

PROTOCOL FOR THE PREVENTION AND ERADICATION OF SEXUAL HARASSMENT

**Institut de Recerca Biomèdica de
Lleida, Fundació Dr. Pifarré**



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1. Introduction

Due to the alarming increase in the number of cases of harassment in the workplace, the Direction of the "Institut de Recerca Biomèdica de Lleida, Fundació Dr. Pifarré" (hereinafter IRBLleida) takes the decision to develop and implement a prevention and eradication protocol so that the employees suffering from harassment know how to proceed.

It is essential that the employees who are victims of harassment at the workplace know that all the measures that will be carried out will always be against the harasser and never against the harassed.

The protocol is divided into the following sections:

- + Statement of reasons and aims of the protocol.
- + General disposals.
- + Action procedure.
- + Channels to resolve the conflict.
- + Protection of employees' health.
- + Final disposals.
- + Examples.
- + Annexes.



2. Statement of reasons

Law 31/95 on the Prevention of Occupational Risks, requires all employers, including Public Administrations, the duty to monitor and improve the working conditions of their employees, making the risks disappear or minimizing those that cannot be removed. Protection must be carried out not only against risks of a physical nature, but also against those risks that may cause a mental deterioration in the health of employees.

In the context established by the Law, "this company" undertakes to implement protocols that allow us to prevent, detect and eradicate the psychosocial risks of workers and especially the protocol for action against harassment in the workplace.

On the other hand, there is a series of fundamental principles such as the right to equal treatment, non-discrimination, dignity at work, privacy and integrity, etc., so that all acts and behaviors contrary to they will be classified as serious or very serious infringements within the disciplinary regime of the Institute.

Either sexual or psychological harassment in the workplace will be considered an occupational risk of psychosocial nature. These behaviors are totally prohibited and are considered unacceptable in our Organization, and we all commit to guarantee that employees enjoy a healthy work environment, physically, mentally, and socially; in which peoples' dignity is respected at all times, adopting the appropriate corrective measures and protecting the victims when such behaviors occur.

In order to prevent and eradicate harassment in the workplace, the Direction and the employees' representatives agree to develop the current protocol of action that will allow the detection of harassment behaviors, their prevention, report, sanction and eradication.

The current protocol is structured around a main objective that intends to be achieved through a series of specific objectives. The objectives are as follows:

2.1. Main objective

Implement in the Organization the necessary measures to prevent and eradicate harassment in the workplace; determining those actions that are necessary for the investigation, prosecution and punishment of harassment behaviors, and providing employees with the appropriate procedure to present complaints, through the implementation and dissemination of the current Protocol.

2.2. Specific objectives

- State in a clear and concise way the behaviors that will be considered harassment in the workplace.
- Promote a preventive culture of harassment at all levels of the Organization.
- Classify harassment at the work as a very serious offense, without prejudice to the sanctions that these behaviors may entail at the ordinary jurisdiction.
- Promote and implement adequate training for conflict resolution and training with a gender perspective for managers and positions of responsibility in the Organization.
- Promote and implement agile and rapid mechanisms for reporting and investigating these behaviors, respecting the rights of both parties and guaranteeing the confidentiality of the data obtained along the investigation of harassment impeachments.
- Periodically review the Organization's Protocols on Occupational Health, in collaboration with the Prevention Service, the Health and Safety Committee and the employees' representatives.

3. General disposals

Article 1: Aim

1.- Establish a series of **actions** to define, prevent, report and eradicate all those behaviors that suppose **workplace harassment** within IRBLleida environment.

2.- Workplace harassment, regardless of the type, will be considered as a **psychosocial risk** and the necessary measures will be adopted to terminate these behaviors, protecting the victim and facilitating the return to work.

Article 2: Area of application

1.- The Protocol will be applicable to all employees of the Institute regardless of the employment relationship.

