CHAPTER 6: INTEGRITY OF THE ACADEMIC ENVIRONMENT

SECTION 6.1 Equal Employment Opportunity Statement

Tulane University is committed to providing equal employment opportunity to qualified persons without regard to race, color, sex, religion, national origin, age, disability, genetic information, sexual orientation, gender identity, gender expression, pregnancy, marital status, military status, veteran status or any other protected status or classification protected by federal, state or local law. This commitment to equality extends to all personnel actions, including recruitment, advertising for employment, selection for employment, compensation, performance evaluation, and selection for training or education, treatment during employment, promotion, transfer, demotion, discipline, layoff and termination. Discrimination on the basis of any protected classification will not be tolerated.

Tulane maintains a written affirmative action policy. Tulane invites qualified individuals with disabilities and disabled veterans, Armed Forces service medal veterans, recently separated veterans from all wars, and other protected veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized, to identify themselves if they wish to do so. Questions regarding Tulane’s equal employment opportunity policy or its affirmative action policy should be directed to the Office of Institutional Equity.

Complaints of discrimination, harassment and/or retaliation must be filed in accordance with the policies set forth in Part X. Individuals must promptly report discrimination, harassment and retaliation so that prompt and appropriate action can be taken.

SECTION 6.2 Anti-Discrimination Statement

Tulane is committed to and encourages a diverse and inclusive community that respects and values individual differences. In support of this commitment, Tulane University prohibits discrimination in its employment practices or educational programs/activities on the basis of race, color, sex, religion, national origin, age, disability, genetic information, sexual orientation, gender identity, gender expression, pregnancy, marital status, military status, veteran status, or any other status or classification protected by federal, state or local law. Tulane University complies with applicable federal and state laws addressing discrimination, harassment and retaliation. Discrimination or harassment on the basis of any protected classification will not be tolerated.

Complaints of discrimination must be filed in accordance with the policies set forth below. Individuals must promptly report discrimination so that prompt and appropriate action can be taken.

Deborah Love, Vice-President for the Office of Institutional Equity, is Tulane’s designated Coordinator for (1) Title IX of the Education Amendments of 1972, (2) Section 504 of the Rehabilitation Act of 1973, and (3) Age Discrimination Act of 1975. Deborah Love or Wendy Stark, Director of OIE and Deputy Title IX Coordinator, may be contacted at the Office for Institutional Equity, 200 Broadway Street, Suite 105-A, New Orleans, LA, 70118 or reached by telephone at (504) 862-8083. OIE’s email address is oie@tulane.edu.
SECTION 6.3 Harassment Policy

6.3.1 Statement of Philosophy

a) Tulane University is committed to creating and maintaining a campus environment where all individuals are treated with respect and dignity and where all are free to participate in a lively exchange of ideas. Each student has the right to learn and each employee has the right to work in an environment free from all forms of unlawful harassment or discrimination including sexual harassment and sexual misconduct. At Tulane University, harassment or discrimination, whether verbal, physical, written, or visual, is unacceptable and will not be tolerated. Discrimination is unlawful and hurts all members of the educational community and contributes to a negative atmosphere where victims and others may feel their safety and equality are compromised. Discrimination has no legitimate educational purpose. Anyone who engages in conduct prohibited by this policy shall be disciplined as provided by law, university policies, and applicable employment agreements.

b) Tulane will not tolerate any harassment of anyone affiliated with Tulane by anyone affiliated with Tulane (including non-employees, such as vendors and independent consultants), and will not tolerate adverse academic or employment actions, including but not limited to, termination of anyone reporting harassment or providing information related to such a complaint.

6.3.2 Principles

a) Tulane University recognizes the tension between protecting all members of the University community from harassment and protecting academic freedom and freedom of expression. It is the policy of the institution that no member of the community may harass another. Conduct that reasonably serves a legitimate educational purpose, including pedagogical techniques, does not constitute harassment. In the educational setting within the University, wide latitude for professional judgment in determining the appropriate content and presentation of academic material is required. Those participating in the educational setting bear a responsibility to balance their rights of free expression with a consideration of the reasonable sensitivities of other participants. Therefore, this policy against harassment shall be applied in a manner that protects academic freedom and freedom of expression, including but not limited to the expression of ideas, however controversial, in the classroom setting, academic environment, university-recognized activities, or on the campus.

b) Nothing contained in this policy shall be construed to limit the legitimate exercise of free speech, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve legitimate educational or artistic purposes nor shall this policy be construed to infringe upon the academic or artistic freedom of any member of the University. Artistic expression in the classroom, studio, gallery
and theater merits the same protection of academic freedom that is accorded to other scholarly and teaching activities.

6.3.3 Policy Coverage

All faculty, administrators, staff, students, and individuals affiliated with Tulane University by contract (including non-employees, such as vendors and independent contractors) are bound by this policy. This policy protects men and women equally from harassment, including same-sex harassment, and protects students from harassment by other students.

6.3.4 Sexual Harassment

6.3.4.01. Definition of Sexual Harassment

Sexual harassment is unwelcome behavior of a sexual nature by faculty, administrators, staff, students, and individuals affiliated with Tulane University by contract (including non-employees, such as vendors and independent contractors) or by anyone with whom one interacts in order to pursue educational or employment activities at Tulane University. For the purposes of this policy, sexual harassment is defined as unwelcome advances, requests for special favors, and any other verbal, written, physical or other conduct of a sexual nature when:

a) Submission to such conduct by an individual is implicitly or explicitly made a condition of an individual's employment or educational status or participation in University programs or activities;

b) Submission to or rejection of such conduct by an individual is used as a factor in decisions affecting that individual's ability to learn or participate in school activities, or in hiring, evaluation, retention, promotion, or any other aspect of employment; or

c) Such conduct would be objectively regarded by a reasonable person as substantially interfering with an individual's ability to learn or work or participate in University programs or activities by creating an intimidating, hostile, or offensive school or work environment even if the person engaging the conduct does not intend to interfere, intimidate, or be hostile or offensive. For purposes of this paragraph 3, the conduct must be sufficiently severe, persistent, or pervasive that it creates a hostile or abusive educational or working environment. For a one-time incident to rise to the level of harassment, it must be severe.

