



**Approved by
the Decree # 909- 2018/19**

dated May 30, 2019

Anti-Harassment Policy

Section 1: Introduction and Statement of Purpose

The American University of Central Asia (“University”) is committed to the principles of free inquiry and free expression and encourages open discussion, debate and critical inquiry as a part of its educational mission. The University’s policy against discrimination, harassment or retaliation is not intended to stifle these principles nor will the University permit it to be used to do so. Prohibited discrimination, harassment or retaliation do not constitute the proper exercise of academic freedom and as such are incompatible with the values of the University.

The aims of the University, as reflected in this Anti-Harassment Policy (“Policy”), are to:

- a. Promote a positive environment in which people are treated fairly and with respect;
- b. Make it clear that harassment is unacceptable and that all members of the University have a role to play in creating an environment free from harassment;
- c. Provide a framework of support for faculty, staff and students who feel they have been subject to harassment; and
- d. Provide a mechanism by which complaints can, wherever possible, be addressed in a timely way.

Persons in positions of authority, such as heads of division, program coordinators, Vice Presidents, Deans, etc., have formal responsibilities under this Policy and are expected to familiarize themselves with its provisions. All academic division heads and program coordinators and/or their equivalents, and all other University department heads, have a duty to implement this Policy and to make every effort to ensure that harassment and victimization do not occur in the areas of work for which they are responsible and, that if they do occur any concerns are investigated promptly and effectively.

All members of the University community have the right to expect professional behavior from others and a corresponding responsibility to behave professionally towards others. All members of the University community have a personal responsibility for complying with this Policy and must comply with and demonstrate active commitment to this Policy by:

- a. Treating others with dignity and respect;
- b. Discouraging any form of harassment by making it clear that such behavior is unacceptable.

Section 2: Policy Statement

The University strictly prohibits acts of harassment and/or related retaliation in all aspects of its educational programs and activities, as well as its administrative and support services. This prohibition applies to all students, faculty, staff, contractors, volunteers, affiliated entities and other third parties. Any violation of this Policy may be subject to disciplinary action, up to and including, expulsion or termination of employment, as applicable.

Retaliation against any employee who brings forth a good faith concern, asks a clarifying question, or participates in an investigation is prohibited.

This prohibition applies to conduct that occurs on campus. It also applies to off-campus conduct, including online or electronic conduct, if the conduct (1) occurred in the context of an employment or education program or activity of the University, or (2) has continuing adverse effects on campus.

The University will take prompt and effective steps reasonably intended to stop any form of harassment and/or related retaliation, to eliminate any hostile environment, to prevent its recurrence and, as appropriate, to remedy its effects.

Section 3: Academic Freedom

Given the University's commitment to the principles of free inquiry and free expression, as part of any investigation and resolution of a complaint conducted pursuant to this Policy, the investigator shall ensure that academic freedom considerations are properly considered if it appears to raise questions about academic freedom or appropriate pedagogy. The University recognizes that in such an environment such as AUCA's, individuals can sometimes feel uncomfortable; while this is no reason to avoid difficult themes, it is reason to ask that the discomfort be mitigated by the good intentions of all involved. We are committed to fostering an educational environment in which all individuals are treated with respect and dignity.

Section 4: Reporting Allegation of Harassment and/or Related Retaliation

A. Responsible Employees Must Report Allegation of Harassment and/or Related Retaliation

Any faculty or staff member who is considered a "responsible employee" (as defined in Section 9 below) who witnesses or receives information regarding any possible act of harassment and/or related retaliation is required to promptly report, in writing, all known details about the alleged harassment or retaliation, including:

- a. Name of the alleged victim;
- b. Name of alleged perpetrator;
- c. Name of any alleged witnesses; and
- d. Any other relevant facts, including the date, time and specific location of the alleged incident.

All individuals, even if not considered a responsible employee, are highly encouraged to promptly report such information to a responsible employee.

B. Reports to be made to Student Life Officer, Vice-President of Academic Affairs or Director of Human Resources

Any alleged act of harassment and/or retaliation involving a member of the University's academic faculty, either as a complainant or respondent, shall be reported to the University's Vice-President of Academic Affairs following the complaint investigation procedures set out in Appendix A of this Policy.

Any alleged act of harassment and/or retaliation involving a student against or toward another student shall be reported to the University's Student Life Officer following the procedures set out in the "Code of Student Rights, Responsibilities and Conduct," a copy of which can be found in the University's Student Handbook.

Any alleged act of harassment and/or retaliation involving a member of the University's support and administrative staff against or toward another staff member shall be reported to the University's Director of Human Resources following the procedures set out in Appendix B of this Policy.

C. Special Procedures

The following procedures will apply to reports made against the University's President, Vice-President/Chief Operating Officer ("VP/COO"), Vice-President of Academic Affairs ("VPAA") or other

Vice-President, the Director of Human Resources or any other University administrator ranked at the level of, or higher than, the Director of Human Resources according to the University's then-current organizational chart.

