



JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

SEXUAL HARASSMENT POLICY (SHP)



ISO 9001:2008 CERTIFIED

FOREWORD

Jomo Kenyatta University of Agriculture and Technology, one of the leading public universities in Kenya, strives to adhere to National and International laws and regulations governing sexual harassment. The Sexual Offences Act. No. 3 of 2006 of the laws of Kenya explicitly defines and elaborates the penalties/fines meted on offenders of sexual harassment. JKUAT endeavours to create a learning and research environment free of sexual harassment.

The University mission statement provides that the University values accessible quality University Education, Training, Research and Innovation. While the University is committed to free inquiry, free expression, and vigorous discussion and debate in which advancement of its mission depends, such does not provide for abuse of these opportunities. Sexual harassment is as such destructive and is not tolerated in the University community.

The university has taken a leading role in Kenya and indeed in East Africa in coming up with this policy among institutions of higher learning. The University shall set up a committee to handle all cases associated with sexual harassment among the students and staff. For some cases that may require utmost confidentiality, the university Office of the Ombudsman shall handle.

I am glad that the University has formulated this policy whose operationalization will contribute greatly to high ethics and morality in the university community.

Prof. Mabel Imbuga PhD. EBS
Vice Chancellor



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ABBREVIATIONS AND ACRONYMS

COD	Chairman of Department
DNA	Deoxyribonucleic Acid
DVC	Deputy Vice Chancellor
JKUAT	Jomo Kenyatta University of Agriculture and Technology
INTERPOL	International Police
VC	Vice Chancellor

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VISION

A University of Global Excellence in Training, Research and Innovation for Development.

MISSION

To offer accessible quality training, research and innovation in order to produce leaders in the fields of Agriculture, Engineering, Technology, Enterprise Development, Built Environment, Health Sciences and other Applied Sciences to suit the needs of a dynamic world.

CORE VALUES

Quality

Team work

Professionalism

Innovation

Dynamism

Accountability

Integrity



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1.0 POLICY

1.1 Policy Statement

Jomo Kenyatta University of Agriculture and Technology (JKUAT), through its policies and procedures, seek to provide an environment that is free from sexual harassment. Such conduct seriously undermines the atmosphere of trust and respect that is essential to a healthy work and academic environment.

This policy applies to all members of the University community in all JKUAT campuses and JKUAT sponsored events and activities. All members of the JKUAT community are encouraged to report promptly complaints about sexual harassment, sexual misconduct, and sexual assault to the appropriate authorities. Sexual harassment is discriminatory, unlawful and will not be tolerated at JKUAT. Persons found to be in violation of this policy shall be subject to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension, expulsion, dismissal or termination.

1.2 Reason for Policy/Purpose

This policy and these procedures aim to inform members of the University community what sexual harassment is and what they can do should they encounter or observe it.

1.3 Users of This Policy

Faculty, staff and students.



2.0 DEFINITIONS

2.1 Sexual Harassment

Sexual harassment may involve the behaviour of a person of either sex against a person of the opposite or same sex, and occurs when such behaviour constitutes unwelcome sexual advances, request for sexual favours and other unwelcome verbal or physical behaviour of a sexual nature where:

- a) Submission to such conduct is made either explicitly or implicitly in a term or condition of an individual's education or employment;
- b) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual's welfare; or
- c) Such conduct has the purpose or effect of substantially interfering with an individual's welfare, academic or work performance or creates an intimidating, hostile and offensive education or work environment.

Examples of Sexual Harassment

Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- i. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- ii. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances, requests, favours etc.
- iii. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls or text messages.
- iv. Sexually suggestive objects, pictures, videotapes, audio recordings, computer communications, or literature placed in the work or study area, which may embarrass or offend individuals; and provocative dressings.



- v. Unwelcome and inappropriate touching, patting, pinching, or obscene gestures.
- vi. Consensual sexual relationships where such relationships lead to favouritism of a student or subordinate employee with whom the instructor or superior is sexually involved and where such favouritism adversely affects other students and/or employees.

