

APPENDIX “D”

CODE OF CONDUCT ON GENDER-BASED SEXUAL HARASSMENT

(In compliance with RA 7877, RA No 11313 and CMO No. 3 series of 2022)

RULE 1

INTRODUCTION

SECTION 1. UNIVERSITY POLICY

University of Southern Philippines Foundation (USPF) is committed to providing an environment that is free from sexual harassment, other forms of sexual misconduct and inappropriate behavior. In keeping with this commitment, USPF maintains a strict policy prohibiting all forms of sexual harassment.

The entire educational community suffers when sexual harassment is allowed to pervade the academic and labor atmosphere. It is therefore the declared policy of the University that sexual and gender-based violence and discrimination, including sexual harassment, other forms of sexual misconduct and inappropriate behavior are unacceptable and shall not at all be tolerated or condoned. Due to this zero-tolerance policy, the University shall, after due process, impose disciplinary sanctions commensurate to the gravity of the infractions.

It is for this reason that this Code of Conduct on Gender-Based Sexual Harassment, which is largely based on the Republic Act No. 11313 or the Safe Spaces Act, and the CHED Memorandum Order No. 3 series of 2022, has been promulgated.

SECTION 2. VIOLATION OF THE POLICY

Violation of this policy shall result in disciplinary action up to and including expulsion or termination, (as the case may be). All members of the educational community affected by a sexual harassment incident shall be treated with respect and given full opportunity to present their respective sides of the incident.

SECTION 3. DEFINITION OF TERMS

For purpose of this Code of Conduct, the following terms are defined as follows:

- a. **Educational Community** consists of those individuals or groups of individuals associated with USPF or involved in organized teaching and learning systems. They are individuals and groups directly involved in the attainment of the educational institution's objectives and are therefore bound by shared purposes. The inter-

relationships of the members or constituent elements of the educational community are characterized by their respective rights and obligations.

- b. **Higher Education Institutions (HEIs)** are educational institutions, private or public, established in accordance with law and offering CHED-recognized higher education programs.
- c. **Gender-Based Sexual Harassment (GBSH)** refers to an act, or a series of acts, involving any unwelcome sexual advances, request or demand for sexual favors, or other verbal or physical behaviors of a sexual nature, committed by any individual.
- d. **Misogynistic remark or slur** refers to any statement, in whatever form or however delivered, that is indicative of the feeling of hating women or the belief that men are inherently better than women.
- e. **Moral damage** refers to physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury.
- f. **Offended party** refers to the person who experienced the incident reported or complained of.
- g. **Persistent** means continuing for a relatively long time.
- h. **Personnel** refers to academic personnel, academic support personnel, non-academic personnel, administrators, and officials of the University regardless of the nature of their contract, status of employment, position, or rank.
- i. **Prohibited relationship/activity** refers to the prohibited dating, sexual, or amorous relationship or activity between personnel in a work-related setting or between personnel and a student in an education/training-related setting.
- j. **Rape**, as defined by the Anti-Rape Law of 1997, is an act of sexual assault committed by the insertion of one's sex organ or any foreign instrument or object into another person's orifice, without the victim's consent or capability to give consent. This offense includes the rape of both males and females.
- k. **Respondent** refers to a person reported or complained of as having committed sexual harassment, other form of sexual misconduct, or inappropriate behavior.
- l. **Students/Trainees** refer to those enrolled full-time or part-time in regular courses, or short-term or special training offered by the educational or training institutions. For the purposes of these Guidelines, applicants shall be deemed as students/trainees as well.
- m. **School Personnel** refers to individuals working and employed in USPF, whether academic or non-academic, teaching, or non-teaching, managerial, supervisory, or rank and file, including coaches, club advisers and moderators, and trainers.
- n. **Sexist remark or slur** refers to a statement, in whatever form or however delivered, that is indicative of prejudice, stereotyping, or discrimination based on gender, typically against women.

- o. **Stalking** refers to conduct directed at a person involving a pattern of repeated visual or physical proximity, non-consensual communication, or a combination thereof, characterized by fixation or obsession, that causes or is likely to cause a person to fear for one's own safety or the safety of others, or to suffer emotional distress.
- p. **Transphobic remark or slur** refers to any statement, in whatever form or however delivered, that is indicative of fear of, hatred of, or aversion to persons whose gender identity and/or expression do not conform with their sex assigned at birth.

RULE II

GENDER-BASED SEXUAL HARASSMENT

SECTION 4. KINDS OF GENDER-BASED SEXUAL HARASSMENT ACCORDING TO THE ENVIRONMENT OF HEIS.

