

## Update: Management and Union Consultative Forum (MUCF)

### Salary negotiations

An across-the-board salary increase of 7% for the 2022/23-financial year was submitted to SALGA management. The PSA, as mandated by members, is of the view that 7% will be a reasonable increase for all employees on salary levels 3 to 8, considering the high cost of living in the country. The upsurge in electricity costs and increases in fuel prices and medical aid are some of the factors submitted to motivate the increase. The PSA is further of the view that if the demanded increase is met, it will add value on increasing staff morale and a high-performance culture. Delegates of management at the MUCF indicated that they will submit the PSA's demands and reasons given for the 7% to the management mandating structures such as EXCO, REMPANEL, and NEC. Feedback is expected once the NEC has decided on the matter.

### Harassment in the workplace

As a result of the coming into effect of the new Code of Good Practice on the Prevention and Elimination of Harassment, which replaced the Code of Good Practice on Handling Sexual Harassment cases in the Workplace on 18 March 2022, the employer has proposed a review of SALGA's Harassment, Disciplinary and Dismissal as well as Grievance policies to align with the new code. The proposed changes are intended to broaden the list of types of harassment, which includes LGBTQIA+-phobic language and passive-aggressive or covert harassment such as negative joking at another's expense, sarcasm, condescending eye contact gestures, negative gossip, deliberately causing embarrassment or insecurity, and social or professional exclusion. It also introduces a new section that deals with racial, ethnic, or social-origin harassment. It further recognises online harassment, cyber bullying, and covert surveillance of an employee with harmful intent as possible expressions of workplace harassment.

Members are urged to read through the proposed changes (documents *attached*) and provide the PSA with inputs by **18 July 2022** at [joseph.mashigo@psa.co.za](mailto:joseph.mashigo@psa.co.za).

GENERAL MANAGER

**SALGA**  
**HUMAN RESOURCE POLICIES**

**CHAPTER 12: DISCIPLINE AND DISMISSAL**

- 12.1 Applicability of the Policy
- 12.2 Objectives
- 12.3 Introduction
- 12.4 Minor Offences and Informal Counselling
- 12.5 The Disciplinary Code and procedure
- 12.6 Disciplinary Procedure

**POLICY COMPILED BY:**

**HUMAN RESOURCES UNIT**

**POLICY SUPPORTED BY:**

**CHIEF FINANCIAL OFFICER**

**VERSION CONTROL:**

**HRP/0003**

**POLICY EFFECTIVE DATE:**

**POLICY APPROVED BY:**

Xolile George:

Signature: \_\_\_\_\_

Approval Date:

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## CHAPTER 12: DISCIPLINE AND DISMISSAL

### 12.1 APPLICABILITY OF THE POLICY

12.1.1 The policy applies to all employees of SALGA.

### 12.2 OBJECTIVES

12.2.1 The ~~purpose of this policy is to provide for;~~ ~~policy provides for:~~

12.2.1.1 ~~fair and adequate disciplinary procedure and code for all employees that complies with current labour legislation;~~ ~~code of conduct as guidelines for unacceptable behaviour;~~

12.2.1.2 ~~a framework of rules which ensures that employees are aware and understand what the organization's code of behaviour entails;~~ ~~provisions to regulate the management of misconduct at SALGA; and~~

12.2.1.3 ~~to serve as a guide on how discipline should be applied in the workplace;~~

~~12.2.1.2~~ ~~to protect all employees against unfair and unsubstantiated processes in managing discipline; and~~

12.2.1.4

12.2.1.5 ~~to take corrective action and ensure that an employee conduct, behaviour and performance meet that expected requirements and standards;~~ ~~the dismissal of employees for reasons related to misconduct.~~

### 12.3 INTRODUCTION

12.3.1 Management is responsible for the maintenance of discipline, the promotion of stability, job security and the fair and equal treatment of all employees. All levels of management will therefore maintain discipline when necessary;

12.3.2 This disciplinary code and procedure forms an integral part of the contract of employment between SALGA and each employee. It applies to all employees of SALGA and is implemented without exception when disciplinary action is taken, including the dismissal of an employee as a result of an offence or inappropriate behaviour; and

12.3.3 The purpose of the disciplinary code and procedure is to encourage disciplined conduct amongst all employees, which is to the advantage and for the safety of each individual as well as for the promotion of SALGA's standards, code of conduct and to correct improper conduct of employees.

### 12.4 MINOR OFFENCES AND INFORMAL COUNSELLING

12.4.1 In so far as it is reasonably possible, disciplinary action for minor offences will only be taken to maintain standards after informal counselling and verbal warnings have failed to produce the desired results; and

**12.4.2** If an employee is guilty of minor offences or if the employee's performance or behaviour is unacceptable, the employee's manager may counsel the employee before resorting to formal disciplinary action. The problem is brought to the attention of the employee. The employee is informed what is expected of the employee and is encouraged to solve the problem. The employee is warned of the possible consequences if the unsatisfactory conduct or behaviour should continue.

