

# Sexual Harassment

Effective Date: 1/11/2017

Reviewed: 30/6/2023

## 1. POLICY

### 1.1 General Statement on Sexual Harassment

Sunway University (*hereinafter referred to as “the University”*) views sexual harassment as a serious misconduct that undermines the integrity and respect of the working relationship of staff members in the workplace. Sexual harassment is also regarded as a serious violation of the University’s Rules and Regulations. The University is committed to and strongly supports a policy that allows the staff members to work in an environment free from unwelcome harassment by its staff members or any external party such as vendors, visitors or guests of the University. The University also recognizes the fact that sexual harassment is considered a criminal offence as categorized in the Criminal Procedure Code of Malaysia.

Any staff members found to be guilty of any form of sexual harassment will be subjected to the appropriate disciplinary action which ranges from a final warning to a dismissal without notice from his or her employment.

No staff member of the University shall threaten or impliedly make statements that a staff member’s refusal to submit to sexual advances, favors or demands will adversely affect that staff member’s employment status, compensation, advancement, assigned duties and any other terms and conditions of employment or career development within the University. Any forms of sexual harassment as explained in Paragraph 1.3 below are expressly prohibited.

### 1.2 Scope

This policy and procedure shall cover all staff members of the University and external parties such as vendors, visitors and guests of the University.

### 1.3 Definition of Sexual Harassment

1.3.1 Sexual harassment means any unwanted conduct of a sexual nature, having the effect of verbal, non-verbal, visual, psychological or physical harassment:

- (i) that might be perceived by the victim as placing a condition of a sexual nature on his/her employment;
- (ii) that might be perceived by the victim as an offence or humiliation or a threat to his/her well-being but has no direct link to his/her employment.

1.3.2 Sexual harassment can be categorized in five (5) possible forms, namely:

- (i) **Verbal harassment:** e.g. Offensive or suggestive remarks, comments, jokes, jesting, kidding, sounds, questioning.
- (ii) **Non-verbal/gestural harassment:** e.g. Leering or ogling with suggestive overtones, licking lips or holding or eating food provocatively, hand signs denoting sexual activity, persistent flirting.

- (iii) **Visual harassment:** e.g. Showing pornographic materials, drawing sex-based sketches or writing sex-based letters, sexual exposure.
- (iv) **Psychological harassment:** e.g. Repeated unwanted social invitations, relentless proposals for dates or physical intimacy.
- (v) **Physical harassment:** e.g. inappropriate touching, patting, pinching, stroking, brushing up against the body, hugging, kissing, fondling, sexual assault.

The above list is not exhaustive and any example of sexual harassment not listed above shall not prevent the University from taking the necessary steps to investigate and discipline the staff member who has been reported as a sexual harasser.

- 1.3.3 Sexual harassment may not necessarily be confined to acts committed at the workplace and may include:-
  - (i) at work-related social functions;
  - (ii) in the course of work assignments outside the workplace;
  - (iii) at work-related conferences or training sessions;
  - (iv) over the phone; and
  - (v) through electronic media.
- 1.3.4 Sexual harassment does not refer to occasional compliments of a socially acceptable nature.

## 2. GRIEVANCE PROCEDURE TO LODGE A COMPLAINT OF SEXUAL HARASSMENT

The University recognizes that a complaint of sexual harassment is a very sensitive matter and personal in nature and a staff member who is a victim of sexual harassment should be provided with guidance to lodge a complaint of sexual harassment and should also be provided with the protection of confidentiality and any further harassment by the harasser. In line with the above, the University has put in place the following grievance procedure for managing a sexual harassment complaint:

### 2.1 Step 1 – Lodging the Complaint

- 2.1.1 Any staff member who is a victim of sexual harassment (*hereinafter referred to as "the complainant"*) may report the matter directly to:
  - (i) his/her immediate superior, or his/her School Manager (SM)/ Head of Department (HOD)/ Head of Centre (HOC)/ Dean
  - (ii) or to the Head of Human Resources.
- 2.1.2 The complaint may initially be a verbal complaint. However, it is essential that the verbal complaint must be followed by a complaint in writing and in the format as in **Appendix 1** before the University initiate the investigation into the case.
- 2.1.3 All complaints will be treated as confidential. The party receiving the verbal or written complaint should manage the complainant on his/her complaint by gathering all the facts concerned.

- 2.1.4 In any case, the written complaint by the complainant must be escalated to the Head of Human Resources.
- 2.1.5 Where the complaint is in relation to a harasser who is a Sunway staff member, the complaint will follow through all the steps mentioned herein.
- 2.1.6 Where the complaint is in relation to an external party (vendor, visitor or guest), the Head of Human Resources will direct the complaint to the employer of the external party or to the police, whichever is appropriate.