2.2 Sexual Misconduct

Sexual misconduct is non-consensual physical contact of a sexual nature. It includes acts using force, threat, intimidation, or advantage gained by the offended person's mental or physical incapacity or impairment of which the offending person was aware or should have been aware. A charged person's use of any drug, including alcohol, judged to be related to an offence will be considered an exacerbating rather than mitigating circumstance.

2.3 Rape

According to the Sexual Offences Act, No. 3 of 2006, a person commits the offence termed rape if

- i. He or she intentionally and unlawfully commits an act which causes penetration with his or her genital organs;
- ii. The other person does not consent to the penetration; or
- iii. The consent is obtained by force or by means of threats or intimidation of any kind.

2.4 Sexual Offence

Means any offence prescribed in the sexual offences Act No. 3 of 2006.

2.5 University Community Status

Refers to whether a person is a student, faculty member, or staff member.

2.6 Student

Is defined to include all students whether undergraduate or postgraduate.



2.7 Sexual Harassment Information Liaison officer

The officers shall be the gender and mentoring coordinators appointed under the Gender and Mentoring Centre.

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3.0 CONSENSUAL RELATIONSHIPS

3.1 Within the Instructional/Employment Context

Faculty members and graduate teaching assistants are prohibited against having a romantic relationship with a student who is enrolled in a course taught by the faculty member or graduate teaching assistant or whose academic work (including work as a teaching or research assistant) is supervised or evaluated by the faculty member. Likewise, supervisors are discouraged from having a romantic relationship with an employee who is in their line of supervision.

3.2 Outside the Instructional/Employment Context

Romantic relationships between faculty members and students (graduate teaching assistants, research assistants, etc.) or between graduate teaching assistants and undergraduate students occurring outside the instructional context may also lead to disciplinary action.

This is particularly true when the faculty member/graduate teaching assistant/student are in the same academic unit or in units that are academically allied. Moreover, relationships that the parties view as consensual may appear to others to be exploitative. In these types of situations, the faculty member/graduate teaching assistant may face serious conflicts of interest and should not be involved in making any decisions that may reward or penalize the student with whom the faculty member has or has had a romantic relationship.



4.0 CASE REPORTING

4.1 Responsibility

Sexual harassment need not be intentional. Under policy, the intent of the person who is alleged to have behaved improperly is not relevant to determining whether a violation of JKUAT's policy has occurred. The relevant determination is whether a reasonable person could have interpreted the alleged behaviour to be sexual. Individuals who are aware of or have experienced an incident of sexual harassment or sexual assault should promptly report the matter to one of the University Officials designated to receive informal or formal grievances. A third party may also file a grievance under this policy if the sexual conduct of others in the education or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic or work performance.

4.2 Retaliation

No employee, applicant for employment, student, or member of the public shall be subject to restraints, interference, coercion or reprisal for action taken in good faith to seek advice concerning a sexual harassment or sexual assault matter, to file a sexual harassment/sexual assault grievance, or to serve as a witness or a panel member in the investigation of a sexual harassment/sexual assault grievance. Acts of retaliation are a violation of this sexual harassment/sexual assault policy and will be investigated and adjudicated accordingly.

4.3 Malicious, False Accusations

Any grievant whose allegations are found to be both false and/or malicious will be subject to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion, or termination.



5.0 STATE LAWS AND UNIVERSITY POLICIES

Sexual harassment is a form of sex discrimination that is prohibited by law and policy including:

- i. Sexual Offences Act, 2006
- ii. Sexual Offences Regulations, 2008
- iii. Sexual Offences (Dangerous Offenders DNA Data Bank) Regulations, 2008.
- iv. Penal Code 63 and 139 Legislation of INTERPOL member states on sexual offences
- v. University Policies

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6.0 INFORMATION, COUNSELING / ADVOCACY

- i. Anyone may seek advice, information or counselling on matters related to sexual harassment without having to lodge an informal or formal grievance.
- ii. Persons who feel they are being harassed, or are uncertain as to whether what they are experiencing sexual is harassment should seek guidance and/or report to appropriate University authority.