## **12.5 THE DISCIPLINARY CODE AND PROCEDURE**

**12.5.1** This disciplinary code and procedure as set out in this policy will be applied to each case where discipline must be applied, irrespective of the seniority of the employee. This disciplinary code and procedure shall not apply in cases of incapacity (ill-health, injury or no-fault poor performance).

**12.5.2** No-fault poor performance will be distinguished from deliberate conduct or omissions (poor or non-performance) by an employee that can be attributed to fault on behalf of the employee. Such deliberate conduct or omissions to perform the employee's job does not qualify as incapacity or poor performance but as misconduct which will be dealt with in terms of SALGA's disciplinary code and procedure.

### **12.5.3 Disciplinary Code**

12.5.3.1 Penalties that may be imposed for a failure to maintain SALGA's standards or for unsatisfactory or unacceptable behaviour include:

12.5.3.2 summary dismissal with or without payment in lieu of notice;

12.5.3.3 dismissal with payment in lieu of notice;

12.5.3.4 demotion as a sanction, only by agreement with the employee;

12.5.3.5 final written warning (valid for 12 months);

12.5.3.6 written warning (valid for 8 months);

12.5.3.7 verbal warning (valid for 6 months); or

12.5.3.8 Suspension without pay;

12.5.3.9 a combination of the above; and

12.5.3.10 The offences and penalties listed in the different categories of the code serve as a guide only. The intention is not to prescribe a comprehensive list of offences or rigid rules, but to create just, fair and, as far as possible, consistent disciplinary action. The absence of a specific offence in the code shall not be a defence to an employee. Employees will remain liable to be disciplined for any offences justifiable in law. The code must be read in conjunction with SALGA's code of ethics and business conduct.

12.5.3.11 The disciplinary actions detailed in the code are intended to serve as a guide. Other relevant factors may be taken into account in determining the appropriate disciplinary

action which may inter alia include length of services, previous offences, period since last offence, status and any relevant mitigating circumstances.

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
Timekeeping Offences	Poor timekeeping such as reporting late for work or leaving work early and extended or unauthorised breaks during work hours	Verbal warning	Written warning	Final written warning/ Dismissal	Dismissal
	Unwarranted absence from place of work without good reason	Verbal warning	Written warning	Final written warning/ Dismissal	Dismissal
	Desertion: away from work for ten (10) working days without permission, or without good reason or without notifying a senior manager during the period of absence. A medical certificate must be produced if the absence is for medical reasons. Note: It is the responsibility of every employee to communicate immediately with his/her senior manager during any period of absence	Dismissal			
	Fraudulent timekeeping, including clocking in or other employee's cards and allowing another to clock in one's clock card	Request for Dismissal			
Work output offences	Sleeping on duty	Written warning	Final written warning	Dismissal	
	Refusal to work	Final written warning	Dismissal		
	Refusal to obey reasonable instructions related to work	Final written warning	Dismissal		
Quality of work offences	Poor maintenance of any tools of trade including vehicle or machine for which employee is responsible.	Verbal warning	Written warning	Final written warning	Dismissal
	Wastage of material	Verbal warning	Written warning	Final written warning	Dismissal
	Damage to equipment or materials	Final Written warning	Dismissal		
	Injury to another through negligence or horseplay	Final written warning	Dismissal		
Social offences	Under the influence of alcohol or intoxicating drugs at work	Dismissal			

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
	Unauthorised consumption of alcohol and/or the administration of drugs for non-medical purposes on SALGA's premises during normal working hours	Final written warning	Dismissal		
	Assault	Dismissal			
	Threat to assault	Final written warning	Dismissal		
	Possession of dangerous weapons at work or on SALGA's premises	Final written warning	Dismissal		
	Intimidation or incitement to violence	Dismissal			
	Harassment	Dismissal			
	Non-observance of non-smoking areas	Final written warning	Dismissal		
	Committing unhygienic acts	Final written warning	Dismissal		
Attitude offences	Breach of employee's duty of good faith	Final Written Warning	Dismissal		
	Failure to carry out a reasonable and lawful instruction or breach of confidentiality provisions	Final written warning	Dismissal		
	Use of abusive and/or derogatory and/or offensive language and signs	Final written warning	Dismissal		
	Insubordination, serious disrespect, impudence or insolence	Final Written Warning	Dismissal		
	Gross negligence	Dismissal			
Other offences	Wilful damage to material, equipment, possessions or property	Dismissal			
	Unlawful possession of SALGA property	Dismissal			
	Driving a SALGA vehicle or operating machinery without authority	Dismissal			
	Divulgence of confidential information	Dismissal			
	Fraud or dishonest conduct	Dismissal			
	Deliberately supplying incorrect or falsified information	Dismissal			
	Conflict of interest, breach of code of ethics or business conduct.	Dismissal			

