



**WALTER SISULU UNIVERSITY
SEXUAL HARASSMENT AND
GENDER DISCRIMINATION
POLICY**

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**SEXUAL HARASSMENT & GENDER
DISCRIMINATION POLICY**

Sponsor Division	Student Development & Support Services / Student Governance as well as Human Resources
Responsible Department	Student Development and Support Services Governance Unit & Human Resources Unit

Related WSU Policies

Policy Name	Policy Name
Staff Code of Conduct	
WSU General Prospectus	WSU Student Code of Conduct

Legislation
Protection from Harassment Act No. 17 of 2011

Change History

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Chairperson of Council: Mr T Zakuza

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Key Policy Statements

1. Title

The Title of this Policy shall be: WSU Sexual Harassment and Gender Discrimination Policy

2. Preamble

Walter Sisulu University is committed to providing an environment that is free from sexual harassment, discrimination and gender based violence for students and staff. The University is committed to uphold the principles enshrined in Chapter 2 of the Constitution of the Republic of South Africa (1996), which promotes the rights of all people of South Africa and affirms the democratic values of human dignity, equality and freedom. The University is committed to act against any acts or threats that interfere with performance of staff at work or in study of any individual or group in account of race, gender, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language or birth. Sexual harassment and Gender discrimination is against the law and will not be tolerated in the university premises. When the University determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action including disciplinary measures. This policy shall be applicable to both students and employees the Walter Sisulu Employees, including Persons with Disabilities.

3. Purpose

The purpose of the Policy on Sexual Harassment and gender discrimination is the prevention and management of sexual harassment and gender based violence throughout the University; it should be understood in the context of other University policies such as Employment Equity policy and statements, including the constitutional right and protection against discrimination; and of specific laws governing equality and labour practice (Employment Equity Act No. 55 of 1998, Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; Basic Conditions of Employment Act 75 of 1997; Labour Relations Act 66 of 1995).

4. Scope

The provisions of this policy apply to the WSU staff (contractual and permanent employees), students and third parties, including but not limited to clients, customers and business contacts, accessing the University.

5. Definitions of Key Words or Concepts

For purposes of this policy the words listed in the definition section will have the meaning ascribed below, unless the context indicates otherwise:

- 5.1. **Alleged perpetrator** means a person alleged to have committed an act of sexual harassment
- 5.2. **Complainant** means a person who lodges a complaint under this policy against whom an act or acts of sexual harassment have allegedly been perpetrated.
- 5.3. **Confidentiality** means ensuring that information pertaining to the allegation is accessible only to those authorized to do so.
- 5.4. **Discrimination** means any distinction, exclusion or restriction on the basis of sex, gender and sexual orientation which has the purpose or effect of impairing or nullifying the recognition, enjoyment, or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.
- 5.5. **Informal advisory committee** means a subcommittee of the sexual harassment committee (SHC), constituted by the chairperson of the SHC to advise on a complaint received by a sexual harassment advisor.
- 5.6. **Non-workplace sexual harassment** means sexual harassment occurring during work-related functions outside of the normal work environment and/or normal working hours, e.g. Conferences, training sessions, social functions, etc.
- 5.7. **Same-sex harassment** means harassment where the alleged perpetrator and the victim are of the same gender.
- 5.8. **Sexual harassment advisors (SHA)** means specific trained persons within the WSU to whom staff and students may report incidents of alleged sexual harassment
- 5.9. **Sexual harassment means**

5.9.1 Unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;

5.9.2 Unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending,

intimidating or humiliating the complainant or related person would be offended, humiliated or intimidated;

5.9.3 Implied or expressed promise of reward for complying with a sexually oriented request; or

5.9.4 Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request. (Definition of the Protection from Harassment Act No. 17 of 2011)

It may take the form of **special victimization**, *quid pro quo* harassment and the creation of a hostile environment.

