

PROTOCOL AGAINST UNIVERSITY HARASSMENT
UNIVERSIDAD SAN PABLO-CEU

Approved by the Governing Council at its meeting of June 21, 2023, and by
the Board of Trustees at its meeting of July 15, 2023.

VICE-RECTORATE FOR INSTITUTIONAL RELATIONS AND GENERAL SECRETARIAT

INDEX

- 1. PREAMBLE**
- 2. PURPOSE OF THE PROTOCOL**
- 3. SCOPE OF APPLICATION**
- 4. CONCEPT AND MAIN FORMS OF HARASSMENT**
- 5. EXCLUSIONS**
- 6. GUARANTEES AND RIGHTS OF AFFECTED PARTIES**
- 7. COMMISSION FOR INTERVENTION IN HARASSMENT SITUATIONS (CISA)**
- 8. PROCEDURE FOR ACTION AND RESPONSE TO HARASSMENT CASES**
 - 8.1. Procedural guarantees**
 - 8.2. Initiation of the procedure**
 - 8.3. Procedure development and instruction**
 - 8.4. Proposed Resolution**
 - 8.5. Resolution of the Proceeding**
 - 8.6. Aggravating circumstances in harassment cases**
- 9. ADDITIONAL PROVISIONS**

1. PREAMBLE

Universidad San Pablo-CEU assumes its commitment to guarantee the fundamental rights enshrined in the Constitution and, in particular, respect for the dignity and privacy of individuals, the fight against all forms of discrimination, the promotion of equality between women and men and the protection of the safety and health of those who make up the university community. As part of this commitment, it adopts this Protocol against University Harassment to detect and eradicate harassment in its area of competence, defining, implementing, and communicating to the entire university community the measures established to prevent cases of harassment that may occur and establish a procedure to follow in these situations, offering equal and comprehensive treatment to victims.

This Protocol is prepared following the mandate established in Article 4.3 of Organic Law 2/2023, of March 22, of the University System, which states that universities must have plans that guarantee gender equality in all their activities, measures to correct the salary gap between women and men, conditions of accessibility and reasonable accommodation for people with disabilities, and measures to prevent and respond to violence, discrimination, or harassment. Likewise, Royal Decree 640/2021, of July 27, on the creation, recognition and authorization of universities and university centers, and institutional accreditation of university centers, in its article 10, section 4 letter j), obliges universities to have internal equality regulations, consisting of a plan for equality of women and men, as well as a protocol against sexual harassment and harassment based on sex in the workplace.

The following regulations have been taken into account in the development of the contents of this Protocol:

- Organic Law 3/2007, of March 22, 2007, for the Effective Equality of Women and Men, which, in defense of the principle of equality between women and men, specifically considers sexual harassment and harassment based on sex as a situation of sexual discrimination, and establishes the obligation to promote working conditions that avoid it, establishing specific procedures for its prevention and to provide a channel for complaints or claims that may be filed by those who have been subjected to it.
- Law 31/1995, of November 8, 1995, on Occupational Risk Prevention, which establishes the right to effective protection in occupational health and safety matters, highlighting the need to adopt adequate measures to prevent sexual harassment at work and psychological harassment at work or *mobbing*.
- Royal Decree 1791/2010, of December 30, 2010, approving the University Student Statute, which guarantees the right to non-discrimination (any type of discrimination) of university students.
- Royal Legislative Decree 1/2013 approving the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion, which in its article 2.f) defines harassment as "*any unwanted conduct related to the*

disability of a person, which has the purpose or effect of violating his or her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment".

- Royal Legislative Decree 2/2015 of October 23, 2015, approving the revised text of the Workers' Statute Law, whose Article 4, paragraph 2 e) provides that every worker has the right to respect for his or her privacy and to the consideration due to his or her dignity, including protection against harassment based on racial or ethnic origin, religion or beliefs, disability, age or sexual orientation, and against sexual harassment and harassment based on sex.

- At the autonomous community level, it is worth mentioning Law 5/2005, of December 20, 2005, comprehensive law against gender violence of the Community of Madrid, which, in its articles 2, 23 and 31, deals with sexual harassment in the workplace.

