UNIVERSIDAD POLITÉCNICA

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POLICY AGAINST SEXUAL HARASSMENT IN EMPLOYMENT, ACADEMIA AND STUDENTS
Y
PROTOCOL FOR THE HANDLING OF SITUATIONS THAT MAY ARISE

Rev. April 2023

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I. INTRODUCTION

The **Polytechnic University of Puerto Rico** strictly prohibits any type of conduct, whether verbal, written or physical, that may be interpreted as sexual harassment in the workplace or in the study environment. This type of conduct will not be accepted, endorsed, or permitted regardless of the nature of the conduct, or the position held by the person allegedly engaging in the conduct.

Under no circumstances will this type of conduct be permitted or tolerated in any form. This type of conduct, in addition to violating our standards and policies, constitutes a violation of applicable local and federal laws.

Any complaint will be investigated promptly and immediately. While the corresponding investigation is being conducted, the necessary measures will be taken to prevent the conduct from being repeated, if it has occurred. Any measures taken will be for the protection of the employee or student filing the complaint. At first intention, it will be taken as true, while the investigation process is concluded. Likewise, if a complaint of a threat or retaliatory act occurs as part of this process.

The sexual harassment policy of the institution as well as the local, state and federal laws (among which the Civil Rights Act of 1964, as amended - Title VII, the Federal Education Act, as amended - Title IX, Law 100 of Puerto Rico of June 30, 1959, Law number 3 of January 4, 1968 and Law number 17 of April 1988 stand out): Federal Education Act, as amended - Title IX, Puerto Rico Law 100 of June 30, 1959, Law 3 of January 4, 1968 and Law 17 of April 22, 1988), as amended, prohibits sexual harassment and all forms of inappropriate harassment of our students, employees or persons not employed by the Institution to ensure that they are treated with respect, courtesy and dignity. It clearly states that no discrimination may be established on the basis of race, color, sex, birth, origin or social condition, or political or religious ideas. There are also laws that guarantee the right not to encourage discrimination against employees or students on the basis of sexual orientation or gender identification.

II. DEFINITIONS

a. Sexual harassment is defined as any **unwanted** conduct of a sexual connotation that occurs within the workplace, academy and affects the person receiving it and/or co-workers in their work environment and/or conditions of employment. It includes physical conduct, by means of attempting or making unwanted contact, using electronic media to send or forward messages of a sexual or sexist connotation, compliments, jokes, comments or jokes of a sexual or sexist nature or content, even if they are not directed at a particular person.

b. Hostile Work Environment is one where the conduct, comments, gestures, or jokes of a supervisor, manager or coworker negatively or severely impacts another employee's ability to complete their work. It may include when an employee does not receive a

favorable employee evaluation compared to another employee who is or has been consenting to voluntarily submit to a relationship with an immediate supervisor of the Institution.

c. Workplace includes any place where the employee performs his or her duties, either within the employer's facilities or outside of them, such as the facilities of a client to whom the Institution provides services.

d. Immediate Supervisor is an employee who by virtue of his or her position within the institution exercises control or makes recommendations regarding recruitment, conditions of employment and termination of employment or the current or future duties of an employee or candidate for employment and these are taken into consideration.

e. Student is any person enrolled in any course or program offered by the University, as well as any applicant for admission.

III. LEGAL BASIS

Sexual harassment in the workplace is a conduct prohibited by law and by our Policy Against Sexual Harassment in the Workplace. Law No. 17 of April 22, 1988, as amended, entitled "Law to Prevent Sexual Harassment in the Workplace" is a special law that contains the government's public policy against this type of conduct. In addition, there are other laws such as our Constitution, the laws against employment discrimination, local and federal, which establish that the dignity of every human being is inviolable and that all employees must work in an environment where their honor, reputation and private or family life, health and personal integrity are protected.

In addition, there are other local and federal laws that prohibit employment discrimination on the grounds of, among others, sex discrimination, sexual harassment is considered a form of sex discrimination.

In 2019, a Special Leave of Absence was established in Puerto Rico for employees who are victims of domestic or gender violence, sexual harassment in the workplace, lewd acts or stalking in its serious form or in case their minor children are abused. This leave is unpaid, is annual, does not carry over from one year to another, and can be used after having exhausted other paid leaves to which the employee is entitled by law. For more information, please refer to the Human Resources Office at the Institution or to the Administrative Employee and/or Faculty Handbook.