Any alleged act of harassment and/or retaliation involving the University's President, VP/COO, VPAA, or other Vice-President shall be reported to the University's Board of Trustees. After receiving a report, the Board of Trustees will designate a person(s) to conduct an investigation of the allegation(s). Based on the information gathered during the investigation, the Board of Trustees will prepare and issue a written report determining the outcome of the complaint. The determination of the Board of Trustees is final and not subject to appeal.

Any alleged act of harassment and/or retaliation involving the Director of Human Resources or any other university administrator ranked at the level of or higher than the Director of Human Resources as shown on the operations side of University's then-current organizational chart, shall be reported to the VP/COO in charge of operations.

After receiving a report, the VP/COO in charge of operations will designate a person(s) to conduct an investigation of the allegation(s). Based on the information gathered during the investigation, the investigator(s) will prepare and issue a written report determining the outcome of the complaint. The VP/COO's determination may be appealed to the University's President.

An investigation pursuant to this section shall be conducted in essentially the same manner with respect to independence of the investigator, the keeping and maintaining of an investigative file, the standard of proof to be used and applied, the right of the parties to have support, the relevance of the parties' sexual history, the content of the investigator's written report and the rights of the parties to receive notification as is set out in Section C.3 through C.8 of Appendix A of this Policy.

D. Reports to be Made in Good Faith

Reports, complaints and other information concerning any alleged act of harassment and/or retaliation must be provided in good faith. It is a violation of this Policy when a person knowingly or recklessly alleges a false complaint of harassment and/or related retaliation or provides false information during the course of an investigation. Violators may be subject to disciplinary action, up to and including expulsion or termination of employment, as applicable. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

Section 5: Confidentiality and Privacy

Any person (including any witnesses who may be interviewed as part of any investigation or any person who may act in support of any party) involved in a complaint made pursuant to this Policy must maintain the confidentiality of the process. Persons involved in advising complainants should, where possible, obtain the consent of the individual for the further disclosure of relevant information to those persons with a clear need to know. If such consent is not given, the person entrusted with the information should make it clear to the person from whom the information is received that in exceptional circumstances it may be necessary to disclose the information, taking into account the duty of care that may be owed to the individual and/or others.

If an individual discloses an incident to a responsible employee but wishes to maintain anonymity or requests that no investigation be conducted or disciplinary action taken, the responsible employee remains required to report all relevant information to the Student Life Officer, Vice-President of Academic Affairs or the Director of Human Resources, as stated above. The Student Life Officer, Vice-President of Academic Affairs or the Director of Human Resources will then explain to the individual making the disclosure that the University prohibits retaliation and that it will not only take steps to prevent retaliation but also to take responsive action if it occurs. If the individual would still like to maintain privacy or requests that no investigation be conducted or disciplinary action taken, the Student Life Officer, Vice-President of Academic Affairs or the Director of Human Resources will weigh that request against the University's obligation to provide a safe environment for all students, faculty and staff. In making that determination, the Student Life Officer, Vice-President of Academic Affairs or the

Director of Human Resources will consider a range of factors, including but not limited to the following, if applicable:

- a. The risk that the alleged perpetrator will commit additional acts of violence;
- b. The seriousness of the alleged conduct;
- c. Whether the alleged conduct was perpetrated with a weapon;
- d. Whether the alleged victim is a minor;
- e. Whether the University possesses other means to obtain relevant evidence of the alleged conduct (e.g., security cameras, personnel, physical evidence); and
- f. Whether the alleged conduct reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The Student Life Officer, Vice-President of Academic Affairs, or the Director of Human Resources' decision will be made on a case-by-case basis after an individualized review. If the University honors the individual's request for privacy or that no investigation be conducted or disciplinary action taken, the University's ability to meaningfully investigate the incident and pursue disciplinary action, if appropriate, may be limited, but nonetheless may proceed.

Section 6: Responsibilities of Person to Whom a Report Is Made

The Student Life Officer, Vice-President of Academic Affairs, or Director of Human Resources to whom a report of alleged harassment and/or related retaliation is made is responsible for overseeing the review and investigation of that complaint pursuant to this Policy and identifying and addressing any patterns or systemic problems that arise during review of the complaint.

