

CARLOS ALBIZU UNIVERSITY

POLICIES AND PROCEDURES FOR

SEXUAL HARASSMENT

AND DISCRIMINATION GRIEVANCES

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CARLOS ALBIZU UNIVERSITY

POLICIES AND PROCEDURES FOR SEXUAL HARASSMENT AND DISCRIMINATION GRIEVANCES

Carlos Albizu University (CAU) has a strong commitment against sexual harassment conduct and/or discrimination at CAU campuses and related activities, even if held outside the campuses.

I. Definitions

1. *Sexual harassment* is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, where such conduct has the purpose or effect of interfering with an individual's work or study performance and/or creates an intimidating, offensive or hostile environment. Such conduct is absolutely prohibited.
2. *Discrimination* is defined as acting or failing to act on behalf of, or offer a benefit or opportunity in employment, education or in institutional activities to a member of the University's constituencies, or to a particular group within its constituencies, on the basis of prejudice because of race, color, creed, sex, age, language, disability, social condition, veteran status or national origin.
3. *Retaliation* is defined as any unwelcome contact, threat or harassment against a complainant or witness in a sexual harassment or discrimination grievance.

The definitions included in the Definition Section of the General Policies and Disciplinary Procedures Manual also apply for these Policies and Procedures for Sexual Harassment and Discrimination Grievances, when applicable.

II. Policies and Procedures

1. These Policies and Procedures are available and apply to the following members of the CAU institutional community: Faculty, employees, students, applicants for employment or enrollment, contractors, guests and clients in the Practicum Centers.
2. CAU strongly encourages any party who observes conduct which may constitute sexual harassment or discrimination, or believes to be aggrieved by such conduct, to come forward and to avail himself or herself of the remedies provided by Carlos Albizu University in the present procedures.
3. Confidentiality:
Only those persons who have a legitimate reason for it, will be privy to the allegations and to the information or documents gathered under these procedures. The following conduct will be cause for sanctions, including dismissal or termination:
 - a) Needless publishing of information regarding the allegations, investigation and/or documentation or information gathered under these procedures.
 - b) Compromising the integrity of the grievance procedures.
 - c) Failing to report sexually harassing conduct to the designated persons under these procedures.
 - d) Making false statements to a CAU functionary or Examining Officer during the investigation.

Students and employees involved in the above conduct will be referred by the person conducting the investigation (PCI) to a formal hearing for a major violation under these procedures within ten (10) working days from acquiring knowledge of the above.

If the person is a contractor or guest, the situation will be referred by the person who receives the grievance for violation of confidentiality to the Office of the President for an investigation, informal hearing and proper action by the President. The formal hearing is not available for guests or contractors as respondents.

4. Action taken outside of these procedures, which should be properly pursued under them, is viewed by the Institution as unethical conduct, an attempt to exert undue influence on the procedural integrity and orderly functioning of the Institution, and is considered a major

violation of CAU's Code of Conduct, to be pursued under a formal hearing if a student or staff.

5. When a particular functionary is empowered to make any kind of intervention under these procedures, said functionary may designate another person or functionary to make the required intervention. Whenever a functionary is mentioned in this document, it also includes designees, even if not specifically mentioned. An Examining Officer may also be appointed by the President, at the request of the Chancellor, when applicable, to investigate the grievance in substitution of the usual PCI.
6. To compute any term, do not count the day in which the event occurred (for example, in a ten working day term from the conclusion of a hearing, do not count the day on which the hearing concluded and begin counting on the next day). If the term ends on a non-working day, move the end of the term to the next working day. Any terms established in this document may be extended by the person, channel, functionary or designee in charge of the particular intervention, for a reasonable term, for just cause, with the exception of any appeal term. Any extension of time will be notified in writing to the parties involved.
7. Reasonable extensions of time requests by a respondent may be granted by the person, channel, functionary or designee, for just cause, with the exception of any appeal term. Said time extension request will be presented in writing not less than three (3) working days prior to the scheduled event or end of any term, to the functionary, person or channel or designee intervening in the proceedings.
8. There is no time limitation to file sexual harassment or discrimination grievances.
9. Any form or manner of retaliation or threat of retaliation against a complainant or witness is prohibited and a major violation under these procedures.
10. The rights of the respondent will be protected as set forth in these procedures.
11. In view of the fact that CAU activities evolve in a multicultural environment, that different cultures express sexuality in different ways, which may also be perceived in a different way, CAU encourages any aggrieved party to immediately inform the offending party that

his or her conduct constitutes sexual harassment in his or her culture and to desist from such conduct immediately. A repetition of said or analogous conduct from a person so advised, should be brought to the attention of the applicable PCI under these Policies and Procedures for Sexual Harassment and Discrimination Grievances. However, if the aggrieved party is either too apprehensive or in a position where he or she deems it advisable to forego this initial warning, he or she may proceed to file a grievance under these procedures.

