



SOUTH EASTERN UNIVERSITY OF SRI LANKA

BY-LAWS TO PREVENT AND RESPOND TO SEXUAL AND GENDER- BASED VIOLENCE (SGBV)

Adopted by the Council of the South Eastern University of Sri Lanka (herein after referred to as "the University") on 27/07/2019 being prepared under the provisions of the section 135 of the Universities Act No. 16 of 1978, as amended by the Universities (Amendment) Act No. 07 of 1985 and No. 26 of 1988 (herein after referred to as "the Act").

These By-Laws may be cited as the Sexual and Gender-Based Violence By-Laws No. 01 of 2019 (herein after referred to as "the By-Laws") and shall come into operation on 01/08/2019. These By-Laws supersede any other By-Laws or Regulations whatsoever that may have been issued earlier on this.

PART I

VICE CHANCELLOR

The Vice-Chancellor shall be responsible for the maintenance of discipline within a University under Section 34(6) of the Universities Act as amended. Notwithstanding anything to the contrary in any of the provisions of these By-Laws, the Vice Chancellor shall take appropriate action that he/she deems necessary to maintain discipline at the University and nothing in these By-Laws shall be construed in a manner to detract from the powers, duties and functions conferred on or imposed upon the Vice Chancellor by the Universities Act No. 16 of 1978 or by any other instrument.

PART II

MANAGEMENT COMMITTEE ON SGBV

01. (1) Upon coming into operation of these By-Laws, there shall be established a Management Committee on SGBV (herein after referred to as "the Committee") constituted as provided in Sub-paragraph (2);

(2) The Committee shall consist of the following members, who shall hold office for a period of 03 (three years) with effect from the date of appointment;

- Vice Chancellor (Chair person)
- Deans of Faculties
- Two Council Members preferably one male and female among UGC appointed members.
- Registrar
- Director / Center for Gender Equity/Equality (CGEE) (Secretary)
- Director / Students Support Service & Welfare (SSSW)
- Director / Centre for External Degrees & Professional Learning (CEDPL)
- Senior Student Counselor or Representative (Should be a female)
- Two Academic Wardens of the University's Hostel (one male and one female)
- A female Senior Assistant Librarian / Deputy Librarian / Librarian
- Proctor
- Administrative Officer in charge for Academic and Students Affairs
- Administrative Officer in charge for Legal & Documentation
- Administrative Officer in charge for Staff and Students Welfare
- Two Representative from Non-Academic Staff, one from Oluvil, one from FAS (Should be one male and one female)
- One Students' Representative from Each Faculty (Among the 03rd year students Majority Gender Representation). Tenure is only for one year duration
- Marshal
- One Medical Officer employed on full time basis – on invitation

02. The Vice Chancellor shall be the Chairperson who shall preside at all meetings of the Committee; if the Vice Chancellor is unable to preside at a meeting a proterm chairperson will preside the meeting.

03. The Director for the University's Center for GEE is responsible for complying with and carrying out the responsibilities under the Policy Framework for GEE and these By-Laws; Director for the University's Center for GEE shall be the ex-officio Secretary to the Committee.

04. The quorum of the meeting of the Committee shall be 10 members;
05. Subject to the provisions of the Act, and of any other appropriate instruments, the Committee shall work under the directive of the Vice Chancellor who is responsible for maintenance of discipline of the University and have the following powers, duties and functions;
 - I. To advice the Vice Chancellor on all matters concerning the maintenance of staff and student discipline within the University;
 - II. To make recommendation to the Vice Chancellor on the amendments to these By-Laws and guidelines pertaining to staff and students discipline;
 - III. Upon the request by the Vice Chancellor to hold inquiries or cause inquires to be held pertaining to allegations of SGBV on the part of students and staff and submit recommendation/s on the incidents of SGBV to the Vice Chancellor;
 - IV. To review the report/s of the committee/s of inquiries appointed by the Vice Chancellor and recommend appropriate penalty/ies or punishment/s, on any students or staff who have been found guilty of any acts of SGBV or who have been found guilty of an offence under these By-Laws or of acting in contravention of the provisions of these By-Laws or Rules made by the Committee;
 - V. To do all other acts incidental to the powers aforesaid as may be required in order to further the objectives of these By-Laws;
06. The code of conduct for the Committee includes:
 - I. Treating victims with compassion, sensitivity, respect and patience
 - II. Guaranteeing the dignity and privacy of the complainant/s, perpetrator/s, Victim/s and witnesses
 - III. Investigating thoroughly
 - IV. Not blaming the victims
 - V. Not compromising cases / offences
 - VI. Being impartial
 - VII. Being patient
 - VIII. Being professional
 - IX. Being supportive
 - X. Being confidential