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
	Any other reason recognised in law as being sufficient grounds for dismissal	Dismissal			
Safety offences					
Category 1	Offences punishable by law under the OSHA including common and criminal acts of sabotage / arson – these offences will or may cause:	Dismissal			
	Financial loss	Dismissal			
	Disablement or serious injury to another or to self through negligent conduct	Dismissal			
Category 2	These offences would include:				
	Damage to machinery, equipment and property	Final written warning	Dismissal		
	Failure to obey an instruction/regulation	Final written warning	Dismissal		
Category 3	Offences such as:				
	Failure to obey safety rules/regulations/job work instruction where no damage has been suffered and behaviour may be corrected by counselling	Verbal warning	Written warning	Final written warning	Dismissal

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
Harassment	<u>physical, verbal, or psychological conduct</u>	<u>Dismissal</u>			
	<u>physical harassment including physical attacks, simulated or threatened violence or gestures</u>	<u>Dismissal</u>			
	<u>verbal bullying including threats, shaming, hostile teasing, insults, constant negative judgment, criticism or racist, sexist or LGBTQIA+ phobic language</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>psychological harassment associated with emotional abuse and involves behaviour that has serious negative psychological consequences for the</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
	<u>complainant(s) such as is often the case with verbal abuse, bullying and mobbing</u>				
	<u>slandering or maligning an employee or spreading rumours maliciously</u>	<u>Final written warning</u>	<u>Dismissal</u>		
	<u>conduct which humiliates, insults or demeans an employee</u>	<u>Final written warning</u>	<u>Dismissal</u>		
	<u>withholding work-related information or supplying incorrect information</u>	<u>Final written warning</u>	<u>Dismissal</u>		
	<u>sabotaging or impeding the performance of work</u>	<u>Final written warning</u>	<u>Dismissal</u>		
	<u>ostracising, boycotting, or excluding the employee from work or work-related activities</u>	<u>Final written warning</u>	<u>Dismissal</u>		
	<u>persecution such as threats, and the inspiration of fear and degradation</u>	<u>Dismissal</u>			
	<u>intolerance of psychological, medical, disability or personal circumstances</u>	<u>Dismissal</u>			
	<u>surveillance of an employee without their knowledge and with harmful intent</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>use of disciplinary or administrative sanction without objective cause, explanation, or efforts to problem solving</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>demotion without justification</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>abuse, or selective use of, disciplinary proceedings</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>pressuring an employee to engage in illegal activities or not to exercise legal rights</u>	<u>Dismissal</u>			
	<u>pressuring an employee to resign</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>online harassment which is committed, assisted or aggravated in part or fully, by the use of information and communications technology such as mobile phones, smart phones, the</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		



CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
	<u>internet, social media platforms or email</u>				
<u>Sexual Harassment</u>	<u>physical conduct of a sexual nature, ranging from touching, kissing, to sexual assault and rape</u>	<u>Dismissal</u>			
	<u>following, watching, pursuing or accosting of an employee</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>sexual attention, advances or proposals, or other behaviour, whether explicit or implicit, including suggestions, messages, advances, attention or proposals of a sexual nature</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>implied or express threats of reprisal or actual reprisal to comply with sexually orientated requests, advances, attention or proposals</u>	<u>Dismissal</u>			
	<u>verbal conduct such as innuendos, suggestions, hints, sexual advances, comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's body, inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending of electronic means or otherwise of sexually explicit text</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		
	<u>non-verbal conduct such as unwelcomed gestures, indecent exposure and the display or sending by electronic means or otherwise of sexually explicit pictures or objects</u>	<u>Dismissal</u>			
	<u>victimisation, <i>quid pro quo</i> harassment, sexual favouritism and creating a hostile working environment</u>	<u>Dismissal</u>			
	<u>abusive language and racist jokes, cartoons, or memes, including communication that amounts to hate speech</u>	<u>Dismissal</u>			
<u>Racial, Ethnic or Social Origin Harassment</u>					

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		1 <sup>st</sup> OFFENCE	2 <sup>nd</sup> OFFENCE	3 <sup>rd</sup> OFFENCE	4 <sup>th</sup> OFFENCE
	<u>racially offensive written or visual material, including on-line harassment</u>	<u>Dismissal</u>			
	<u>racist name calling or negative stereotyping impacting on a person's dignity</u>	<u>Dismissal</u>			
	<u>offensive behaviour in the form of open hostility to persons of a specific racial or ethnic group</u>	<u>Dismissal</u>			
	<u>subtle or blatant exclusion from workplace interaction and activities and other forms of marginalisation</u>	<u>Dismissal</u>			
	<u>threatening behaviour, which intimidates a person or creates a hostile work environment</u>	<u>Final written warning/ Dismissal</u>	<u>Dismissal</u>		

## 12.6 DISCIPLINARY PROCEDURE

### 12.6.1 Implementation of Disciplinary Process

12.6.1.1 If it should be alleged or suspected on reasonable grounds, that an employee is guilty of misconduct or failure to maintain standards, and if it is sufficiently serious (may result in a written warning or dismissal) to justify resorting to formal disciplinary action, the employee's manager or a member of management, will initiate the process set out hereunder. This person will be known as the initiator.

