



THE UNIVERSITY OF THE WEST INDIES

**MONA, INTERIM SEXUAL HARASSMENT POLICY AND
PROCEDURES (2024)**

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Preamble

The University of the West-Indies is an equal opportunity institution. Accordingly, sexual harassment, an aspect of gender discrimination and of violence, is expressly prohibited and will not be tolerated. The University of the West Indies is committed to ensuring and maintaining a safe and healthy educational and work environment which is free from sexual harassment. The University of the West Indies will reflect this policy of non-tolerance of sexual harassment in the oversight of its students, employees, persons under its independent service arrangements, other persons who provide academic services to the University, as well as to its contractual agreements, independent service arrangements and its interaction with members of the public.

Legal Framework

The government of Jamaica passed into law on the October 1, 2021, The Sexual Harassment Prevention & Protection Act, 2021. The ACT took effect July 3, 2023 and requires that all organisations submit to the Bureau of Gender Affairs in the Ministry of Culture, Gender, Entertainment & Sport, their Policy and Procedures in keeping with the stipulated guidelines and in accordance with the 2021 ACT. Part II Section 4 of the ACT states,

Every employer—

shall, in relation to the business or undertaking of the employer, issue a policy statement in writing concerning the prevention of sexual harassment in the business or undertaking and the protection of the workers in the business or undertaking from sexual harassment;

and

(b) shall take such steps as are reasonably required to bring the policy statement mentioned in paragraph (a) to the attention of the workers employed by the employer.

The matters covered by the 2021 ACT are reflected in the Sexual Harassment Policy and Procedures 2024. They include the following eight sections:

- PART I—Preliminary
- PART II—Prevention of Sexual Harassment
- PART III—Forms of Sexual Harassment and Related Prohibited Conduct
- PART IV—Designation of Authorized Officer

- PART V—Sexual Harassment Tribunal
- PART VI—Procedure for Making Complaints, Investigations and Hearing by Tribunal
- PART VII.—Offences and Penalties
- PART VIII.—Miscellaneous ¹

Policy Statement

Disciplinary measures shall be taken against any person who subjects anyone affiliated with the University to sexual harassment. Therefore, it is expected that anyone affiliated with the University or conducting business with the University will behave in a manner consistent with this policy. This policy applies both during typical working hours and outside of working hours, on all properties of the University, and in any place where the University personnel is engaged in work-related matters and/or representing the University.

Definitions

- **Abuse of power:** the improper use of a position of influence, power or authority against another person, including actions that create an intimidating, offensive or a hostile living, working, or academic environment
- **Consensual relationship** – a romantic and/or intimate and/or sexual involvement based on a mutual agreement of both parties.
- **Conciliation** – the settlement of the issue usually after the complainant and respondent have undergone mediation.
- **Complainant** – a person who alleges that she/he has been sexually harassed by making a sexual harassment allegation or complaint to The University of the West Indies through established procedures.
- **Consultation** - the process by which an individual may seek clarification or advice on matters pertaining to sexual harassment.
- **Counselling** – the process by which persons who have been involved in an incident of sexual harassment are assisted by a professional counsellor following the incident,

¹ <https://www.japarliament.gov.jm/attachments/article/339/The-Sexual-Harrassment--Prevention-and-Protection--Act--2021.pdf>

through the use of various intervention strategies based on the application of mental health, psychological or human development principles.

- **Days:** for the purposes of reporting and/or responding to a matter connected with a sexual harassment complaint shall be specific to typical workdays (i.e., Mondays to Fridays).
- **False representation** – report or statement made with the knowledge that it is untrue.
- **Mediation** – a confidential and voluntary process aimed at arriving at a mutually agreed settlement at which the parties are facilitated by a person certified for this purpose, whether from the University or externally.
- **Member of the University Community** means any person who is employed by The University of the West Indies as academic staff, non-academic staff, or who provides academic services to The University of the West-Indies, and any person who is a registered student of The University of the West Indies, or who is entitled to be so registered, but whose registration is pending and, for the purposes of this Policy, includes any person who has been awarded a degree by, or otherwise left The University of the West Indies during the previous six years of lodging a sexual harassment complaint.
- **Mentoring** – the process by which a person who has been involved in an incident of sexual harassment is given individual guidance/supervision/direction and ongoing education with respect to issues relating to sexual harassment.
- **Power** - can be defined in a general way as “the ability to act or produce an effect,” as well as more specifically, the “possession of control, authority or influence over others” (Merriam–Webster online dictionary, 2009). The capacity to act or influence others to act in a certain way (Oxford Dictionary of Organizational Behaviour, 2019).²
- **Psychosocial Support**