IV. TO WHOM THIS POLICY AND PROTOCOL APPLIES

This Policy applies to all employees, regardless of their classification or position. It also covers any person who is performing any academic or training internship at the Institution, whether paid or unpaid, all our students and any other person who is offering his or her services within the Institution's facilities on a constant basis. It also protects candidates for employment who are conditioned to offer employment in exchange for submitting to conduct of a sexual nature.

The prohibition of incurring in this type of conduct, in addition to including all employees, students, also includes suppliers, clients, partners, members of the volunteer corps, and persons performing internships or offering their services in the Institution.

V. MODALITIES OF SEXUAL HARASSMENT IN THE WORKPLACE AND IN ACADEMIA

The prohibited conduct of sexual harassment may manifest itself in the following ways:

a. When recruitment, employment tenure or conditions of employment are made conditional on the person submitting to this type of conduct.

b. When submitting to or refusing to submit to such conduct has an effect on employment decisions and conditions of employment of the employee receiving the unwanted approaches. In the case of students, their academic status or achievement.

c. When such conduct has the effect or purpose of unreasonably interfering with that person's work performance or when it creates an intimidating, hostile or offensive work environment, whether or not the conduct is directed at an individual and whether or not it occurs generally in the work area.

d. When the conduct occurs by sending messages, jokes, illustrations or jokes with sexual or sexist connotations during working hours and using the Institution's equipment.

In short, sexual harassment in the workplace occurs when there are approaches of a sexual nature **that are unwanted** by the person who receives or hears them, even if they are not directed at a particular employee, whether verbal, physical, visual or electronic.

The behavior can occur regardless of the sex of the persons involved, i.e., it can occur between heterosexuals or persons of the same sex.

VI. PROCEDURE FOR FILING COMPLAINTS

Any employee, candidate for employment, student, or person doing their internship within the Institution's facilities who understands that they are being subjected to this type of conduct, must reject it outright and immediately inform the director of the Human Resources Office or her designee, or any other official in case that person is the one who is engaging in such conduct. If the person who is the subject of the conduct is a person providing services to the Institution, they must immediately report it to the company with which they work and to the Institution through the persons indicated herein.

We reiterate that no person, regardless of their position as an employee or volunteer leader, partner, customer, supplier, among other visitors, has the right nor has been authorized to engage in this type of conduct, so never hesitate to present your concern or complaint to the appropriate persons.

A complaint may also be filed by any employee who becomes aware through information provided by a co-worker of a situation they are going through, because of a rumor that is occurring in the work area or because they have observed any conduct that may constitute sexual harassment in the workplace in any of its modalities.

Every complaint that is filed will be investigated, no matter how simple or less credible it may sound, in order to ensure that if it is happening, it will be stopped immediately, and every effort will be made to prevent it from happening again.

All information provided will be handled as confidentially as possible. Please be advised that it will or may be shared with people involved in the investigation process. All parties and those involved in the investigation are requested not to disclose the information to others in order to prevent the information from reaching people it should not reach or to maintain the purity of the processes, otherwise the investigation could be adversely affected.

No acts of retaliation against the person filing the complaint or those involved in the investigation process will be permitted. Anyone who receives a threat for this reason, or whose employment or educational status is affected, should immediately notify the above-mentioned persons. The protection provided by law against retaliation does not cover a person who bases his or her complaint on false allegations or who discloses confidential or privileged information of the Institution.

In the case of students, they will submit the complaint to the Vice President of Student Services.

Complaints or concerns should preferably be submitted in writing but may also be submitted verbally. If presented verbally, during the course of the investigation it is required to be put in writing, the person filing the complaint will be offered assistance in putting it in writing. Anonymous complaints will also be accepted. We strongly discourage the filing of complaints that have no basis in fact and are filed for the sole purpose of harming another person without any incident having occurred. If it is illegal and in violation

of our policy to engage in sexual harassment, so is lying.

All complaints shall contain the following:

1. Name of the person filing the complaint.
2. Name of the affected person, in case it is not the same person filing the complaint.
3. Name of the person against whom the complaint is filed.
4. Date on which the complaint is filed.
5. A detailed account of the alleged facts, including details of events, dates, places and the names of people who know or may know of the events.
6. The person filing the complaint must sign and swear the same.

The Institution strongly requests that any complaint be filed as close as possible to the alleged event with the person identified in this policy and following the established protocol so that the Institution has the opportunity to act immediately to stop any situation and prevent it from happening again, if it has occurred. However, the person allegedly affected may also file a complaint directly to the portal created by the Department of Labor and Human Resources of Puerto Rico hostigamientamientosexual.pr.gov, or by contacting the Antidiscrimination Unit (787-625-3137 ext. 3259 / 32322; 787-754-5293 or 787-754-2108); to the EEOC office (1-800-669-4000); the Office of the Women's Advocacy (787- 722-2977); or go directly to the Puerto Rico courts.

VII. INVESTIGATION PROCESS

Any complaint or concern will be investigated, and depending on the allegations, it will be decided whether to investigate internally or to outsource the services.

All information and/or documents collected during the investigation will be kept confidential. Upon completion of the investigation, the alleged victim and the person alleged to have committed the acts will be informed of the outcome.

If the complaint was filed by a person who renders services on a regular basis within the Institution's facilities, the investigation will be conducted in coordination with the employer of that person.

Every effort will be made to conclude the investigation within the next ten (10) working days after the complaint has been filed, but if additional time is needed due to the complexity of the allegations or the investigation, the alleged victim and the alleged victimizer shall be notified.

All persons who are called to participate in the investigation are expected to cooperate with the process and express their knowledge of the alleged facts, including, if they have no knowledge, they shall so inform. All statements given during the investigation shall be sworn. Both the alleged victim and the alleged victimizer will be interviewed and may report possible witnesses in their favor. The person investigating reserves the right to interview other people, even if no one has mentioned them as possible witnesses.

The product of the investigation with its statements, documents and results are the property of the Institution and no person who participated in the process, filed the complaint, had the complaint filed against him or served as a witness, will have a copy.

In order to investigate an anonymous complaint, it must contain concrete and sufficient allegations to identify both the person allegedly affected and the person who allegedly engaged in the conduct. If the Institution receives rumors that it believes may be based on real situations, an investigation will be initiated. For the **Polytechnic University of Puerto Rico,** any alleged act of sexual harassment in the workplace will be taken seriously and will be taken seriously, in compliance with our policy of total rejection of this type of conduct regardless of who the persons involved are.

VIII. CONSEQUENCES OF ENGAGING IN SEXUAL HARASSMENT IN EMPLOYMENT AND ACADEMIA OR RETALIATION

Employees and students: If the result of the investigation points to the existence of testimonial and/or documentary evidence that the alleged facts occurred, depending on the circumstances of each case, the person indicated for incurring in the acts may lose his or her employment immediately, even if it was his or her first offense. The same will occur if the employee incurred acts of retaliation.

Interfering to try to avoid the investigation, providing false information or repeating information that you did not personally witness or hear, without reporting that you heard it from a third party, may also lead to the application of disciplinary measures that will depend on the consequences that such behavior causes to other persons and/or the Institution, but may include termination of the employment relationship immediately and even on the first offense.

Visitors, suppliers, contractors or customers: If as the result of the investigation

there is testimonial and/or documentary evidence that the alleged acts occurred, depending on the circumstances of each case, the person accused of committing the acts may lose the opportunity to continue providing services to the Institution and may be prohibited from entering the place or area where the affected employee works.

Volunteer leaders or partners: If the result of the investigation indicates that there is testimonial and/or documentary evidence that the alleged facts occurred, depending on the circumstances of each case, the Institution may take measures so that the person does not have any contact with the affected employee, depending on the circumstances and if no other way to avoid contact can be found, a process of dismissal as a partner and/or disqualification as a volunteer leader may be initiated.

IX. CONSENSUAL ROMANTIC RELATIONSHIPS BETWEEN CO-WORKERS, STUDENTS OR IMMEDIATE SUPERVISOR

The Institution seeks to maintain a dignified work environment, where there is respect and harmony among all its employees. To avoid misunderstandings and ill-intentioned or misrepresented rumors and understanding that consensual romantic relationships may arise in the workplace, we have incorporated this section in this Policy and Protocol Against Sexual Harassment in the Workplace.