- Finally, the Regulations of the University Ombudsman of Universidad San Pablo-CEU, responsible for the defense and protection of the rights, duties and legitimate interests of the members of the university community, as well as the Code of Conduct of Fundación Universitaria San Pablo-CEU, in which special attention to harassment behavior is considered as a basic principle, and all harassment behavior, whether it is of any type, labor, sexual, school, *bullying* or similar, must be prohibited and prosecuted.

2. OBJECT OF THE PROTOCOL.

The purpose of this protocol is to establish the procedure for dealing with possible situations of harassment, of any nature, within Universidad San Pablo-CEU (hereinafter, USP-CEU) and its dependent organizations and centers.

Specifically:

- a) To inform, train and raise awareness among the university community regarding harassment.
- b) Identify the circumstances that may favor bullying in order to act in a preventive manner, creating a favorable environment for coexistence and respect.
- c) To have the appropriate procedure in place to attend to and resolve any cases that may arise.
- d) Guarantee the safety, integrity, and dignity of the affected persons. Apply the legally appropriate precautionary measures to protect the victims, resolve the harassment situation and, where appropriate, use the relevant punitive measures.
- e) To guarantee the confidentiality of the affected persons.
- f) To provide victims with comprehensive assistance and care for the consequences of harassment.
- g) Manage knowledge gained from experience and analyze information, with a view to improving response and prevention.

3. SCOPE OF APPLICATION.

This protocol applies to:

- a) All the people who make up the USP-CEU university community, i.e.:
 - Students.
 - Teaching and Research Staff (TRS).
 - Administration and Services Personnel (ASP).
 - Interns, personnel in training and personnel hired in research projects linked to USP-CEU, as long as they develop their activity within the organizational scope of USP-CEU.
- b) Any person who, even if they depend on external companies or entities, provides their service within the scope of USP-CEU, provided that in the alleged situation of harassment is also involved personnel of the university community.
- c) Persons who have belonged to any of the above groups and no longer hold such status, provided that they allege that their relationship with USP-CEU ended as a result of the situation of harassment and invoke this procedure within a maximum period of 6 months from the date on which such relationship ended.

Harassment includes both behaviors developed on USP- CEU campuses and those that take place during the performance of their duties in the course of travel or trips related to university activity and refers to both individual and collective actions.

4. CONCEPT AND PRINCIPAL FORMS OF HARASSMENT

General Concept

In general, harassment is understood as any behavior by action or omission maintained over time, whether verbal or physical, that has the purpose or has the effect of violating the dignity of a person, in particular when it creates an environment of defenselessness, intimidating, degrading or offensive to the person.

The main characteristics of harassment are:

- The production of physical and/or psychological damage that can adopt different manifestations.
- That there is an intention to denigrate and violate the dignity of the person.
- That it occurs repeatedly and over time.
- That there is a situation of inequality between the harasser and the harassed person, so that the latter cannot defend himself/herself and is isolated.

Harassment can be considered:

- Descending: when it is produced from a person who has a position of superiority (not necessarily hierarchical) over the victim.
- Horizontal: when it occurs between people who have the same category or level of hierarchy.
- Ascending: when it is produced from a person who is in a position of inferiority (not necessarily hierarchical) to the victim.

Main forms of harassment

The following is a list of some of the most common forms of harassment, although it should not be understood as a closed list.

Harassment at work¹The term harassment covers any conduct, statement or request which, when made repeatedly and systematically, may be considered offensive, humiliating, violent or intimidating, provided that it occurs in the workplace or on the occasion thereof and involves insulting, belittling, humiliating, discriminating or coercing the protected person in the psychological, sexual and/or ideological sphere, and may even harm his or her integrity through the degradation of working conditions, whatever the reason for such conduct may be.

Sexual harassment: sexual harassment is any behavior, verbal or physical, of a sexual nature, which 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 (Organic Law 3/2007, of March 22, 2007, for the effective equality of women and men).

¹ In the event of possible workplace bullying, the "General Procedure for Prevention and Intervention in Workplace Bullying at the San Pablo-CEU Foundation" of May 2018 will be followed.

Harassment based on sex: harassment based on sex occurs when any behavior takes place based on a person's sex, with the purpose or effect of violating their dignity and creating an intimidating, degrading or offensive environment (Organic Law 3/2007, of March 22, 2007, for the effective equality of women and men).