III. Investigation Proceeding:

1. Any situation which may constitute a sexual harassment or discrimination grievance will be filed by the aggrieved party as follows:
 - a) Students – Program Director
 - b) All employees, including the Faculty, applicants for enrollment, applicants for employment – Human Resources Director
 - c) Contractor or guest – Office of the President

In the case in which a contractor or guest has a complaint against a student, faculty or employee, these procedures will be applied in its entirety.

In cases involving a guest or contractor as respondent, the Office of the President may designate a PCI to investigate, hold an informal hearing, if applicable, and make recommendations to the President, who will take the proper action. The formal hearing will not apply to contractors or guests who are respondents.

If the grievance is against the functionaries named as PCI, the grievance will be filed with the next available channel in the administrative structure of CAU, who will conduct the investigation or designate someone to act as PCI.

2. If there is any doubt or concern about who should investigate a complaint, or if there is a just cause to substitute a PCI, the issue will be brought by the aggrieved person to the attention of the Chancellor or the President, as applicable, who will make a determination about the person who will be in charge of the investigation.

3. Any request for an interview to present a grievance about sexual harassment or discrimination will be given top priority by the investigating party (PCI) or next available channel.
4. The person conducting the investigation of the complaint will:
 - a) Interview the aggrieved party as soon as possible. A handwritten statement by the complaining party is advisable.
 - b) Prepare minutes of the meeting, including all relevant facts.
 - c) Discuss the need for interlocutory measures.
 - d) Request all parties to review and sign the minutes. If the minutes contain more than one page, all parties must initial each page. Amendments to the minutes will be welcome so that they fully represent his or her version of the facts offered during the meeting.
5. Interlocutory measures will be discussed and implemented if necessary from the very first day of the filing of the complaint. The complainant will be specifically asked to state what measures he or she considers will better serve to solve or remedy the situation. Detailed minutes of any meeting in which interlocutory measures are discussed will be prepared, reviewed and signed by the complainant and the PCI. They will include a statement as to the measures discussed, proposed, accepted or refused by the complainant or by CAU.
6. Within ten (10) working days of the initial interview, the person conducting the investigation (PCI) will notify **the respondent** and will hold a meeting to get his or her version of the complaint against him or her. A copy of the complaint will be given to the respondent at this meeting. If there is more than one respondent, meetings will be held separately. At said meeting or meetings, the respondent will be given enough time to read the grievance and to give his or her version of each allegation or event. The respondent will be admonished regarding retaliation and about the confidentiality of the proceedings. Measures will be taken to safeguard the safety and welfare of the complainant, as deemed necessary. A copy of the applicable procedures will be given to the respondent. **There is no right for counsel at the investigation level.**

7. In view of the emotionally charged environment which usually surrounds these cases, the person conducting the investigation will meet separately with each party, as needed, with the objective of clarifying and validating the facts offered in the meetings with the other parties. This will also allow the parties to express themselves freely.
8. The PCI will interview all witnesses and seek to clarify each party's version of the facts. Minutes of the meeting or meetings will be prepared, reviewed and signed by all interviewed parties. If a party refuses to sign the minutes, a certification should be obtained from the person who took the minutes as to the fact that the minutes represent the true and honest record of what was said during the meeting.
9. In cases where credible evidence is obtained during any phase of the proceedings, including the investigation phase, that supports a belief that egregious or outrageous conduct is involved, and/or that said conduct seriously compromises the best interests of the Institution, and/or poses a serious threat to the safety or welfare of its constituencies or guests, the person conducting the investigation (PCI) will bring this issue before the Chancellor or the President, as follows:
 - a) In those cases where students are the respondents, the Chancellor may summarily forego any hearing or any further procedures and dismiss the student outright.
 - b) In those cases where employees are involved, the person conducting the investigation will notify the Chancellor, who will forward to the President a recommendation to cancel or rescind the employment contract with the University, and forego any hearing or pending procedures.
 - c) In the cases of guests or contractors, the President will make the decision about foregoing any pending proceedings and terminate the relationship or contract with CAU or any other applicable measures.
 - d) The appeal rights from the above decision are the same as the appeal rights in a formal procedure.