a broad term describing a range of services offered by mental health professionals to those in pressing need. Whether designed to help individuals cope with a serious illness or to alleviate distress in whole communities following a disaster (see [disaster psychology](#)), such services may range from mental health counselling, psychoeducation, and group support to spiritual support and other assistance and are provided by

² <https://www.oxfordreference.com/display/10.1093/acref/9780191843273.001.0001/acref-9780191843273>

psychologists, social workers, and pastoral counsellors, among others (APA Updated on 04/19/2018).

- **Register** means a record of all complaints, of any kind whether informal or formal. The information in the register shall be kept for a period of eight years.
- **Respondent** – a person whose alleged conduct is the subject of a sexual harassment complaint.
- **Retaliation** – any action taken by a respondent, or any other person not connected to the sexual harassment complaint, against a complainant or third party to penalise the latter (complainant and/or third party) for participating in any process related to the pursuit of a sexual harassment complaint.
- **Sexual advance:** includes any one or more of the following acts, forms of conduct or behaviour, namely—
 - (a) physical contact of a sexual nature;
 - (b) a demand or request for sex or for favours of a sexual nature;
 - (c) the making of sexual suggestions, remarks or innuendos;
 - (d) the showing of pornography or the display of images or objects of a sexual nature; and
 - (e) any other physical, gestural, verbal, non-verbal or visual conduct of a sexual nature.
- **Sexual harassment:** the making of any unwelcome sexual advance towards a person, by another person, which—
 - (a) is regarded as offensive or humiliating by the person towards whom the sexual advance is made;
 - or
 - (b) has the effect of—
 - (i) interfering with the personal safety, work or academic performance of the person to whom the sexual advance is made; or
 - (ii) creating an intimidating, offensive or a hostile living, working, or academic environment,
 - (c) these advances can be recurrent behaviour or a single incident and would be assessed as unwanted by a Reasonable Person under similar circumstances and with similar identities to the victim.

- (i) can occur in any location where at the time of the advance is being used for matters pertinent to the University (for example, but not limited to, any physical space on a University campus, transportation being used under the University's remit such as staff and student buses, transportation for class trips)
- or
- (ii) these advances can occur in any location where at the time of the advance at least one person is a representative of the University.
- (iii) *the submission to such advances* is made either explicitly or implicitly a term or condition of a person's personal safety, employment status, residential status, academic status or academic achievement and certification; or
- (iii) *the rejection of such advances by a person* is used as the basis for adverse personal safety, employment, residential, or academic achievement and certification decisions affecting *that person*.
- (iv) the occurrence of these advances is not limited to circumstances where there are differences in power or authority between the parties.

- **Sexual Harassment Focal Points (SHFPs)**— persons so designated by the University or the Campus within faculties, institutes and offices of the University who -
 - (1) receive confidential reports of sexual harassment,
 - (2) provide information to those seeking clarification or advice on matters pertaining to sexual harassment and
 - (3) make referrals to the Sexual Harassment Complaints Coordinator at the Secretariat;
- **Sexual Harassment Complaints Coordinator (SHCC)** - a person so designated by the University or the Campus to –
 - 1.coordinate sexual harassment complaints across the campus and ensure procedures are in accordance with the Sexual Harassment (Prevention & Protection) Act 2021;
 - 2.where appropriate refer complainants and respondents for counselling;
 - 3.review the Sexual Harassment policy and the Sexual Harassment Act 2021, with the both the complainant and the respondent;
 - 4.initiate mediation or conciliation proceedings for resolution of sexual harassment complaints/claims;
 - 5.receive and act on information on allegations of sexual harassment in accordance with the prescribed trauma-informed protocol;
 - 6.maintain a registry of complaints;

7. where appropriate, refer reports of allegations of sexual harassment to the Campus Registrar or the University Registrar or Principal as the case may be, for the instigation of formal disciplinary proceedings in accordance with the established procedures of The University of the West Indies; and
8. ensure that both complainants and respondents are treated fairly and objectively in handling complaints;
9. every five years ensure the review of the Sexual Harassment Policy and Procedures in accordance with the law through the campus consultation procedures.

