



## NON-RETALIATION POLICY

### 1. RATIONALE

- 1.1 As a Catholic Institution for Higher Education, the University of Saint Joseph (the University) is committed, following the teaching of the Gospels, to maintaining an academic, work and living environment in which all members of the University community, guests, and other third-parties conducting business with the University, are treated with respect, equal rights and human dignity.
- 1.2 The University of Saint Joseph encourages its faculty, staff, and students to make good-faith reports of University-related misconduct. The pledge to maintaining the quality of the University through such reports is essential to the welfare and success of the entire community. The University, therefore, wishes to clarify that acts or threats of retaliation in response to good-faith reports constitute a serious violation of this policy.
- 1.3 In support of this commitment, and under the constitutional principle of equality under Article 25 of the Basic Law of Macao Special Administrative Region, the University prohibits retaliation, related to any protected category including, but not limited to, “their nationality, descent, sex, race, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions”.
- 1.4 To that end, the University will respond to all complaints of alleged retaliation and will take steps to ensure that all allegations are subject to effective investigation and handled according to applicable policies and legal requirements.
- 1.5 The University encourages anyone who believes he or she has been the subject of discrimination, harassment and/or retaliation to report the matter immediately.
- 1.6 The University will provide a special mechanism to determine if whether this policy has been violated because of retaliation conduct, or filing false complaints.
- 1.7 The University will take a course of action, including any disciplinary penalty, depending on the particular facts and circumstances involved.

### 2. DEFINITION AND TYPES OF RETALIATION

- 2.1 Non-retaliation Policy, in the context of the University, is defined and understood, as a thought-out policy, measures and practices aimed at preventing an intimidating academic, work and living environment results from ill conduct that has the purpose or effect of unreasonably interfering with an employee's work performance, or creates an intimidating, hostile, offensive or objectionable working environment to those who have access to the University grounds, facilities and services by providing a safe and secure environment whilst protecting the University's reputation from damage.



2.2 As used in this policy, the term “Retaliation” has the following meaning:

- i. Retaliation: Any materially adverse action or credible threat of a materially adverse action by the University, or member thereof, taken against any faculty member, staff member, or student for filing a good-faith complaint objecting to a practice that the individual reasonably believes is unlawful, unethical, or in violation of University policy and/or participating in a University investigatory, grievance, or appeals procedure.

2.3 The types of retaliation that are prohibited include but are not limited to:

- i. Faculty and staff:
  - a. employment actions such as discharge, demotion, suspension, denial of tenure or promotion;
  - b. detrimental changes in work assignments;
  - c. purposeful exclusion from job interactions, and otherwise being substantially disadvantaged with respect to vacation, salary, compensation and/or other terms, conditions, and privileges of employment;
  - d. harassment;
  - e. intimidation;
  - f. adverse actions against a relative of the reporter who is a University staff;
  - g. actions or threats not directly related to employment to dissuade a faculty or staff member from making or supporting a complaint of University-related misconduct;
  - h. threats of any of the above.
- ii. Students:
  - a. expulsion, suspension, disenrollment, grade reductions;
  - b. denial of employment or training opportunities;
  - c. exclusion from academic or extracurricular activities or opportunities;
  - d. harassment;
  - e. intimidation;
  - f. being substantially disadvantaged with respect to the academic, residential or extracurricular life;
  - g. adverse actions against a relative of the reporter who is a University student;
  - h. actions or threats to dissuade a student reasonable faculty or staff member from making or supporting a complaint of University-related misconduct;
  - i. threats of any of the above.



### **3. PURPOSE**

3.1 The purpose of the non-retaliation policy is to enable the University to:

- i. express our commitment to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from retaliation of any kind;
- ii. define and describe prohibited retaliation behaviours, and establish a mechanism for processing complaints of unlawful retaliation against the University faculty, staff, students and visitors;
- iii. promote a shared understanding of the University's key principles of, and approaches to, and practices towards retaliation in the work place;
- iv. ensure that all persons are given appropriate support and fair treatment;
- v. allow the University take appropriate actions in an effort to eliminate retaliation from occurring, prevent its recurrence and address its effects.

