

1. PURPOSE

Sexual and moral misconduct are violations of a person's rights, dignity and integrity, and such acts are contrary to the mission and values of The American University of Paris. AUP prohibits these violations and seeks to foster a climate free from misconduct through coordinated education and prevention programs, clear policies, and a prompt and accessible grievance procedure. This policy provides the AUP community with clear standards, definitions, and descriptions of prohibited conduct. It also identifies resources and support for the AUP community, and outlines the grievance process.

2. WHO IS AFFECTED BY THIS POLICY

All AUP community members including students, faculty, and staff. Vendors, independent contractors, visitors and others who conduct business with AUP or on AUP property must comply with this policy. All AUP community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the AUP community have a responsibility to adhere to AUP policies and French law.

3. LEGAL CONTEXT OR REGULATORY BODY

AUP employees and students are governed by the [Code Civil](#) and [Code Pénal](#). Employees are also subject to the French [Code du Travail](#) and AUP's [Règlement Intérieur](#).

4. POLICY STATEMENT

AUP takes issues of sexual violence and misconduct very seriously and is committed to addressing them with transparency, respect, fairness, and empathy. Above all AUP is committed to creating a safe environment for its students and employees and strives to do so in the context of being an American university in France with an urban campus and exceptionally diverse community.

AUP observes French law, which clearly and concisely prohibits sexual and moral misconduct. The relevant articles of the French penal code and the French labor code are included in this policy (pp. 5-9). AUP is equally committed to ensuring that all members of the AUP community feel comfortable reporting incidents, to treating every individual involved with dignity and respect, and to providing compassionate resources to those who need them.

AUP prohibits sexual and moral misconduct that includes, but is not limited to, sexual harassment; sexual violence; sexual exploitation; moral harassment (including stalking, cyber-stalking, bullying and cyber-bullying); aiding or facilitating a violation; and retaliation. Consistent with the values of an educational and employment environment free from harassment based on sex, AUP also prohibits harassment based on sexual orientation or gender, which may include acts of verbal, nonverbal or physical aggression and intimidation or hostility that do not involve conduct of a sexual nature.

Definitions

Sexual harassment is defined as repeated, verbal or physical conduct of a sexual nature which either undermines personal dignity due to its degrading or humiliating nature, or creates an intimidating, hostile or offensive situation for a person.¹

Sexual harassment is also defined as the exertion of serious pressure upon others, even if it is not repetitive, aimed at obtaining sexual favors.¹

Discrimination is defined as any distinction made between persons because they have **sustained** or **refused to sustain** acts of sexual harassment or **witnessed such acts**, including, in the case mentioned in the first paragraph above, if such verbal or physical conduct has not been repeated.²

Public abuse committed against a person or group of persons due to their origin or true or assumed affiliation or non-affiliation with a specific ethnic group, nation, race or religion, is punishable by a year in prison and a fine of 45,000 euros.³ The same acts, committed in a private context, are punishable by the fine stipulated for 5th class misdemeanors.⁴

Indecent exposure to others, in a place accessible to public view is punishable by one year in prison and a fine of 15,000 euros.⁵

Sexual assault is defined as any sexual act committed with violence, duress, threat or surprise. Rape and other forms of sexual assault are committed when they have been imposed upon the victim in the circumstances listed above, regardless of the nature of the relations existing between the aggressor and the victim.⁶

Any act of sexual penetration, of any nature whatsoever, committed against another person using violence, coercion, threats or surprise constitutes **rape**. Rape is punishable by 15 years of imprisonment. **Sexual assault other than rape** is punishable by 5 years in prison and a fine of 45,000 euros.⁸

The fact of deliberately interfering, by any means whatsoever, the privacy of others is punishable by one year in prison and a fine of 45,000 euros. This comprises: (1) recording or transmitting, without the consent of the author, of words pronounced in a private or confidential capacity; (2) recording or transmitting the image of a person while in a private premises without their consent.⁹

When the acts herein have been carried out with the awareness of the parties concerned, without their objecting thereto, when they are in a position to do so, their consent is presumed.⁹

Written or reiterated threats of committing a crime or misdemeanor against another person are punishable by 6 months in prison and fine of 7,500 euros.¹⁰

Reiterated malicious telephone calls, the reiterated sending of malicious messages electronically, or the use of intrusive noise aimed at disturbing the tranquility of others are punishable by one year in prison and a fine of 15,000 euros.