- **Trauma-informed Response to Sexual Harassment**

A program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; and responds by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization (SAMHSA's Trauma and Justice Strategic Initiative, 2014, p9)

A trauma-informed approach is based on four pillars:

- Realizing the impact of trauma
- Recognizing the signs and symptoms of trauma
- Responding in ways that are based on the knowledge of trauma
- Seeking to avoid re-traumatization

A trauma-informed approach seeks to provide a sense of safety, of choice and control, to the person who has experienced trauma. A trauma-informed approach acknowledges what the survivor has gone through, allows the survivor to decide what healing looks like, involves them in decision-making, and requires frequent check-ins to make sure their needs are being met (Canadian Union of Public Employees, Nov 5, 2021).³

- **Types of Sexual Harassment & Discrimination**

There are various forms of sexual harassment including, but not limited to:

Physical harassment—unwanted pinching, patting, touching, kissing, groping, and hugging which has clear sexual undertones.

³ <https://cupe.ca/trauma-informed-response-sexual-violence-and-harassment>

- i. **Verbal harassment**—unwelcomed comments on appearance/physical attributes private/personal life, sexually suggestive or explicit jokes, insults and ‘put-downs’ based on a person’s sex. It is important to note that often times, harassers hide behind the argument that comments are “compliments”. This does not mean that the behaviour is acceptable.
- ii. **Non-verbal/Gestural harassment**—sexually suggestive gestures e.g. winks, licking of lips, gestures with hands, fingers, legs.
- iii. **Psychological/Emotional harassment**—consists of persistent proposals and unwelcome requests, unwanted invitations to go out on dates, insults, taunts or innuendos of a sexual nature.
- iv. **Cyber based harassment** – *consists of the sharing of unwanted sexual content or unwanted obscene and sexually explicit language via written, graphic, visual, or audio means made via internet communication (including electronic messages and attachments), and the distribution and display of pornographic materials (visual and/or audio).*
- v. **Written/graphic/visual/audio harassment**— *consists of the sharing of unwanted sexual content or unwanted obscene and sexually explicit language via physical letters, land line telephones, cellular telephones, and the distribution and display of pornographic materials (visual and/or audio).*
- vi. **Quid Pro Quo:** This form of sexual harassment is recognized where harassers use a position of power and authority to negotiate job benefits (employment, re-employment, continued employment, individual favourable compensation, terms, conditions, promotions, privileges). This also applies to public goods (social services, security, social benefits, natural resources), socially and economically valued goods (housing, school admission, scholarships, security) which are conditional on an exchange of sex or physical contact, and refusal leads to failure to access any of the above.
- vii. **Stalking/Cyber Stalking**—Obsessively following, besetting, contacting and watching a person, either in person or using the internet, telephone, mail, and other media, which is motivated by what the perpetrator believes are feelings of desire and love, constitute sexual harassment.

- viii. **Voyeurism (“Peeping Tom”)**—The act of watching, taping, recording, photographing a person without their knowledge, in a clandestine manner or otherwise, while the person uses or inhabits a space where they have an expectation of privacy such as their domicile, a public bathroom, changing room etc., is a sexually harassing act.
- Intimidation/Bully/Retaliation**—Persons often use non-sexual behaviour to accommodate sexual harassment. Therefore any act of intimidation meant to prevent someone from reporting sexually harassing behaviour or to punish someone for reporting sexually harassing behaviour must be considered as a type of sexual harassment.

NB: Acts or comments of a sexual nature, not intended to harass, can constitute sexual harassment if another person feels uncomfortable with such subjects. Claiming to not understand or failing to know that an act is harassing, does not mean that it is not in fact, sexual harassment.