- a. In an education or training environment, GBSH is committed:
 - 1) Against one who is under, directly or indirectly the care, custody, or supervision of the offender; or
 - 2) Against one whose education, training, apprenticeship, or tutorship is entrusted to the offender; or
 - 3) Against one whose application for membership or continued membership or participation or activity in a student organization is entrusted to, or is subject to review, comment or influence by, the offender; or
 - 4) When the sexual favor is made as a condition to the giving of a passing or improved grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations, or the giving of any academic privilege; or
 - 5) When sexual advances would result or has resulted to an intimidating, hostile or offensive environment for the student, trainee, or apprentice.
 - 6) Such other analogous circumstances.
 - 7) In a work-related or employment environment, GBSH is committed when the sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions or privileges, or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee; or in any way impair the employee's rights or privileges under existing labor laws; or any of the above acts would result in an intimidating, hostile or offensive environment for the employee; or such other analogous circumstances.

SECTION 5. HOW GENDER-BASED SEXUAL HARASSMENT IS COMMITTED

Gender-based sexual harassment (GBSH) in HEIs, other education and training institutions and partner host establishments and/or organizations may be committed, among other circumstances or situations, as follows:

- a. In higher education institution, other education and training institutions and partner host establishments and/or organizations, as a place of work and as a place of learning, when any unwelcome act or series of acts of a sexual nature is employed in the following:
 - 1) As the basis for any employment decision (including, but not limited to, hiring, promotion, raise in salary, job security, benefits, and any other personnel action) affecting the complainant.
 - 2) As requirement for a grade rating, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege, or consideration to the complainant.
 - 3) Interference with the complainant's performance, which creates an intimidating, hostile or offensive work or academic environment.
 - 4) As instrument that might reasonably be expected to cause discrimination, insecurity, discomfort, offense, or humiliation to the complainant; and
 - 5) Such other circumstances are analogous to any of the foregoing.
- b. In a higher education institution, as a public space, when any unwelcome act or series of acts of a sexual nature constitutive of street-level and public-spaces sexual harassment are committed.

The different forms of Street-Level and Public-Space GBSH include but are not limited to:

 - 1) Catcalling and/or wolf-whistling.
 - 2) Unwanted invitations.
 - 3) Misogynistic, transphobic, homophobic, and sexist slurs.
 - 4) Persistent uninvited comments or gestures on a person's appearance.
 - 5) Statements, comments, and suggestions with sexual innuendoes.
 - 6) Persistent telling of sexual jokes, use of sexual names.
 - 7) Public masturbation or flashing of private parts.
 - 8) Groping, or any advances, whether verbal or physical, that are unwanted and threaten one's sense of personal space and physical safety and committed in public spaces.
 - 9) Stalking; and
 - 10) Other acts analogous to any of the foregoing offenses.

- c. In the digital word, online gender-based sexual harassment includes:
 - 1) Acts of a sexual nature that use information and communications technology in terrorizing and intimidating victims through physical, psychological, and/or emotional threats.
 - 2) Unwanted sexual misogynistic, transphobic, homophobic, and sexist remarks and/or comments online, whether publicly or through direct and private messages.
 - 3) Invasion of victim's privacy through cyberstalking and/or incessant messaging.
 - 4) Uploading and/or sharing without the consent of the victim any form of media that contains photos, audio, or video with sexual content.
 - 5) Any unauthorized recording and/or sharing of any of the victim's photos, videos, or any information online.
 - 6) Impersonating identities of victims online or posting lies about victims to harm their reputation.
 - 7) Filing false abuse reports to online platforms to silence victims; and
 - 8) Other acts analogous to any of the foregoing offenses.

SECTION 6. PLACES WHERE GENDER-BASED SEXUAL HARASSMENT IS COMMITTED

Gender-based sexual harassment may be committed in the following.

- a. Within the territory of the University where it has direct administration or jurisdiction.
- b. Within or outside the training institutions, local or foreign, during or beyond the conduct of school-related activities so long as the complainant or the respondent in the GBSH case is under their supervision, instruction, or custody.
- c. In public spaces and/or online platforms which are used by stakeholders of the education and training institutions for their school-related activities; and/or
- d. Within any of the above areas where the gender-based sexual harassment is committed by a faculty, employee, or student even if the activity is not school-related and/or sanctioned by the University.

SECTION 7. PERSONS LIABLE FOR GENDER-BASED SEXUAL HARASSMENT

Gender-based sexual harassment may be committed by the following:

- a. Persons of the same or opposite sex who have authority, influence or moral ascendancy over the offended party in any aspect of academic or administrative work, such as an officer, faculty member, employee, coach or trainer (e.g. faculty to students, administrator to faculty/employees, administrator to students, and coach/trainer to students);
- b. Persons in a peer relationship with the offended party (e.g. faculty to faculty, student to student, administrator to administrator, coach/trainer to coach/trainer);
- c. Students/student interns, faculty, administrators, or employees of the University

- committing acts that constitute sexual harassment against faculty members, administrators, employees, third-party service providers or visitors of the institution.
- d. Third-party service providers engaged by the University such as sanitation, security, and maintenance personnel.
 - e. Personnel of other partner institutions which the University has contracted to undertake school-related activities; or
 - f. Visitors or third parties who are within the premises, or around the vicinity of the institution.

