United States International University-Africa

SEXUAL AND GENDER BASED VIOLENCE POLICY 2020

SUMMARIZED VERSION

POLICY STATEMENT AND PROVISIONS

Policy Statement

The United States International University-Africa prohibits and strongly condemns Sexual and Gender Based Violence (SGBV) committed by students or employees, whether on or off campus, or by any individual on campus or within its programs or activities. The University has zero tolerance to sexual harassment and violence.

Goal and objective of the policy

The goal of this policy is to create and maintain a conducive learning and working environment for USIU-A community so as achieve the University's mission.

Scope of the Policy

This policy covers all members of USIU-Africa community that include:

a) Faculty (fulltime, on contract, Part-Time and visiting)
b) Staff (permanent, temporary and casual)
c) Administrators including management
d) Students (All students including residents and non-residents).
e) All stakeholders who engage with the University.

This policy applies to conduct that occurs:

- On campus or University property;
- In the context of any University-related or sponsored education program or activity, regardless of the location (including travel, sports, research, or internship programs);
- By a USIU-A student, regardless of location;
- By a USIU-A employee, regardless of location;
- Through the use of University-owned or provided technology resources; or
  When the conduct has a nexus to the University, such as continuing adverse effects or the creation or continuation of a hostile environment on campus.

Definition of Terms

Sexual Harassment: Sexual harassment is the persistent unwelcome sexual advances, request for sexual favors, and other verbal, visual or physical conduct of a sexual nature. It can also take the form of a person being in a position of authority, holding a public office or not, persistently making any sexual advances or requests, which he or she knows, or ought to have known, are unwelcome.

Gender Based Violence: Is an umbrella term for any harm that is perpetrated against a person because of gender power inequalities and results in psychological, physical or emotional harm.

Gender-Based Harassment: Includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature. Such acts include;

1) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, evaluation, appraisal, academic standing, employment, or participation in any University program, activity, or benefit.
2) Such conduct creates a hostile environment consistent with educational, employment, campus, and/or residential experiences.

Sexual Violence: This is a sexual act (including, sexual assault and rape) that is perpetrated against a person's will or without a person's consent, or when a person is incapable of giving consent due to his or her age, family relation to the other person, the ingestion of drugs or alcohol, or the person's intellectual or other disability.

Sexual Discrimination: Sexual discrimination is the prejudiced treatment against a person on grounds of gender, sexual orientation, or gender identity.

Gender Equality: Refers to the equal treatment of women and men, so that they can enjoy the benefits of development including equal access to and control of opportunities and resources.

Gender Equity: Refers to the practice of fairness and justice in the distribution of benefits, access to and control of resources, responsibilities, power, opportunities and services.

Consent: When one agrees by choice and has the freedom and capacity to make that choice. However, due to the potential of abuse of power, USIU-Africa voids consent when one holds a position of authority or evaluation capacity in the university.

POLICY FRAMEWORK:
LEGAL AND NORMATIVE FRAMEWORK (BUT NOT EXHAUSTIVE)

The Legal framework guiding the implementation of the USIU-Africa Sexual and Gender Based Violence are drawn from international and national legal instruments as follows;

International Laws	• Convention on the Elimination of all forms of Discrimination (CEDAW) • The International Labour Organization Discrimination (Employment and Occupation) Convention (No.111) • Sustainable Development Goals: Agenda 5: Achieve Gender Equality and empower girls • The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa • Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §1681 et seq.,
National Laws	**Constitutional Right and Protections** • Article 26- Right to Life • Article 28-Human Dignity • Article 41-Labor relations • Article 50-Right to a fair Hearing • Article 23- Equality and Freedom from Discrimination. **Statutes;** • Employment ACT 2007 Section 5 • Sexual Offences Act No. 3 of 2006 Attempted Rape Sec. 4 Sexual Assault Sec. 5 Gang Rape Sec. 10 Deliberate Transmission or any other life threatening STD. Intentional and Unlawful Acts- Sec. 43 2c

The Office of Gender Equity and Protection.

The Office of Gender Equity & Protection-USIU-Africa housed under the Division of Academic and Student Affairs is responsible for providing prompt responses to and effectively stops gender negative & discriminatory practice, prevent its recurrence and remedies its effects as per the said policy.

SEXUAL AND GENDER BASED VIOLENCE PREVENTION AND RESPONSE SYTEMS AT USIU-AFRICA

This chapter defines the forms and types of sexual harassment and offers understanding on the elements of sexual harassment in a campus setting. It also highlights, though not exhaustively sexual assault with focus on rape prevention and response.

Conduct between Employee and Students

While describing how consent is voided, the Kenyan Sexual Offenses Act (2006) in section 43(2c), prohibits unlawful acts committed by persons in position of authority to the extent that the person in respect of who an act is committed is inhibited from indicating his or her resistance to such an act, or his or her unwillingness to participate in such an act.

Faculty members or staff should never be involved in any harassment, exploitation or other discriminatory treatment of students regardless of age, sex or disability. Any employee, who specifically takes advantage of students with disability or those with special conditions will among other disciplinary measures, be expelled from the University community. A student shall not coerce any employee of the University community into any sexual relationship or exhibit behaviours that may compromise the integrity of any member of the University.