### 12.6.2 Suspension of Employee

12.6.2.1 SALGA may consider, without prejudice, suspending an employee with full pay in cases where:

12.6.2.1.1 the employee is alleged to have committed a serious offence;

12.6.2.1.2 the presence of the employee in the workplace may have a disruptive effect on the investigations;

12.6.2.1.3 the presence of the employee may intimidate potential witnesses or compromise the interests and assets of SALGA; or

12.6.2.1.4 the employee may commit further acts of misconduct.

12.6.2.2 This suspension is a precautionary measure that does not constitute a judgement.

12.6.2.3 SALGA reserves the right to consult with the employee and suspend the employee, on full pay, and to instruct the employee to immediately leave the premises or workplace

and not be present at the workplace pending the investigation, implementation and completion of disciplinary steps;

12.6.2.4 An employee shall always be afforded an opportunity to make written representations as to why a suspension should not be implemented. This may happen prior or after the suspension has been implemented depending on the allegations involved;

12.6.2.5 The employee will be advised of the suspension in writing, subsequent to being consulted (with representation, per SALGA's policies on representation if required) on the process (where reasonably possible and practical);

12.6.2.6 The period of suspension pending an investigation, shall not exceed two (2) months depending on the complexity of the matter and the length of the investigation. In instances where an investigation is of a complex nature, suspension shall be extended; and

12.6.2.7 Suspended employees may be requested to report, physically or telephonically to the HR unit, while on suspension. Failure to report or to be available may be construed as absenteeism and the principle of 'no work no pay' may be applied. Suspended employees must apply for leave as stipulated in SALGA's leave policies as applicable from time to time while on suspension.

### **12.6.3 Collection and Evaluation of the Evidence**

12.6.3.1 The initiator of the disciplinary proceedings in consultation with the HR Unit shall proceed to investigate the matter and collect evidence relating to the alleged misconduct. This may include the taking of statements from witnesses, including the employee who it is alleged to have committed the misconduct.

### **12.6.4 Preparation of the Charge(s)**

12.6.4.1 The initiator in consultation with the HR Unit, shall initiate the formal hearing process by formulating the allegations (charges) and presenting them to the ~~will notify to~~ the employee in writing by way of a notice. ~~of the charges against the employee,~~ The notice shall further indicate the date and time on which the ~~that a~~ disciplinary hearing will take place, ~~the date and time of such hearing,~~ as well as what the basic rights of the employee is during such inquiry and who will chair the hearing;

12.6.4.2 The notice to attend a disciplinary hearing must be given to the employee at least five (5) working days before the date of the disciplinary hearing; and

12.6.4.3 The employee must sign receipt of the notice and if he/she refuses to sign, another manager must sign as a witness that the notice was conveyed to the employee and that he/she refused to sign the notice.

### **12.6.5 The Chairperson of the Inquiry**

- 12.6.5.1 The chairperson will be impartial and objective and will not have knowledge of or a vested interest in the matter. A chairperson who is not employed by SALGA may be appointed as a chairperson at the discretion of the HR manager;
- 12.6.5.2 The chairperson of the disciplinary hearing, who is an employee of SALGA, shall be on a level higher than the initiator who will present the case on behalf of SALGA. In instances where the initiator is an external person, this condition shall not apply;
- 12.6.5.3 The chairperson of the disciplinary hearing shall, in discharging his/her duties, exercise care, diligence and act impartially and may not consult or confer with any of the parties or their representatives on the merits or demerits of the case;
- 12.6.5.4 The chairperson may, on good cause shown, extend or reduce any time frames associated with the handling of disciplinary matters and may also adjourn hearings as he/she deems appropriate; and
- 12.6.5.5 At the conclusion of the hearing, the chairperson must develop a report with reasons for his/her findings and make recommendations on the appropriate sanction to SALGA's CEO or his/her delegate.

#### **12.6.6 Timing**

- 12.6.6.1 The disciplinary inquiry will be held as soon as is reasonably possible after the alleged contravention comes to the employer's notice, provided that the employee will be afforded a reasonable time (at least five (5) working days) to prepare a defence.

#### **12.6.7 Conducting The Formal Disciplinary Inquiry**

- 12.6.7.1 The inquiry will be conducted in the presence of the employee unless the employee refuses to attend or behaves in such a way that the inquiry cannot proceed in the employee's presence. In such circumstances the inquiry may proceed in the employee's absence.