2.- The Protocol will also be applicable to personnel belonging to companies hired by IRBLleida, as long as they carry out their activity in the Institute. The application of corrective measures will be carried out in a coordinated manner between the affected company and hired company in accordance with the provisions of *Article 24 of Law 31/95 on the Prevention of Occupational Risks*, and its regulation.

Article 3: Definition of harassment at work

1.- Workplace harassment can be defined as a **process in which a person or a group of people exert on another person or people psychological violence in a systematic and prolonged way in the workplace, or alternatively as consequence of the working relationship with the purpose of harming or deteriorating the professional or personal status of the victim, or expelling you from the organization.**

2.- Workplace harassment may be due to work or non-work reasons, but it must be carried out in the workplace or, if it is carried out in another place, it occurs as a result of the employment relationship.

3.- According to this definition of harassment at workplace, we can find two different ways in which harassment can take place, and that strongly influence detection, evaluation, confront, treatment and eradication:

3.1.- Harassment Behaviors: comprising all those acts and behaviors that may be considered vexatious, discriminatory, humiliating, degrading, intimidating, offensive, violent, or intrusive in the private life.

3.2.- Harassment Process: repeated or persistent aggressions, perpetrated by one or more people, verbally, psychologically or physically, in the workplace or related to it; leading to vexation, humiliation, contempt, degradation, coercion or discrimination of a person.

Article 4: Sexual harassment definition

1.- **Sexual harassment** shall be considered **any undesired verbal, non-verbal or physical behavior that is directed against a person because of her/his sex and with the purpose of dignity undermining, intimidation, degradation, humiliation or offense.**

2.- The unwanted imposition of sexual requirements; it is considered an act of coercion that violates the will of the victim, denying respect for the physical and mental integrity and turning the sexual condition and orientation into an object of hostility. This represents a serious obstacle to equal access, training and promotion of women and men at work.

Article 5: Classification of harassment behaviors in the workplace

The harassment behaviors listed below constitute psychologically aggressive behaviors and, therefore, **risk factors** since they can cause, allow, facilitate or trigger a syndrome. We can classify workplace harassment behaviors and processes as follows:

1.- Attacks on victims using organizational measures:

- ☞ The superior restricts people's possibilities to speak.
- ☞ Change a person's location separating her/him from peers.

- ☞ Prohibiting colleagues from speaking to a specific person.
- ☞ Forcing someone to perform tasks against her/his morality.
- ☞ Judging a person's performance in an offensive manner.
- ☞ Question a person's decisions.
- ☞ Assigning a person tasks below her/his abilities.
- ☞ Assigning a person tasks beyond her/his abilities.
- ☞ Assign degrading tasks.
- ☞ Assign tasks with insufficient information to successfully perform them.
- ☞ Assign tasks with wrong data.

2.- Attacks on the victim's social relationships:

- ☞ Restrict colleagues from talking to a person.
- ☞ Refuse communication with the victim using looks and gestures.
- ☞ Refuse communication with a person by denying her/him the possibility of direct communication.
- ☞ Do not speak to a person.
- ☞ Treat a person as if she or he does not exist.

3.- Attacks on the victim's private life:

- ☞ Permanently criticize the private life of a person.
- ☞ Telephone harassment (unwanted, hostile, obscene and/or offensive telephone calls) or use of other technologies (e.g. e-mail) carried out by the harasser.
- ☞ Make a person look stupid.
- ☞ Making fun of a person's disabilities.
- ☞ Imitate gestures, voices, ... of a person.
- ☞ Making fun of a person's private life.
- ☞ Backbiting, pretend that a person has psychological problems ...

