

## **Regulations governing the investigation and punishment of situations of sexual harassment, violence and gender discrimination.**

### **Article 1. Objective and principles**

These regulations regulate the procedure for investigation and punishment of situations of sexual harassment, violence and gender discrimination committed by members of the university community of the University of Talca, in those instances proper to university work and that affect the proper development of the purposes and purposes of the institution.

The guiding principles of this regulation are based on the rules of due process, the principles of respect for human rights, proportionality, equality, protection of complainants, prohibition of re-victimization, confidentiality and confidentiality, among others that may be applicable.

### **Article 2. Special jurisdiction body.**

The investigation and sanction of conducts constituting sexual harassment, violence and gender discrimination will be handled by an Ad-hoc Prosecutor who will have special powers to faithfully perform his role, in addition to knowledge in Human Rights and gender perspective, position which will depend on the Prosecutor's Office regulated in Article 33, Title IX, On the Prosecutor's Office, established in the organic structure of the University of Talca.

### **Article 3. Definitions.**

The University of Talca understands by:

**Gender violence** : Any action or conduct based on a person's sex, sexual orientation, gender identity or expression, which causes death, harm or physical, sexual and/or psychological suffering, both in the public sphere and in the private.<sup>1</sup>

**Gender discrimination**: Any distinction, exclusion or restriction based on a person's sex, gender, sexual orientation, gender identity and expression, and which, lacking reasonable justification, causes deprivation or disturbance or threat in the legitimate exercise of their duties. human rights and fundamental freedoms.<sup>2</sup>

harassment : Any action or conduct of a sexual nature or connotation, whether verbal, non-verbal, physical, face-to-face, virtual or telematic, unwanted or not consented to by the person who receives it, that violates the dignity of a person, constitutes sexual harassment. , equal rights, their freedom or physical, sexual, mental, emotional integrity, or that creates an intimidating, hostile or humiliating environment, or that may threaten, harm or affect their opportunities, material conditions or work or academic performance, with regardless of whether such behavior or situation is isolated or repeated.<sup>3</sup>

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<sup>1</sup> Definition based on the "Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women", Art. 1, Belém do Pará 1994, **adapted according to the indications of the Superintendency of Higher Education in its official letter dated July 8 .**

<sup>2</sup>Definition based on the "Convention on the Elimination of All Forms of Discrimination against Women" and Law 20,609, **adapted according to the indications of the Superintendency of Higher Education in its official letter on July 1, 8 .**

<sup>3</sup>Law 21,369

Sexual harassment is contrary to the dignity of people, their freedom, personal integrity and equal rights and prohibition of arbitrary discrimination.

**Article 4. Scope of this regulation.**

This regulation will be applicable to conduct of sexual harassment, discrimination or gender violence that is carried out by:

- a) Those who are enrolled in undergraduate, postgraduate, continuing education or professional technical career programs taught by the University, that is, anyone who is a regular student of a career or program leading to a higher level technical degree, professional title, academic degree of bachelor, graduate, magister or doctor, or similar, including diplomas, improvement courses, certifications and any study program of a similar nature.
- b) Those who belong to the academic and administrative levels of this House of Studies, regardless of the modality of their hiring, including service providers hired based on fees.
- c) Those who do not have the status of officials, collaborators or students, but develop functions related to the university, such as assistants, scholarship holders, lecturers and/or visitors; assistants and support staff; and/or, people who develop their professional practice within the institution. In addition, service providers are also included in this category, such as: cleaning and decoration, security, information technology, food, among others.

The scope of this regulation will include:

- I. Facts that can be classified as sexual harassment, violence or gender discrimination, verified within any of the campuses or institutional infrastructure, whether or not they are academic or research spaces, and provided that both or more parties involved belong to the Corporation.
- II. Facts that can be classified as sexual harassment, violence or gender discrimination, which are verified outside the corporate offices of the University of Talca, in instances such as:
  - a. Activities organized and/or developed by the institution provided that both or more parties involved belong to the Corporation.
  - b. Activities developed or organized by one or more officials or collaborators of the University, provided that both or more parties involved belong to the Corporation.
  - c. Activities developed or organized by one or more students provided that both or more parties involved belong to the Corporation.

These regulations will regulate the investigation process of the facts or situations that are framed in activities organized or developed by the University or by people linked to it in accordance with what is mentioned in the previous paragraph, whether or not they occur, in academic or research spaces,

especially if such facts or situations affect the proper development of the aims and purposes of the Institution.