#### **12.6.8 The employee's procedural rights prior to and at the Inquiry**

- 12.6.8.1 The employee must be given full details of the charge/s levelled against him/her;
- 12.6.8.2 The employee must be given sufficient time (5 days) to prepare for the hearing;
- 12.6.8.3 The employee shall be entitled to be represented by a fellow employee (excluding SALGA legal advisors) or trade union shop steward (if the employee is a fully paid up member of the union) during the proceedings;
- 12.6.8.4 No legal representation will ordinarily be allowed. The employee may, depending on the complexity of the case and the severity of the charges, make representations to the chairperson of the hearing to have legal representation. The chairperson at his/her discretion will make a finding relating to legal representation;

- 12.6.8.5 An interpreter of his/her language may be allowed on request at the discretion of the chairperson;
- 12.6.8.6 Employees may for valid reasons request the postponement of the inquiry on written application to the Chairperson unit. The Chairperson shall have the sole discretion to agree to a requested postponement;
- 12.6.8.7 Securing witnesses and information - suspended employees must provide SALGA with a list of documentation, information, witnesses and representatives, as well as the date and time the employee wishes to consult with them. The list must be submitted to the HR manager, who will provide the employee with the documentation and information requested and make the necessary arrangements for consultations;
- 12.6.8.8 The employee and/or his/her representative will be permitted to question and to challenge the testimony of each witness who is called to give evidence against him/her;
- 12.6.8.9 After all the witnesses who support the allegations against the employee have given their evidence, the employee will be given an opportunity to give evidence, to call witnesses and to respond to any comments by the chairperson;
- 12.6.8.10 At the conclusion of the disciplinary inquiry the chairperson should permit the initiator and the employee or his/her representative to address the chairperson on the question whether or not the charges have been established and on the question of an appropriate penalty should the employee be found guilty;
- 12.6.8.11 If the charges against the employee have not been established, he/she will be found not guilty and acquitted. The fact that he /she was found not guilty and acquitted will be recorded;
- 12.6.8.12 If the employee is found guilty of all or any of the charges, the chairperson will inform the employee of the right of an appeal against the conviction and the penalty; and
- 12.6.8.13 If the employee is unsatisfied with the outcome of the inquiry the employee is entitled to refer his / her dispute for an appeal.

## **12.6.9 Right Of Appeal**

- 12.6.9.1 SALGA shall establish an Appeals Committee of no more than three (3) managers to consider all appeals lodged by employees;
- 12.6.9.2 Should an employee be of the view that he/she was treated unfairly with regard to any part of the disciplinary action taken against him/her, or is unhappy with the findings or

the sanction; the employee has the right to lodge an appeal through the HR Unit to the Appeals Committee;

- 12.6.9.3 The employee must exercise his right of an appeal within 3 (three) working days from the date of the imposition of the penalty by completing a request for appeal in the prescribed form and submitting same to the HR Unit (*See Annexure A in section B of the manual*).
- 12.6.9.4 The Appeals Committee shall convene as and when necessary to consider appeal(s) lodged. Appeal hearings shall only entail the evaluation of the evidence led at the disciplinary hearing, and this shall not constitute a re-hearing of the case. The Appeals Committee shall determine how the Appeal Hearing is conducted.
- 12.6.9.5 The Appeals Committee will be furnished with the employees referral and reasons for appeal, a copy of the charges, initial chairpersons findings and all relevant documentation presented at the initial enquiry, so as to enable the Appeals Committee to properly consider the finding and sanction;
- 12.6.9.6 The Appeals Committee may set aside, vary or confirm the sanction imposed by the chairperson of the disciplinary hearing and dismiss an appeal;
- 12.6.9.7 Should the appeal be based on procedural deficiencies during the disciplinary inquiry, the Appeals Committee may order a re-hearing of the whole matter where there are procedural defects in the disciplinary hearing;
- 12.6.9.8 The decision of the Appeals Committee is final and not subject to any administrative review.
- 12.6.9.9 An employee who is dismissed will not receive any payment for salary for the time spent on appeals unless he/she is reinstated; and
- 12.6.9.10 Should the employee be unsatisfied with the outcome of the appeal, he/she may refer the dispute to the CCMA in compliance with the LRA's referral provisions.

#### **12.6.10 The Pre-Dismissal Arbitration**

- 12.6.10.1 SALGA may engage the services of a qualified labour law expert (through CCMA or any accredited agency) to conduct a Pre-Dismissal Arbitration;
- 12.6.10.2 The decision of the arbitrator appointed shall be final and binding and can only be subjected to review by the Labour Court; and
- 12.6.10.3 The provisions of section 138 of the LRA shall, mutatis mutandis, apply to any pre-dismissal arbitration.

**SALGA  
HUMAN RESOURCE POLICIES**

**CHAPTER 14: GRIEVANCE POLICY**

- 14.1 Applicability of the Policy
- 14.2 Objectives
- 14.3 Grievance Policy
- 14.4 Grievance Procedure for Employees other than Senior Management
- 14.5 Stages in the Grievance Procedure
- 14.6 Grievance Procedure for Senior Management
- 14.7 Representation
- 14.8 Group Grievances

**POLICY COMPILED BY:**

**HUMAN RESOURCES UNIT**

**POLICY SUPPORTED BY:**

**CHIEF FINANCIAL OFFICER**

**VERSION CONTROL:**

**HRP/0003**

**POLICY EFFECTIVE DATE:**

**POLICY APPROVED BY:**

Xolile George:

Signature: \_\_\_\_\_

Approval Date:

\_\_\_\_\_

## CHAPTER 14: GRIEVANCE POLICY AND PROCESS

### 14.1 APPLICABILITY OF THE POLICY

14.1.1 ~~The policy is applicable to all employees of SALGA.~~ The policy applies to all SALGA employees, applicants for employment and individuals engaged to provide services to SALGA.