For all matters within the scope of this Policy, at a minimum, the Student Life Officer, Vice-President of Academic Affairs, or Director of Human Resources to whom a report of alleged harassment and/or related retaliation is made shall be specifically responsible for the following:

- a. Ensuring that the complaint and any subsequent disciplinary action is being handled appropriately and in a timely manner;
- b. Overseeing an adequate, reliable and impartial investigation of the complaint;
- c. Evaluating any complainant request for privacy pursuant to Section 4;
- d. Referring for further action or discipline any inappropriate or unprofessional conduct under other applicable University policies or procedures disclosed or discovered during the course of any investigation even if no violation of this Policy is found. No provision of this Policy shall be construed as a limitation on the authority of the disciplinary authority under other applicable University policies and procedures to initiate disciplinary action;
- e. Facilitating reasonable interim protective remedies and accommodations as applicable;
- f. Ensuring broad publication of the campus complaint process and procedures set out in Section 6 below;
- g. Providing an annual report to the University President and University Board of Trustees documenting:
 - (i) The number of reports or complaints received pursuant to this Policy;
 - (ii) The categories (i.e. academic faculty member, staff, students, etc.) of those involved in the allegations;
 - (iii) The number of policy violations found; and
 - (iv) Examples of sanctions imposed for policy violations.
- h. Overseeing and monitoring campus compliance with this Policy;
- i. Ensuring there is ongoing training and education regarding reporting and preventing harassment and retaliation for all students, faculty and staff;
- j. Maintaining records and related documentation of compliance with this Policy including, but not limited to, retaining copies of any training documentation, tracking student and employee training

participation, documenting each step of the campus complaint process and procedures from interim measures, accommodations for persons experiencing harassment, investigation, disciplinary proceeding, sanctions and any retaliation; and

k. Ensuring broad dissemination of the statement that the University shall not discriminate on the basis of any protected class in employment or in its education programs and activities.

Section 7: Investigation and Adjudication Process and Procedures

The University shall maintain a written complaint process and procedures providing for the prompt and equitable resolution of any harassment or retaliation complaint. Any applicable disciplinary procedure must provide a prompt, fair, transparent and impartial process from the initial investigation to the final results, including a procedure that:

- a. Includes timely notice of meetings;
- b. Provides timely and equal access by the complainant, respondent and appropriate university officials to any relevant information, including witness identities and relevant information provided by witnesses;
- c. Is conducted by staff who do not have a conflict of interest or bias for or against the complainant or respondent;
- d. Allows the complainant and respondent each to have an advisor, including an attorney, who is not a potential witness in the investigation or could otherwise compromise the investigation;
- e. Applies the preponderance of the evidence standard in findings regarding the complaint; and
- f. Allows matters to be referred for further action or discipline for inappropriate or unprofessional conduct under other applicable University policies or procedures even if a harassment, or retaliation policy violation is not found. No provision of this Policy shall be construed as a limitation on the authority of the disciplinary authority under applicable University policies and procedures to initiate disciplinary action.

Appendix A and Appendix B to this Policy, and the Code of Student Rights, Responsibilities and Conduct, contained in the Student Handbook set out the full procedures and process for the reporting and investigation of any complaint made pursuant to this Policy.

Section 8: Prevention and Awareness Programs

Reserved

Section 9: Definitions

A. Complainant: A person who is subject to alleged harassment, and/or related retaliation.

B. Harassment: Any unwelcome conduct based on race, color, religion, sex, gender, gender identity, national origin, ethnicity, regional origin, sexual orientation, age, disability, or genetic information. Harassment may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment may be disciplined or sanctioned when:

1. It creates a hostile environment; or
2. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in any University program or activity, or is used as the basis for University decisions affecting the individual (often referred to as "quid pro quo" harassment).

C. Hostile Environment: A hostile environment is created when harassment is sufficiently severe, persistent, or pervasive, such that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational or employment programs, activities, or opportunities. The determination of whether a hostile environment exists is made with consideration of

both subjective and objective perspectives. A single or isolated incident of harassment may create a hostile environment if the incident is sufficiently severe.

To determine whether a hostile environment exists, the University will consider the totality of known circumstances, including but not limited to:

- The frequency, nature, and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether there is a power differential between the parties;
- Whether the conduct unreasonably interfered with the complainant's educational or work performance, and/or participation in University programs or activities; and
- Whether the conduct implicates the principles of free inquiry, free expression, and free speech.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of creating a hostile environment. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

D. Respondent: A person who is accused of alleged harassment and/or retaliation.

E. Responsible Employee: Any employee who: (1) has the authority to hire, promote, discipline, evaluate, grade, formally advise or direct faculty, staff or students; and/or (2) has the authority to take action to redress discrimination or harassment.

Note: This definition does not include any medical, mental health, or counseling office personnel, in addition to any other offices covered by a statutory privilege or designated in campus procedures as not subject to mandatory reporting to the University.

F. Retaliation: Any adverse action threatened or taken against a person because an individual has filed, supported, or provided information in connection with a complaint of harassment and/or retaliation, including but not limited to, direct and indirect intimidation, threats and harassment.

Note: An "adverse action" is one that would dissuade a reasonable person from reporting an allegation of harassment or participating in an investigation of discrimination or harassment.

G. Sexual Harassment: Any unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, written, graphic, online, and/or physical conduct of a sexual nature. Sexual harassment may be disciplined or sanctioned when:

1. It creates a hostile environment; or
2. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any University program or activity, or is used as the basis for University decisions affecting the individual (often referred to as "quid pro quo" harassment).

