

**CODE OF CONDUCT FOR THE PROTECTION OF THE DIGNITY OF WOMEN AND MEN AT WORK AND THE PREVENTION OF WORKPLACE BULLYING, INCLUDING PSYCHOLOGICAL AND SEXUAL HARASSMENT.**

*The terms used to describe people, that in the original Italian version of this Code of Conduct, are only in the masculine form, are meant to refer indistinctly to persons of female and male gender. Proper use of gender identity terms was waived not to compromise the clarity and readability of the text and to make it as simple as possible.*

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## **PREAMBLE**

The University of Foggia,

HAVING REGARD to Recommendation 92/131/EC of November 27, 1991, on the protection of the dignity of women and men at work;

HAVING REGARD to European Parliament Resolution No. A3-0043/1994 of February 11, 1994, on the appointment of a confidential counsellor in enterprises;

HAVING REGARD to European Parliament Resolution 2001/2339 (INI) of 20 September 2001, on bullying in the workplace;

HAVING REGARD to Articles 2, 3, 4, 32, 35, and 37 of the Italian Constitutional Charter;

HAVING REGARD to the relevant national legislation and, in particular, Article 2087 of the Civil Code, Legislative Decrees Nos. 215 and 216 of 2003, Legislative Decree No. 145/2005, Legislative Decree No. 198/2006 and Legislative Decree No. 81/2008;

HAVING REGARD to the relevant contractual regulations in force;

IN CONSIDERATION of the guiding values set forth in the Statutes (in force as of June 12, 2014, amended by R.D. *prot. no.* 11935 - I/2 - *Rep.* R.D. 642 - 2014 dated 05/9/2014) and the Code of Ethics (issued by R.D. no. 93 - 2013, *prot. no.* 1979 - I/3 dated 01/25/2013),

### **ADOPTS**

this "*Code of Conduct for the protection of the dignity of women and men at work and the prevention of workplace bullying, including psychological and sexual harassment*" (hereinafter referred to as "Code"), being aware that it is the right of all women and men working and studying at the University of Foggia to live and work in a serene environment where interpersonal relationships are based on fairness, mutual respect for the freedom and dignity of the human person.

### **Art. 1**

#### **FUNDAMENTAL PRINCIPLES**

1. The University of Foggia, is committed to:

- ensuring and promoting, also through positive actions, the principle of equal opportunities and enhancement of gender differences;
- fighting, in every field that falls within its competence, any form of discrimination, direct and indirect, -with particular regard to gender, race, color, ethnic or social origin, language, religion, beliefs, political opinion or any other opinion-, against national and/or cultural minorities or related to socio-economic conditions, disability and health conditions, age, sexual orientation, marital status;
- ensuring an atmosphere of workplace well-being and preventing, detecting, fighting and eliminating any behavior that is not respectful of human dignity;
- taking legal action against workplace bullying or harassing behaviors that result in psychological and physical distress and discomfort, by enforcing the provisions of this Code against perpetrators;
- protecting any person that suffers direct or threatened physical, emotional or financial harm and discrimination because of acts or behaviors of any sort of psychological or sexual harassment.

### **Art. 2**

#### **SCOPE AND COVERAGE.**

1. This Code applies to all those who study and work at the University: students, faculty, managers and technical-administrative staff, holders of Italian and foreign scholarships, holders of grants or contracts, interns, doctoral students and post-doctoral students, residents, all those who work at the University of Foggia even with fixed-term employment contracts.

### **Art. 3**

#### **NOTIONS OF DISCRIMINATION**

1. Under current legislation:

- direct discrimination is the practice of treating one person or group of people less fairly or less well than other people or group of people in a comparable situation because of race and ethnic origin, as well as religion, belief, disability, age, or sexual orientation;
- indirect discrimination occurs when an apparently neutral provision, criterion, practice, act, covenant or conduct is likely to place persons of a particular race or ethnic origin, as well as those of a particular religion or ideology, persons with disabilities, persons of a certain age or sexual orientation, at a particular disadvantage compared with others.

