

YOU ARE
IMPORTANT

PROTOCOL FOR PREVENTION AND ACTION

SEXUAL HARASSMENT, HARASSMENT
BASED ON SEX, CYBER SEXUAL
HARASSMENT, HARASSMENT BASED ON
SEXUAL ORIENTATION AND
GENDER IDENTITY AND/OR EXPRESSION

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1. INTRODUCTION

Everyone has the right to be treated with respect for his or her dignity and fundamental rights.

By virtue of this right, ADVISERS FOR INTERNATIONAL PROGRAMS IN SPAIN (hereinafter AIP), declares that harassment based on race, harassment based on sex, harassment based on sexual orientation, gender identity and expression and sexual cyberbullying are an attack on the dignity of the people who make up the entire student community, Therefore, it rejects and prohibits any practice of this type in its community or in the school environment, making an express statement not to tolerate these actions, as well as to provide the necessary means to prevent its manifestation in the school environment.

The values with which AIP identifies are freedom, solidarity, peace, cooperation, equality, as well as the promotion of human rights, which is why after the publication of the laws that regulate the rights and freedoms of individuals, AIP in its role as transmitter of these values assumes the principle of equality and non-discrimination, not tolerating any form of harassment or discrimination.

Sexual harassment, harassment based on sex, race, sexual orientation, gender identity and expression and sexual cyberstalking constitute discrimination that, although it can have both men and women as possible passive subjects, is suffered mainly by women and people discriminated against because of their sexual orientation due to the unbalanced power relations that gender produces in our society.

The principles of legal certainty and presumption of innocence make it necessary to clearly typify any conduct that may merit a disciplinary, administrative or criminal sanction, as well as to establish effective preventive measures and appropriate complaint channels. The objective of this Protocol with its double aspect of prevention (avoid) and action (articulate procedure) against the types of harassment contained in it, aims to provide guidelines and protective measures to the different groups of

the school, so as to avoid situations or behaviors that could constitute harassment, **in order to solve a discriminatory situation and minimize its consequences in the AIP environment, ensuring the guarantee of the rights of the victims.**

1.1. Regulatory background

The legislation mentioned in this section seeks to establish the principles and articulate the mechanisms necessary to meet these objectives.

- **Community and International**

- **ILO Convention 111** against Discrimination in Employment (1958) addresses sexual harassment at work as a form of discrimination against women workers.
- **Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)** defines discrimination against women.
- **Articles 1 and 2 of the Declaration on the Elimination of Violence against Women (1993)** define "violence against women" and provide a specific concept of sexual harassment and intimidation at work and in educational institutions as forms of violence against women.
- **Article 1 of the Additional Protocol to the European Social Charter (Council of Europe, 1988)**, which establishes the right to equality of opportunity and treatment in employment and occupation without discrimination on the basis of sex.
- **Commission Recommendation 92/131/EEC of 27 November on the protection of the dignity of women and men at work**, which contains a "Code of Conduct on measures to combat sexual harassment".
- **Directive 2006/54/EEC on the implementation of the principle of equal treatment of men and women in matters**

of employment and occupation, which repeals, among others, Directive 76/207/EEC, as amended by Directive 2002/73/EC, sets out the definitions of sexual harassment, harassment based on sex and other horizontal issues applicable to any discriminatory conduct or act in this area.

- **Communication from the Commission on the European framework agreement on harassment and violence at work (COM (2007) 686 final)** signed by the European social partners refers to different types of harassment depending on their projection and effects, their externalization, the subjects involved and their materialization.
- **Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.**
- **Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting victims**, and replacing Council Framework Decision 2002/269/JHA.
- **Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime** and replacing Council Framework Decision 2001/220/JHA.
- **Council of Europe Convention on preventing and combating violence against women and domestic violence** (Istanbul Convention), which entered into force in Spain on August 1, 2014, aims to protect women against the various forms of violence to which they are subjected (domestic, sexual harassment, rape, forced marriage, crimes committed in the name of "honor" and genital mutilation) as it constitutes an obstacle to the achievement of equality between women and men.

- **State level**

- **Spanish Constitution of 1978**, which recognizes as fundamental rights the dignity of the person, the inviolable rights that are inherent to him/her:
 - Art.9.2 states that "It is the responsibility of the public authorities to promote the conditions for the real and effective freedom and equality of the individual and of the groups in which he/she is integrated; to remove the obstacles that prevent or hinder their full realization and to facilitate the participation of all citizens in political, economic, cultural and social life".
 - art.10.1 the free development of the personality. It imposes on the public authorities the duty to protect the dignity of the person who is affected by discriminatory treatment.
 - art.14 equality before the law, without any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance.
 - art.15 the right to life and to physical and moral integrity, as well as the right not to be subjected to degrading treatment
 - art. 18.1 the right to honor, to personal and family privacy and to self-image
 - Art. 35.1 incorporates the right to non-discrimination on the basis of sex in the field of labor relations.
- **Royal Legislative Decree 5/2000, of August 4, 2000, approving the revised text of the Law on Infractions and Penalties in the Social Order** (article 8); in Law 29/1998, of July 13, 1998, regulating the contentious-administrative jurisdiction (article 19.1.i) and in Law 1/2000, of January 7, 2000, on Civil Procedure (article 11 bis) regarding standing.
- **Organic Law 1/2004, of December 28, 2004**, on Comprehensive Protection Measures against Gender Violence.

