



BAYERO UNIVERSITY, KANO

DRAFT SEXUAL HARASSMENT POLICY

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1.0 INTRODUCTION

In its effort to adhere to the global best practices, Bayero University, Kano formulate this policy document to guide its students, staff and visitors on procedures for the prevention, reporting, response mechanisms and consequences of sexual harassment acts. This policy is designed to create a sexual harassment-free environment in Bayero University, Kano. The policy will serve as re-enforcement of relevant sections of the existing code of conduct for staff and students, dress code and conditions of service in Bayero University, Kano.

1.1 RATIONALE

Sexual Harassment arising out of general workplace relationship involving personal behaviour of people is a common form of violence that can cause enduring psychological harm. The most effective way of tackling the problem of sexual harassment in the University is through the establishment of preventive and redress mechanism. This document will therefore form a basis for Bayero University policy in dealing with sexual harassment; it is a clear statement of commitment by the university leadership that sexual assault and harassment are unacceptable.

1.2 OBJECTIVES OF THE POLICY

The objectives of this policy are as follows:

- 1- To create awareness among the University community on sexual harassment and other related issues.
- 2- To create an enabling environment for reporting.
- 3- To protect the basic rights of the parties involved within the University.
- 4- To maintain peaceful coexistence and mutual respect among the Bayero University community
- 5- To provide guidelines for handling sexual harassment and other related issues.
- 6- To provide appropriate sanctions for established sexual harassment and other related issues.

1.3 APPLICATION AND SCOPE

This policy is applicable to all members of Bayero University, Kano. These include staff, students and third parties to the University. The University is

also committed to ensuring that all groups affiliated to Bayero University adopt this policy.

2.1 SEXUAL ASSAULT AND SEXUAL HARASSMENT WITH RELEVANT JURISDICTIONAL LEGISLATION

Sexual harassment is subject to various interpretations, depending on the context in which the court is called upon to interpret the term. It is generally described as unwanted and unsolicited physical advances and conduct of a sexual nature, such as touching, rubbing and groping, and sexual, demeaning, derogating and or offensive comments and activity that may or may not carry the implication that the individual being subjected to these advances may suffer job-related or school-related retribution if he or she rejects them.

Sexual Harassment within the context of Bayero University, Kano is seen as unwelcomed sexual advances, requests for sexual favour and other visual, verbal or physical conduct of a sexual nature which when submitted to or rejected:

- (a) Implicitly or explicitly affects a person's employment or education opportunity or unreasonably inhibits a person's work or educational performance;
- (b) Implicitly or explicitly suggests that submission to or rejection of the conduct will be a factor in academic or employment decisions; or
- (c) Creates an intimidating, hostile or offensive learning or working environment.

Sexual assault is an act in which a person intentionally touches another person sexually without that person's consent or coerces or physically forces a person to engage in a sexual act against their will. It is a form of sexual violence which includes rape (forced vaginal, anal or oral penetration or drug facilitated sexual assault), groping, sexual abuse or the torture of the person in a sexual manner.

Fundamental Human Rights of Nigerian citizens have been entrenched in the Constitution of the Federal Republic of Nigeria (CFRN) 1999. Section 34 of the CFRN provides that every individual is entitled to respect for the dignity of his person and accordingly, the section goes on to provide under (a) that no person shall be subjected to torture or inhuman or degrading treatment. Sexual assault and sexual harassment can therefore be viewed as an outright violation of human dignity.

Regulations of the Bayero University, Kano provides that disciplinary action may be taken against a member of staff or student on grounds of misconduct. Sexual Assault and Sexual Harassment have been categorised as misconduct under this policy.