Harassing others using repeated remarks or conduct aimed at or resulting in a deterioration of working conditions which may undermine one's rights and dignity, alter physical or mental health or compromise one's professional future, is punishable by two years in prison and a fine of 30,000 euros.¹²

Privacy & Confidentiality

AUP is committed to maintaining the privacy of all individuals involved in a report of sexual and moral misconduct. Information related to a report of misconduct will be shared only with those AUP employees who "need to know" in order to assist in the review and/or investigation and resolution of the complaint.

It is important to note that in some situations and provided that the underlying facts are confirmed, the law may require AUP to report the offense to the French authorities.^{13, 14} In such a case, AUP will explain the reasons to the Complainant and provide support throughout the process. Under no circumstances will AUP obligate a Complainant to participate in an investigation.

Reporting

Complaints of sexual and moral misconduct should be filed with the Director of Human Resources or the Dean of Student Development, who will immediately begin an investigation. Any complaint concerning a University employee should be addressed to the Director of Human Resources. Any complaint concerning a student or anyone who is not a University employee should be addressed to the Dean of Student Development.

AUP recognizes that the decision whether or not to report sexual or moral misconduct is personal and that there are many barriers to reporting, both individual and societal. Not every individual will be prepared to make a report to AUP or to law enforcement, and individuals are not expected or required to pursue a specific course of action. AUP recognizes that choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. To the greatest extent possible, AUP will respect an individual's autonomy in making these important decisions and provide support that will assist each individual in making that determination.

As outlined in the Resources section of this policy, there are resources off campus and in the community available to individuals not wishing to make a report to AUP.

It is important to note that anyone who deliberately makes a false report may be held criminally liable for false denunciation.¹⁵

For additional information about the reporting procedure applicable to claims initiated by students on the grounds of an alleged violation of the AUP policy on sexual and moral misconduct please see the webpage [“Rules and Procedures Related to Sexual and Moral Misconduct.”](#)

Investigation

AUP will promptly and thoroughly review and respond to all reports of sexual and moral misconduct. AUP will respond to all reports in an integrated, consistent manner that treats each individual with dignity and respect. AUP will approach each report with an earnest intent to understand the perspective and experiences of each individual involved in order to ensure fair and impartial evaluation and resolution. Should allegations of sexual misconduct be found to be true, disciplinary action will be initiated.

For additional information about the investigation and sanctions that may be imposed on students found in violation of the AUP policy on sexual and moral misconduct, please see the webpage [“Rules and Procedures Related to Sexual and Moral Misconduct.”](#)

Resources

AUP is committed to treating all individuals with dignity, care and respect. Any individual affected by sexual or moral misconduct will have access to support and counseling services through AUP. Any individual may have questions and we encourage AUP community members to seek the support of campus and community resources. For additional information concerning the protocol applicable to claims initiated by students on the grounds of an alleged violation of the AUP policy on sexual and moral misconduct, please see the webpage [“Rules and Procedures Related to Sexual and Moral Misconduct.”](#)

The resources cited below are available to all members of the community, but associated costs may vary depending on whether the individual is a student, an employee or a visitor.

Director of Human Resources
01 40 62 06 63

Dean of Student Development
01 40 62 06 31

Student Guidance Counselor
01 40 62 06 43

Health Care Coordinator
01 40 62 05 77

SOS Viol/Sexual Aggression: 08 00 05 95 95

Urgences Medico-Judiciaires (UMJ)
Hôpital Hôtel-Dieu (1 Place du Parvis Notre-Dame, 75001 Paris)
Accueil Victimes (Victims Unit) available 24/7, no appointment needed: 01 42 34 87 00

Violences Femmes Info: 39 19

Off-Campus Therapists
See the [AUP Health & Wellness Office](#) website for more information.

Clinical Psychologist, Trauma Specialist
Rosemary Bourgault (7 rue Saint-Senoche, 75017 Paris)
01 47 20 40 11 / 06 13 50 82 60
rosemarie.bourgault@wanadoo.fr

For a more comprehensive list of resources, please visit the webpage [“Rules and Procedures Related to Sexual and Moral Misconduct.”](#)

5. RESPONSIBILITIES

Department of Human Resources Responsible for undertaking appropriate investigations of all reported concerns or complaints pertaining to inappropriate or prohibited behavior by an employee. Responsible for taking appropriate disciplinary actions if an employee has committed an act of sexual or moral misconduct, and in some cases reporting to the French authorities.

Dean of Student Development Responsible for undertaking appropriate investigations of all reported concerns or complaints pertaining to inappropriate or prohibited behavior by a student. Responsible for taking appropriate disciplinary actions if a student has committed an act of sexual or moral misconduct, and in some cases reporting to the French authorities.