**Article 5. Conduct constituting gender violence and discrimination.**

**Slight faults.** Mild behaviors are considered when they are not repeated, among others the following:

1. Inappropriate, sexist or discriminatory comments that refer to sex, gender, gender orientation and/or gender identity or expression, which do not constitute sexual harassment.
2. Use of offensive nicknames, including those that refer to generic sex orientation or gender identity
3. Failing to comply with the regulations for the use and recognition of the company name, being aware of its application, maliciously omitting the company name or misusing its pronouns
4. Verbal sexual harassment, understood as sexual, humiliating or offensive comments, words or jokes (includes references to a person's body or their gender sexual orientation, gender identity or expression) or comments related to a person's body or appearance.
5. In-person non-verbal sexual harassment, I understand by such persistent or suggestive looks of a sexual nature, sounds related to sexual activity, whistles, sighs, gestures of a sexual nature or others.
6. Sexual harassment by digital means, such as sending emails or instant messages with sexual or inappropriate innuendoes, comments, jokes or photographs of sexual connotation, without consent. Calls, messages or unknown notes with sexual content will also be considered as this type of harassment.
7. All those actions and behaviors carried out only once that are not consented and cause discomfort to the person who receives them and may constitute sexual harassment, violence and discrimination.

**Serious faults .** The situations or facts considered serious offenses are the following:

1. All those behaviors mentioned in the previous article when they are repeated; These behaviors will be considered repeated when it is proven that they were carried out on more than one occasion.
2. Hate comments (or speech) based on sex, gender gender orientation, gender identity and/or expression, as well as threats to reveal gender gender orientation or gender identity. Hate comments are understood to be those statements that are intended to validate violence or threats, insulting experience, expression or demonstrations of gender identities or sexual-affective orientations. An example of the above are false accusations of commission of sexual crimes, obtaining favors under intimidation of revealing orientation or identity without consent, among others.
3. Not respecting gender identity and expression and arbitrarily excluding from academic activities for this reason.
4. Any conduct that constitutes physical violence that is motivated by sex, gender sexual orientation and/or gender identity.
5. Any conduct that constitutes gender discrimination in the terms indicated in article 3.
6. Any conduct considered sexual harassment, such as:
  - a) Extortion or unjustified demands to spend time in private with a person, either carrying out evaluations in spaces that do not belong to the University of Talca

when the people belong to the student body, or to obtain a promotion in the cases of official and/or academic bodies.

- b) Promises and/or offers of benefits in exchange for sexual favors (for example, money, raising grades, passing a course, better job position, salary increase, delivery of documentation in advance, among others)
- c) Threat of damages due to non-acceptance of sexual proposals (for example, not passing the course, lower grades, dismissals, deliberate administrative obstacles, etc. )
- d) Threats or dissemination of rumors of a sexual nature or connotation, private and/or uncomfortable photographs or videos.
- e) Proposals of a sexual nature or connotation not consented to by the recipient.

**Serious faults** . Serious faults will be understood

- 1. Those that, in addition to constituting a violation of this regulation, constitute a crime, such as rape, sexual abuse and threats against physical integrity. The foregoing without prejudice to the administrative responsibility that must be pursued.
- 2. Physical sexual harassment such as non-consensual sexual touching , approaches, persecutions, cornering, all of this in a reiterated manner.

**Article 6. Special investigation procedure .**

The Gender Directorate will be in charge of receiving the complaint of sexual harassment, violence and/or gender discrimination, in the terms established in the action protocol in situations of this nature, and its subsequent referral to the Ad-hoc Prosecutor's Office., who will deliver the information to the Ad-hoc prosecutor, who will propose to the authority the instruction of the investigation or the dismissal of the complaint.

If the complaint is dismissed, the ad-hoc prosecutor must duly substantiate his proposal, being able to order intervention measures and/or actions based on the support and reparation model, with the Gender Directorate being responsible for their coordination and implementation. In the event that the Chancellor accepts the proposal not to initiate an investigation, the ad-hoc prosecutor must order notification to the complaining party/s, to the Gender Directorate for their information and registration, and rectory. The complaining party(ies) will have a period of 3 business days to file a reversal appeal before the highest university authority

In the event that an investigation is ordered, the ad-hoc prosecutor must appoint an actuary who will act as a minister of faith,

In this instance, protection or precautionary measures may be ordered in favor of the complainant person(s) and witnesses, if warranted.

The prosecutor will have a period of 15 working days to carry out the investigation, extendable to 5 more days for well-founded reasons.