6.3.4.02 Examples of Sexual Harassment

Sexual harassment may include, but is not limited to, the following:

a) Physical assaults of a sexual nature, such as rape, sexual battery, molestation, or attempts to commit these assaults; and intentional physical conduct that is sexual in
nature such as touching, pinching, patting, grabbing, poking, or brushing against another individual's body.

b) Any nonconsensual sexual behavior; lack of consent may result from, among other things, use of force, threats, or intimidation or advantage gained by use of the victim’s mental or physical incapacity, impairment, or helplessness of which the accused was aware or should have been aware. Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct.

c) Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because sexual conduct is rejected.

d) Unwelcome sexual advances, requests for a romantic or sexual relationship to an individual who indicates or has indicated in any way that such conduct is unwelcome, propositions, or other sexual comments, such as sexually-oriented gestures, noises, remarks, jokes, questions, or comments about a person's sexuality or sexual experience.

6.3.5 Other Forms of Harassment

a) Harassment, other than sexual harassment, is verbal, physical, written, or other conduct that denigrates or shows hostility or aversion to an individual on the basis of race, color, religion, age, national origin, citizenship, disability, veteran's status, sexual orientation, genetic information, gender identity, gender expression, marital status, or any basis prohibited by law. Harassment based on any of the above categories is strictly prohibited by this policy.

b) Complaints of harassment will be investigated and resolved in accordance with applicable legal guidelines and the terms of this policy.

6.3.6 Retaliation

a) No member of the Tulane community will be disciplined for refusing sexual advances, objecting to sexual, racial, or other forms of harassment, or retaliation, or making a good faith report of discrimination, harassment, or retaliation.

b) Retaliatory or intimidating conduct against any individual who has made a good faith discrimination, harassment or retaliation complaint or who has testified or assisted in
any manner in an investigation is specifically prohibited and shall provide grounds for a separate complaint. Examples of such retaliatory or intimidating conduct include disciplining, changing working or educational conditions, providing inaccurate information to or about, or refusing to cooperate or discuss work- or school-related matters with any individual without a legitimate business reason because that individual complained about or resisted harassment. The initiation of a good faith complaint of discrimination, harassment or retaliation by a student will not reflect negatively on that student nor will it affect the student's academic standing, rights, or privileges. Likewise, the initiation of a good faith complaint by an employee will not reflect negatively on that employee nor will it affect the employee's working conditions, rights, or privileges.

6.3.7 Confidentiality

a) Confidentiality will be maintained throughout the entire investigatory process to the extent practicable and appropriate under the circumstances to protect the privacy of persons involved. The persons charged with investigating the complaint will discuss the complaint or the underlying behavior only with persons involved in the case who have a need to know the information, which must include the complainant and the accused harasser.

b) Students who need to seek resources in a confidential setting should go to Counseling and Psychological Services or the Student Health Center. All reports to those entities are kept confidential.

c) The University is required by law to investigate complaints of discrimination, harassment or retaliation and will strive to protect, to the greatest extent possible, the confidentiality of persons reporting or accused of discrimination, harassment or retaliation. However, the University cannot guarantee complete confidentiality where it would conflict with the University's obligation to investigate or where confidentiality concerns are outweighed by the University’s interest in protecting the safety or rights of others. Individuals who desire to discuss possible claims of discrimination, harassment, or retaliation in a more confidential setting may want to consult with a counselor, therapist, or member of the clergy, who is permitted by law to assure greater confidentiality.

d) While Tulane is committed to respecting the confidentiality and privacy of all parties involved in the investigation process, Tulane cannot guarantee complete confidentiality. Examples of situations when confidentiality cannot be maintained include:

- If Tulane is required by law to disclose information (such as in response to legal actions),
- If disclosure of information is determined by the Office of Institutional Equity, its designee, and/or Tulane’s Office of General Counsel to be necessary for conducting an effective investigation, or
- When confidentiality concerns are outweighed by Tulane’s interest in protecting the safety or rights of others.

### 6.3.8 Complaint Procedures

**a)** All are encouraged to promptly report harassment so that any appropriate action can be taken. The complaint procedures are designed to ensure the rights of the complainant while at the same time according due process to both parties.

**b)** *Form of Complaint.* Complaints of harassment will be accepted orally or in writing. Anonymous complaints will be accepted and investigated to the extent possible. Complaint forms are available at the Office of Institutional Equity and on the Office of Institutional Equity’s web site at [http://tulane.edu/equity/policies/index.cfm](http://tulane.edu/equity/policies/index.cfm).

**c)** *Content of Complaint.* Any individual who believes that they are being discriminated, harassed or retaliated against in violation of this policy should promptly file a complaint including the following information, if known to the complainant: the name of the complainant, a brief description of the offending behavior including times, places, and the name of or identifying information about the alleged perpetrator, and the names or descriptions of any witnesses to the discrimination, harassment, or retaliation.

**d)** *Reporting the Complaint.* It is not necessary to first confront the harasser prior to instituting a complaint under this policy. However, it is appropriate to promptly report a complaint so that a full and complete investigation is possible. Any person designated to receive complaints from students, employees, or faculty must notify the Office of Institutional Equity within twenty-four (24) hours of receiving a complaint pursuant to this policy.