- ☞ Attacks on political attitudes and beliefs.
 - ☞ Attacks on religious attitudes and beliefs.
 - ☞ Making fun of the victim's nationality, sexual orientation ...
- 4.- Physical assaults:
- ☞ Recurrent sexual offers, sexual violence.
 - ☞ Threats of physical violence.
 - ☞ Physical abuse or use of violence.
- 5.- Verbal assaults:
- ☞ Shouting.
 - ☞ Insults.
 - ☞ Lack of respect.
 - ☞ Permanent criticism and bad tone about the person's work.
 - ☞ Verbal threats.
 - ☞ Lack of communication (not speaking, ignoring her/his opinions, ignoring her/his presence).
 - ☞ Selectively using communication (to reprimand or admonish and never to congratulate, emphasizing the importance of her/his mistakes, minimizing the importance of her/his achievements,...).

Article 6: Exclusions

1.- It will not be considered workplace harassment those behaviors leading to temporary personal conflict at a specific moment and occurring as consequence of human relationship, which occurs at the workplace, influences the personal relationship, but its purpose is not the destruction or deterioration of the parties involved in the conflict.

2.- In these cases, the competent bodies must undertake the clarification

and resolution of these behaviors, in order to prevent these events or specific conflicts from becoming usual and turn into workplace harassment behaviors.

Article 7: Implementation of the preventive culture

1.- In order to ensure that all IRBLeida employees, and those of the companies sharing the workplace, enjoy a work environment in which the dignity of the person is respected, workplace harassment (in all its forms and coming from whoever) is fully rejected.

2.- IRBLeida direction will promote and formulate a statement in which they explicitly commit to exclude any type of harassment (exerted from direction to the employees or exerted from employees to employees).

3.- IRBLeida will actively apply policies that promote a good work environment, a preventive culture and contribute to prevent situations that deteriorate it. Likewise, collaboration, cooperation and trust in the relationships among units and employees of the organization will be encouraged and enhanced.

4.- IRBLeida recognizes as a primary prevention action, the implementation of humanizing and ethical behaviors that do not manipulate the employees in all the units and managers. The Institute will facilitate and promote actions aiming the prevention of workplace harassment, since they will result in an improvement of the work environment and the preventive culture, with the consequent increase in the performance of people's capacities.

Article 8: Information and Protocol Dissemination

1.- In order to guarantee an effective prevention of those behaviors that cause harassment, the **content of this Protocol will be disseminated** at all levels of the organization, providing all employees with a copy and a manual that will facilitate knowledge of the channels of action when harassment behaviors occur.

2.- In the **training and information** process of new staff (temporary or permanent) on the prevention of occupational hazards, a module will be included to make this Protocol known to all new employees. A written copy will be provided.

3.- All employees will be **clearly and specifically** informed of the activities to be carried out, the objectives to be achieved with regard to harassment and the means available to do so; carrying out, Human Resources department will undertake all the checks and follow-ups deemed necessary for this purpose.

4.- When possible due to its availability, a section on the Prevention of Occupational Risks, and especially workplace harassment, will be incorporated and maintained on the company's intranet to disseminate information. The Prevention Service will use this communication tool to provide more complete sources of training and information for the employees who wish to expand it.

5.- **Internal communication** will be the main tool to achieve learning, based on daily contact, which facilitates the creation and transfer of knowledge, avoiding the retention of information.

6.- This protocol will be maintained, updated and disseminated **periodically**.

4. Action procedure

Article 9: Work team

1.- The IRBLeida Equality Commission will create a permanent and internal Work Team. Its purpose will be the investigation, instruction and monitoring of cases of workplace harassment. To this aim they will be provided with all the information and documentation necessary for conflict resolution.

2.- Team members will receive specialized training on treatment and organizational intervention in matters of workplace harassment and

psychosocial risks.

3.- Any member of the Team involved in a process of workplace harassment or affected by a kinship and/or affective relationship, of friendship or enmity, immediate hierarchical superiority or subordination with respect to the victim or the person denounced, will be automatically invalidated to take part of the Team. If being the person denounced, he/she will be invalidated to undertake any procedure until the resolution of the investigation.

