



## OFFICE OF THE SENATE

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Urbana, IL 61801-3613

Vice President Barbara J. Wilson  
Office of the President  
377 Henry Administration Building  
506 S. Wright St., MC-348  
Urbana, IL 61801

April 21, 2020

Dear Vice President Wilson,

On behalf of the entire Senate Executive Committee, I would like to thank you for your extraordinary efforts to develop policies to protect our three campuses from sexual misconduct. We also appreciate your many efforts to reach out and coordinate with both our Senate and the two Urbana university committees that have been working on similar issues.

This letter provides an **initial** response to your request for input from the Urbana-Champaign Academic Senate (“Senate”) on the draft system-wide Policy on Intimate Personal Relationships. As you know, our Senate includes both faculty and students, as well as some academic professionals.

Because of the COVID-19 pandemic, we were unable to meet as a full Senate on April 6. Our next full meeting is scheduled for April 27. We recognize that you may nevertheless need some input as early as possible on this important draft policy if you plan to submit a final version to the Board of Trustees for potential approval at its May 21 meeting. Therefore, to gather early input on an expedited basis, we created a web survey for our senators, which was distributed to all senators on April 7, 2020. Senators were asked to send their responses and comments on or before April 15. It is important to remember that **this survey was not a formal Senate vote; further, solicitation of input in this manner cannot replicate the forms of deliberation that might have occurred if a formal resolution or full discussion of the item had taken place on the Senate floor during an in-person meeting.**

Our next full Senate meeting on April 27 will include a discussion of this policy and allow for further Senate debate. We will follow up with any additional input that emerges from that discussion. This letter should be considered preliminary only.

Despite the relatively short time allowed, we received survey responses from 141 senators. The full results of the survey are attached. An examination of those results suggests that of the 141 respondents, nearly all recognize and welcome the need for a policy that would keep our university community safe from sexual predators and others who engage in sexual harassment and sexual misconduct. We also found no responses that objected to the need to mitigate any potential damage to our institutional culture that might be caused by intimate personal relationships in which one party has a direct supervisory or evaluative role over the other. Furthermore, the comments we

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received suggest wide acceptance of a policy that would discourage relationships between faculty members and undergraduate students, while always providing for exemptions based on atypical circumstances that everyone should find uncontroversial. Several senators stated their appreciation for the breadth of input that informed the drafting process.

However, the results reveal fairly widespread discomfort among respondents with several aspects of the policy as currently written. Once one moves beyond the relatively clear-cut cases of faculty and undergraduates, or supervisors and subordinates, more serious concerns were expressed. For example, some respondents objected, sometimes vehemently, to a prohibition on relationships between graduate students and faculty members when no supervisory or evaluative relationships are involved; and to the general notion that the institution can “manage” relationships, rather than working with the parties in a relationship to maintain and protect a professional work environment. In more general terms, many respondents objected to the premise that the institution should—or even could—prohibit relationships when they are consensual. Others raised concerns about the vagueness of terms such as “dating” or “amorous,” which could raise due process concerns if the policy is unconstitutionally vague. Similar concerns were raised about the vagueness of consequences for violations and the need for disciplinary actions to be commensurate with wrongdoing. For these reasons, we urge that the Board limit any new policies to the two clear-cut cases mentioned above for now (i.e., faculty and undergraduates and faculty with supervisory or evaluative authority over a student) and to allow for greater consultation on potentially wider applications of a consensual relations. We urge you to announce clear mechanisms to obtain broader Senate and community input on many of these key issues as any policies are implemented and further refined.

Turning to procedure, several senators expressed concern about the consultation process. It should be remembered, in this regard, that while there was an Urbana Committee that produced recommendations for a consensual relationship policy, some of that committee’s work ended up getting essentially preempted by the system-wide committee’s work. As a result, the Urbana committee’s recommendations were never presented to the full Senate for discussion, and April 7 was the very first time that our senators were ever asked to weigh in on any consensual relations policy. Even then, they were asked to weigh in only via a nontraditional web poll and in the midst of a pandemic. Although you received input from the USC on an earlier draft, that draft was still confidential, which meant that members of the USC were unable to obtain wider input from the senators who elected them. Therefore, for many senators on this campus, this was the very first time that they had even heard that any new policy on consensual relations was being considered. These facts may help to explain some senators’ reactions on timing and procedure.

Given the level of interest and richness of input we have already received from senators on this draft policy, we foresee needing to present any policies that are approved or are being implemented to a number of Senate committees for study over the first year of implementation and beyond. We anticipate that these studies will produce recommendations that will improve any policy or implementation on our campus. These processes may also help to produce wider support for how the policy is implemented. We would be happy to work with you to coordinate these efforts and offer input in the ways that are most useful to you. When asked to identify aspects of the draft policy that will require the most Senate input at the implementation phase, respondents identified these areas: Consequences for violations of the policy (77 responses); Requirements on

faculty, staff, TAs, and individuals with authority (74 responses); and Reporting procedures/management plans (72 responses).

In case it helps, I am also attaching two memoranda that were generated to help the Senate Executive Committee process the preliminary Senate input we received and that led to this letter. Those memoranda contain some specific recommendations for revision that you may wish to consider in the short term.

It seems especially important to note here that a consensual relations policy, on its own, will do nothing to address the much more serious and widespread problem of nonconsensual sexual harassment and abuse. We are dealing here with the tip of an iceberg; and not yet addressing the much more threatening mass of problems that lie beneath the surface. Indeed, one might argue—as national experts on these topics cited in the attached memoranda have—that by focusing on consensual relations (which, as such, are agreeable to the parties involved, however ill-considered or ill-advised), we are distracting attention from the real source of the problems of sexual misconduct, harassment, and abuse that have caused our university recent pain, scandal, embarrassment, and lawsuits. In an ideal world, any policy on consensual relation would grow out of and complement a wider policy targeting broader forms of sexual abuse and harassment. If pursued in that more general context, we believe that a consensual relations policy might be more widely understood and supported from the start. We address these issues in more detail in the accompanying memoranda, which contain further ideas to move the ball forward.

But let us return to the draft system-wide Policy on Intimate Personal Relationships. Because a consensual relations policy could potentially regulate and limit the personal relationships of many individuals in the University of Illinois System, overwhelming support across stakeholder groups for a policy like this is essential to produce the positive changes in culture and climate that we all want. The results of our preliminary web survey suggest that should the Board decide to approve the draft policy as currently written at the May 21 Board meeting, not only might the policy itself not be widely embraced, but a significant portion of the faculty and students of the Urbana campus may find the Board’s action objectionable. For this reason, we suggest that only the two “core” elements of the consensual relations policy be adopted now and that the remainder be modified and developed further within the context of a wider policy on sexual misconduct or other related policy developments over the next year.

Finally, we note that a number of the comments raised questions about the draft policy that you may be able to answer or may want to address in some form. I am happy to work with you to gather answers to these questions. Alternatively, if you or your designee would like to attend the April 27 Senate meeting to discuss the questions, you would be warmly welcomed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robin Bradley Kar', with a large, sweeping flourish extending to the right.

Robin Bradley Kar  
Chair, Senate Executive Committee  
Professor of Law and Philosophy