2.2 CONDUCTS THAT MAY CONSTITUTE SEXUAL HARASSMENT

The following are categorized under this policy as sexual harassment:

- a. Unwanted written, verbal, or electronic statements of a sexual nature directed at an individual
- b. Unwanted attempt to engage in physical or sexual act without consent
- c. Sharing private sexual materials of another person without consent
- d. Inappropriately showing sexual organs to another person
- e. Indecent dressing with a covert or overt sexual expression
- f. Causing incapacitation to another person (through alcohol, drugs or any other means) with the intention to secure consent to the alleged sexual activity.
- g. Allowing third party(ies) to observe private sexual activity from a hidden location or through electronic means
- h. Viewing another person's intimate parts or act in a place where one would have expected some level of privacy
- i. Repeatedly following another person without good reason
- j. Recording, photographing, disseminating, or transmitting intimate or sexual utterances, sounds, or images of private sexual activity and/or a person's intimate part without consent
- k. Touching oneself sexually for others to view without their consent; and
- l. Insults, jokes, or anecdotes that belittle or demean an individual
- m. Inappropriate displays of sexually suggestive objects or pictures, cartoons, calendars, books, magazines, posters, banners, handbills, etc.
- n. Offering or implying a reward in exchange for sexual favours
- o. Threatening, taking a negative action or intentionally making an individual's work more difficult because of refusal to submit to sexual advances.

2.3 CONSENT AS DEFINED BY RELEVANT JURISDICTIONAL LEGISLATION

In Nigeria, there is a plethora of statutes dealing with the issue of consent. Thus, consent can only be explained within the context of jurisdiction within which the consent related issue occurred.

Consent within the milieu of carnal relations, refers to the voluntary agreement of a party to engage in sexual activity without abuse or exploitation of "trust, power or authority", coercion or threats. Consent can also be revoked at any moment. Consent should be "free verbal or nonverbal, voluntary communication of a feeling of willingness' to engage in sexual activity.

Sexual consent is consent to engage in sexual activity. Sexual activity without consent is considered rape or other sexual assault. If sexual activity involves a minor, it is known as statutory rape since technically, a minor cannot consent to carnal relations.

Consent cannot be inferred from taciturnity, caginess, passivity, shyness, bashfulness or silence and it represents the foundation of a respectful and robust sexual relationship.

The issue of consent does not arise when an individual does not possess the capacity to give consent due to age, mental alertness, disability or sleep. Intoxication by any means does not exempt one from obligation to obtain consent.

Consent can also not be inferred from a past or present intimate relationship.

Although consent need not be verbal, verbal communication is the most reliable way to requesting for and getting consent.

2.4 MEMBERSHIP OF UNIVERSITY SEXUAL HARASSMENT POLICY COMMITTEE

A Sexual Harassment Committee with the following membership shall be constituted:

Two members of Senate;
Representative of Legal Unit;
Representative of Student Union Government;
Representative, Deanery of Student Affairs;
Representative, Centre for Gender Studies;
Representative, Registry; and
Chair, to be appointed by the Vice-Chancellor

2.5 ROLES AND RESPONSIBILITIES OF THE SEXUAL HARASSMENT COMMITTEE

1. The SHC shall organise a periodic awareness campaigns through lectures, sensitization workshops, orientation, induction and any other means of disseminating information within the University.
2. The Committee shall investigate all cases reported, find facts, determine the issues, and provide appropriate remedy or recommend disciplinary action. Each specific complaint of sexual harassment shall be dealt with in accordance with University laws to nay erring student or staff to serve as deterrence to others.
3. The Committee shall listen to the complaint and discuss all options with the Complainant as well as explain the processes involved in the formal grievance procedure. The Committee shall guide and counsel complainants on how to handle incidence of sexual harassment, including possible involvement of the law enforcement agencies if necessary.
4. The Committee shall notify the respondent about the matter, and request that he/she files a written statement in response to the allegations within seven days.
5. The Committee shall conduct hearing with the parties and their representatives if available.
6. The Committee may conduct its own investigations into the matter, take testimonies of other relevant persons and witnesses where available and review the evidence.
7. The Committee shall dispense all reported cases within the shortest possible time after reporting.
8. The Committee shall keep safe all records or reports of investigation of sexual harassment complaints alongside actions taken in response to the complaints.
9. The Committee shall submit report of all sexual harassment cases reported, investigated, and recommendations to the Vice Chancellor.

3.1 UNIVERSITY'S FORMAL REPORTING PROCESS AND MISCONDUCT PROCEDURES

3.1.1 Procedures to be followed by Student Complainants

- A. Complainant(s) shall make initial contact with the Counselors from the Deanery of Students Affairs (DSA); any member of the Department/Unit, Centre, School, Faculty or College Sexual Harassment Committee.
- B. Follow up with face-to-face interaction with DSA Counselor and/or any member of Department/Unit, Centre, School, Faculty, College Sexual Harassment Committee and/or staff.
- C. Complainant(s) are encouraged to provide concrete oral or documentary evidence.
- D. Complainant(s) shall comply with the instructions of the Faculty/Unit Sexual Harassment Committee.
- E. Counselor shall forward the report to the relevant Faculty/Unit Sexual Harassment Action Committee. Within the shortest possible time.
- F. Member(s) of Faculty/ Unit Sexual Harassment Committee should write a report to the Chairperson of the Faculty/Unit Sexual Harassment Committee to initiate appropriate processes.

3.1.2 Procedures to be followed by Staff Complainants

- a. Complainant(s) shall make contact with a member of the Faculty/Unit Sexual Harassment Committee and/ or any trusted significant other.
- b. Complainant(s) are encouraged to provide concrete oral or documentary evidence.
- c. Complainant(s) shall comply with the instructions of the Faculty/Unit Sexual Harassment Committee.
- d. Member(s) of Faculty/ Unit Sexual Harassment Committee shall be able to assure the complainant that he/she will not be victimized.
- e. Member(s) of Faculty/ Unit Sexual Harassment Committee should write a report to the Chairperson of the Faculty/Unit Sexual Harassment Committee to initiate appropriate processes.
- f. The University Management shall establish anonymous and online students' assessment, internal/external evaluations every session (one mid-session-internal and one at the end of the session-external).

3.2 APPROACHES OF REPORTING SEXUAL HARASSMENT OR ASSAULT

Sexual harassment or abuse shall be reported as soon as possible after the alleged conduct occurs. Prompt reporting will enable the Sexual Harassment Committee to look into the matter and establish the truth. A complainant may adopt the informal or formal approach of reporting.

3.2.1 Informal Approach to Reporting Sexual Harassment

Where a member of the University Community feels that he or she is being or has been sexually harassed, such a member may attempt to resolve the matter directly with the alleged offender by advising that the sexually harassing behaviour is unwelcome and may be reported, if continued.

A) A Complainant may choose to ask another person whom he or she trusts to intervene on his/her behalf. The person who is asked to intervene may provide advice or counselling to the parties involved. This shall be on a strictly confidential basis and only on the specific request of the Complainant.

B) Where option A above fails, the Complainant may request through the Sexual Harassment Committee (SHC) to resolve the matter through mediation.

C) Or any other informal means of reporting the complainant deems fit.

D) If a complainant chooses not to use the informal approach of reporting sexual harassment, this shall not be used against him or her or affect the merits of the case when a formal complaint is launched.

3.2.2 Formal Approach to Reporting Sexual Harassment

A) Any member of the University community who is being or has been sexually harassed, or is dissatisfied with the outcome of the informal approach shall make a formal complaint to the Committee.

B) In cases of sexual harassment or sexual abuse such as attempted rape, sexual assault, non-consensual anal copulation and the like, a Complainant shall report to the Committee in writing.

C) In the case of a Complainant being unable to write, he/she may be assisted by a third party. The written complaint shall be read out and explained in the language he/she understands after which he/she will sign or thumbprint.

D) The written statement shall give details of the alleged harassment, and if possible, give details of dates, places and names of those connected with the incident.

3.3 REPORTING OPTIONS

The University encourages prompt reporting of conduct that may violate this Policy. Reports of sexual harassment can be made directly to the SHC. Some forms of sexual harassment may also constitute violation of state laws and the University encourage individuals to report to the law enforcement agencies.

3.3.1 Reporting to the University

Individuals who choose to pursue action under this Policy shall make a report to the University

3.3.2 Time Frame for Reporting an Incident

Although the University does not limit the time frame for reporting sexual harassment, the University encourage individuals to report any harassment within one hundred and eighty (180) days to ease investigation.

If the harasser is no longer a student or participant in any University-related program or activity at the time of the report, the University may not be able to take action against him/her. The University will, however, help a Claimant identify reporting options outside the University and provide support.

3.3.3 Reporting to Law Enforcement Agencies

The University encourages anyone who experiences or witnesses to report to the SHC.

- a. An individual who wishes to pursue criminal action in addition to, or instead of, making a report to the SHC for a Policy violation may contact law enforcement.
- b. An individual has the right to report an incident, or to decline to report an incident, to law enforcement.

It is important to note that the setting of the Sexual Harassment Committee and its formal investigation procedure as instituted by the university does not serve as a replacement for the criminal process that may arise.

4.1 SEXUAL HARASSMENT SANCTIONING

The following sanctions are applicable to students, staff and third party.

4.1.1 Sanctions for Students

When a student is found responsible for sexual harassment, one of the following sanctions shall be recommended:

1-Stalking with implicit sexual harassment language: this includes but not limited to the following: sending unwanted text messages, e-mails, letters, name callings such as “honey”, “sweetheart/sweetie”, “baby”, etc. The harasser should be served with a strong warning letter from the University and he should personally write an apology letter to the victim.

2-Stalking with explicit sexual harassment language: This include but not limited to the following: blue text messages, emails, letters, repeatedly calling on phone, sexual gestures such as kissing or smacking, catcalls, winking, blocking, following, verbal comments about a person’s body in her/his hearing, etc. The offender should personally write an apology letter to the victim and he/she should be served with a warning letter from the University.

3- Disseminating of unwanted recordings, photographs, sexual images, caricature, cartoons, allowing other individual to observe private sexual activity from a hidden location or through electronic means, viewing another person’s intimate parts in a place where one would have expected some level of privacy, etc. This attracts rustication of the harasser for one semester and written apology to the victim.

4- Sexual touching: This includes but not limited to intentional contact with the arms, massaging the neck or shoulders, genitals, buttocks, breasts, etc. Such activities attract rustication for one semester and the offender should personally write an apology letter to the victim.

5-Physical attempts such as isolating someone with the clear evidence for sexual molestation, forcibly pulling down a person’s pants, pulling on the waistband of a person’s underwear to wedge it in their buttocks. Such offenses would attract rustication for two consecutive semesters with letter of apology to the victim. The name of the offender should be publicized in the University Bulletin.

6-Use of force/coerce and having intercourse with the victim. This includes but not limited to vaginal and anal penetration, however slight, by a penis, finger, tongue, object, etc. Sanction for this type of harassment is expulsion from the University and the case should be transferred to the Police for being a capital criminal offense. The name of the offender should also be publicized in the University Bulletin. And he/she should personally write a letter of apology to the victim.

7-Use of threat/intimidation/manipulation or display of a weapon or intentional incapacitation by using drugs, alcohol, or any other means and having intercourse with the victim: The sanction would be similar to the above mentioned under number five (5). The same would be applied when the case involves group or multiple perpetrators.

8-Certain factors may lead to more severe sanctions such as committing multiple offenses at the same time.

9-Spreading sexual rumors about a person via emails, social media, posters, poems, etc. The offender should personally write an apology letter to the victim and use the same media to unequivocally falsify the rumours with apology.

4.1.2 Sanctions for Staff

The following sanctions are recommended for members of staff. However, the sanctions may be applied in accordance with the provisions of other relevant university committees.

1-Stalking with implicit sexual harassment language: this includes but not limited to the following: sending unwanted text messages, e-mails, letters, name calling such as “honey”, “sweetheart/sweetie”, “baby”/babe”, etc. The harasser should be served with a strong warning letter and he/she should personally write an apology letter to the victim.

2-Stalking with explicit sexual harassment language: This include but not limited to the following: erotic text messages, emails, letters, repeated calling on phone, sexual gestures such as kissing or smacking, catcalls, winking, blocking, following, verbal comments about a person’s body in her/his hearing, etc. The harasser should be denied of annual increment for two years and referred to the Staff Disciplinary Committee.

3- Spreading sexual rumours about a person verbally or via emails, social media, posters, poems, etc. The harasser should personally write an apology

letter to the victim and use the same medium to unequivocally falsify the rumours with apology. He/she should also be served with a warning letter.

