

KIBABII UNIVERSITY – ISO 9001:2015 QUALITY MANAGEMENT SYSTEMS		
ISSUE FOR USE ON:	MAIN TITLE: KIBABII UNIVERSITY SEXUAL HARASSMENT POLICY	



KIBABII UNIVERSITY

SEXUAL HARASSMENT POLICY

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FOREWORD

Kibabii University got fully chartered as an independent university on the 14th November 2015. Kibabii University recognizes the need to provide a framework which outlines strategies and guidelines in handling Sexual harassment issues within the University. Sexual harassment is against the law and will not be tolerated. Kibabii University treats sexual harassment as unacceptable behavior which undermines morale and can adversely affect the ability of staff and students to achieve their full potential within the University. This conflicts with the University's Vision, Mission, Goals and Core Values and denies respect for the rights of staff and students to fair treatment.

KIBU is therefore committed to providing a work and study environment that is free from any form of sexual harassment or unfair discrimination and will take corrective action to deter sexual harassment, increase awareness that such behavior is unacceptable and ensure that when allegations of sexual harassment are credible, they are dealt with promptly and appropriately.

The aim of this policy is to give information to members of the University community on sexual harassment and the available mechanisms for redress when observed or encountered. All students and staff of Kibabii University, and particularly those in supervisory or management capacity are required to become familiar with the contents of this policy and abide by the requirements it establishes.


Prof. Isaac Odeo Ipara.
Vice Chancellor, Kibabii University



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OPERATIONAL DEFINITION OF TERMS

Alleged perpetrator means a person alleged to have committed an act of sexual harassment;

Case Officer means the person assigned to present the University's case in formal internal disciplinary proceedings, who may also be the person assigned to investigate the case;

Complainant means a person who lodges a complaint under this policy, or a person against whom an act or acts of sexual harassment as defined in the policy has or has allegedly been perpetrated;

Confidentiality means ensuring that information is accessible only to those authorized to have access to it;

Employee disciplinary procedure means the disciplinary procedure that applies to a category of staff;

Employee means an employee of the University or a person who has agreed to be bound by the rules and policies of the University relating to staff;

Manager means any employee of the university with managerial, supervisory or Warden's responsibilities;

RO means the Reporting Office. This shall be run by the Directorate of Gender and Development Studies and Gender Mainstreaming Committee appointed by the Vice Chancellor;

SHA Sexual Harassment Advisors

University means Kibabii University

Workplace refers to Kibabii University work and study environment.

KIBU means Kibabii University.

Student means a registered student of the University or a person who has agreed to be bound by the rules and policies of the university relating to students; and

Rules on conduct for students mean the rules on the conduct of students adopted by the Council from time to time;

Same-sex harassment means harassment where the alleged perpetrator and the victim are of the same sex;

"Sexual Harassment:" includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:

1. Physical contact or advances;
2. A demand or request for sexual favours;
3. Making sexually coloured remarks;
4. Showing pornography;
5. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature



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CHAPTER ONE

1.0 INTRODUCTION

The Sexual harassment policy provides a framework for fostering respectful and legal practices in the workplace free from any intimidation or sexual harassment

1.1 Vision of the Sexual Harassment Policy

Promote a safe secure work and study environment in which the dignity of all persons is respected and which is free from sexual harassment;

1.2 Mission of the Sexual Harassment Policy

Promote respectful and safe legal sexual practices in the generation, preservation and dissemination of knowledge.

1.3 Objectives of the Sexual Harassment Policy

Policy and procedures for resolving complaints of sexual harassment shall be adopted by the University to:

- a) Create an environment that is free of sexual harassment and where all members are treated with dignity, courtesy and respect.
- b) Encourage the reporting of behavior which breeches the sexual harassment policy.
- c) Provide guidelines for handling cases of sexual harassment at the University.
- d) Promote appropriate standards of conduct at all times.
- e) Implement training and awareness raising strategies to ensure all employees know their rights and responsibilities.
- f) Promote research and publication on sexual harassment issues in the University, provoking public discussion and dialogue on sexual harassment.

1.4 Guiding Principles

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

- a) The Kenyan Constitution 2010, Chapter 4. Section 27.
- b) Sexual offences Act, 2006.