14.1.2 SALGA recognises that although this policy applies to SALGA's employees, applicants for employment and individuals engaged to provide services to SALGA, the perpetrators and victims of harassment may include, but are not limited to, managers, supervisors, employees, jobseekers and job applicants, persons in training including interns, apprentices, and persons on learnerships, volunteers, clients, suppliers, contractors, and others having dealings with the business of SALGA.

14.1.3

### 14.2 OBJECTIVES

14.2.1 The policy seeks to afford any employee ~~(s) or aggrieved person(s) or group of employees~~ with a grievance, the opportunity of resolving such grievance internally in a reasonable and fair manner.

### 14.3 GRIEVANCE POLICY

14.3.1 A grievance is defined as any dissatisfaction or sense of injustice, in connection with an employee's work and employment situation, which is formally brought to the attention of SALGA management;

14.3.2 It is in the interests of both the employee and SALGA to observe a grievance procedure for the purpose of considering and resolving any dissatisfaction, or feeling of injustice in connection with an employee's work or employment situation;

14.3.3 A grievance is defined as any dissatisfaction or sense of injustice, in connection with an employee's work and employment situation, which is formally brought to the attention of SALGA management;

14.3.4 The purpose of a grievance procedure is to afford any employee or ~~aggrieved person~~ ~~group of employees~~ with a grievance, the opportunity of resolving such grievance in a reasonable and fair manner, within the shortest available time possible;

14.3.5 There will be no victimisation of or prejudicial action against any employee or ~~third party~~ ~~employee~~ representative, using this grievance procedure;

14.3.6 The grievance procedure shall not be used by an employee or third party representative for the purpose of:



- 14.3.6.1 processing a review against dismissal or disciplinary action;
- 14.3.6.2 collective bargaining i.e. negotiations on wages and conditions of employment; and/or
- 14.3.6.3 amendments to collective agreements.
- 14.3.7** When an employee or third party representative alleges that a grievance has arisen out of the act of a manager in charge of him/her, the grievance may be referred immediately to the next level of management and the HR Unit.
- 14.3.8** Normal earnings will be paid to employees' in respect of the time spent in meetings with management to resolve grievances. An employee or employees instituting a grievance shall at all times, unless otherwise agreed to by management, continue with his/her/their normal employment duties;
- 14.3.9** **No alternative action** should be taken by the aggrieved employee, until all stages of the procedure have been completed and "failure to agree" finally recorded. It should be the intention of all parties to attempt to resolve all grievances initially "in-house and in good faith";
- 14.3.10** Where a manager is unavailable to deal with a grievance, SALGA may designate another manager to deal with the grievance;
- 14.3.11** Where the complaint is directed against the CEO, the employee should refer the grievance to the Chairperson of SALGA; and
- 14.3.12** SALGA and the employee lodging the grievance may by agreement, either reduce or extend the steps and time limits stated in the grievance procedure.

#### **14.4 GRIEVANCE PROCEDURE FOR EMPLOYEES**

- 14.4.1** No exact time limits have been set in labour legislation for the various stages of a grievance procedure; however, each case is unique and time limits must be reasonable and dependent on the circumstances;
- 14.4.2** The employee must attempt to resolve the matter with the line manager before escalation process takes place;
- 14.4.3** Grievances should be resolved as early and quickly as possible, to avoid inflamed situations arising which in themselves are more difficult to manage; and
- 14.4.4** Every employee who uses the grievance procedure should follow the steps as set out herein.

#### **14.5 STAGES IN THE GRIEVANCE PROCEDURE**

##### **14.5.1 Stage 1: Immediate Superior /Line manager**

- 14.5.1.1 An employee or third party representative, who wishes to raise any grievance, must submit it first with his/her immediate superior and line manager, within at least thirty

(30) days of the incident resulting in the grievance. HR Unit must also be notified of the grievance;

14.5.1.2 The grievance is to be submitted in writing, by completing and submitting the electronic grievance form;

14.5.1.3 Where the complaint is directed against the employee's immediate line manager, the employee should report/submit the grievance directly to the next level manager (of similar or higher position than the employee's line manager) and the HR Unit.

