

# **SILLIMAN UNIVERSITY**

## **UNIVERSITY POLICY & MANUAL OF PROCEDURE AND LIST OF PENALTIES FOR GENDER-BASED SEXUAL HARASSMENT CASES**

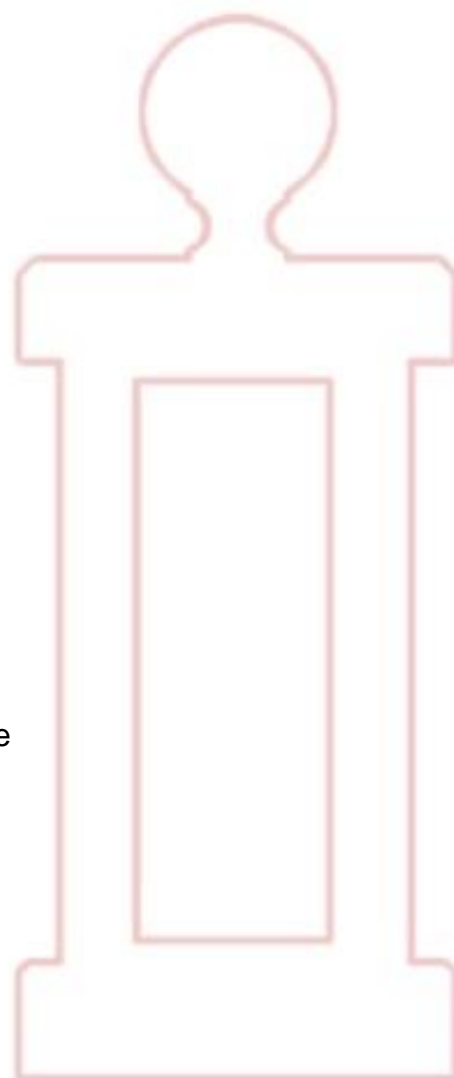


## **CONTENTS**

<b>I. INTRODUCTION</b>	<b>1</b>
<b>II. COVERAGE</b>	<b>1</b>
<b>III. DEFINITION OF TERMS</b>	<b>1</b>
<b>IV. PROHIBITED ACTS</b>	<b>3</b>
<b>V. GBSH BETWEEN SUPERIOR &amp; SUBORDINATE</b>	<b>5</b>
<b>VI. COMPLAINTS OFFICER</b>	<b>6</b>
<b>VII. COMMITTEE ON DECORUM &amp; INVESTIGATION (CODI)</b>	<b>6</b>
<b>VIII. COMPLAINT PROCEDURE</b>	<b>7</b>
<b>IX. PENALTIES</b>	<b>9</b>
<b>X. OTHER MEASURES TO ADDRESS GBSH IN THE UNIVERSITY</b>	<b>10</b>
<b>XI. GUIDANCE FOR VICTIMS OF PROHIBITED ACTS</b>	<b>11</b>
<b>XII. EFFECTIVITY</b>	<b>11</b>

This Manual contains the policy of Silliman University on gender-based sexual harassment as approved by the Board of Trustees on August 24, 2020.

Prepared by the Office of the General Counsel and published by the Office of Information and Publication, Silliman University, November 2020 edition.



# **UNIVERSITY POLICY, MANUAL OF PROCEDURE AND LIST OF PENALTIES**

## **I. INTRODUCTION**

Silliman University values the dignity, human rights, and the fundamental need to be of all persons to feel safe and secure in their places of work or study. The protection of such rights is part of its mandate to provide quality Christian education. As such, it values and recognizes, in accordance with the Safe Spaces Act (R.A. 11313), the importance of making all university campuses as “safe spaces” where all persons are protected from gender-based sexual harassment (GBSH).

## **II. COVERAGE**

This Manual shall apply to all incidents and cases of GBSH covered by the Safe Spaces Act (RA 11313) under the following settings:

1) work-related or employment environment; and 2) education or training environment.

GBSH in a work-related or employment environment refers to incidents where the perpetrator and victims are employees of the university, regardless of whether the employment is on a part-time, full-time, adjunct, or visiting basis.