SECTION 8. DUTY TO REPORT AND DOCUMENT

Any or all persons who have knowledge of acts of education- or training-related sexual harassment or other related sexual offenses committed within the purview of these Guidelines shall report the same to the Head of Institution and to the CHED Regional Offices with jurisdiction over the HEI pursuant to Section 11 of CHED Memorandum Order (CMO) No. 1 s. 2015 and other relevant CHED issuance as may hereinafter be promulgated.

SECTION 9. ACTION WHEN A VICTIM DOES NOT FILE A COMPLAINT NOR REQUEST TO TAKE ACTION

Even if an individual does not want to file a complaint or does not request that the school take any action on behalf of a student or faculty member and school authorities have knowledge or reasonably know about a possible or impending act of gender-based sexual harassment or sexual violence, the school should promptly investigate to determine the veracity of such information or knowledge and the circumstances under which the act of gender-based sexual harassment or sexual violence were committed, and take appropriate steps to resolve the situation. If a school knows or reasonably should know about acts of gender-based sexual harassment or sexual violence being committed that creates a hostile environment, the school must take immediate action to eliminate the same acts, prevent their recurrence, and address their effects.

RULE III

OFFENSES AND PENALTIES

SECTION 10. TYPES OF GENDER-BASED SEXUAL HARASSMENT OFFENSES ACCORDING TO GRAVITY AND CORRESPONDING ADMINISTRATIVE PENALTIES

The following matrix of offenses and the corresponding penalties may be adopted by HEIs in crafting their own code of conduct and other policies in relation to GBSH; provided, that in case where the offense and/or the penalty for acts of GBSH is not found in any policy of the HEI, this section shall apply suppletory to the policies of the institution.

10.1 GRAVE OFFENSES	
1) By persons who have authority influence or moral ascendancy over the offended party in any aspect of academic or administrative work	
2) Person in a peer relationship with the offended party, e.g. student versus student, employee versus employee	
3) Students/Student interns harassing (with sexual undertone) faculty members, administrators, or employees	
a) Unwanted touching of private parts of the body (genitalia, buttocks, and breast) b) Rape or sexual assault! c) Malicious touching d) Requests for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions, or assignments, a passing or higher grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance e) Public masturbation or flashing of private parts. f) Groping, or any advances, whether verbal or physical, that are unwanted and threatens one's sense of personal space and physical safety and committed in public spaces. g) Uploading and/or sharing without the consent of the victim, any form of media that contains photos, audio, or video with sexual content. h) Any unauthorized recording and/or sharing of any of the victim's photos, videos, or any information online. i) Impersonating identities of victims online or posting lies of a sexual nature about the victims to harm their reputation. j) Filing false abuse reports to online platforms to silence victims of sexual harassment. k) Stalking l) Other acts analogous to any of the foregoing offenses	Dismissal for service. For students, expulsion.

4) Third-party service providers such as sanitation and maintenance personnel.		
5) Personnel of Partner institutions where school-related activities are conducted.		
Same as above	Permanent ban in the HEI; Termination of contract *For international partners, Permanent ban from entering a contract with any PHEI	
6) Guests / Visitors		
Same as above	Permanent ban in the HEI	
10.2 LESS GRAVE OFFENSE		
1) Persons who have authority, influence, or moral ascendancy over the offended party in any aspect of academic or administrative work		
	1 st offense	2 nd offense
a) Unwanted touching or brushing against a victim's body. b) Pinching not falling under major offenses c) Derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person. d) Verbal abuse with sexual overtone e) Unwanted invitations with sexual undertone f) Misogynistic, transphobic, homophobic, and sexist slurs g) Persistent uninvited comments or gestures on a person's appearance h) Relentless requests for personal details i) Incessant messaging j) Making statements, comments, and suggestions with sexual innuendoes k) The use of information and communications technology in terrorizing and intimidating victims through physical, psychological, and/or emotional threats with sexual overtones l) Other acts analogous to any of the foregoing offenses	Suspension of one month and one day to six months	Dismissal from service. For students, exclusion, or dismissal
2) Persons in a peer relationship with the offended party, e.g. student versus student, employee versus employee		
3) Students/student interns harassing (with sexual undertone) faculty members, administrators, or employees		
	1 st offense	2 nd offense