6.1. Where to Go For Help

6.1.1 Students

Students desiring assistance or wishing to report sexually harassing behaviour:

The procedures for dealing with allegations of harassment towards students by faculty or staff differ from the procedures for dealing with allegations of sexual harassment towards students by other students. For alleged student-to-student harassment, call the Office of Dean of Students or Administrator. Hotlines shall be provided. If the student is alleging harassment by faculty or staff, the student should contact:

- i. Sexual Harassment Information Liaisons;
- ii. Gender and Mentoring Centre;
- iii. Further information for students is available at the Dean of Students' office;
- iv. Class reps, Class advisor, chaplain within JKUAT, CODs, Deans/Directors, DVC, VC.

All formal requests will be done on an official reporting form.



Response to Student's Reports of Alleged Sexual Harassment

Students should be aware that under guidelines issued by the Sexual Offences Act, 2006, Once an authorized officer of JKUAT has actual notice of possible sexual harassment of students – whether carried out by employees, other students or third parties - JKUAT will take;

- i. Immediate and appropriate action to investigate or otherwise determine the complaint,
- ii. Take reasonable steps to end any harassment, eliminate the hostile environment if one has been created, and take appropriate measures to prevent recurrence of such harassment.

Confidentiality

- i. The scope of JKUAT's reasonable response to such notice may be impacted by a student's request for confidentiality or a request that the University take no action regarding the alleged harassment.
- ii. The Sexual Harassment Information Liaison Officer will discuss confidentiality standards and concerns with the grievant initially.

The student will be informed that:

- i. The request for confidentiality may limit JKUAT's ability to respond;
- ii. If he/she is afraid of reprisals from the alleged harasser, JKUAT will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs.
- iii. If he/she insists confidentiality e.g. disclosure of the grievant name, the University will investigate the complaint consistent with that request so long as doing so does not preclude JKUAT from responding effectively to the harassment and/or prevent further occurrences.



Interventions

The Sexual Harassment Information Liaison Officer and other University personnel (Class reps, Class advisor, Chaplains within JKUAT, CODs, Deans/Directors, DVC, VC) are required to report incidents which are brought to their attention by students to the designated Compliance Coordinator (Gender and Mentoring Centre for alleged sexual harassment by faculty/staff; Dean of students for alleged sexual harassment by students).

6.1.2 Staff

- I. Staff members should report incidents of sexual harassment as soon as possible. Investigation of the complaint of sexual harassment must be completed within thirty (30) days.
- II. The individual making the complaint will be informed of any delay and the reason for such delay.
- III. The aggrieved member will complete a prescribed Sexual Harassment Reporting Form regardless of whether the investigation and resolution follows an informal or formal process.

6.2 General Information Applicable to Students, Faculty and Staff

Persons who feel they may have been subjected to sexual harassment are strongly encouraged to contact a University Resource person as outlined herein as soon as possible. Delay in reporting incident(s) may negatively affect JKUAT's ability to thoroughly address the reported incident(s). For example, witnesses may be unable to recall events due to the passage of time, witnesses may have gone on to other programs or employment, corroborating evidence may not be available, and/or intervening events may have occurred. The results of any investigation and actions taken by the University will be divulged only on a need to know basis. In addition to discussing the options available under the sexual harassment policy, the University resource person will also discuss with the person other relevant considerations such as:

1. The details of the informal and formal grievance process;
2. The issues involved;



3. Possible resolutions;
4. Provisions in the policy for protection of the aggrieved interest (e. g., parameters of confidentiality; need for truthfulness by all parties; keeping the grievant fully informed of steps taken during the process; protection of the grievant and witnesses against retaliatory action);
5. Provisions in the policy for protection of the interests of the accused (e. g., parameters of confidentiality; need for truthfulness by all parties, right to be notified of existence of any formal grievance; opportunity to respond to the aggrieved allegations);
6. That use of an informal resolution method does not prevent the grievant from later deciding to use the formal method, nor does the use of any internal grievance method prevent the grievant from utilizing external grievance resolution resources.