GBSH in an education or training environment refers to such incidents where the perpetrator and/or victim is a student of the university, including those enrolled in executive courses, certification courses, or other short courses.

This Manual shall also cover incidents involving said persons which occur in official university activities outside of campus, public spaces, or online or through any information and communications technology or system.

This Manual and the penalties found herein may be applied independent of any liability the perpetrator may have for the same act under the university’s other policies such as those on data privacy, anti-hazing, and anti-bullying.

## **III. DEFINITION OF TERMS**

a) Catcalling refers to unwanted remarks directed towards a person, commonly done in the form of wolf-whistling and misogynistic, transphobic, homophobic, and sexist slurs.

b) Cyberstalking is a form of stalking directed at a person that is committed through an electronic medium in which online communication takes place.

c) Employee refers to a person, who in exchange for remuneration, agrees to perform specified services for another person, whether natural or juridical, and whether private or public, who exercises fundamental control over the work regardless of the term or duration of agreement. Employees in the informal economy are included herein. Provided, that for the purposes of the law and these guidelines, a person who is detailed to an entity under a subcontracting or secondment agreement shall be considered an employee.

d) Gender based sexual harassment refers to any form of harassment or conduct that is motivated by an underlying prejudice against a person's sex, gender, or gender identity, as defined by the Safe Spaces Act, which causes or likely to cause mental, emotional, or psychological distress, and fear of personal safety. It includes catcalling, homophobic remarks, misogynistic remarks or slurs, sexist remarks or slurs, stalking, transphobic remarks, unwanted sexual remarks or comments, and threats.

e) Gender-based online sexual harassment refers to an online conduct targeted at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear of personal safety, sexual harassment acts including unwanted sexual remarks and comments, threats, uploading or sharing of one's photos without consent, video and audio recordings, cyberstalking and online identity theft.

f) Information and communication system refers to a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and includes the computer system or other similar devices by or in which data are recorded or stored and any procedure related to the recording or storage of electronic data messages or electronic documents.

g) Information and communications technology or ICT shall mean the totality of electronic means to access, create, collect, store, process, receive, transmit, present and disseminate information.

h) Public spaces refer to streets and alleys, roads, sidewalks, public parks, buildings, schools, churches, public washrooms, malls, internet shops, restaurants and cafes, transportation terminals, public markets, spaces used as evacuation centers, government offices, common carriers, public utility vehicles (PUVs) as well as private vehicles covered by app-based transport network services, other recreational spaces such as, but not

limited to, cinema halls, theaters and spas, bars and clubs, resorts and water parks, hotels and casinos, and all other areas, regardless of ownership, openly accessible or offered to be accessed by the public.

i) Workplaces include all sites, locations, spaces, where work is being undertaken by an employee within or outside the premises of the usual place of business of the employer.

#### **IV. PROHIBITED ACTS**

The following is a non-exhaustive list of acts or conduct made by a person against another person (or a group of persons) which constitute GBSH:

- a. cursing, wolf-whistling, catcalling;
- b. leering and intrusive gazing;
- c. taunting, unwanted invitations;
- d. misogynistic, transphobic, homophobic, and sexist slurs;
- e. persistent unwanted comments on one's appearance;
- f. relentless requests for one's personal details such as name, contact and social media details or destination;
- g. the use of words, gestures or actions that ridicule on the basis of sex, gender or sexual orientation, identity and/or expression including sexist, homophobic, and transphobic statements and slurs;
- h. the persistent telling of sexual jokes, use of sexual names, comments and demands;
- i. any statement that has made an invasion on a person's personal space or threatens the person's sense of personal safety;
- j. making offensive body gestures at someone;
- k. exposing private parts for the sexual gratification of the perpetrator with the effect of demeaning, harassing, threatening or intimidating the offended party;
- l. public masturbation, groping, and similar lewd sexual actions;
- m. stalking;
- n. Touching, pinching, or brushing against the genitalia, face, arms, anus, groin, breasts, inner thighs, face, buttocks or any part of the victim's body;
- o. an act or series of acts involving any unwelcome sexual advances, requests or demand for sexual favors or any act of sexual nature, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individual's employment or education, job performance or opportunities;
- p. any conduct of a sexual nature and other conduct-based on sex affecting the dignity of a person, which is unwelcome, unreasonable,

and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems;

q. any conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.