- 5.1. **Special victimization** involves any form of victimization, discrimination or intimidation of a person for failing to submit to sexual advances.
- 5.2. **Quid pro quo harassment** involves the alleged perpetrator influencing or attempting to influence a person's employment circumstances (training, organizational or funding opportunities, grading or evaluation), or admission of a student to the WSU or WSU residences, or access to funding opportunities, by coercing or attempting to coerce that person to engage in sexual activities.
- 5.3. **Creation of a hostile environment** occurs where the purpose or effect is to interfere with another's performance at work or in study.
- 5.4. **Third parties** mean any agents who provide a service to the WSU.
- 5.5. **Unwelcome sexual conduct** included physical, verbal and non-verbal conduct of a sexual nature that is perceived by the complainant as demeaning, compromising, embarrassing, threatening and/or offensive. Such conduct may be direct or indirect and may include technological devices, images and weapons. A single incident of unwelcome sexual conduct can constitute sexual harassment.
- 5.6. **Unwelcome physical conduct** ranges from touching to sexual assault and rape.
- 5.7. **Unwelcome verbal conduct** includes innuendos, suggestions or hints of a sexual nature, sexual advances, sexual threats, comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's physique, inappropriate enquiries about the person's sex life, wolf-whistle, and sending sexually explicit text/graphics via electronic means or otherwise.
- 5.8. **Unwelcome non-verbal conduct** includes gestures, indecent exposure and the display or sending of sexually explicit pictures or objects via electronic or other means.
- 5.9. **University / WSU Community** refers to all staff, students, job applicants and third parties having dealings with the University.
- 5.10. **Effective Date : this refers to a date on which the policy is approved**

5.11. ED HR : this should mean Executive Director Human Resources

6. Policy Content and Guiding Principles

- 6.1.** Provide guidance on what is meant by sexual harassment and gender based violence.
- 6.2.** Promote a working and learning environment, and work-related social spaces, free from sexual harassment and gender discrimination.
- 6.3.** Provide appropriate procedures for dealing with sexual harassment complaints by staff and students in a fair and sensitive manner, ensuring that confidentiality is maintained.
- 6.4.** Provide appropriate procedures for dealing with sexual harassment and gender discrimination complaints by staff and students perpetrated by non-employees of the WSU.
- 6.5.** Sensitize the WSU community to a zero-tolerance status pertaining to sexual harassment and gender discrimination.

7. ROLE OF MANAGERS

All managers, Unit heads and Supervisors shall take all reasonable steps to create and maintain an environment which is free from sexual harassment. This would require them to:

- 7.1.** Set a good example by treating all working within their unit with courtesy and respect.
- 7.2.** Understand the terms of this policy and be responsible for the implementation thereof.
- 7.3.** Attend training and educational sessions relating to this policy.
- 7.4.** Communicate the contents of this policy to all staff in their respective areas of responsibility.
- 7.5.** Refer complaints to Sexual Harassment Advisors within the University as soon as reasonably possible.
- 7.6.** Promote a harassment free environment.

8. ROLE OF STAFF AND STUDENTS

All staff and students should contribute to creating and maintaining an environment that is free of sexual harassment by:

- 8.1.** Showing respect for the dignity of others.
- 8.2.** Being familiar with the contents of this policy.

9. ROLE OF THIRD PARTIES

The University recognizes that it has no jurisdiction over third parties. However, all third parties providing services to the WSU will uphold and respect all who work at, study at or visit the WSU, or participate in any of the institution's activities at any location other than the WSU. The HR office will keep a record of complaints and forward such complaints to the relevant offices that make use of the third parties, as well as to the relevant employer for action. The University retains its right to bar the third parties from its premises and/or reconsider any further commercial transactions with such service providers.

10. STRUCTURES APPOINTED FOR POLICY IMPLEMENTATION:

10.1. Sexual Harassment Committee (SHC)

The SHC, a sub-committee of the IMC, is constituted of the following Representatives:

- 10.1.1.** Executive Director HR/ HR Business Partner in the relevant campus (Chairperson)
 - 10.1.2.** Executive Director: Student Affairs/ Campus Deputy Director
 - 10.1.3.** One representative from Student Counseling in a relevant campuses
 - 10.1.4.** Organizational Development Representative
 - 10.1.5.** Deputy Director: Employee Relations
 - 10.1.6.** A nominee from the Faculty of Law.
 - 10.1.7.** One representative from each of the recognized unions in the relevant campus
- 10.2.** Resource persons to be invited as needed
- 10.2.1.** One representative from the Student Governance and Development Services in the relevant campus
 - 10.2.2.** One representative from relevant Campus Health Services
 - 10.2.3.** Senior Residence Manager in the relevant Campus