- **Toxic Environment**

A combination of the above, can create a toxic and oppressive environment for the direct target but also for other persons who are not targeted. Even if a person is not the direct target of sexual harassment but is made uncomfortable and is offended by the creation of a toxic environment, they are able to make a report of sexual harassment.

- **Sexual Harassment Claim**

means a sexual harassment claim made pursuant to section 5 or 6 of the Sexual Harassment (prevention & Protection) Act 2021;

- **Supervisor in relation to worker, means a co-worker who, by virtue of the co-worker’s employment, is in a position of authority over that worker;**

- **Sexual Harassment Secretariat (SHS) –**

shall operate as the administrative department for receipt and processing of sexual harassment complaints; be the central repository of all sexual harassment complaints; shall reside under the Office of the Campus Registrar; shall handle all complaints of sexual harassment reported by the Sexual Harassment Complaints Coordinator.

- **Student**

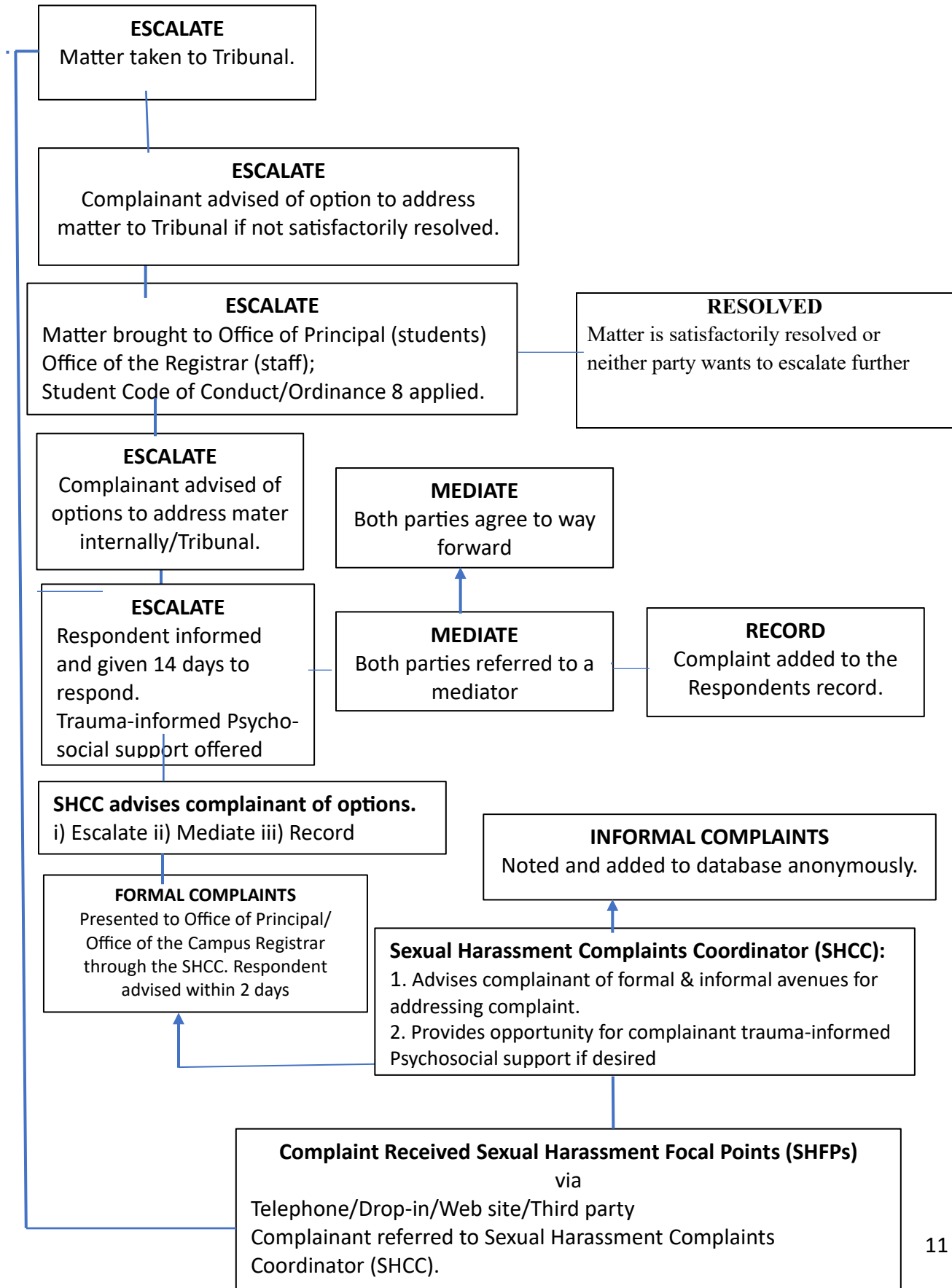
a person registered at the University during a current academic year for a first or higher degree, certificate or diploma, but does not include a student of an affiliated institution who is registered for courses leading to the degrees, diplomas, certificates and other academic awards of the University.