## **2.2 Step 2 – Conducting Investigation**

- 2.2.1 Upon receiving the complaint of sexual harassment, the Head of Human Resources shall conduct an investigation into the said sexual harassment complaint, by interviewing the complainant, the accused staff member and possible witnesses and any other relevant staff members to establish whether the complaint forwarded by the complainant warrant disciplinary action against the accused staff member.
- 2.2.2 During this period of investigation, the accused staff member may be suspended from his/her employment in order to facilitate the investigation without any interference from the accused staff member.
- 2.2.3 During this period of investigation, the University may design any action plan to stop further harassment from the accused staff member in order to protect the complainant.
- 2.2.4 The Head of Human Resources will complete the investigation and revert to the Management on the outcome of the investigation, with a complete Investigation Report.

## **2.3 Step 3 – Informing Complainant of Outcome of Investigation**

- 2.3.1 Upon completion of the investigation, the Head of Human Resources will inform the complainant on the outcome of his/her complaint.
- 2.3.2 Where the investigations reveal that the complaint of sexual harassment was a valid complaint and had taken place, the complainant may be required to lodge a police report to substantiate his/her written complaint. Under these circumstances, the accused staff member may be subjected to police arrest.
- 2.3.4 Where the investigations reveal that the complaint of sexual harassment was a frivolous and vexatious complaint and had not taken place, the complainant will be informed that no disciplinary action will be taken against the accused staff member and the matter will be considered as closed.

### **3. DISCIPLINARY PROCESS IN THE EVENT OF A VALID COMPLAINT**

#### **3.1 Show Cause and Domestic Inquiry**

In the event the Investigation Report reveals that the complaint lodged by the complainant has merits, the Human Resources Department (HRD) will proceed to issue a show cause letter (i.e. a letter requesting for an explanation) to the accused staff member. Upon receipt of the accused staff member's reply to HRD's show cause letter, HRD will assess the explanation and make a decision as to whether the explanation is acceptable or otherwise. Where the explanation is acceptable, the accused staff member will be requested to return to work and will be informed that there will be no disciplinary action against him or her. However, where the explanation is not acceptable, the accused staff member will be subjected to further investigation by way of a Domestic Inquiry.

#### **3.2 Punishment**

If the accused staff member is found to be guilty of sexual harassment of the complainant, the accused staff member shall be subjected to any of the following forms of punishment/ remedies, i.e.:-

- (i) Dismissal without notice;
- (ii) Downgrading;
- (iii) Suspension without salary up to two (2) weeks;
- (iv) Any other lesser punishment, including a Final Warning Letter.

### **4. FALSE REPORT OF SEXUAL HARASSMENT BY COMPLAINANT**

In the event that HRD discovers that the complainant had lodged a false complaint of sexual harassment against the accused staff member, the complainant will be subjected to severe disciplinary action for submitting a false complaint. Further, if the complainant had lodged a false police report, HRD may lodge a report against the complainant about the discovery of the false police report and the complainant may be subjected to police action against him/her. HRD may proceed to take disciplinary action against the complainant for the false report on sexual harassment.

### **5. AWARENESS OF STAFF MEMBERS OF THE NEGATIVE IMPACT OF SEXUAL HARASSMENT**

Staff members must give their cooperation to make the University a premier workplace and create a climate at work which is free from sexual harassment. This environment is possible if all staff members regard their superiors, colleagues and subordinates with utmost respect and dignity.

### **6. FURTHER ENQUIRIES**

A staff member who is unsure of any part of this policy may seek clarification from the Human Resources Department.

**SEXUAL HARASSMENT REPORT FORM**

<b>Name of Complainant:</b>	<b>School/ Programme/ Department:</b>
<b>Position of Complainant:</b>	<b>Date of Report:</b>
<b>Name of staff member alleged to have committed sexual harassment:</b>	<b>School/ Programme/ Department:</b>
<b>Name of external party alleged to have committed sexual harassment:</b>	<b>Name of company/ place where the external party originates from:</b>
<p>1. Please describe the specific incident of alleged sexual harassment. If more than one incident, describe the incidences separately. Please provide specific dates, time, place of incident, where possible. If not able to recall exact dates/ time, please provide approximations. Use additional pages as attachment to this report, if necessary.</p>	

<p>2. Are there other staff members/ individuals who may have witnessed this alleged incident of sexual harassment? If yes, please provide their name(s).</p>			
<p>3. Are there other staff members who may have experienced similar alleged incidences of sexual harassment committed by the individual named above? If so, please provide their name(s).</p>			
<p>4. Did you relate your experience to anyone after the alleged incident(s)? If yes, please provide their name(s) of individuals that you have communicated to.</p>			
<p>5. Did you protest against the act of sexual harassment and inform the harasser that his or her behavior is not acceptable to you? If yes, please provide details.</p>			
<p><b>I confirm that the information that I have provided is the truth. I understand that in the event it is discovered that I have made a false report, I shall be subjected to disciplinary action as per the University's Disciplinary Policy and Procedure.</b></p>			
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<p>_____</p> <p><b>Name of person receiving complaint</b></p>	<p>_____</p> <p><b>Signature</b></p>	<p>_____</p> <p><b>Date</b></p>	