- **Organic Law 3/2007, of March 22, 2007, for the effective equality of women and men, takes** a major step forward by expressly prohibiting sexual harassment and harassment based on sex, as well as defining these behaviors (Articles 7, 8, 48 and 62). It specifically establishes in Article 62 and the Sixth Final Provision, the commitment of the Public Administrations to negotiate with the legal representatives of the workers, an action protocol for the prevention of sexual harassment and harassment for reasons of sex.
- **Organic Law 3/2007, of March 22, 2007, in application of the principle of equality between women and men, in its article 51,** attributes to the Public Administrations the general duty to remove the obstacles that imply the persistence of any type of discrimination in order to obtain conditions of effective equality between women and men, establishing, within the scope of their competences, effective protection measures against sexual harassment and harassment for reasons of sex. This Law also adapts the infractions, sanctions and control mechanisms for non-compliance in the field of non-discrimination, reinforcing the role of the Labor and Social Security Inspectorate.
- **Technical Criteria of the Labor Inspectorate NÚM/69/2009, on actions of the Labor and Social Security Inspectorate regarding harassment and violence in the workplace,** considers the absence of evaluation and adoption of preventive measures regarding gender violence in the workplace to be an infraction in terms of prevention.
- **Royal Legislative Decree 2/2015, of October 23, which approves the Revised Text of the Workers' Statute Law** (articles 4.2.e and 54.2), in Royal Legislative Decree 2/1995, of April 7, which approves the Revised Text of the Labor Procedure Law (articles 175 to 182); in Law 14/1986, of April 25, General Health (article 18.9) and article 184 of Organic Law 10/1995, of November 23, of the Criminal Code.

- **AIP Scope**

- **AIP Equality Plan**, 1. Work Environment and Human Resources Management with a Gender Perspective establishes Objective 1.4.4 Prevent and act effectively in matters of gender violence/sexual harassment where a series of measures are specified to eradicate all types of violence/harassment in the environment of our University.

1.2. Principles of action

Pursuant to Article 62 of Organic Law 3/2007, of March 22, "For the prevention of sexual harassment and harassment based on sex, companies shall negotiate with the legal representatives of the workers, a protocol of action that shall include, at least, the following principles:

- a. Commitment to prevent and not tolerate sexual harassment and harassment based on sex.
- b. Instructing all staff of their duty to respect the dignity of individuals and their right to privacy, as well as the equal treatment of women and men.
- c. The confidential treatment of reports of facts that could constitute sexual harassment or harassment based on sex, without prejudice to the provisions of the disciplinary rules.
- d. The identification of the persons responsible for attending to those who make a complaint." BOE-A-2011-13553.

Likewise, in order to ensure the protection of constitutionally recognized fundamental rights, and that all persons included in the scope of application of this protocol live together in an environment in which the dignity of the person is respected, this protocol is articulated in accordance with the following principles:

First. - Rejection of inequalities between people, discrimination based on sex and all types of sexual harassment or harassment based on sex, in all its forms and modalities, sexual cyberstalking, harassment based on sexual orientation and gender identity

and/or expression, regardless of who is the victim or the person harassing or what their hierarchical rank is, expressing its total intolerance of this type of conduct.

Second. - Commitment to establish an organizational culture of norms and values against any form of harassment, expressing as a basic principle the right of members of the university community to receive respectful and dignified treatment.

Third. - Establishment of a culture of prevention and action in the initial phase of the problems to prevent, detect and eradicate this type of behavior.

Fourth. - Those responsible for AIP, regardless of their rank, are obliged to apply the principles and procedures established in this protocol, taking the necessary actions to ensure compliance and ensuring, likewise, that the people in their charge cannot be victims of harassment.

Fifth. - To provide adequate information and training to all personnel on the contents of this Protocol.

2. PREVENTION POLICY

2.1. Overall objective

The purpose of this Protocol, in addition to the preventive action described in the Introduction, is to establish a procedure for action in situations that could constitute sexual harassment, harassment based on sex, sexual cyberbullying, harassment based on sexual orientation and gender identity and/or expression and harassment based on race.

To this end, the following protocol for prevention and action against possible sexual harassment, harassment based on sex, sexual cyberbullying, harassment based on sexual orientation and gender identity and/or expression in AIP is established, which is approached

from an essentially preventive perspective and action at the earliest stage of the problems. Therefore, the dissemination of information, the appropriate training of the people who make up the group and the provision of a protocol that insists on avoiding the aforementioned harassment behaviors in the earliest possible action on them, must be central elements so that these behaviors are eliminated or, in the worst case, produce the least possible effect on those who suffer them, in addition to punishing those who practice them.

2.2. Scope of application

Its scope of application is as follows:

- Teaching staff
- Administration and services personnel (hereinafter PAS).
- Students.
- Any person providing services at this school regardless of the nature or legal status of his or her relationship with the school.
- It shall also include persons hired by third parties and who provide their services in any of the centers. Likewise, it shall also apply to self-employed workers who share workspaces and subscribe to this protocol.