#### **Art. 4**

#### **DEFINITION OF SEXUAL HARASSMENT**

1. Sexual harassment is any unwelcome conduct or act of a sexual nature connotation or any kind of discrimination based on sex that offends the dignity of women and men in their learning or working environment, including physical, verbal or nonverbal attitudes.
2. The following behaviors may constitute examples of sexual harassment:
  - repeatedly asking implicitly or explicitly, a person for dates or asking for unwanted sex;
  - unwanted or offensive verbal appreciations and insinuations;
  - staring in a sexually suggestive manner;
  - Name-calling or using slurs with a gender/sexual connotation;
  - posting or display of pornographic material in the workplace, whether in printed, electronic or other forms;
  - use of sexist criteria, judgments and expressions in any type of interpersonal relationship;
  - promises, implicit or explicit, of benefits and privileges, or of progression of professional career and/or study in exchange for sexual favors;
  - intimidation, threats or retaliation as a result of refusal of sexual services;
  - unwanted and inappropriate physical contact;
  - provocative or allusive written messages or objects.
3. Harassment is to be considered particularly serious if:
  - repeated or inflicted systematically;
  - explicitly or implicitly resorted to by taking advantage of a position of power;
  - accompanied by threats or blackmail/retaliation in connection with professional and/or student status;
  - create an intimidating, hostile, degrading, offensive, humiliating work and study environment.

#### **Art. 5**

#### **DEFINITION OF SEXUAL HARASSMENT**

2. The following behaviors are examples of moral or psychological violence:
  - damage to an individual's self-image, such as offense, intimidation, slander, insults, dissemination of confidential information that are likely to have an impact on an individual's self-esteem, which is made low and vulnerable by unfounded criticism;
  - damage to an individual's professionalism, including threats of dismissal, forced resignation, unjustified transfers, salary discrimination, prejudice to career prospects, unjustified removal from assigned tasks, deskilling, improper assignments that can make the worker/student feel demotivated or under-appreciated, discouraging the continuation of his or her work or study;
  - attempts at marginalization and isolation with persecutory intent, limitation of the right of expression or exaggerated control;
  - use of one's position of hierarchical superiority to engage in harassing, discriminatory and/or blackmailing acts or behavior;
  - unjustified exclusion or marginalization from routine communication in administrative and scientific matters;
  - systematic under-appreciation of the results obtained that cannot be justified on the grounds of poor performance or failure to perform the assigned tasks and/or to achieve targets;

3. Harassment is to be considered particularly serious when:
- repeated or inflicted systematically;
  - explicitly or implicitly carried out by exploiting a position of power;
  - accompanied by threats or blackmail/retaliation in connection with the professional and/or student status of the employee, and/or student(s);
  - creates an intimidating, hostile, humiliating study and work environment.

#### **Art. 6**

#### **DEFINITION OF WORKPLACE BULLYING**

1. Workplace bullying is defined as the set of persecutory practices, harassment and moral or psychological abuse perpetrated, with discriminatory intent, in a systematic, repeated and intentional manner, in the workplace context by the employer or a superior and/or colleagues against other personnel, such as to: create an intimidating, hostile or humiliating environment for work, research and study; it causes a professional disease that can impair mental and physical health and/or professionalism as well as the dignity of the employee in the workplace, even to the extent of exclusion from the same work environment.