**i. Complaints by Students**

A student who believes that they have been discriminated, harassed or retaliated against must report the alleged behavior to any of the following individuals:

- Office of Institutional Equity, 862-8083
- Vice President for Student Affairs, 314-2188
- Associate Dean for Student Affairs, Tulane University Health Sciences Center, 988-5331

**ii. Complaints by Staff**

An employee who believes that they have been discriminated, harassed or retaliated against must report the alleged behavior to any of the following individuals:

- Office of Institutional Equity, 862-8083
- Dean (or person designated by same) with which complaining employee is affiliated
- Associate Vice President for Workforce Management Organization, 247-1758
iii. **Complaints by Faculty**
A faculty member who believes that they have been discriminated, harassed or retaliated against must report the alleged behavior to any of the following individuals:

- Office of Institutional Equity, 862-8083
- Department Chairperson
- Dean (or person designated by same) of the school with which complaining faculty is affiliated
- Senior Vice President for Academic Affairs, 865-5261

e) **Failure to Cooperate**

Failure to cooperate in an OIE investigation will be considered a breach of responsibility. If a Respondent fails to cooperate, his or her Department Head, Supervisor, or Dean will be notified of such non-cooperation. A Respondent’s silence or lack of cooperation will not prevent a complaint from going forward. Failure to cooperate in a formal review proceeding may result in the investigation proceeding solely on the basis of the available evidence.

6.3.9 **Investigation and Informal Resolution of Complaints**

a. **Initial Investigation.** After receiving a complaint of harassment directly from a student, faculty member, staff member, or administrator, or indirectly from a person designated to receive complaints, the Office of Institutional Equity shall promptly conduct an initial investigation.

b. **Informal Process.** The University has an informal process to provide those who believe they are being harassed with a range of options designed to bring about a resolution of their concerns.

Depending upon the nature and severity of the complaint and the wishes of the person(s) claiming harassment, informal resolution may involve one or more of the following or other appropriate actions:

i. advising the person(s) about how to communicate the unwelcome nature of the behavior to the alleged harasser;

ii. distributing a copy of this policy as a reminder to the department or area with which the alleged harasser is affiliated;

iii. if both parties agree, arranging and facilitating a meeting between the person(s) claiming discrimination and those accused of harassment to work out a mutual resolution.

Students are also encouraged to seek advice or counseling from Student Resources and Support Services, 314-2160, whether or not they decide to pursue a formal
complaint. Informal resolution may not be appropriate in certain circumstances. For instance, informal resolution would never be appropriate in cases involving allegations of sexual assault. While dealing informally with a problem of discrimination, harassment or retaliation may be preferable to the complainant, a formal grievance procedure must be followed in order for the University to impose any kind of discipline on the offender. The University will proceed with the investigation and formal resolution process when deemed appropriate by the Office of Institutional Equity.

6.3.10 Investigation and Formal Resolution of Complaints

a) Formal Investigation. If the complaint cannot be informally resolved after the initial investigation, the Office of Institutional Equity shall continue the investigation or designate someone to promptly conduct further investigation of the complaint, which may in some circumstances be a neutral third party. The persons charged with investigating the complaint must discuss the complaint or the underlying behavior only with persons involved in the case who have a need to know the information, including the complainant and the accused harasser.

In the case of a complaint against a faculty member, the Office of Institutional Equity will work with the grievance committee of his or her school within the University to investigate discrimination, harassment or retaliation complaints. The committee chair shall notify the Office of Institutional Equity in writing of the findings as well as any action taken or recommendations made by the committee based on those findings.

In the case of a complaint against a student, the Office of Institutional Equity will investigate, or will designate the Office of Student Conduct to investigate, and shall notify the Office of Student Affairs in writing of the findings of the investigation. The Office of Student Affairs will, in turn, determine whether to process the matter through the Tulane Code of Student Conduct.

In the case of a complaint against a staff member or non-employee individual affiliated with Tulane (including vendors and independent contractors), the Office of Institutional Equity shall investigate and make recommendations to the appropriate supervisor as to any action to be taken.

b) Resolution. Resolution will be concluded as promptly as possible and in most cases within 60 days unless extenuating circumstances arise. Within 60 days of receiving the complaint, the Office of Institutional Equity or its designee, including the appropriate school grievance committee, shall make a finding of whether it was determined that discrimination, harassment or retaliation occurred. If the investigation cannot be concluded within that time, the Office of Institutional Equity shall notify the complainant, and the University’s General Counsel, who shall designate the appropriate person or faculty committee to conclude the investigation as promptly as reasonably possible.
c) **Objectivity.** The complainant and the accused are entitled to an investigation conducted by an impartial investigator. Thus, if the persons charged with overseeing or investigating harassment complaints are implicated in the complaint, or have any personal issue that would cause a conflict of interest, the committee member or members shall recuse themselves from the proceeding. Alternatively, the Institutional Equity Officer shall conduct the investigation and make findings or shall designate someone impartial to do so, which may in some circumstances be an outside neutral third party.

d) **Standard of Review.** Claims of violations of this policy will be reviewed based upon the preponderance of evidence whether more likely than not a policy violation occurred.

e) **Notice of Outcome.**

   i. Complaints against Faculty, Staff and Non-Employee Individuals Affiliated with Tulane. No more than ten (10) working days or as promptly as possible after a decision has been reached, the Institutional Equity Officer shall notify the parties to the proceeding, in writing, of the findings and the outcome of the investigation.

   ii. Complaints against Students. The Office of Student Affairs shall notify the parties to the proceeding, in writing, of the findings and the outcome of the investigation in a manner consistent with the Code of Student Conduct.

f) **Sanctions.** Individuals found to have engaged in harassment shall be disciplined appropriately. Appropriate sanctions, ranging from a warning to dismissal, will be determined based on the severity of the conduct and in accordance with the provisions of applicable statutes, employment contracts, university policies, disciplinary procedures for faculty as described in Chapter 8, disciplinary procedures for staff as described in the Staff Handbook, and disciplinary procedures for students as described in the Code of Student Conduct and other student discipline codes.