Online GBSH includes:

r. acts that use information and communications technology in terrorizing and intimidating victims through:

s. physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages;

t. invasion of the victim's privacy through cyberstalking and incessant messaging;

u. uploading and sharing without the consent of the victim any form of media that contains photos, voice, or video with sexual content;

v. unauthorized recording and sharing of any of the victim's photos, videos or any information online;

w. impersonating identities of victims online or posting lies about victims to harm their reputation;

x. filing false abuse reports to online platforms to silence victims.

GBSH in the workplace includes:

y. An act or series of acts involving any unwelcome sexual advances, requests or demand for sexual favors or any act of sexual nature, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individual's employment or education, job performance or opportunities;

z. A conduct of sexual nature and other conduct-based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems;

aa. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.

Consistent with R.A. 111313, GBSH in the workplace may also be committed between peers, and by a subordinate to a superior officer.

## **V. GBSH BETWEEN SUPERIOR & SUBORDINATE**

Those who supervise or evaluate the work of others, both in academic and employment settings, must base their decisions on merits, and must deserve the trust of persons affected by these decisions. To be effective, they must be perceived to make their decision fairly and without favoritism. There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions, such as teacher and student, supervisor and employee, or student resident and the individual who supervises the day-to-day living environment. Such relationships may have the effect of undermining the atmosphere of trust on which the educational process depends. Implicit in the idea of professionalism is the recognition by those in positions of authority that, in their relationship with students, there is always an element of power. It is incumbent upon those with authority not to abuse, or seem to abuse, the power with which they are entrusted.

Officers and other members of the teaching staff should be aware that any romantic involvement with students who are under their direct supervision may warrant formal action against them even if the romantic involvement is initiated by the student. Even when both parties have consented to the development of such relationship, it is the officer or instructor who, by virtue of his/her special responsibility, will be held accountable for unprofessional conduct. Because graduate students or tutors may be less accustomed than faculty members to thinking of themselves as holding professional responsibilities, it would be wise for them to exercise personal care in their relationships with students whom they instruct or evaluate.

In a personal relationship between an officer and a student for whom the officer has no current professional responsibility, the officer should exercise professional conduct and be sensitive to the constant possibility that he or she may unexpectedly be placed in a position of responsibility for the student's instruction or evaluation.

The University has no formal policy prohibiting consensual or intimate relationships among faculty, staff or students. However, relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint when such relationship gives undue access or advantage, restricts opportunities, or creates a hostile and unacceptable environment for others. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the

outset to intimate involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct.

Thus, a faculty member who enters into an intimate relationship with a student (or a supervisor with an employee) must realize that, if a charge of sexual harassment is subsequently lodge or filed, it will be exceedingly difficult to prove immunity on grounds of mutual consent.

## **VI. COMPLAINTS OFFICER**

As required by Sec. 21 of R.A. 11313, the President shall designate a Complaints Officer who shall receive complaints regarding violations of the law and ensure that victims are provided with a gender-sensitive environment that is both respectful to the victim's needs and conducive to truth-telling.

The Complaints Officer shall also determine, upon receipt of the complaint, if the offended party needs immediate assistance, such as counseling, and/or medical services, and the same shall, to the extent possible, be provided, should the complainant choose to avail of such. The complaints shall be forwarded to the appropriate Committee on Decorum and Investigation (CODI) within forty-eight (48) hours from receipt thereof.

The Complaints Officer shall also serve as a resource person to various offices and committees in the University on matters pertaining to sexual harassment and other gender-based offenses. He/she may make recommendations on how the University Anti-Sexual Harassment Policy (or this Code of Conduct) can be strengthened.