Section 10: Miscellaneous Provisions

A. This Policy replaces any and all previous policies of the University related to the issue of harassment.

B. This Policy may be found at the University's main webpage (www.auca.kg) and also at the University's electronic course system (e-course.auca.kg).

C. This Policy will be subject to regular review by the University's President, the Vice-President for Academic Affairs, the Student Life Officer and the Director of the Human Resources Department.

Section 11: Effective Date

This Policy will become effective 15 days after approval by the University's President.

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Appendix A

Complaint Investigation Procedures For Complaints against Academic Faculty

Section 1: Introduction

The University's procedures for responding to incidents alleging harassment and/or related retaliation depends on the nature of the incident, the relationship of the complainant and respondent to the institution and to each other and, to the extent possible, the wishes of the person bringing forward the complaint. The procedures for resolving complaints made against students, staff and academic faculty are set out below.

The law of the Kyrgyz Republic states that any disciplinary action must be administered no later than thirty (30) days after the alleged misconduct on which it is based becomes known, but in no event later than six (6) months after the misconduct occurs. Accordingly, it is important that the alleged victim report any incident of alleged misconduct to the appropriate person immediately.

While these procedural provisions encourage efforts to resolve alleged violations of the Policy informally, either the complainant or respondent may at any time ask that the matter be handled formally rather than informally.

The appropriate procedure for resolving a complaint depends on the nature of the incident, the relationship of the respondent to the institution, and, to the extent possible, the wishes of the person bringing forward the complaint.

Section 2: Resolution of Complaints Made against University Student

If the person accused of a violation of this Policy is a member of the University's student body, a complaint shall be made following the procedures set out in the "Code of Student Rights, Responsibilities and Conduct", a copy of which can be found in the University's Student Handbook. The complaint shall be made to the University's **Student Life Officer**.

Section 3: Resolution of Complaints Made against University Staff

If the person accused of a violation of this Policy is a staff employee of the University, a complaint shall be made following the procedures set out in Appendix B to the Policy.

Section 4: Resolution of Complaints Made against University Academic Faculty

If the person accused of a violation of this Policy is a member of the University's academic faculty, a complaint shall be made to the University's Vice-President of Academic Affairs following the procedures set out in this appendix, that is, Appendix A.

A. Informal Resolution

1. Review by Vice-President of Academic Affairs

An alleged act of misconduct by any member of the University's academic faculty should be immediately reported to the University's Vice-President of Academic Affairs (VPAA).

The VPAA¹ shall promptly meet with the parties and attempt to resolve the matter informally.

If the VPAA is able to resolve the matter informally, he/she will prepare a written memorandum memorializing the terms/conditions of the resolution, a copy of which shall be given to the parties with a copy being retained by the VPAA. The terms and conditions of the informal resolution shall remain confidential.

The VPAA shall be responsible for the continued monitoring of the parties' adherence to the terms/conditions of the agreed upon resolution.

If the VPAA is unable to resolve the matter informally, he/she shall advise the complainant of his/her right to file a formal complaint in accordance with the procedural provisions of this Policy.

The VPAA may at any time discontinue the informal resolution process and refer the matter for formal resolution.

B. Formal Resolution

1. Form of Complaint

A formal complaint alleging a violation of this Policy shall be made in writing and include the following information, set out as clearly and succinctly as possible:

- a. The complainant's surname, name and job position, as well their contact information (i.e., email address, cell phone number, etc.);
- b. The respondent's surname, name and job position, as well their contact information (i.e., email address, cell phone number, etc.)
- c. The nature of the behavior that the complainant is concerned about;
- d. The effect of the behavior on the complainant; and
- e. The resolution the complainant is seeking.

The complaint should include the date(s) when the alleged misconduct occurred, a clear and concise description of the alleged misconduct, and the name and contact information for any witness to any incidents referred to in the complaint. The complainant should attach to the complaint copies of any documentary evidence that supports the allegations made. The complainant should also explain what attempts, if any, have been made to resolve the difficulties.

2. Initial Review

After receiving a formal complaint alleging a violation of this Policy, the VPAA will review it and make an initial determination of whether the complaint merits a formal investigation. In doing so, the VPAA will meet with the complainant and respondent, individually, for the purpose of discussing the allegations, will review any written documents related to the allegations provided by the parties and may interview any witnesses whom the parties identify as persons having personal knowledge of the matter.

After completing the review, the VPAA may:

- a. Conclude that the complaint lacks merit and that no further action will be taken with regard to the allegations;
- b. Conclude that the matter is appropriate for informal resolution and direct the parties undertake informal resolution measures as provided for herein to resolve the matter unless the parties have previously attempted, unsuccessfully, such resolution; or

¹ If for any reason the complainant desires the complaint be reviewed by a person other than the VPAA, he/she may contact one of the Independent Investigation Panel pool members. (See: Section 3)

c. Conclude that the complaint alleges conduct sufficient to merit further investigation by an independent investigative committee.