If a romantic relationship arises between two employees, regardless of their hierarchy or area of work, or between an employee and a member of one of the volunteer corps, they must immediately notify the person in charge of personnel management functions in writing. If the relationship is with that person, the director of the Human Resources Office shall be notified. If the relationship ends or the couple decides to start living together or get married, the same must be reported.

If the couple works in the same department, there is a supervisor-supervisee relationship between them or they work in areas that overlap with each other and there is no accommodation for one of the employees in another area or facility of the Institution where it does not represent a conflict, it is up to the couple to decide which of them will resign from their employment. The couple will have a term of thirty (30) days to decide which of the two will change their work area, resign from their employment or position in the volunteer corps. After said term, if they have not made a decision, the Institution will make the decision according to the following parameters:

1. First, a decision will be made as to which of the two positions will have the greatest impact on the Institution, from the point of view of the complexity of the functions and/or the difficulty of recruitment.
2. If the impact element does not exist or if both are of equal complexity, the decision will be made on the basis of seniority. The employee with the least seniority

will have to leave his employment with the Institution.

3. Refusal to resign will result in termination of the employment relationship, based on the foregoing.

No employee shall have access to any information related to the employment relationship between the Institution and a partner. Nor may they intervene in any way in decisions, favorable or adverse, that the Institution intends to make or has made regarding their partner.

Problems, situations, and controversies that may arise between the couple may not be reflected in any way at work. They must also refrain from public displays of affection, such as kissing, hugging, physical contact, and comments related to their romantic relationship. Any situation that arises between the couple and their family members should be handled in such a way as to reduce the negative impact on their work.

If one or more employees cause problems in their work areas because of their romantic or family relationship, the disciplinary process in force in the Institution will be activated.

Any employee who is a victim of physical or emotional abuse by a partner or ex-partner, whether or not they are an employee of the Institution, must report it immediately following the contents of the Domestic Violence Protocol established in the Institution.

If a voluntary relationship is terminated, and either partner begins to sexually harass the other within the work area, the affected employee shall immediately notify the other as provided in this policy.

X. THE NEW POLICY AND PROTOCOL SUPPLEMENT THE PROCEDURE FOR THE FILING OF EXISTING COMPLAINTS

COMPLAINTS

I. INTRODUCTION

A. Any employee, student or visitor who believes that their rights have been violated or that they have been discriminated against by an employee of the Polytechnic University of Puerto Rico has the right to file a written complaint.

II. PROCEDURE

A. The complaint shall contain a concise statement of the facts and the conduct alleged to have been engaged in by the respondent in violation of the respondent's rights as an employee, student or citizen and the remedy required by the plaintiff.

B. If it is a student, the complaint will be investigated by the Vice President for Enrollment Management and Student Services and, if necessary, the President will appoint a committee to participate in the investigation of the case.

C. The Vice President of Enrollment Management and Student Services and/or the committee will interview all parties involved and inspect all documentation related to the facts under investigation.

D. If it is an employee or visitor, the complaint will be investigated by the Human Resources Office using the established procedure.

III. DECISION MAKING AND CONFIDENTIALITY

A. Upon completion of the investigation, the outcome of the investigation will be shared only with the relevant members of management to make decisions applicable to the case under investigation.

IV. APPEAL

A. If dissatisfied with the action taken, either party may file a written appeal to the President of the University which shall be filed within 10 working days of being informed of the outcome of the investigation.

B. If during the investigation process the complaining party freely and voluntarily withdraws the complaint, the proceeding shall be terminated.

C. If the President does not reply to the complainant within 20 working days of the filing of the appeal, it shall be understood that the appeal is dismissed.

This Policy and Protocol has been updated as of April 1, 2023.

XI. CERTIFICATION, COMMITMENT AND ACKNOWLEDGMENT OF RECEIPT

I hereby _____ with the position of _____ I certify that my employer has provided me with a copy of the POLICY AGAINST SEXUAL HARASSMENT IN EMPLOYMENT, ACADEMICS AND STUDENTS AND PROTOCOL FOR HANDLING SITUATIONS.

I agree to abide by it and t o follow the guidelines established therein. I hereby certify the preceding statement

_____ today of the month of _____ of 20 .

_____

Employee's signature

_____ _____

Received by
Human Resources Representative

Date