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- c) Sexual offences regulations, 2008.
- d) KIBU Gender Mainstreaming Policy.
- e) University's rules and regulations governing students conduct in Kibabii University
- f) Kibabii University Code of Conduct for staff

1.5 Rationale of the Sexual Harassment Policy

The workplace is recognized as a relevant context in which sexual injustice can take place if left unchecked. The electronic and print media have often reported on the existence of reports that reveal the existence of relationships between male lecturers and female students. Cases of female members of staff harassing male students have also been reported. Various categories of persons have been identified as harassers including students, teaching and non-teaching staff and visitors. Sexual harassment could also subject the University and in some cases the individual to civil penalties.

Because of Kibabii University's strong disapproval of offensive or inappropriate sexual behavior at the workplace, all students and employees must avoid any action or conduct that can be construed as sexual harassment. Kibabii University recognizes the need to provide a framework which outlines strategies and guidelines in handling Sexual harassment issues within the University. The aim of this policy is to give information to members of the University community on sexual harassment and the available mechanisms for redress when observed or encountered.

1.6 Definitions.

- (i) **Harassment** in general means persistent and unwelcome conduct or actions or behavior against a person that violates the rights of that person.
- (ii) **Unwelcome sexual conduct** includes behavior that is perceived by the complainant as demeaning, compromising, embarrassing, threatening and/or offensive.
- (iii) **Sexual harassment** is harassment of sexual nature.

1.6.1 What constitutes Sexual Harassment?

In determining whether conduct constitutes sexual harassment the following factors are to be taken into account:

- (a) Whether the harassment is on the grounds of sex and/ or;
- (b) The impact of the sexual conduct on the complainant;



- (c) Whether the sexual conduct was unwelcome;
- (d) The nature and extent of the sexual conduct.

The assessment of what is unwelcome should be informed by context, including culture and language; previous consensual participation in sexual conduct does not mean that the conduct continues to be welcome.

When a victim has difficulty indicating to the alleged perpetrator that the conduct is unwelcome, the victim may seek the assistance and intervention of another person in order to make it clear that the conduct is unwelcome.

1.6.2 Forms of sexual harassment:

Sexual harassment includes, but is not limited to:

- a) Unwelcome sexual conduct which may be physical, verbal and non-verbal. Such conduct may be direct or indirect and may include technological devices, images and weapons. A single incident of unwelcome sexual conduct can constitute sexual harassment,
- b) Unwelcome physical conduct: ranges from touching to sexual assault and rape;
- c) Unwelcome verbal conduct includes innuendos, suggestions or hints of a sexual nature, sexual advances, sexual threats, comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's body, inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending by electronic means or otherwise of sexually explicit text;
- d) Unwelcome non-verbal conduct includes gestures, indecent exposure and the display or sending by electronic or other means sexually explicit pictures or objects.
- e) Sexual harassment may also take the form of; special victimization, quid pro quo harassment and the creation of a hostile environment.
 - (i) Special victimization occurs when a person is victimized or intimidated for failing to submit to sexual advance.
 - (ii) quid pro quo harassment occurs when an alleged perpetrator:
 - (1) influences or attempts to influence a person's employment circumstances by coercing or attempting to coerce that person to engage in sexual activities;
 - (2) Or attempts to influence the admission of a student to the University or to University residences by coercing or attempting to coerce that person to engage in sexual activities.



- (3) or attempts to influence the access of a student to training, organizational or funding opportunities, or interferes in grading or evaluation, by coercing or attempting to coerce a student to engage in sexual activities;
- (iii) Creation of a hostile environment: occurs where the purpose or effect is to interfere with another's performance at work or in study.

1.7 What sexual harassment is not

Sexual harassment is not behavior that is based on mutual attraction, friendship and respect. If the attraction is consensual, welcome and reciprocated it is not sexual harassment.



CHAPTER TWO

2.0: SEXUAL HARASSMENT POLICY PROCEDURES

- 1 Sexual harassment is a breach to staff and student discipline and shall be subject to disciplinary action. All sexual harassment complaints should be thoroughly and fairly handled and investigated without delay in accordance with the Procedures.
- 2 Whatever form it takes, the University will not permit any staff member or student to harass others with whom he/she has business and/or academic interactions including, but not limited to, other staff members, students and prospective students, or permit any outsider to harass its staff members or students. This is true, not only in the workplace or on campus, but during business/school trips, business-related social events organised or sponsored by the University and at any other venues.
- 3 The University will keep the Sexual Harassment Policy and Procedures under constant review.

2.1 Definition of Sexual Harassment

- 2.1.1 A person (howsoever described) sexually harasses another person if:
 - (a) the person,
 - (i) Makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to that person; or
 - (ii) engages in other unwelcome conduct of a sexual nature in relation to that person; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person would be offended, humiliated or intimidated; or
 - (b) The person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for that person.
- 2.1.2 Sexual harassment covers sexual harassment of both men and women.
- 2.1.3 In the field of employment, it is unlawful for an employee to sexually harass a fellow employee who may include a contract worker, a commission agent or any person who is seeking to be employed by the University.



- 2.1.4 For educational establishments, it is unlawful for any staff member of the University to sexually harass a person who is a student or a prospective student of the University; for a student or prospective student of the University to sexually harass staff member of the University; and for any student of the University to sexually harass any fellow student or a person who is a prospective student of the University.
- 2.1.5 A person who knowingly aids another person to do an act of sexual harassment shall be treated as he/she is doing an act of the like description. It is unlawful for a person to instruct, to procure, or attempt to procure, another person to sexually harass a third person. It is also unlawful for a person to induce or attempt to induce another person to sexually harass a third person by providing or offering to provide that person with any benefit, or subjecting or threatening to subject that person to any detriment.
- 2.1.6 Examples of sexual harassment include:
- (a) Unwelcome sexual advances – e.g. leering and lewd gestures, touching, grabbing or deliberately brushing against another person;
 - (b) Unwelcome requests for sexual favours – e.g. suggestions that sexual co-operation or the toleration of sexual advances may further a person’s career, or affect employment conditions or academic results;
 - (c) Unwelcome verbal, non-verbal or physical conduct of a sexual nature – e.g. sexually derogatory or stereotypical remarks, persistent questioning about a person’s sex life;
 - (d) Conduct of a sexual nature that creates a hostile or intimidating environment – e.g. sexual or obscene jokes around the workplace/classrooms and campus/halls of residence; displaying sexist or other sexually offensive materials; offensive communications of a sexual nature (letters, phone calls, faxes, e-mails and text messages, etc.). Materials used for educational purposes are not examples of sexual harassment.
- 2.1.7 Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature constitute sexual harassment in the University when any aspect of an individual’s employment or educational experience is made conditional on submission to such conduct:
- (a) Aspects of employment include but are not limited to hiring, retention, personnel review, pay review, transfer, promotion, termination, re-assignment, salary determination, fringe benefits, work load, opportunities, training and staff development, and working conditions.



(b) Aspects of educational experience include but are not limited to admission to a course or class, grades, letters of recommendation, homework, publications, honours, research opportunities, scholarships, housing, grants, employment opportunities, use of facilities, probation, termination, and classroom conditions.

2.1.8 Sexual harassment in employment includes the following situations:

- (a) Sexually harassing a person who is employed or seeking to be employed either by the employer or by someone else within the same organisation;
- (b) Sexually harassing a contract worker or a commission agent;
- (c) Sexually harassing a person seeking an authorisation or qualification; and
- (d) Sexually harassing a person seeking or undergoing training.

2.1.9 A series of incidents may constitute sexual harassment. However, depending on the circumstances, it is not necessary for there to be a series of incidents. One incident may be sufficient to constitute sexual harassment.

2.1.10 A person may be the victim of a hostile environment where he or she is harassed in a pattern of incidents that may not be, in and of themselves, offensive, but when considered together amount to sexual harassment.

2.1.11 In determining whether certain conduct constitutes sexual harassment, the entire record and the totality of the circumstances will be considered.

2.2. CASE REPORTING/HANDLING

2.2.1 A sexual harassment complaint can be classified as either *formal* or *informal*, depending on whether an investigation is conducted into the case. The two approaches are both valid, and the exact approach to be adopted depends on the wish of the complainant.

2.2.2 In an effort to avoid any misunderstandings and foster open communication in the workplace and on campus, staff members or students should, but are not required to, communicate their discomfort to alleged perpetrator. Staff members or students may seek guidance from a **SHA** on issues concerning sexual harassment.

2.2.3 In general, it may be appropriate for minor and single incidents (but not more serious and repeated acts of sexual harassment) to be dealt with informally. The main objective of an informal complaint is to stop the alleged harassment at the earliest possible stage. When the complainant



requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to prescribed procedures.

- 2.2.4 Depending on the identity (*staff or student*) of the alleged harasser, complaints of sexual harassment should be lodged with:
- (a) The HoD (or nominee) when the alleged perpetrator is a staff member;
 - (b) The Dean of Students (or nominee) when the alleged perpetrator is a student at or below undergraduate level; or
 - (c) The Dean of Graduate Studies (or nominee) when the alleged perpetrator is a student at postgraduate level.
- 2.2.5 The recipient of the complaint (the HoD, the Dean of Students, or the Dean of Graduate Studies) shall become the *Subject Officer* of the case.
- 2.2.6 The *Subject Officer* shall form an *Investigation Panel (Panel)* to investigate formal complaints. The Panel shall comprise the *Subject Officer* as the Chairperson and at least two other Members. A relevant student representative or other persons may be co-opted on the Panel as decided by the *Subject Officer*. A fair distribution of members in both genders should be observed as far as practicable.
- 2.2.8 The complainant should lodge either a written or an oral complaint as soon as possible but in no case exceeding twelve months from the date the act of harassment occurs; the lapse of time may weaken a complainant's case and render the subsequent investigation difficult to carry out.
- 2.2.8 The Sexual Harassment Policy and Procedures are without prejudice to all statutory rights of the complainants.
- 2.2.9 In the event that the complainant chooses to report the case to the statutory bodies, the University shall suspend investigation until there is a conclusion of the relevant proceedings.

2.3 PRINCIPLES FOR HANDLING SEXUAL HARASSMENT COMPLAINTS

2.3.1 General Principles

- (a) All complaints must be handled promptly, seriously, objectively and without any bias and with a common sense approach.
- (b) All complaints should be assumed to be made in good faith.



- (c) Care must be taken to ensure that the process of bringing a complaint does not unnecessarily expose the complainant to further distress and humiliation.
- (d) Both the complainant and the alleged harasser may be accompanied by another member (i.e. staff or student) of the University, if they so wish, at all meetings.
- (e) Designated persons handling the complaints or the investigations should have the relevant training and experience in related issues. They should not be from the same department/unit as the complainant/alleged harasser and should not have any direct working or educational relationship with the complainant/alleged harasser.
- (f) All complaints of sexual harassment will be received and handled in a confidential manner and any information relating to a complaint of sexual harassment will only be disclosed on a strict need-to-know basis. However, investigation of such complaints will in most cases require disclosure to the accused and to other witnesses in order to gather pertinent facts. It gives assurance to the individuals involved in the complaint that management appreciates the sensitive nature of sexual harassment and details of the complaint will not be disclosed to unrelated individuals.
- (g) The complainant and the witnesses should be protected against victimisation/retaliation for making or being involved in the complaint. No retaliatory measure by anyone will be allowed against a staff member or a student who reports harassment or cooperates in a harassment investigation.
- (h) As a general rule, a complainant should normally not be removed from his/her usual duties/studies or treated in an unusual manner whilst awaiting the outcome of the complaint as this may constitute less favourable treatment to the complainant which is not justified and may constitute a ground for complaint of victimisation. There may however be cases where it is difficult to keep the parties together until the outcome is known, for instance, when investigation is suspended pending consideration by the statutory bodies. Under such circumstances, Heads of Departments should take appropriate measures to deal with the situation but the wishes of the complainant and the alleged harasser have to be taken into account.

2.3.2 Guidelines for Investigation of Formal Complaints

- (a) A person who is the subject of a formal complaint must be informed of the allegations against him/her.



- (b) A person who is the subject of a formal complaint must be given the opportunity to respond to the allegations and raise any matters in his/her own defence.
- (c) The allegations should be properly investigated, all parties being heard and relevant submission considered.
- (d) Irrelevant matters should not be taken into account.
- (e) A person who makes an allegation cannot be involved in determining it.
- (f) Designated persons charged with handling a formal complaint must not pre-judge the matter.
- (g) In conducting the investigation, full accounts from all parties of the matter must be obtained before the investigating party says, implies or does anything that could be perceived as judging the matter.
- (h) Until a formal complaint has been investigated and a decision made, the claims of the person who believes he/she has been harassed are allegations only.
- (i) All parties to the matter must be kept informed throughout the process.
- (j) All parties must have access to information about the range of resolution outcomes available, e.g. whether the case is to be dismissed or what form of disciplinary action is recommended.
- (k) Outcomes should be consistent and fit the breach of policy that has occurred.

2.4 PUBLICITY AND PREVENTIVE MEASURES

2.4.1 The University's Sexual Harassment Policy and Procedures should be announced to members of the University community and be incorporated in relevant staff and student publications and/or webpages appropriately.

2.4.2 Publicity and education programmes in the form of briefing sessions or workshops should be organized for staff and students to enhance their awareness of the issue. Available resources should also be made known to all staff and students to enable them to seek appropriate guidance and counselling when in need.



- 2.4.3 Publicity materials should be distributed to departments and units for display or circulation. Such materials could be used for training programmes as well as for distribution to new appointees and students during induction or orientation programmes.
- 2.4.4 Promotional and educational activities should be conducted as an on-going exercise to introduce and reinforce the policy.
- 2.4.5 Heads of Departments and Line Managers have an important contribution to make in ensuring that the culture of the workplace or learning environment actively discourages sexual harassment.
- 2.4.6 It is vital that all Heads of Departments and Line Managers should be familiarized with the University's Sexual Harassment Policy and Procedures and take practical steps in their respective areas to prevent harassment before it starts.
- 2.4.7 Heads of Departments and Line Managers have a personal and legal obligation to 'take all reasonable steps' to prevent sexual harassment from occurring in the area for which they are responsible. Failure to do so may result in the University being vicariously liable for allowing sexual harassment to take place.

PROCEDURES FOR HANDLING INFORMAL SEXUAL HARASSMENT COMPLAINTS

1. A complaint will be handled informally when a complainant prefers that informal actions be taken to stop the harassment at the earliest possible stage instead of requesting an investigation to his/her case. In general, informal action may be suitable for minor and single incidents of sexual harassment but not for more serious and repeated acts of sexual harassment.
2. One of the following designated complaint recipients shall become the Subject Officer of the case:
 - (a) The HoD (or nominee) when the alleged perpetrator is a staff member; or
 - (b) The Dean of Students (or nominee) when the alleged perpetrator is a student at or below undergraduate level; or
 - (c) The Dean of Graduate Studies (or nominee) when the alleged perpetrator is a student at postgraduate level.



All complaints of sexual harassment will be received and handled in a confidential manner and any information relating to a complaint of sexual harassment will only be disclosed on a strict need-to-know basis.

3. On receiving an informal complaint of sexual harassment, the *Subject Officer* should take preventive or remedial measures to address the situation as soon as possible and no later than two weeks after receiving a complaint, e.g. to communicate with the alleged harasser on behalf of the complainant, pointing out that his/her behaviour is deemed unwelcome and should be stopped. Such informal action can be particularly useful when the party concerned does not realize that certain behaviour is offensive to the recipient.
4. The complainant shall write to the *Subject Officer* to withdraw the complaint within one month if the complaint can be resolved informally. Should the complainant fail to make a written withdrawal of the complaint within one month, the *Subject Officer* shall write to the complainant to confirm the resolution.
5. On conclusion of the case, the *Subject Officer* shall report to the Sexual Harassment Officer in writing, giving a brief account of the complaint and measures taken to resolve the complaint. The SHO shall maintain records of complaints or cases handled for statistical purposes and report to the Principal on an annual basis.
6. If the complainant requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to the procedures laid down

PROCEDURES FOR HANDLING FORMAL SEXUAL HARASSMENT COMPLAINTS

1. One of the following designated complaint recipients shall become the *Subject Officer* of the case:
 - (a) The HoD (or nominee) when the alleged perpetrator is a staff member; or
 - (b) The Dean of Students (or nominee) when the alleged perpetrator is a student at or below undergraduate level; or
 - (c) The Dean of Graduate Studies (or nominee) when the alleged perpetrator is a student at postgraduate level.



2. On receiving the sexual harassment complaint, the Subject Officer shall acknowledge a written complaint in writing within two weeks of receipt. In case of an oral complaint, the Subject Officer shall record it in writing and confirm the record with the complainant as soon as possible and in any case within two weeks.
3. The **Subject Officer** shall report the complaint to the SHO (with a copy to the Principal).
4. If, upon receipt of the complaint or at any time during the course of investigation, the **Subject Officer** discovers that the complaint is of a criminal nature, e.g. the substance of the complaint may amount to an indecent assault, the complainant will be informed of his/her right to report to the Police. Investigation should be suspended once referral has been made to the Police and the **Subject Officer** should inform the Principal and the SHO immediately.
5. The **Subject Officer** should maintain case files and records of the complaints received to facilitate the monitoring of progress in processing the complaints. All such files and records should be accorded confidential status.
6. The **Subject Officer** shall form an **Investigation Panel (Panel)** to carry out investigations. The Panel shall comprise the Subject Officer or his or her nominee as the Chairperson and at least two more Members. A relevant student representative or other persons may be co-opted on the Panel as decided by the **Subject Officer**. The Subject Officer shall nominate a person to be the Secretary of the Investigation Panel. A fair distribution of members in both genders should be observed as far as practicable. No members of a Panel shall be from the same department/unit as the complainant/alleged harasser or have any direct working or educational relationship with the complainant/alleged harasser.
7. The **Investigation Panel** shall carry out the investigations as soon as practicable in accordance with the principles set out in the Sexual Harassment Policy and Procedures and notify the alleged harasser of the carrying out of the investigations. The investigation should include the following:
 - (a) Interviewing the complainant

The nature of the details of the complaint should be ascertained. To facilitate subsequent investigations, a written statement should be taken which should be signed and confirmed as correct by the complainant.



(b) Interviewing the alleged perpetrator

Details of the allegations should be given in writing to the alleged perpetrator who should then be interviewed to give explanations or comments. The interview should be recorded in writing and signed and confirmed as correct by the alleged perpetrator.

(c) Provisions during the interview

(i) Given that cases of sexual harassment involve issues of a sensitive and embarrassing nature, both the complainant and the alleged perpetrator may need help and support during the interview. Under such circumstances, both parties may be accompanied by another person, who is a member (i.e. staff or student) of the University, throughout the proceedings.

(ii) Reasonable measures should be taken to avoid the complainant and the alleged harasser to appear in the same meeting as far as practicable.

(iii) Both parties have the right to give evidence in their preferred language and an interpreter will be provided by the Subject Officer.

(iv) The Secretary of the Investigation Panel shall maintain a record of proceedings as the Chairperson considers appropriate.

(d) Interviewing witnesses

All interviews should be recorded in writing and signed and confirmed as correct by each witness.

(e) Findings

(i) Both parties must be given an opportunity to present their cases in detail and to comment on the allegations and responses made by the other party. The Investigation Panel will analyze the information and ascertain the facts of the case.

(ii) The level of evidence required will be based on the severity of the complaint and any decision taken should be based on the balance of probabilities.

(iii) In determining whether certain conduct constitutes sexual harassment, the entire record and the totality of the circumstances shall be considered.

8. The investigation of a complaint by the Investigation Panel shall normally be completed and a reply issued to the complainant within two months after receipt of the complaint. If an investigation cannot be completed within two months, the Investigation Panel will send an interim reply to the complainant and the alleged harasser, informing them of the progress of the investigation. Any



investigation which cannot be completed within three months should be drawn to the attention of the Principal and the SHO.

9. If at any time during the investigation, the Investigation Panel discovers that the same complaint has been lodged with any statutory bodies or police, internal investigation shall be suspended. The Subject Officer should inform the Principal and the SHO. Internal investigation may resume upon conclusion of the external proceedings.
10. It is the responsibility of the Investigation Panel to obtain and scrutinize all relevant information concerning the case to see whether an act of sexual harassment might have been committed. Where appropriate, the Investigation Panel should include in the report to the SHO a recommendation on whether consideration should be given to instituting disciplinary action against the staff/student member concerned.
11. The investigation can be discontinued if the Investigation Panel is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking substance; or if the complainant does not desire the investigation be conducted or continued. The complainant and the alleged harasser should be advised of the reasons for that decision.
12. The Investigation Panel shall, upon the conclusion of the investigations and thereafter as soon as practicable, determine and conclude whether the complaint is established.
13. Both the complainant and the alleged harasser should be informed whether the complaint has been established and the proposed action to be taken. If the complaint is not established, the reasons and the outcome of the investigation should be given to both the complainant and the alleged harasser.
14. If the complaint is established, both the complainant and the alleged perpetrator should be given a period of one week to respond before the Investigation Panel reports the findings to the SHO (with a copy to the Principal). In the event that the complaint has been established, the Investigation Panel shall recommend to the SHO (with a copy to the Principal) that disciplinary action be pursued in accordance with the University's Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure as appropriate.



15. Upon receipt of the report and recommendation of the *Investigation Panel*, the SHO shall decide, normally within three weeks, whether to adopt the recommendation to take disciplinary action against the harasser. If the SHO should decide to recommend disciplinary action against the harasser, he/she shall write to the relevant authorities, providing the full report and recommendations, to take disciplinary action as appropriate. All disciplinary action under the Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure shall apply.
16. Both the complainant and the alleged perpetrator should be informed whether disciplinary action will be taken.
17. If the complaint is not established and the complainant wants to appeal against such decision, the appeal should be submitted to the SHO in writing within three weeks after receiving the notification with full and complete details of the ground for the appeal. The SHO shall determine normally within three weeks whether to accept the appeal based on the grounds that:
 - (a) New evidence has come to light which was not previously considered by the Investigation Panel; and/or
 - (b) there is procedural irregularity in handling sexual harassment complaint.
18. Should the SHO decide to accept the appeal, he/she shall appoint an *Appeal Authority* (comprising one or more person(s)) to review the appeal. The *Appeal Authority* shall review the case and make recommendation to the SHO as soon as practicable and normally within two months from the date the Appeal Authority is appointed.
19. The SHO shall convey the decision to the appellant normally within three weeks after receiving the recommendation. If the complaint is not established, the decision of the SHO is final. In the event that the complaint is established and the SHO decides to adopt the recommendation to take disciplinary action against the harasser, he/she shall write to the relevant authorities, providing the full report and recommendations, to take disciplinary action as appropriate.



20. If at the conclusion of an investigation or disciplinary proceedings, there is clear evidence to show that a complaint has been made in bad faith; disciplinary action may be taken against the staff/student member who made the malicious complaint.
21. For appeal against disciplinary action taken, the appeal procedures applicable to the Regulations Governing Staff Discipline and Code of Student Conduct and Disciplinary Procedure shall apply.
22. Whilst each party referred to in these procedures is expected to take all reasonable steps to comply with the time limits specified in this document, a failure to comply with one or more time limits (unless a material and culpable failure) will not in itself amount to the procedures being void or voidable.



CHAPTER THREE

3.0 POLICY IMPLEMENTATION FRAMEWORK

3.1 Responsibilities of Staff and Students

All staff and students shall have responsibility for upholding the University's policy on sexual harassment. Line managers shall have a particular responsibility to ensure that areas within their Jurisdictions are free from sexual harassment.

3.1.1 The Vice Chancellor

Shall ensure that: -

- a) Coordination of gender mainstreaming activities is up to date
- b) The resources required for the implementation of the policy are availed
- b) Networks and linkages with various organs of gender mainstreaming are established

3.1.2 Gender Mainstreaming Committee

- a) ensuring that staff are aware of appropriate and acceptable standards of behavior
- b) Prepare the necessary budgets and work plans for the implementation of the policy
- c) making known the University's policy, including the procedures for resolving complaints;
- d) taking early corrective action to deal with behavior that may constitute sexual harassment;
- e) Promoting awareness programs designed to prevent sexual harassment in the University.

3.1.3 Role of Deans, Heads of Departments and Directorates

Every Head of department, faculty or directorate shall take all reasonable steps to create and maintain an environment that is free from sexual harassment. They shall take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary processes laid down in this policy.

HoDs and Directors are required to:

- (a) Exercise leadership by knowing and understanding the terms of this policy, and by assuming responsibility for implementing the policy;
- (b) Attend training and educational sessions on this policy offered by the university;



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- (c) Communicate the policy to all employees, students and third parties in their respective areas of responsibility;
- (d) Ensure that all new staff, students and third parties have been informed about the policy and given the opportunity to discuss its implications.
- (e) Treat all complaints as confidential and all concerned with dignity and respect;
- (f) Refer all complaints to the RO;
- (g) When conduct in breach of this policy is observed but no complaint is lodged, report the matter to the RO;
- (h) When appropriate, take steps in consultation with the RO to prevent sexual harassment from occurring.

Deans of faculties are required to: -

- (a) Communicate regularly by written and oral means the seriousness of the issue and the existence of this policy and its salient features to employees, students and third parties within their Faculties;
- (b) Communicate regularly with Heads of Departments (HODs) and all other managers in the Faculty concerning their responsibilities in the implementation of this policy.

Dean of Students; Student Affairs Department is required to:

- (a) Communicate regularly by written and oral means the seriousness of the issue and the existence of this policy and its salient features to employees, students and third parties within the University;
- (b) Communicate by written and oral means the contents of this policy to the Students' Governing Council (SGC).

3.1.4 Role of the Reporting office

- a) The RO's shall provide a comprehensive sexual harassment response for the University. This will include the provision of supportive and protective measures to complainant, whether or not disciplinary proceedings are instituted.
- (b) Report quarterly to the Gender Committee about the effectiveness implementation of this policy.
- c) Maintain updated records of the reports received and action taken



3.2 INTERVENTION PROGRAMMES

3.2.1 Establishment of Gender desk to offer the following services: -

a) Supportive measures which may include, but are not limited to:

- (i) Crisis counseling;
- (ii) Referral for emergency medical services, Para-legal advice and other relevant services;
- (iii) Measures to mitigate the impact of sexual harassment or the reporting thereof by the complainant.

b) Protective measures which may include, but are not limited to:

- (i) no-contact orders, where appropriate;
- (ii) Change of University student residence, where appropriate;
- (iii) Change of academic classes and academic concessions, where appropriate;
- (iv) Special leave (staff) or leave of absence (students), where appropriate.

3.2.2 Sensitization of all staff and students on the requirements of the policy as it relates to both the complainants and perpetrators

3.2.3 Establish gender based programmes to meet the needs of the two genders within the university such as day care centre

3.2.4 To conduct regular talks to students and staff on emerging trends in Gender Mainstreaming



CHAPTER FOUR

4.0: MONITORING, EVALUATION AND REVIEW

4.1 Monitoring and Evaluation: The policy has well defined performance indicators, measures and targets that can be monitored and evaluated on quarterly and annual basis. The monitoring and evaluation of gender based violence will be conducted by the University’s Directorate of Gender and Development Studies and Gender Mainstreaming Committee to ensure efficient and effective implementation of the policy. Performance monitoring and evaluation tools will be developed to include gender responsive indicators. The Directorate and Committee will also monitor both staff and students to evaluate the degree of satisfaction with the services provided to either gender and then strive to implement the recommendations made in the assessments.

4.2 Policy review: Subsequently, this Policy will be reviewed regularly in consultation with the University’s Directorate of Gender and Development Studies and Gender Mainstreaming Committee as deemed necessary.



REFERENCES

1. Sexual harassment policy, Jomo Kenyatta University of Agriculture and Technology, 2009
2. Kibabii University Gender Mainstreaming policy, June 2014
3. Rules and Regulations governing students conduct in Kibabii University
4. The Kenyan Constitution 2010, Chapter 4. Section 27:
5. The Sexual Offenses Act, 2006. National council for law reporting, (2006)



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