

Protocol to prevent and act against sexual harassment and harassment on grounds of sex at the Universidade de Vigo.

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Preamble

The Spanish Constitution, the European regulation, and the Gender Equality Law include and guarantee the essential rights of a social and democratic State. These essential rights include the right to equality and non-discrimination, the right to demand the respect of dignity, the right to protect moral integrity and intimacy, and the right to the free development of personality.

The main objectives of the Universidade de Vigo, as a public institution and as stated in its by-laws, are to provide accurate information that facilitates student learning, to transmit knowledge and values to society, and to develop cultural, scientific, and technological abilities. In order to achieve these goals, the university should be a safe working space that respects people's dignity and does not tolerate any discriminatory behavior on grounds of any personal or social circumstance.

In fact, sexual harassment, or harassment on grounds of sex is the conduct that most harms people's dignity, and it is present in the working environment, as well as in any relational context, therefore it also occurs in the academic community.

For this reason, the Universidade de Vigo commits to prevent and eradicate the cases of sexual harassment or harassment on grounds of sex in the university sector to guarantee the fundamental rights of the academic community. Besides, causing prejudices to the victims of harassment, these cases also affect other members of the community and, at the same time, damage the image of the academic institution.

Pursuant to the current regulation on fundamental rights, the Universidade de Vigo shall ensure the consolidation of an environment that respects all members of the academic community and shall reject any case of sexual harassment or harassment on grounds of sex within its area.

Through this protocol, the University takes a firm step towards this kind of behavior and establishes a set of measures that aim to prevent these situations. These measures consist of information, awareness, training, and counseling campaigns on sexual harassment or harassment on grounds of sex. However, the success of this protocol is due to the collective awareness, the community engagement on the eradication of this kind of behavior, and the attitude of every member of the academic community.

Nevertheless, this protocol not only presents measures to prevent sexual harassment or harassment on grounds of sex, but also establishes procedures to pursue and decide on any complaint made by the victims. Therefore, it is necessary to address these violent and discriminatory conducts within the university, bearing in mind the community rules, the constitutional requirements, and internal rules on the rights of all individuals involved.

Nowadays, sex continues to be a cause of discrimination in the university environment despite the existence of regulations that reject any kind of behavior that goes against the dignity or physical or psychological integrity of any person. So that is why institutions, such as universities, should unite and commit to the prevention and the action against these behaviors and must provide all the necessary means to its eradication, in order to guarantee the effectiveness of the said rights.

The reasons that led the Universidade de Vigo to approve this protocol were its commitment to the rights of the members of the academic community and its zero-tolerance with any form of violence within its scope.

This protocol fulfils the following action: “to draw a protocol to prevent and act against sexual harassment and harassment on grounds of sex or sexual identity, whose responsibilities are assigned to the Gender Equality Unit”, the operative goal 5 of the Strategic focus 4 “Social relationships and working conditions on an equality environment” of the 1st Gender Equality Plan of the Universidade de Vigo (2012-2014) approved by the Governing Council on the 12 November 2012.

1. Statement of Principles on Sexual Harassment or harassment on grounds of sex/

The University of Vigo commits to comply with the following principles on sexual harassment or harassment on grounds of sex:

1. Every person is entitled to engage in any activity with fully respect for his/her dignity, intimacy, and physical and psychological integrity.
2. The Universidade de Vigo considers sexual harassment and harassment on grounds of sex an intolerant form of discrimination in the academic environment.
3. The Universidade de Vigo shall ensure the maintenance of an atmosphere free of sexual harassment and harassment on grounds of sex.
4. As a public institution, the Universidade de Vigo shall prevent any form of sexual harassment or harassment on grounds of sex and guarantee effective protection to all its academic community.
5. The Universidade de Vigo commits to provide the material and human resources needed to prevent and eradicate these conducts and its consequences.
6. The Universidade de Vigo shall take the necessary measures to prevent the cases of sexual harassment and harassment on grounds of sex (information, training, organizational, or counseling actions), thus achieving an environment free of harassment.
7. This protocol develops a procedure based upon the requirements for prudence and confidentiality to prevent, punish, and safeguard the rights of the individuals concerned in cases of sexual harassment or harassment on grounds of sex.
8. Any person who considers a victim of sexual harassment or harassment on grounds of sex has the right to file a complaint to the academic body through the procedure established on this protocol.
9. The actions envisaged in this protocol shall be understood without prejudice to the possibility of adopting other legal actions that may correspond to the victim.