At the end of the investigation period, the ad-hoc prosecutor must file charges or propose dismissal, as appropriate.

The investigation will be classified as confidential, until charges are filed, after which the complaining party will have the right to know its content.

If the ad-hoc prosecutor decides to dismiss the investigation, he must inform the Chancellor who - if confirming said decision- must do so by means of a resolution, which must be notified to the complainant, who will have 3 business days from its notification to file an appeal for reversal before the Rector.

If the ad hoc prosecutor files charges, they must notify the person(s) denounced, who will have 5 business days from their notification to present their defenses before the ad hoc prosecutor, together with them they must present the means of evidence that it deems appropriate, including a list of witnesses, and request that an evidentiary term be opened that may not exceed 5 business days, extendable for another 5 business days for well-founded reasons.

Once the disclaimers have been presented and the evidentiary term has ended, the ad-hoc prosecutor must issue a report containing the factual and legal grounds on which his decision is based, which may be to propose the acquittal or sanction of the person/s s denounced, decision that may be confirmed or modified by the Rector, by issuing the respective university resolution.

Against the decision adopted, the complainant and denounced party may file an appeal for reversal within a maximum period of 5 business days from the respective notification. The rector must pronounce on it and must order notification to the parties, to the ad-hoc prosecutor and to the Gender Directorate.

All the actions carried out, procedures or resolutions will be recorded in the investigative folder, numbered and correlatively numbered, which must also bear the signature of the prosecutor and the people who have intervened in the respective procedures on all its pages.

The entire university community must collaborate and declare when required by the ad-hoc Prosecutor, for the corresponding purposes.

The complaining party(ies) and denounced party(ies) will have the right to access the investigative file in order to file the corresponding appeals regulated in this article.

The ad-hoc prosecutor will adopt all the safeguards tending to avoid the reiteration of the statement of the complainant, for this purpose he/she may take videotaped or recorded statements, form written by the complainant/s or any other means that safeguard to avoid re-victimization, with the prior authorization of the affected person. The records indicated in this subsection may only be used for research and may not be reproduced in any other instance. Any person who does not comply with the foregoing will be subject to investigation and the corresponding sanction that may apply.

#### **Article 7. Sanctions.**

The sanctions for the infraction of this regulation, by any of the persons mentioned in advance will be the following:

In the case of officials of the administrative establishment, academic establishment and/or service providers , in addition to the sanctions contained in the Administrative Statute, the following may be applied:

Very serious offenses:

- a) Removal of charge.
- b) Cessation of functions.
- c) Loss of honorary distinction.
- d) Term of service provision contract.

Serious misconduct:

- a) Suspension or temporary incapacity for the exercise of certain positions and functions.
- b) The impossibility of accessing extraordinary financing.
- c) The loss of honorary distinction.

The loss of honorary distinction can be established in conjunction with any of the sanctions established for serious and very serious offenses.

Slight faults.

- a) Verbal admonition.
- b) Written censorship.

In the case of students, in addition to the sanctions contemplated in the Student Conduct Ordinance , the following may be applied:

Very serious offenses:

- a) Expulsion from the Institution.
- b) Loss of honorary distinction.

Serious misconduct:

- a) Suspension from one week to 01 month. If this sanction is imposed subtracting fifteen days from the end of the respective academic period, the registration of the modules will be maintained and the student must terminate their academic activities, making the sanction effective in the following academic period.
- b) The impossibility of accessing institutional financing.
- c) The loss of honorary distinction.

The loss of honorary distinction can be established in conjunction with any of the sanctions established for serious and very serious offenses.

Slight faults.

- a) Written censorship.
- b) Verbal admonition

All detailed sanctions will be recorded in the student's resume, by the Department of Academic Records.

The norms of Law No. 21,369 will be applied preferentially over those contained in decree [with force of law No. 29, of the Ministry of Finance,](#) promulgated in 2004 and published in 2005, which establishes the consolidated, coordinated and systematized text of Law No. 18,834, on the Administrative Statute, when dealing with situations of sexual harassment, violence and gender discrimination.

### **Article 8. Determination of aggravating and mitigating circumstances.**

The following will be considered aggravating circumstances of liability:

1. Reiteration of the sanctioned conduct.
2. Coercion or threat to the reporting person(s) or witness(es)
3. Incite third parties to exercise any of the conducts sanctioned in this regulation.
4. Attempting the dignity, honor and health of the complainant person(s).

Liability extenuating circumstances will be considered.

1. Zealously seek to repair the harm caused, for example, by offering public or private apologies, in the event that the affected person deems it sufficient.
2. Irreproachable past conduct.
3. If there has been substantial collaboration with the clarification of the facts.

### **Article 9. Protection measures.**

During the Investigation, the prosecutor may decree provisional protection measures with respect to eventual victims, complainants or witnesses, in order to minimize the impacts of the harmful conduct, grant transitory protection and/or ensure the effectiveness of the decision that could be adopted. Among the measures that can be instructed are:

1. Suspension of functions.
2. Suspension of student status, in exceptional and duly founded cases.
3. Contact ban.
4. Labor or curricular adjustments.
5. Psychological, medical, social, legal support.
6. Others that are relevant.

The complainant and/or affected person(s) may request the measures throughout the complaint and investigation process, respecting the rules established for each instance.

### **Article 10. Reparation Measures.**

**In his report or hearing, the prosecutor of the investigation may propose the adoption of reparation measures in favor of the victim(s) of sexual harassment, violence and gender discrimination, this in order to contribute to the mitigation of pain, suffering or offense and the restoration of their dignity, autonomy and freedom, thus allowing the restoration of a safe and conduct-free environment within the University.**

**Remedial measures that may be proposed include:**

1. **The delivery of written apologies, public or private.**
2. **Follow-up actions of the continuity of studies.**
3. **Intervention strategies aimed at reestablishing the environment prior to the sanctioned conduct.**
4. **Initiatives to avoid the reiteration of behaviors of this nature.**
5. **Others that are relevant.**

#### **Article 11. Guarantee of indemnity.**

The complaining person(s) and/or affected person(s) and witnesses of an investigation process regulated by this regulation may not be subject to retaliation of any kind. The violation of this guarantee will be the subject of an investigation according to Law 18,834, in the case of academic or administrative personnel, or of the student conduct ordinance in the case of students.

The foregoing except for the cases contemplated in article 13 of these regulations.

#### **Article 12. Reserve Obligation.**

Any person who becomes aware of the facts, particularly the official who is aware of the respective complaint, will refrain from making observations consisting of opinions of a personal or subjective nature, as well as avoiding asking questions that could undermine the person affected or affected. You will be especially prohibited from sharing this information beyond your obligations. Any infringement of this obligation will be subject to the prosecution of administrative or other responsibilities, for which the provisions of the legal provisions and information, documents or other useful means that may be relevant must be taken into account.

#### **Article 13. Speed.**

The investigation that is carried out with respect to these matters must be completed quickly and without undue delay, trying to adopt the necessary measures to promote it and thus give progressive course to the proceedings.

#### **Article 14. Registration .**

It will correspond to the Gender Directorate to keep the general record of all complaints that enter said unit; and it will correspond to the Ad-hoc Prosecutor's Office to maintain a general record of all the investigation processes derived by the Gender Directorate. The foregoing, in order to maintain statistical monitoring and provide inputs for proposing programs or measures for prevention, psychoeducation and others related to issues related to gender violence and/or arbitrary discrimination.

The custody, storage and systematization of the information that is appropriate and that corresponds to the complaints will be the responsibility of the Gender Directorate, which will include orientation records, first reception, complaint form, complaint report, intervention plan record, attention and corresponding follow-ups, and other documents that correspond to the complaint process, which will have a physical or digital space that guarantees the adequate protection of it, and to which the corresponding Director or Director or whoever subrogates or designates will have access.

The custody, storage and systematization of the investigative folders will correspond to the Ad-hoc Prosecutor's Office, the folders must be numbered and will contain a record of all the actions carried out during the investigation process until its end, in the same way it must keep a record of compliance with the sanctions imposed, these may be kept in a physical or digital space, provided that adequate protection of them is guaranteed.



**Article 15. False Complaint.**

All those cases in which, at any stage of the procedure, it is possible to determine that the denounced facts lack veracity, will entail the responsibilities that result from, both for the complainant and for any other who, knowingly, has poured said or provided information contrary to the truth

**Article 16. Dissemination actions.**

Both these regulations and the action protocol in situations of gender violence and discrimination must be made known to the university community, being available on the different digital platforms of the institution, as well as dissemination through the means of the actions established in the model. of prevention indicated in the Gender Equality and Diversity Integration Policy and regulated in the aforementioned protocol.

**Article 17.**

The Unit responsible for the implementation of the policies, plans, regulations and protocols on gender violence and discrimination, will be in charge of resolving any query on this matter that has not been resolved by this instrument.