#### **Art. 7**

#### **CONFIDENTIAL COUNSELLOR**

1. In order to provide for effective enforcement of this Code, the position of Confidential Counsellor (henceforth: Counsellor) is hereby established. The Counsellor, also for the purpose of providing legal protection, provides advice and assistance to the person being subjected to behaviors likely to constitute work bullying, psychological and/or sexual harassment, and adopts measures to protect both the victims and the witnesses and to help them overcome the situation of discomfort. The Counsellor helps establish appropriate, collaborative human and professional relationships and ascertains the occurrence of the harassing behavior.
2. The Counsellor is appointed by the Rector from among persons of unquestionable expertise, independence and impartiality and holds his/her office during the term of two years, renewable after consultation with the *Comitato Unico di Garanzia* (Joint Committee for Equal Opportunities, Well-being at Work and Fight against Discrimination, hereinafter referred to as CUG), on the basis of a selection that relies on the results of a public competition based on qualifications and interview.
3. The Counsellor shall perform her/his duties in full autonomy. To support the Counsellor in fulfilling her/his duties, the Administration shall provide her/him with adequate means and human resources, in addition to allowing her/him access to all documents and information pertaining to complaints to be dealt with within the limits allowed by the legislation in force. In order to allow full civil, criminal, administrative protection of the victim of harassment, the Counsellor can make use of advice provided by internal personnel of the University and, in exceptional cases, subject to authorization by the CUG, can make use of external counsels (lawyers, psychologists, social workers, etc.) without incurring additional costs for the University.
4. The Counsellor works in close collaboration with the Counsellor of Equal Opportunities of *Regione Puglia* and with the Counsellor of the Foggia's *Area Vasta* (an administrative division of a country that has its own government), who, pursuant to Legislative Decree No. 198/2006, in the fulfillment of their functions of promoting and monitoring the implementation of the principles of equal opportunities and non-discrimination for women and men in the workplace, serve as public officials entitled to promote reconciliation or take legal action.
5. The University undertakes not to prevent any injured party from resorting to the Counsellor and also to prevent any possible retaliation against any possible witnesses.
6. The Counsellor can ask to attend meetings of the CUG, as an expert, without any right to vote.
7. The Counsellor shall submit to the Rector and the CUG an annual report on her/his activities and the case series dealt with, possibly suggesting i) appropriate actions aimed at promoting a work and study atmosphere suitable for ensuring that individuals (University personnel and students)

enjoy equal dignity and freedom, as well as ii) initiatives to raise awareness and provide training for these purposes.

8. The Counsellor can be removed from office, after consultation with the CUG, in case of serious failures, omissions, delays or violations of her/his obligations of impartiality, fairness and confidentiality in the fulfillment of her/his duties, by a reasoned Decree issued by the Rector.
9. In case of renunciation, resignation or termination of qualification or loss of the necessary requirements by the Counsellor, a new public competition must be launched within a maximum period of 30 days from the date of early termination of office.

#### **Art. 8**

### **DISCIPLINARY SIGNIFICANCE OF WORKPLACE BULLYING AND HARASSMENT.**

1. Behaviors that amount to workplace bullying, psychological and/or sexual harassment that result in taking formal action under Article 11 are subject to disciplinary measures, without prejudice to reports to the competent civil and criminal judicial authorities, and are punishable in the forms and manner provided by the respective legal systems of the parties involved.

#### **Art. 9**

### **COMPLAINT PROCESS AND FACT-FINDING OF VIOLATIONS.**

1. Without prejudice to reports to the competent civil and criminal judicial authorities within the terms prescribed by law, anyone who has been the victim of workplace bullying and/or psychological and/or sexual harassment can promptly contact, the Counsellor in order to stop the bullying behavior and overcome discomfort by filing either informal or formal complaints procedure. Both kinds of complaint shall be settled within the Administration.

2. The Counsellor shall promptly take appropriate action and in any case get the procedure started no later than 30 days from the date she/he became aware of the behavior in question. Absolute confidentiality shall be ensured in the course of the procedure. Under no circumstances are anonymous reports allowed

#### **Art. 10**

### **INFORMAL COMPLAINTS.**

1. The Counsellor, -subject to the explicit consent of the person who believes to have been subjected to behaviors likely to constitute workplace bullying, psychological and/or sexual harassment-, starts the informal procedure, which must be concluded within 60 days, with the possibility of extension for an additional 30 days. At any time during the procedure, the complaining party is allowed to withdraw his or her complaint. In any case, the informal procedure must be concluded within 120 days after it has been started.

2. The Counsellor:

- agrees with the complaining party on the most appropriate course of action for the permanent cessation of the harassing behavior;
- can invite for an interview the person indicated by the “harassed” party as the perpetrator of the harassment; minutes are taken of this meeting, which are also signed by the parties, who receive a copy;
- obtains information necessary for the fulfillment of his/her duties, also by taking testimony from informed persons, and has access to the relevant administrative documents;
- can organize meetings between the complaining party and the alleged perpetrator in order to attempt conciliation between the parties;
- proposes to the Administration the measures he/she deems appropriate to stop the harassing behavior and prevent its recurrence;
- in the most serious cases can recommend to the Head of the University Facility involved the internal transfer of one of the parties concerned;
- is also committed to monitoring potentially dangerous situations.

**Art. 11**  
**FORMAL COMPLAINTS.**

1. If the person who has been victim of workplace bullying behaviors, psychological harassment and/or sexual harassment considers any attempts at informal settlement of the case inappropriate, or if after such attempts, the undesirable behaviors do persist, he/she can resort to the formal procedure.
2. The complaining party - also with the assistance of the Counsellor - sends a formal communication to the Rector or, if necessary, to the Rector's Delegate for Organization and Human Resources as well as to the Director General, whereby he/she complains about the behavior detrimental to his/her dignity that in his/her opinion constitutes workplace bullying, psychological and/or sexual harassment.
3. The Rector or, if necessary, the Rector's Delegate for Organization and Human Resources or the Director General, shall transmit the relevant records to the bodies and offices responsible for disciplinary proceedings (Disciplinary Committee for Teaching and Research Personnel; Disciplinary Committee for Technical-Administrative Personnel) without prejudice, in any case, to any other form of legal action.
4. Likewise, in compliance with the principles informing the Code of Equal Opportunities referred to in Legislative Decree no. 198/2006, if the Administration deems it appropriate, during the disciplinary procedure, after having heard the person who feels to be the victim of workplace bullying and/or psychological and/or sexual harassment, the Counsellor and/or the Trade Unions, shall adopt the measures deemed useful, on a case by case basis, for the immediate cessation of the harmful behavior and the re-establishment of a serene work atmosphere.
5. The University, in consultation with the Counsellor, having established that the complaint is well-founded, shall make sure to protect the complainant from any form of retaliation or penalization and shall oversee the effective cessation of the harassing or discriminatory behavior. Where the complaint proves to be unfounded, the University, within the scope of its competence, must operate in an appropriate form in order to clear the good name of the accused person.

**Art. 12**  
**CONFIDENTIALITY**

1. All the situations envisaged by this Code shall be dealt with in most rigorous compliance with the legal and ethical standards related to the protection of the personal data, and confidentiality of the victim, of the person accused, and of any witnesses.
2. A worker who has been the victim of acts or conduct that offend his or her dignity has the right to request that his or her name be omitted from any administrative documents relevant to the case.

**Art. 13**  
**DUTY TO COLLABORATE**

1. All those who in their various capacities work or study at the University must contribute to ensuring a serene work and study atmosphere that is respectful of the dignity of the person.
2. In particular, the heads of facilities and offices have a duty to encourage the prevention of psychological harassment, sexual harassment, and workplace bullying in the contexts/fields of study and work under their supervision. They are also required to give their support to whoever wants to react to psychological or sexual harassment by providing advice about how to proceed while maintaining confidentiality.
3. Witnesses who refuse to testify for those who are victims of psychological or sexual harassment can be considered persons as liable for the harms caused to the victims as the accused.
4. The central and peripheral bodies and managers of the University are directly responsible for the dissemination and compliance with this Code.

**Art. 14**

**AWARENESS RAISING AND TRAINING**

1. The University Administration undertakes:

- in agreement with the Trade Unions and after consultation with the CUG, to organize specific training courses and awareness-raising events on the protection of personal freedom and dignity in order to prevent the occurrence of behaviors that can be classified as discrimination, psychological and/or sexual harassment and workplace bullying;
- to give maximum visibility to and disseminate this Code by the most appropriate available means;
- to notify the identity and contact information of the Counsellor on the University website in the CUG web page.

**Art. 15**

**FINAL PROVISIONS**

1. This Code, adopted by Rector's Decree, shall come into effect the day after its publication on the website of the University. It shall also be notified and posted on the bulletin boards of University facilities and forwarded to all employees via e-mail.

2. With regard to what is provided for in Article 7 paragraph 2, the Administration undertakes to start the process by which the Counsellor will be selected within 90 days of the entry into force of this Code.