### 6.3.11 Appeals

An appeal by either the complainant or the accused must be filed in writing with the Office of Institutional Equity within ten (10) working days of receiving written notice of the outcome of the investigation. Responsibility for reviewing appeals will turn on the identity of the accused. Where the accused is a student, the appeal shall be reviewed in accordance with appeals procedures described in the Code of Student Conduct. Where the accused is a staff member, the Vice President for Administrative Services will review appeals. Where the accused is a faculty member, the Faculty Tenure, Freedom and Responsibility Committee of the University Senate will review appeals in accordance with the grievance procedures described in the University Senate Constitution, By-Law III: Standing Committees, Section 1: Committee Functions, Committee on Faculty Tenure, Freedom and Responsibility: Functions.
In exceptional circumstances, except in cases involving faculty, an appeal may be reviewed by an outside neutral third party.

6.3.12 Other Legal Resources

The procedures above apply to internal complaints of discrimination, harassment or retaliation. In addition to this internal complaint procedure, victims of discrimination, harassment or retaliation may file a complaint with an appropriate government agency or, where allowed, file a civil lawsuit. Federal and state laws contain statutes of limitation barring claims filed outside of the applicable limitations period.

a) Office for Civil Rights

The Office for Civil Rights (OCR) is charged with investigating complaints of harassment under Title IX, a federal law that governs harassment of students by teachers or other students. Prior to filing a lawsuit, a charge should be filed with the Office of Civil Rights within the time period designated by law. A student wishing to file an administrative complaint should contact:

Office for Civil Rights Dallas Office
United States Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201
(214) 661-9587

or
Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W
Washington, DC 20530
(888) 848-5306

b) Equal Employment Opportunity Commission

The EEOC is charged with investigating complaints of harassment under Title VII, a federal law that governs harassment of faculty members and staff. Prior to filing a lawsuit, Title VII requires that a charge be filed with the EEOC within the time period designated by law. An employee wishing to file an administrative complaint should contact:

Equal Employment Opportunity Commission
Regional Office
1555 Poydras St., Suite 1900
New Orleans, LA 70112
(800) 669-4000
6.3.13 Dissemination of Policy

This policy will be distributed to all faculty, staff, students, administrators, and will be made available to anyone else connected with Tulane University. All Tulane University employees and students who subsequently become part of the educational community shall be informed of this policy during their orientation. This policy may be revised from time to time and such revisions will be posted on the University's web site located at www.tulane.edu. Any incident reported under this policy will be governed by the policy posted on the web at the time of the incident.

6.3.14 Revisions to Policy

Proposed revisions to this policy will be presented to the University Senate for approval or disapproval.

6.3.15 False Accusations Forbidden

While we encourage all to report good faith claims of discrimination, harassment or retaliation, false accusations can have a serious effect on innocent people. If an investigation results in a finding that an accusation of discrimination, harassment or retaliation was maliciously or recklessly made, the accuser may be disciplined appropriately.

Appropriate sanctions, ranging from a warning to dismissal, will be determined based on the severity of the conduct and in accordance with the provisions of applicable statutes, employment contracts, University policies, disciplinary procedures for faculty as described in the Faculty Handbook, disciplinary procedures for staff as described in the Staff Handbook, and disciplinary procedures for students as described in the Code of Student Conduct and other applicable student discipline codes.

SECTION 6.4 Americans with Disabilities Act

The University is committed to nondiscrimination and employment of qualified individuals with physical and mental disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and state and local laws and ordinances. An individual is considered to have a disability if they have a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

The ADA prohibits discrimination against a qualified individual with a disability in employment practices such as job application procedures, hiring, promotion, discharge, compensation, training, benefits and other conditions of employment. A qualified individual is one who can perform the essential functions of his or her job with or without a reasonable accommodation. The ADA also requires that employers provide reasonable accommodations to qualified individuals with known disabilities. A reasonable accommodation is designed to assist an
employee in the performance of his or her job without placing an undue hardship on Tulane or posing a direct threat to the employee or to other individuals.

The Office of Disability Services has been designated to coordinate employee requests for workplace accommodations. Employees should make accommodation requests directly to the Office of Disability Services. It is your responsibility to request an accommodation. Tulane may require written documentation from your health care provider with knowledge of your limitations.

If the Office of Disability Services notifies the Workforce Management Organization that an accommodation has been approved, implementation of the accommodation will be handled by your department/school.

If you requested and were granted an accommodation, you must report changes in your ongoing need for accommodation.

The University has adopted an internal grievance procedure providing for prompt resolution of complaints alleging violation of the University’s ADA policy. If you have concerns regarding denial of a reasonable accommodation or the specific accommodation selected by the University, you are encouraged to review the process with the Office of Disability Services. In the event you disagree with the determination or proposed accommodation or believe you have been discriminated against based on a disability, you should contact the Office of Institutional Equity.

**g) Section 6.5 Title IX**

It is the policy of Tulane University to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University’s educational programs and activities. Title IX also prohibits retaliation for asserting claims of sex discrimination. Tulane University has designated Title IX Coordinators, to coordinate Tulane's compliance with and response to inquiries concerning Title IX.

