

## ***Sexual Harassment Workplace Policy***

The physical, emotional and mental health and safety of all students/ faculty/staff, members/private contractors contracted by, or on behalf of [insert name of organization], or other third parties conducting business with the [insert name of organization] and interacting with its students/employees, etc. is of paramount importance. [Insert name of organization] prohibits sexual harassment and this policy was established to address any occurrence of sexual harassment at the [insert name of organization].

### **International Agreements and Policy Linkages**

**International Protocols and Conventions** to which the country is committed which upholds sexual harassment as a form of violence, a human rights issue, and an obstacle to development.

The **International Labour Organization (ILO)** has formally recognized sexual harassment at the workplace as being harmful. Sexual harassment, the International Labour Office pointed out, is a violation of the fundamental rights of workers, and it constitutes a health and safety hazard, is an issue of discrimination, an unacceptable working condition and a form of violence, usually against female workers. In its Convention No. 111 on Discrimination in Employment and Occupation, the ILO cites issues of health and safety to employee welfare and workplace productivity, as they are affected by sexual harassment.

The proposed Sexual Harassment (Protection and Prevention) Act, 2021 is also intended to facilitate redress for women and men in the workplace, educational institutions and in situations of accommodation.

The **National Policy for Gender Equality (NPGE)** approved by Cabinet in 2011 promotes the objective and goal of sustainable behaviour change and an environment where females and males at all stages of the life cycle can enjoy their full human rights and develop their full potential as citizens. The policy also mandates the Ministry of Culture, Gender, Entertainment & Sport and other entities to create mechanisms for persons to report and have redress for labour issues involving sexual harassment.

The *Gender Sector Plan of the Vision 2030 National Development Plan* finalized in 2010 specifically identifies sexual harassment as a deterrent to national development. The plan identifies the absence of sexual harassment policy and legislation as a weakness in the economy and education and stipulates the development of sexual harassment policies in the workplace as an output indicator of the Plan.

### **Organization's Zero Tolerance Commitment to Sexual Harassment**

[**Insert name of Organization**] is committed to ensuring that men and women are able to work in an environment free of sexual harassment, where safety is ensured, and human dignity is valued and protected. [**Insert name of Organization**] takes a zero-tolerance approach towards sexual harassment and is committed to ensuring that its environment is free of any such behaviour that constitutes sexual harassment.

### **Definition of Sexual Harassment**

Sexual Harassment shall be defined as any conduct, act or behaviour that constitutes unwanted and unwelcome conduct of a sexual nature by one person toward another. It is recommended that the definition as prescribed by the Sexual Harassment (Protection and Prevention) Act, 2021 is used for the organisation's policy.

### **Forms of Sexual Harassment**

The various forms of sexual harassment include:

*Physical harassment*—unwanted pinching, patting, touching, kissing, groping, and hugging which has clear sexual undertones.

*Verbal harassment*—unwelcomed comments on appearance/physical attributes private/personal life, sexually suggestive or explicit jokes, insults and 'put-downs' based on a person's sex. It is important to note that often times, harassers hide behind the argument that comments are "compliments". This does not mean that the behaviour is acceptable.

*Non-verbal/Gestural harassment*—sexually suggestive gestures e.g. winks, licking of lips, gestures with hands, fingers, legs.

***Psychological/Emotional Harassment***—consists of persistent proposals and unwelcome requests, unwanted invitations to go out on dates, insults, taunts or innuendos of a sexual nature.

***Written/graphic/visual/audio harassment***—via internet communication (including electronic messages and attachments), letters, land line telephone, cellular telephones, distribution and display of pornographic materials (visual and audio), obscene and sexually explicit language.

***Quid Pro Quo***: This form of sexual harassment is recognized where harassers use a position of power and authority to negotiate job benefits (employment, re-employment, continued employment, individual favourable compensation, terms, conditions, promotions, privileges). This also applies to public goods (social services, security, social benefits, natural resources), socially and economically valued goods (housing, school admission, scholarships, security) which are conditional on an exchange of sex or physical contact, and refusal leads to failure to access any of the above.

***Stalking/Cyber Stalking***—Obsessively following, besetting, contacting and watching a person, either in person or using the internet, telephone, mail, and other media, which is motivated by what the perpetrator believes are feelings of desire and love, constitute sexual harassment.

