

January 27, 2022

**TO THE ENTIRE UAGM UNIVERSITY COMMUNITY**

José F. Méndez Méndez  
President

**EXECUTIVE ORDER NO. OE-01-2022  
AMENDMENT TO THE SEXUAL HARASSMENT POLICY**

Through this Executive Order, several amendments to the current policy that prohibits discrimination and sexual harassment in the study and work environment of the UAGM are published and come into force.

Some of the changes contemplated are the following:

1. Provision of the Federal Department of Education to establish regulations under the Federal Law of Title IX, applicable to higher education institutions that receive federal funds with respect to rapid response to sexual harassment. The new rules require higher education institutions to:
  - respond promptly to people who claim to be victims of sexual harassment by offering support measures;
  - follow a fair process to resolve allegations of sexual harassment when a grievant requests an investigation or SUAGM determines that an investigation is necessary; and
  - provide remedies to people who file a formal grievance of sexual harassment.

In consideration of said regulation, amendments were incorporated into the policy aimed at expanding the definitions to include sexual assault and incidents of dating violence, domestic violence or stalking. In addition, among other significant aspects, the figure of the Title IX Coordinator is recognized and strengthened. The investigative process is amended, as well, in accordance with the newly established regulations.

The rules and procedures set forth in the amended policy apply to the entire university community including UAGM's officials, employees, professors, and students at all levels. Therefore, they are required to comply with the established rules and procedures, as

well as being subject to an investigation when violations of the provisions of Title IX, as amended, are alleged.

The aforementioned amendment to the policy, as well as the training material on the provisions of Title IX, will be available on the electronic portal of the Vice Presidency of Human Resources.

#### **AMENDMENT AND REPEAL**

This Executive Order replaces and repeals all provisions, regulations and practices that contradict it.

#### **VALIDITY**

This Executive Order is effective as of today, January 27, 2022.

**SISTEMA UNIVERSITARIO ANA G. MÉNDEZ  
VICE PRESIDENCY OF HUMAN RESOURCES**

**SEXUAL HARASSMENT POLICY**

**Executive Order Number: OE-01-2022**

**Effective Date: January 27, 2022**

New, repeals the Policy

Amendment of rules and provisions established in the Human Resource Manual

Amendment Executive Order No. \_\_\_\_\_ dated \_\_\_\_\_

Amendment Policy No. RH-12-214-003 dated August 1, 2012

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**I. INTRODUCTION**

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It is SUAGM's policy to provide students, faculty, and all staff with a fair, humane, and responsible learning and work environment that supports, nurtures, and rewards professional and educational improvement based on ability and performance. Considerations based on sex or sexual conduct limit and undermine the character and purpose of the University and its community. SUAGM does not encourage, tolerate or allow sexual harassment in any way, since, like other types of discrimination, sexual harassment at work or in the study environment violates this policy and local and federal provisions, among others, which include the Civil Rights Act of 1964, as amended (Title VII), the Federal Education Act, as amended (Title IX), Law No. 100 of Puerto Rico of June 30, 1956 and Law No. 17 of April 22, 1988.

On May 19, 2020, the Federal Department of Education established new regulations applicable to institutions of higher education receiving federal funds regarding rapid response to sexual harassment. The new rules require higher education institutions to:

- respond promptly to people who claim to be victims of sexual harassment by offering support measures;
- follow a fair process to resolve allegations of sexual harassment when a grievant requests an investigation or SUAGM determines that an investigation is necessary; and
- provide remedies to people who make a formal grievance of sexual harassment.

Sexual Harassment can occur as a manifestation of the exercise of power and exploitation towards a person and not necessarily to satisfy a sexual desire. Sexual harassment can occur in the context of an abuse of power by the harasser towards a

person of less power, leading to unwanted sexual activity, and it can also occur between peers, such as classmates or co-employees, as well as people of the same or different sex. None of these behaviors is acceptable within SUAGM's academic and administrative community. No discriminatory behavior will be allowed and as soon as its manifestation is known, SUAGM will take immediate action, in an equitable manner for both parties, and will implement the corresponding measures.

Any student or staff member may review the laws prohibiting sexual harassment at SUAGM's Office of the Dean of Students and at SUAGM's Office of Human Resources.

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## **II. PURPOSE**

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Sistema Universitario Ana G. Méndez (SUAGM) has as its policy and affirmative duty to maintain a work and study environment free of sexual harassment and discrimination for the benefit of all its employees, supervisors, professors and students, including job candidates and visitors. Any staff member or student who engages in conduct that constitutes sexual harassment or discrimination will be found to be in open violation of the rules and policies of SUAGM, as well as current federal and local laws, and will be exposed to disciplinary measures that may lead to separation, expulsion or dismissal from SUAGM institutions.

Sexual harassment of employees, students, job applicants and visitors by superiors, other staff, co-workers or job applicants and third parties is absolutely prohibited.

Any grievance about stalking, violence, or domestic violence will be dealt with under the specific policies that have been promulgated for the handling of this type of grievance.

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## **III. SCOPE**

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The rules and procedures described in this policy apply to the entire university community, including officers, employees, professors, and students of SUAGM at all levels. All of these persons will be responsible for complying with these rules and procedures and will be subject to investigation when violations of the provisions of Title IX, as amended, are alleged.

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## **IV. DEFINITION**

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Sexual harassment is defined as any type of unwanted sexual approach, request for sexual favors, sexual assault of any kind, violence and any other verbal or physical conduct of a sexual nature that the employee or student must comply with in order to obtain a benefit from employment or studies, or whose conduct is objectively offensive, is serious enough to prevent equal access to education, has the purpose or effect of

unreasonably interfering with a person's work or study performance, thereby creating an intimidating, hostile or offensive environment.

Sexual harassment arises when one or more of the following circumstances are present:

1. Explicit or implied submission to such conduct is a condition of employment or a requirement for employment or academic benefits.
2. The rejection or acceptance of such conduct serves as the basis for making decisions that affect the terms and conditions of the employee, such as promotion, salary increase, dismissal or, in the case of a student, affects their condition or academic achievement.
3. Such conduct has the purpose or effect of unreasonably interfering with that person's work or study performance by creating a hostile, intimidating, or offensive work or study environment.

Although it is not possible to anticipate all legally prohibited conduct, by way of illustration, the following examples are provided:

1. Any intentional physical contact of a sexual nature: touching, pinching, fondling, grabbing, patting, or brushing against the body of a staff member or student.
2. Sexual assault, dating violence, domestic violence, or stalking (as defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act (VAWA), 34 U.S.C. § 12291 (a)).
3. Unwelcome sexual advances, propositions or comments: gestures, sounds, comments, jokes, "hints" or remarks about a staff member's or student's sexuality or sexual experience, or about sexual matters directed at, or in the presence of, another staff member or student who has indicated or demonstrated that they do not want such conduct.
4. Request for sexual acts or favors.
5. Insults, ridicule, and verbal "hints" that intimidate, offend, or harass a staff member or student or reasonably interfere with their performance.
6. Electronic messages with sexual, offensive or intimidating content.
7. Publications, handouts, photos, drawings, portraits, posters, calendars, objects, reading material that is pornographic or that suggests sexual activity or creates an uncomfortable hostile environment for an employee or student.

The grievant party is defined as an individual who is the alleged victim of conduct that could constitute sexual harassment. It is clarified that third parties outside the grievant party may submit a grievance. For its part, the respondent party is the individual who has been denounced as the cause of conduct that could constitute sexual harassment.

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**V. COURSE OF ACTION**

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If you believe that you have been sexually harassed through conduct that subjectively bothers you, you must notify the harasser that his or her conduct is offensive, unwanted, and require that it not be repeated in the future. Any staff member or student who believes he or she has been the object of an act constituting sexual harassment must notify his or her supervisor, the Title IX Coordinator if he or she is a student, the dean or director of the unit to which he or she is attached, or the representative of human resources assigned to each institution, so that he or she can take immediate action in this regard. It is the duty and obligation of every employee and student to report any unwanted act of a sexual nature directed at him or her, or that they have witnessed in their place of work or study, or about which they have received information.

Upon receiving a grievance of sexual harassment, the institution will promptly initiate an investigation focused on corroborating the existence of the alleged conduct within an immediate and reasonable term that is estimated to be no more than seven (7) calendar days. Any person who incurs in conduct constituting sexual harassment, whether they are a faculty member, student, employee or official of SUAGM, will be exposed to severe sanctions including dismissal or expulsion from the institution, as the case may be. If it turns out that the sexual harassment comes from third parties who do not work at SUAGM and who are not students either, SUAGM will take the corrective measures reasonably within its reach.

The information received during the investigation of a sexual harassment grievance will be kept in a separate file and as confidential as possible, clarifying that some facts need to be disclosed during the investigation and the interview of people who could provide information on the event under investigation, as well as in the processing of any legal action to urge the same. Information protected by any legally recognized privilege may not be used unless the person holding the privilege waives it.

Any investigation and resolution of a sexual harassment grievance shall be conducted by a committee composed of three (3) persons duly empowered and trained to deal with the matter, providing that the members of the Committee shall not be persons under the supervision or control of the alleged harasser.

SUAGM reiterates its commitment to maintain a study and workplace free of all types of discrimination and sexual harassment, which will not be tolerated.

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**VI. GRIEVANCE PROCEDURE**

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To guide people who believe they have been subjected to sexual harassment, the following grievance process has been established, which facilitates its processing and decision-making and immediate action:

1. If an employee understands that they have been the victim of sexual harassment or are being subjected to a hostile environment, they must notify their supervisor, dean or director of the unit to which they are assigned. These, in turn, must refer the matter immediately, in a period that should not exceed five (5) working days, to the human resources representative assigned to the institution to start the investigation. However, the employee may go directly to the Human Resources representative assigned to the institution.
2. If the alleged victim is a student, he or she must notify the Coordinator of Title IX in the Office of the Dean of Students or the Director of the University Center of the process resulting from the grievance. He or she, in turn, must refer the matter immediately, in a period that should not exceed five (5) working days, to the Dean of Students to start the investigation. As an alternative, the student can go directly to the Dean of Students, the human resources representative assigned to the institution or a counselor, so that they can initiate or participate in the process. The Dean of Students will put in place the due process according to the amendments of Title IX of May 19, 2020. (See the procedure for grievances of sexual harassment of Title IX).
3. If the respondent is not part of the university community, the employee or student must channel the grievance preferably through the human resources representative assigned to the institution within the following three (3) business days. Whenever this person is not under the control of SUAGM, the designated human resources specialist will notify the respondent and the office to which he or she offers services of the filed grievance.
4. If the respondent is a high executive officer of SUAGM, such as members of the board of directors or vice presidents, the grievance will be channeled through the Human Resources Office, which may refer the matter to a Special Commissioner, external to the university community, for processing and decision. The Commissioner's decision shall be final and firm.
5. The administrative processes that are conducted will be confidential to the extent possible and all the information collected in the investigation will be filed in a separate and independent file from the personnel or academic file.
6. The grievance may be presented orally or in writing and it must include the name and surname of the grievant party, who is the person who files the grievance, that of the respondent, who is the person against whom the grievance is filed, the identity of those witnesses who may have knowledge of the facts, and a list of facts with specific expression of the date or dates of occurrence.
7. The Human Resources representative assigned to each institution or, in his or her absence, the Dean of Students will activate a committee made up of three (3) people, of which at least one (1) will be a representative of the Human Resources office and designated by the Vice President of Human Resources. The committee will conduct a fair and impartial investigation of any grievance that

is filed, including information gathering, statements, and interviews with parties and witnesses.

8. The committee will start the investigation with the interview of the grievant and will collect all available information. If the grievance has been filed verbally, at this stage the list of facts that comprise the grievance must be formalized in writing.
9. The grievant party will be informed of the rights that assist him or her to initiate independent actions and the terms that apply to said actions, providing that, in the case of an employee, they have a term of forty five (45) days to file a charge before the Commission for Equal Employment Opportunities ("*Equal Employment Opportunity Commission*") and in the case of a student, he or she has a term of one hundred eighty days (180) to file a grievance with the Office of Civil Rights of the Federal Department of Education.
10. In those cases, in which the grievant or respondent is a minor, the parents or guardians of the minor must be notified, extending their participation in the investigation, with an explanation of the process that the implementation of this policy will follow.
11. After obtaining the evidence on the grievance and having interviewed the grievant, the committee will meet and interview the respondent, under the presumption that he or she is not responsible. The respondent party will be notified of the grievance and will be given the opportunity to offer evidence about the event, including presenting witnesses before the committee that refute the facts alleged against him or her.
12. The respondent will also be given the opportunity, after the interview, to present a written response on the allegations in the grievance within a term not exceeding five (5) business days. In it, the respondent may inform the identity of the witnesses that he or she understands may offer information regarding the alleged facts.
13. After the grievant and the respondent have been interviewed, the interviews will proceed with the witnesses mentioned by them.
14. If justified, based on the facts alleged in the grievance and the preliminary evidence submitted, SUAGM may take provisional and prudent measures while the investigation of the grievance is completed, without this implying that it adjudicates the alleged facts in favor of one or the other party. These measures may include individualized services, reasonably available, non-punitive, non-disciplinary and that do not represent an unreasonable burden, that are provided to the respondent party, in order to ensure access to education, protect safety and/or deter the sexual harassment of the grievant party. The institution is required to offer support measures and provide remedies to the grievant party if it is determined that the respondent party is responsible.