Faculty, Staff or Students may contact the following for information:

**Deborah Love**, Title IX Coordinator
Tulane University
Office of Institutional Equity
200 Broadway, Suite 105 A
New Orleans, LA 70118
dlove1@tulane.edu
(504) 862-8083

**Wendy Stark**, Deputy Title IX Coordinator
Tulane University
Office of Institutional Equity
200 Broadway, Suite 105 A
New Orleans, LA 70118
Students may also contact:

Erica Woodley, Deputy Title IX Coordinator for Student Affairs
Tulane University
Division of Student Affairs
6823 St. Charles Avenue
Lavin-Bernick Center for University Life, Room G03
New Orleans, LA 70118
ewoodley@tulane.edu
(504) 314-2188

SECTION 6.6 Nepotism Policy

Tulane University’s standards for employment decisions such as hiring, promoting, reappointing, evaluating, awarding salary and terminating employment are based on qualifications for the position, ability and performance. The University attempts to avoid favoritism and the appearance of favoritism and conflicts of interest in employment decision and reserves the right to take action when relationships of associations of employees impact its mission. It is against University policy for an employee to supervise a relative or to work in positions that have an audit or control function over a relative except in circumstances as indicated below.

The employment of relatives is permissible if the following general principles are applied. For purposes of this policy, “Relatives” means a connection between persons by blood, marriage, adoption, domestic partnership, or other personal relationship including co-habitation.

Employment of relatives in the same unit or department or under the same supervisor is authorized only with the prior written approval of the head of the unit or department and the Senior Vice President for Academic Affairs and Provost for faculty members or the Workforce Management Organization for all staff members, as appropriate. In addition, relatives should not participate in activities that have the potential for influencing employment decisions.

6.6.1 General Principles:

a) To avoid possible conflicts of interest, any dean, director, department head, chairperson, supervisor or participant in peer or administrative review procedures who is a Relative of an employee or job applicant must not participate either formally or informally in decisions (including rendering advice on decisions) on personnel matters affecting the Relative, including, but not limited to decisions to hire, retain, promote or determine salary.

b) In cases where an employee would have primary responsibility for the assignment, supervision, and evaluation of duties for a Relative, an appropriate individual must be
designated by a higher level administrator (e.g., director, department head, dean, vice president, provost, president) to perform the functions of such employee in the decisions to hire, retain, promote, assign duties or set the salary of the individual “related” to the employee.

c) Within the limitations set forth above, individuals “related” to other Tulane University employees have the general rights extended to employees in comparable positions. For example, a faculty member has the right to serve on a departmental peer review committee even though a Relative will be considered by the Committee. The faculty member, however, would not participate in the review of the Relative. However, this policy has no effect upon the administration of employee benefit plans and creates no contract rights to employees.

d) Supervision and evaluation procedures, even when altered as described above, should ensure comparable treatment of employees.

e) In circumstances which have the potential for the conflicts of interest referenced in item #1 above, individuals have the responsibility for disclosing that a conflict of interest may exist to the dean, director, department head or other relevant administrator and to other affected employees prior to making any employment decisions. The specifics of the potential conflict do not have to be provided.

Decisions about individual cases should be made on the basis of these principles. In cases where the application of a principle is disputed, the administrator at the next level may be asked to assist in resolution. If resolution cannot be achieved, an employee can follow the established procedure for filing a grievance. The President shall have final approval regarding application of the general principles to particular cases. Not every relationship that can create favoritism or the appearance of favoritism can be listed here. Whenever an employee enters into a relationship with another employee, s/he should ask whether there may be favoritism or the appearance of favoritism or whether an audit or control function may be compromised.

Section 6.7 Policy on Consensual Relationships

6.7.1 Preamble

Interactions between the students of Tulane University and those administrators, faculty and staff who have institutional authority over them are to be guided by mutual trust, confidence, and professional ethics. Any consensual relationship between a student on the one hand and any faculty member, administrator, or staff member on the other has the potential to put these values at risk. Likewise, familial or collegial relationships (such as holding a position of authority over one's children, one's colleagues, or family members of colleagues) may lead to the reality or the perception of bias. The University calls the attention of all members of the university community to these dangers, and notes the appropriateness of existing grievance procedures for dealing with abuses that may arise in all these situations. In this policy, the University wishes to deal with the specific issue of consensual relationships in which one of the parties holds a position of authority over the other. The power differential characterizing such relationships creates the risk of conflicts of interest, violations of trust, abuses of power, and breaches of professional ethics. The
Policy on Consensual Relationships is intended to guard against such risks while protecting the rights of all parties. Acts or allegations of harassment shall be handled in accordance with the University's Harassment Policy, which shall take precedence over this policy with respect to such acts or allegations. Acts or allegations regarding nepotism shall be handled in accordance with the University's Nepotism Policy, which shall take precedence over this policy with respect to such acts or allegations.

6.7.2 Policy

Those employed by Tulane University shall not engage in consensual relationships with students relative to whom they hold a position of authority (see definition below) in such matters as instructing or otherwise evaluating, supervising, or advising the student as part of any school program or activity, whether academic or non-academic. Should a consensual relationship develop between a person in a position of authority and a student, the person in authority shall immediately remove him or herself from such position of authority. The greater responsibility for termination of the position of authority rests with the person in authority. However, all members of the Tulane community bear a responsibility. Persons in authority with no professional responsibilities for a student should be sensitive to the perception that consensual relationships may lead to preferential treatment. If the person in authority or the student declines to dissolve the institutional relationship, the University will take steps to do so.