Same as above	Suspension of one month and one day to three months; Probation for the entire semester	Dismissal from service; For students, exclusion, or dismissal	
4) Third-party service providers such as sanitation and maintenance personnel			
5) Personnel of Partner Institutions where school-related activities are conducted			
	1 st offense	2 nd offense	
Same as above	Serious reprimand by the HEI	Permanent ban in the HEI *For international partners, permanent ban from entering a contract with any PHEI	
	1 st offense	2 nd offense	
6) Guests / Visitors	Serious reprimand	Permanent ban in the HEI	
10.3 LIGHT OFFENSES			
1) Persons who have authority, influence, or moral ascendancy over the offended party in any aspect of academic or administrative work			
	1 st offense	2 nd offense	3 rd offense
a) Surreptitiously looking or staring at a person's private part or worn undergarments b) Making sexist statements and smutty or "green" jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense and carried out after the respondent has been advised that they are offensive or embarrassing them or even without such advice, when they are by their nature clearly embarrassing, or offensive or vulgar. c) Malicious leering or ogling d) The display of sexually offensive pictures, materials, or graffiti e) Unwelcome inquiries or comments about a person's sex life or sexual orientation connoting one's sex life (ex.	Reprimand	Suspension of one day to thirty days	Dismissal from service. For students, exclusion or dismissal

LGBTQ's sexual relations) f) Unwelcome sexual flirtation, advances, propositions g) Making offensive hand or body gestures at the person h) Persistent unwanted attention with sexual overtones i) Unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense, or insult to the receiver. j) Catcalling and/or wolf-whistling, k) Unwanted sexual misogynistic, transphobic, and homophobic remarks and comments online, whether publicly or through direct and private messages l) Invasion of the victim's privacy through cyberstalking and incessant messaging with sexual overtones m) Other acts analogous to any of the foregoing offenses			
2) Persons in a peer relationship with the offended party, e.g. student versus student, employee versus employee			
3) Students/student interns harassing (with sexual undertone) faculty members, administrators, or employees			
	1 st offense	2 nd offense	3 rd offense
Same as above	Written warning	Written reprimand and community service	Suspension
4) Third-party service providers such as sanitation and maintenance personnel			
5) Personnel of Partner Institutions where school-related activities are conducted			
	1 st offense	2 nd offense	3 rd offense
Same as above	Reprimand by the HEI	Severe reprimand by the HEI	Permanent ban in the HEI *For international partners, permanent ban from entering into a contract with any PHEI
6) Guests/Visitors	1 st offense	2 nd offense	3 rd offense

	Reprimand by the HEI	Severe reprimand by the HEI	Permanent ban in the HEI
Note: <ul style="list-style-type: none"> • If the perpetrator committed the offense twice against the same victim, the corresponding gravest penalty shall apply. • HEIs may provide gender sensitivity training and counselling to offenders. 			

SECTION 11. IMPOSITION OF PENALTIES

- Minor students who, at the time of the commission of the act of GBSH, are found guilty under these Guidelines by the disciplining authority, shall likewise undergo gender-sensitivity training and psychosocial counselling sanctioned by the University's Guidance Office.
- Any act of intimidation, threat, pressure, or inducement to withdraw a complaint or recant a testimony or statement by the respondent (offender or harasser) or by another person at his/her instruction or order will aggravate the sanction to be imposed to the next higher level or degree.
- If the penalty of expulsion or exclusion is imposed upon a student, the same shall be subject to the confirmatory authority of CHED pursuant to Section 21 of the Implementing Rules and Regulations of the Safe Spaces Act and Section 106 of the MORPHE.
- If the penalty imposed is other than those provided above, e.g. termination of contract or permanent ban from the HEI, the same shall be final and immediately executory, and notice shall be furnished to the Respondent or notice shall be posted around the premises of the institution (as the case may be).
- For termination of contract with a partner training organization, the institution shall report the same with the CHED Regional Office having jurisdiction over it.

SECTION 12. PRESCRIPTIVE PERIOD

Any action arising from the violation of any of the provisions of this Code of Conduct shall prescribe in five (5) years from the time the alleged violation is committed. (Section 36, RA 11313).

SECTION 13. ACCESSORY PENALTY

A respondent student shall not be allowed to graduate if he or she has a pending case of GBSH. USPF reserves the right to revoke a respondent student's diploma if it was inadvertently issued while a case for GBSH is pending against a student at the time of its conferment.

Any psychological counseling fees charged availed by the victim and similar services shall be borne by the respondent if proven guilty of the offense/s being charged.

SECTION 14. SUPPORT OF A VICTIM OF GENDER-BASED SEXUAL HARASSMENT

The University shall adopt mechanisms to protect the welfare of a complainant of sexual harassment or other related sexual offense, as may be appropriate, which may include the following:

- a. Psychosocial counselling.
- b. Referral to an agency offering professional help.
- c. Support from the Institution's GAD Focal Point System.
- d. Coordination with women's organizations and advocacy groups.
- e. Transfer to another class, office or partner institution, if needed; and
- f. Available legal support such as assistance in the filing of criminal cases in appropriate courts of justice.

SECTION 15. RETALIATION FOR GENDER-BASED SEXUAL HARASSMENT COMPLAINTS

Acts of retaliation or reprisal by the harasser and/or any of his/her co-employees or supporters for making sexual harassment complaints are prohibited as they are considered grave or serious misconduct. Acts of retaliation include, but are not limited to, the following:

- a. Disciplining, discriminating against, changing, or lowering the grades, requiring submission of academic assignments or projects more difficult than the other students, refusing to answer queries about the subject with the complaining student or a witness for the sole reason that said student has complained about or resisted any act of sexual harassment, or plans to testify/have testified against the harasser.
- b. Disciplining, discriminating against, changing or downgrading terms and conditions of employment, including work assignments, compensation, benefits, privileges, rendering an unfavorable performance evaluation, providing inaccurate work information, refusing to cooperate or discuss work related matters with any employee for the sole reason that said employee has complained about or resisted any act of sexual harassment; and
- c. Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up a conduct constituting a sexual harassment under these Rules.

Since retaliation or reprisal by the harasser and/or any of his/her co-employees or supporters is considered a grave or serious misconduct, the administrative sanction to be imposed is dismissal.

The investigation on this offense may be done in the same sexual harassment case if so alleged or in a separate administrative investigation.

RULE IV

COMMITTEE ON DECORUM AND INVESTIGATION (CODI)

SECTION 16. COMPOSITION

A Committee on Decorum and Investigation (CODI) is hereby created. It serves as an independent internal grievance mechanism and shall act as the main body in the investigation and resolution of cases involving Gender-Based Sexual Harassment in USPF.

- a. **Sectoral Representation.** The CODI is composed of at least one representative each from the following:
 - 1. School Administration / Management.
 - 2. Faculty representative.
 - 3. Employee from the Supervisory Rank.
 - 4. Employee from the Rank-and-File.
 - 5. Member of the GAD Focal Point System; and
 - 6. Student or Trainee selected by the Supreme Student Government officers.

Note: It is the University President who designates the CODI chairperson and members.

- b. **Equitable Representation.** The CODI shall be headed by a woman, and membership shall be divided equally between men and women, provided not less than half are women.
- c. **Permanent Alternates.** Aside from the regular members of the CODI, the University President shall also designate their respective permanent alternates who shall act on behalf of the regular members in their absence, temporary incapacity or voluntary or involuntary inhibition. The permanent alternates shall have the authority to render decisions based on the records of the case and the evidence adduced during the investigation so as not to delay the proceedings being undertaken and to ensure continuity of deliberation.
- d. **Impartiality.**
 - 1) Members of the CODI should have no prior record of involvement as a respondent or defendant in any case of whatever nature of sexual harassment, including those which are still pending.
 - 2) When the complainant, or the respondent, or a material witness is a member of the Committee, he/she shall be disqualified from being a member thereof or the complaint may be filed directly with the School Head or Head of Institution.
 - 3) The complainant or the person complained of may request a member of the CODI to inhibit, or the CODI member may, on his/her initiative, cause the inhibition based on conflict of interest, manifest impartiality, relation with the respondent

within the fourth degree of consanguinity or affinity, and other reasonable grounds. Being the head of a division or department from which a complainant, respondent or material witness came is not a ground for inhibition or disqualification. Having endorsed a filed or submitted complaint to CODI, being a ministerial function, is also not a ground for inhibition or disqualification.

- 4) It is the University President who decides whether to disqualify or to grant the inhibition of a CODI member. Upon such disqualification or grant of inhibition decides whether to grant the inhibition by the University President, the member concerned shall immediately be replaced from among the Permanent Alternates so as not to cause delay in the proceedings.
- e. **Term of Office.** The term of office of CODI members shall be one (1) year and they shall hold that office after the said one-year period until their replacements shall have been officially designated by the University President. The term of one CODI member may be extended, and a CODI member may be reappointed, by the University President.

SECTION 17. RESPONSIBILITIES AND FUNCTIONS OF THE CODI

The CODI shall have and perform the following functions:

- a. Receive complaints for offenses covered by this Code.
- b. Investigate complaints for offenses covered by this Code, including preliminary investigation, in accordance with the prescribed procedure.
- c. Observe, always, the due process in the conduct of investigation.
- d. Investigate and decide on the case and submit a report of its findings with the corresponding recommendation to the disciplining authority for decision.
- e. Ensure the protection of a complainant from retaliation without causing her/him any disadvantage, diminution of benefits or displacement, and without compromising his/her security of tenure.
- f. Guarantee gender-sensitive handling of cases, and confidentiality of the identity of the parties and the proceedings to the greatest extent possible.
- g. Undergo continuing training on gender sensitivity, gender-based violence, sexual orientation, gender identity and expression, and other GAD topics as needed.
- h. Lead in the conduct of discussions about sexual harassment and other related sexual offenses within the institution to increase the community's understanding of, and prevent incidents of, sexual harassment and other related forms of sexual offenses; and
- i. Conduct such as other activities that would endanger a safe environment for all genders, especially women, in school campuses and training-related programs in the University.