Regardless of the decision, the VPAA will promptly notify both the complainant and respondent in writing of the decision.

3. Independent Investigation Committee

If the VPAA concludes that the complaint alleges conduct sufficient to merit formal investigation, the matter will be referred to an independent investigation committee (“IIC”) for further investigation.

a. Composition of IIC

At the beginning of each academic year, the Vice-President/Chief Operating Officer (VP/COO) and the Vice-President of Academic Affairs (VPAA) will each nominate four (4) qualified individuals to serve as IIC pool members during the coming academic year. The University President will appoint eight (8) qualified individuals (who may or may not include one or more of the individuals nominated by the VP/COO and VPAA) to serve as IIC pool members during the coming academic year.

In the event a formal complaint is filed, the VPAA will appoint three (3) individuals from this group (excluding any individual who may have first-hand knowledge of the facts or circumstances alleged in the complaint) who will constitute the IIC with respect to the complaint.

The VPAA shall not be a member of either the pool group or any individual IIC. Nevertheless, he/she shall be responsible for seeing that the work of the IIC is conducted in a timely manner in order to comply with the requirements of the national law of the Kyrgyz Republic.

b. Responsibility of IIC

It is the responsibility of the IIC to investigate and determine the facts and circumstances surrounding the alleged misconduct applying the “clear and convincing evidence” standard set out below. The IIC will be provided with a copy of the written complaint, any documents submitted by either party provided they are relevant to the investigation and any written statements provided by the complainant, the respondent or any other person who has personal knowledge of the facts and matters alleged in the complaint. If necessary, the IIC will interview persons with knowledge of facts bearing on the matter, including the complainant and the respondent.

4. Investigation File

The IIC shall keep a file related to its investigation. The file shall include copies of all documents it receives that are related to its investigation. The file shall also contain the original notes taken by any member of the IIC during any interview of parties and any witness, as well as the original notes taken by any member of the committee during the course of any discussions that the Committee has regarding its findings and conclusions. The file shall also include copies of all written communications, including emails or other forms of electronic communications, between Committee members related to the investigation.

The IIC will make and maintain an audio recording of any interviews of persons it conducts as part of its investigation. If it is not possible to make a recording, then comprehensive notes will be taken and kept that accurately reflect the content of the interviewee’s statement.

Following the conclusion of the complaint resolution process, the investigation file will be delivered to the VPAA. The investigation file will be kept and maintained by the VPAA for as long as either the complainant or respondent are employed by the University and for a period of 3 years after the last of either party leaves the employment of the University. The contents of the investigative file shall remain confidential.

5. Standard of Proof

The standard of proof to be used and applied when determining whether there has been a violation of the Policy is proof by “clear and convincing evidence”. Proof by clear and convincing evidence means that the evidence is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable.

6. Right of Parties to Support

The respondent and complainant, if being interviewed by the IIC, are entitled to be accompanied by a person of their choice. The role of this person is limited to providing support, not acting as an advocate, participant, or witness. In the interests of limiting the number of people with confidential information about the matter, each of the parties is expected to identify one support person and to make a change only in exceptional circumstances. The support person shall not be a member of the IIC or a person who has personal knowledge of the allegations contained in the complaint.

7. Relevance of Parties’ Sexual History

The complainant’s and/or respondent’s sexual history with others will generally not be sought or used in determining whether any alleged sexual misconduct has occurred. However, in certain circumstances the sexual history between the parties may have limited relevance to explain context. For example, if consent is at issue, the sexual history between the parties may be relevant to determining whether consent was sought and given during the incident in question. Additionally, under limited circumstances necessary to understand the context, the sexual history between the parties may be relevant to explain an injury, to provide proof of a pattern, or to address an allegation.

8. Written Report

At the conclusion of its investigation, the IIC will prepare a written report concerning its investigation. The report shall include a summary of the Committee’s investigative activities and a summary of the Committee’s factual findings and conclusions, including the rationale for its findings and conclusions, with regard to the allegation(s) contained in the complaint.

The IIC will use the clear and convincing evidence standard as described in Subsection 5 above when making any findings and conclusions regarding the complaint.

If a majority of the IIC members finds that the complaint has merit, it will include as part of its report any recommendations for disciplinary sanctions it considers reasonable and appropriate in light of its findings.

If a majority of the IIC members finds that the complaint lacks merit, or that the facts necessary to support a finding of a policy violation cannot be established, it will recommend that the complaint be dismissed.

The IIC will complete its investigation and submit its written report directly to the University President no more than twenty (20) days after the alleged misconduct on which it is based became known or no more than one hundred seventy (170) days after the misconduct occurred, whichever first occurs.

