

HIV/AIDS and Sexual Offenses Policy

The Catholic University of Eastern Africa



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TABLE OF CONTENT

| | | |
|-----|--|---|
| 1.0 | Preamble | 1 |
| 2.0 | Introduction | 1 |
| 3.0 | Policy Framework | 2 |
| 4.0 | Goals and Objectives | 2 |
| | 4.1 Goals | 2 |
| | 4.2 Objectives | 3 |
| 5.0 | Guiding Principles and Values of the Policy | 3 |
| | 5.1 Social doctrine of the church | 3 |
| | 5.2 Respect of human rights | 3 |
| | 5.3 Non-discrimination | 3 |
| | 5.4 Prevention | 3 |
| | 5.5 Confidentiality | 4 |
| | 5.6 Gender responsiveness | 4 |
| | 5.7 Access to information | 4 |
| | 5.8 Workplace ethics | 4 |
| | 5.9 Enforcement of the University's policy | 4 |
| 6.0 | Areas of Focus | 4 |
| | 6.1 Prevention of HIV and AIDS and sexual offenses | 4 |
| | 6.2 Care and support | 5 |
| | 6.3 Information, education and communication | 5 |
| | 6.4 Outreach programmes | 5 |
| | 6.5 Drug abuse | 6 |
| 7.0 | Scope of the Policy | 6 |
| 8.0 | Definition of Terms | 6 |
| 9.0 | List of Sexual Offenses | 8 |

| | | |
|------|---|----|
| 10.0 | Procedures for Dealing with Sexual Offences | 8 |
| | 10.1 Reporting | 8 |
| | 10.2 Investigation of sexual offences allegations | 9 |
| | 10.3 Decisions / penalties | 9 |
| | 10.4 Procedures for appeal | 9 |
| 11.0 | Implementation of the Policy | 10 |
| 12. | Policy Review | 10 |

1.0 PREAMBLE

The Catholic University of Eastern Africa is committed to providing an environment in which all the staff and students are treated with respect and dignity irrespective of gender, religious affiliation or HIV status. This environment will be one in which they can work and study freely without any form of sexual offences, discrimination or stigmatization. The environment is based on the Catholic University of Eastern Africa's philosophy to promote exploration of every path of knowledge, and its conscious of being preceded by him who is "The way, the Truth and the Life (Jn.14:6)". The university does not entertain any behavior that is likely to undermine the dignity, self esteem or productivity of any employee, student or contractor in any legitimate activity associated with it. The university therefore, hereby establishes an HIV and AIDS and Sexual offences policy to be followed towards its implementation.

The policy document acts as a guide for effective adoption of both sexual offences and HIV and AIDS prevention, care and support programmes and activities within the university and its environs as well as annexes room for freedom of expression with emphasis to confidentiality and aspects related therewith, creating room for forgiveness, self healing, reconciliation, amicable resolution of the conflict through institution based preventive measures and concilitative steps.

In providing an enabling environment to members of the CUEA community to break the silence regarding HIV and AIDS as well as harassment of any form, the university takes cognizance of the presence of the sexual offences Act (2006) of the republic of Kenya and the HIV and AIDS prevention and Control Bill (2004). The policy therefore educates members of the community on matters relating to sexual offences and the rights and responsibilities as they relate to HIV and AIDS.

2.0 INTRODUCTION

The impact of the HIV and AIDS epidemic as well sexual offences on organizational performance and sustainability is well documented. The development and adoption of the HIV and AIDS and sexual offences policy is intended to facilitate the domestication of National polices on HIV and AIDS and Sexual offences. This demands active participation of all stakeholders within the university as well as its environs. Sexual offences are unlawful acts which impede the realization of CUEA's Mission and Vision. It violates the dignity of individuals and predisposes them to the risk of HIV infection, and as such, the University seeks to eliminate these offences through education and by encouraging staff, students, and visitors to report concerns or complaints.