14.5.1.4 The immediate superior/line manager or other manager in consultation with the HR unit will attempt to resolve the grievance within five (5) working days depending on the circumstances. If it appears as if the matter cannot be resolved in that time period, the superior/line manager together with the HR Unit should give feedback within a one (1) week, as to progress that has been made, and at the same time indicate to the employee who has raised a grievance, how much time is anticipated or will be necessary to resolve the grievance. ~~Alternatively~~Alternatively, the superior/line manager, the HR Unit and the aggrieved employee can in agreement set their own time parameters and amend them as well;

14.5.1.5 Stage 1 of the grievance procedure is considered complete as soon as an acceptable resolution is agreed upon, or as soon as the aggrieved party withdraws his/her/their complaint, or after one (1) week has elapsed, and the parties have not by agreement extended the time period, and the matter remains unresolved; and

14.5.1.6 Should the immediate superior/line manager and HR Unit not settle/resolve the grievance to the satisfaction of the employee, the employee may escalate the matter further by submitting a written request to the HR Unit requesting the referral of the grievance to Stage 2.

#### **14.5.2 Stage 2: Appointment of Independent Chairperson - a grievance which has not been resolved during Stage 1**

14.5.2.1 Upon receipt of a written request of the grievance to be escalated to Stage 2 and a duly completed grievance form, HR Unit will appoint an independent Chairperson who will attempt to resolve the grievance, through fact-finding exercise, or an investigation. The amount of time needed to satisfactorily resolve or at least address the grievance, will be ~~(five)~~(5) working days;

14.5.2.2 If the grievance has been resolved, HR Unit will ensure that the action as agreed upon (if applicable) will be implemented; and

14.5.2.3 If a satisfactory solution is not reached, such failure to agree or to reach a solution will be recorded on the grievance form and the employee may then refer the grievance or dispute to the Conciliation for Mediation and Arbitration (CCMA), the Labour Court, or

another court of competent jurisdiction, depending on the nature of the dispute or grievance.

## **14.6 GRIEVANCE PROCEDURE FOR SENIOR MANAGEMENT**

- 14.6.1** This process allows for all senior managers to lodge a grievance with the CEO or his/her delegate and for his/her grievance to be referred to the CCMA;
- 14.6.2** The CEO or his/her delegate should ensure that all grievances reported are resolved as close as possible to their point of origin;
- 14.6.3** The procedure must be such that it assists and enables an employer and member to address dissatisfactions in the employment relationship;
- 14.6.4** No employee may be victimised or prejudiced, directly or indirectly as a result of lodging a grievance;
- 14.6.5** If disciplinary action is taken against a senior manager, utilisation of the grievance procedure shall not stop the disciplinary procedure;
- 14.6.6** The grievance must be lodged in writing by completing the prescribed grievance form;
- 14.6.7** All decisions taken during the process must be in writing;
- 14.6.8** The aggrieved senior manager must submit a copy of the grievance form to the office of the CEO as soon as reasonably possible; and
- 14.6.9** The CEO or his/her delegate together with HR Unit must then appoint an independent Chairperson who will try to resolve the grievance, through fact-finding exercise, or an investigation and must communicate his/her recommendation within a period of five (5) working days. The other parties will include:
  - 14.6.9.1** the employee (grievant);
  - 14.6.9.2** employee representative (union representative or fellow employee, no legal representation will be allowed, unless at the discretion of the HR executive and the chairperson);
  - 14.6.9.3** the accused employee (where applicable);
  - 14.6.9.4** HR representative (to play an advisory role); and
  - 14.6.9.5** scribe (to be provided by the concerned office).
- 14.6.10** The report will have to be submitted to the office of the CEO within five (5) working days.
- 14.6.11** The CEO or his/her delegate will then inform the employee in writing of the outcome within five (5) days.
- 14.6.12** If the aggrieved manager remains dissatisfied with the outcome, such a person may, in terms of the LRA or EEA, declare a dispute and refer the matter to the CCMA.

**14.6.13** In a case or situation where grievance is against the CEO or the latter is aggrieved, the grievance should be referred to the Chairperson of SALGA.

#### **14.7 REPRESENTATION**

**14.7.1** The employee shall be entitled to be represented by a fellow employee or recognised trade union shop steward (if the employee is a fully paid-up member of the union). Should the employee require a representative from another location to represent the employee, the employee shall be personally liable for any travel, accommodation and other related costs incurred by the representative; and

**14.7.2** Legal representation may only be allowed - on request by the employee, in highly legally complex matters and at the discretion of the chairperson of the enquiry.

#### **14.8 GROUP GRIEVANCES**

**14.8.1** Where a grievance affects, or is common to, a group of employees and the employees decide to lodge a "joint/group" grievance, the employees concerned must, for the purpose of lodging a grievance in terms of this procedure, nominate or appoint no more than two (2) representatives as spokespersons for the group; and

**14.8.2** Under no circumstances may a group of employees cease to work, for the purpose of lodging a grievance.

**SALGA  
HUMAN RESOURCE POLICIES**

**CHAPTER 13: HARASSMENT POLICY**

- 13.1 Applicability of the Policy
- 13.2 Objectives
- 13.3 Introduction
- 13.4 Definitions
- 13.5 Types of Harassment
- ~~13.65~~ Roles and Responsibilities – Responsibility of Employees
- ~~13.76~~ Formal Procedure for Lodging a Complaint
- ~~13.87~~ False Accusations
- ~~13.98~~ Confidentiality
- ~~13.109~~ –Victimisation
- 13.11 Counselling, Treatment, Care and Support Programmes