### **4. SCOPE**

- 4.1 This policy applies to all University of Saint Joseph's faculty, staff, local and overseas students, employees, visitors, volunteers, agencies providing service in the University, and to anyone representing the University in or out the campuses of the University.
- 4.2 Everyone is expected to uphold by this policy as a matter of mutual respect and fundamental fairness in human relations, and as a condition of enrolment and employment and to cooperate with the procedures for responding to complaints of retaliation, and to report conduct or behaviour that they believe to be in violation of this policy.

### **5. ROLES AND RESPONSIBILITIES**

The University embraces 'Towards Zero Retaliation' approach as it recognizes that our goal is to ensure the health and safety of our staff, students and visitors. Effective non-retaliation policy management is everyone's business, and can only be achieved through co-operative effort at all levels of the University and with high standards of quality and service.

5.1. The Catholic Foundation for Higher Education

- i. the Catholic Foundation for Higher Education, as the title-holder of the University has a duty to ensure, so far as is reasonably practicable, the health safety and welfare at work of its staff, students and visitors and contractors by providing non-retaliation leadership, and ensuring adequate resources for the effective implementation and management of this policy.



- ii. the Catholic Foundation for Higher Education delegates the day-to-day responsibility for the implementation and execution of the non-retaliation policy to the University and understands it remains accountable for the standards reached.

5.2. The Executive Council is expected to

- i. keep the work environment free of retaliation;
- ii. overall responsibility for oversight and implementation of this policy, its uptake and impact on practice in the University, its evaluation, monitoring, review, reporting and amendments;
- iii. investigate or to order investigation about conducts related to retaliation behaviours occurring in, off the University premises or at a non-University-affiliated activity if either the complainant or respondent is University-affiliated;
- iv. act immediately on observations, referral or allegations of retaliation;
- v. review and approve all non-retaliation policies and changes;
- vi. endorse changes to the Catholic Foundation for Higher Education board;
- vii. advise the Catholic Foundation for Higher Education board on its statutory non-retaliation policy obligations.

5.3. Deans, Program Coordinators, Heads of offices and units

Each administrative, support and service unit, under the Dean/Head shall:

- i. ensure that non-retaliation principles, obligations and actions contained in this policy are understood, promoted and implemented and carried out in the academic departments, administrative units under their control;
- ii. communicate to academic staff and students that everyone shares in the obligation to restrain from unlawful retaliation behaviours;
- iii. contact the Administrator immediately, of conducts related to retaliation behaviours, for referral to Finance and Human Resources Office (FHRO) the Office for Student and Alumni Affairs – OSAA and/or Executive Council;
- iv. cooperate fully with FHRO, OSAA or higher management bodies in investigations;
- v. maintain confidentiality to the extent possible;
- vi. ensure that all remedial and/or disciplinary steps are completed and no further retaliation occurs.

5.4. The Administrator shall

- i. advise on resource needed and support continuous improvement of this policy;
- ii. ensure that FHRO Director has a clear understanding and carry out their responsibilities regarding non-retaliation principles and take the necessary actions to ensure that these responsibilities are adequately implemented;



- iii. receive all the allegation information and take a leadership role to co-ordinate with FHRO in the investigations of alleged retaliation issues;
- iv. ensure adequate consultations prior to the introduction of any change in this policy;
- v. maintain effective communication channels to disseminate this policy and other information concerning non-retaliation principles;
- vi. report to the Executive Council regarding policies, approaches, practices management in the implementation of the non-retaliation policy;
- vii. ensure that full details of this policy and relevant policies are available on the intranet.

5.5. FHRO shall

- i. have an appropriate knowledge about non-retaliation principles;
- ii. keep up to date with changes in current legislation and to bring to the attention of the Administrator;
- iii. act to not only prevent unlawful retaliation, but to also act immediately on observations or allegations of retaliation report the conduct and behaviour to the Administrator;
- iv. seek advice from the Administrator to suspend, during the investigation, any person affiliated to the University alleged of unlawful retaliation behaviour;
- v. start an investigation within five (5) working days after the complaint is received;
- vi. take steps to obtain and preserve documents, emails, or phone records relevant to the allegations;
- vii. interview the complainant and the respondent if appointed by the Executive Council;
- viii. provide the complainant and the respondent with the opportunity to present relevant and material information in the context of the investigation and an equal opportunity to request that witnesses having relevant and material information
- ix. request and review all relevant documentation, including electronic communications;
- x. interview the complainant and the respondent and/or obtain written statements from those individuals believed to have actual knowledge of facts and circumstances relevant and material to the violation alleged;
- xi. determine if the relevant and material facts support a conclusion of violations of the policy;
- xii. conclude a report within sixty (60) working days which contains the following:
  - a. a list of all documents reviewed, along with a detailed summary of relevant documentation;