This document outlines the policy and procedures for use by the Catholic University of Eastern Africa in dealing with sexual offences as a major social factor in the livelihood of the university as a whole as well as act as a guide for effective adoption of HIV and AIDS prevention, care and support programmes and activities within the university and its environs. In a base line research carried out at the Catholic University of Eastern Africa, evidence showed that there was occurrence of sexual offences and also students and staff were predisposed to HIV infection. This necessitated the formulation of a policy that would mitigate the offences and risk of HIV infection and also provide care and compassion to those infected and affected by HIV and AIDS.

The document provides a comprehensive framework of operation, the scope, responsibilities, procedures, recommendations and preventive measures. It also defines the implementing body.

3.0 POLICY FRAMEWORK

The commitment of the Catholic University of Eastern Africa to attain an environment free of sexual offences and HIV and AIDS, is guided by the social teaching of the church and various policies and guidelines. These policies include the staff and students code of conduct, the dress code, terms and conditions of service, the student hand book, the constitution of Kenya, the employment act, the Sexual Offences Act, the HIV and AIDS prevention and Control act, the ILO Code of Practice on HIV/AIDS in the world of work and other International Laws.

4.0 GOALS AND OBJECTIVES

4.1 Goal

The overall goal of this policy is to promote a Catholic University of Eastern Africa culture founded on Christian principles and values, which ensures a consistent and equitable approach to the prevention and management of HIV/AIDS HIV infection while promising a safe learning and working environment free from sexual offences, among employees and students.

The enforcement of the policy shall be without prejudice to acceptable foundations and definitions of social interactions, and shall constitute procedures of deterrence which embrace no stigma to both complainant and perceived perpetrator.

4.2 Objectives

The objectives of the HIV and AIDS and sexual offences policy are:

- i. To set up guidelines and mechanisms for decision making and response to HIV and AIDS and sexual offences related matters in the University.
- ii. To establish mechanisms to eliminate all forms of sexual offences and discrimination against HIV and AIDS at the Catholic University of Eastern Africa.
- iii. Promote a work and study environment which is free of sexual offences, discrimination and stigmatization.
- iv. Provide internal procedures for dealing expeditiously with issues of HIV and AIDS and sexual offences which may arise in the interest of all concerned.
- v. Provide mechanism for recording information on sexual offences and HIV and AIDS that can guide policy reviews and promote research.

5.0 GUIDING PRINCIPLES AND VALUES OF THE POLICY

5.1 Social Doctrine of the Church

The Catholic University of Eastern Africa endeavours to promote the whole development of the people and of the local communities according to the social doctrine of the church. This policy is based and guided by the social doctrine of the Church which seeks to protect and enrich human dignity.

5.2 Respect for Human Rights

The university is committed to ensuring that all staff and students have freedom of expression, privacy, and a fair and equitable hearing where need be.

5.3 Non-Discrimination

Every person at the Catholic University of Eastern Africa irrespective of their HIV status has a right to fair labor practices in terms of recruitment, appointment, continued enjoyment of employment and promotion. There shall be no discrimination and/or stigmatization of students or workers on the basis of their HIV status.

5.4 Prevention

The university is committed to playing an active role of preventing and mitigating the impact of HIV and AIDS as well as sexual offences. Education, prevention, counseling will be part of the university's activities.

5.5 Confidentiality

The university shall ensure strict confidentiality about the HIV status of an employee or student and all parties involved in sexual offences proceedings.

5.6 Gender Responsiveness

Since sexual offences and HIV and AIDS affect both men and women differently, the application of this policy shall be responsive to the different needs of men and women, boys and girls.

5.7 Access to Information

Every person has a right to access to relevant and factual information related to HIV and AIDS and sexual offences that are appropriate to their age, gender, culture, language and culture.

5.8 Workplace Ethics

There will be no tolerance for sexual offences, abuse or exploitation. Every person at the Catholic University of Eastern Africa is entitled to a safe working and learning environment. Telling lies, false allegations, spreading rumors, character assassination is an offence attracting disciplinary measures.

5.9 Enforcement of the University's Policy

Sexual offences attracting criminal justice system shall not deter the university from taking its disciplinary actions in line with its policies.

