



Policy against sexual harassment and sexual violence

The School addresses those issues related to sexual harassment/abuse and/or sexual violence seriously. If a student believes he/she has been a victim of sexual harassment/abuse or sexual violence, perpetrated by another student or employee of the Institution either on or off campus, please contact the Title IX Coordinator to initiate the investigative process and interview. The incident may also be reported anonymously by calling the same telephone number.

Title IX Coordinator
229 Guayama
San Juan, PR 00917
(787)759-7599 Email:
ofcom@escuelahotelera.edu

Escuela Hotelera de San Juan prohibits the sexual harassment/abuse and sexual violence offenses, including, but not limited to, domestic violence, dating violence, sexual assault, and stalking.

No Retaliation

The Institution and its employees are forbidden from retaliating against any individual who exercises his/her rights under Title IX. Escuela Hotelera reiterates its compliance with the first amendment to the Constitution and acknowledges that exercising the Title IX rights does not constitute retaliation.

Prevention and awareness programs

Escuela Hotelera de San Juan educates the student community on sexual harassment/abuse and violence, including sexual assault and dating violation, through obligatory orientation before the start of each student's program and on a continued basis with awareness programs.

Prevention and Response to sexual crimes

If you are a victim of sexual assault in this institution, your priority should be to get to a safe place. Next, you should obtain the necessary medical treatment. Escuela Hotelera de San Juan firmly encourages a victim of sexual assault to timely report the incident. Time is a critical factor for the compilation and conservation of evidence. Any assault should be informed directly to the Academic Director or the Executive Director. The filing of a claim with the police will not oblige a victim to prosecute the offender, nor will submit the victim to the scrutiny or judgment of the police officers. The filing of a claim with the police:

- ensures that the victim of sexual assault receives the necessary medical treatment and testing, at no cost to the victim;
- provides the opportunity to collect evidence useful for the prosecution or to obtain protective orders, which evidence cannot be obtained later. Ideally, a victim of sexual assault should not wash, shower, use the bathroom, or change clothes before the medical / legal exam);
- ensures the victim's access to confidential advice, provided by counsellors specifically educated in the field of sexual assault.

The victim of sexual assault may choose to have the investigation pursued through the criminal justice system and/or through Escuela Hotelera de San Juan. A representative of Escuela Hotelera de San Juan will guide the victim through the available options and will provide support regardless of the victim's decision. Escuela Hotelera de San Juan does not offer on-campus counselling services to victims but will help them identify outside services available. The Institution is required to dismiss "any complaint that is outside the scope of Title IX, and will not initiate any kind of proceeding that is outside the scope of the policy.

Definition of Consent

The School defines consent as "affirmative consent" when addressing issues of sexual violence. "Affirmative Consent" means an affirmative, conscious, and voluntary agreement to participate in the sexual activity. Each person involved in the sexual activity is responsible to ensure that they have manifested their affirmative consent to take part in the sexual activity. Lack of protest or resistance are not equal to consent, nor does silence mean consent. Affirmative consent must be continuous throughout the sexual activity and can be revoked at any time. The existence of a love relationship between the participants, or the fact that their past sexual relations have been consented, should not be assumed as an indicator of consent.

Sexual Harassment / Sexual Violence Claims Procedures

The following are the procedures established by Escuela Hotelera de San Juan to manage alleged sexual harassment/abuse and sexual violence claims that involve students and employees. If the parties are students, they may agree to settle the process through mediation. In no event can a mediation be agreed upon if the parties involved are students and employees. The Title IX Coordinator may take preventive measures after the petition to initiate an investigation, but in no case can measures be imposed to limit the discussion of the case and the ability of the parties to discuss the allegations and collect relevant evidence. All the Title IX records will be kept for seven (7) years.