Psychological harassment or mobbing: this type of harassment involves exposure to conduct of intense psychological violence, directed in a repeated and prolonged manner over time towards one or more persons by another or others who act against them from a position of power (not necessarily hierarchical, but in psychological terms), with the purpose or effect of creating a hostile or humiliating environment that disrupts the victim's life.

Bullying between students: consists of a continuous and deliberate verbal and/or modal mistreatment of a student by another or others, who behave cruelly with the aim of subduing, intimidating, cornering, excluding, intimidating, threatening or obtaining something from the victim through blackmail and violating his or her dignity and fundamental rights.².

Discriminatory moral harassment: consists of any unwanted conduct related to racial or ethnic origin, religion or beliefs, functional diversity or sexual diversity of a person, which has the objective or consequence of violating their dignity and creating an intimidating, humiliating or offensive environment (Organic Law 62/2003, of December 30, 2003, on fiscal, administrative and social order measures).

Cyberbullying: occurs when any of the forms of bullying described above are carried out through information technologies.

In particular, and among other assumptions, it can be considered cyberbullying:

1. Sending denigrating images or videos, tracking using spyware, sending computer viruses and humiliation using video games.
2. Impersonation, by entering another person's e-mail account, intranet, or social network to send or publish compromising material about him/her, manipulating and usurping his/her identity.
3. Defamation or violation of privacy, deceiving a person into sharing and transmitting secrets or confidential information about another for the purpose of promoting defamatory rumors.
4. Cyberbullying, consisting of repeated harassing and/or bullying behavior with the sending of offensive, rude, and insulting messages and cyber persecution. Threats of harm or intimidation that cause the person to fear for his or her safety are included.

² Cases of *bullying* that may occur among students shall be governed by the provisions of this Protocol and the *Protocol of action for cases of bullying among peers of Universidad San Pablo-CEU*.

5. EXCLUSIONS.

In accordance with the provisions of paragraph 3, harassment requires repetition and prolongation over time and requires the purpose of psychologically undermining a person through vexatious or intimidating conduct.

Consequently, excluded from the concept of harassment are those interpersonal conflicts that are temporary and localized at a specific time that may occur within the framework of human relations and that, although they affect the organization and operation of USP-CEU, do not have the consequence or the purpose of destroying or denigrating personally, academically, or professionally the parties involved in the conflict. Specifically, the following situations, among others, do not constitute harassment:

- Behaviors arising from reasonable disagreements in a professional relationship.
- Isolated or merely occasional actions, unless the seriousness of the circumstances in which such conduct occurs implies a certain risk to the professional activity and/or health of the alleged victim.
- Specific and not repeated conflicts.
- Justified criticism.
- Supervision and control, as well as the exercise of authority, always with due interpersonal respect and exercised in a proportionate manner.

These situations, although they do not in themselves constitute harassment, must be dealt with, where appropriate, within the framework of psychosocial risk prevention, human resources management and, if applicable, in the general disciplinary field. To this end, the leadership and management bodies of USP-CEU and FUSP-CEU will assume a leadership role and take the necessary steps to resolve latent and present conflicts.

6. GUARANTEES AND RIGHTS OF THE AFFECTED PARTIES.

a) Of the person being harassed.

Any person who, in accordance with this procedure, considers that he or she has been subjected to harassment at USP-CEU, has the right to:

- Communicate the facts without fear of intimidation or unfair, discriminatory, or unfavorable treatment, or of suffering reprisals or prejudice for this reason and without prejudice to any criminal, civil and/or administrative actions that may be applicable.
- To be heard, informed, advised, and treated fairly.
- To have a follow-up throughout the process to be protected and to assess the effectiveness and adequacy of the measures implemented.
- Receive, if necessary, medical, legal, psychological and/or social care, through USP-CEU's own means or through referral to external resources.
- Be informed that their acting in bad faith may result in both the initiation of a

USP-CEU's accountability procedure, as well as the exercise of the appropriate legal actions that may correspond to the person or persons falsely accused.

b) Of the person denounced.

Any person who, in accordance with this Protocol, is denounced, has the right to:

- That the initiation and processing of an investigation procedure does not entail any penalty for it.
- To know the nature and content of the report in terms that protect the confidentiality of the informant, so neither the identity of the informant, nor the area or department from which the report originates, nor any other information that could facilitate the identification of the informant will be included.
- To enjoy the presumption of innocence and to defend themselves against the accusations, being able to allege and prove everything they deem convenient (provided that this is in accordance with the established rules and procedures).
- To be heard and receive fair treatment.

7. COMMISSION FOR INTERVENTION IN HARASSMENT SITUATIONS (CISA).

In order to put this Protocol into practice, the Commission for Intervention in Situations of Harassment (hereinafter, also CISA) is constituted, a collegiate body with powers to hear, investigate, report and formulate proposals for resolution on facts reported in matters of harassment, as mentioned in section 2 of this Protocol.

CISA will be composed of:

- The Secretary General of the Fundación Universitaria San Pablo CEU and the Secretary General of Universidad San Pablo-CEU, who will chair the Committee, or the persons from the corresponding General Secretariats to whom they may delegate.
- The Vice Rector for Teaching Staff, or the person delegated by him/her, when the accused is a professor.
- The Vice Chancellor for Students and University Life, or the person he/she delegates, when the accused is a student, as well as the SOU.
- The Manager when the accused is a member of the ASP.
- The University Ombudsman.
- One representative of the TRS and one representative of the ASP, appointed by the Rector from among the members of the Works Committee.
- A representative of the student body, provided that the complaint is filed by or directed against a student.
- The Dean of the corresponding School.

CISA's functions are as follows:

- a) Promote specific measures for prevention, information, awareness, and training on harassment, promoting the right of all members of the university community to receive respectful and dignified treatment, as well as the right to respect for privacy and sexual freedom.
- b) Ensure that affected persons receive the necessary care and counseling.
- c) To process the procedure as established in this Protocol.
- d) To prepare a resolution proposal on the reported fact, once the proceedings carried out by the investigating body have been received.
- e) Propose to the Rector the adoption of any precautionary measures deemed necessary, in order to protect the persons affected in any of the possible harassment behaviors.
- f) Submit a report to the Rector with the conclusions of the intervention and, if appropriate, with the proposed measures to be adopted.
- g) Advise and inform the university community on the application of this Protocol.
- h) Supervise the effective compliance and effectiveness of the measures adopted, as well as the subsequent situation of the harassed person.

CISA's operation shall be carried out in accordance with the following criteria:

- The Committee shall be constituted with the appropriate members when necessary for the fulfillment of its functions.
- The Commission may call upon as many experts as it deems appropriate for the resolution of cases.
- The provisions regarding abstention and recusal provided, in general, in Law 40/2015, of October 1, on the Legal Regime of the Public Sector, shall be applicable to the persons forming part of the Committee.
- For the valid adoption of resolutions, the favorable vote of at least half plus one of the members present shall be necessary. In the event of a tie, a new vote shall be taken, in which the Chairman shall have the casting vote. Neither proxy voting nor advance voting shall be admitted.
- The Commission has no disciplinary powers and therefore has no executive powers, and its decisions are not subject to appeal.

8. PROCEDURE FOR ACTION AND RESPONSE TO HARASSMENT CASES

8.1 Procedural guarantees.

During the processing of the procedure regulated in this Protocol, the following guarantees shall be observed:

- Objectivity: all persons involved shall act in good faith, seeking a work and study environment free of harassment, as well as the clarification and, where appropriate, the disciplinary sanction of the facts. The procedure will be processed giving fair treatment to all persons involved.
- Respect and protection of persons: actions and proceedings shall be carried out with discretion, prudence, and due respect to protect the privacy and dignity of all persons concerned, who shall not be treated unfavorably under any circumstances.
- Presumption of innocence: the presumption of innocence of persons accused of alleged harassment shall be guaranteed.
- Confidentiality: the persons involved in the procedure shall be obliged to keep strict confidentiality and reserve and shall not transmit or disclose information on the content of the complaints filed, resolved or under investigation of which they are aware. This commitment shall be maintained after losing the status for which they participated in the procedure.
- Diligence and speed: the investigation of the conduct denounced must be carried out with due professionalism, diligence and without unjustified delays, so that the procedure can be completed, and the resolution issued in the shortest possible time, respecting the due guarantees.
- Impartiality and contradiction: the procedure shall guarantee an impartial hearing and fair treatment for all affected persons. Those who intervene in the procedure shall act in good faith in the search for the truth and the clarification of the facts denounced.
- Prevention and prohibition of retaliation: both during the course of the procedure and at its conclusion, the necessary measures shall be taken to prevent any kind of retaliation against persons who make a complaint, appear as witnesses or participate in an investigation of sexual violence or harassment, or harassment based on sex.
- Restitution of rights: victims of harassment shall have the right to be reinstated to the working conditions in which they were before the harassment if these have been modified.
- Complaints that are not proven: when it is not possible to establish the facts, in no case will reprisals be taken against the reporting party. The situation will be monitored with special attention to ensure that the alleged harassment does not exist, without prejudice to the actions that may arise in the event of false allegations of harassment.

- False allegations or bad faith: USP-CEU may adopt the measures it deems appropriate, within current legislation, in the event that the harassment allegation is false or has been made in bad faith.
- Data protection: the personal data contained in the procedure will be processed in accordance with the provisions of Organic Law 3/2018 of December 5, 2018, on the Protection of Personal Data and guarantee of digital rights and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
- Other appeals and remedies: the initiation of the procedure does not interrupt or extend the deadlines for claims and appeals established in the regulations in force.

The procedure set forth in this Protocol is voluntary in nature, and it is not necessary to avail oneself of it in order to be able to initiate the legal actions deemed pertinent in administrative or judicial proceedings.

The opening of disciplinary proceedings by the Administration, or of judicial proceedings by the competent jurisdiction, shall determine the immediate filing of any of the procedures established in this Protocol. This suspension does not necessarily imply the suspension of any provisional and/or precautionary measures that may have been adopted. In addition, the available support and care services will continue to be available to the affected persons. Likewise, the aforementioned suspension of the procedure will be without prejudice to the initiation of the corresponding disciplinary proceedings; and if from the study of the facts it is deduced that these may constitute an administrative infraction, action will be taken in compliance with the provisions of the applicable regulations. In this context, the procedure may be resumed or not, as appropriate, in accordance with the decision of the competent bodies.

The entire USP-CEU university community is obliged to collaborate in the research and in the processes that are developed in relation to the actions contemplated in this Protocol.

8.2 Initiation of the procedure

You may initiate harassment proceedings:

- Any person included in the scope of application of this Protocol who considers him/herself a victim of harassment, submitting the appropriate complaint through the Foundation's Ethics Channel.
- Any member of the USP-CEU university community who becomes aware of a situation that could constitute one of the types of harassment listed here may report it through the Ethics Channel.

8.3 Procedure development and instruction

Only those persons who, included in the scope of application of this Protocol in accordance with the provisions of Article 2, may file a complaint for harassment and consider themselves to be victims of harassment.

Once the harassment complaint has been filed through the Ethical Communication Channel, it shall be verified that it contains a sufficient description of the facts or behaviors that, in the opinion of the person filing the complaint, constitute harassment.

Once this verification has been carried out, the complaint will be transferred to the Ethics and Compliance Committee of the FUSP-CEU, which, if appropriate, will inform the Secretary General of the Fundación Universitaria San Pablo CEU and the Secretary General of Universidad San Pablo-CEU. The latter will convene the Commission for Intervention in Situations of Harassment, transferring the complaint. The CISA will determine the body in charge of carrying out the instruction which, in general, will fall to the General Secretary of Universidad San Pablo-CEU, who will be supported by:

- The Vice Rectorate for Students and University Life, in the event that the accused is a student.
- The Vice-Rector's Office for Teaching Staff, in the event that the accused is a member of the TRS and this Protocol is applicable.
- Management, in the event that the accused is a member of the ASP and this Protocol is applicable.

In the case of a case involving sexual or gender-based harassment, the University's Equality Unit will be notified so that, if appropriate, it may participate in the procedures indicated at this stage of the procedure.

In particularly serious cases, and whenever ICISA considers it necessary for the informant and possible witnesses to have no contact with the person who has been reported, it may propose support or assistance measures while the report is being resolved, in order to safeguard the interests of all those involved. CISA will study each case individually to establish the most appropriate support or protection measures for each situation.

The body designated for the investigation shall be responsible for investigating the facts that have given rise to the harassment complaint, gathering the necessary documents, taking statements from the persons involved and others who may have knowledge or relevant information about the facts, as well as taking any evidence deemed pertinent.

As a general rule, the informant will be asked to make a statement only once, although a new statement may be required if it is considered necessary to clarify any point. Likewise, the informant may appear at his own request more than once, if so requested, to clarify any point or to provide further evidence.

During the investigation process, advice may be requested from the University services deemed appropriate (SOU, Health Promotion Area, Occupational Safety and Welfare, University Ombudsman, among others). With exceptional character

and for duly justified reasons, the intervention of an external advisory service may be requested.

Unless there is good cause, the investigation process may not exceed 15 working days. The statements of the informant, the accused and the witnesses shall be recorded, and a copy thereof shall be provided to them.

Although it is desirable to try to resolve the situation through dialogue and mediation, in cases of sexual harassment or harassment based on sex, mediation or dialogue solutions cannot be applied in any case.

8.4 Proposed Resolution

At the end of the investigation phase, all the proceedings will be transferred to the CISA, which must prepare a resolution proposal on the reported fact.

Within a maximum period of 15 working days, CISA will issue a report that will be sent in writing to the Rector and the Ethics and Compliance Committee of the FUSP-CEU, which will contain one of the following conclusions:

- a) That there are no rational indications of a possible situation of harassment, nor any other alleged misconduct that could give rise to the initiation of disciplinary proceedings against the person or persons denounced, proposing that the proceedings be closed.
- b) That there are indications of an alleged situation of harassment, in which case it will issue a letter in which it will be stated:
 - ✓ A proposal for precautionary measures if their adoption is considered necessary to guarantee the physical and psychological health of the affected person. These measures must be implemented immediately, until the affected person is completely recovered. Likewise, the necessary solutions shall be proposed to prevent the harassment situation from continuing.
 - ✓ A proposal of definitive measures or organizational actions of a permanent nature that are considered appropriate for the prevention of future harassment actions.

8.5 Resolution of the Proceeding.

The resolution of the procedure shall be the responsibility of the Ethics and Compliance Committee and shall be carried out in accordance with the applicable regulations.

8.6 Aggravating circumstances in harassment cases

Due to the possible impact on the victim, for the purpose of determining the sanctions that may be imposed, a greater seriousness of the facts will be considered in those situations in which:

1. The reported person is a repeat offender in the commission of acts of harassment.



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2. There are two or more victims.
3. There is evidence of intimidating or retaliatory behavior on the part of the aggressor.
4. The aggressor has decision-making power over the victim's employment situation.
5. The harassment occurs during a personnel selection or promotion process.
6. The victim is in any of the following employment situations: temporary contract, probationary period, internship or when the relationship with the company is not of an employment nature.
7. The victim suffers from some type of physical or mental disability.
8. The psychological or physical condition of the victim has suffered serious alterations, medically accredited.
9. Pressure or coercion is exerted on the victim, witnesses or people in their work or family environment, in order to prevent or hinder the successful completion of the investigation.

9. ADDITIONAL PROVISIONS.

First: All information relating to harassment complaints shall be handled in a manner that protects the right to privacy and intimacy of the parties involved.

Second: The initiation of the procedure established in this Protocol does not interrupt or extend the time periods for claims and appeals established in the regulations in force.

Third: Without prejudice to any precautionary measures that may be adopted, the filing of a legal action shall suspend the proceedings contemplated in this procedure. For this purpose, any of the parties involved shall inform the General Secretariat of USP-CEU of the initiation of a judicial proceeding and the latter shall immediately inform the Ethics Committee of the Foundation.

Fourth: In the event that any member of CISA is a party to the proceeding, a respondent or a witness, he or she shall be disqualified from acting in the proceeding. In this case, the CISA shall designate a substitute person, who must have the appropriate training in this area.

Fifth: Both FUSP-CEU and USP-CEU will adopt all possible measures to protect the persons involved in the process against any type of intimidation, persecution, discrimination, or retaliation, whether it occurs directly or indirectly.