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7.0. RESOLUTION PROCESS

7.1 Informal Grievance Resolution

The aim of the informal grievance resolution process is not to determine whether there was intent to harass but to ensure that the alleged offending behaviour ceases and that the matter is resolved promptly. The following are true regarding this policy;

- i. No disciplinary action is taken in resolving informal grievances.
- ii. Informal grievance resolution procedures should not be used for severe cases of sexual harassment e.g. rape, nor should they be used when the alleged harasser has been the subject of a previous formal grievance.
- iii. It is not a requirement that the individual use informal procedures before filing a formal grievance, nor that the grievance be put into writing before informal resolution procedures are utilized.
- iv. The Individual is free to withdraw from informal procedures altogether, file formally with the University, and/or file charges under state law or use the courts.
- v. In severe cases of sexual harassment or instances involving a repeated offender, the University may conduct a University-generated investigation if there is sufficient reason to believe that sexual harassment could have or does exist.

Some informal actions that may be appropriate are:

- i. Writing a confidential letter to the alleged harasser informing him/her of the negative behaviour, the resulting impact on the writer, and what the writer wants next, usually "I want the behaviour stopped", or "I want to be treated the way a student or fellow employee should be treated".
- ii. Asking that a workshop on sexual harassment awareness be conducted for the unit/division.
- iii. Asking that someone speak to the alleged offender.
- iv. Meeting with the alleged offender and a third party to explain the aggrieved feelings and the University's policy.



Possible outcomes of an informal process include:

- i. The grievance is resolved to the satisfaction of both parties.
- ii. Grievance not resolved: In cases where resolution of the grievance is not possible, the University Resource Person will advise the grievant of the option of filing a formal grievance within the University and the options outside the University that
- iii. May be pursued, i.e., filing with Office of human Rights commission.

7.2. Formal Grievance Resolution

The filing of a written grievance is generally required for the matter to be formally investigated and a determination made as to whether a violation of University policy prohibiting sexual harassment has occurred.

The procedure and person handling formal grievances depend on the University community status of the grievant and the University community status of alleged respondent.

Accordingly, formal grievances are filed as follows:

- i. If the alleged sexual harasser is a student the grievances are filed with the Dean of students
- ii. Faculty and other staff members' grievances are filed with the Gender and Mentoring Centre.

Investigations will be conducted fully, impartially and timely. Investigating officials will provide the respondent with the allegations, to which that individual will be required to respond in a timely manner. During the course of the investigation the formal investigating officials normally will interview the grievant, the respondent, and witnesses identified by each party. Previously indicated herein, to the extent possible, grievances will be handled confidentially, with the facts made available only to those who have a compelling need to know for purposes of investigation, resolution, or legal compliance. The specific issues to be investigated/ reviewed may include but are not limited to:

- i. Whether the specific conduct has occurred and constitutes a violation of JKUAT's sexual harassment policies, the type(s) of conduct; frequency of occurrence; date(s)



- on which or time period over which the conduct has occurred; location of alleged occurrence and all factual circumstances upon which the grievance is based;
- ii. The specific relationship of the respondent to the grievant (e.g., Lecturer-student, supervisor-staff, staff-student, staff-staff and student-student);
 - iii. The effect of the harasser's conduct on the grievant, including any consequences that may be attributed to the conduct;
 - iv. Whether the respondent is aware of the aggrieved concerns;
 - v. Whether the department chair or supervisor is aware of the aggrieved concerns;
 - vi. The names of witnesses having factual knowledge of the circumstances surrounding the grievance;
 - vii. Whether any prior steps were taken to resolve the grievance; and/or
 - viii. Whether there are any additional resources that may be helpful to resolve the grievance.

Some possible outcomes of a formal investigation include:

- i. A finding that there is a reasonable basis for believing that the alleged violation occurred; or
- ii. A finding that there is no reasonable basis for believing that the alleged violation occurred; or
- iii. A finding that there is a reasonable basis that other misconduct may have occurred.

