



**SISTEMA UNIVERSITARIO ANA G. MÉNDEZ
OFFICE OF THE VICE PRESIDENT FOR HUMAN RESOURCES**

SEXUAL HARASSMENT POLICY

Policy Number: RH-12-214-003

Effective Date: August 1, 2012

New

Amends rules and dispositions established in the Associate Handbook

Amends Sexual Harassment Policy No. RH-01-047-001, dated February 16, 2001

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I. INTRODUCTION

It is the policy of the Sistema Universitario Ana G. Méndez (SUAGM) to promote a humane, responsible, and fair work and learning environment, to support, nurture and reward professional and educational improvement based on the ability and performance of students, faculty and all staff. Special considerations based on gender or sexual behavior, limit and undermine the character and purpose of the University and its community. SUAGM neither encourages, nor condones or allows sexual harassment in any way, since, as with other types of discrimination, sexual harassment in employment or study environments violates this policy as well as local and federal dispositions, the most notable of these being the Civil Rights Act of 1964, as amended (Title VII), the Federal Education Act, as amended (Title IX), and Puerto Rico Laws 100 and 17, of June 30, 1956, and April 22, 1988, respectively.

Sexual harassment can happen as a wish to exert power and exploit a person rather than to satisfy a sexual desire. Sexual harassment can occur in the context of an abuse of power by the harasser to a person of less power, leading to unwanted sexual activity, and can also occur between equals, such as classmates or co-workers, as well as persons of the same or opposite sex. None of these behaviors are acceptable within the SUAGM academic and administrative community. No discriminatory conduct will be allowed, and as soon as its manifestation is known, SUAGM will take immediate action and implement corresponding corrective actions.

Any student or staff member can examine the laws prohibiting sexual harassment, copies of which are maintained at the Offices of the Vice Chancellors for Student Affairs of each SUAGM Institution and at the SUAGM Office of the Vice President for Human Resources.

II. PURPOSE

SUAGM has the policy and affirmative duty to maintain a work and study environment free from sexual harassment for the benefit of all of its associates, supervisors, professors and students, including prospective associates and visitors. Any staff member or student who incurs in conduct constituting sexual harassment will be found into an open violation of the rules and policies of SUAGM, as well as federal and local laws in force, and shall be liable to disciplinary action which may involve the removal, expulsion or dismissal from SUAGM institutions.

Sexual harassment of associates, students, prospective associates and visitors, by superiors, other staff, fellow associates or prospective associates and third parties is strictly prohibited.

III. DEFINITIONS

Sexual harassment is defined as any unwanted sexual advances, requirements for sexual favors and other verbal or physical conduct of a sexual nature, which the associate or student must meet to gain employment or academic benefit, or conduct which has the purpose or effect of unreasonably interfering with the work or academic performance of a person, thereby creating an intimidating, hostile or offensive environment.

Sexual harassment occurs when there are present one or more of the following circumstances:

1. Submission to such conduct is explicitly or implicitly a condition of employment or requirement for academic or employment benefits.
2. The acceptance or rejection of such conduct is used as the basis in making decisions affecting employment, such as promotions, salary increases, dismissals or in the case of a student, affecting their status or academic achievement.
3. Such conduct has the purpose or effect of unreasonably interfering with the work or academic performance of that person creating a hostile, intimidating or offensive work or study environment.

Although it is impossible to anticipate all conduct prohibited by law, by way of illustration, the following examples are provided:

1. All intentional physical contact of a sexual nature: touching, pinching, fondling, grabbing, patting or brushing the body of a staff member or student.
2. Sexual attack or assault: rape, sexual abuse or attempt to commit some type of sexual aggression.
3. Advances, propositions or unwanted sexual comments: gestures, sounds, comments, jokes, direct or implied comments about the sexuality or sexual experience of a staff member or student, or about sexual matters directed to, or in the presence of, another staff member or student who has shown or demonstrated that he/she does not want such behavior.
4. Requirement of sexual acts or favors.
5. Insults, ridicule and implied verbal comments which intimidate, offend or harass a staff member or student or reasonably interfere with their performance.
6. Electronic messages with sexual content, offensive or intimidating.
7. Publications, leaflets, photos, drawings, pictures, posters, calendars, objects, pornographic reading material, or which suggest sexual activity or create a hostile or uncomfortable environment for an associate or student.

IV. COURSE OF ACTION

If you believe you have been a victim of sexual harassment by means of conduct which you subjectively consider bothersome, you should notify the harasser that their behavior is offensive, unwanted and need not be repeated in the future. Any staff member or student who feels that he/she is being subjected to an action which constitutes sexual harassment, should notify it through his/her supervisor, dean or director of the unit to which he/she is attached, or the human resources representative at each institution, in order for him/her to take immediate action in this regard. It is the duty and obligation of every associate and student to report any unwanted act of a sexual nature directed at them, or which they have witnessed in their place of work or study, or about which they have received information.

Upon receipt of a sexual harassment complaint, the institution will initiate an investigation focused on corroborating the existence of the alleged conduct within an immediate and reasonable term, which it is estimated should not exceed seven (7) calendar days. Any person who engages in conduct constituting sexual harassment, be it a faculty member, student, associate or officer of SUAGM, shall be exposed to severe penalties including dismissal or expulsion from the institution as appropriate. If it appears that the sexual harassment stems from third parties who are neither SUAGM associates nor students, then SUAGM will take whatever corrective actions are reasonably available.

Information received during a sexual harassment complaint investigation will be kept in a separate file and as confidential as possible, noting that some facts will have to be disclosed during the investigation and interviews of persons who could provide information on the event under investigation, as well as in dealing with any legal action, should such an action be initiated.

The investigation and resolution of a sexual harassment complaint will be conducted by a committee comprised of three (3) persons duly empowered and trained to address the issue, establishing that the Committee members shall be persons who are not under the supervision or control of the alleged harasser.

SUAGM will not tolerate any type of discrimination and harassment and reiterates its commitment to maintain a place of study and work which is free from all types of discrimination and sexual harassment.

V. COMPLAINT PROCEDURE

The following grievance procedure, which facilitates the process, decision-making and immediate action, has been established to guide persons who understand they have been the subject of sexual harassment:

1. If an associate believes that he/she has been the victim of sexual harassment, or is being subjected to a hostile environment, he/she shall notify it through his/her supervisor, dean or director of the unit to which he/she is attached. These, in turn, shall refer the matter immediately, in a period not to exceed five (5) working days, to the human resources representative assigned to the Institution in order to initiate the investigation. However, the associate may appeal directly to the Human Resources representative assigned to the institution.
2. If the alleged victim is a student, he/she shall notify through the Dean or a department director. These, in turn, shall refer the matter immediately, in a period not to exceed five (5) working days, to the Vice Chancellor for Student Affairs, in order to initiate the investigation. Alternately, he/she can go directly to the Vice Chancellor for Student Affairs assigned to the institution or to a counselor, in order for these to initiate or participate in the process resulting from the complaint.
3. If the respondent is not part of the university community, the associate or student shall present his/her complaint within the following three (3) working days, preferably through the Human Resources representative assigned to the institution. Given that this person is not under the control of SUAGM, the designated Human Resources Specialist shall notify the respondent and the office to which he/she provides services as to the complaint filed.
4. If the respondent is a high official of SUAGM, such as members of the Board of Directors or vice presidents, the complaint will be channeled through the Office of Human Resources, which may refer the matter to a Special Commissioner outside of the university community for processing and decision. The Commissioner's decision shall be final and binding.
5. The administrative processes to be conducted shall be confidential as much as possible and all information collected in the investigation shall be archived in a file separate and independent of the personal or academic record.

6. The complaint may be made verbally or in writing and must include the names and surnames of the complainant, who is the person who files the charge; the respondent party, who is the person against whom the complaint has been filed; the identity of those witnesses who may have knowledge of the facts; and a statement of facts with specific mention of the date or dates of occurrence.
7. The Human Resources representative at each institution, or in his/her absence, the Vice Chancellor of Student Affairs, will activate a committee consisting of three (3) persons of which at least one (1) shall be a representative of the Office of Human Resources and appointed by the Vice President for Human Resources. The committee will conduct a fair and impartial investigation of all complaints filed, to include the collection of information, statements and interviews with the parties and witnesses.
8. The committee will start the investigation with an interview of the complainant and will collect all available information. If the complaint has been filed verbally, at this stage, the facts which comprise the complaint will be formalized in writing.
9. The complainant will be briefed regarding his/her rights to pursue independent actions, and the terms applicable to such actions, provided that in the case of an associate, he/she has forty (45) days to file a charge before the Equal Employment Opportunity Commission, and in the case of a student, he/she has one hundred and eighty (180) days to file a complaint with the Office of Civil Rights of the US Department of Education.
10. In those cases in which the complainant or the respondent is a minor, his/her parents or guardians must be notified and allowed to participate in the investigation, with an explanation of the process that will be followed with the implementation of this policy.
11. After obtaining the evidence on the complaint and interviewing the complainant, the committee will meet and interview the respondent, notify him/her of the complaint and give him/her the opportunity to offer evidence regarding the event, to include the presentation of witnesses before the committee to refute the allegations against him/her.
12. The respondent will also be given the opportunity, in a term not exceeding five (5) working days after the interview, to file a written reply on the allegations of the complaint. In it, the defendant may report the identity of witnesses whom he/she understands can provide information regarding the allegations.

13. Following the interviews with the complainant and the respondent, the committee shall proceed to interview the witnesses mentioned by them.
14. If justified, based on the alleged facts in the complaint and the preliminary evidence submitted, SUAGM can take prudent and provisional measures pending finalization of the investigation of the complaint, without this implying adjudication in favor of the allegations of either party.
15. The committee shall be responsible for evaluating the complaint or grievance, as well as the defenses, testimonies, and documentary evidence, if any, submitted by the parties and their witnesses and render a report with recommendations or remedies for the determination of the Vice President for Human Resources or Vice Chancellor for Student Affairs.
16. The investigation shall be completed and the report submitted within a period not exceeding thirty (30) working days after the filing of the complaint. It is clarified that this term is a directive one and may vary for meritorious reasons.
17. The Vice President for Human Resources or the Vice Chancellor for Student Affairs will evaluate the report submitted by the committee, and in a term not exceeding ten (10) working days, issue his/her determination which will be notified to the complainant, as well as to the respondent. In the case of a student, the information to be provided to other parties will be subject to the restrictions imposed by the Family Educational Rights and Privacy Act (FERPA).
18. Neither SUAGM nor its agents or representatives shall take any retaliation against the complainant, witnesses or any person who has notified or has cooperated with the investigation of the alleged event.
19. If the complainant decides not partake in the investigation under way or decides to withdraw from it due to dissatisfaction with the process, or for any other reason, the investigative process will continue until completion where the lack of interest of the complainant as well as all available evidence may be taken into consideration.
20. If after completion of the investigation it is determined that a faculty member, student, officer or staff member of SUAGM has engaged in conduct constituting sexual harassment, the matter will be referred to the President of SUAGM, the Chancellor of the Institution, an officer of SUAGM or the Vice President for

Human Resources to implement remedial measures which comply with this policy and the rules adopted and promulgated by SUAGM.

21. Likewise, if it is determined that the complainant's employment or education benefits were affected, be it by a salary reduction, a demotion, or in the case of students, by limiting benefits or impacting grades, SUAGM will take remedial actions to restore the corresponding benefits to the complainant.
22. The Vice President for Human Resources or the Vice Chancellor for Student Affairs will follow up on any determination issued in order to ensure that the conduct or situation has been corrected, verifying in turn, that no retaliation have been taken against participants.
23. An associate, student or third party who files a complaint against another associate or student, knowing that the event or conduct of which he/she is complaining is false, shall be liable for a civil suit by the affected person under the Libel and Slander Act of Puerto Rico. In addition, he/she will be liable for disciplinary actions pursuant to SUAGM regulations and manuals.
24. The terms adopted in this policy are directives to make it possible for SUAGM to perform its due processes, but are not of strict enforcement. Terms may vary depending on the particular circumstances and complexity of each case.
25. The investigative process is informal and administrative, and therefore the parties will not be allowed to be represented by legal counsel.

VI. APPEAL RECOURSE

Should there be a disagreement with the result of the complaint investigation and the solution presented, both the complainant and the respondent may file an appeal with the Office of the Chancellor of the institution to which he/she is attached within a period of five (5) working days from the notification of the resolution of the complaint. In the case that the complainant or respondent works for Administración Central or Sistema TV, Canal Universitario Ana G. Méndez, the appeal will be filed before the Executive Vice-President, within the same period of five (5) working days from the notification of the resolution of the complaint.

The Chancellor or the Executive Vice-President, as appropriate, will review the appeal and will have access to all information gathered during the investigation and will evaluate it to possibly ratify, amend or revoke the recommendations made previously.

In case that the Chancellor or the Executive Vice-President is not available, a designated representative of the same rank will be appointed to review the appeal in the manner previously stated.

In a period, not in excess of thirty (30) working days, the Chancellor, the Executive Vice-President or the designated representative of same rank, will issue a final determination, which shall be notified to the appellant within such term.

VII. DISCLAIMER

The provisions of this policy should be interpreted with each other and should there be a declaration of invalidity of any provision by a court or a competent agency, the remaining shall remain valid and binding.

VIII. SPECIALTY AND PRIORITY

This policy is a special procedure to handle any situation of harassment and supersedes the general SUAGM manuals and regulations, provided that for the situations contemplated herein, the processes will be conducted in accordance with the provisions of this document.

IX. EFFECTIVENESS

This policy will begin effective immediately and will replace the Sexual Harassment Policy No. RH-01-047-001 adopted on February 16, 2001.

X. PUBLICATION

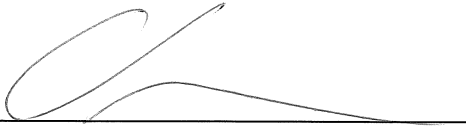
The Vice President for Human Resources, as well as the Vice Chancellor for Student Affairs will provide all associates, faculty members and students with the necessary information regarding this policy on sexual harassment which establishes prohibited conduct and the procedure to be followed to attend to complaints related to it.

Should you have any questions regarding this policy or the complaint submission process, please contact a representative of the Office of Human Resources or the Vice Chancellor for Student Affairs to discuss your questions.

This policy will be reviewed and amended as modifications in the applicable law arise.

We hope that all SUAGM associates and students continue to act responsibly so as to maintain a friendly work and study environment, free from all discrimination.

X. APPROVALS



Victoria de Jesús, Ed.D
Vice President of Human Resources

8/21/2012

Date



José F. Méndez, Dr.h.c.
President

8/21/12

Date