- b. a list of names of those interviewed, which may or may not be redacted to protect the privacy of the individuals, along with a detailed summary of their statements;
- c. a timeline of events;
- d. a summary of prior relevant incidents, reported or unreported;
- e. credibility determinations of the individuals interviewed;
- f. conclusions of fact;
- g. the basis for the decision and final resolution of the complaint, together with any corrective action(s).

#### 5.6. General Responsibilities

All Members of the University are expected to:

- i. uphold and abide by this policy;
- ii. become aware of retaliation misconduct that may violate this policy;
- iii. conduct oneself in a manner that does not violate the University retaliation policy;
- iv. avoid any behaviour or conduct that could reasonably be interpreted as retaliation as defined under this policy;
- v. contact the Administrator, FHRO – Human Resources Office – and/or the Office for Student and Alumni Affairs – OSAA - immediately if they believe they have been subjected to retaliation, or has occurred against other employees/students;
- vi. cooperate fully with the Administrator, FHRO - Human Resources Office – and/or the Office for Student and Alumni Affairs – OSAA - and/or other management bodies in investigations of alleged retaliation issues;
- vii. maintain confidentiality to the extent possible.

## 6. PROCEDURES

### 6.1 Reporting:

- i. anyone who believes that he or she experienced or witnessed an incident of retaliation shall promptly file a written complaint to the University in English or one of the official languages of the Macao SAR.
- ii. anyone who intends to file a complaint shall complete the ‘Retaliation Reporting Form’ and deliver it in a sealed envelopment to the Administrator of the University in person or by registered mail. Available documentary evidence and written testimonies shall be submitted as attachments to the form in the same envelope. Anyone may obtain the form ‘Retaliation Reporting Form’ at the front counter of FHRO or download it from the website of the University;



- iii. if the complainant decides not to use the form, he or she shall provide the same information that is required in the form and deliver the signed written complaint together with the available evidence in a sealed envelope to the Administrator in person or by registered mail. An anonymous report is not considered as a complaint;
- iv. the Administrator who personally receives the complaint or in the mail shall date and sign the envelope;
- v. the Administrators shall not read the content of the complaint and shall handle the submission as a confidential matter;
- vi. the complaint shall be made no later than within thirty (30) working days of the last incident of perceived retaliation, unless there are extraordinary circumstances that prevented the complainant from doing so. Such circumstances shall also be specifically explained in the complaint;
- vii. the Administrator will bring the complaint to the attention of the Rector or the Vice-Rector responsible within four (4) working days after receiving it;
- viii. the complainant should understand that in absence of the Administrator, the head of FHRO – Human Resources Office - (if the complainant is an employee) or the Office for Student and Alumni Affairs – OSAA – (if the complainant is a student) on his/her behalf shall pass it on to the Rector or Vice-Rector responsible within four (4) working days after the complaint is filed against him or her;
- ix. the complainant shall receive a written notice of the preliminary decision from the Administrator, FHRO - Human Resources Office - (if the complainant is an employee) or the Office for Student and Alumni Affairs – OSAA – (if the complainant is a student) within fifteen (15) working days (or in due course);
- x. the complainant shall understand that the University will notify the accused person in writing that a complaint has been filed. The notification shall also provide the name of the complainant and details of the allegations;
- xi. the University shall not disclose the complainant's Macao resident identity card number, passport number, residential address and private telephone number and other personal data to the accused person;

## 6.2 Preliminary review

- i. the Rector or Vice-Rector responsible shall, within 5 working days after receiving a complaint, request an officer of the University to conduct a preliminary review of the complaint and determine if there is legitimate ground to set up an investigative committee;
- ii. the preliminary review shall be completed within 5 working days. If it is necessary to seek legal advice, the preliminary review shall be completed within 10 working days;