6.0 AREAS OF FOCUS

6.1 Prevention of HIV and AIDS and Sexual Offences

The Catholic University of Eastern Africa Shall be proactive in the prevention of further infection of HIV and AIDS and Sexual Offences among staff, students and the surrounding community. To achieve this, the university shall:

- 6.1.1 Promote abstinence, faithfulness in marriage and moral education.
- 6.1.2 Incorporate HIV and AIDS teaching in the curriculum and co-curricular activities.
- 6.1.3 Conduct frequent seminars, workshops and public lectures on HIV and AIDS and sexual offences.
- 6.1.4 Create awareness among students and staff against sexual offences to enhance safety both on campus and off campus.

- 6.1.5 Shall assist members of the University community understand what sexual offences are and proper procedures and rules to address sexual offences complaints.
- 6.1.6 Set up collaborative research and other linkages on HIV and AIDS and Sexual offences.
- 6.1.7 Create awareness among staff and students about the HIV and AIDS and Sexual offences policy.
- 6.1.8 Set in the university calendar an annual HIV and AIDS and sexual offences day.

6.2 Care and Support

In seeking to provide Care and Support the Catholic University of Eastern Africa will seek to:

- 6.2.1 Facilitate access to information on health and health delivery systems.
- 6.2.2 Provide counseling services and support systems to encourage those infected or those that have experienced sexual offences.
- 6.2.3 Promote and facilitate support groups for the infected and affected as well as those who have experienced sexual offences.
- 6.2.3 Establish partnerships with government institutions and private organizations to facilitate access to treatment and related services to those infected as well those who have experienced trauma from sexual offences.
- 6.2.4 Create an enabling environment free of stigma and discrimination for those infected and those who have experienced sexual offences.

6.3 Information, Education and Communication

The university acknowledges the importance of information, education and Communication (IEC) materials on HIV and AIDS and Sexual Offences and shall seek to:

- 6.3.1 Facilitate the development, acquisition and dissemination of IEC materials on HIV and AIDS and sexual offences.
- 6.3.2 Provide adequate information on organizations dealing with HIV and AIDS and sexual offences matters.

6.4 Outreach Programmes

The university shall endeavor to support HIV and AIDS and sexual offences outreach programmes and shall seek to:

- 6.4.1 Support and facilitate outreach programmes through various university clubs and movements to the surrounding schools and communities.

6.5 Drug Abuse

The university shall be proactive in ensuring an environment free from drug use and abuse and shall seek to:

- 6.5.1 Establish linkages with organizations that deal with drugs and drug abuse.
- 6.5.2 Organize seminars and workshops to sensitize students and staff on drug use and abuse.
- 6.5.3 Integrate drug abuse in the curriculum.

7.0 SCOPE OF THE POLICY

The scope of the policy will cover CUEA and its other campuses. Its jurisdiction includes: academic (teaching and non-teaching), and non-academic, full-time, part-time, casual or temporary, visitors and all the students pursuing programmes at campuses of the University.

8.0 DEFINITION OF TERMS

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| Accused | Any person who is alleged to have committed a sexual offense |
| Administering: | The act of introducing (putting) a substance in another person's drink or food with the intention of incapacitating the individual and subjecting them to a sexual act against their will. |
| Attempted Rape: | Any person who attempts to unlawfully and intentionally commits an act which causes penetration with his/her genital organs. |
| Campuses: | Any satellite branch of The Catholic University of Eastern Africa. |
| Complainant: | Any person who lodges a petition about the commission of an act of a sexual offense outlined in the list of offenses. |
| Consent: | Agreement by choice by a person who has freedom and capacity to make that choice. |
| CUEA: | This refers to The Catholic University of Eastern Africa main campus and its other campuses. |