## **VII. COMMITTEE ON DECORUM & INVESTIGATION (CODI)**

a. The CODI shall serve as an independent internal grievance mechanism that will act as the main body in the investigation and resolution of cases involving GBSH.

b. In accordance with R.A. 11313, the University President shall constitute the CODI to be composed of the following:

- i. The chairperson of the Center for Gender Studies and Development;
- ii. A representative from the Human Development and Resources Office;
- iii. A representative from the faculty through the SU Faculty Association;
- iv. A representative from the staff through the SU Staff Association;
- v. A representative from the SU Student Government;



- vi. A representative from the Office of Student Affairs, preferably a member from the Guidance & Counselling Division or a person with guidance & counselling qualifications;
  - vii. A member of the Office of the General Counsel; and
  - viii. In cases of GBSH committed online or through other ICT or IT systems, the head of or a representative from the MIS Department technical expertise in ICT or IT systems.
- c. At least half of the CODI members shall be women. The CODI shall select by vote a chairperson from among the women members. A majority number of the CODI shall constitute a quorum, provided that the majority of quorum numbers are women.
- d. The members shall ensure that they are not connected or related to the alleged perpetrator within the fourth degree of consanguinity or affinity and have no prior record of involvement as a respondent, defendant or accused in any case of whatever nature on sexual harassment. In case of relation by consanguinity or affinity within the fourth degree to either the complainant or respondent, the CODI member shall inhibit from participating in any part of the proceeding, or be substituted by another.
- e. A CODI member may be subjected to proper disciplinary measures if:
- i. they do not inhibit from a case where there is conflict of interest or where they are related to perpetrator or victim within the fourth degree of consanguinity or affinity; or
  - ii. consistently fails to or inadequately performs his/her functions.
- f. The CODI shall, at all times, observe due process and, investigate and decide on written complaints within ten (10) working days or less upon receipt thereof. It shall ensure the protection of the complainant from retaliation and guarantee confidentiality to the greatest extent possible. The ten-day period will not include the period of appeal which shall be available to either party.
- g. The CODI shall ensure the protection of a complainant from retaliation without causing her/him any disadvantage, diminution of benefits or displacement, and without compromising his/her security of tenure. It shall also guarantee gender-sensitive handling of cases, and confidentiality of the identity of the parties and the proceedings to the greatest extent possible.

## **VIII. COMPLAINT PROCEDURE**

a. Any victim of GBSH may file a written complaint with the Complaints Officer or directly to the CODI.

If needed, the Complaints Officer shall provide assistance to the complainant as to the form of the complaint, securing the statements of witness, and preparation of the supporting documents.

b. The Complaints Officer shall ensure that the complaint includes the following information:

- i. Full name and address of the complainant;
- ii. Full name and address of the respondent;
- iii. A specification of the charge or charges; and
- iv. A statement of the relevant and material facts.

c. In cases where the respondent is a minor, the complaint shall be addressed to the parent or guardian.

d. Within 48 hours from receipt of the complaint, the Complaints Officer shall forward the same to the CODI and furnish the respondent a copy of the complaint, including its attachments. The Complaints Officer shall also direct the respondent to file his/her comment within five (5) days from receipt of the complaint, attaching the statements of his/her witnesses, if any, and other supporting evidence. If the complaint is filed with the CODI directly, it shall furnish the respondent with a copy of the complaint within the said period.

e. When the comment of the respondent has been received or if the respondent fails to file his/her comment within the period given to him/her, the CODI shall invite the parties and their witnesses to a conference.

f. The CODI shall take measures to preserve evidence pertaining to the incident. For such purposes and in cases where there is an imminent threat to the life or security of any person involved in the case, the CODI may recommend the preventive suspension of the respondent for up to thirty (30) days with pay.

g. The CODI shall record the minutes of all its proceedings. The minutes and all documents pertaining to the case shall be attached to 201 file of the employee or to records of the student, as the case may be, and shall be strictly confidential. Such documents may only be disclosed to third parties upon a lawful court order or with the consent of the student or employee.

h. The CODI shall conclude its investigation and decide the case within ten (10) days from receipt of the complaint. The parties shall be furnished a copy of the CODI decision. In cases where the respondent student is a minor, the CODI shall forward its report to the local office of the Department of Social Welfare & Development for diversion proceedings.

i. The decision shall contain a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the sanction/s to be imposed;

j. The decision of the CODI shall become final and executory unless either or both parties make an appeal within ten (10) working days from receipt of the decision. The complainant or the perpetrator may file an appeal with the University President, detailing the factual errors or misapplication of penalties by the CODI.

k. The President shall act on the appeal within ten (10) working days from receipt thereof. The decision of the President shall dispose of the case with finality.