- **Tribunal**
means the fourteen-member Sexual Harassment Tribunal constituted by the Minister under Part V of the 2021 Act.

1. Reporting Procedures

A sexual harassment complaint may be initiated via telephone, in-person (I.E. drop in/by appointment) or via a third party who was not directly involved with the sexual advance being reported. Communications about an incident(s) of sexual harassment can be informal (consultation) or formal (complaint) based on the wishes of the reporting party. All sexual harassment complaints shall be confidential. The procedures for each of these avenues are outlined in the Trauma – informed sexual harassment complaints protocol.

TRAUMA – INFORMED SEXUAL HARASSMENT COMPLAINTS PROTOCOL



1.1 Informal Consultation on Sexual Harassment

- a. Any member of the University community may consult with a Sexual Harassment Focal Point (SHFP) in order to seek assistance, advice or to be referred to the Sexual Harassment Complaints Coordinator (SHCC) where that person believes that sexual harassment may have occurred in relation to himself or herself or to another person, or where the person seeking advice believes that his or her actions may amount to sexual harassment, or is the subject of criticism (even if unjustifiably) on the ground of sexual harassment.
- b. All consultations on sexual harassment shall be confidential, and no further proceedings shall commence until a formal sexual harassment complaint has been made to the Sexual Harassment Complaints Coordinator, by a person willing to be identified.
- c. During a consultation, an individual may discuss matters concerning sexual harassment, without identifying the persons involved, including themselves.
- d. The SHFPs must (1) confidentially report all complaints to the Sexual Harassment Complaints Coordinator; (2) and must inform the complainant of the trauma-informed protocol for reporting.
- e. The reporting party will be informed by the SHFP of the option to make an informal report into a formal complaint, that they have up to six years to do so, and that this would require them making a complaint in writing.
- f. Where the complainant/third party reporting the incident does not wish to make a formal complaint. This should be noted in writing on the appropriate Informal Complaint Form and signed by the complainant/third party reporting.
- g. The complainant will be informed by the SHFP that if they decide to make a formal complaint, both the SHCC and the respondent will see the report.
- h. The complainant may give their permission for the respondent to be informed of the unwelcome sexual advance where an informal complaint is made.

- i. The SHCC may disclose information received in a consultation only if the expressed permission of the person who provided the information has been secured in writing.
- j. The SHFP shall use a trauma-informed approach and document all particulars shared in the consultation using the appropriate form. The information to be documented includes dates, times, and places related to the alleged incident(s) of sexual harassment. The identify of any involved person and of any witness will be documented only to the extent that the reporting party requests. This documentation will be kept for 8 years.

- k. This Policy and relevant procedures shall not preclude the University from advising any member of the University Community to bring a claim of sexual harassment through national legal procedures to the Tribunal when deemed appropriate.

1.2 Third-Party Reports

- a. The reporting party will be informed by the SHFP that a formal complaint can only be made by a person directly involved in the incident(s), that that person has up to six years after an incident believed to be sexual harassment to make a formal complaint, and that formal complaints must be done in writing.
- b. The reporting party will be informed by the SHFP that if a formal complaint is made, both the SHCC and the respondent will see the report.
- c. Where the complainant is a person other than the individual alleged to be the victim of sexual harassment, the allegation of sexual harassment shall be in writing and may not be anonymous.