6.7.3 Definitions

1. Persons in authority include, for the purposes of this policy only, those who supervise, advise, teach, coach, evaluate, allocate financial aid to, and/or guide research by students, be they:
   a. Faculty members
   b. Graduate students
   c. Staff members, or
   d. Administrators.

2. Students are defined as all full- or part- time students enrolled in any academic division of Tulane University.

3. A consensual relationship is defined as any consensual dating, romantic, sexual, or marriage relationship.

4. Position of authority includes, but may not be limited to, situations in which the individual makes or is responsible for an evaluation of a student for admission, course-work, student employment or internship, promotion, financial aid, research funding, suspension, expulsion, or other discipline. (Those providing instruction without evaluation are not necessarily in positions of authority. This is reviewed on a case by case basis by the academic officer to whom the individual reports.)

6.7.4 Procedures

When a consensual relationship exists or develops, the position of authority over the student
must be avoided or immediately terminated. Avoidance or termination includes, but is not limited to:

1. a qualified alternative faculty, staff member, or administrator taking the position of authority in non-course-based academic work or student employment;

2. the student not enrolling in a course, dropping a course, or transferring to another course or section taught by another individual;

3. transferring to another person the authority over any benefit(s) for which the student is eligible.

An allegation that a person in authority has failed to avoid or terminate a position of authority when a consensual relationship has developed will be referred in writing to the Office of the Dean of the school in which the student is enrolled. The person making a complaint (hereinafter the complainant) may be a faculty or staff member or a student; the complaint and all supporting evidence and information must be given in writing. Once an alleged violation of this policy has been reported, the written complaint shall be reviewed by the associate dean of the school of the accused student to confirm that the charge being made falls within the scope of this policy and that all initial documentation has been prepared. The associate dean shall consult with the complainant and the cited student if necessary to ascertain what witnesses should be called in the hearing, and to make sure that all concerned understand the workings of this policy. The associate dean shall also inform the cited student of his or her rights under this policy, including the right to be accompanied to the hearing by a counselor/advisor. This initial review shall take place if possible within two (2) working days of the time when the formal charge is made. If, in the considered opinion of the associate dean, the charge is improper and should not be taken to a hearing, that decision shall be communicated to the Dean of that school and then to the complainant, who retains the right to have the associate dean's decision reviewed by the chair of the Senate Committee on Academic Freedom and Responsibility of Students and a designated faculty member and student from that committee. The reviewers may set aside the associate dean's decision. If the charge is brought to a hearing, all parties to the case on either side shall be allowed four (4) working days to review all the written documents before the date set for the hearing. In the case of a faculty member, the hearing body is the faculty grievance committee of the faculty member's school. In the case of a graduate student teaching assistant, the hearing will be conducted by the department chair and the Associate Provost for Graduate Studies and Research. In the case of a staff member, the procedure outlined for staff in Section V.I, "Standards of Conduct" of the Staff Handbook under the subheading “Grievance Review Procedure” will be followed. In the case of an administrator, the hearing will be conducted by the person to whom the administrator reports. Within seven (7) working days of receiving the complaint, the designated body or officer of the university shall have completed the hearing and arrived at a finding concerning whether a consensual relationship exists. The finding will be communicated to both parties and the office of the student's Dean. If the finding is that a consensual relationship exists and neither of the parties agrees to termination of authority, the appropriate officer of the university shall terminate the position of authority between the two persons. In the case of a faculty member, the school grievance committee will inform both parties and the office of the student's Dean of its findings. If the committee recommends the
termination of the position of authority, the committee will refer its recommendation to the office of the student's dean. The office of the student's Dean will immediately implement the committee's recommendation. In the case of a graduate student instructor, this will be the Dean of the graduate student instructor's school. In the case of a staff member, this will be the individual outlined in Section V.I, "Standards of Conduct," of the Staff Handbook. In the case of a student declining alternative supervision of non-instructional academic work (such as thesis readership, etc.) this will be the department chair. In the case of a student declining alternative work supervision, this will be the individual at the next supervisory level. In the case of an administrator, this will be the person to whom the administrator reports. In the case of the President of the University, this will be a full session of the Board of Administrators.

6.7.5 Objectivity

The complainant and the cited parties are entitled to an investigation conducted by an impartial investigator. Thus, if any person charged with overseeing or investigating complaints is implicated in the complaint, or has any personal issue that would cause a conflict of interest, he or she shall recuse him or herself from the proceeding.

1. 6.7.6 Notice of Outcome

In no more than two (2) working days after a decision has been reached, the appropriate officer of the university shall notify the parties to the proceeding, in writing, of the findings and the outcome of the investigation.

6.7.7 Appeals

Appeals must be made within five (5) working days of the receipt of the written notice of the investigation. Where the accused is a faculty member, any appeal must be filed in writing with that faculty member's dean and with the University Senate Committee on Faculty Freedom, Tenure, and Responsibility. FTFR will review appeals in accordance with the grievance procedures described in the University Senate Constitution, By-Law III (Standing Committees), Section 1 (Committee Functions): Committee on Faculty Tenure, Freedom, and Responsibility: Functions. Where the accused is a student, the appeal shall be reviewed in accordance with the appeals procedures described in the Code of Student Conduct. Where the accused is a staff member or an administrator, the President of the University shall review appeals, according to the procedure set forth in Section V.I, "Standards of Conduct," of the Staff Handbook. Where the accused is an administrator, a committee of the Board of Administrators shall review appeals. When the accused is the President of the University, the full Board of Administrators shall review appeals.