4.- The competencies of the Work Team will be:

- Receive all complaints, claims or inquiries from employees or third-party complainants regarding workplace harassment from workers.
- Carry out the investigation of the reported cases of psychological and sexual harassment.
- Present a report or opinion on the case and make the pertinent recommendations, submitting its conclusions to the IRBLleida Equality Commission, within a maximum period of 30 days from the beginning of the process.
- The Work Team will meet as soon as possible to discuss the reports or opinions, and communicate them to the affected parties.

Article 10: Organizational complaint procedure

1.- The harassment complaint will be made in writing, either by the affected plaintiff or by a third person with knowledge in the harassment behavior. The letter will be addressed to the Work Team and their members will initiate the actions required for clarification and resolution.

2.- Employees with hierarchical responsibility (middle managers or managers) have the obligation to report possible cases of harassment that may occur within their Department or Unit, or that may affect their teams.

Who can make an organizational complaint? A complaint for workplace harassment can be filled by:

- The affected employee, and if this person is no longer a company employee, she/he will have a 3 months period from the end of the employment relationship if the termination is associated with the situation of workplace harassment.
- Any employee with knowledge in the harassment behavior towards other employees.

In the event that the affected person does not present the complaint directly, her/his express consent must be included to initiate the actions described in this protocol.

Only under particularly serious cases, or when there is more than one victim of harassment, the consent of the affected persons will not be necessary.

Article 11: Right of privacy and duty of secrecy

All persons involved in a process of workplace harassment, will have the obligation to keep **secrecy** (duty of secrecy) regarding the data and information to which they have had access during the process.

The **right to privacy** will be guaranteed at all times.

The investigated cases must be documented until the resolution of the conflict, taking into account that the data collected will be subjected to the provisions of Organic Law 15/1999 on the protection of personal data and regulations derived from it.

5. Procedures to resolve the conflict

Article 12: Object and Purpose

The main purpose of this phase is the resolution of the conflict by investigating the facts and adopting the corresponding corrective measures to be applied in each situation.

Article 13: Procedures for conflict resolution

The following procedures can be used for the resolution of the conflict:

1. Internal resolution through the **agreement between the parties**.
2. Internal resolution through the **Equality Commission**.
3. External resolution through the **Labor Inspectorate**.
4. External resolution through **judicial resolution**.

Article 13.1: Internal resolution through the agreement between the parties

This procedure aims to resolve the conflict in an agile and dialogued way through a voluntary agreement between the parties if the agreement guarantees compliance. To this aim, a mediator with decision-making capacity will be appointed. The mediator will transmit any breach of the agreement to the maximum responsible of the Institute.

Article 13.2: Internal resolution through the Equality Commission

This procedure aims to resolve the conflict in an agile and dialogued way through the intervention of the Equality Commission, which will provide the action guidelines and the proposals to terminate with the conflict and prevent it from reproducing in the future.

Procedure

The procedure aims to resolve the conflict in an agile and fast way. Privacy will be protected, and dignity of all the people undertaking investigation tasks will be respected. Likewise, sufficient protection of the victim will be guaranteed in relation to their occupational safety and

health, taking into account the possible physical and psychological consequences arising from this situation.

During the investigation, both the complainant and the respondent may be supported and accompanied by a person of their choice, including a co-worker, or a representative of the workers.

The Equality Commission will carry out the pertinent actions for the resolution of the conflict within a maximum period of 20 days, and provide to the affected members the conclusions of the investigation and a proposal for conflict resolution:

- Referral to training courses.
- Change the job position.
- Any other measure considered appropriate.
- Initiation of the external procedure.

The conclusions and actions will be compiled in a **written report or opinion** that will be communicated through the Equality Commission to the affected parties.

This report will propose an **agreement or an attempted conciliation** between the claimant and the claimed that would solve the problem.

The procedure will be **urgent and confidential**, protecting at all times the privacy and dignity of those affected, and the documentation required for the resolution of the conflict will be guarded by the Work Team.