It shall apply to any facility located at AIP, any affiliated facility, and any AIP facility outside of the school.

This Protocol will be made known to the collaborating entities in which AIP students carry out their external academic internships, indicating the need for its strict compliance.

In application of the obligations established for the coordination of business activities required by Law 31/1995, of November 8, 1995, on Occupational Risk Prevention, external companies will be informed of the existence of this Protocol for prevention and action against sexual harassment, harassment based on sex, sexual cyber-harassment, harassment based on sexual orientation and gender identity and/or expression.

All personnel included in the scope of application of this Protocol shall respect the dignity of persons, avoiding co-metering conduct constituting sexual harassment and harassment based on sex, sexual cyber-harassment, harassment based on sexual orientation and gender identity and/or expression.

2.3. Definitions

- **Sexual Harassment and Harassment based on sex**

Organic Law 3/2007, of March 22, **2007**, for the effective equality of women and men (art.6, art.7, art.8, art.9):

- **art.6 – Direct and indirect discrimination:**

1. *"Direct discrimination on the basis of sex is considered to be the situation in which a person is, has been or could be treated less favorably than another person in a comparable situation on the basis of sex."*
2. *"Indirect discrimination on the basis of sex is considered to be the situation in which an apparently neutral provision, criterion or practice places persons of one sex at a particular disadvantage with respect to persons of the other sex, unless such provision, criterion or practice can be objectively justified by reference to a legitimate aim and the means of achieving that aim are necessary and appropriate."*
3. *"In any case, any order to discriminate, directly or indirectly, on the basis of sex is considered discriminatory."*

- **art.7 – Sexual harassment and harassment based on sex or race:**

1. *"Without prejudice to the provisions of the Penal Code, for the purposes of this Law, any behavior, verbal or physical, of a sexual nature that has the purpose or has the effect of violating the dignity of a person, in particular when it creates an intimidating, degrading or offensive environment, constitutes sexual harassment"*.

2. *"Harassment based on sex constitutes any behavior carried out on the basis of a person's sex, with the purpose or effect of violating his or her dignity and of creating an intimidating, degrading or offensive environment".*
3. *"Sexual harassment and harassment based on sex shall, in any case, be considered discriminatory."*
4. *"The conditioning of a right or an expectation of a right on the acceptance of a situation constituting sexual harassment or harassment based on sex shall also be considered an act of discrimination based on sex."*

- **art.8 - Discrimination due to pregnancy or maternity:**

"Any unfavorable treatment of women related to pregnancy or maternity constitutes direct discrimination on the basis of sex."

- **art.9 - Indemnity against retaliation:**

"Discrimination shall also be deemed to be any adverse treatment or negative effect on a person as a result of the filing by that person of a complaint, claim, denunciation, suit or appeal, of any kind, aimed at preventing discrimination and demanding effective compliance with the principle of equal treatment between women and men".

The Reform of the Criminal Code undertaken by LO 1/2015 of March 30, 2015, included in Chapter III of Title VI dedicated to "crimes against freedom", art.172 ter, which came to typify the crime of harassment or "stalking", as follows:

1. Whoever harasses a person by insistently and repeatedly carrying out, without being legitimately authorized, any of the following conducts and, in this way, seriously alters the development of his daily life, shall be punished with imprisonment from three months to two years or a fine of six to twenty-four months:

1.^a Watch her, pursue her or seek her physical proximity.

- 2.^a Establish or attempt to establish contact with her through any means of communication, or through third parties.
- 3.^a By misusing your personal data, you purchase products or goods, or contract services, or have third parties contact you.
- 4.^a Attacks against his or her freedom or property, or against the freedom or property of another person close to him or her.

In the case of a person who is particularly vulnerable due to age, illness or situation, the penalty shall be imprisonment for a term of six months to two years.

2. When the offended party is one of the persons referred to in paragraph 2 of Article 173, a prison sentence of one to two years, or community service of sixty to one hundred and twenty days, shall be imposed. In this case, the complaint referred to in paragraph 4 of this article shall not be necessary.
3. The penalties provided for in this article shall be imposed without prejudice to those that may correspond to the offenses in which the acts of harassment have been committed.
4. The facts described in this article may only be prosecuted by means of a complaint by the aggrieved person or his legal representative.

Organic Law 10/1995, of November 23, 1995, of the Penal Code, in its article 184, typifies the crime of sexual harassment, establishing that:

1. "Whoever requests favors of a sexual nature, for himself or for a third party, within the scope of an employment, teaching or service provision relationship, continuous or habitual, and with such behavior causes the victim an

objective and seriously intimidating, hostile or humiliating situation, shall be punished, as a perpetrator of sexual harassment, with a prison sentence of three to five months or a fine of 6 to 10 months."

2. "If the perpetrator of sexual harassment has committed the act by taking advantage of a situation of superiority at work, in a personal or hierarchical position, or with the express or tacit announcement of causing the victim a harm related to the victim's legitimate expectations that it may have within the scope of the aforementioned relationship, the penalty shall be imprisonment of five to seven months or a fine of 10 to 14 months".
3. "When the victim is particularly vulnerable, by reason of age, illness or situation, the penalty shall be imprisonment of five to seven months or a fine of 10 to 14 months in the cases provided for in paragraph 1, and imprisonment of six months to one year in the cases provided for in paragraph 2 of this Article."