- iii. the preliminary review shall be returned to the Administrator or the officer in charge of the preliminary review. Upon completing the preliminary review, the Administrator may also propose to the Rector or Vice-Rector responsible to set up a reconciliation panel by the University, which shall have equal representation of men and women, to preside meetings between the two parties for the purpose of reconciliation, if both parties fully agree to have these meetings. Such meetings shall start within 5 working days after the preliminary review is completed and end within 15 working days after they start. The written agreement of reconciliation reached by the parties and presided by the reconciliation panel is binding to both parties. When the parties fail to reach an agreement of reconciliation, the University shall launch the investigation of the complaint immediately.

#### 6.3 Investigation

- i. the investigation committee set up by the University shall have equal representation of men and women. Upon agreement of both parties, if necessary, the University may appoint external member(s) or student(s) to be member(s) of the committee;
- ii. the committee shall conduct a prompt, thorough and neutral investigation of any complaint;
- iii. the committee shall hear from both the complainant and the respondent, interview the witnesses, and review the evidence. The burden of proof is on the shoulder of the complainant;
- iv. prior to an interview in front of the committee, each party may apply in writing to the committee to have an accompanying person in the interview. The committee has the power to decide whether or not to grant an approval. The accompanying person shall not act as a legal representative of the party, make a statement to the committee or disclose any information regarding the case of complaint and the relevant process;
- v. during the investigation, both parties may request a reconciliation agreement to the committee. The committee shall consider this proposal and decide whether or not to approve it based on the nature of the complaint filed, facts found and evidence collected. The written agreement of reconciliation reached by the parties and presided by the University is binding to both parties.

#### 6.4 Privacy and Confidentiality

- i. to the extent possible, the University will protect the privacy and confidentiality of all parties. In principle, all records of the complaint, investigation and decision shall





be kept confidential. It may become necessary, however, to disclose information during or after the course of an investigation.

## **7. FALSE COMPLAINT AND FALSE INFORMATION**

7.1 It is a violation of this Policy when a person knowingly or recklessly alleges a false complaint of retaliation provides false information during the course of an investigation. The victim of a false complaint may file a counter-complaint. False complaints and false information shall be subject to investigation by the Committee.

## **8. DETERMINATION AND CORRECTIVE ACTION**

8.1 The Committee shall deliver a written report on whether or not there is a violation of this policy within 60 working days from having received the complaint, absent extenuating circumstances. The report shall describe:

- i. the complaint received;
- ii. the investigative process;
- iii. the evidence;
- iv. the findings of the investigation;
- v. if it is determined that there is a violation, the corrective action(s).

8.2 Appropriate corrective actions may range from verbal or written reprimands, suspensions, dismissal or termination of contract, in accordance with established USJ student and staff regulations. The committee may also recommend preventive measures to the University.

## **9. APPEAL**

9.1 If an individual disagrees with the decision made by the committee, he or she may file a written appeal within 30 working days after receiving the decision, together with the relevant documents and evidence if any, to the Executive Council of the University. The Executive Council shall review the case and deliver a decision within 60 working days from the receipt of the appeal.

## **10. EXTENSION OF LIMITATIONS**

10.1 If necessary, the Rector or Vice-Rector responsible may decide or approve to extend the limitation defined in the provisions above.



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## 11. CONFLICT OF INTEREST

11.1 Anyone who has a conflict of interest in relation to the case of complaint shall declare it to the University and shall not be appointed by the University to receive or handle the case.

## 12. LEGAL REMEDY

12.1 Everyone has the right to seek the appropriate legal remedies in a court of law.

- i. incidents of the nature of criminal offence shall be reported to the police department. The emergency number to contact the police is (853) 999 or (853) 28577577;
- ii. after the complaint reports the incident to the police or starts the legal proceedings, the University shall suspend its investigation immediately;
- iii. after the completion of the police intervention or the legal proceedings, the University may decide, given the results of the police intervention or the legal proceedings, whether or not to resume the investigation and take a corrective action.

*Note: The right to interpret the provisions hereof rests with the Executive Council of the University.*

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