IV. Informal Proceeding

1. Once the PCI concludes the investigation, a written notification of the complaint will be sent to the respondent or respondents, personally or by certified mail to his/her last known address by the PCI, within 20 working days of the end of the investigation.

2. The notification shall include:
 - a) The full name and address of the respondent or respondents.
 - b) Institutional student identification number, if any.
 - c) A specific description of the charges.
 - d) Date, time, place and circumstances when the alleged violation occurred.
 - e) Witnesses' names and addresses. For purposes of the Policies and Procedures for Sexual Harassment and Discrimination Grievances, the address of the witness, if a member of the academic community or guest, will be the Office of the Program Director, and the Office of Human Resources, if an employee.
The PCI will forward any notification to the witness in an expedient manner.
 - f) List of documents or evidence purportedly to be used against respondent employee.
 - g) Date, place and hour in which the informal hearing will be held before the PCI or designee.
 - h) The student may bring witnesses and/or present evidence on the date, hour, and place designated for the hearing.
 - i) The informal hearing will be held within 20 working days of the date of the notification. Upon said notification, the student may submit a written request for a formal hearing to the PCI. The receipt of the request will be acknowledged by the PCI and the informal hearing will be canceled. A 30 working day term to conduct the formal hearing will begin to run from the date of the receipt of the request by the PCI.

3. An informal meeting will be held before the PCI on the date, time, and place indicated in the notification:
 - a) The PCI or designee will read the charges and state the evidence available to support the charges. The respondent will be given a reasonable opportunity to examine said evidence during the hearing. Rules of evidence applicable to civil or criminal matters are not applicable.

b) At the hearing, the respondent or respondents will have the opportunity to offer his/her verbal version of the charges, and to present evidence and cross-examine witnesses. The PCI may determine to hold separate informal hearings for each respondent. The respondent may present witnesses or evidence to support his/her position. A continuance for this purpose may be granted, only if issues arise that are directly related to the notification or availability of a pertinent witness or document. There is no right to be represented by counsel or to be accompanied by one during the informal proceedings. At the end of the presentation of the evidence, including the witnesses' testimony, and before adjourning the hearing, the PCI will advise the parties that by mutual agreement, they may solve any disagreements about the way a conduct may be perceived, allowing apologies and commitments to discontinue a given conduct or any other measures which may put an end to the situation in a mutually agreed upon manner. In that case, the minutes or recording of the hearing will reflect the agreements and the charges under the Policies and Procedures for Sexual Harassment and Discrimination Grievances will be dismissed.

If, in the opinion of the PCI, evidence was elicited of conduct that may constitute a violation to the CAU's Code of Conduct, the situation may be referred by the PCI to a hearing under the dispositions of the General Policies and Disciplinary Procedures Manual.

- c) Minutes of the proceedings will be prepared or the proceedings may be recorded.
- d) The PCI will adjudicate the complaint and will notify the parties in writing the resolution of the complaint, and the sanctions, if any, within 30 working days of the conclusion of the informal hearing. If the charges are dismissed, all references to the charges will be expunged from the student's records. The minutes of the recording of the hearing will be available to the parties for review.

- 4. Discrimination or sexual harassment grievances will be notified to the Chancellor by the party conducting the investigation, when interlocutory measures are deemed necessary to remedy the situation, until the conclusion of the proceedings.
- 5. The person conducting the investigation will follow up on the interlocutory measures taken and include said follow up as part of the record. The interlocutory measures taken by CAU are in no way to be construed as an admission of liability or

wrongdoing either on the part of the respondent or CAU. Any agreed upon measures will be taken in an expedite manner.

6. If dissatisfied with the resolution of the complaint at the conclusion of the informal proceedings, any aggrieved party may file a request for a formal hearing before the PCI, who will forward it to the proper channel.
7. There is no right to be represented by counsel or have counsel present during any of the different steps of the informal proceedings.
8. Even for first time alleged offenders, the case may be referred by the PCI to a formal hearing if, in his or her opinion, based on credible evidence gathered during the investigation, the seriousness of the alleged conduct poses a serious interference with the functioning of the institution and/or a threat to the safety or welfare of its constituency or guests.