9. Review by University President

After receiving the IIC’s report, the University President will review the report for the purpose of formally accepting and approving the IIC’s findings and imposing any recommended sanctions in the event a violation of university policy has been found. In doing so, the President will confer with the VPAA. The University President may not disregard the IIC’s findings or refuse to implement any recommendations for sanctions unless he/she provides a written explanation for such action. The University President may only refuse to accept and approve the report’s findings, or refuse to implement any recommended sanctions, if he/she finds that the IIC’s decision is arbitrary, (i.e. that the decision was not based on reasonable judgment), or capricious, (i.e. that the record of the investigation proceedings shows that the IIC had no reasonable explanation for its actions or decisions).

The University President will notify each of the parties, as well as the Vice-President of Academic Affairs and the University's Human Resources director, in writing, when he/she has accepted and approved, or rejected, the IIC's findings of fact and recommendations, if any. In the event he/she rejects the IIC's findings of fact and recommendations, including any recommendations for sanctions in the event the IIC finds that a violation of university policy has occurred, he/she will include a copy of his/her written explanation for such action.

10. Review by Board of Trustees

Both the complainant and respondent have the right to ask the University's Board of Trustees (BOT) to review the University President's decision regarding the IIC's findings of fact and recommendations.

a. Request for Review

A request for review may be taken by submitting a written letter directly to the BOT within five (5) calendar days after the issuance of the written notification by the President provided for in Section 9 above. The request shall state in detail the reason(s) for the appeal. The responsibility for filing an appeal rests on the party seeking the appeal.

b. Scope of Review

The BOT may only review the actions of the President to determine whether all the procedural steps provided for in this appendix were followed during the investigation process.

If the BOT determines that all procedural steps were followed, or, if not followed, that the failure to follow the procedural steps did not materially prejudice the party seeking review, it shall affirm the University President's decision with respect to those findings and recommendations.

If the BOT determines that a failure to follow the procedural steps provided for in this appendix materially prejudiced the appellant, it will return the matter back to the IIC with instructions that any procedural deficiencies be corrected.

The BOT will conduct its review in a manner which it sees proper.

11. Implementation of Disciplinary Measures

If the IIC makes a finding that there has been a violation of this Policy and recommends the imposition of sanctions, and the University President agrees with those sanctions, or substitute's his/her own sanctions following the procedures in Section 9 above, he/she will notify the Director of Human Resources who will then prepare an appropriate decree. The Director of Human Relations, in consultation with the VPAA, will then be responsible for the prompt carrying out and monitoring of compliance with the sanctions. **Any disciplinary action must be implemented no later than thirty (30) days after the alleged misconduct on which it is based becomes known, but in no event later than six (6) months after the misconduct occurs.**

12. Right to Commence Formal Court Action

Nothing in this Policy or these procedural provisions is intended to eliminate or limit any party's right to seek a formal redress of grievances for any conduct which they consider to be a violation of rights under the civil and/or criminal laws of the Kyrgyz Republic.

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Appendix B

Complaint Investigation Procedures For Complaints against University Staff

Section 1: Introduction

The University's procedures for responding to incidents alleging harassment and/or related retaliation depends on the nature of the incident, the relationship of the complainant and respondent to the institution and to each other and, to the extent possible, the wishes of the person bringing forward the complaint. The procedures for resolving complaints made against students, staff and academic faculty are set out below.

The law of the Kyrgyz Republic states that any disciplinary action must be administered no later than thirty (30) days after the alleged misconduct on which it is based becomes known, but in no event later than six (6) months after the misconduct occurs. Accordingly, it is important that the alleged victim report any incident of alleged misconduct to the appropriate person immediately.

While these procedural provisions encourage efforts to resolve alleged violations of the Policy informally, either the complainant or respondent may at any time ask that the matter be handled formally rather than informally.

The appropriate procedure for resolving a complaint depends on the nature of the incident, the relationship of the respondent to the institution, and, to the extent possible, the wishes of the person bringing forward the complaint.

Section 2: Resolution of Complaints Made against University Student

If the person accused of a violation of this Policy is a member of the University's student body, a complaint shall be made following the procedures set out in the "Code of Student Rights, Responsibilities and Conduct", a copy of which can be found in the University's Student Handbook. The complaint shall be made to the University's **Student Life Officer**.

Section 3: Resolution of Complaints Made against University Academic Faculty

If the person accused of a violation of this Policy is a member of the University's academic faculty, a complaint shall be made following the procedures set out in Appendix A to the Policy.

Section 4: Resolution of Complaints Made against University Staff

If the person accused of a violation of this Policy is a member of the University's staff, a complaint shall be made using the procedures set out herein. The complaint shall be addressed to the University's Director of Human Resources.²

A. Informal Resolution

1. Review by Director of Human Resources

² If for any reason the complainant desires the complaint be reviewed by a person other than the Director of Human Resources, he/she may contact one of the Independent Investigation Panel pool members. (See: Section 3)

An alleged act of misconduct by any member of the University's academic faculty should be immediately reported to the University's Director of Human Resources.

The Director of Human Resources shall promptly meet with the parties and attempt to resolve the matter informally.