15. The committee will be responsible for objectively evaluating the complaint or grievance, as well as the defenses, the testimonies, the documentary evidence, if any, presented by the parties and their witnesses and will render a report with recommendations or remedies to be notified to the grievant party and the respondent, with the summons to hold a hearing. The process provides for an objective evaluation of the relevant evidence, including inculpatory and exculpatory evidence, to reach a determination of credibility.
16. SUAGM will ensure that employees who participate in the investigation and/or adjudication of a formal grievance of sexual harassment receive the training required by the 2020 Title IX regulations, including training on:
  - the definition of sexual harassment,
  - the scope of the university's educational program or activity,
  - how to conduct an investigation and grievance process, and
  - how to serve in an impartial manner avoiding prejudgment of the facts, conflict of interest and partiality.

The training will not be based on sexual stereotypes and will promote impartial investigations and adjudications of informal grievances of sexual harassment.

17. The investigation must be completed and the report rendered within a term not exceeding thirty (30) business days after the complaint has been filed. It is clarified that said term is a directive one and that it can vary for meritorious reasons.
18. A hearing will be held on the date set by the Committee before an Examining Officer with the procedure described below:
  - Five (5) days before the date of the hearing, the parties will inform the Examining Officer of their intention to appear accompanied by an advisor of their choice, who may or may not be a lawyer, or one will be provided by SUAGM, free of charge to the assigned part.
  - The hearing will be recorded, and the Hearing Officer will maintain the audio or audiovisual recording or a transcript of the hearing and make it available to the parties for their inspection and review.
  - The Examining Officer may ask questions of the parties, make relevant determinations about the questions and explain any decision to exclude any question. The Examining Officer will adopt the rules of order and decorum to be followed at the hearing.
  - The Examining Officer will not allow questions to the grievant about previous sexual history unrelated to the facts alleged in the grievance.
  - The Examining Officer may not consider the statement of any party or witness who does not participate in the cross-examination to issue his or her determination.

- The parties will not be able to ask questions of the opposing party or the witnesses, for which the participation of the advisors will be required.
  - The Examining Officer will be responsible for objectively evaluating the relevant evidence, both incriminating and exculpatory, to reach a determination of responsibility by applying the standard of preponderance of the evidence. For this, he or she will consider without limitation: (a) the previous oral or written statements of a party or witness who has participated in the hearing, but not those who have not appeared at the process; (b) text messages, chats or emails that contain relevant information that supports the evidence offered by a party or witness; and (c) audio or visuals that illustrate the incident that is the subject of the grievance.
19. It is presumed that the respondent party is not responsible for the alleged conduct throughout the investigation and hearing procedure.
20. During the investigation and hearing process, equitable treatment will be provided to the grievant and the respondent, free of prejudice or conflict of interest.
21. After the hearing is held, the Examining Official will issue simultaneously to the parties, within a term not exceeding thirty (30) days, his or her final determination, which will include:
- A summary of the sexual harassment allegations.
  - A description of the procedure applied, from the time the grievance was received to the final determination, specifying the notifications to the parties, interviews, visits to the scene of the incident, the method for receiving other evidence and what transpired at the hearing.
  - The findings of fact that support the decision.
  - SUAGM's policies that apply to the facts.
  - The conclusions on each allegation.
  - The determination of responsibility.
  - Remedies and disciplinary sanctions.
  - The procedures available for an appeal.

In the case of a student, the information to be offered to other parties will be subject to the restrictions imposed by the "Family Educational Rights and Privacy Act" (FERPA).

22. Neither SUAGM, nor its agents or representatives, will take any retaliation against the grievant, the respondent, the witnesses or any person who has notified or cooperated with the investigation or hearing of the alleged event.
23. If the grievant decides not to participate in the initiated investigation, the hearing, or decides to withdraw from it due to not being satisfied with the process, or for any other reason, the process will continue until its conclusion, in which the lack

of interest of the grievant may be taken into consideration, as well as all available evidence.