11. Functions of SHC:

The SHC will perform the following functions:

- 11.1.** Actively promote the provisions of the policy through the development and distribution of multimedia education materials.
- 11.2.** Provide support, via Student Counselling and Health Services, in the provision of a 24-hour crisis line.
- 11.3.** Provide the IMC with a quarterly report on any incidents of reported to sexual harassment advisors and gender discrimination. Reported cases may include unwanted sexual, physical, verbal and non-verbal sexual conduct. This includes cases reported on same sex individuals.
- 11.4.** Assist where necessary with referrals to appropriate structures, such as Student Counselling, the Deputy Director: Student Services, the Deputy Director: Employee Relations and assisting victims with reporting rape cases to the South African Police Service.

12. Sexual Harassment Advisors (SHAs)

The persons identified as Sexual Harassment Advisors (SHAs) include the following:

- 12.1.** Counsellors within Student Counselling and the Career Development Unit LTDC in the relevant campus.
- 12.2.** Staff within Student Governance and Development Services campus
- 12.3.** Professional nurses from Campus Health Services in the relevant campus.
- 12.4.** Organizational Development Representative in the relevant campus.
- 12.5.** Deputy Director: Student Affairs in the relevant campus.
- 12.6.** Senior Residences Officer in the relevant campus.
- 12.7.** Faculty/division-specific personnel nominated by the Executive Deans/Executive Directors.

13. Functions of Sexual Harassment Advisors (SHA's)

The functions of the sexual harassment advisors (SHAs) include, but not be limited to:

- 13.1.1.** Serve as the first line of contact to whom staff and students may report incidents of alleged sexual harassment.
- 13.1.2.** Inform the complainant of the formal and informal procedures available. Advising the complainant on the appropriate course of action available.
- 13.1.3.** Should the complainant choose the informal route, follow the procedures as set out in the informal procedures below.
- 13.1.4.** Should the complainant choose the formal route, assist him/her to fill in the appropriate grievance form.
- 13.1.5.** Submit a report of all complaints to the secretary of the OT&E unit, who will compile an amalgamated quarterly report for submission to the SHC on all incidents. Once the SHC has considered the report it will be made available to EMCOM and Council.
Should an SHA be the alleged perpetrator / complainant of sexual harassment, he / she would be exempt from the role of SHA until the matter is resolved.

14. POLICY IMPLEMENTATION:

A sexual harassment complainant will have the right to access three levels of recourse, viz.
Informal advice, formal grievance procedure, and formal mediation.

14.1. Informal Advice Procedure

14.2. Complaints of alleged sexual harassment must be lodged with an SHA as soon as reasonably possible.

It may be sufficient for the complainant concerned to have an opportunity where he/she can explain to the alleged offender that the behavior in question is not welcome that it offends them or makes them feel uncomfortable, and that it interferes with their work, studies, business or social interactions. The complainant may choose to do this in one of the following ways, namely:

- (i) By approaching the accused on his/her own.
- (ii) By requesting one of the SHA's or a staff member or a student to accompany him/her.

- 14.2.1.** Should a SHA receive a complaint, the chairperson will be informed of such a submission.
- 14.2.2.** The chairperson will constitute an informal advisory committee comprising of 2 to 4 members of the SHC, within 5 working days, to consult on the submission.
- 14.2.3.** The informal advisory committee will thereafter meet with the complainant within the 5 working day period and advise him or her of the different levels of recourse available and discuss the way forward.
- 14.2.4.** A member of the University community acting on the complainant's behalf may approach a SHA (with the complainant's permission).

