendance: K. McErlane, K. Katkin, J. Farrar, S. Weiss, L. Wermeling, Y. Kim, A. Watkins, H. Ericksen, B. Buckley, M. Carrell, B. Mittal, S. Nordheim, M. Torres, A. Miller, K. Fuegen, J. Hammons, J. Gilbert, B. Zembrodt, B. Puente-Baldoceda

Members Not in Attendance: S. Alexander, K. Schwarz, K. Ankem, G. Newell, D. Dreese, K. Sander, S. Neely, T. Bonner, S. Finke

Guest: Provost Sue Ott Rowlands, Kathleen Roberts

4. New Business

- Discussion Item: **Consensual Relationships Policy** (Guest: Senior Advisor to the President for Inclusive Excellence & Title IX Coordinator Kathleen Roberts).

Kathleen Roberts presented a draft consensual relations policy and sought faculty input. As drafted, the consensual relations policy would be inserted into the current sexual misconduct policy (as section 7), rather than be promulgated as a separate policy. The draft would prohibit all romantic relationships between faculty members and students, except within marriage. It would also prohibit most romantic relationships between faculty members and staff members. Workplace relations between spouses and family members are governed by a separate nepotism policy.

Significant discussion ensued. Many PCC members expressed concern about the lack of clarity in the current draft about which relations between faculty and staff (or faculty and other faculty) are permissible, and which would be prohibited. The draft policy uses the phrase “power differential” but many PCC members thought this phrase was unclear, and some thought it was inappropriate. Some members thought the real problem involves power and control. Others thought it involved conflict of interest. PCC members debated whether consensual relationships were properly grouped with sexual misconduct, or, alternatively, whether a separate policy should be created. Several members proposed that Faculty and staff should have a way to report relationships reported with one another, so that workplace reporting arrangements can be revised to avoid conflicts of interest.

Because faculty and staff members can take courses at NKU, it was suggested that the draft policy’s definition of “students” needs to be clarified. Discussion also ensued as to whether graduate students should be categorized separately from undergraduate students under this policy. Several PCC Members suggested that if the policy goes into effect, it should make some provision for pre-existing relationships.

Kathleen Roberts said that she would redraft portions of the draft policy to reflect some of PCC’s discussion. She requested that PCC members with suggestions for inclusion should send written comments to her or to K. Katkin.

NKU Faculty Handbook Sections 16.9-16.10.

16.9. STATEMENT ON CONSENSUAL RELATIONSHIPS

16.9.1. GENERAL

Consensual relationships are relationships in which both parties appear to have agreed to the partnership. The consensual relationships that are of concern to Northern Kentucky University are the amorous, romantic, or sexual relationships between faculty and students and between supervisors and employees. Although consensual relationships, by definition, are desired by both parties, they can nevertheless have consequences that are decidedly undesirable, both to the parties involved and to the University as a whole. The following statement is offered for the protection of members of the University community and for the health and productivity of the University in general.

16.9.2. POTENTIAL HARMS FROM CONSENSUAL RELATIONSHIPS

It is a generally accepted ethical principle in our society that one avoids situations in which one makes official evaluations of relatives, family members, spouses, or other persons with whom one has an intimate relationship. Such a relationship, combined with a responsibility for evaluation is considered a “conflict of interest.” In this sense, the objectivity of a faculty member evaluating a student with whom he/she is involved would be considered suspect. Likewise, the fairness of a supervisor evaluating an employee with whom he/she is involved would be considered questionable. Evaluations made under such circumstances may threaten the credibility of a university’s educational mission as well as the reputation of its working environment.

Because of the inherent power differential between faculty/staff and students, and supervisors and employees, there is also a danger that consensual relationships may evolve into coercive ones. The line between consent and harassment is a fine one, and perceptions of this boundary may not necessarily be shared. Thus, it is possible that a party involved in what was believed to be a consensual relationship may become involved in what turns out to be a case of sexual harassment. There have also been cases in which parties involved in consensual relationships have been charged with sex discrimination.

