

# OFFICE OF THE REGISTRAR

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Policy No.: 2012/2

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## THE WU CODE OF CONDUCT ON THE HANDLING OF SEXUAL HARASSMENT

### 1. VALUES AND BELIEFS

#### 1.1 Standards

The WU is an academic and educational institution committed to providing a non-sexist, non-discriminatory, working and study environment for staff and students in which every person will be able to achieve his/her full potential. The University Council, Executive, staff and students are co-responsible to provide a non-sexist, non-discriminatory environment and to endorse the following standards of equality:

- Preservation of human dignity;
- Co-responsibility of University Council, Executive, staff and students to combat sexual harassment on campus;
- Discouragement of offensive behavior that could be viewed as sexual harassment;
- Acknowledgment thereof that sexual harassment is an unacceptable infringement of the core values of integrity, human dignity, privacy, equity and mutual respect and that sexual harassment is a form of unfair discrimination;
- Agreement to this code of conduct on the handling of sexual harassment.

### 2. THE CODE

To fulfill this responsibility, the University community agreed on the following code.

- 2.1 The objective of this code is to eliminate sexual and all other forms of harassment in the workplace and within the University community.

2.2 This code provides appropriate procedures to deal with sexual harassment and prevent its recurrence.

### **3. APPLICATION OF THE CODE**

This code applies to the entire University community, including students, staff members, supervisors, job applicants, clients, suppliers, contractors, members of Council, and others having dealings with the University. A non-employee who is a victim of sexual harassment may lodge a grievance with the manager/supervisor of the harasser, where the harassment has taken place at the University workplace.

### **4. SEXUAL HARASSMENT AS A FORM OF UNFAIR DISCRIMINATION**

Sexual harassment in the University environment is a form of unfair discrimination and is prohibited on the grounds of sex and/or gender and/or sexual orientation.

### **5. TEST FOR SEXUAL HARASSMENT**

Sexual harassment is unsolicited behavior of a sexual nature that violates the rights of an employee or student and constitutes an infringement on equity in the workplace or within the University community, taking into account whether the harassment is on the prohibited grounds of sex and/or gender and/or sexual orientation; whether the sexual conduct was unwelcome; the nature and extent of the sexual conduct; and the impact of the sexual conduct on the employee/student.

### **6. GUIDING PRINCIPLES**

All members of the University community should create and maintain a working environment in which the dignity of all affected individuals is respected. A climate in the University community should also be created and maintained in which complainants of sexual harassment will not feel that their grievances are ignored or trivialized, or fear reprisals.

## **7. POLICY**

- 7.1 All forms of sexual harassment and/or related intimidation and victimization within the jurisdiction of the University shall be unlawful and are therefore prohibited.
- 7.2 In addition to any possible criminal or civil sanction, a person committing such conduct may be subjected to a disciplinary investigation in accordance with the applicable Disciplinary Code for Staff or Students, as the case may be. On being found guilty such person may, in the case of a member of staff, be discharged from employment or, in the case of a student, be expelled from the University.
- 7.3 The University Council and its Executive are legally obliged to ensure that all complaints of sexual harassment and/or related intimidation and victimization are investigated and dealt with in terms of this policy and its concomitant procedural measures.
- 7.4 Sexual harassment is a form of unfair discrimination on the basis of sex and/or gender and/or sexual orientation which infringes the rights of the complainant and constitutes a barrier to equity in the workplace and within the University community.
- 7.5 Sexual harassment in the workplace and within the University community will not be permitted or condoned.
- 7.6 Complainants in sexual harassment matters have the right to follow the procedures in the policy and appropriate action must be taken by the University.
- 7.7 It will be misconduct to victimize or retaliate against an employee or student who in good faith lodges a grievance of sexual harassment.

## **8. COMPLAINTS AND PROCEDURES**

- 8.1 Complaints pertaining to misconduct described under this Code may be lodged with the following persons:
  - 8.1.1 The Registrar;
  - 8.1.2 Officers as designated from time to time by the Registrar;
  - 8.1.3 Student Council Member where one of the parties to the complaint is a student;
  - 8.1.4 The Human Resources Manager (Labor Relations Officer) where one of the parties to the complaint is a staff member.