7.3. Formal Sanctions

Sanctions imposed upon offenders shall be commensurate with the gravity of the conduct and adequate and sufficient to demonstrate the University's commitment to taking strong and effective measures to both remedy and prevent the conduct.

7.3.1 Decision to impose sanctions

If after reviewing the investigative report, the appropriate University official (as described below) concludes that there is a reasonable basis for believing that an alleged violation of



the policy has occurred, and if a negotiated settlement of the grievance has not been achieved, formal sanctions will be imposed.

7.3.2 University officials responsible for decision.

- i. The decision to impose formal sanctions will be made by a designated University Sexual Harassment Committee.
- ii. In cases involving a student as the respondent, the Dean of Students will handle the issues but may refer the case to the Sexual Harassment Committee.

All sexual harassment cases must be forwarded to Sexual Harassment Committee.

7.3.3 Levels of Action

Appropriate sanctions may range from;

- i. A written reprimand up to and including separation of the offending party from the University in accordance with established University procedures.
- ii. In addition to the University disciplinary process, rape and other forms of sexual assault may be prosecuted criminally by the Attorney General of the Republic of Kenya.
- iii. Use of the University procedures or a lack thereof, does not preclude a grievant from filing charges under State criminal statutes. Both parties should be informed of the existence of their rights in other forums.

7.4 Appeals

Respondents desiring to appeal against the sanction(s) will do so through the corresponding channel depending on the University community status of the respondent.

- i. If the respondent is a student, the appeal is considered by the Sexual Harassment Committee, or the Committee's designated representative.
- ii. If the respondent is a faculty member, the appeal is considered by the Vice Chancellor or a designated representative.
- iii. If the harasser is a member of the University staff, the case is considered by the respondent's senior officer.



Appeals will normally be considered only when;

- i. New evidence which was not reasonably available at the time of the formal investigation becomes available;
- ii. An allegation of substantial procedural error on the part of the investigator or investigatory process is made;
- iii. On the grounds that the sanction was excessively severe.

The appeal authority shall have the power to affirm, reverse, or modify the decision and/or the penalty imposed (but not increase), or to remand the matter to the University official imposing the sanction for further consideration. Appeals must be submitted in writing detailing the specific reason(s) for the appeal.

The appeal must be submitted to the appeal authority which corresponds to the status of the respondent and must be filed within prescribed time frames. The appeal authority will provide a ruling generally within ten (10) working days from receipt of the appeal. The decision of the appeal authority is final.



8.0. EDUCATIONAL PROGRAMS

8.1. General

Education efforts are essential to the establishment of a campus milieu that is as free as possible of sexual harassment and in which high standards of conduct in consensual relations are observed. There are at least four goals to be achieved through education:

- i. Notifying individuals of conduct that is prohibited;
- ii. Ensuring that all faculty, staff and students are aware of their rights;
- iii. Informing administrators about the proper way to address complaints of violations of this policy; and
- iv. Helping to educate the faculty, staff and students about the problems this policy addresses.

8.2 Preparation and Dissemination of Information

The Sexual Harassment Committee is charged with developing, coordinating, and disseminating the sexual harassment policy and procedure for the University. The secretariat will be the office of Gender and Mentoring Centre.

Accordingly,

- i. The committee will provide summaries of this publication to all current members of the University community and to all those who join the community in the future.
- ii. A summary of this publication will be included in student orientation materials and handbooks, including those distributed to students in graduate school.
- iii. Copies of this publication will be made available on the Web, at appropriate campus centres, offices, and will be distributed in sexual harassment/sexual assault prevention training sessions.

8.3. Training / Education

Sexual harassment prevention training, workshops, and professional development seminars will be conducted.



The University will develop training and educational Sexual harassment materials to deal with potential sexual harassment, forestall incidents and inculcate the right attitudes towards students and staff. Resource persons will be designated to give information, answer questions regarding University procedures and develop a training curriculum.

8.4. Overall responsibility

The University will designate officers responsible for coordination and oversight of complaints of sexual harassment to ensure consistent practices and standards in handling these complaints.

9.0 POLICY REVIEW

This policy will be reviewed after every five years or earlier as need arises.

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