## **IX. PENALTIES**

### **A. PENALTIES FOR GBSH BY AN EMPLOYEE**

The CODI shall decide whether the GBSH committed by the employee consists of either: 1) simple misconduct; 2) conduct prejudicial to the best interest of the service or disgraceful and immoral conduct; or 3) grave misconduct, and apply the appropriate penalty as follows:

#### **Simple Misconduct:**

1st offense – stern warning and suspension without pay for one (1) week

2nd offense – suspension without pay for one (1) month

3rd offense – suspension without pay for three (3) months

4th offense – suspension without pay for six (6) months 5th offense – dismissal

#### **Conduct Prejudicial to the Best Interest of the Service or Disgraceful and Immoral Conduct:**

1st offense – suspension without pay for six (6) months 2nd offense – dismissal

#### **Grave Misconduct:**

1st offense – suspension without pay for one (1) year 2nd offense – dismissal

In any case where suspension is imposed, the subject employee shall undergo an intensive gender-sensitivity training or counselling program.

The CODI shall also require the respondent to submit a written apology to the aggrieved party.

#### **B. PENALTIES FOR GBSH BY A STUDENT**

The CODI may impose any of the following penalties or any appropriate combination thereof:

- i. Suspension;
- ii. Counselling;
- iii. Warning;
- iv. Probation;
- v. Loss of privilege to use university facilities; vi. Eviction from dormitory facilities;
- vii. Restitution;
- viii. Educational experience;
- ix. Dismissal at the end of the school term and non-readmission thereafter;
- x. Immediate exclusion;
- xi. Expulsion (recommendation to the Commission on Higher Education that the student be declared unfit for admission to any institution of higher education in the Philippines); and
- xii. Restorative sanctions.

The CODI shall consider the student's age, level of discernment, future development, disciplinary history, and other relevant factors in deciding the appropriate penalty. In accordance with Section 29, Rule VII, of the IRR of the Safe Spaces Act, a minor student who is found to have committed acts of GBSH shall only be held liable for administrative sanctions.

In all cases where the student is found guilty, he/she shall undergo an age-appropriate gender sensitivity training and anti-sexual harassment awareness activities.

#### **X. OTHER MEASURES TO ADDRESS GBSH IN THE UNIVERSITY**

- a. The University, through the Office of Student Services (OSS) and the Human Resource Department (HRD), in coordination with the Center for Gender and Development Studies, shall conduct regular orientations and

information drives on the provisions of R.A. 11313 and this policy and how cases of GBSH may be reported. The HRD shall regularly monitor the attendance/participation of university personnel in the foregoing activities.

b. The Guidance & Counselling Division of the University shall include gender-sensitivity in its personal enhancement training program.

c. The University, through the Office of Information and Publication (OIP), shall post and disseminate copies of this policy, R.A. 11313 and its implementing rules.

d. Student organizations shall take measures to address and/or prevent GBSH within their members. The Student Organizations and Activities Division (SOAD) of the OSS may recommend the non-recognition of student organizations who consistently fail to address GBSH perpetrated by their members.

## **XI. GUIDANCE FOR VICTIMS OF PROHIBITED ACTS**

Victims of GBSH are encouraged to immediately report the incident to a parent, teacher, guidance counsellor, and/or to file a complaint with the Complaints Officer.

They are advised not to respond to provocations or to further messages, but to keep records thereof, and to keep all evidence of the incident (screenshots of the texts/images or recordings of video and audio), including names and/or profile page information of the aggressor.

## **XII. EFFECTIVITY**

This Manual shall apply to all cases and incidents involving gender-based sexual harassment in Silliman University beginning August 24, 2020.

Complaints for violation of this policy shall be addressed to the following:

**ATTY. MARIE CHIELO H. YBIO**

Complaints Officer

Ground Floor, Oriental Hall, Silliman University

Dumaguete City

Tel. No. (35) 422-6002 local 307