6.7.8 False Allegations

Persons who knowingly make false allegations that a consensual relationship coexists with position of authority shall be subject to appropriate sanctions based on the severity of the conduct and in accordance with the provisions of applicable statutes, employment contracts,
university policies, disciplinary procedures for faculty as described in the Faculty Handbook, disciplinary procedures for staff as described in the Staff Handbook and disciplinary procedures for students as described in the Code of Student Conduct and other student discipline codes. If the complainant is found guilty of making a false allegation, a letter is to be placed in the complainant's permanent file containing that finding.

### 6.7.9 Faculty Rights

Nothing herein shall abridge the rights of faculty as outlined in the Tulane University Faculty Handbook.

### 6.7.10 Dissemination of Policy

This policy will be distributed to all faculty, staff, students, administrators, and will be made available to anyone else connected with Tulane University. All Tulane University employees and students who subsequently become part of the educational community shall be informed of this policy during their orientation. This policy may be revised from time to time (See 6.5.11 Revisions to Policy below) and such revisions will be posted on the University's official website. Any incident reported under this policy will be governed by the policy posted on the website at the time of the incident.

### 6.7.11 Revisions to Policy

Proposed revisions to this policy will be presented to the University Senate for approval or disapproval.

### Section 6.8 Smoke-Free Campus

The following policy applies to all units of the University:

Smoking is prohibited in all University buildings. This includes work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, and vehicles. Employees who smoke should do so outside during their designated break and lunch periods.

Complaints regarding this policy should be directed in writing to the Office of Environmental Health and Safety.

“No Smoking” signs or the international “No Smoking” symbol must be clearly posted and ashtrays must be removed where smoking is prohibited. Facilities Services will be responsible for the installation of the required signs.

The law provides for fines for individuals and employers who do not comply with the above-mentioned requirements. The maximum fine for an employer could be $500. Payment for such fines is the responsibility of the employee or the Department where the infraction occurred.

### Section 6.9 Policy on Billing and Reimbursement of Health Care Services
This Code of Conduct evidences the commitment of Tulane University ("Tulane") and its employees, agents, and contractors to full compliance with all laws and regulations regarding billing for health care services. Tulane is committed to ensuring that billing to and reimbursement from the Medicare program, Medicaid program, and all other federal health care programs is in compliance with the regulations and guidance for billing such programs. It is Tulane’s policy to educate our employees, agents and contractors about the provisions of the federal and state laws that prohibit the submission of false claims and false statements as well as about the whistleblower protections contained in these laws and the role that these laws play in detecting and preventing fraud, waste, and abuse.

Applicability

This Code of Conduct applies to all Tulane employees, agents and contractors, however, health care providers and individuals supporting health care providers are more likely to encounter the situations described in this Code of Conduct. Those employees, agents and contractors who provide health care services, are members of Tulane University Medical Group, or who provide administrative, managerial, financial or other support for Tulane’s health care functions should ensure that they fully understand this Code of Conduct.

State and Federal Laws

Both federal and Louisiana law prohibit Tulane from knowingly presenting a false or fraudulent claim to Medicare, Medicaid, or other federal health care programs. Federal law defines a “false claim” as knowingly presenting false or fraudulent claims for payment or making or using a false record or statement to receive payment for a claim. Louisiana law defines a “false or fraudulent claim” as a claim that a health care provider (or his/her agent) submits knowing the claim to be false, fictitious, untrue, or misleading in regard to any material information. Examples of false claims could include billing for services not rendered or goods not provided, falsifying certificates of medical necessity, falsifying medical records, unauthorized use or unauthorized assignment of provider billing numbers, and failing to report overpayments or credit balances. All of the data elements that must be included in submissions for reimbursement from Medicare, Medicaid and other federal health care programs must be accurate. Violations of these federal and state laws can subject Tulane to significant fines and penalties.

Protection of Whistleblowers

The federal and state laws contain certain protections for “whistleblowers” who alert the appropriate governmental authority of a violation of the false claims acts. Under these laws, any person with actual knowledge of an allegedly false claim, including employees, agents and contractors, may, under certain conditions, become a whistleblower under these statutes and is free to notify the appropriate state or federal governmental authorities if he/she does not believe that Tulane is responding appropriately when notified about potential violations. Employers are prohibited from taking adverse or retaliatory action against a whistleblower who in good faith notifies the appropriate governmental authority of an alleged violation. Whistleblowers may also be entitled to relief, including employment reinstatement, back pay, and other compensation arising from retaliatory conduct against the whistleblower.
Tulane’s Policies and Procedures

Tulane University is committed to promoting ethical practices and to preventing and detecting fraud, waste, and abuse. Tulane systematically reviews its compliance with the rules and regulations of Medicare, Medicaid, and other federal payors. Tulane also has in place compliance procedures for audits, personnel training and continuing education. Tulane’s compliance personnel regularly apprise themselves and the organization of current state and federal statutory and regulatory developments to ensure that Tulane is compliant with the rules governing federal and state health care programs claims submissions.

In addition, Tulane relies on its employees to notify it of any potential inaccurate billing so that we are not accused of violating the laws that prohibit the submission of false claims to the government. Tulane makes it a part of the duty of all employees to assist it this commitment to accurate billing by reporting any potential improprieties without fear of retaliation. Tulane employees may report potential billing violations directly to their supervisor or to the “hotline” maintained by Tulane for this purpose, which can be reached at 504-314-CALL (2255). Alternatively, information on the hotline and reporting any potential improprieties can be found at HUhttp://tulane.edu/audits/hotline.cfmHU.

For more information on this topic, information on the University Compliance website. http://tulane.edu/compliance/

Section 6.10 Guidelines for the Duplication of Copyrighted Material for Classroom Use

The General Counsel's Office has prepared the following guidelines for the photocopying of copyrighted materials for classroom use. These guidelines attempt to balance the interests of the instructor and his or her students on the one hand and the rights of the copyright owner on the other.

Section 6.10.1
Instructors who wish to make multiple copies of copyrighted material must take the following steps:

1. Determine whether the safe harbor applies. When Congress revised the copyright law in 1976, it took note of a set of guidelines that had been approved by a consortium of publishers and by the American Council on Education for copying for classroom use. These guidelines contain safe harbor provisions that describe copying that may be done without the permission of the copyright owner. A copy of the guidelines is included herein. These guidelines set out a three-pronged test; any copying must meet all three tests (brevity, spontaneity, and cumulative effect) to come within the safe harbor.

If an instructor determines that the proposed copying fits within the safe harbor, then the copying may be done without requesting permission from the copyright owner. However, instructors should bear in mind that the spontaneity test
requires them to request permission for that same material if the instructor intends to use that material in a subsequent semester.

If an instructor determines that the proposed copying does not fit within the safe harbor, the instructor **must** request permission from the copyright owner.

2. **Request permission from the copyright owner.** This must be done in writing. Allowing plenty of time (six to eight weeks minimum) for the copyright owner to respond, write a letter to the copyright owner describing your intended use of the copyrighted material and ask permission to use the material accordingly. A copy of the Association of American Publisher's "How to Request Copyright Permissions" is included herein; this should help you prepare your requests.

Please be aware that the copyright owner may be either the publisher or the author of the material. A close inspection of the material or the larger work containing the material to be copied should reveal the identity of the copyright owner. If you cannot determine who owns the copyright, request permission from both the author and the publisher.

Instructors must be prepared to document the fact that they have requested permission to duplicate each item of copyrighted material.

A request for permission should produce one of the following three responses:

a) **Permission Granted** -- the copyright owner responds by granting the permission requested. This is the ideal response; instructors should not expect to see it often.

b) **Permission granted subject to royalty payment** -- more and more copyright owners are granting permission to reproduce their works upon payment of a specified royalty. If you receive such a response and decide to pay the royalty, you must retain copies of all documentation for the transaction. The cost can be passed along to the students as part of the purchase price of the duplicated materials. The instructor should request a letter from the copyright owner acknowledging receipt of the payment and authorizing the instructor to proceed with the duplication. If this response is received and the instructor feels that the requested royalty is unreasonable, please contact the General Counsel's Office to discuss the situation.

c) **Permission denied or no response received** -- many copyright owners deny all requests to reproduce their material as a matter of course; others may deny your request for other reasons. The fact that a copyright owner does not grant permission to reproduce the material does not necessarily mean that it cannot be reproduced for classroom use. Denial of permission means that the legal justification for the proposed photocopying of copyrighted material would rest on the concept of "fair use" rather than on the grant of permission by the
copyright owner or on compliance with the safe harbor. Fair use is defined as
the ability of a person other than the copyright owner to use copyrighted
material in a reasonable manner without the consent of the copyright owner.
What constitutes fair use depends on the facts and circumstances of the use.
A copy of the fair use statute is attached for your reference. Reliance on the
fair use doctrine means that the copying in question is heading into uncharted
legal waters and may subject the University and/or the instructor to liability
for copyright infringement. If you have any questions about the fair use
document and/or any particular proposed copying, please contact the Office of
the General Counsel.

Instructors must make separate requests for each copyrighted work for each school term
that the copyrighted materials will be used. Instructors should maintain a file containing
all of their correspondence pertaining to their use of copyrighted materials.

3. Include a "Notice of Copyright" on each copyrighted work. This must be done in
every case. The notice of copyright includes the word "copyright" or the circled
"c," the year of publication, and the name of the copyright owner.

Examples: Copyright 1991 by John A. Smith
(c) 1991 by Random House Publishers

This notice must be typed or handwritten on the first page of each copyrighted
work that you wish to have photocopied.

Section 6.10.2 Guidelines for Copying Educational Material

Section 6.10.2.1 Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her
individual request for his or her scholarly research or use in teaching or preparation to
teach a class:

a) a chapter from a book;
b) an article from a periodical or newspaper;
c) a short story, short essay or short poem, whether or not from a collective
work;
d) a chart, graph, diagram, drawing, cartoon or picture from a book,
periodical, or newspaper.

Section 6.10.2.2 Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per student in a
course) may be made by or for the teacher giving the course for classroom use or
discussion, provided that:
a) the copying meets the test of brevity and spontaneity as defined below; and
b) meets the cumulative effect test as defined below; and
c) each copy includes a notice of copyright.

Section 6.10.2.3 Definitions

I. Brevity

a) Poetry:
   i. A complete poem if less than 250 words and if printed on not more than two pages or
   ii. from a longer poem, an excerpt of not more than 250 words.

b) Prose:
   i. Either a complete article, story or essay of less than 2,500 words, or
   ii. an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

   [Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

c) Illustration: One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

d) "Special" works: Certain works in poetry, prose or in "poetice prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 in their entirety. Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt compromising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

II. Spontaneity

a) The copying is at the instance and inspiration of the individual teacher, and

b) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

III. Cumulative Effect

a) The copying of the material is for only one course in the school in which the copies are made.
b) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

c) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations state in b) and c) above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

Section 6.10.3 Prohibitions as to Sections 6.10.1 and 6.10.2 above

Notwithstanding any of the above, the following shall be prohibited:

1. A. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.

   B. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized test and test booklets and answer sheets and like consumable material.

   C. Copying shall not:

      a. substitute for the purchase of books, publishers' reprints or periodicals;
      b. be directed by higher authority;
      c. be repeated with respect to the same item by the same teacher from term to term;

   D. No charge shall be made to the student beyond the actual cost of photocopying.