If the Director of Human Resources is able to resolve the matter informally, he/she will prepare a written memorandum memorializing the terms/conditions of the resolution, a copy of which shall be given to the parties with a copy being retained by the Director of Human Resources. The terms and conditions of the informal resolution shall remain confidential.

The Director of Human Resources shall be responsible for the continued monitoring of the parties' adherence to the terms/conditions of the agreed upon resolution.

If the Director of Human Resources is unable to resolve the matter informally, he/she shall advise the complainant of his/her right to file a formal complaint in accordance with the procedural provisions of this Policy.

The Director of Human Resources may at any time discontinue the informal resolution process and refer the matter for formal resolution.

B. Formal Resolution

1. Form of Complaint

A formal complaint alleging a violation of this Policy shall be made in writing and include the following information, set out as clearly and succinctly as possible:

- a. The complainant's surname, name and job position, as well their contact information (i.e., email address, cell phone number, etc.);
- b. The respondent's surname, name and job position, as well their contact information (i.e., email address, cell phone number, etc.)
- c. The nature of the behavior that the complainant is concerned about;
- d. The effect of the behavior on the complainant; and
- e. The resolution the complainant is seeking.

The complaint should include the date(s) when the alleged misconduct occurred, a clear and concise description of the alleged misconduct, and the name and contact information for any witness to any incidents referred to in the complaint. The complainant should attach to the complaint copies of any documentary evidence that supports the allegations made. The complainant should also explain what attempts, if any, have been made to resolve the difficulties.

2. Initial Review

After receiving a formal complaint alleging a violation of this Policy, the Director of Human Resources will review it and make an initial determination of whether the complaint merits a formal investigation. In doing so, the Director of Human Resources will meet with the complainant and respondent, individually, for the purpose of discussing the allegations, will review any written documents related to the allegations provided by the parties and may interview any witnesses whom the parties identify as persons having personal knowledge of the matter.

After completing the review, the Director of Human Resources may:

- a. Conclude that the complaint lacks merit and that no further action will be taken with regard to the allegations;
- b. Conclude that the matter is appropriate for informal resolution and direct the parties undertake informal resolution measures as provided for herein to resolve the matter unless the parties have previously attempted, unsuccessfully, such resolution; or

c. Conclude that the complaint alleges conduct sufficient to merit further investigation by an independent investigative committee.

Regardless of the decision, the Director of Human Resources will promptly notify both the complainant and respondent in writing of the decision.

3. Independent Investigation Committee

If the Director of Human Resources concludes that the complaint alleges conduct sufficient to merit formal investigation, the matter will be referred to an independent investigation committee (“IIC”) for further investigation.

a. Composition of IIC

At the beginning of each academic year, the Vice-President/Chief Operating Officer (VP/COO) and the Vice-President of Academic Affairs (VPAA) will each nominate four (4) qualified individuals to serve as IIC pool members during the coming academic year. The University President will appoint eight (8) qualified individuals (who may or may not include one or more of the individuals nominated by the VP/COO and VPAA) to serve as IIC pool members during the coming academic year.

In the event a formal complaint is filed, the VP/COO will appoint three (3) individuals from this group (excluding any individual who may have first-hand knowledge of the facts or circumstances alleged in the complaint) who will constitute the IIC with respect to the complaint.

The Director of Human Resources shall not be a member of either the pool group or any individual IIC. Nevertheless, he/she shall be responsible for seeing that the work of the IIC is conducted in a timely manner in order to comply with the requirements of the national law of the Kyrgyz Republic.

b. Responsibility of IIC

It is the responsibility of the IIC to investigate and determine the facts and circumstances surrounding the alleged misconduct applying the “clear and convincing evidence” standard set out below. The IIC will be provided with a copy of the written complaint, any documents submitted by either party provided they are relevant to the investigation and any written statements provided by the complainant, the respondent or any other person who has personal knowledge of the facts and matters alleged in the complaint. If necessary, the IIC will interview persons with knowledge of facts bearing on the matter, including the complainant and the respondent.

4. Investigation File

The IIC shall keep a file related to its investigation. The file shall include copies of all documents it receives that are related to its investigation. The file shall also contain the original notes taken by any member of the IIC during any interview of parties and any witness, as well as the original notes taken by any member of the committee during the course of any discussions that the Committee has regarding its findings and conclusions. The file shall also include copies of all written communications, including emails or other forms of electronic communications, between Committee members related to the investigation.

The IIC will make and maintain an audio recording of any interviews of persons it conducts as part of its investigation. If it is not possible to make a recording, then comprehensive notes will be taken and kept that accurately reflect the content of the interviewee’s statement.

Following the conclusion of the complaint resolution process, the investigation file will be delivered to the VP/COO. The investigation file will be kept and maintained by the VP/COO for as long as either the complaint or respondent are employed by the University and for a period of 3 years after the last of either party leaves the employment of the University. The contents of the investigative file shall remain confidential.

5. Standard of Proof

The standard of proof to be used and applied when determining whether there has been a violation of the Policy is proof by “clear and convincing evidence”. Proof by clear and convincing evidence means that the evidence is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable.