24. If, after the hearing is over, it is determined that a SUAGM faculty member, student, officer or employee has engaged in conduct constituting sexual harassment, remedial measures will be applied that comply with this policy and the regulations adopted and promulgated by SUAGM, which will be consigned in the determination of the Official Examiner.
25. Likewise, if it is determined that the grievant was affected in his or her employment or study benefits, either due to salary reduction, job reduction, or in the case of students, limitation of benefits or effect on grades, SUAGM will take the necessary corrective actions to restore the corresponding benefits to the grievant.
26. The Vice President of Human Resources or the Dean of Students will follow up on any determination issued so that the conduct or situation has been corrected, verifying, in turn, that no retaliation is taken against the participants.
27. A grievance will be dismissed, for the purposes of Title IX, if the allegations do not meet the definition of sexual harassment, as provided in the legislation and regulations, or did not occur in the United States in an educational program or activity of the institution. In these cases, the grievance may be channeled under another regulation or institutional policy, depending on the facts outlined in it.
28. An employee, student or third person who files a grievance against another employee or student, knowing that the act or conduct for which the grievance is made is false, will be exposed to a civil lawsuit by the affected person under the Law of Libel and Calumny of Puerto Rico. In addition, he or she will be exposed to disciplinary sanctions in accordance with SUAGM regulations and manuals.
29. The terms adopted in this policy are directives to enable SUAGM to carry out the rigorous processes, but they are not strictly compliant. Terms may vary depending on the particular circumstances and complexity of each case.

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## **VII. APPEAL PROCESS**

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If they do not agree with the determination of the Official Examiner and the solution to the grievance filed, both the grievant and the respondent may file an appeal at the Office of the Chancellor of the campus where they work or study, within a period of five (5) working days from the notification of the resolution of the grievance. In those cases, in which the grievant or the respondent works for the Central Administration or Sistema TV, Canal Universitario Ana G. Méndez, the appeal will be presented before the Executive Vice President, within the same term of five (5) working days from the notification of its resolution.

The appeal resource will be evaluated by the Chancellor or the Executive Vice President, as appropriate, who will have access to all the information collected during the investigation and will evaluate it, being able to ratify, amend or revoke the actions previously taken. In the event that the Chancellor or the Executive Vice President is not available, a designated representative of equal rank will be appointed who will attend to the appeal as specified above.

In a term not exceeding thirty (30) business days, the Chancellor, the Executive Vice President or the designated representative of equal rank, will issue a final determination, which will be notified to the appellant within the same term.

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### **VIII. DISCLAIMER**

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The dispositions of this policy shall be interpreted with each other and, if there is a declaration of nullity on any of the provisions by a court or a competent agency, the rest will remain valid and binding.

When a masculine gender is used in the policy, it should be understood that it is equally applicable to the feminine gender and vice versa.

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### **IX. SPECIALTY AND PRIORITY**

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This policy constitutes a special procedure to deal with any situation of harassment and will prevail over SUAGM's general manuals and regulations, providing that, for the situations contemplated herein, the processes are conducted in accordance with the provisions of this document.

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### **X. VALIDITY**

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This policy will be effective immediately and will replace the Sexual Harassment Policy Number RH-12-214-003 approved on August 1, 2012.

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### **XI. PUBLICATION**

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The Vice President of Human Resources, as well as the Dean of Students, will provide the necessary information to all employees, faculty members and students related to this policy on sexual harassment, which establishes prohibited conduct and the procedure to be followed to address grievances related to it.

This policy, as well as the materials to train employees on the provisions of Title IX, will be available on the website of the Vice Presidency of Human Resources.

If you have any questions regarding this policy or the grievance filing process, you may contact a representative of the Human Resources Office or the Dean of Students to discuss it.

This policy will be reviewed and amended as applicable legislation changes.

We trust that all SUAGM employees and students will continue to act responsibly in order to maintain a work and study environment that is cordial and free of all discrimination.

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## **XII. APPROVALS**

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**Victoria de Jesús de Jesús, Ed. D**  
**Vice President of Human Resources**

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**Date**

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**José F. Méndez Méndez**  
**President**

\_\_\_\_\_  
**Date**

**DISCLAIMER:** In order to protect the identity of the signatures of our officials, the executive orders and policies published on the electronic portal exclude them. Therefore, such electronically published executive orders and policies should be deemed approved and signed for all relevant purposes. If you have any questions related to this matter, you should refer it to the human resources staff assigned to your campus.

In the event of any inconsistency or ambiguity in relation to the meaning of any word or phrase in the English translation, the Spanish text shall prevail.

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