



**African Population and  
Health Research Center**

## **POLICY ON SEXUAL HARASSMENT IN THE WORKPLACE**

Revised: November 2018

## **AFRICAN POPULATION & HEALTH RESEARCH CENTER (APHRC) POLICY ON SEXUAL HARASSMENT IN THE WORKPLACE**

This policy provides guidance on the procedures to be followed by APHRC staff in dealing with matters relating to Sexual Harassment in the workplace.

APHRC believes that staff members are the organization's greatest resource and is therefore committed to creating and nurturing a supportive work environment while fulfilling its mission. This policy puts in place measures to ensure a conducive work environment that fosters equal participation of APHRC staff in its work, and makes provisions which discourage and guard against sexual harassment.

This policy applies to all permanent and contract APHRC employees, interns as well as consultants.

Through this policy, APHRC seeks to ensure that employees' basic human rights are not violated in the workplace or while carrying out APHRC assignments.

**November 2018**

## **INTRODUCTION**

APHRC, as an employer, has a responsibility to ensure that a work environment free from all forms of discrimination, bias, harassment, or any other unprofessional conduct that is offensive or unwelcome by employees is maintained at all times. All staff who work at APHRC have the right to work in an environment free from sexual harassment.

Sexual harassment is a degrading, embarrassing and traumatic experience. Staff who experience sexual harassment normally feel threatened, scared, isolated and/or alone. They often experience high stress levels and their performance may decline.

The Executive Director will ensure that staff adhere to high standards of moral conduct at all times and that every staff member shall have the right to be treated with dignity and respect, free from abuse or harassment.

## **PRINCIPLES**

Every APHRC staff member should uphold professional work ethics that allow for mutual treatment with dignity and respect within the workplace and in the context of work performed on behalf of the Center.

APHRC will endeavor to provide a work environment that is free of harassment, abuse of authority and discrimination.

Any conduct that is found to constitute harassment, abuse of authority or discrimination will not be tolerated and will be dealt with in a manner consistent with the severity of the violation, including appropriate disciplinary action and handover to government jurisdiction.

Sexual harassment is said to have occurred when a staff member is treated in a manner that fits the definitions of sexual harassment under this policy once or in a continuous series of incidents. Male and female staff members can either be victims or perpetrators of sexual harassment.

## **APPLICATION**

This policy extends to situations of harassment which occur at or away from the workplace; during or outside working hours; if such situations have a negative effect on work relationships, work effectiveness and/or job security of an APHRC staff member; or reflects negatively on APHRC.

For the purposes of this policy, the term "staff member" refers to all persons who have signed a contract with APHRC to work in any capacity at any given time (regular, interns, temporary, consultants, etc).

## **DEFINITIONS**

**Unit Leader** refers to Heads of research units and Division Directors.

**Sexual Harassment** is any unwelcome sexual advance; request for sexual favors; or other verbal, non-verbal or physical conduct of a sexual nature which a) interferes with an individual's work performance, or their general sense of well-being by creating an intimidating, hostile, and humiliating environment; or b) which is made a condition for employment or promotion.

While it is not possible to list all the circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment:

- a) *Physical conduct* of a sexual nature which involves unwelcome physical contact ranging from inappropriate touching, patting, pinching, blocking, hugging, brushing against another employee's body, to assaulting and coercing another for sexual intercourse.
- b) *Verbal conduct* of a sexual nature which may include unwelcome sexual advances, propositions or pressure for sexual activity, gossip regarding one's sex life, questions about personal life, repeated requests for a date after being told "NO", offensive flirtations, suggestive remarks, whistling, comments on body and appearance, vulgar jokes or comments.
- c) *Non-verbal conduct* of a sexual nature which refers to the display of pornographic or sexually-suggestive pictures, objects or written materials (on walls or computers); offensive emails, cartoons, text messages, letters, winking, leering, sneering, or making sexually-suggestive gestures.

Sexual harassment is particularly offensive in the workplace, and constitutes abuse of power, when perpetrated by any staff who is in a position to influence the career or employment conditions (including hiring, assignment, contract renewal, performance evaluation, benefits review, salary increment, transfers or promotion) of the recipient of such attention. It can occur at all levels and may be heterosexual or homosexual in nature.