The people involved will have 10 days to examine the information and make claims.

Article 13.3: External resolution through the Labor Inspectorate

Initiation

The affected person may turn to the Labor and Social Security Inspectorate to file a complaint and report the events that occurred and also the employer's failure to comply with preventive matters, exposing employees to health risks.

The affected employee can initiate this procedure at any time. However, the decision to file the complaint should be the last action to be taken, having exhausted all the communication channels with the Institute and, therefore, the internal procedures. It is advisable to use this procedure especially in the following cases:

- A) When the parties reject any of the previous protocols or reject the measures proposed by the Equality Commission.
- B) When the previous protocols cannot be carried out due to major forces.
- C) When the measures proposed in the previous protocols have not resolved the conflict or have been breached by any of the parties.
- D) When the physical or mental state of the harassed person recommend so, or the denounced facts are of a seriousness that the previous procedures are not recommended.

Article 13.4: External resolution through judicial resolution

Initiation

It will be initiated with a complaint of the harassed person to the attention of the judicial authorities. This protocol will interrupt all the previous procedures until the corresponding judicial authority issues a definitive resolution.

Procedure

The putative harassed person will end the resolution of all internal procedures at any time, upon engagement the judicial procedure.

From that moment on, the legal regulations will be followed, in each case, regarding the legitimacy to file the complaint, requirements, procedure, deadlines, evidences, resources, etc ...

6. Protection of employees' health

Article 14: Procedure

The Institute will adopt the appropriate corrective measures to guarantee the health protection of employees.

Employees who have been victims of workplace harassment will be supported at the organizational level for their total restoration. They will be provided assisted for their full incorporation into their job, or if advised by specialists, into a different one.

These employees will also receive psychological help from the Institute until fully reinstated.

7. Final disposals

Unique.

This Protocol will enter into force the day after its approval.

8. Examples of behaviors protected by this protocol: MOBBING behaviors. (Cisneros' scale)

01	My superior restricts my ability to communicate, speak or meet with him/her.
02	They ignore me, exclude me or make me void, pretend not to see me or make me "invisible."
03	They interrupt me continuously preventing me from expressing myself.
04	They force me to do jobs that go against my principles or my ethics.
05	They evaluate my work in an uneven or biased way.
06	They leave me with no work to do, not even on my own initiative.
07	They assign me absurd or meaningless tasks.
08	I am assigned tasks or jobs below or above my professional capacity or my competencies.
09	They assign me humdrum tasks or with no value or interest.
10	Me abruman con una carga de trabajo insoportable de manera malintencionada.
11	They maliciously overwhelm me with an excruciating workload.
12	They prevent me from taking the necessary security measures to carry out my work safely.
13	Expenses are incurred with the intention of harming me financially.
14	They prohibit my colleagues from talking to me.
15	They undervalue and ruin my work no matter what I do.
16	They accuse me unjustifiably of breaches, errors, failures and vague.

17	I receive criticism and reproach for whatever I do or whatever decision I take in my work.
18	Small or insignificant mistakes are unjustifiably amplified and dramatized.
19	They humiliate, despise or undervalue me in front of other colleagues or third parties.
20	They threaten me to use disciplinary instruments (termination of the contract, disciplinary files, dismissal, transfers, etc.).
21	They try to isolate me from my peers by giving me jobs or tasks that physically distance me from them.
22	They maliciously distort what I say or do in my work.
23	They try to tickle me to "make me explode."
24	They look down on me personally or professionally.
25	They make fun of me or joke trying to ridicule my way of speaking, walking ...
26	I receive fierce and unfair criticism about aspects of my personal life.
27	I receive verbal threats or intimidating gestures.
28	I receive threats in writing or by phone at home.
29	They yell at me, or raise their voices in an intimidating way.
30	They shake, shove, or physically bully me to intimidate me.
31	Inappropriate and cruel jokes are made about me.
32	They make up and spread rumors and slanders about me in a malicious way.
33	They deprive me of essential and necessary information to do my job.
34	They maliciously limit my access to courses and promotions.