V. Appeal Procedure: Same as in Formal Hearing Procedures.

VI. Formal Hearing Procedure:

1. The Chancellor or the President, as applicable, will designate a QAC or Examining Officer to hold a formal hearing procedure within 10 working days of the receipt of the complaint.
2. If the grievance involves the Chancellor, the grievance procedure will be filed before the President. If the President is involved, the grievance will be filed before the Board of Trustees.
3. The aggrieved party will present to the Chancellor or President, as applicable, in writing, the alleged instance(s) of discrimination or sexual harassment, including dates, time, circumstances, witnesses and documents if any, or request in writing that

the allegations presented at the informal or investigation proceedings as appearing in the minutes, be considered as constituting the grievance. If the request is made by the respondent in the informal hearing, the respondent will present the request in writing before the Chancellor, in the case of a student, staff member, applicant for enrollment or employment, or Faculty, or before the President, in the case when a contractor or guest is the complainant.

4. A written notification of the grievance will be sent to the respondent or respondents, either personally or by certified mail to his/her last known address within ten (10) working days of the designation of the QAC (Quality Assurance Committee) or the Examining Officer (EO).

The notification shall include:

- a. The full name and address of the respondent or respondents.
- b. Name of the aggrieved party and the specific discrimination or sexual harassment conduct allegedly engaged in by respondent.
- c. Date, time, place and circumstances when the alleged conduct occurred.
- d. Witness(es)' names and address(es).

For purposes of this Procedure, the address of any witness, member of the academic community, or guest will be the Office of the Chancellor or Office of the President, as applicable.

- e. Date, place and time in which the formal hearing will be held before the Quality Assurance Committee. This formal hearing will be held within thirty (30) working days of the date of the notification of the complaint. The Chancellor or the President, as applicable, may designate a person to present the case for CAU before the QAC or EO during the hearing. This person will be entitled to cross-examine witnesses.
5. Respondents have ten (10) working days from the date of receipt of the notification to submit an answer to the Quality Assurance Committee or Examining Officer.
 6. Respondents have the following rights:
 - a. The opportunity for advance inspection of any exhibits to be presented.

- b. To bring counsel to the hearing to advise him or her (but not to question witnesses). If the CAU selects an attorney to represent it and cross-examine witnesses, the respondent's attorney will have the same right. Counsel will be barred from the hearing room if in violation of the rules of the hearing.
 - c. Opportunity to present his or her own version of the facts, by personal statements as well as by documents and witnesses.
 - d. The right to hear evidence against him or her and question all witnesses (personally, not through counsel), except in the above exception.
 - e. The QAC or Examining Officer will issue a resolution with recommendations to the Chancellor or President, as applicable, which may be adopted by them or modified.
 - f. To be notified by the Chancellor or the President, as applicable, of the Resolution of the case, which notice will include a general finding of facts, conclusions, the sanction(s) to be imposed and the effective date of the sanction(s). The Resolution will be notified within thirty (30) working days of the conclusion of the hearing by certified mail with return receipt requested.
7. Respondents have the right, at their own expense, to record the hearing. CAU will record the hearing and will keep said recording in a safe, secure place where it will be available to the appeal channels as part of the record.

VII. Appeal Procedure:

Respondents have the right to the following appeal channels:

Chancellor, President, and Board of Trustees of the Carlos Albizu University, as applicable. Each applicable channel must be exhausted before appealing to the next channel. The appeal notice will be presented before the applicable channel within ten (10) working days from the date of the receipt of the Resolution of the previous channel. Each channel will have thirty (30) working days from the date of the receipt of the appeal in which to adjudicate the same. Each channel may affirm the previous resolution, modify it, dismiss the complaint or modify the sanction. The appeal will be based on the record of the hearing before the Quality Assurance Committee or Examining Officer.

VIII. Sanctions

One or more of the following:

1. Students
 - a. Written reprimand
 - b. Suspension
 - c. Requirement of counseling or therapy
 - d. Dismissal

2. Personnel
 - a. Written reprimand
 - b. Requirement of counseling or therapy
 - c. Transfer or reassignment
 - d. Suspension for a term of no less than 2 weeks without pay, and of one month without pay
 - e. Dismissal

3. Contractor(s) for services
 - a. Suspension of the services for a period of not less than 2 weeks without pay
 - b. Rescission of the contract

Appeals may only be based on the following criteria:

1. Evidence of due process violation
2. New evidence not available at the hearing or at the previous channel. New evidence may be considered by the next appeal channel, at its discretion
3. Disputed sanctions

Action taken outside of these procedures may be viewed by the Institution as an attempt to exert undue influence on procedural integrity.

Separability Clause

An invalidation from any section of these procedures will not invalidate the remaining sections.