2. Legal framework/

The following section includes the basic regulatory framework on sexual harassment and harassment on grounds of sex:

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_ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

_ Organic Law 3/2007 of 22 March for effective equality between women and men.

_ Spanish Constitution of 1978.

_ Law 7/2007 of 12th April on the Civil Service Basic Statute (EBEP).

_ Organic Law 4/2007 of 12 April, amending Organic Law 6/2001 of 21 December, governing universities.

_ Royal Legislative Decree 1/1995 of 24 March, which approves the revised text of the Law of the Statute of Workers.

_ Galician Law 7/2004 of 16 July on equality of men and women.

_ Bylaws of the University of Vigo, Organic Law 7/2010 recognized in the resolution of 14 January.

_ I Gender Equality Plan of the University of Vigo (2012-14).

_ University of Vigo Strategic plan. (2008-2012).

_ Protocol to act against sexual harassment or harassment on grounds of sex in the scope of the General Government Administration and Public Bodies.

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3. Protocol/

Chapter I: General dispositions.

Chapter II: Prevention of situations of sexual harassment and harassment on grounds of sex.

Chapter III: Competent Bodies.

Chapter IV: Procedure.

Chapter I: General dispositions

Article 1. Objectives

This protocol aims to:

1. Prevent any case of sexual harassment or harassment on grounds of sex that may occur in the academic environment on terms established on Organic Law 3/2007 of 22 March.
2. Inform, raise awareness, educate, and provide guidance to the academic community on grounds of sexual harassment and harassment on grounds of sex.
3. Adopt the measures needed to resolve situations of sexual harassment and harassment on grounds of sex.

Moreover, it should be respected both parties' rights. On one hand, it should be guaranteed the complainant's physical and moral integrity, and on the other hand, it should be also fundamental to respect the defendant's presumption of innocence. Both parties are entitled to be treated with dignity and respect throughout the entire investigation process and to have the most appropriate measure taken for their specific case.

Article 2. Scope

This protocol shall apply only when the subjective, objective, and special requirements provided in the following articles are met.

Article 3. Subjective scope

This protocol shall apply to the following individuals:

1. Teaching and Researching Staff.
2. Administration and Services Staff.
3. Students and any person studying at the Universidade de Vigo.
4. Other staff linked to the university regardless of the nature of their relationship.
5. Staff members who were not employed by the University of Vigo and self-employed individuals. This protocol shall not apply if both parties of the alleged situation of sexual harassment or harassment on grounds of sex belong to this group.

6. Any person who has an administrative or private contract with the Universidade de Vigo, except when the alleged case of sexual harassment or sex violence occurs between two people with the same type of contract.
7. Any person mentioned in the foregoing paragraphs who was a victim of sexual harassment or sex violence can adopt this protocol even if their relationship (whether direct or indirect) with the Universidade de Vigo has finished. In the latter case, their Complaint Forms should be submitted within 2 months from the end of the relationship.

Article 4. Objective scope

This protocol shall apply to conducts considered as sexual harassment or harassment on grounds of sex pursuant to Article 7 of the Organic Law 3/2007 of 22 March, without prejudice to Article 184 of the Spanish Criminal Code¹.

Specifically, sexual harassment is defined as “any form of verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, degrading, or offensive environment”.

It is considered “harassment on the grounds of sex any behavior prompted by a person’s sex with the purpose or effect of violating his or her dignity, creating an intimidating, degrading or offensive environment”.

Moreover, this protocol shall also apply to discriminatory conducts on grounds of sex, defined as follows on the Articles 8 and 9 of the Organic Law 3/2007 of 22 March:

¹ Whoever solicits favors of a sexual nature, for himself or for a third party, within the setting of continuous or usual work relation, teaching, or service provision relation, and by such conduct causes the victim a situation that is objective and seriously intimidating, hostile or humiliating, shall be convicted of sexual harassment and punished with a sentence of imprisonment of three to five months or a fine from six to ten months.