Definitions:

1. Charge: means an alleged act or acts of sexual harassment/abuse and/or sexual violence.
2. Letter of Charge: document issued by Escuela Hotelera de San Juan whereby it is alleged that the respondent has committed an act of sexual harassment/abuse and/or sexual violence. The letter of charge and successive documents will make reference to the respondent as the "alleged" and not as the person responsible.
3. Complainant: the person who alleges that an act of sexual harassment / sexual violence has occurred, and may include students, professors, and staff. A complainant may also be a third party if the alleged act of sexual harassment / sexual violence took place on campus and/or the respondent is a student.
4. Standard of "clear and convincing" evidence is defined as the standard to prove something with clear and convincing evidence. The party who makes the argument must prove that the argument is substantially more likely than not to be true. To be 70% certain.
5. Respondent: is the person accused of committing an alleged act of sexual harassment/abuse and/or sexual violence against complainant.
6. Response: The respondent's formal written answer to the Letter of Charge presented in accordance with the procedures described below.
7. Sexual harassment / Sexual violence: includes, but is not limited to, the acts of *quid pro quo* or unwanted conduct determined by a reasonable person to be serious, generalized, and objectively offensive, in terms of denying an individual equal access to the Institution program or educational activity. Sexual assault, dating violence, domestic violence or stalking are defined in the Clery Act and the Violence against Women Act.
Place: Sexual harassment contemplated by this policy will only be that harassment that takes place on the Institution's property and within territory of the United States.
8. Title IX: Title IX of the Higher Education Act, which prohibits the gender-based discrimination. Gender-based discrimination includes sexual abuse, harassment, and/or violence.
9. Title IX Coordinator: employee designated by Escuela Hotelera de San Juan to supervise compliance with the rules and regulations, including the supervision of the sexual harassment/abuse and/or sexual violence accusation procedures. Any coordinator or participant in the process who is biased in relation to the case or has a conflict of interest should recuse.

him/herself from the case voluntarily. If the Title IX Coordinator identifies ex officio that a participant in the process is biased or has a conflict of interest with regard to the case, the Coordinator may recuse the person.

10. Case Packet: a specific record on every case that involves accusations of sexual harassment / violence, which includes, but is not limited to:

- a. The Letter of Charge;
- b. The response (if any);
- c. Declarations of witnesses and other written/photographic evidence (if any);
- d. The written results and the Title IX Committee decision;
- e. Any other documentation the Title IX Committee deems necessary.

Actual Knowledge is defined as a notice to the Title IX coordinator or any other officer with the "power to institute corrective measures."

Violation allegations:

Cases of alleged sexual harassment / sexual violence will be forwarded to the Title IX Coordinator:

229 Guayama Street,
San Juan, 00917
ofcom@escuelahotelera.edu

Each case will be subject to a fair and unbiased process to determine whether there has been sexual harassment/abuse and/or sexual violence.

Investigation:

1. Alleged violations of the sexual harassment and sexual violence policy will be promptly, exhaustively, impartially, and reasonably investigated.
2. The investigation will be conducted by at least two (2) officers who receive annual trainings on topics in connection with domestic violence, sexual violence, sexual assault, and harassment. Officers are also prepared to conduct an investigation and hearing process that protects the security of the victims and promotes accountability.
3. Relevant evidence should be gathered during the investigation, including, but not limited to, documents and witness statements. The investigations will be performed within a term of sixty (60) days, without prejudice to specific complications.
4. While an alleged violation is under investigation, the student may be removed from the classroom, or the employee from the work area, and they may be prohibited from participating in school activities or be subject to any other measure the School deems appropriate.

Notification:

1. Written notice of the specific charge(s) will be served to any person accused of a violation of the sexual abuse/harassment and/or sexual violence policy by certified mail of the United States Postal Service (USPS) and/or by alternate communication able to be objectively validated.
2. A person accused of violating the sexual harassment / sexual violence policy has ten days (10) to present a written response to the Title IX Coordinator.
3. The student's failure to respond to the letter of charge will not imply the stay of the proceeding.
4. Complainant(s) should be notified of the procedures performed and will be notified when the letter of charge is mailed. Complainant will also be notified of any response.

Student's response

1. A response admitting the charge will follow the process of the Title IX Committee as indicated below.
2. A response denying the charge will follow the process of the Title IX Committee as indicated below.

3. The response will be in writing and should be presented within ten (10) calendar days from the date the letter of charge is received. The Title IX Coordinator may grant additional time to respond if respondent so seeks in writing and the petition is received before the ten-day term expires.
4. Any written, photographic, or other evidence (including witness statements) should be attached to the response; the Title IX Committee will not consider any evidence not included with the response. Any additional evidence will only be considered if so is sought in writing and appropriate justification is provided as to why it was not included in the response before the time set for the hearing.
5. Complainant will be notified if any time extension to file a response and/or if a petition to present additional evidence are granted.

