1. POLICY ON SEXUAL HARASSMENT

1.1 Aim

The University of Stellenbosch is committed to creating an environment free of sexual harassment. Wherever sexual harassment occurs it impinges on the basic human rights of the individual and it undermines the values contained in the South African Constitution, as well as the integrity of the University.

The main aim of the University’s policy on sexual harassment is to prevent the occurrence of sexual harassment. The University expects that all its students, staff and management will refrain from all forms of sexual harassment.

1.2 Definition

Sexual harassment refers to behaviour typically experienced as offensive, by means of which sexual approaches are made within the context of a relationship of equal/unequal power or authority. Sexual harassment is a form of discrimination on the grounds of gender. It is unwanted and may be experienced as an expression of power, authority and control of a sexual nature. It creates a hostile environment that impedes the individual’s capacity to learn and/or work.

1.3 Different forms of sexual harassment

There are divergent perceptions of what constitutes sexual harassment. It ranges from unwelcome sexual attention, sexist or suggestive remarks, bribery/extortion (eg. positive rewards for sexual favours) to aggressive behaviour, such as attempted or actual rape.

Sexual harassment thus covers a broad spectrum of unwanted behaviour and includes amongst other:
i) **Verbal forms** such as unwelcome enquiries regarding a person’s sex life, telephone calls with a sexual undertone, continuous rude or sexist jokes/remarks, unwelcome requests for dates, remarks about a person’s figure, etc.

ii) **Non-verbal forms** such as gestures with a sexual meaning, leering, continuous unwelcome flirtation, etc.

iii) **Visual forms** such as exhibiting pornographic photos, comics, objects, etc. that create a hostile environment.

iv) **Physical forms** such as unwelcome contact through patting, pinching, fondling, kissing, pawing, assault, molesting and rape.

v) **Quid pro quo forms** such as sexual bribery (eg. promising a promotion in return for granting sexual favours) and sexual extortion (eg. refusal to promote an individual if he/she does not consent to granting sexual favours).

1.4 The victims

Both men and women may be victims of sexual harassment. Sexual harassment may occur equally between members of the same sex as between members of the opposite sex.

1.5 The perpetrators

The perpetrator may be a senior, equal or junior person.

2. **PROCEDURE FOR MANAGING CLAIMS OF SEXUAL HARASSMENT** (Please also refer to Annexure A)

Should staff members experience or be aware of sexual harassment the following procedure is to be followed:

2.1 Where it is a minor and isolated incident, confront the perpetrator personally and/or in writing, should this be at all possible. Inform the person that his/her behaviour is inappropriate, unwelcome or unamusing. Keep a written record of the event(s) by noting *inter alia* the incident(s), time(s), name(s) and evidence or any other relevant information that may be helpful in solving the problem.

2.2 Should the harassment continue, or if it is of a serious nature, then the divisional/departmental head or the chair of the relevant staff association/trade union
should be informed verbally and/or in writing. The latter person will refer the matter in writing, within five working days to the chair of the Advice Forum on Sexual Harassment. In cases where the person who is being harassed does not wish to refer the matter to his/her divisional/departmental head or the chair of the relevant staff association/trade union, for whatever reason, he/she may refer the matter directly, in writing to the chair of the Advice Forum on Sexual Harassment.

2.3 The Advice Forum on Sexual Harassment is a forum consisting of nine competent members who are appointed by the rector for a fixed term of three years. The members are, as far as possible, representative of the various staff interest groups. The members choose the chair.

2.4 If a referral as described in 2.2 occurs, the chair of the Forum appoints, within ten working days, a committee of provisional enquiry, consisting of three members of the Forum. A recommendation is submitted by the chair of the Forum to the rector in order to mandate this Commission of Provisional Enquiry to investigate in terms of paragraph 4.2 of the Disciplinary Code, the allegation of sexual harassment.

Paragraph 4.2 of the Disciplinary Code reads as follows:

“The Vice-Rector (Community Interaction and Personnel) or her or his delegated officer may, at the earliest possible opportunity, appoint a committee, composed of one or more staff members and/or an expert or experts from outside the University, to institute a provisional investigation into any allegations submitted to her or him or any conduct by a staff member that may amount to serious misconduct, with the instruction to report to her or him in writing. The provisional investigative committee may consult with or obtain information from any person, including the person against whom the complaint is or allegations are being made.”

2.5 The role of the committee of provisional inquiry into sexual harassment will firstly be a fact-finding role. Upon completion of this task, the committee of provisional inquiry will apply mediation as a dispute resolution procedure. A written report, together with recommendations, in terms of paragraph 4.2 of the Disciplinary Code, will be submitted within twenty working days to the Rector.

2.6 All matters considered in terms of the previous paragraphs are to be treated with the highest degree of confidentiality.
2.7 Depending on the degree of seriousness, and should mediation be unsuccessful, the matter will then be managed further in terms if paragraph 4.3 or 4.4 of the Disciplinary Code.

*Paragraph 4.3 of the Disciplinary Code reads as follows:*

“If the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer deems there to be reasonable grounds for a complaint of serious misconduct against a staff member, she or he may constitute a disciplinary committee and task it to conduct a hearing.”

*Paragraph 4.4 of the Disciplinary Code reads as follows:*

“If the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer deems the alleged serious misconduct of a staff member to be such that it does not justify a hearing by a disciplinary committee but that it is nevertheless serious enough to justify the staff member being reprimanded, she or he, after hearing any representation by the staff member in her or his defence, may reprimand the staff member or refer this task to the line head if she or he is convinced that the misconduct is of a less serious nature.”
PROCEDURE: SEXUAL HARASSMENT

Incident

1. Personally confront harassor

2. Harassment continues

3. Divisional/Departmental Head or Chair of Staff Association

   - Informal
   - 5 working days

4. Chair of the Advice Forum on Sexual Harassment

   - Chair appoints a committee from members of the Advice Forum on Sexual Harassment
   - 10 working days

5. Chair request rector to instruct committee to investigate Allegations in terms of paragraph 4.2 of the Disciplinary Code

6. Committee of provisional inquiry undertakes investigation And tries to mediate

   - 20 working days

7. Report with recommendations to rector

8. Reprimand in terms of paragraph 4.4 of Disciplinary Code

9. Constitutes a disciplinary committee to investigate allegations in terms of paragraph 3.4 of Disciplinary Code

Disciplinary Code

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