In case of non-performance or inadequate performance of functions, any member of the CODI shall be replaced by the University President upon receipt of documentation that

will substantiate such allegations, without prejudice to the application of any relevant University policy, rule, or regulations on the said individual.

RULE V

STANDARD PROCEDURAL REQUIREMENTS AND COMPLIANCE WITH DUE PROCESS

SECTION 18. RIGHT TO DUE PROCESS

No disciplinary sanction shall be applied upon any erring member 'of the educational community except for cause and after due process shall have been observed.

SECTION 19. PRE-FILING STAGE

USPF shall adopt mechanisms to provide assistance to an alleged victim of acts punishable by these guidelines which may include counseling, referral to an agency offering professional help, and advice on options available before the filing of the complaint.

SECTION 20. COMPLAINT

- a. The complaint may be filed at any time with the Office of the University President, the Office of a Vice President, the Office of the Immediate Superior (Dean, Principal or Office Head) of the Complainant or the alleged perpetrator, the Guidance Office, the SAS Office, the Security Office, or the CODI. Upon receipt of the complaint by any of the above offices, the same shall be transmitted to the CODI.
- b. The complaint may be in any form, provided that the following information are indicated in the complaint:
 - 1) FULL NAME and CONTACT DETAILS of the Complainant. However, the filing of an anonymous complaint is not prohibited.
 - 2) FULL NAME, CONTACT DETAILS and/or POSITION of the Respondent if known to the Complainant.
 - 3) STATEMENT OF RELEVANT FACTS
 - 4) EVIDENCE TO SUPPORT THE ALLEGATION, provided that non-submission of evidence will not cause the dismissal of the complaint; and
 - 5) CERTIFICATION OR STATEMENT OF NON-FORUM SHOPPING

If the complaint is not under oath, the Complainant shall be summoned by the CODI to swear to the truth of the allegations in the complaint or require the Complainant to submit a sworn Complaint within 24 hours from receipt of notice of compliance.

- c. The withdrawal of the complaint at any stage of the proceedings shall be without prejudice for CODI to continue its investigation and make a report of its findings and recommendation to the disciplining authority when the evidence warrants.

SECTION 21. ACTION ON THE COMPLAINT

- a. Within 24 hours (during working days) from receipt of the written complaint, the CODI shall determine whether the complaint is sufficient in form and substance. A complaint is sufficient in form and substance if all the elements provided in the immediately preceding provision are present.
- b. If the complaint is not sufficient in form and substance, CODI shall notify the complainant to comply accordingly at such period to be fixed by CODI.
- c. After evaluating that the complaint is sufficient in form and substance, the CODI shall:
 - 1) *For complaints against an employee, faculty, student, or trainee of USPF*: Proceed with the administrative investigation if the complaint is sufficient in form and substance.
 - 2) *For complaints against personnel of third-party service providers or partner institutions or guest or visitors of USPF*: Recommend the referral of the complaint to the service provider, partner institution or to the proper government authorities for proper investigation and action. The CODI shall likewise recommend to the Office of the University President to provisionally disallow the personnel of third-party service provider or of partner institution complained of, or guests or visitors from entering the school premises or from transacting with the HEI while investigation is pending before the service provider, partner institution or to the proper government authorities.

SECTION 22. PREVENTIVE SUSPENSION

Upon petition of the Complainant or *motu proprio* upon the recommendation of the CODI, the disciplining authority (University President) may order the preventive suspension of the Respondent during the conduct of investigation before the CODI and the period of deliberation of the recommendation of the CODI, if there are reasons to believe that he/she is probably guilty of the charges which would warrant his/her removal from USPF.

Moreover, an order of preventive suspension may be issued to temporarily remove the Respondent from the scene of his/her misfeasance or malfeasance and to preclude the possibility of his/her exerting undue influence or pressure on the witnesses against him/her or tampering of any evidence. (Section 19, CMO 3 s. 2022)

SECTION 23. INVESTIGATION OF CASES BEFORE THE CODI

The CODI shall, at all times, observe due process and investigate said complaint following the procedures, to wit:

a. **Notice of Investigation**

Within 24 hours of determination that the complaint is sufficient in form and substance, the CODI shall commence the investigation by issuing the Notice of Investigation to the Respondent of the Complaint filed against him/her with a directive to submit his/her Answer/Counter-Affidavit/Comment under oath and submit evidence in his/her defense within seventy two (72) hours from receipt of the notice, and furnish a copy thereof to the Complainant; otherwise, the Counter-Affidavit/Comment shall be considered as not filed.