- **Cyberbullying**

It is the use of digital communication technologies, cell phones, internet, social networks, etc. to harass people through threats, harassment, humiliation or any other form of attack.

- **Cyber sexual harassment**

It is the use of digital communication technologies, cell phones, internet, social networks, etc. to harass people with threats, harassment, humiliation through photos, videos or erotic messages in which the harassed victims appear.

- **Harassment based on sexual orientation or gender identity**

Organic Law 62/2003, of December 30, 2003, on fiscal, administrative and social order measures: Harassment due to sexual

orientation or gender identity is any conduct that seeks to denigrate or humiliate people due to their sexual orientation or gender identity.

Discriminatory harassment is any behavior or conduct that, for reasons of sexual orientation, gender expression or identity, or family group membership, is carried out with the purpose or effect of violating dignity and creating an intimidating, hostile, degrading, offensive or segregated environment.

For the purposes of further clarification of these situations, Annex I establishes a series of behaviors of a sexual nature or other behaviors, based on sex and gender identity and/or expression, that affect the dignity of persons at work.

2.4. General criteria to be followed and procedural guarantees

The actions carried out in the context of this protocol shall comply with the following guarantees:

A. Right to equality and non-discrimination

Everyone has the right to be treated equally and to be protected against all kinds of discrimination, specifically against sexual discrimination, on the basis of race, sexual orientation and gender identity and/or expression.

B. Respect and protection of people

It is necessary to proceed with the necessary discretion to protect the privacy and dignity of the persons concerned. The actions or proceedings must be carried out with the utmost caution and with due respect for all persons involved, who in no case may receive unfavorable treatment for this reason. The persons involved may be assisted by a prevention delegate, student delegate or other person of their choice to advise them at all times throughout the procedure, if so required.

C. Confidentiality

All actions carried out under this Protocol must strictly comply with current regulations on the protection of personal data, consisting mainly of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, and Organic Law 3/2018, of 5 December, on Personal Data Protection and guarantee of digital rights, developing the confidentiality and security measures necessary to guarantee the reserved treatment of information, related to situations that could constitute sexual harassment or harassment based on sex, and to prevent the fundamental rights and freedoms of the affected persons from being violated.

The persons involved in the procedure are obliged to maintain strict confidentiality and reserve and must not transmit or divulge information on the content of the complaints filed, resolved or in the process of investigation of which they are aware. Therefore, from the moment the complaint is filed, those responsible for its initiation and processing will assign numerical codes identifying both the person allegedly harassed and the alleged harasser, thus preserving their identity.

D. Diligence and speed

The investigation and resolution of the reported conduct must be carried out with due professionalism, diligence and without undue delay, so that the procedure can be completed in the shortest possible time while respecting due diligence.

E. Impartiality and contradiction

The procedure must guarantee a fair hearing and fair treatment for all affected persons. All persons involved in the procedure shall act in good faith in the search for the truth and the clarification of the facts denounced.

F. Protection of the dignity of the persons concerned

The organization shall take appropriate measures to ensure the right to protection of the dignity of the affected members of

the university community, including the persons allegedly harassed and harassers.

G. Prohibition of retaliation

The University expressly prohibits retaliation against persons who make a complaint, appear as witnesses or participate in an investigation of sexual harassment, harassment based on sex, sexual cyberstalking, harassment based on sexual orientation and gender identity and/or expression, provided that they have acted in good faith. In the event that it is demonstrated that any of the parties involved in the procedure has not acted in good faith, the corresponding legal regulations shall be applied.

3. PREVENTIVE MEASURES: COMMUNICATION, DISSEMINATION, PUBLICITY OF THE PROTOCOL AND AWARENESS-RAISING ACTIONS

In order to realize all the principles and considerations set forth in this protocol and eradicate abusive and inappropriate behavior and ensure respect and fair treatment among all persons who make up the student community with the collaboration of the Equality Unit, will promote and implement the following actions for prevention, information, training, detection and awareness:

- Inform the entire student community of the existence of this procedure for prevention and action against sexual harassment, harassment based on sex, sexual cyberbullying, harassment based on sexual orientation and gender identity and/or expression or race.

- The procedure will be available on the AIP website in the sections related to the Equality Unit, the Alumni Delegation and Occupational Risk Prevention, as it is a means of information and dissemination available to all AIP staff.
- Provide adequate training on gender issues, especially for those responsible for teams of people, so that they can recognize and deal with possible conflicts at their source.
- Conduct general training activities aimed at the entire student community and specific for groups responsible for Units or bodies involved in the prevention and management of harassment cases, and for legally established workers' representatives and student delegates, in which sufficient information is provided to make known the philosophy assumed by AIP regarding the non-tolerance of certain behaviors related to sexual harassment, harassment based on sex, sexual cyberbullying, harassment based on sexual orientation and gender identity and/or expression and regarding the procedures established for its prevention and/or resolution.
- Provide information on the procedure against sexual harassment, harassment based on sex, sexual cyberbullying, harassment based on sexual orientation and gender identity and / or gender expression. Consultations may be made and/or advice may be received confidentially through the Equality Unit, the Occupational Risk Prevention Service, the Student Delegations and the legally established workers' representation.
- Preparation and publication of statistics on the number of interventions and their consequences.
- Conducting studies to determine the incidence of harassment situations or behaviors in the organization and its characteristics, and to seek identifiers of the problem and its impact on the health and well-being of people and on the effectiveness of the organization.
- AIP is committed to include and promote training, teaching and

research in gender equality, sexual diversity and non-discrimination in all academic areas in a cross-cutting manner, promoting the elimination of sexist or discriminatory stereotypes, and fostering the values of equality.

4. ACTION PROCEDURE

4.1. First phase

4.1.1. Initiation

A. Form

The procedure begins with the filing of a complaint, grievance, claim, verbal or written communication, which may be made by any person included in the scope of application of this Protocol who considers himself/herself the recipient, perceives or is aware of actions that could constitute situations of harassment covered by this Protocol.

In any case, if the report, complaint, claim, verbal or written communication was made verbally or by e-mail, it will be necessary to ratify it in writing, addressed to the Equality Unit according to the model attached as **Annex II** and available on the AIP website in the sections related to the Equality Unit, to the "Student Delegation", Staff and in the Prevention of Occupational Risks.

B. Location

The writ may be filed indistinctly in:

- the Equality Unit or through its e-mail (unidad.igualdad@aipidiomas.es)
- at the AIP General Registry (RECEPTION)

If filed with THE Registry:

- attaching to the registration application, a sealed envelope under the title "confidential" containing the complaint, claim, complaint, communication of the facts, as well as the

documentation that the person making the complaint deems appropriate, or through the other forms provided for in Article 38.4 of Law 30/1992, of November 26, 1992, of the Legal Regime of Public Administrations and Common Administrative Procedure.

In no case shall anonymous complaints be processed.

C. Deadline

The **maximum period for filing the written notice shall be 6 months after** the incident(s) occurred, and up to 6 months after the termination of the relationship with AIP.

D. Legitimation

For the purposes of filing the written claim, the following shall be considered as having legal standing:

- D.1.** Any person who, being included within the scope of this protocol, is considered a victim of sexual harassment, race-based harassment, sexual cyberstalking, harassment based on sexual orientation and gender identity and/or expression or inappropriate conduct.
- D.2.** Any person who, being included within the scope of application of this protocol, becomes aware of the existence of any situation of harassment covered by this Protocol.
- D.3.** The legally established representatives of workers and students at the University who are aware of the existence of any situation of harassment covered by this Protocol.
- D.4.** If the Equality Unit has indications that any of the situations listed in this Protocol may occur, it may act ex officio. In this case, the alleged victim must be immediately informed of the action and ratify the existence of the situation reported in order to act in accordance with this Protocol.

In cases D.2 and D.3, express and written consent shall be requested, by means of **Annex II**, from the person allegedly affected. This consent may be revoked expressly and in writing at any time during the procedure.

In no case will anonymous communications, reports or complaints be processed.

E. Receipt and custody

It is the responsibility of the Equality Unit to receive and safeguard the complaint, initiating the registration process, guaranteeing the strictest confidentiality and respecting the right to privacy of all persons involved.

F. Admission or inadmissibility

The affected person shall have the right to obtain a response as long as there is a record of his or her complaint.

Upon receipt of the complaint, claim, complaint, communication in the Equality Unit, the latter will inform of the reported facts, first proposing an interview with the complainant, the Director of the Center and designated person of the equality committee and once heard the account of the facts, an interview with the alleged harasser, after which it will proceed to issue a report, addressed to the Evaluation Committee for its knowledge and effects, within 8 working days.

This report may propose:

- F.1.** Not to admit for processing the written complaint, giving reasons, for not complying with the required conditions, for it being evident that the matter raised does not fall within the scope of this protocol, for withdrawal of the person entitled to file the communication or, for lack of consent for the processing of the procedure, when the communication of the alleged harassment had been made by a person other than the alleged harassed person.

If, in the initial assessment, clear indications are detected that the declared facts may constitute a crime, the

corresponding body will be informed.

- F.2.** Admit for processing and continue processing the case according to the provisions of this protocol.

4.2. Second phase

Admitted for processing, and without prejudice to other actions it deems appropriate, the Equality Unit, together with the Evaluation Committee, whose composition and functions are defined in **Annex III**, may request the collaboration, if deemed necessary, of the Occupational Risk Prevention Service, and/or the advice of any of the following

person who is an expert in harassment situations covered by this Protocol with the limits, if any, that certain confidential information may have.

4.2.1. Research and conclusions

In view of the initial assessment report, the Evaluation Committee shall meet within **3 working days**, during which time it may terminate the investigation if it does not find evidence of any of the harassment situations covered by this Protocol.

If the Evaluation Committee agrees to continue the procedure, the instructor shall take the appropriate steps to gather any additional information that may exist and determine whether or not there is sufficient evidence of situations of harassment covered by this Protocol.

In the process of gathering information, which should be carried out with the utmost speed, confidentiality, secrecy and participation of all parties involved, it may be necessary to conduct any inquiries deemed appropriate. In any case, the inquiry about the complaint must be developed with the utmost sensitivity and respect for the rights of each of the affected parties, both the complainant and the alleged harasser. The University Services will have the obligation to collaborate with the instructor throughout the entire investigation process.

At the end of the investigation and after all the documentary and

testimonial evidence deemed appropriate, the instructor will issue an opinion to be presented to the Evaluation Committee.

Once this investigation has been completed, and with the prior opinion of the procedure instructor, the Evaluation Committee shall issue a report of conclusions within a **maximum period of ten working days**.

The **report of conclusions** may include:

1. File the claim, motivated by any of the following cases:
 - 1.1. Withdrawal of the complainant, unless the investigation should continue ex officio.
 - 1.2. Lack of object or insufficient evidence.
2. Declare the non-existence of harassment and file the file. However, preventive and corrective measures may be proposed in the event that there is no situation of harassment but there may be a situation of conflict that does not constitute a disciplinary infraction.

If the opinion of the instructor reveals any **situation other than the harassment covered by this Protocol**, the persons concerned will be informed.

In the case of "other cases" included in the field of psychosocial risks, the Prevention Service will be informed. If the report considers the existence of indications of the cases of harassment covered by this Protocol, a proposal will be made to the Rector to initiate disciplinary proceedings for the commission of a very serious offense of harassment according to the legislation in force.

Finally, the decision adopted must be notified to both parties involved, both to the person allegedly harassed and to the alleged harasser with sufficient motivation.

4.2.2. Suspension

The initiation of administrative and/or judicial action by the person allegedly affected by any of the situations of harassment covered by this Protocol, will suspend this procedure until the resolution of the action taken, without the need for any further action.

The Company is not liable for any precautionary measures that may be adopted, as the case may be.

4.2.3. Unfounded or false claims

In the event that the initial evaluation report or the report of conclusions issued by the Evaluation Committee clearly proves that the claim has been made in bad faith, or that the information provided or the testimonies are false, the Management, depending on the group to which the affected personnel belong, shall propose the initiation of the corresponding disciplinary proceedings against the persons responsible.

4.2.4. Information

In general, the parties involved will be informed of the actions carried out at each stage of the process and the resolutions adopted.

Likewise, the legal representation of the workers and the Student Delegation will be informed, according to the personnel of the corresponding groups.

5. MONITORING AND CONTROL

The follow-up and control of this Protocol will be carried out through the Equality Plan Follow-up Committee, by means of the reports prepared by the Equality Unit.

The Equality Committee, when it deems it appropriate, will review the current protocol to update it to current legislation.

6. SUMMARY OF PERFORMANCE

First Phase

Complaint, complaint, claim, verbal or written communication according to Model Annex II a:

- Equality Unit (unidad.igualdad@aipidiomas.es).
- General Registration

The Equality Unit will inform the competent bodies of the complaint, complaint, claim, communication, after which and immediately, interviews will be held with the complainant and the accused. Both parties will be heard and a report will be issued.

Deadline for filing a complaint:

- 6 months from the date of the incident and up to 6 months after the termination of the relationship with AIP.

The Equality Unit will bring the facts to the attention of the competent bodies within a maximum of **3 working days**.

After this first analysis of the situation, the Equality Unit will issue an evaluation report to the Evaluation Committee within a maximum period of **8 working days in** which it may propose:

- Do not admit for processing.
- Admit for processing and continue according to the provisions of this Protocol.

Second Phase

In view of the initial evaluation report, the Evaluation Committee will meet within **3 working days** to proceed with its investigation.

The Evaluation Committee may:

- a) Terminate the investigation if there is no evidence of

harassment covered by this Protocol.

- b) Continue the procedure if there is evidence of harassment and initiate an investigation and prepare a report with conclusions within a maximum period of **10 working days**. The report may be filed due to withdrawal of the complainant, or due to lack of purpose or insufficient evidence.
- c) Declare non-existence of harassment.
- d) If the report considers the existence of harassment, the initiation of disciplinary measures will be proposed for the commission of a very serious offense of harassment according to current legislation.

ANNEX I

BEHAVIORS AND BEHAVIORS

TECHNICAL PREVENTION NOTE 507, ISSUED BY THE NATIONAL INSTITUTE FOR SAFETY AND HYGIENE AT WORK, ESTABLISHES THAT CONDUCT OF A SEXUAL NATURE OR OTHER BEHAVIOR BASED ON SEX THAT AFFECTS THE DIGNITY OF WOMEN AND MEN AT WORK IS UNACCEPTABLE IF IT IS NOT IN THE WORKPLACE;

- a) such conduct is unwanted, unreasonable and offensive to the person who is the object of the conduct,*
- b) the refusal or subjection of a person to such conduct by employers or employees (including superiors and co-workers) is explicitly or implicitly used as the basis for a decision that has an effect on that person's access to vocational training and employment, continuation of employment, salary or any other employment-related decisions and/or*
- c) such conduct creates an intimidating, hostile and humiliating work environment for the person who is the object of such conduct; and that such conduct may, in certain circumstances, be contrary to the principle of equal treatment.*

In this regard, the clearly sexual nature of the harassing conduct, the fact that such conduct is unwanted by the victim, the fact that it is an annoying behavior, the absence of reciprocity and the imposition of the conduct are elements to be highlighted. Some examples are given below:

Unwanted physical contact (physical conduct of a sexual nature) can be varied and range from unnecessary touching, patting or pinching or rubbing on another employee's body to attempted rape and coercion for sexual intercourse.

Verbal conduct of a sexual nature may include annoying sexual advances, propositions or pressure for sexual activity; insistence for social activity outside the workplace after it has been made clear that such insistence is annoying; offensive flirtations; suggestive

remarks, innuendoes or obscene comments.

Non-verbal conduct of a sexual nature would include the display of sexually suggestive or pornographic pictures, objects or written materials, lewd looks, whistling or making certain gestures.

Unwanted behaviors that do not reach a violent action of physical contact and that consist of insinuations, proposals, verbal manifestations that also attack the affected worker from a psychological perspective.

What makes some behaviors different from others is whether the conduct in question is well received by the person to whom it is directed. Sexual attention is sexual harassment when it becomes unwelcome. Therefore, it is up to each person to determine what behavior he or she approves of or tolerates, and from whom. This makes it impossible to list vexatious behavior that should be prohibited. In any case, it is possible to indicate behaviors that should probably be considered as sexual harassment, but whether they are actually considered as such will depend on the circumstances of each specific case (in short, on the attitude with which they are received by the person to whom they are directed).

Therefore, the determination of what behaviors are or are not annoying is something that depends on the recipient of the behaviors, being irrelevant at this point the intentionality of the issuer of the behaviors. If it depended on the intentionality of the perpetrator, the victim would be forced to accept and tolerate all types of offensive conduct in cases where the perpetrator did not do so with the intention of harming the victim.

BEHAVIORS THAT MAY CONSTITUTE SEXUAL CYBERBULLYING

Sexual cyberbullying is understood as the use of digital communication technologies, cell phones, internet, social networks, etc. to harass people with threats, harassment, humiliation through photographs, videos or erotic messages in which the harassed victims appear, behaviors that can be considered as sexual cyberbullying:

Phishing: is the appropriation of a person's identity, impersonating him/her by accessing his/her email or social networks and sending information with compromising material, in order to harm the victim sexually.

Threats: these are actions carried out through digital communication technologies, instant messaging, e-mails, social networks in general, which anticipate the action of harming the victim in case he/she does not comply with certain demands, in this case of a sexual nature.

Harassment: conduct carried out through digital communication technologies, instant messaging, e-mails, social networks in general, telephone calls, repetitive over time, and with sexual content, control of the victim, insinuations, discrediting, and any other manifestation that is demeaning to the person who receives them.

Humiliations: acts carried out through digital communication technologies, instant messaging, e-mails, social networks in general that denigrate a person.

CONDUCT THAT MAY CONSTITUTE HARASSMENT BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY AND/OR EXPRESSION

We will differentiate:

- Sexual orientation: describes a pattern of emotional and sexual attraction to people of a particular gender, or to people regardless of gender.
- Gender Identity: is the personal experience of gender to which people feel they belong.
- Gender Expression: refers to the different aspects of how a person performs their gender identity through appearance, behavior, language, interests, roles and other ways that can be perceived externally.

Sexual orientation harassment:

Any conduct, or other actions, against a person because of his or her sexual orientation that may be considered offensive, humiliating, violent, intimidating, with the purpose or effect of violating his or her dignity and creating a discriminatory environment.

Behavior:

- Engaging in discriminatory conduct on the basis of sexual orientation.
- Addressing a person in an offensive manner.
- Ridiculing the person in relation to his or her sexual orientation.
- Use homophobic, lesbophobic or biphobic humor.
- Belittle the work that has been done because of their sexual orientation.
- Ignoring contributions, comments or actions (excluding, not taking seriously).
- Unequal treatment on the basis of homosexuality, bisexuality or gender identity
- the perception of these.

Harassment based on gender expression or identity

Any behavior or conduct that for reasons of gender expression or identity is carried out with the purpose or effect of violating dignity and creating an intimidating, hostile, degrading, offensive or segregated environment.

Behavior:

- Refusing to name a trans person as required, or deliberately using articles or pronouns not corresponding to the gender with which

he or she identifies.

- Expelling and/or questioning people with non-normative gender expressions or identities for being in a particular restroom/restroom.
- Belittling the capabilities, abilities and intellectual potential of the person in relation to gender expression or gender identity.
- Use transphobic or transphobic humor.
- Ignore or exclude contributions, comments or actions based on gender expression or gender identity.

ANNEX II

ADVISERS FOR INTERNATIONAL PROGRAMS IN SPAIN. MODEL COMPLAINT FORM FOR POSSIBLE SEXUAL HARASSMENT, HARASSMENT BASED ON SEX, SEXUAL CYBERSTALKING AND HARASSMENT BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY AND/OR EXPRESSION.