35	They maliciously attribute illegal or unethical conducts to me to damage my image and reputation.
36	I am under undue pressure to get the job done.
37	They assign me unreasonable lead times or workloads.
38	They modify my duties or the tasks I need to carry out without telling me anything.
39	They continually devalue my professional effort.
40	They persistently try to demoralize me.
41	They use various ways to maliciously mislead me.
42	They maliciously control aspects of my work to try to "catch me in a resignation."
43	They throw direct or indirect sexual advances or propositions at me.

9. Annexes

9.1. Compilation of applicable Regulations

- International and European regulations and declarations
 - o Universal Declaration of Human Rights, United Nations General Assembly, resolution 217 A (III), of December 10, 1948
 - o Declaration on the elimination of discrimination against women, United Nations General Assembly, resolution 2263 (XXII), of November 7, 1967
 - o Declaration on the elimination of violence against women, United Nations General Assembly, resolution 48/104, of December 20, 1993
 - o C111 Discrimination Convention (Work and Occupation), 1958
 - o Recommendation (No. 111) on Discrimination (Work and Occupation), 1958
 - o Convention on preventing and combating violence against women and domestic violence, Council of Europe, Istanbul, May 11, 2011
 - o Directive 2006/54 / EC of the European Parliament and Council, of July 5, 2006, on the application of the principle of equal opportunities and equal treatment for men and women at work, Official Journal of the European Union C 157 of June 27, 1990
 - o European framework agreement on harassment and violence at work, of April 26, 2007, European Commission Com (2007) 686 final

- State and Catalan regulations
 - o Spanish Constitution (articles 14, 15, 18 and 35)
 - o Organic Law 6/2006, of July 19, reforming *Estatut d'autonomia de Catalunya* (articles 4, 19, 41)
 - o Organic Law 3/2007, of March 22, for effective equality between women and men (articles 7, 8, 48 and 62)
 - o Organic Law 10/1995, of November 23, on the penal code (article 184)
 - o Law 5/2008, of April 24, on the right of women to eradicate sexist violence (article)
 - o Law 31/1995, of November 8, on the prevention of occupational hazards (articles 4, 14, 15)
 - o Royal Legislative Decree 1/1995, of March 24, by which the revised text of the Law on infractions and sanctions of the social order is approved (article 8)
 - o Law 29/1998, of July 13, regulating contentious administrative

- jurisdiction (article 19.1)
- Royal Legislative Decree 1/1995, of March 24, approving the consolidated text of the Workers' State Law (Articles 4, 17, 54-56, 58, 60, 93-96)

9.2. Basic elements of the report

The conclusion report must include at least the following information:

- List of the people in the Work Team and the Committee issuing the report, identifying the putative harassed people and the stalkers by means of the corresponding numerical code.
- Background of the case, complaint and circumstances.
- Previous actions carried out by competent committees.
- Other actions: testimonies, evidences, summary of the main facts, etc.
- Conclusions and specific measures.
- Identification of a short or medium-term date to supervise the implementation of the measures and verify the absence of sexual harassment or harassment based on sex or sexual orientation.

9.3. Complaint template

PERSONAL INFORMATION

NAME:

LASTNAME:

DNI/NIE:

EMAIL:

PHONE:

ADDRESS (for notification purposes)

Department, unit, service or research group:

Workplace location:

DESCRIPTION OF THE EVENTS OCCURRED THE COMPLAINANT (record all the evidences available)

Date of the events:

Place where the events took place:

Name and position of the people involved:

Personal involvement/Retaliation:

Labor effects

Personal effects

PERSONAL REMARKS

Place and date:

Signature:

Signature and seal of the document in duplicate as proof of receipt.

Place and date:

Signature: