

## UNIVERSIDAD EUROPEA PROTOCOL AGAINST SEXUAL AND GENDER BASED HARASSMENT AND DISCRIMINATION

### I. OBJECT

Universidad Europea de Madrid (UEM), in accordance with the commitment undertaken to not tolerate any kind of sexual and gender based harassment and discrimination, establishes the following Protocol applicable to all students enrolled at UEM.

UEM undertakes to disseminate this Protocol and will propose that the University's Training Plan include courses on prevention and how to proceed in the event of sexual or gender based harassment, as well as awareness raising activities. This Protocol will be sent out to UEM's collaborating entities, suppliers and service providers, and will be made available as soon as it is approved by the Academic Council on the University's website.

UEM undertakes to resolve the allegations and complaints made by students in relation to sexual and gender based harassment and discrimination, which will be handled and, where appropriate, resolved in accordance with the principles of due process, within the remit of scope of UEM as a higher education institution and always in addition to the other guarantees provided by the Legal System.

### 2.- LEGAL BASIS

Article 2 of the **Universal Declaration of Human Rights** recognizes that everyone has the same rights and freedoms, which means they are entitled to equal treatment before the law and to be protected against discrimination on various grounds, among them sex, sexual orientation, and gender identity.

Likewise, within the scope of the European Union, the **Charter of Fundamental Rights** states that "the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity". And article 21 expressly prohibits any discrimination on the grounds of sex and sexual orientation, among others.

Section 14 of the **Spanish Constitution** (SC) proclaims that Spaniards are equal before the law and may not be discriminated against on account of sex or any other personal or social condition or circumstance. Likewise, section 35.1 of the SC incorporates the right not to be discriminated against on account of sex in the field of work and labor relations.

Other relevant legislation:

- *Organic Law 3/2007, of March 22, for effective equality between men and women (Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva entre Mujeres y Hombres).*



- *Organic Law 3/2007, of 12 April, amending Organic Law 6/2001, of December 21, on Universities (new wording of paragraph 2 of section 46 of the Organic Law on Universities) Ley Orgánica 4/2007, de 12 de abril, por la que se modifica la Ley Orgánica 6/2001, de 21 de diciembre, de Universidades (nueva redacción del apartado 2 del artículo 46 de la LOU).*
- *Law 2/2016, of 29 March, on Gender Identity and Expression and Social Equality and Non Discrimination (Ley 2/2016, de 29 de marzo, de Identidad y Expresión de Género e Igualdad Social y no Discriminación) and Law 3/2016, of 22 July, on Comprehensive Protection against LGBTI Phobia and Discrimination on account of Sexual Orientation and Identity (Ley 3/2016, of 22 de julio, de protección integral contra la LGTBIphobia and y la discriminación por razón de orientación e identidad sexual en la Comunidad de Madrid).*

**Royal Decree 1791/2010, of December 30, approving the University Student Statute (*Real Decreto 1791/2010, de 30 de diciembre, por el que se aprueba el Estatuto del estudiante universitario*)**, states that all university students are entitled to receive non-sexist treatment to equal opportunities between men and women, article 4 providing for non-discrimination on account of gender, sexual orientation or gender identity.

Taking into account this legal framework, UEM, as an institution that respects the rights and freedoms of everyone, establishes the present *Protocol*, whose aim is to contribute to real and effective equality among university students, through a series of actions designed to prevent and eradicate any type of discriminatory conduct or harassment in the University, and to promote education in values that foster a climate of respect for the rights and dignity of the students who form part of the university community.

### 3.- SCOPE OF APPLICATION

This Protocol applies to all students enrolled at Universidad Europea de Madrid for cases of sexual and gender based harassment and discrimination.

For the purposes of this Protocol, the definition of sexual and gender based harassment and discrimination is that given in section 7 of *Organic Law 3/2007, of March 22, for effective equality between men and women*, which is transcribed below:

- (1) “Without prejudice to the provisions of the Penal Code, **sexual harassment** is any form of verbal or physical conduct of a sexual nature with the purpose or effect of violating a person’s dignity, in particular when creating an intimidating, degrading or offensive environment.”
- (2) “**Harassment on the grounds of sex, sexual orientation or gender identity** is any behavior prompted by a person’s sex, sexual orientation or gender identity with the purpose or effect of violating their dignity, creating an intimidating, degrading or offensive environment.”
- (3) “**Discriminatory harassment** is any behavior or conduct prompted by a person’s sexual

orientation, gender expression or identity, or belonging to a family including one or more LGBTBI members, with the purpose or effect of violating their dignity, creating

an intimidating, hostile, degrading, offensive or segregated environment”.

- (4) Making a right or expectation of a right conditional on the acceptance of a situation constituting sexual harassment or harassment on the grounds of sex, sexual orientation or gender identity will likewise be considered an **act of discrimination** for such reasons.

#### 4.- PROCEDURE

1. The procedure will begin at the request of the student concerned, addressed in writing to the Rector's Office.
2. The Rector will send the student's written complaint to the **Student Anti-Harassment Committee** within one working day of receiving it.
3. The complaints will be processed by the Student Anti-Harassment Committee depending on whether the accused persons are students or faculty and staff:
  - a) If the complaint concerns a student being harassed by a faculty or staff member, it will be transferred to the Human Resources department.
  - b) If the complaint concerns a student being harassed by another student, it will be transferred to the Student Anti-Harassment Committee set up for such purpose.
4. The Student Anti-Harassment Committee is made up of the following persons:
  - Dean of the school to which the harassed student belongs.*
  - UEM Security Director.*
  - Member of the Student Services department, designated by the Department, who will vouch for and ensure the safekeeping of the documentation required.*
  - Specialist in Psychology designated by the University.*

The University Ombudsperson must attend the meetings of the Committee in order to issue a mandatory non-binding case report.

5. The Student Anti-Harassment Committee may gather as much information as it considers appropriate. The information gathering process must be conducted as quickly as possible, in a period of no more than five working days, and with the utmost sensitivity and respect for the rights of each of the parties concerned, and complying with the duty of confidentiality. Any tests and interviews considered appropriate may be conducted, and the persons concerned (complainant and accused) will be heard. By virtue of the complexity of the case, the investigation may be extended by a further three working days.
6. During the investigation and information gathering process, the Student Anti-Harassment Committee may adopt any interim or preventive measures it may consider necessary to guarantee the adequate protection of the complainant.
7. On completing its investigation and information gathering process, the Student Anti-Harassment Committee will issue a decision, determining either:
  - a) That the case should be closed.
  - b) That a case of harassment has occurred.

If the Student Anti-Harassment Committee determines that a case of harassment has occurred, this decision, together with details of the proceedings carried out and, where applicable, the interim or preventive measures taken, as well as the proposal to initiate disciplinary proceedings, will be sent to the Disciplinary Committee.



8. The Student Anti-Harassment Committee will keep a record of cases of harassment and/or discrimination on grounds of gender, sexual orientation or gender identity, disaggregated by gender, and will monitor and assess such cases in order to verify the effectiveness of the measures implemented.

The functioning and implementation of this procedure and of the present Protocol will be reviewed and assessed on a regular basis.

## 5.- OPERATING PRINCIPLES AND PROCEDURAL GUARANTEES

The operating procedure included in this Protocol will be governed by the principles of professionalism, objectivity and impartiality, in accordance with the following criteria:

- The presumption of innocence of allegedly harassed persons will be guaranteed at all times.
- The dignity of each person and his or her right to privacy throughout the procedure, as well as the equal treatment of women and men, shall be guaranteed.
- Confidential treatment will be guaranteed for information relating to situations that could constitute sexual harassment or harassment on grounds of gender, sexual orientation or gender identity, notwithstanding the rules and regulations set out in the disciplinary regime.

The following guarantees shall also be observed during the procedure:

- Confidentiality: All the parties involved in the procedure are obliged to maintain strict confidentiality and shall not transmit or disclose any information they may have regarding the submitted complaints, whether they have been resolved or are still undergoing investigation.
- Speed: Each reported case of alleged harassment or discrimination shall be investigated and resolved with diligence and without undue delays, so that the procedure may be completed as quickly as possible while always observing the due guarantees.
- Protection of the dignity of the persons concerned: UE will take appropriate measures to guarantee the right to protection of dignity of the persons concerned, including the alleged victim and perpetrator.
- Prohibition of retaliation: Retaliation against persons who submit a complaint, appear as witnesses or participate in an investigation of sexual harassment or harassment on grounds of gender, sexual orientation or gender identity is expressly prohibited.
- Data protection: All personal data generated in the course of applying this Protocol will be governed by the provisions of *Organic Law 15/1999, of December 13, on personal data protection (Ley Orgánica 15/1999, de 13 de diciembre, de protección de datos de carácter personal)*; and the *General Data protection Regulation, which entered into force on May 25, 2018*.
- UEM will take any measures it may consider appropriate to guarantee the right to protection of the students concerned.



## **6.- DISCIPLINARY OFFENSES AND PENALTIES APPLICABLE TO STUDENTS**

In accordance with art. 5. d) of the *Disciplinary Regulations of Universidad Europea de Madrid*, any verbal or physical act or behavior with the purpose or effect of violating a person's dignity, such as sexual harassment, gender based harassment or gender based discrimination, according to the definition given by Organic Law 3/2007, of March 22, for effective equality between men and women, will be penalized as a very serious offense.

### **GENERAL CONSIDERATIONS**

The procedure is voluntary, and need not be invoked in order to be able to initiate such administrative or judicial proceedings as may be considered appropriate. In this respect, it shall be reported that the start of the procedure established in this Protocol neither interrupts nor extends the periods for lodging appeals and/or taking the actions provided for in the current legislation.

UEM may take any measures it considers appropriate in the event of a manifestly malicious use of this procedure, given that false accusations of harassment are a manifestation of intolerable intimidation, and may be subject to disciplinary action.

The whole University Community is obliged to collaborate in investigation and processes carried out in relation to the procedural actions provided for in this Protocol.

**ANNEX I.-** Application form

Approved by the Academic Council on June 14, 2018

**ANNEX I**

**For the attention of the RECTOR'S OFFICE**

**DETAILS OF THE PERSON CLAIMING TO HAVE EXPERIENCED HARASSMENT**

NAME AND LAST NAME(S)	
Passport/National ID Document no.	
Transcript No.	
SCHOOL TO WHICH HE/SHE BELONGS	
CAMPUS	
TEL. No.	
Email	

**DETAILS OF THE PERSON SUBMITTING THE WRITTEN COMPLAINT** (complainant)

(Only fill out if different from above)

NAME AND LAST NAME(S)	
Passport/National ID Document no.	
Transcript No.	
SCHOOL TO WHICH HE/SHE BELONGS	
CAMPUS	
TEL No.	
Email	
ACCOMPANYING DOCUMENTATION	<input type="checkbox"/> Should it exist, the express consent of the person claiming to have experienced harassment

**DELIVERED** at the \_\_\_\_\_ Campus, on \_\_\_\_\_

Rector's Office stamp

Signature of person submitting written complaint

The applicant grants full consent and agrees to the data provided herein being recorded. The data provided in this form will be processed by the data controller, Universidad Europea de Madrid, S.L.U., for harassment protocol management purposes and, in accordance with current legislation, where applicable, for sending information to the competent authorities and transferring the data to the Group of Universidad Europea entities for the management of their activity. To these ends, the data contained herein will be included in a computerized and mixed data file controlled by UNIVERSIDAD EUROPEA DE MADRID, S.L.U., with registered address at C/ Tajo s/n, Villaviciosa de Odón, 28670 (Madrid). Unless the data subject clearly states otherwise, he/she expressly consents to the full or partial computerized processing of said data for such time as may be necessary to fulfill the abovementioned purposes. You are entitled to access, rectify and erase the data, limit the processing thereof, object to the processing thereof, and exercise your right to personal data portability, all free of charge, as detailed in the comprehensive information on data protection available on the University's website at: <https://universidadeuropea.es/proteccion-de-datos>, by sending an email to UNIVERSIDAD EUROPEA DE MADRID, S.L.U. at [di@universidadeuropea.es](mailto:di@universidadeuropea.es)



## DESCRIPTION OF EVENTS

(This page may be delivered in a sealed envelope)

NAME AND LAST NAME(S) (of the  
person submitting the written complaint)

Give a detailed description of the events that you think could be considered a case of harassment. Include all relevant dates.

## DETAILS OF WITNESSES (where applicable)

In \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_\_

Signed: Person submitting the written complaint:

The applicant grants full consent and agrees to the data provided herein being recorded. The data provided in this form will be processed by the data controller, Universidad Europea de Madrid, S.L.U., for harassment protocol management purposes and, in accordance with current legislation, where applicable, for sending information to the competent authorities and transferring the data to the Group of Universidad Europea entities for the management of their activity. To these ends, the data contained herein will be included in a computerized and mixed data file controlled by UNIVERSIDAD EUROPEA DE MADRID, S.L.U., with registered address at C/ Tajo s/n, Villaviciosa de Odón, 28670 (Madrid). Unless the data subject clearly states otherwise, he/she expressly consents to the full or partial computerized processing of said data for such time as may be necessary to fulfill the abovementioned purposes. You are entitled to access, rectify and erase the data, limit the processing thereof, object to the processing thereof, and exercise your right to personal data portability, all free of charge, as detailed in the comprehensive information on data protection available on the University's website at: <https://universidadeuropea.es/proteccion-de-datos>, by sending an email to UNIVERSIDAD EUROPEA DE MADRID, S.L.U. [di@universidadeuropea.es](mailto:di@universidadeuropea.es)