15. Formal Grievance Procedure

- 15.1.** Should the complainant be a *staff member* and the informal approach has not yielded a satisfactory outcome to the complainant, and/or if the unwanted sexual conduct of physical, verbal or non-verbal continues, it will be more appropriate, for the complainant to embark upon the University's formal grievance procedure applicable to staff.
- 15.2.** Should the complainant be a *student*, and the informal approach has not provided a satisfactory outcome to the complainant, and/or if the unwanted sexual conduct of physical, verbal or non-verbal continues, it will be more appropriate, for the complainant to embark upon the University's formal grievance procedure applicable to students.
- 15.3.** Disciplinary steps will be taken against any person who victimizes or retaliates against a complainant who, in good faith, lodges a sexual harassment grievance. The complainant is at liberty to report the rape case to the South African Police Service.

15.1.1. Formal Mediation Procedure

Should a dispute regarding alleged sexual harassment not be resolved through the WSU's formal grievance procedures, the University may at its discretion, hire the services of an acceptable, independent, impartial mediator to assist the disputing parties to arrive at an agreed solution.

16. EDUCATION AND TRAINING

- 16.1.** The Student Counselling, Career Development Unit together with Student Governance Development unit shall provide continuing education and training to sensitize students in terms of this policy.
- 16.2.** The Human Resources Development division in Human Resource Services shall provide continuing education and training to sensitize staff on the terms of this policy.
- 16.3.** The Marketing, Communications and Advancement division together with the SHC will assist in the development, design and distribution of multimedia education and training materials.
- 16.4.** The Unit for Organizational Development will ensure that annual education and training be made available to all SHAs to ensure proper implementation of this policy.

17. DISPUTE RESOLUTION

Should a complaint of alleged sexual harassment and gender discrimination be not be satisfactorily resolved by the university's grievance and disciplinary procedures, either party may within 30 days of the outcome of the internal WSU procedures, refer the matter to the CCMA for conciliation in accordance with the provisions of section 135 of the Labour Relations Act (66 of 1996). Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the commissioner in terms of section 135 of the LRA.

All staff and students involved in the informal or formal resolution of complaints of sexual harassment will ensure that they have no conflict of interest or bias in relation to any party to the complaint and that there is no perception by the parties that they have a conflict of interest or bias.

Members of staff and students who have concerns about perceptions of possible conflict of interest or partiality should exclude themselves from the process, refer on to another Advisor or Mediator if appropriate, or seek advice from the HR Director

18. CRIMINAL AND CIVIL CHARGES

A complainant of sexual assault and rape has the right to institute separate criminal and/or civil charges against an alleged perpetrator with the South African Police Service (SAPS). The legal rights of the complainant are in no way limited by this policy.

19. CONFIDENTIALITY

19.1.1. The WSU is committed to maintaining confidentiality unless the complainant gives specific permission for his/her name to be revealed.

19.1.2. The SHAs and those responsible for the implementation of this policy shall treat sexual harassment, rape and gender discrimination complaints in the strictest confidence.

19.1.3. A complainant who wishes to have the matter addressed through the University's formal grievance procedures cannot lodge anonymous complaints.

20. MONITORING MECHANISMS

20.1. The ED HR / ED Student Services or delegated staff shall chair the Institutional SHC meetings to be held twice a year, with the aim to:

20.2. Review the effectiveness of the informal procedures that are in place to deal with sexual harassment allegations.

20.3. Review the statistics report on the number of alleged sexual harassment complaints and referrals including rape cases reported to SAPS.

20.4. The ED HR/ ED Student Services or delegated staff shall request quarterly reports on grievances / disciplinary action pertaining to sexual harassment from the Chairpersons of all campus SHCs in the case of staff and the Executive Director: Student Affairs, in the case of students.

20.5. Compile a comprehensive annual report for submission to IMC, by the ED HR and ED Student Affairs.

20.6. This policy shall be reviewed bi-annually by the SHC.

21. Effective Date of Policy

The Policy shall be effective upon the finalization of the review process as signed by Council.

22. Repealed Policies: this policy replaces the Sexual Harassment Policy (HR23) that was approved in September 2008.

23. Acknowledgements

1. NMMU SEXUAL HARASSMENT POLICY
2. UCT SEXUAL HARASSMENT POLICY