Student-Student Relationships

The policy covers all USIU-A students and applies to student-student relationships including relationships in which a female student acts as the harasser. Any student who specifically takes advantage of students with disabilities will face expulsion from the university.

Employee - Employee Relationships

No employee shall coerce another employee or any member of the University community into a sexual relationship or exhibit behaviours that may compromise the integrity of any member of the University. Because of the potential for abuse or the appearance or abuse and the inherent differential in authority, the University prohibits any staff member from engaging in any sexual conduct, romantic and/or sexual relationship with another member of staff employed at the University.

CIRCUMSTANCES IN WHICH SEXUAL HARASSMENT MAY OCCUR

USIU-Africa defines sexual harassment as behavior that should be unwelcome. This will depend on how the conduct in question was perceived and experienced by the recipient rather than the intention behind it;

a) It should be of a sexual nature;
b) It is offensive, humiliating and/or intimidating;
c) It may either be a one-time or repeated action;
d) Spreading gossip or rumors, which may expose any involved student, staff or faculty to defamation action and the breach of the sexual harassment policy.

Sexual harassment can occur in a variety of circumstances including but not limited to the following: -

a) The victim or perpetrator may be a woman or a man. An older man/woman harassing younger women/men, seniors harassing juniors regardless of sex.
b) The perpetrator can be a victim's manager, lecturer, a student, supervisor, a supervisor in another department, a co-worker, fellow student, an agent of the employer, a non-employee such as a supplier, a contractor or any service provider, client or customer;
c) Where there is inequality of power between a victim and the perpetrator that strongly suggests that the victim engages in sexual relation out of fear;
d) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct; and
e) Sexual harassment is unlawful not only during working/teaching/learning hours but also in any university related context including conferences, work functions, sports, university trips and parties but also off the university as long as it involves students, staff and faculty.

Forms of Sexual Harassment

Sexual harassment can be obvious or indirect, physical or verbal, repeated or one-off and perpetrated by males or females against people of the same or opposite sex. Sexual harassment can take different forms (but not exhaustive);

Physical Sexual Harassment	This occurs when a victim has been touched in an inappropriate way against his or her own will. Examples include but are not limited to; • Leering at a person or parts of their body in a sexually suggestive manner; • Groping; • Subtle pressure for sexual activity; and • Unwelcome/uninvited physical contact such as massaging a person without invitation, hugging, pinching, patting, grabbing in a sexual manner.
Verbal Sexual Harassment	Verbal sexual harassment may be oral or written and may include but not limited to: - • Demeaning references to either the male or female gender; • Comments that are sufficiently offensive to cause discomfort and interfere with work or learning; • Disparaging remarks about one's gender or physical appearance; • Sex based insults, taunts, teasing or name calling; • Verbal sexual abuse disguised as humor; • Making promises or threats in return for sexual favors;
Visual Sexual Harassment	This is the use of different forms of visual media to suggest inappropriate sexual advances. Examples include but are not limited to: - • Displaying sexually graphic materials including posters, magazines, cartoons, graffiti or messages left on notice boards, desks or common areas. • Technological sexual harassment, inappropriate advances in social networking sites, sending or forwarding sexually explicit emails or text message or emailing 'offensive jokes' in university computers.

What to do when you are raped:

In the unfortunate advent of rape, please follow the following guidelines;

Step 1: Ensure your personal safety by going to a safe place (Hospital, school, police station).

Step 2:

- Do not take a shower or bath; do not clean your genitalia, as this will destroy the evidence.
- Do not throw away your clothes or burn them. Preserve evidence; if you change clothes wrap them in a brown paper bag/newspaper (not a plastic bag).
- Avoid passing urine; if you have to; put the urine in a container. In case of penetration caused to the anus and there is need to pass stool before evidence is collected, also put the stool in a container and carry it to a hospital. This will preserve evidence e.g. presence of spermatozoa.
- Do not brush your teeth or cut your nails.

Step 3:

- Seek medical assistance at the nearest health facility. It is also prudent that you request a toxicology report to be produced alongside the medical report. Also, insist on obtaining preventive treatment for HIV/AIDS, sexually transmitted infections, pregnancy and treatment for physical injuries within 72 hours. Ensure that the Post Rape Care form is filled and take original and duplicate copies with you.

Step 4: Report the matter to the security within the university and to the police.

Step 5: It is important that you seek psychological support (counseling) to help you deal with the impact of the assault on your life.

Step 6: Seek independent legal redress (get legal advice).

NB: Report all cases of sexual assault whether there is bruising or not to the Gender Equity and Protection Office, Counselling Centre or Health Centre.

REPORTING INVESTIGATION AND ADJUDICATION

Reporting a violation

All students, staff and faculty members are called upon to be aware of and report acts of violation of this policy without fear of retaliation. Reports shall be lodged preferably through the ***Complaint Form accessible on www.usiu.ac.ke*** (electronic submission and hard-copy options are available at the Gender Equity and Protection Office, office of the Deputy Vice Chancellor and Academic Affairs and the office of Director Administration.

How do I file a Sexual Harassment Complaint?

If you feel that you are the victim of sexual harassment, it is essential that you notify the Gender Equity and Protection Office immediately. The following steps can help ensure that a complaint is properly filed:

a) Write down the details of the incident including the date, time and location, and the names of possible witnesses. Use these details to fill-in the provided complaint form.
b) Keep evidence of the harassment, especially if the harassment occurs through text messages and emails;
c) Report the incident to GEP office, human resource department and your supervisor; and
d) Ask that the harassment report be documented in your employee or student file.

Anonymous Complaints

Anonymous complaints may be made to the Gender Equity and Protection Office, although one is encouraged to disclose their identity to this person who will keep your identity confidential. However, there are significant limits on the University's ability to act on or investigate anonymous complaints. On receipt of an anonymous complaint, the GEP Officer will consider appropriate actions and may refer the complaint to the University's Vice Chancellor to consider investigation.

Protection from Retaliation

The University shall not in any way retaliate against any individual who makes a report of sexual harassment nor permit any employee or student to do so. Any person found to have retaliated against another individual for reporting sexual harassment shall be subject to disciplinary action, up to and including dismissal or expulsion.

Investigation

- When a report on violation of this Policy is made, the Gender Equity and Protection Office will conduct investigations into the matter. Investigations by the University are distinct from any government or other investigation and these investigations do not preclude the University from conducting its independent investigations into any matter.
- Involved parties will be notified in writing of the investigations and of their rights in the process.
- Members of the University are expected to cooperate in the investigations of any alleged violation of this Policy.
- The University may take provisional safety restorative and preventative measures during an investigation as it may deem fit.
- Once investigations are concluded then a charge will be brought against a person.
- At any point during the investigations, the University may resolve some matters through a non-hearing resolution involving and with agreement of the parties. This will however not apply to cases of sexual violence.

Adjudication

The adjudication of complaints, application of appropriate sanctions and appeal procedures shall follow the laid down practice outlined in the University's Human Resource Policies and Procedure Manual, particularly for staff and faculty.

The disciplinary process stipulated in the Student Handbook shall be adhered to with regard to complaints related to students. These policies and handbooks shall interact with and complement other existing University rules, and statutory labor regulations.

DISSEMINATION OF THE POLICY

Section 6.1: Dissemination Obligation

All members of the University shall obtain this Policy from the University website and on EDMS – the electronic document management system. The Sexual and Gender Based Violence declaration form shall be signed and returned to the appropriate office within one week of obtaining the policy.

Section 6.2: Creating Awareness

To minimize the risk of sexual and gender based violence the university shall endeavor to use all means to create awareness to its fraternity. The Gender Equity and Protection Officer will endeavor to sensitize all employees and students including all management organs in the university. This will include holding an annual awareness week. However, the chairpersons of the following offices shall aim to continuously create awareness at least once in a year; the Student Affairs Council; b) The Faculty Council; c) The Staff Council; d) The Management Board.

Section 6.3: Education and Training

The following are forms of education and training are to be reinforced by the university:

- Faculty members to integrate this policy in course content where applicable.
- Offices of the Deputy Vice Chancellor Academic and Student Affairs, and Director of Administration to organize training and education programs.
- Training of staff in order to enhance effective policy implementation. The training shall be done biannually to assist the trainees deal with issues on sexual harassment within the university.
- All new students and employees should go through orientation about this policy.

CHAPTER 7: MONITORING AND EVALUATION

United States International University- Africa recognizes the importance of monitoring and evaluating this policy. This will be done through anonymous surveys to establish the effectiveness of this policy. Issues of relevance, effectiveness, ethical considerations, efficiency and reliability will be coherent in the evaluation process. Divisional Heads will be called upon to give reports on compliance with this policy for their respective areas. The reports will be submitted to the Vice Chancellor for evaluation and direction as may be necessary to ensure effectiveness and efficiency.

REVIEW OF THE POLICY

A comprehensive review of this policy shall be done after every 3 years. Part review of this Policy could however be undertaken if the same is necessitated by changes in law. The University Council shall be the final approving body of any amendments to this Policy.

KEY RESOURCES

The USIU-Africa Sexual and Gender Based Violence Full Version is accessible on the university website www.usiu.ac.ke .Key document also available are;

- USIU-SGBV Complaints Form
- USIU- SGBV Declaration Form

REFERAL AND SUPPORT SERVICES

Where do I report?

Useful contacts and resources on campus:

Gender Equity and Protection Office

Confidential Advisor Hotline; **0782 539 361** (Accessible 24 Hours)

Office Tel: **0730 116 210**

USIU-Africa Counselling Center

Tel: **0730 116 311**. Ext. **748,750,746** or **790**

USIU-Africa Security Department

Tel: **0730 116 266/0730 116 320**

Ext. **759,760,764**

Below are some useful off- campus contacts;

National Gender Based Violence Hotline Kenya: **1195**

National Police Service Toll free number: **0800730999**

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