6. Right of Parties to Support

The respondent and complainant, if being interviewed by the IIC, are entitled to be accompanied by a person of their choice. The role of this person is limited to providing support, not acting as an advocate, participant, or witness. In the interests of limiting the number of people with confidential information about the matter, each of the parties is expected to identify one support person and to make a change only in exceptional circumstances. The support person shall not be a member of the IIC or a person who has personal knowledge of the allegations contained in the complaint.

7. Relevance of Parties’ Sexual History

The complainant’s and/or respondent’s sexual history with others will generally not be sought or used in determining whether any alleged sexual misconduct has occurred. However, in certain circumstances the sexual history between the parties may have limited relevance to explain context. For example, if consent is at issue, the sexual history between the parties may be relevant to determining whether consent was sought and given during the incident in question. Additionally, under limited circumstances necessary to understand the context, the sexual history between the parties may be relevant to explain an injury, to provide proof of a pattern, or to address an allegation.

8. Written Report

At the conclusion of its investigation, the IIC will prepare a written report concerning its investigation. The report shall include a summary of the Committee’s investigative activities and a summary of the Committee’s factual findings and conclusions, including the rationale for its findings and conclusions, with regard to the allegation(s) contained in the complaint.

The IIC will use the clear and convincing evidence standard as described in Subsection 5 above when making any findings and conclusions regarding the complaint.

If a majority of the IIC members finds that the complaint has merit, it will include as part of its report any recommendations for disciplinary sanctions it considers reasonable and appropriate in light of its findings.

If a majority of the IIC members finds that the complaint lacks merit, or that the facts necessary to support a finding of a policy violation cannot be established, it will recommend that the complaint be dismissed.

The IIC will complete its investigation and submit its written report directly to the University President no more than twenty (20) days after the alleged misconduct on which it is based became known or no more than one hundred seventy (170) days after the misconduct occurred, whichever first occurs.

9. Review by University President

After receiving the IIC’s report, the University President will review the report for the purpose of formally accepting and approving the IIC’s findings and imposing any recommended sanctions in the event a violation of university policy has been found. In doing so, the President will confer with the VP/COO. The University President may not disregard the IIC’s findings or refuse to implement any recommendations for sanctions unless he/she provides a written explanation for such action. The University President may only refuse to accept and approve the report’s findings, or refuse to implement any recommended sanctions, if he/she finds that the IIC’s decision is arbitrary, (i.e. that the decision was not based on reasonable judgment), or capricious, (i.e. that the record of the investigation proceedings shows that the IIC had no reasonable explanation for its actions or decisions).

The University President will notify each of the parties, as well as the VP/COO and the University's Director of Human Resources, in writing, when he/she has accepted and approved, or rejected, the IIC's findings of fact and recommendations, if any. In the event he/she rejects the IIC's findings of fact and recommendations, including any recommendations for sanctions in the event the IIC finds that a violation of university policy has occurred, he/she will include a copy of his/her written explanation for such action.

10. Review by Board of Trustees

Both the complainant and respondent have the right to ask the University's Board of Trustees (BOT) to review the University President's decision regarding the IIC's findings of fact and recommendations.

a. Request for Review

A request for review may be taken by submitting a written letter directly to the BOT within five (5) calendar days after the issuance of the written notification by the President provided for in Section 9 above. The request shall state in detail the reason(s) for the appeal. The responsibility for filing an appeal rests on the party seeking the appeal.

b. Scope of Review

The BOT may only review the actions of the President to determine whether all the procedural steps provided for in this appendix were followed during the investigation process.

If the BOT determines that all procedural steps were followed, or, if not followed, that the failure to follow the procedural steps did not materially prejudice the party seeking review, it shall affirm the University President's decision with respect to those findings and recommendations.

If the BOT determines that a failure to follow the procedural steps provided for in this appendix materially prejudiced the appellant, it will return the matter back to the IIC with instructions that any procedural deficiencies be corrected.

The BOT will conduct its review in a manner which it sees proper.

11. Implementation of Disciplinary Measures

If the IIC makes a finding that there has been a violation of this Policy and recommends the imposition of sanctions, and the University President agrees with those sanctions, or substitute's his/her own sanctions following the procedures in Section 9 above, he/she will notify the Director of Human Resources who will then prepare an appropriate decree. The Director of Human Relations, in consultation with the VP/COO, will then be responsible for the prompt carrying out and monitoring of compliance with the sanctions. **Any disciplinary action must be implemented no later than thirty (30) days after the alleged misconduct on which it is based becomes known, but in no event later than six (6) months after the misconduct occurs.**

12. Right to Commence Formal Court Action

Nothing in this Policy or these procedural provisions is intended to eliminate or limit any party's right to seek a formal redress of grievances for any conduct which they consider to be a violation of rights under the civil and/or criminal laws of the Kyrgyz Republic.