Most cases of sexual harassment in the workplace fall into two broad categories:

**(i) Abuse of Authority:**

Abuse of authority is when an individual improperly uses the power and authority inherent in his or her position to endanger a staff member's job, undermine the performance of that job, threaten the economic livelihood of the staff member, or in any way interfere with or influence the career of the staff member. It includes intimidation, threats, blackmail and coercion.

Sexual harassment is a situation where an individual's conditions of employment depend on whether he/she submits to or rejects sexual advances or behavior (verbal or physical) of an aggressor. For example:

*A supervisor threatens not to recommend a subordinate for promotion or to take disciplinary action unless he/she grants sexual favors.*

**(ii) Hostile Work Environment:**

This is a situation in which an individual's behavior (verbal or physical) in the workplace is offensive or intimidating to other staff members, or interferes with their performance. For example:

*A staff member habitually uses sexually-explicit language, and makes sexually-oriented offensive remarks in the presence of his/her colleagues. He/she has been told that this behavior is offensive, yet he/she persists.*

*A staff member repeatedly hugs and kisses colleagues, and addresses them in an intimate manner (e.g. honey, sweetheart, darling, etc). He/she has been told that such behavior is not appropriate in the office and that some colleagues are offended by it yet he/she persists in such behavior.*

**Personal Harassment** means any improper behavior by a staff member that is directed at and is offensive to another or others, and which that person knew or should reasonably have known would be so. It comprises objectionable conduct, comment or display made once or continuously that demeans, belittles, or causes personal humiliation or embarrassment to a staff member. It includes discrimination based on any grounds, such as race, religion, color, creed, ethnic origin, physical attributes, gender or sexual orientation.

### **When does behavior become Sexual Harassment?**

Social behavior which is mutually acceptable to the parties involved does not constitute sexual harassment, even if it is of a sexual nature. In the examples cited above, the offensive acts are characterized as sexual harassment because they are unwelcome, unsolicited, unwanted and unreciprocated by the recipient. Supervisors should recognize that consensual intimate relationships involving those in a direct reporting line are not appropriate in an office setting. They may have negative repercussions on staff morale and may constitute an abuse of authority. If such cases exist, or begin, they should be brought to the attention of management, on a strictly confidential basis, by those involved, so that any perception of abuse of authority can be addressed. Failure to report such could lead to disciplinary action.

Regardless of whether the harasser considers the behavior to be offensive or not, conduct becomes sexual harassment when it is forced upon a recipient against their will and the recipient makes it clear to the harasser that he/she does not approve of the behavior but the harasser persists.

*This is an important distinction which sets sexual harassment apart from friendly, welcome, social behavior which is of a mutually acceptable nature.*

There may also be instances where a staff member takes advantage of his/her position of authority to coerce a junior person into an unwelcome relationship or situation.

Under these circumstances, the victim may be so intimidated and fearful of reprisal that he/she may succumb to the offender. Any such abuse of power, even if it is not rejected by the victim, constitutes harassment.

### **RESPONSIBILITIES**

In principle, the private life of a staff member is personal and shall not be intruded upon by the organization. In the same vein, it is an offence for an employee of APHRC to carry himself/herself in a manner that brings the organization into disrepute in public or even cause offense to the community in which they work. Staff shall therefore be required to set

for themselves a high standard of personal conduct, whether their activities are connected to official business or not.

**Staff members** bear responsibility for:

- Maintaining a harmonious working environment;
- Conducting themselves in a manner which will ensure that the workplace is free of intimidation, hostility or offense and, of any form of harassment;
- Not tolerating improper behavior; making it clear to the offender that his/her behavior is unwelcome, that it is offensive and that it should cease immediately;
- Addressing such behavior by promptly reporting it to the Head of HR or management ; and
- Cooperating with those investigating the matter.
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**Supervisors** bear added responsibility in the process:

- to set a positive example;
- to ensure a positive working environment in which harassment does not occur;
- to assure prompt attention to the adherence of this policy;
- to assist in the informal resolution of complaints;
- to take action to prevent recurrence;
- to ensure that each complaint is addressed responsibly and impartially, facilitating a just and fair inquiry process without retribution (for complainants or witnesses); and
- to maintain confidentiality and an attitude of empathy at all times towards both the accused and the complainant.

**Human Resources** bear responsibility for:

- the provision of advice and guidance on the application of this policy;
- monitoring the application of this policy;
- all activities to resolve harassment complaints in APHRC, including:
  - providing assistance, if called upon, in the informal complaint resolution process;
  - designating an individual to review the complaint and to resolve it through mediation; obtaining, where necessary, the services of an investigator or an internal investigatory committee;
  - establishing the terms of reference for the investigation; and
  - advising the parties of the outcome of the investigation.

## **PROCEDURES FOR DEALING WITH SEXUAL HARASSMENT**

APHRC Staff should not, and do not have to live with sexual harassment.

The circumstances of each case will determine the most appropriate approach for handling the situation. Regardless of the approach (formal or informal), all reports of sexual harassment shall be handled discreetly to protect the privacy of the individuals involved.

### **A. Informal complaint process (early mediation)**

The Informal Complaint Process is intended to provide a mechanism through which a staff member is able to communicate a claim of harassment in an open, honest and non-

threatening manner with the person who is offending him/her. The objective is that through communication, and early mediation, both parties will understand each other's point of view, and that the behavior causing the problem will cease. This approach provides an opportunity to deal with/solve the problem expeditiously, and before the parties become entrenched and adversarial.

A staff member who feels that he or she has been subjected to sexual harassment should immediately make his or her disapproval clearly known to the individual(s) concerned and ask that the behavior stop. If the staff member is uncomfortable to approach the individual(s) concerned, he/she should seek the assistance of another individual, such as a colleague, the supervisor, the Head of HR, or a Unit Leader or any other established reporting mechanism.

Should the staff member decide not to proceed with the matter, his/her wishes will be respected. However, if the situation is serious, e.g. could be considered a criminal act, HR should be informed, by the person asked to provide assistance or the complainant, in order to protect the welfare of staff members and the overall interests of APHRC.

Rape and sexual assault victims should immediately attend the nearest health facility for post exposure prophylaxis. They are also encouraged to report to the police after receiving medical attention.

## **B. Formal complaint process**

If the matter cannot be resolved informally, the complainant should forward the complaint, in writing, to the Head of HR, the Executive Director, or his/her Supervisor.

In all cases, the complaint should describe the specific offensive act or acts, time, location and circumstances under which they took place; notification of the accused and names of those connected with the incident; and any other information relevant to the case. The complainant should identify the alleged harasser as well as any witnesses to the act(s) or anyone else to whom the incident might have been mentioned. The complaint must be signed and dated by the staff member. A complainant who is not able to write will be assisted by HR to document the acts.

When the complaint is received, a designate will be identified by HR in consultation with management to review the complaint and to communicate with or meet with the complainant to clarify the complaint.

The staff member against whom a harassment complaint has been lodged will be notified, within seventy two (72) hours, that a complaint has been received. This will include a statement on the nature of the complaint and the assertions made. It will also include a statement on the steps that will be followed to have the complaint mediated and/or investigated, and the proposed time frames.

At the same time, the supervisor concerned will be made aware of the complaint and the proposed action plan for its resolution. If necessary and applicable, the supervisor will be advised to take immediate action to physically or hierarchically separate the staff member against whom the complaint has been lodged and the complainant. Such action may include the identification of alternative sitting space, alternative work/project for one of the staff members; or consideration of an application for leave for one or both of the staff members.

If the alleged perpetrator is the Executive Director, the Chair of the Board of Directors will be informed by the Director of Operations.

### **Mediation/Resolution**

In cases of a written, formal complaint, an attempt may be made to resolve the matter informally, prior to beginning an investigation. Such resolution would require the agreement of the complainant and the accused. The Head of HR will contact the parties, and interview them separately concerning the reported incident(s) of harassment in order to determine if the issue can be resolved at this stage, and if so, an attempt will be made to reconcile the parties.

### **Investigation**

In cases where an investigation is required, the services of an investigator will be obtained, or an internal investigatory committee will be established by HR in consultation with management. If so desired by the complainant, s/he may nominate a staff member to participate in those instances where a committee is established.

The investigator (or committee) will proceed in accordance with terms of reference that will be established for the investigation by HR unit or Management. The investigator will document the situation completely. Upon completion of the investigation, a written confidential report will be provided to the Head of HR or management. That report will include all relevant information, signed testimony of the parties, and appropriate analysis of the information.

Upon receipt of the Investigator's report, the Head of HR will, in consultation with the Unit Leader or Head of Unit concerned, contact both the complainant and the person against whom the complaint was lodged and advise each of the outcome of the investigation.

It is acknowledged that sexual harassment usually occurs away from the public eye; therefore it may be difficult to produce evidence. It is strongly recommended that staff should report offensive behavior immediately to a confidant, even if they do not wish to launch a formal complaint at the time. The confidant may prove to be a useful/valuable witness if a complaint is lodged later.

### **Creating a conducive environment for inquiry**

Retribution from either party should be strictly monitored and prevented. During the process of the investigation work, evaluations, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side.

Where the accused is a supervisor and guilt is established, the member shall at least not be allowed to continue supervising the complainant.

### **Follow-up on Complaints**

Unit Leaders and Head of HR are responsible for ensuring that corrective action is taken when warranted. This may include disciplinary action in cases where a staff member has pursued a claim that is unfounded.

Once a complaint has been resolved, Head of HR and supervisors will monitor the situation closely to ensure that all parties to the complaint make the transition back to their assigned duties as smoothly and as quickly as possible. When warranted, that may include referral for

professional counseling to assist all parties to deal with the outcome of the process. Supervisors will also monitor their work environment closely to ensure that there is no potential for repeating the improper behavior.

### **Confidentiality**

All staff members and other persons who are aware of a harassment complaint, or involved in its resolution, must recognize the seriousness of the situation and respect the sensitivity and confidentiality that must be accorded to the matter. They must refrain from discussing the complaint amongst themselves or with anyone else other than the concerned parties. Every effort must be made to preserve the dignity and respect of the parties to the complaint and of APHRC. All information and documentation concerning a complaint will therefore be kept and transmitted as confidential material. Those who do not fully respect such confidentiality will be subject to disciplinary action.

### **Other recourse**

If unsatisfied with the outcome, the aggrieved staff member or the accused staff member shall have the right of appeal to the Executive Director or to report the matter to a court of law.

The provisions under this policy do not preclude a complainant from taking further legal action under the Laws of Kenya nor does such action prohibit APHRC from taking any disciplinary measure(s) that it may deem necessary.

### **Information and Communication**

Each new staff member will be given a copy of the Policy on Sexual Harassment during the orientation process. S/he is expected to sign and return the signature page declaring understanding of the document and commitment to abide by the policy throughout his/her employment at APHRC.

### **Retaliation**

Any retaliation or threat of retaliation against individuals making formal or informal harassment complaints or assisting in the investigation of complaints will be considered a violation of the standards of conduct and will result in disciplinary action.

### **Disciplinary Action**

Conduct found to constitute harassment will be subject to disciplinary action such as formal warning or re-assignment, written censure, suspension without pay, demotion, or summary dismissal. Disciplinary measures will be applied as appropriate in accordance with the gravity of the case, taking into account such factors as the nature of the harassment, any supervisory relationship and the prior behavior of the harasser. Disciplinary action does not preclude formal legal action by the complainant.

### **Period of Inquiry**

The determination of cases under this policy shall, whenever possible, be completed within three (3) weeks from the date of registration of a complaint.

### **MONITORING**

The Head of HR will acquire and maintain a record of: all complaints within the Center, including the nature and outcome of investigations or mediation; post-complaint monitoring; disciplinary action; and investigations.

**AFRICAN POPULATION AND HEALTH RESEARCH CENTER (APHRC)**

**Policy on Sexual Harassment**

I, \_\_\_\_\_ (*Employee's Name*), have received a copy of the policy on Sexual Harassment dated November 2018. I have read and understood it and agree to adhere, at all times, to the stipulated terms. I acknowledge that this policy is a contract of employment. I also understand that I shall be subjected to the stipulated consequences, if I fail to adhere to the terms.

**Signed:** \_\_\_\_\_  
(*Employee Signature*)

**Date:** \_\_\_\_\_