APPLICANT

☐ Affected person ☐ Others (Specify name and surname) ☐ Male ☐

Female ☐ Other ☐ No answer

PERSONAL DATA OF THE PERSON CONCERNED

Name and Surname

TAX ID

☐ Male ☐ Female ☐ Other ☐ No answer Contact

telephone

E-mail

PROFESSIONAL DATA OF THE PERSON CONCERNED

Group to which it belongs (PDI, PAS, STUDENTS) Center to

which it belongs

DESCRIPTION OF THE FACTS

APPENDED DOCUMENTATION

☐ Yes. (Specify) ☐ No

APPLICATION

☐ I request the initiation of the protocol of action against sexual harassment, harassment based on sex, sexual cyberstalking and harassment based on sexual orientation and/or gender expression.

In Valencia, to of of 202.....

THE APPLICANT

CONFORM (If applicable)

Fdo.

PERSON CONCERNED

BASIC INFORMATION ON DATA PROTECTION

The personal data provided in this document will be processed by the Universidad Politécnica de Madrid, responsible for this treatment, in order to be able to respond to your request through the actions provided for in the Protocol for Prevention and Action against Sexual Harassment, Harassment based on Sex, Sexual Cyberbullying, Harassment based on Sexual Orientation and Gender Identity and/or Expression at the UPM. You can access, rectify and delete the data, as well as exercise other rights, under the terms indicated in the additional information available on the back of this application.

ADDITIONAL INFORMATION ON DATA PROTECTION

- **Who is responsible for the processing of your data?**

- ADVISERS FOR INTERNATIONAL PROGRAMS IN SPAIN SL
- Postal Address: C/ Bachiller 7 46010 valencia
- Telephone/email: (A means of contacting the specific body carrying out the processing should be provided: telephone number/email or both).

- **For what purposes are your personal data processed?**

- Your personal data are processed for the purpose of responding to your request through the actions provided for in the Protocol for Prevention and Action against Sexual Harassment, Harassment based on Sex, Sexual Cyberbullying, Harassment based on Sexual Orientation and Gender Identity and/or Gender Expression at UPM.

- **How long will we keep your data?**

- Personal data will be kept for the time necessary to fulfill the purpose for which they were collected and to determine the

possible responsibilities that may arise from this purpose and from the processing of the data, in addition to the periods established in the archives and documentation regulations.

- **What is the legitimacy for the processing of your data?**

The legal bases legitimizing the processing are those contained in Regulation (EU) 2016/679 (GDPR): Article 6.1.c) processing necessary for compliance with a legal obligation applicable to the controller and Article 6.1.e) processing necessary for the performance of a task carried out in the public interest or in the exercise of public authority vested in the controller. Specifically, reference may be made to the legal obligation included in Law 31/1995, of November 8, on the prevention of occupational hazards and to the fulfillment of a mission carried out in the public interest recognized in Organic Law 3/2007, of March 22, for the effective equality of men and women; among other regulations indicated in the aforementioned University Protocol.

- **To which recipients will your data be communicated?**

The communication of your data to third parties is not foreseen, except when due to the existence of a legal obligation they have to be communicated to the Public Prosecutor's Office, the jurisdictional bodies and/or the State Security Forces and Corps.

- **What are your rights regarding the data provided?**

- In relation to the data provided you have the right to access, rectify, request cancellation and deletion and to oppose or limit the processing thereof, under the terms established by law, by request addressed to the UPM at the contact details indicated or
- You can obtain more information about the exercise of these rights by contacting the Data Protection Officer.
- Likewise, and in the event that you do not obtain satisfaction in the exercise of your rights, you may file a claim before the Spanish Data Protection Agency: <https://www.aepd.es/es>

ANNEX III

EVALUATION COMMITTEE

A. Composition:

- A representative of the Company designated by the Management according to the group to which the affected personnel belong, who will preside over the meeting.
- The Director of the Equality Unit.
- One Student Delegate. In the case of personnel of this group.
- A representative of the social side of the equality commission
- One trade union representative according to the group to which the personnel concerned belong.
- A representative of the company's Legal Counsel's Office, who shall act as instructor and secretary of the Committee.

The Evaluation Committee may request the intervention of an expert on sexual harassment, harassment based on sex, cyber sexual harassment, harassment based on sexual orientation and gender identity and/or expression.

The members of the Committee shall be appointed by the Management, at the proposal of the representative body of the group to which the affected personnel belong. In the appointment of the members of the Evaluation Committee, the personal, affective and organic distance between the members of the Committee and the persons involved in the procedure shall be guaranteed.

B. The operation of the Evaluating Committee. It shall be governed by:

- The applicable Spanish legal and conventional regulations on sexual harassment, harassment based on sex, sexual cyberstalking, harassment based on sexual orientation and gender identity and/or expression.
- The applicable European Union Directives on harassment.
 - The provisions contained in this protocol.
 - The operating rules agreed upon by the Evaluation Committee.

C. Reports of findings/recommendations. The report of findings and

recommendations should include, at a minimum, the following information:

- Composition of the Evaluation Committee.
- Background of the case, claim and circumstances of the claim.
- Preliminary actions, assessment and initial report.
- Proceedings (testimonies; evidence; summary of the main facts
- Conclusion
- Proposed measures.