The Notice shall also contain a reminder of his/her rights to be represented by counsel if he/she so desires, to examine the evidence against him/her, and to present evidence on his/her own behalf; and that in the event respondent will refuse or fail to submit his/her answer/explanation within the given period, such failure or refusal shall be deemed a waiver to present evidence on his/her own behalf, and the investigation will proceed and will be decided based on the evidence presented by complainant and adduced during the investigation.

b. **Notification of Complainant & Parents or Guardian**

The CODI shall furnish a copy of the Notice of Investigation to complainant. If it is a student who is complaining without assistance from his/her parents or guardians, the CODI shall notify his/her parents or guardian accordingly at their last known address per school records. If the complainant and/or the student's parent or guardian fails to appear during the investigation despite the notice, the investigation shall proceed accordingly.

c. **Receipt of Respondent's Answer/Counter-Affidavit/Comment**

Upon receipt of the Counter-Affidavit/Comment under oath and evidence submitted by the Respondent, the CODI shall conduct an *ex-parte* examination of the documents submitted by the parties, including available record of the case.

d. **Initial Conference/Hearing**

During the initial conference/hearing, the CODI shall determine whether there is a *prima facie* case to proceed further with the investigation or dismiss the complaint or terminate the proceedings. Moreover, the issues will be clarified, stipulations and admissions will be made, or the parties will explore the possibility of settling amicably the personal claims, if any, of the complainant without prejudice to the complaint being investigated further to determine whether or not respondent is liable for having violated any of the school policies, rules or regulations, and the appropriate sanction thereto, if any.

In the event that before or during the scheduled initial conference/hearing respondent admits in writing the allegations against him/her, or the factual allegations are clear to the investigator, the case may be deemed submitted for decision based on the complaint and the answer, unless the CODI will require submission of position paper or further hearing/s to clarify certain issues or to ascertain some factual matters.

e. **Summary Investigation Report**

During the initial conference, if on the basis of the documents submitted (such as the complaint, letter, report, answer, counter-affidavit/comment, supporting papers and other evidence), the CODI finds that there is already sufficient basis to render judgment (as when the facts and issues are already clear to the CODI or when there is admission of guilt), it may immediately direct that the case be deemed summarily submitted for resolution by the CODI and to render its Investigation Report.

f. **Investigation Report Based on Position Papers**

Whenever summary Investigation Report is not appropriate, the CODI shall direct the parties to simultaneously submit their position papers with written statements or affidavits of witnesses and other supporting evidence, if any, within three (3) working days from date of the initial conference/hearing where the directive is given, or if given afterwards from notice of the order, after which the case shall be deemed submitted for resolution. However, if the third day falls on a weekend or a holiday, the position paper must be filed during office hours of the next working day.

If one party refuses or fails to submit his/her position paper and additional supporting evidence within the reglementary period, the same shall be deemed a waiver on the part of that party to present further evidence, and the case shall be resolved based on whatever documents or evidence found in the record.

In case the written statements of witnesses and parties are not notarized, the individuals concerned shall be required to appear before the CDI to affirm or swear on the veracity of their written allegations.

g. **Investigation Report After Further hearing**

Where the CODI finds that there are factual issues involved which cannot be resolved through position papers, or which need further clarification for better understanding by it, or there are other witnesses who may be called or presented to testify to shed light on certain factual issues, it shall conduct further hearing. The CODI, if necessary, shall direct the parties and other individuals to appear before it to answer classificatory questions. Any employee or student who refuses to attend and testify in the hearing shall be reported to the HRMD or SAS for appropriate action.

For this purpose, the CODI will then proceed to ask questions first to complainant and his/her witnesses, and second to respondent and his/her witnesses. After a witness has been asked by the CODI, any of the contending parties or their counsel, if represented, may examine further the witness by submitting written questions to the CODI, who will then read the questions to the witness for his/her answers. However, the CODI may allow the counsel to directly ask the questions to the witness.

Minutes generally summarizing the proceedings shall be in writing and signed by the CODI, the parties, and their counsel, if any.

h. CODI Investigation Report

The CODI shall resolve the case by submitting its Investigation Report to the Office of the University President within ten (10) working days from the last hearing or when CODI has ordered that the case is deemed submitted for resolution.

The CODI Investigation Report shall be based on the evidence adduced during the investigation and the applicable law, policies, rules, or regulations. It must contain these essential parts: statement of the case, finding of facts, issues, discussion of the issues, and recommendation stating the sanction to be imposed if warranted and/or appropriate action to be taken.