4- Disseminating of unwanted recordings, photographs, sexual images, caricature, cartoons, allowing other individual to observe private sexual activity from a hidden location, viewing another person's intimate parts in a place where one would have expected some level of privacy or through electronic means, etc. This attracts two months suspension by the Vice Chancellor in line with section K.10 of the Senior Staff Service Conditions and Regulations (SSSCR) and suspension in line with section 85 (a) of Junior Staff Service Conditions and Regulations (JSSCR). The harasser should personally write an apology letter to the victim.

5- Sexual touching: This includes but not limited to intentional bodily contact with the arms, hugging, pinching, patting, massaging the neck or shoulders, genitals, buttocks, breasts, etc. Such activities incur three months suspension and denial of appraisal for any length of time in line with section K.3 of SSSCR and section 85 (a) of JSSCR and his/her name to be publicized in the University Official Bulletin.

6-Physical attempts such as isolating someone with the clear evidence for sexual molestation, forcibly pulling down a person's pants, pulling on the waistband of a person's underwear to wedge it in their buttocks. Such offenses would attract termination of appointment in line with the provisions of SSSCR and JSSCR. The harasser's name should be publicized in the University Official Bulletin.

7-Use of force/coercion and having intercourse with the victim. This includes but not limited to vaginal and anal penetration, however slight, by a penis, finger, tongue, object, etc. Sanction for this type of harassment is dismissal from service and the case should be transferred to the Police. The name of the harasser should also be publicized in the University Official Bulletin.

8-Incapacitation and having intercourse with the victim: This Includes but not limited to threat/intimidation/manipulation or display of a weapon or intentional incapacitation by using drugs, alcohol, or by any other means. Sanction for this type of harassment is dismissal from service and the case should be transferred to the Police. The name of the harasser should also be publicized in the University Official Bulletin

9- Any person found abetting any form of sexual harassment from 1-8 above will be liable to the same punishment as if he/she had been the actual harasser.

10- Spreading sexual rumours about a person via emails, social media, posters, poems, etc. The harasser should personally write an apology letter to the victim and use the same medium to unequivocally falsify the rumours with apology. Apart from this, he/she should be demoted for one year.

11- In the event that the harasser is an individual contractor or working with a company, the Management should cancel his/her/ their contract and he/she as an individual or company would not be entertained in the future with any work or contract. The Harasser should be handed over to the University Security Division.

13- Soliciting for sex or any other sexual activity from a student or staff, with a promise of better treatment in their respective works should attract a warning letter. The harasser should personally write an apology letter to the victim.

Where any officer in a position of authority is involved in Sexual Harassment, he/she shall be made to step aside to allow proper investigation.

4.1.3 Sanctions for Third Party

In the event that the harasser is a third party (vendors, business owners, etc) or visitors, the University shall revoke his/her license to conduct business and be denied/banned from accessing the University premises. The harasser should be handed over to the University Security Division.

4.2 PREVENTION OF SEXUAL HARASSMENT

Staff and students have responsibility to prevent sexual harassment. Any attempt for intervention by individual or group of students/staff to prevent sexual harassment will be fully supported by the University. The University is committed to the prevention of sexual harassment through regular/periodic education and awareness programs for students and staff. Awareness campaign on sexual harassment shall commence from

orientation and matriculation programs for new students and induction for new staff. Thereafter, regular/periodic awareness campaigns follow.

REFERENCES

1. Guidance Note for Preventing, Reporting and Responding to Sexual Assault and Sexual Harassment in Tertiary Education Institutions
2. The University of Cape Town Sexual Harassment Policy (2008)
3. Anti-Sexual Harassment Policy, University of Ghana (2011)
4. Sexual Harassment and Misconduct Policy, University of Ghana (2017)
5. University of Michigan Interim Policy and Procedures on Student Sexual and Gender-based Misconduct and other Forms of Inter-personal Violence (2019)
6. Sexual and Gender-based Harassment and Inter-personal Violence Policy of George Washington University (2019)
7. Bayero University Senior Staff Service Conditions and Regulations (2017)
8. Bayero University Code of Ethics (2016)
9. Bayero University Student Handbook