6. DEFINITIONS

AUP The American University of Paris.

Complainant The individual who believes him/herself to have been the subject of sexual or moral misconduct.

Respondent The individual who has been accused of sexual or moral misconduct.

Third party Any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

Employee Any person who is linked to The American University of Paris by an employment contract.

7. APPROVALS & HISTORY

August 2, 2018 Leadership Team approval.

June 20, 2019 Leadership Team approval of language edits and references to Rules and Procedures Related to Sexual and Moral Misconduct webpage.

November 1, 2022 Next review.

8. ISSUING OFFICE AND CONTACT

The Office of Human Resources
5, boulevard de La Tour Maubourg
75007 Paris
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1. Article 222-33 of the Criminal Code

Sexual harassment is defined as repeated remarks or conduct of a sexual nature which infringe upon a person's dignity due to their degrading or humiliating nature, or create a situation which is intimidating, hostile or offensive.

- I. The use of any form of serious pressure, for the real or apparent purpose of obtaining sexual favors, whether it be in favor of the perpetrator of such pressure or of a third party, is considered as sexual harassment.
- II. The deeds mentioned in sections I and II are punishable by two years in prison and a fine of € 30,000.

These sanctions are raised to three years in prison and a fine of € 45,000 when the deeds are committed:

1. By a person misusing the authority he holds due to his position;
2. On a minor of fifteen or younger
3. On a person whose particular vulnerability, due to his(her) age, an illness, a disability, a physical or psychological handicap or pregnancy, is visible or known by the perpetrator thereof;
4. On a person whose particular vulnerability or dependency resulting from the precariousness of their economic or social situation is visible or known by the perpetrator;
5. By several persons acting as perpetrator or accomplice.

2. Article 225-1-1 of the Criminal Code

Any distinction made between individuals because they have sustained or refused to sustain acts of sexual harassment such as defined in Article 222-33 or have witnessed such acts, including, in the case mentioned in 1 of the same article, if the remarks or conduct have not been repeated, constitutes discrimination.

3. Paragraphs 2 and 3 of Article 33 of the Law of July 29, 1881

Abuse committed [*in discourse, screams or threats made in public premises or meetings, either in the form of written printed documents, drawings, engravings, paintings, emblems, images or any other written medium, words or imagery sold or distributed, placed on sale or exhibited in public places or meetings, either on placards or posters exposed to public view, or by any electronic means of communication to the public*] against a person or a group of persons due to their origin or their

affiliation or non-affiliation with an ethnic group, a nation, a race or a religion, is punishable by one year in prison and a fine of € 45,000.

Abuse committed under the same conditions against a person or a group of persons due to their gender, their sexual orientation or gender identity or their handicap incurs the same sanctions as those provided for above.



4. Article R.625-8-1 of the Criminal Code

Non-public abuse toward a person or a group of persons due to their true or assumed origin or affiliation or non-affiliation with an ethnic group, a nation, a supposed race or religion is punishable by the fine charged for 5th class misdemeanors [€ 1,500].

The same punishment is incurred for non-public insult committed against a person or group of persons due to their gender, their sexual orientation or gender identity, or their handicap.

5. Article 222-32 of the Criminal Code

Indecent exposure in a place accessible to public view is punishable by a year in prison and a fine of € 15,000.

6. Article 222-22 of the Criminal Code

Any sexual act performed against a person's will through the use of violence, force, threat or surprise constitutes sexual assault.

Rape and other forms of sexual assault are committed when they are forced upon the victim in the circumstances set forth in this section, regardless of the nature of the relations which exist between the aggressor and their victim, even if they are united in wedlock.

7. Article 222-23 of the Criminal Code

Any act of sexual penetration, of any nature whatsoever, committed against another person by violence, force, threat or surprise constitutes rape.

Rape is punishable by a prison term of fifteen years.

8. Article 222-27 of the Criminal Code

Cases of sexual assault other than rape are punishable by five years in prison and a fine of € 75,000.

9. Article 226-1 of the Criminal Code

The deliberate interference with the privacy of others, using any means whatsoever, is punishable by one year in prison and a fine of € 45,000:

1. By recording or transmitting of words pronounced in private or confidentially without the author's permission:
2. By recording or transmitting a person's image while in a private place without their consent.

When such acts are carried out openly with no objection on the part of the persons concerned, although they have had the opportunity to object, their consent is presumed.



10. Article 222-17 of the Criminal Code

The threat of committing a crime or a misdemeanor against a person, which, if attempted, warrants a punishment, is punishable by six months in prison and a fine of € 7,500 when it is either reiterated or materialized in writing, in an image or in any other manner.

The punishment is raised to three years in prison and a fine of € 45,000 in the event of a death threat.

11. Article 222-16 of the Criminal Code

Reiterated malicious phone calls, the reiterated sending of malicious emails or the use of intrusive noise aimed at disturbing the tranquility of others are punishable by one year in prison and a fine of € 15,000.

12. Article 222-33-2 of the Criminal Code

The harassment of others by means of repeated remarks or conduct aimed at or resulting in a deterioration in working conditions liable to undermine their rights and dignity, to alter their physical or mental health or compromise their professional future, is punishable by two years in prison and a fine of € 30,000.

13. Article 434-1 of the Criminal Code

The failure on the part of anyone who is aware of a crime which can be prevented or the effects of which can be limited, or the perpetrators of which may commit new crimes which could be prevented, to inform the judicial or administrative authorities, is punishable by three years in prison and a fine of € 45,000.

The following constitute exceptions to the foregoing, except in the case of crimes committed against minors:

1° the direct relatives and their spouses, as well as the brothers and sisters and their spouses, of the perpetrator of the crime;

2° the spouse of the perpetrator or the accomplice of the crime, or the person known to live with them in a marital manner.

Persons bound by secrecy on the conditions set forth in Article 226-13 are also exceptions to the provisions of the first paragraph.



14. Article 434-3 of the Criminal Code

The failure, by anyone who is aware of hardship, poor treatment or aggression or sexual abuse inflicted upon a minor or a person who is unable to protect themselves due to their age, illness, a disability, physical or psychological deficiency or a pregnancy, to inform the judicial or administrative authorities thereof is punishable by three years in prison and a fine of € 45,000.

Except when otherwise provided by law, persons bound by secrecy on the conditions set forth in Article 226-13 are not bound by the foregoing provisions except when otherwise provided by law.

15. Article 226-10 of the Criminal Code

The accusation, by any means, of a specific person for a deed which is liable to judicial, administrative or disciplinary sanctions, which one knows to be totally or partially false, when it is addressed either to an officer of the court or of the administrative or judiciary police, or to an authority with the power to follow-up thereon or to refer to the competent authority, or to their superiors or to the employer of the accused person, is punishable by five years in prison and a fine of € 45,000.

The false nature of the deed reported is the result of the decision, which has become final, to acquit, release or dismiss the case, stating that the deed was not committed or that it was not chargeable to the accused person.

In all other cases, the court trying the case against the accuser appreciates the relevance of the accusations he has made.

Article L 1153-1 of the Labor Code

No employee should sustain deeds:

1. Of sexual harassment, in the form of repeated remarks or conduct with a sexual connotation which either infringe upon his(her) dignity due to their degrading or humiliating nature, or which create a situation which is intimidating, hostile or offensive to him(her).
2. or which are likened to sexual harassment, consisting in any form of serious pressure, even if not repeated, exerted for the real or apparent purpose of obtaining sexual favors, whether it be for the perpetrator of the deeds or for third parties.

Article L1153-2 of the Labor Code

No employee, trainee or intern, or candidate for a position, an internship or in-company training shall be sanctioned, dismissed or directly or indirectly discriminated against, in particular in terms of their remuneration, training, reclassification, assignment, qualification, classification, professional promotion, transfer or the renewal of their contract for having sustained or refused to sustain sexual

harassment such as defined in Article L. 1153-1, including in the case mentioned in paragraph 1° of the same article, if the remarks or conduct have not been repeated.

Article L1153-3 of the Labor Code

No employee, or trainee or intern can be sanctioned, dismissed or discriminated against for having testified to deeds of sexual harassment or for having reported such deeds.

Article L1153-4 of the Labor Code

All provisions or acts which are contrary to the provisions of Articles L.1153-1 to L.1153-3 are void.

Article L1153-5 of the Labor Code

The employer shall take all necessary measures to prevent sexual harassment, to put an end to and sanction it. In the work place and in the premises or at the door of the premises where employees are recruited, the persons mentioned in Article L. 1153-2 are informed by all suitable means of the content of Article 222-33 of the Criminal Code.

Article L1153-6 of the Labor Code

Any employee who has committed deeds of sexual harassment is liable to disciplinary action.



Article L.1152-1 of the Labor Code

No employee shall sustain repeated acts of moral harassment aimed at or resulting in a deterioration of their working conditions likely to undermine their rights and dignity, alter their physical or mental health or compromise their professional future.