- c. All consultations on sexual harassment shall be confidential, and no further proceedings shall commence until a formal sexual harassment complaint has been made by a person willing to be identified.

- e. The SHFP/SHCC shall use a trauma-informed approach and document all particulars shared in the interview using the appropriate form. Information to be documented include dates, times, places, names of individuals involved, and the names of any

witnesses related to the alleged incident(s) of sexual harassment. This documentation will be kept for 8 years.

1.3 Formal Complaints

- a. A person may make an allegation of sexual harassment to a SHFP whether or not they have sought or received informal assistance, or a consultation on sexual harassment. When an allegation of sexual harassment is made, the SHFP must, for the record, provide the SHCC with a copy of the information received, before any further action is taken.

- b. The complainant will be informed by the SHFP that formal sexual harassment complaints: (i) can be made up to six years after the date of the last alleged act; (ii) must be made in writing; (iii) that the complainant will be identified, and (iv) that both the SHCCC and the respondent will see the report.

- c. The SHFP shall use a trauma-informed approach and document all particulars shared in the interview using the appropriate form. Information to be documented include dates, times, places, names of individuals involved, and the names of any witnesses related to the alleged incident(s) of sexual harassment.

- d. The Sexual Harassment Review Panel will confidentially review the written complaint within 14 days of the complaint and determine if it meets the requirements of a reasonable allegation of sexual harassment. The complainant will be informed of the decision of the Sexual Harassment Review Panel in writing.

- e. the Review Panel determines that the complaint contains a reasonable allegation of sexual harassment, the SHCC will advise the complainant of the possible options, that is, to escalate the matter, for mediation to occur, or to record the complaint. The SHCC will explain the steps involved in each of these options to the complainant (see Trauma-informed Protocol).

- f. If the complainant opts for either escalation or mediation - the SHCC will,
 - i) review the Sexual Harassment policy and the Sexual Harassment Act 2021, with the complainant

- ii) Notify the Campus Registrar/University Registrar/Principal as appropriate
- iii) Notify the respondent and review the Sexual Harassment policy and the Sexual Harassment Act 2021, with the respondent. The respondent shall be notified that they have 14 days in which to respond in writing to the allegation.

1.4 Disciplinary Procedures for Formal Hearings

Where the matter proceeds to a formal hearing, the following procedures shall apply:-

a) In the case of a student complainant against an academic, or senior administrative, or professional member of staff, or a member of staff against an academic, or senior administrative, or professional member of staff, a disciplinary proceeding for serious misconduct shall be conducted in accordance with Ordinance 8, with the following “amendments”:

- i. A quorum will consist of five persons;
- ii. The SHCC and at least 1 person other than the SHCC who is trained in sexual harassment sensitivity and in trauma-informed counselling shall participate in the hearing;
- iii. If Section 50 of the *The Code of Principles and Responsibilities for Students*, Ordinance 8 (a) (ii) (G) or 50 (b) is invoked, the following should apply:

b) In the case of a student complainant against another student, or any member of the academic community against a student: - a disciplinary proceeding for serious misconduct shall be conducted in accordance with *The Code of Principles and Responsibilities for Students*, through referral to the Principal.

c) The individual who first receives the complaint, if they are not a SHFP, shall immediately refer the presenting person to the SHCC.

d) At the hearing of a complaint a student may be represented by a person of his/her own choice or by a legal practitioner whose expenses will be borne by the student.”.

e) If the matter is to be escalated to the Disciplinary Committee, then:

- i. A quorum will consist of five persons;

ii. The Sexual Harassment Complaints Coordinator shall participate in the hearing;

iii. At least 1 person other than the Coordinator who is trained in sexual harassment sensitivity and in trauma-informed counselling shall participate in the hearing;

iv. The Chair shall be provided with a legal advisor for the consideration of the allegation of misconduct.

v. The Disciplinary Committee may also recommend counselling for the respondent student.

f) in the case of any member of the University community against a member of the Administrative, technical and support staff, not being a member of senior administrative staff, a disciplinary proceeding for serious misconduct which involves a hearing shall be conducted in accordance with the relevant Collective Bargaining Agreement between The University of the West Indies and the union representing workers.

g) in the case of any other person who is a Member of the University Community but who does not fall under 3.1 (a) to (d), the matter shall proceed through the office of the Registrar who shall initiate a formal hearing as appropriate.