PART III

PREVENTION STRATEGIES

01. Disseminate information on Policy Framework for GEE, these By-Laws and related grievance handling procedures to staff and students through interactive dialogue brochures, handbooks, flyers etc.;
02. Leadership from the highest and at all levels is required in order to give those staff responsible for implementing the policy, the authority and mandate to carry out the relevant measures effectively;
03. Formation of work place policy / Code of conduct which sets out acceptable behaviours for staff and students; the policy enforced and appropriate mechanism for doing so established and ensure consistency in addressing misconduct;
04. University takes gender issues into account in planning infrastructure development so as to ensure that gender sensitive infrastructure and facilities are in place;
05. Create capacity building programmes to gender sensitize all staff and students;
06. Promote gender and diversity research especially research on SGBV in the University;
07. Ensure that there is equal representation of male and female students as office bearers on student councils / unions / societies;
08. Create widespread awareness about the grievance mechanism to address complaints of SGBV and create suitable conditions for its implementation and encourage those affected to file complaints;
09. Conspicuously posts with the names and contacts of focal persons to receive complaints
10. Create awareness and encourage students and staff towards the zero tolerance of SGBV within the University;
11. Establish a special fund of student victims that are mandated to provide medical services, legal assistance and professional counseling from the point of making the initial complaints and throughout the inquiry;

12. Train student counselors to handle victims of SGBV and establish victim support programmes and a network of victim volunteers to offer support to complainants;
13. Provide institutional avenues for offenders to meet trained counselors and deal with the root causes of offenders;
14. Compile a database of reported incidents of SGBV within the University;
15. Recognize and reward “champions” who are active in promoting gender equity / equality and eliminating SGBV;
16. Ensure that the gender concerns conflict resolution, gender related problem solving, SGBV etc. are mainstreamed into the staff development and other training programmes;
17. Train volunteer groups of students to raise consciousness on SGBV among their peers;
18. Put in place detailed procedures for reporting and documenting cases of SGBV.
19. Strengthen the office that receives complaint/s and/or reports of SGBV.
20. To sign a code of conduct by all person involved in the procedures;
21. Put in place steps to be followed from the time of receiving complaint to the action stage;
22. Install suggestions boxes on SGBV in all buildings in the University;
23. Conspicuously post with the names and contacts of all focal person;
24. Maintain a website portal where all members of the university community can report cases of SGBV online.

PART IV

COMPLAINT MECHANISM

01. Any person who considers him or herself to be a victim of SGBV may file a complaint;
02. Any complaint, allegation and/or grievance of inappropriate behaviour/s under these By-Laws may be made to the Director – CGEE cum Secretary to the Committee;
03. A complaint may also be filed by a third party who is aware of the situation of SGBV. In these cases the Director – CGEE cum Secretary to the Committee will forward a copy of the complaint to the alleged victim so that he or she may ratify it, if appropriate;
04. Each and every member of the University Community has the duty to report the situation of possible SGBV that they may be aware of to their Superior Officers or to the Director – CGEE cum Secretary to the Committee;
05. Complaints may also be lodged online through the website maintained by the University;
06. The complaint in all cases must include the identification of the complainant and may be presented either in writing or verbally;
07. If the complaint is filed verbally, a document will be drawn up and it must be signed by the complainant for the record and submitted to the Director – CGEE cum Secretary to the Committee;
08. The complaint must be presented to the Director – CGEE cum Secretary to the Committee within a period of one month from the date of incident took place;
09. Complaints once made cannot be withdrawn. University ensures that victims are provided with information about their rights when laying charges to discourage withdrawal of SGBV cases;
10. All verbal and written information submitted during the procedure shall be treated with due reservation. And in particular the appropriate steps shall be taken to preserve the identity of the persons who are the alleged victim and harasser;

11. Mechanisms should ensure that all complaints are conducted with due regard to key principles including confidentiality, impartiality, objectivity, timelines, accuracy and thoroughness;
12. Upon receiving a complaint, the Director – CGEE cum Secretary to the Committee shall promptly assess the situation. Once the complaint is accepted for processing, it will be forwarded to the Vice Chancellor;
13. A complainant may seek resolution through mediation and/or formal procedure; such procedures do not in any way prevent the complainant from, at any point, seeking redress under any law that may apply

PART V

MEDIATION PROCEDURE

01. A complainant may opt for mediation to bring closure to matter and/or prevent its recurrence. Use of mediation process in no way precludes the complainant from using the formal adjudicative procedure.
02. By the mediation procedure, the complainant formally requests ameliorative action on the part of the accused by a written communication.
03. In consultation with the Vice Chancellor, the Committee shall appoint two mediators acceptable to both parties to the complaint, representing the genders of the parties to the complaint. An observer, who may be represents the interests of each of the parties to the complaint and a representative of the Committee may be present at the mediation proceedings. The Committee has the responsibility to ensure that the mediation process is carried out in a collegial and non-threatening environment.
04. If the mediation procedure is concluded to the satisfaction of both parties the matter will be reported to the Vice Chancellor for closure.