***Voyeurism (“Peeping Tom”)***—The act of watching, taping, recording, photographing a person without their knowledge, in a clandestine manner or otherwise, while the person uses or inhabits a space where they have an expectation of privacy such as their domicile, a public bathroom, changing room etc., is a sexually harassing act.

***Intimidation/Bully/Retaliation***—Persons often use non-sexual behaviour to accommodate sexual harassment. Therefore any act of intimidation meant to prevent someone from reporting sexually harassing behaviour or to punish someone for reporting sexually harassing behaviour must be considered as a type of sexual harassment.

**NB**: Acts or comments of a sexual nature, not intended to harass, can constitute sexual harassment if another person feels uncomfortable with such subjects. Claiming to not understand or failing to know that an act is harassing, does not mean that it is not in fact, sexual harassment.

***Toxic Environment***—A combination of the above, can create a toxic and oppressive environment for the direct target but also for other persons who are not targeted. Even if a person

is not the direct target of sexual harassment but is made uncomfortable and is offended by the creation of a toxic environment, they should be able to make a report of sexual harassment.

Such behaviour is not tolerated and **[insert name of organization]** shall take reasonable steps to prevent sexual harassment.

This policy shall be effective as of **[insert date here]**.

## **Responsibility**

The following roles and responsibilities will apply under this policy:

### **[State the role and Responsibility of]**

- Management
- Employee
- Human Resource Department
- Welfare Officer/Committee
- Anti-Sexual Harassment Dispute Settlement Committee

## **Internal Mechanisms**

### **Reporting Procedure**

Persons who, understanding the definition of sexual harassment as outlined above, wish to bring forth a claim of sexual harassment against individual/ individuals affiliated with **[insert name of organization]** may do so by:

- (1) Documenting the incident/incidents/conditions in writing.
- (2) Make a report, in writing, to a designated responsible officer.

Once such a report is made, it is the responsibility of the organization and the Responsible Officer to pursue and investigate the claim.

### **Welfare Officer/Committee**

**[Insert name of organization]** has designated the following person(s) as an officer/officers responsible for accepting and/or preparing reports of sexual harassment.

If the Welfare Officer determines that there is merit to the claim, the Officer may proceed to carry out the set of actions which are in keeping with the internal provisions to treat with the issue. If a mutually agreed upon resolution is achieved, it shall be documented and consensus achieved regarding the treatment of the claim, to the relevant records of the organization (i.e. human resource files, academic records, etc.)

If a mutually agreed upon resolution is not achieved or if the Responsible Officer deems it necessary, the report shall be referred to the Sexual Harassment Tribunal which has oversight for sexual harassment matters. The Tribunal shall take all reasonable steps necessary to evaluate the claim of sexual harassment and make a determination of liability or lack thereof of the accused harasser(s).

### **Anti-Sexual Harassment Dispute Settlement Committee**

[Outline how complaints will be dealt with by the Committee]

### **Protection Against Retaliation**

The act of bullying, intimidation and threats which are meant to accommodate sexual harassment or retaliate against an individual/ individuals who have made a claim of sexual harassment shall be treated as acts of sexual harassment and shall be treated accordingly. Reference can be made to the Sexual Harassment (Protection and Prevention) Act, 2021.

### **False Claims**

Person/persons, who is/are found to wilfully and knowingly bring forth a false claim of sexual harassment against another individual, shall be liable for a breach of the sexual harassment policy and shall be reprimanded accordingly.

### **Liability for Harassment/Sanctions**

A person/persons who are found to be in breach of this policy shall be found liable for sexual harassment and reprimanded accordingly. To the extent that [**insert name of organization**] failed to enforce this policy it shall be in breach of the policy.

## **Confidentiality**

All claims of sexual harassment shall be documented and thoroughly archived for the purposes of monitoring and evaluation. However, **[insert name of organization]** will endeavour to protect the privacy of all parties involved throughout the course of the investigation. If an individual/individuals are found to be in breach of said policy, the expectation of privacy shall be relaxed to the extent that it is legally permitted.

## **Legislation**

Under present Jamaican law, the Sexual Harassment (Protection & Prevention) Act, 2021 should be used as the instructive legislative framework for this policy and redress for sexual harassment cases shall be applied as outlined in the Act.”.