1.4.1 A person who knowingly makes a false sexual harassment complaint may be subject to disciplinary proceedings in accordance with established University procedures for misconduct.

1.4.2 If mediation or conciliation has been achieved after a sexual harassment complaint has been received in accordance with this Policy, the documentation will be retained by the Secretariat for eight years.

1.5 Reporting to the Tribunal

a. Subject to subsection (5 of the ACT) a person shall, before making a complaint under subsection (1b of the ACT), exhaust the use of any internal mechanisms and procedures that are available to the person, as provided for in the policy statement issued by an employer or a person in charge of an institution, as the case may be, in accordance with this section.

b. Complaints to the Tribunal shall be made in writing, in the prescribed manner to the Tribunal, setting out the details of the alleged contravention.

A complaint shall be made—

c. in the case of subsection (1b of the ACT), within a period of six years from the date of the alleged contravention, or in the case of a course of conduct of series of alleged acts, within a period of six years from the date of the last alleged act; and

d. in the case of subsection (1a, c, or d of the ACT), within the period of twelve months from the date of the alleged contravention.

e. Notwithstanding subsection (2a of the ACT), the Tribunal may, in circumstances which it considers to be exceptional, grant leave for a complaint to be made after the period specified thereunder.

2. Instituting Sexual Harassment Complaints

2.1 Any member of the University Community may make an allegation of sexual harassment to an SHFP, the Sexual Harassment Complaints Coordinator, or directly to the Campus Registrar, stating that he or she believes that sexual harassment has occurred, either against himself or herself, or with respect to another member of the University Community. Where the sexual harassment allegation is made directly to the Campus Registrar, it shall be forwarded to the SHCC for action in accordance with this Policy and Procedure and the Secretariat shall keep a copy of the sexual harassment complaint on file.

2.2 A person may make an allegation of sexual harassment to an SHFP whether he or she has sought or received informal assistance, or a consultation on sexual harassment. When an allegation of sexual harassment is made, the SHFP must refer the complainant to the Sexual Harassment Complaints Coordinator, for the record, and the SHCC must provide the Registrar with a copy of the information received, before acting in accordance with sections 2.4 -2.10.

2.3 Where the complainant is a person other than the individual alleged to be the victim of sexual harassment, this is considered *third-party reporting*, and the allegation of sexual harassment shall be in writing and may not be anonymous (see 1.2c).

2.4 Where the complainant is the alleged victim of sexual harassment, the allegation of sexual harassment may or may not be in writing. If the complainant chooses to make an oral sexual harassment complaint, the SHFP must refer the complainant to the SHCC who will conduct

an interview with the complainant, probing details of the alleged harassment, including dates, times, places, names of individuals involved, the names of any witnesses and produce a record of the interview.

2.5 An allegation of sexual harassment may be filed within 6 years of the occurrence of the alleged incident of sexual harassment.

2.6 Upon receipt of a sexual harassment allegation, The SHCC must immediately: -

a) forward a copy of the sexual harassment allegation, together with the Sexual Harassment Policy and Procedures document, to the respondent and request a response in writing within 14 days;

b) simultaneously notify the Campus/University Registrar or the Principal, as appropriate.

2.7 If a response is not received within 14 days, the respondent will be advised that, failing co-operation or response within another 10 days, the complainant may request a formal hearing as described in section 3 of this policy.

2.8 A copy of the response of the respondent shall be forwarded to the complainant immediately upon receipt to enable the complainant to make a determination, as to whether a hearing or mediation should be pursued, or whether the sexual harassment allegation should be dropped.

2.9 A complainant shall be given the opportunity to answer to any responses by the respondent within 5 days, after which the respondent must be given a further 5 days to respond. These time periods may be lengthened at the discretion of the SHCC, on request by either party, or because of extenuating circumstances which may include *inter alia*, illness, paid or no paid leave, or because of examinations.

2.10 Upon the request of either party and at the discretion of the SHCC, the parties may be asked to consider waiving any of the response times and proceed directly to a formal hearing or to mediation and conciliation.

2.11 Upon completion of the period allotted for responses by the complainant and respondent, or where the parties have agreed to proceed directly to a formal hearing or to mediation or conciliation, as the case may be, the SHCC shall make a Report in writing to the Campus Registrar, University Registrar or the Principal, as the case may be, outlining the outcome of the proceedings and the decision taken by the complainant to either proceed to a hearing or mediation or conciliation. The Registrar/Principal shall thereafter invoke the relevant disciplinary procedure in accordance with the University's Rules and Regulations.

3. False Sexual Harassment Complaints

3.1 A person who knowingly makes a false sexual harassment complaint to the University may be subject to disciplinary proceedings in accordance with established University procedures for misconduct.

3.2 (1) A person who knowingly makes a false complaint before the Tribunal, under section 27 of the 2021 ACT commits an offence.

(2) A person who contravenes subsection (1) commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months.

4. Appeals

4.1 Where a sexual harassment complaint has been referred to a formal hearing in accordance with section 2, the resulting decision may be appealed through the University's established grievance and discipline procedures for the various categories of staff and students.

5. Mediation and Conciliation

5.1 A complainant who is the alleged victim of sexual harassment may opt for mediation or conciliation between herself/himself and the respondent, where the respondent agrees. This may, at the discretion of the complainant, remain off-record.

5.2 Where the option of mediation is pursued, the parties may:-

a. choose a mediator from The University of the West Indies, including, where available, or request the University to assign a mediator;

or

b. choose an independent, external mediator to determine the matter.

5.3 Where the complainant chooses an external mediator, the complainant must inform the SHCC of this decision, giving the name and contact details of the mediator and the outcome of the mediation in writing.

- 5.4 The University may, upon the request of either the complainant or the respondent, release any documentation on the case to the mediator for the sole purpose of mediation.
- 5.5 During the process of mediation, the mediator must meet with the complainant and respondent either separately or conjointly, at all times respecting the wishes of the complainant.
- 5.6 Whereas the mediator's role is to facilitate a resolution of the issue, the mediator should not seek to discourage the complainant from proceeding to a formal sexual harassment complaint if s/he feels this is warranted.
- 5.7 The mediator, may, given the evidence and with the agreement of the complainant, recommend conciliation. Once conciliation has been accepted, the mediator must apprise the respondent of the consequences of retaliatory acts. This may be a written document or a verbal agreement between the complainant and respondent, witnessed by the mediator.
- 5.8 A complainant who opts for mediation and conciliation may at any time revoke the process and proceed to a disciplinary procedure through the formal hearing process in accordance with these Rules under Article 3.
- 5.9 If mediation or conciliation has been achieved after a sexual harassment complaint has been received in accordance with this Policy, the documentation relating to the sexual harassment complaint, the written sexual harassment complaint and such other accumulated written material will be retained in confidence in the Office of the Registrar and will not be released to any person except in accordance with exiting University policy on personal files or where required by law.

6. Mentoring and Counselling

- 6.1 Whether or not conciliation is achieved, the mediator may recommend that the complainant go through mentoring and/or counselling. For complaints emanating from the Regional Headquarters, the mediator should be approved by the University Registrar.
- 6.2 Mentoring and/or counselling should also be offered to the respondent.

7. Victimisation

7.1 Any member of the University community who victimises or takes retaliatory action against any person for bringing a sexual harassment complaint to an SHFP or giving evidence before a sexual harassment proceeding, is subject to disciplinary proceedings for misconduct in accordance with the established Rules of the University.

8.Related Court Proceedings

9.1 An action on the grounds of sexual harassment before the courts shall not preclude any person from bringing a claim of sexual harassment before The University of the West-Indies.

March 2024