Article L1152-2 of the Labor Code

No employee, person in training or in an internship shall be sanctioned, laid-off or directly or indirectly discriminated against, in particular in terms of his remuneration, training, reclassification, assignment, qualification, classification, professional promotion, transfer, contract renewal for having sustained or refused to sustain repeated moral harassment or for having witnessed or reported such harassment.

Article L1152-3 of the Labor Code

Any breach of an employment contract occurring in disregard of the provisions of Articles L.1152-1 and L.1152-2 and any contrary provision or act is void.

Article L1152-4 of the Labor Code

The employer shall take all necessary measures with a view to preventing moral harassment. The persons mentioned in Article L.1152-2 are informed by any means of the content of Article 222-33-2 of the Criminal Code.

Article L1152-5 of the Labor Code

Any employee who has committed moral harassment is liable to disciplinary action.



Article L1152-6 of the Labor Code

A mediation procedure can be implemented by anyone in the company who considers that they have been a victim of moral harassment, or by the person at issue.

The choice of the mediator is made by agreement of the parties.

The mediator enquires as to the status of the relations between the parties. They attempt to conciliate them and submit proposals to them which they record in writing with a view to putting an end to the harassment;

When conciliation fails, the mediator informs the parties of the possible sanctions incurred and the procedural guarantees provided in favor of the victim.

Article L1142-1 of the Labor Code

Subject to the particular provisions of this Code, no one shall:

1. mention or include reference in a job offer to the gender or family status of the candidate sought. This prohibition applies for all forms of advertising to fill a position regardless of the features of the envisaged employment contract;
2. refuse to hire a person, pronounce a transfer, cancel or refuse to renew an employee's employment contract based on their gender, family status or pregnancy;
3. take into consideration gender or pregnancy [for] any measure, in particular in the domain of remuneration, training, assignment, qualification, classification, professional promotion or transfer.

Article L1142-2 of the Labor Code

When one's gender meets an essential, determinant professional requirement and inasmuch as the purpose is legitimate and the requirement proportionate, the prohibitions stipulated in Article L1142-1 do not apply.

A decree of the Council of State determines, with the approval of the national employer and employee representative organizations, the list of the jobs and professional activities for which being of a given gender constitutes a determinant condition. This list is updated periodically.

Article L1142-2-1

No one must sustain sexist actions, which are defined as any actions linked to a person's gender, aimed at or resulting in an undermining of their dignity or the creation of an intimidating, hostile, degrading, humiliating or offensive environment.



Article L.1142-3 of the Labor Code

Any clause in a contract or a collective wage agreement or an employment contract which reserves the benefit of any measure whatsoever, for one or several employees, in consideration of their gender, is invalid.

However, these provisions do not apply when the purpose of this clause is the application of provisions pertaining to:

1. the protection of pregnancy and maternity, provided under Articles L. 1225-1 to L.1225-28;
2. the pre or post-natal employment prohibition, provided in Articles L. 1225-29;
3. nursing, provided for in Articles L.1225-30 to L. 1225-33;
4. the resignation of an employee in a state of medically established pregnancy, provided under Article L.1225-34;
5. paternal leave and the welcoming of the child, provided under Articles L. 1225-35 and L.1225-36;
6. adoption leave, provided under Articles L. 1225-37 to L. 1225-45.

Article L1142-4 of the Labor Code

The provisions of Articles L. 1142-1 and L. 1142-3 do not constitute an obstacle to the intervention of temporary measures taken in the sole favor of women, aimed at establishing equal opportunities between women and men, in particular by remedying cases of true inequality which impact women's opportunities;

These measures are the result:

1. Either of regulatory provisions made in the domains of recruitment, training, promotion, organization and working conditions;
2. Or of stipulations in extended branch agreements or extended collective wage agreements;
3. Or of the application of the plan for professional equality between women and men.

Article L1142-5 of the Labor Code

It is incumbent upon the employer to take into account the objectives in the domain of professional equality between women and men in a corporate environment and the measures permitting the attainment thereof:

1. In companies with no union representatives;
2. In companies which are not subject to the obligation to negotiate pursuant to Articles L.2232-21 and L.2232-24;
3. In companies which are not covered by an agreement or extended branch agreement concerning equal wages for women and men.

Article L.1142-6 of the Labor Code

In the workplace as well as in the premises or at the door of the premise where recruitment takes place, the persons mentioned in Article L.1132-1 are informed by any means of the contents of Articles 225-1 to 225-4 of the Criminal Code.