FORMAL PROCEDURE

01. The formal procedure shall be initiated by a party to a complaint through written communication in the following instances;
 - I. Where the mediation process fails (either during the process or at its conclusion) to satisfy either party;
 - II. Where either party chooses to adjudicate the complaint through the formal process
02. The Vice Chancellor may also initiate a formal process at his/her discretion;
03. The complaint will be reported to the Council of the University for its decision;
04. Once the complaint is reported to the Council of the University, appropriate action may be taken while the investigation is pending. Such action may include but not limited to suspension or termination of service / student status depending on the nature and severity of the offence;
05. Investigation of the complaint will be carried out independently by an Investigation officer/Committee appointed by the Council of the University for this purpose;
06. The investigator/s must collect all the information that he or she deems appropriate and include all the testimonial evidence and documents that he or she considers necessary to clarify the events reported;
07. The procedure shall be processed promptly avoiding undue delays, from start to finish so that it may be resolved in the shortest possible time frame;
08. All the actions aimed at clarifying the events must be carried out with reservation, caution and with the utmost sensitivity, and respect for the rights of the persons involved in the said events;
09. The parties involved in SGBV proceedings are protected from any intimidation, threats or reprisals once an incident has been reported;
10. Put in place mechanisms to protect parties involved in SGEV proceedings from any intimidation, threats or repercussion once an incident has been reported.
11. For purpose of investigation the investigator/s will be assisted by the the Director – CGEE cum Secretary to the Committee;

12. the Director – CGEE cum Secretary to the Committee on SGBV should keep all records on SGBV cases confidential. All the files / documents should be kept in a secure area and uploaded to the online system; Ensure proper documentation of evidence provided during investigations;
13. Confidentiality should be maintained regarding all complainants Interview recordings if any, communications, documentations, and reports shall be divulged only to authorized persons;
14. After finishing the investigation, the investigator/s will submit a detailed report to the Director – CGEE cum Secretary to the Committee specifying the actions carried out and the result obtained;
15. The Director – CGEE cum Secretary to the Committee will submit the report to the Vice Chancellor for necessary recommendations of the Council of the University;
16. If investigation report reveals that there is a prima facie case against the suspect, formal disciplinary proceeding against the suspect will be instituted.

PART VI

DISSEMINATION OF THE BY-LAWS

01. To ensure effective dissemination of the By-Laws to all members of the University Community through circulation among staff and students, upload on university website etc.;
02. Utilize education and awareness campaigns and small group discussions to raise awareness of the GEE policy and SGBV By- Laws;
03. Encourage media outlets to provide in – depth reporting about gender – based violence;
04. Produce Braille editions of SGBV By-Laws;
05. Incorporate the By-Laws in the orientation of new students and in mentoring programmes;
06. Develop pamphlets, booklets and radio broadcasts in all three languages explaining step to follow when faced with gender-based violence and official procedures for relevant service provision.

MONITORING AND EVALUATION

01. To appraise the steps taken and the success in the implementation of the policy;
02. Establish a committee and mechanisms to monitor and evaluate the performance of the University in implementing these By-Laws.
03. Put in place monitoring indicators with time frames to measure the implementation process.
04. Put in place a forum for receiving views of members of the University regarding the By-Laws.
05. Review the By-Laws time to time to take into account emerging issues and trends through research.
06. Maintain a database on SGBV incidences and rectifications.

PART VII

DEFINITIONS

In these By-Laws the definitions of the following words shall be;

Discrimination

Direct discrimination means treating someone less favourably than someone without that attribute or someone with a different attribute in the same or similar circumstances. Indirect discrimination occurs if a person imposes or proposes to impose an unreasonable requirement, condition or practice that someone with a protected attribute does not or cannot comply with and a higher proportion of people without that attribute or with a different attribute can comply with.

Sexual Harassment

Sexual harassment is defined as any behaviour of a sexual nature that is unwelcome and occurs in circumstances where a reasonable person would anticipate that the person who was harassed would be offended, humiliated, or intimidated. Sexual harassment can take various forms and could include any of the following:

- I. Unwelcome touching, hugging, or kissing
- II. Suggestive comments, jokes or gestures
- III. Unwanted invitations to go out on dates or requests for sex
- IV. Sexually explicit e-mails
- V. Use of university computer systems for the retention and distribution of sexually explicit material
- VI. Display of sexuality explicit posters, screen savers or pictures
- VII. Accessing sexually explicit internet sites
- VIII. Intrusive questions or comments about a person's private life, body or sex / gender.

Criminal Behaviour

Some types of sexual harassment and other behaviours may be criminal offences and so may be referred to the Police. These types of behaviour include:

- I. Physical molestation or assault
- II. Indecent exposure
- III. Sexual assault
- IV. Stalking
- V. Obscene communication (telephone calls, letters, e-mails, sms, whatsapp messages etc.)
- VI. Serious racial or religious vilification
- VII. Victimization

Complainant

A complainant is the person who lodges a complaint

Respondent

Respondent is the person against whom a complaint has been lodged.

Defamation

A complaint of sexual harassment, harassment and discrimination which is brought to the attention of a respondent can sometimes result in the respondent threatening to take action for defamation.

Defamation is the publication of a statement about a person which causes that person's reputation with other people to be lowered causes them to be shunned, avoided or brought into ridicule.

It is not defamatory to make a complaint to a person who has a legitimate interest in knowing about the incident (ie. to a Contact Officer, Conciliator or Investigator) in order to seek redress under these Guidelines. Where the duties of persons such as Contact Officers, Conciliators and Investigators, involve receiving information and documenting it for reporting to appropriate people, they are, under normal circumstances, protected from liability for defamation by the deference of "qualified privilege".

Defining Unlawful Harassment

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of that person's (or that person's relatives', friends', or associates') race, skin colour, religion, gender, national origin, age, or disability, and that:

- I. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- II. Has the purpose or effect of unreasonably interfering with the individual's work performance;
- III. Otherwise adversely affects the individual's employment opportunities.

Racial and / or Religious Vilification

It is unlawful to vilify another person's or class of persons on the grounds of race or religion. Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, another person or class of person is prohibited.

Examples of conduct include badges or insignia and making racist speeches at a public rally.

Victimization

It is unlawful to victimize (treating less favourably) someone because they have exercised their rights under workplace anti – discrimination policies or the law because they have:

- I. Make an inquiry about their rights under workplace policies, equal opportunity or occupational health and safety laws;
- II. Made a complaint of or sexual harassment
- III. Been a witness to, or participated in, and discrimination, harassment investigation of complaint.

Complaint

“Complaint” means a complaint that is lodged with the University in the forms of a letter, e-mail or verbally of;

- (i) Direct discrimination;
- (ii) Indirect discrimination;
- (iii) Sexual harassment;
- (iv) Racial or religious vilification;
- (v) Victimization;
- (vi) Authorizing and assisting any of the above behaviours;
- (vii) Breach of freedom of association (ie. people have the right to freely associate with others and to form and join trade unions); and / or
- (viii) Bullying / harassment

The written complaint must be marked “Private and confidential”, if a complaint is received verbally, the complainant will be asked to sign the record of interview.

Sexual and Gender – Based Violence (SGBV)

Sexual and gender – based violence refers to acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life based on one’s gender and / or sexuality. It includes sexual harassment, domestic violence (DM) and intimate partner violence (IPV) amongst other practices (based on the UN Declaration on the Elimination of Violence against Women, 1993).

GENDER REPRESENTATION ON DECISION MAKING AND ADVISORY COMMITTEES POLICY

SECTION 1 - OVERVIEW

- (1) The Policy on Gender Representation on Decision-Making and Advisory Committees aims to achieve increased representation of women in the leadership and membership of decision-making and advisory committees in the University, with the ultimate aim of equal representation.

SECTION 2 - SCOPE

- (2) The policy applies to all decision-making and advisory committees including the Council, Academic Board and their Standing Committees and working parties, official committees and ad hoc bodies which have responsibility for substantial policy or projects.

SECTION 3 - POLICY

- (3) Where both genders are not represented or representation is insufficient, it is the responsibility of the Chair of the Committee to implement one or more of the following actions:
 - co-opt extra member (s) of the minority gender;
 - appoint a deputy chairperson of the gender opposite to the chairperson;
 - appoint deputies for members of the minority gender;
 - ask bodies or individuals with nominating rights to consider nominating a member of the minority gender;
 - examine the terms of reference, with a view to making recommendations for changes in the composition of the committee. This may include: limited term membership; provision for ex-officio members (particularly those who also chair committees) to be represented by a nominee who will be a member of the minority gender; provide for a deputy chairperson or for rotation of the chairperson's office; broaden eligibility to include more junior members of staff
- (4) As a benchmark, committees of less than five people should include at least one person of each gender; committees of more than five people should include at least two people of each gender.
- (5) Gender representation on all relevant committees will be monitored annually by Gender Centre