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| Employee: | Individual contracted to work for CUEA on either fulltime, temporary or casual basis. |
| Indecent Act: | Any unlawful, intentional act which: <ul style="list-style-type: none"> i. Causes any contact between the genital organs of a person, his or her breast and buttocks with that of another person; ii. Exposure or display of any pornographic material or private body part to any person against his or her will; iii. Any unwelcome verbal or physical contact or gesture of a sexual nature that might reasonably be expected or perceived to cause offense or humiliation to another. |
| Rape: | Sexual intercourse which includes penetration with genital organs with another person without their consent or with consent obtained by force, intimidation or threat. |
| Sexual Assault: | <ul style="list-style-type: none"> i. Unlawful penetration of the genital organs of another with any part of the body of another or that person, or an object manipulated by another or that person, except where penetration is carried out for professional and proper hygienic or medical purposes; ii. Manipulation of one's body or the body of another person so as to cause penetration of the genital organ into or by any part of the other person's body. |
| Sexual Harassment: | An intentional, unlawful, sexual advance or request by a person in position of authority or holding an administrative office who knowingly or has reasonable grounds to know that the act (they are committing) is unwelcome. |
| Sexual Offences: | Sum total of acts which threaten the sexual sanctity of persons and defile their being because they are not based on mutual consent. |
| Staff: | Any individual who is an employee of CUEA. |
| Student: | Any individual undertaking a course or programme at CUEA. |

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| Undue Influence: | Pressure directed towards a person with intention of making a decision without their own free will. |
| Victim: | Any person who is alleged to have suffered harm from a sexual offense. |
| Visitor: | Person, who may not be an employee of CUEA, but is a guest of the University on official business recognized by the institution. |

9.0 LIST OF SEXUAL OFFENSES

- i. Sexual harassment
- ii. Indecent act
- iii. Compelled or induced indecent act
- iv. Attempted rape
- v. Rape
- vi. Gang rape
- vii. Deliberate transmission of HIV or Sexually Transmitted Infections (STIs)
- viii. Administration of substance with intent

10.0 PROCEDURES FOR DEALING WITH SEXUAL OFFENCES

10.1 Reporting

10.1.1 Informal reporting

A person who feels that a sexual offence has/is being committed against them according to the definition in Section F, will try to seek or informally stop the behavior. This involves the complainant verbally and putting the request in writing informing the offender to stop the inappropriate action while keeping records of events, dates and witnesses.

10.1.2 Formal reporting

In the event where one is unable to resolve the sexual offence through the informal procedure, they can file a formal complaint using the following procedures.

Staff: Staff who believe a sexual offence has been committed can report to the Human Resource Manager/ University Counselor/Chaplain.

Students: A student who believes a sexual offence has been committed can report to the Dean of students/University Counselor/ Chaplain.

Visitor: A visitor who believes that a sexual offence has been committed by a CUEA Staff/Student should report to Human Resource Manager/ PR officer.

NB:

If no action has been taken by all the above, the complainant should seek assistance from chairperson of the sexual offence committee.

10.2 Investigation of Sexual Offences Allegations

10.2.1 Once a case of sexual offences allegation is reported, the person reported to should refer to the policy of sexual offences to confirm/ascertain that an offence has been committed. If there is no offence the complainant should be given counseling.

10.2.2 If an offence has been committed the Head of Department should carry the preliminary investigations to find out whether there is ground to investigate the matter

10.2.3 If the findings of the Head of Department indicate that there's no offence the complainant should be given counseling.

10.2.4 If there's a case, further investigations should be done by the Sexual offence Committee, whereby they should consider all the circumstances leading to the incidence, nature of the incidence, the relationship between the parties, past behaviors and the context in which the alleged incident occurred. If there is a case, then the normal disciplinary procedures should be followed through the Senate.

10.3 Decisions/Penalties

10.3.1 The victim should have freedom to go to the police.

10.3.2 Penalties for other cases can be oral and written warnings, suspension, dismissal, and demotion.

10.4 Procedures for Appeal

Both the complainant and the alleged perpetrator have a right to appeal to the Disciplinary Committee.

11.0 IMPLEMENTATION OF THE POLICY

- 11.1 The ultimate responsibility for the implementation of the policy lies with the Vice Chancellor.
- 11.2 The sub ACU will be responsible to the DVC Administration
- 11.3 The sub ACU will design, coordinate, implement, manage and monitor the process of implementation.
- 11.4 The sub ACU will mobilize and manage resources for the implementation of the policy.
- 11.5 The sub ACU shall constitute a committee responsible for the policy.
- 11.6 There shall be equal participation of male and female staff and students in the implementation of the policy.

12.0 POLICY REVIEW

This policy shall be reviewed from time to time as need maybe. No amendments, changes or modification to this Policy shall be effective or enforceable unless it is in writing and executed by the Committee established by the sub ACU.