2. Should the party guilty of sexual harassment have committed the act availing himself of a situation of labor, teaching, or hierarchical superiority or specifically or tacitly warning of harm to the victim concerning the lawful expectations that person may have within the setting of that relation, the punishment shall be five to seven months imprisonment or a fine of ten to fourteen months.

3. When the victim is especially vulnerable, due to age, illness, or the circumstances, the punishment shall be five to seven months of imprisonment or a fine of ten to fourteen months in the cases envisaged in Section 1, and of imprisonment for six months to one year in the cases envisaged in Section 2 of this Article.

“Any less favorable treatment of women relating to pregnancy or maternity constitutes direct discrimination on the grounds of sex”.

“Discrimination on the grounds of sex is also regarded to exist in the event of any adverse treatment of or negative effect suffered by persons owing to the lodging of a complaint, claim, accusation, suit or appeal of any nature intended to prevent their discrimination or demand effective compliance with the principle of equal treatment for women and men”.

Article 5. Spatial scope

This protocol shall apply only when the conducts defined in Article 4 occur at:

1. Any of the 3 campuses of the Universidade de Vigo.
2. Centers attached to the Universidade de Vigo.
3. Any research center of the Universidade de Vigo located outside the campuses.
4. Public or private institutions where students carry out the internships organized by the Universidade de Vigo.
5. Any other space outside the university where the presence of the academic community arises from an activity organized and authorized by the Universidade de Vigo.

Article 6. Obligation to inform and to comply with the protocol

1. The University of Vigo commits to disseminate this protocol, making special emphasis on the need for its strict compliance, so that every person and institution included in its scope has the necessary information and knowledge about it.

2. The Special Administrative Clauses and Bid Specifications shall include a compliance clause with the conditions of execution of the contract established on this protocol. Moreover, the penalty regime shall include a clause that states as follows: “Failure to comply with the obligations set out in the *Protocol to prevent and act against sexual harassment and harassment on grounds of sex at the Universidade de Vigo* shall be considered as severe offence”.

Chapter II: Prevention of situations of sexual harassment and harassment on grounds of sex

Article 7. Prevention of situations of sexual harassment and harassment on grounds of sex

The Universidade de Vigo commits to adopt measures to prevent situations of sexual harassment and harassment on grounds of sex within the academic environment. To achieve this goal, activities such as awareness-raising and training campaigns will be carried out, as well as prevention courses and courses on how to deal with such situations.

Chapter III: Competent Bodies

Article.8. Commission Against Sexual Harassment and Harassment on the Grounds of Sex at the University of Vigo (CAS, from its Spanish initials)

The Commission Against Sexual Harassment and Harassment on the Grounds of Sex at the Universidade de Vigo, hereafter called CAS, shall be responsible for the implementation of this protocol.

Article 9. Composition of the CAS

The CAS will be composed of:

1. The Head of the Gender Equality Unit, who will assume the presidency of the Commission.
2. The Rector's representative.
3. The PDI (Teaching and Researching Staff) Representative
4. The PAS (Administration and Services Staff) Representative
5. The Student Representative
6. The Senior Management Representative, who will assume the role of secretary.

When deemed necessary, the CAS may be assisted by a qualified technician, who shall be appointed by the presidency.

The Governing Council may appoint the student, the PAS, and the PDI representative on the basis of a proposal submitted by the Gender Equality Unit. Their term of office will last 3 years, with the possibility of renewal.

The CAS shall be composed of an equal number of women and men, pursuant to the current regulation.

Article 10. Training of the CAS members

The Gender Equality Unit of the Universidade de Vigo shall be responsible for providing the necessary information on grounds of sexual harassment and harassment on grounds of sex to all its members so that they can accomplish their assigned duties. This training will be focused on equality issues, sexual harassment, and harassment on grounds of sex, victim assistance, and communication skills on the content of this protocol.

Article 11 CAS's actions

The attendance of at least 4 members of the CAS, including the presidency and the secretary, will be required for its valid constitution. Moreover, it shall be necessary the vote in favor of at least 4 members to pass resolutions. In the event of a tied vote, the presidency shall have the casting vote. The delegation of vote shall not be admissible, as well as the early vote or the abstention.

However, pursuant to Article 28 and 29 of Law 30/1992 of 26 November on Legal Scheme for Public Administrations and Common Administrative Procedure, individuals who meet the circumstances of abstention or recusal envisaged in said Law shall not act on the CAS.

Article 12 Roles of the CAS

These are the roles of the CAS:

1. To report the competent body on the adoption of preventive measures for addressing the possible situations of sexual harassment or harassment on grounds of sex that may occur in the academic environment.
2. To analyze the alleged sexual harassment and harassment on grounds of sex Complaint Forms that have been submitted, and to decide on the opening of the procedures envisaged by this protocol.
3. To handle the admitted Complaint Forms and to issue a report on the situation alleged.
4. To request the Rector's office the adoption of the necessary measures to protect the victim during the course of the procedure envisaged by this protocol.

5. To monitor the implementation of this protocol in order to analyze its proper operation and effectiveness, and to propose amendments before the Governing Council.
6. To prepare an annual report on the implementation of this protocol.

Chapter IV: Procedure

Article 13. Principles and guarantees of the procedure

The following principles and guarantees shall be respected during the handling of this protocol:

1. The dignity, the intimacy, and the equality of treatment of the individuals involved. All the activities performed shall be respectful to both parties.
2. All the information provided (whether verbal or written) shall be made with due reservation. In particular, the appropriate measures shall be taken to preserve the identity of the alleged victim and defendant.
3. All people who may be involved in the procedure must keep secret all the information contained therein, as well as the actions that are carried out through it.
4. This procedure shall be handled as quickly as possible and without delay from its initiation until its completion, including the adoption of the necessary measures of protection so that it can be terminated in the shortest period of time.
5. This procedure shall guarantee the right of audience of the people involved in the reported situation, who can make the statements they consider appropriate to defend their case.
6. The implementation of this protocol shall not prevent the deployment of legal actions provided by law.
7. The necessary measures shall be taken to avoid any type of retaliation against the individuals who report a situation of sexual harassment or harassment on grounds of sex, or against the witnesses who appear on the procedure described in this protocol.

Article 14. Submission of the Complaint Form

1. Any person involved in the scope of this protocol who considers herself/himself to be a victim of sexual harassment or harassment on grounds of sex may submit a Complaint Form addressed to the Head of the CAS.
2. The Complaint Form can be submitted by a third party who has knowledge of the harassment situation, including managers of the campuses or departments, worker's representatives, or students. In such cases, the presidency of the CAS shall forward a copy of the Complaint Form to the victim, so that she/ he can ratify it.
3. Requests Forms may be submitted either oral or written. However, it shall contain the name of the complainant.

Written Requests Forms shall be submitted at the Registry Offices of the university or at any of the other means pursuant to Law 30/1992 of 26 November on Legal Scheme for Public Administrations and Common Administrative Procedure.

In order to guarantee the right to intimacy of the individuals involved, Annex 1 and 2 of this protocol, as well as the alleged facts and the identification of the reported person, shall be submitted on a sealed envelope addressed to the CAS presidency.

It shall be required for those oral Requests Forms addressed to the Gender Equality Unit to draw up a record of this form and to be signed by the claimant for the purposes of record.

4. The Complaint Form shall be submitted no later than 3 months after its occurrence. In the event of repeated acts of harassment, the 3-month period shall apply from the last time on which this said act was committed.

Article 15. The obligation to inform

1. Any member of the academic community must inform their hierarchical superiors, the managers of the campuses or departments, or the presidency of the CAS of any known situation of sexual harassment or harassment on grounds of sex.
2. Any teaching or administration staff of the Universidade de Vigo must handle immediately to the CAS the oral or written Complaint Forms on alleged sexual harassment or harassment on grounds of sex.

Article 16. Initiation of the procedure

The CAS presidency shall summon all its members no later than 5 working days after the reception of the Complaint Form or since the ratification of the report made by the alleged victim.

The CAS shall analyze the reported facts on its first meeting and then, they may agree:

1. To dismiss a Complaint Form in the following cases:
 - a. When it is apparent that neither the facts stated nor the people involved are included in the scope of this protocol.
 - b. When the Complaint Form was submitted by a third party and was not ratified by the alleged victim.
 - c. When the Complaint Form was not submitted within the deadline established by Article 14 of this protocol.