SECTION 24. DECISION OF THE OFFICE OF THE UNIVERSITY PRESIDENT

Within thirty (30) days from receipt of the CODI Investigation Report, the Office of the University President shall review the records of the case and render a decision based on evidence adduced during the investigation and applicable laws, policies, rules and regulations, either affirming, reversing, modifying, setting aside the findings and/or recommendation of the CODI and render a new one, or directing whatever action it may deem necessary and proper.

SECTION 25. FINALITY OF DECISION, MOTION FOR RECONSIDERATION/APPEAL

The decision rendered by the Office of the University President shall be final and executory unless a motion for reconsideration or appeal is seasonably filed by the within the reglementary period of fifteen (15) days from receipt of the said decision before the Office of the University President. A motion for reconsideration is deemed an appeal.

The motion for reconsideration or appeal, filed by any of the parties with the Office of the University President, with a copy thereof furnished at the same time by the movant/appellant to the other party or counsel, shall state the reason or reasons why the decision should be reversed, modified, or set aside and a new one is rendered by the Office of the President. The other party not appealing or making the motion for reconsideration shall have fifteen (15) days from receipt of the motion or appeal within which to file his/her Comment or Opposition to the said motion or appeal before the Office of the University President

Within thirty (30) days from receipt of the motion or appeal and after the lapse of the period to submit the Comment or Opposition, whether one is filed or not, the Office of the

University President shall resolve the motion for reconsideration or appeal. Said resolution is immediately final and executory upon issuance thereof, unless otherwise stated therein.

SECTION 26. FURNISHING COPY OF THE UNIVERSITY PRESIDENT'S DECISION OR RESOLUTION

Complainant, respondent, and their respective counsel, if any, shall each be furnished a copy of the decision or resolution of the Office of the University President by personal service or by special mail delivery through private courier (such as LBC, JRS or DHL) or by registered mail at their last known addresses per school records or record of the case.

SECTION 27. WRITTEN RECORDS AND PRIVACY OF PARTIES

Careful written records of cases of sexual harassment must be kept, but precautions should be taken to protect the privacy of all parties involved as much as practicable, unless there are situations beyond the control of USPF or CODI, such as when a party or parties to the case or any of their respective family members or friends disseminates or shares any such private information to others, or as may be allowed by law.

SECTION 28. EMPLOYEE MISCONDUCT RECORD

After finality of the decision or resolution, in case the respondent is a school employee, the HRMD Manager, shall prepare the Employee Misconduct Record (EMR) in four (4) copies describing the nature of the infraction and quoting the dispositive portion of the final decision. Copies of the EMR shall be distributed as follows:

- First copy - Respondent employee
- Second copy - File 201 of respondent
- Third copy - Department Head of respondent
- Fourth copy - Payroll Section if sanction is suspension or dismissal.

In case the respondent is a student, the SAS Director shall prepare the Student Misconduct Record (SMR) accordingly.

SECTION 29. PARALLEL AND COMPLEMENTARY ACTIONS

Nothing in this Code of Conduct shall be construed to limit the rights of the victims of GBSH from pursuing civil, criminal and other legal actions as may be provided by law. (Section 23, CMO No. 3 s. 2022)

RULE VI

MISCELLANEOUS PROVISIONS

SECTION 30. REPEALING CLAUSE

This Code repeals the University Anti-Sexual Harassment Policy of 2018 and all other previously issued University policies, circulars, and memoranda that are inconsistent with this Code and Rules.

SECTION 31. SEPARABILITY CLAUSE

In the event that any portion of this Code and Rules is repealed by operation of law or declared void by a court or quasi-judicial body of competent jurisdiction, the other provisions of this Code shall remain valid.

SECTION 32. RULES OF INTERPRETATION

- a. In case of conflict between this Code and Rules and a mandatory provision of the implementing rules and regulations of the appropriate government regulatory body (such as the Department of Education or the Commission on Higher Education), the latter shall prevail.
- b. In case of conflict between the University Employee Code of Discipline and the provisions of this Code and Rules, this Code shall prevail.
- c. Any gaps or deficiencies in this Code shall be supplied with the relevant provisions of the University Employee Code of Discipline or the applicable Student Handbook or Code of Conduct.
- d. When personal appearance or physical submission or issuance of documents is required by this Code, but it is impossible to do or it cannot be done within a reasonable time due to extraordinary circumstances, it may be done online subject to specific rules that the University or CODI may issue.

SECTION 33. REVIEW OF THIS CODE

This Code will be reviewed periodically every three years from the effectivity.

At any other time prior to the review period, the University President may order the amendment or repeal of this Code and Rules or any of its provisions to prevent any violation of due process, to promote justice, or to comply with law, jurisprudence, and administrative issuances.