16.9.3. CONSENSUAL RELATIONSHIPS IN SITUATIONS INVOLVING DIRECT SUPERVISION.

Consensual relationships in situations involving direct supervision (e.g., between a faculty member and student in his/her class, or between a faculty member and student he/she is supervising in independent laboratory research, or between a supervisor who has the power to evaluate, promote, or grant raises and his/her employee) should be avoided. If such relationships arise, arrangement should be made to remove one of the parties from the supervisory situation or to have evaluations of the supervised party made in another way. For example, in the case of faculty and student, the student should be placed in another course or be paired with another thesis or laboratory instructor. In cases where this is not possible, the

department chair or the dean of the college should determine the best means for impartial evaluation of the student's work after consulting with the parties involved. Consideration should be given to having another faculty member evaluate the student's work. Faculty members should also remove themselves from other situations (awards committees, etc.) in which their decisions may reward or punish students with whom they are currently (or with whom they have been previously) involved. Likewise, in the case of a consensual relationship between a supervisor and an employee, the employee should be transferred to another work unit or, if that is not possible, the supervisor of both parties should determine the best means for impartial evaluation of the employee after consulting with the parties involved. Consideration should be given to having an outside evaluation of the employee's work. In all situations of direct supervision, a consensual relationship should be reported to the faculty member's or supervisor's executive officer (e.g., department chair, unit director). Such notification may help insure that arrangements for unbiased evaluations are made and may help prevent later misunderstandings about the nature of the situation. Notification and any subsequent action taken should remain confidential insofar as the confidentiality is consistent with state and federal law.

16.9.4. CONSENSUAL RELATIONSHIPS NOT INVOLVING DIRECT SUPERVISION

Although less problematic, consensual relationships in situations not involving direct supervision (e.g., between faculty and students in separate academic units or supervisors and employees in separate work units), can have negative consequences. For instance, the campus reputation of both parties may be affected by the knowledge of the relationship or by speculation about it. Also, there is the possibility that one may suddenly be placed in a position of responsibility for or called upon to evaluate another. For instance, a student may change majors and join the faculty member's department or a faculty member or supervisor may be asked to serve on a campus-wide admission, awards, or grievance committee. Members of the University community should be aware of such potential problems and should enter relationships with caution.

16.10. NEPOTISM

Northern Kentucky University seeks to employ or promote the best-qualified person for a position. Therefore, decisions on selection, salary, promotion, and all matters pertaining to faculty employment will be made without regard to the relationship of an applicant or one employee of the University to another or the relationship of an applicant or employee to a member of the Board of Regents. No person shall be employed or promoted to a faculty position if the result would be that a head of an administrative unit and a member of his/her immediate family by blood or marriage would be members of the same administrative unit; in the University's best interest, however, exceptions may be made to this policy upon the recommendation of a majority of the members of the administrative unit, subject to approval by the provost and the consent of the president. Relatives by blood or marriage include parents and children, husbands and wives, brothers and sisters, brothers- and sisters-in-law, mothers- and fathers-in-law, sons- and daughters-in-law, uncles, aunts, nieces and nephews, and step relatives in the same relationships (see 16.9, Statement on Consensual Relationships).

APPENDIX C 9.20.18

16.9 STATEMENT ON CONSENSUAL RELATIONSHIPS

16.9.1 Consensual relationships are romantic relationships and/or sexual interactions agreed to by the involved parties (even if it is a single interaction). Northern Kentucky University (NKU) is committed to maintaining a working and academic environment that fosters intellectual, professional, and personal growth free from conflict of interest, favoritism, and exploitation. This environment is put at risk when members of the University community engage in consenting relationships that involve persons of unequal power. This policy specifically addresses consenting relationships involving faculty members with students, staff, other faculty members, and supervisors or administrators. Consensual relationships may create actual and perceived conflicts of interest that include real or perceived favoritism or exploitation. A power differential is defined as the difference between two individuals in a relationship in terms of status, authority, or influence, particularly in, but not limited to, the university community.

16.9.2 A faculty member will always be treated as having a power differential over an undergraduate student. The faculty member may also have a power differential with graduate or professional students. This includes, but is not limited to, the authority to assign grades; supervision of research; or service on thesis or dissertation committees, appeals committees, or scholarship award committees. A faculty member is always assumed to have a power differential over graduate or professional students in the same College.