The dismissal of the Complaint Form shall be supported by one of these cases and shall be conveyed by writing to the complainant and the victim if the Complaint Form was submitted by a third party.

2. To handle the Complaint Form and to initiate the procedure established on the following articles.

The admission of the Complaint Form shall be made by writing and must be notified to the individuals involved. The initiation of the procedure shall be forwarded to the Rector's Office.

Article 17 Appeal procedure

1. Once the Complaint Form is admitted, the CAS shall appoint from among its members an inspector, who would be in charge of handling the complaints pursuant to the terms established on this article. For this purpose, the inspector shall be assisted by the secretary of the CAS.

2. The inspector shall gather all the information and evidence necessary to clarify the facts that had been denounced.

3. In all events, the inspector shall give all the parties involved in the alleged sexual harassment situation a fair hearing. Both parties can make the statements that they

consider necessary, as well as they can be accompanied to the hearing by another member of the academic community, as long as their decision has been notified in advance.

4. Before appointing the inspector, the CAS may require the collaboration of another university services (the Occupational Risk Prevention Service or the Psycho-pedagogical Office, among others). Exceptionally, the CAS can request the intervention of an external body.

5. All actions leading to the appraisal of the facts must be carried out with due reserve, prudence, sensitivity, and respect for the rights of both parties involved.

6. The inspector shall have a period of 20 working days from the admission of the Complaint Form to implement all the actions envisaged in this precept.

7. Once the inspector has completed its task, he/she shall present a detailed report on the actions carried out and their results to the CAS.

Article 18. Completion of the procedure

1. In a period of 5 working days from the presentation of the report, the CAS shall adopt an agreement on the reported situation. Besides, the presidency shall forward this agreement to the Rector's Office.

2. The CAS may make some of the following proposals in the agreement:

a. Proposal to close de case:

i. When there is no sufficient evidence that the reported situation occurred.

If the CAS proves that the complainant filed a false statement in bad faith, it may propose to the Rector's Office opening a disciplinary proceeding against the complainant.

ii. In the case of a situation that is not included in the scope of this protocol.

If the CAS finds evidence that another offense has been committed, it may propose to the Rector's Office opening classified information.

c. When the alleged harasser is a self-employed or a person not employed by the University of Vigo (section 5, Article 3 of this protocol), the Rector's Office may forward

a report made by the CAS explaining the situation to the company that hired him, so that it can adopt such measures as may be deemed appropriate.

3. This report shall be forwarded to the Rector's Office and to the individuals involved in this procedure.

Article 19. Rector's Office decision

1. The Rector's Office shall issue a decision within five working days from the receipt of the CAS report. Following this, the procedure shall conclude and both parties shall be notified.

2. The resources envisaged in the current regulation may be used to dismiss the Rector's Office decision.

Article 20. Victim's protection measures

When the Complaint Form has been admitted, and in cases of exceptional seriousness that could cause prejudice to the victim, the CAS, after consulting with her, may propose to the Rector's Office the adoption of protective measures. These measures, depending on the case, may consist of changing the victim's administrative unit, service, department, shift, center, or campus. In any case, the adoption of these measures must have the consent of the victim.

Article 21. Confidentiality clause

1. All the information concerning Complaint Forms for reporting sexual harassment or harassment on grounds of sex shall remain confidential and must respect the right to intimacy and dignity of the people involved.

2. All the Staff involved in any part of the procedure established in this protocol shall respect the confidentiality clause.

Article 22 Cooperation agreement

Any person, company or institution included in the scope of this protocol shall cooperate with the CAS in the investigation of situations of sexual harassment or harassment on the grounds of sex.

Article 23. Termination of the procedure

The initiation of legal proceedings on the same alleged facts to the CAS shall determine the closing of the procedure initiated pursuant to this protocol.

Article 24. Monitoring the application of the protocol

1. The CAS shall monitor the implementation of this protocol to analyze its effectiveness on the prevention, detention, and elimination of situations of sexual harassment and harassment on the grounds of sex at the Universidade de Vigo.
2. The CAS shall issue an annual report on the implementation of this protocol and submit it to the Governing Council. Moreover, if the CAS identifies deficiencies in the protocol, they can make proposals for its improvement.

Final disposition

This protocol shall enter into force on the day following its adoption by the Governing Council at the Universidade de Vigo.