Title IX Committee:

- a. After the investigation is completed and the person has responded to the letter of charge, the complainant will have an opportunity to present written statements of the witnesses so that they are included in the case packet.
- b. The Title IX Committee will be convened to examine the packet and formulate conclusions and recommendations to the Director (a designated person may be appointed if the Director disqualifies him/herself).
- c. The person designated by the Title IX Coordinator will be the chair of the Title IX Committee.
- d. The Title IX Committee will be composed of at least three impartial persons with no previous involvement with the parties or the investigation and will consist of the Director or Assigned Director, a member of Student Affairs, and another school member, either from the faculty or staff.
- e. The Title IX Committee may utilize the clear and convincing standard of proof and the preponderance of the evidence criterion (more probable than not) to weigh the proof and make a recommendation to the Director or his/her designee on whether a violation occurred, and what sanction, if any, is warranted.

Committee Process:

The parties should have the opportunity to address the Committee and make a statement in their defense. This can be done through in-person hearings, provided the pandemic so allows and both parties consent thereto. The parties will be able to hear the other parties and witnesses and cross-examine them. The parties will be entitled to present witnesses and expert witnesses. The parties should be represented by counsel or by a third party during the process. What is more, if a party has no representation, the School should provide a third party (not necessarily an attorney) at no cost. However, according to the Higher Education Opportunity Act (HEOA), in cases of alleged sexual discrimination/sexual harassment, complainant is entitled to have third parties present during the proceedings. (Note: The third party cannot be a lawyer). The Institution will record the hearing and will make it available to both parties. The members of the Committee will receive a Case Packet with all the relevant information for the committee meeting, including any written response received from the student. The packet will include the parties' statements, and all the evidence discovered during the investigation and from the written statements of the witnesses the parties presented in opposition. The members of the Committee sign a standard confidentiality statement for the Committee members and after the Committee deliberations, the case packets are picked up and custodied by the Campus Director so that their confidentiality is preserved.

The leader of the Committee members will be the person responsible for determining the admission of relevant questions before they are answered. The leader of the Committee members should justify any unadmitted questions right at the time. No statements or proof unable to be cross-examined will be admitted. The Title IX process may not require, allow, depend on, or utilize questions that may constitute or seek the disclosure of information protected by a legally recognized privilege, unless the holder of the privilege waives it.

The parties will be provided with the evidence directly related to the allegations, including exculpatory and incriminating evidence, and will have equal opportunity to examine it. Electronic or hard copy of the evidence should be provided to the parties' respective representatives. Institutions are forbidden from disclosing medical information of a party without the party's written permission.

Decision:

After weighing all the proof, the Committee will make conclusions and render a decision. Any decision rendered by the Committee will be based on preponderance of proof under the standard of evidence criterion.

The decision will be delivered by the certified mail service of the United States Postal Service and/or by additional means whereby proof of receipt can be validated. Respondent will be notified of the outcome within thirty (30) days following the closing of the investigation.

Pursuant to the requirements established in the HEOA, complainants in cases of alleged sexual violence/sexual harassment will be informed of the committee's determination, including any imposed sanctions.

Sanctions:

1. If a violation is determined, the disciplinary sanctions will be based on the seriousness of the situation and may include, but are not limited to, suspension (readmission after the suspension will be subject to the regular readmission process), expulsion, separation from employment, prohibition to access the campus, or attendance by respondent to trainings on sexual violence at the expense of the respondent, as a precondition for continued attendance at Escuela Hotelera de San Juan.

Appeals:

1. A respondent may appeal from the decision before the Title IX Committee for Disciplinary Review (CDR) within ten (10) days from receipt of the school's decision. Complainants should have the opportunity to appeal within ten (10) days from receipt of the notice of the results and, in the event the parties file an appeal, they will be notified of the other party's appeal.

2. The petition for appeal may be based on one of these three options:

2.1 Irregularity in the process that has affected it.

2.2 New evidence not available at the time of the Committee meeting.

2.3 The Title IX Coordinator, investigator, or person who made the determination, was biased or had a conflict of interest.

3. The CDR is composed of a senior executive from Escuela Hotelera de San Juan and another designated employee. The decision about the CDR is final and will be notified directly to the parties involved.