Undergraduate and graduate teaching assistants and supplemental instruction (SI) leaders are considered to have a power differential with respect to students over whom they have academic responsibility.

16.9.3 This policy is not intended to apply to faculty spouses or domestic partners, as those terms are defined by NKU Human Resources, whose relationship precedes the creation of a power imbalance. Faculty members in preexisting relationships that undergo a change in status, i.e., they were not previously subject to this policy because there was no NKU power differential but then do become subject to this policy (for instance, one begins taking classes) are required to report the potential conflict of interest to their supervisor. The supervisor and faculty member will work together to mitigate or remove the conflict of interest. In addition, the Provost, after consultation with the relevant Chair, Director, or Dean, may permit exceptions to this policy in appropriate circumstances.

16.9.3 A faculty member, TA, or SI leader is prohibited from entering or engaging in a romantic or sexual relationship when a power differential exists as defined in section 16.9.2. Efforts by faculty to initiate such relationships, by whatever method including dating apps, are also prohibited.

16.9.4 Faculty members are prohibited from engaging in sexual activity while using university resources including offices and buildings, equipment and technology, and vehicles.

16.9.5 It is the faculty member's responsibility to recognize and report when they become involved in a consensual relationship that involves a power differential. The supervisor and the faculty member will work together to remove the power differential, if possible. This may include removing the faculty member from the committee and assigning a replacement, assigning another faculty member to supervise the student, or assigning another faculty member to handle that student's grades. In no case may the faculty member evaluate the student's work. This obligation continues even after the relationship has ended. In every circumstance, the effect on the student should be minimized. If it is not possible to mitigate the conflict of interest, the relationship may be required to be terminated.

16.9.6 Faculty members involved in past or present consensual relationships with staff or other faculty members should avoid roles that might involve a conflict of interest. This could include supervision; evaluation such as for promotion or tenure or raises; authority over the other; or favoritism toward the other. It is the responsibility of both employees in the consensual relationship to report the potential conflict of interest to their respective supervisor within two weeks of the conflict arising. The supervisors and employees will work together to mitigate the conflict of interest. The reporting obligation continues even after the relationship has ended.

16.9.7 How are individuals treated if they have two or more roles? Faculty member taking undergraduate classes, for instance.

16.10. NEPOTISM

Northern Kentucky University seeks to employ or promote the best-qualified person for a position. Therefore, decisions on selection, salary, promotion, and all matters pertaining to faculty employment will be made without regard to the relationship of an applicant or one employee of the University to another or the relationship of an applicant or employee to a member of the Board of Regents. No person shall be employed or promoted to a faculty position if the result would be that a head of an administrative unit and a member of his/her immediate family by blood or marriage would be members of the same administrative unit; in the University's best interest, however, exceptions may be made to this policy upon the recommendation of a majority of the members of the administrative unit, subject to approval by the provost and the consent of the president. Relatives by blood or marriage include parents and children, husbands and wives, brothers and sisters, brothers- and sisters-in-law, mothers- and fathers-in-law, sons- and daughters-in-law, uncles, aunts, nieces and nephews, and step relatives in the same relationships (see 16.9, Statement on Consensual Relationships).

Faculty members should avoid situations that place them into a position to academically evaluate relatives by blood or marriage, such as in a class or laboratory. The faculty member must inform their supervisor of the circumstance, and the supervisor and faculty member should work together to arrange for different evaluation of the family member. This may

involve placement into another class or laboratory section, pairing with another thesis advisor, or having another faculty member evaluate the students work.

This policy draws from consensual relationship policies at:

The University of Kansas, <https://policy.ku.edu/provost/consenting-relationships>

Syracuse University, <http://provost.syr.edu/faculty-manual/4-1-inappropriate-conduct-by-faculty-members/>

Dartmouth College, <https://www.dartmouth.edu/sexualrespect/policies/consensual-relationships-policy.html>

The University of Texas, <https://policies.utexas.edu/policies/consensual-relationships>