- 8.2 All complaints as intended in 8.1 shall, with due allowance for the seriousness of the complaint, be referred to the Registrar within a reasonable time.
- 8.3 The Registrar shall, as soon as a complaint has been lodged, conduct a preliminary investigation in order to make a *prima facie* assessment of the soundness of the complaint.
- 8.4 The Registrar shall have the right to question persons in order to establish whether there is *prima facie* evidence of violation of this code of conduct / policy.
- 8.5 The complaint itself, the names of persons involved and the proceedings during the preliminary investigation shall be treated as strictly confidential. The furnishing of information in fulfillment of a legal obligation shall not be regarded as a breach of the principle of confidentiality.
- 8.6 Should the Registrar be of the opinion that no *prima facie* case exists in favor of the complainant, he/she shall dismiss the complaint and furnish reasons in writing in this regard.
- 8.7 Should the complainant, after receipt of the written reasons referred to in 8.6 still be of the opinion that the policy has been breached, an appeal may be lodged with the Vice-Chancellor and the designated Dean who may deal with the matter at their discretion.
- 8.8 Should the complainant maliciously lodge a complaint he/she may be subjected to a disciplinary investigation in accordance with the applicable Disciplinary Code for Staff or Students, as the case may be.
- 8.9 Should the Registrar be of the opinion that a *prima facie* breach of the policy has been established, he/she shall, with the consent of the complainant, follow one of the following procedures:

## **9. MEDIATION**

- 9.1 The Registrar shall hold talks with the complainant and the accused, which talks shall be confidential and without prejudice.
- 9.2 Should the parties reach agreement concerning the facts as well as a solution to the matter, the matter shall be disposed of in this manner.
- 9.3 The contents of the agreement between the parties shall be reduced to writing but not be made public.
- 9.4 The Registrar shall be obliged to keep full records of agreements of this nature.
- 9.5 In the event of the accused being found guilty during a disciplinary investigation of a second or further contravention of this policy, the contents of agreements to which the accused had been a party may be divulged at the disciplinary investigation concerned after finding of guilt and before the sanction is decided upon.
- 9.6 The Registrar shall be obliged to ensure that any agreement between the parties is fair and reconcilable with the objectives of this policy.

## **10. DISCIPLINARY INVESTIGATION**

- 10.1 Should the complainant decline to follow the course of mediation, or should the process of mediation be unsuccessful, the complainant may request that the Registrar refer the complaint to the Vice-Chancellor and the designated Dean who shall further treat the complaint as a disciplinary matter in terms of the existing disciplinary codes and practices of the University.
- 10.2 Should the Registrar be of the opinion that a person is reluctant to lay a complaint or to proceed with it as a result of possible intimidation or victimization, the Registrar may, on his/her own initiative, refer the matter to the Vice Chancellor and designated Dean who shall further treat the complaint as disciplinary matter in terms of the existing disciplinary codes and practices of the University.

- 10.3 The principle of confidentiality, as referred to in 8.5 shall not apply during any disciplinary investigation as intended in the Disciplinary Code for Staff or Students, as the case may be.
- 10.4 The preliminary investigation, as intended in 8.5 will serve *mutatis mutandis* as a preliminary investigation as intended in the Disciplinary Code for Staff or Students, as the case may be.
- 10.5 The Registrar may, with the permission of the complainant, aside from the process of mediation and disciplinary action, submit proposals to the Vice-Chancellor and designated Dean in terms of which problems emanating from the complaints could be resolved.
- 10.6 Proposals, as intended in 10.5, may not lead to possible prejudice against an accused without him/her having been granted an opportunity to state his/her side of the case.
- 10.7 The Registrar shall ensure that no unreasonably delays occur during the investigation, continuation or conclusion of any complaint.
- 10.8 The Registrar must report feedback regarding the progress and continuation of the investigation to the complainant within reasonable time.

## **11. MEMBER OF COUNCIL**

- 11.1 If a complaint is lodged against a member of Council the matter must be referred to the Human Resources Committee of Council to investigate and to finalize the matter on behalf of Council. The Committee shall determine its own procedures taking into account the rules of natural justice. This Committee shall comprise of the Human Resources Manager and the University's legal practitioner/representative (*ex officio*).
- 11.2 Should a member of the Human Resources Committee of Council be implicated, he or she must reclude themselves from this process, and the investigation / finalization of the

matter will be dealt with by the Vice-Chancellor and the University's legal practitioner/representative (*ex officio*).

## **12. EQUALITY COURTS**

If the complainant still feels aggrieved after mediation and/or disciplinary action, the Registrar will inform him/her of the procedure to be followed on how to refer the matter to the Equality Court within the applicable jurisdiction.

## **13. SOCIAL ASSISTANCE**

Should it be deemed necessary by the Registrar, any victim of sexual harassment and/or related victimization and/or discrimination on the basis of gender may be referred for counseling, attention and support. If such services are not available from in the University, and external source will be recruited for this purpose.

## **14. REPORTING**

The Registrar shall annually report fully on the activities as well as on the extent to which the policy on sexual harassment and/or related victimization and/or discrimination on the basis of gender has been carried out. The report shall be addressed to the Vice-Chancellor and should be tabled before Council as well as the Student Representative Council of the University.

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