<b>POLICY COMPILED BY:</b>	<b>HUMAN RESOURCES UNIT</b>	
<b>POLICY SUPPORTED BY:</b>	<b>CHIEF FINANCIAL OFFICER</b>	
<b>VERSION CONTROL:</b>	<b>HRP/0003</b>	
<b>POLICY EFFECTIVE DATE:</b>		
<b>POLICY APPROVED BY:</b>	Xolile George: Signature: _____	Approval Date: _____

## CHAPTER 13: HARASSMENT POLICY

### 13.1 APPLICABILITY OF THE POLICY

- 13.1.1 The policy applies to all SALGA employees, applicants for employment and including individuals engaged to provide services to SALGA.
- 13.1.2 SALGA recognises that although this policy applies to SALGA's employees, applicants for employment and individuals engaged to provide services to SALGA, the perpetrators and victims of harassment may include, but are not limited to, managers, supervisors, employees, jobseekers and job applicants, persons in training including interns, apprentices and persons on learnerships, volunteers, clients, suppliers, contractors, and others having dealings with the business of SALGA.

### 13.2 OBJECTIVES

13.2.1 The objective of this policy is to:

13.2.1.1 Eliminate all forms of harassment in the workplace and in any activity linked to, or arising out of work, in accordance with and as envisaged by the Code of Good Practice on the Prevention and elimination of Harassment in the Workplace, 2022;

13.2.1.2 Outline SALGA's stance on harassment, particularly sexual harassment, which constitutes discrimination and ensure common understanding throughout SALGA with regard to misconduct of this nature;

13.2.1.3 Afford protection to SALGA's employees against harassment in any situation in which the employee is working, or which is related to their work. This includes, but is not limited to:

13.2.1.3.1 the workplace which includes both public and private spaces in which employees perform their work;

13.2.1.3.2 places where the employee is paid, takes a rest break or a meal, uses sanitary, washing, changing, breastfeeding and medical facilities;

13.2.1.3.3 work related trips, travel, training, events or social activities;

13.2.1.3.4 work related communications, including those enabled by information and communication technologies and internet-based platforms;

13.2.1.3.5 SALGA-provided accommodation; which includes housing;

13.2.1.3.6 when commuting to and from work in transport provided or controlled by SALGA;  
and

13.2.1.3.7 in the case of employees who work virtually from their homes, or any place other than SALGA's premises, the location where they are working constitutes the workplace

13.2.2 Set out the procedures to be adhered to in order ensure that incidents of harassment are reported and are dealt with seriously, expeditiously and confidentially.

### 13.3 INTRODUCTION

13.3.1 ~~SALGA recognises that every employee is entitled to fair labour practice and has the right to his/her dignity and his/her privacy; recognises every employee's right to dignity, equality, privacy and fair labour practice as provided for in the Constitution of the Republic of South Africa. As such, SALGA is committed to the elimination, prevention and management of all forms of harassment in the workplace with the aim to create a safe workplace that is free of harassment.~~

13.3.2 ~~SALGA regards all forms of harassment as a form of unfair discrimination which constitutes a barrier to equity and equality in the workplace. SALGA recognises that harassment particularly affects employees in vulnerable employment who, while covered by labour legislation, may have in practice poor access to the exercise of labour rights.~~

13.3.3 ~~This policy aims to affirm SALGA's commitment to recognising an employee's rights and to provide procedures that protect such rights by reporting, investigating and correcting or disciplining incidents of harassment.~~

13.3.4 ~~Therefore, SALGA will not tolerate any harassment at the workplace and will not permit an atmosphere of tension created by ethnic, cultural, racial or religious remarks or animosity, unwelcomed advances, request for sexual favours or other improper verbal or physical conduct of a sexual or offensive nature to be permitted at the workplace.~~

13.3.2 ~~The harassment policy is to affirm SALGA's commitment to recognising an employee's rights and to provide procedures that protect such rights by reporting, investigating and correcting or disciplining incidents of harassment;~~

13.3.3 ~~The purpose of this policy is to give practical guidance to employees who wish to report incidents of harassment at the workplace; and~~

13.3.4 ~~SALGA will not permit an atmosphere of tension created by ethnic, cultural, racial or religious remarks or animosity, unwelcome advances, request for sexual favours or other improper verbal or physical conduct of a sexual or offensive nature to be permitted at the workplace.~~

### 13.4 DEFINITIONS

13.4.1 ~~**Harassment:** includes, but is not necessarily limited to slurs, jokes, other verbal, graphic or physical conduct relating to a person's race, colour, gender, religion, natural origin, age, physical appearance, sexual orientation or disability and can include malicious gossip,~~

~~public criticism, teasing or the spreading of rumours about a fellow employee and stalking of an employee;~~

~~13.4.1.1 is unwanted conduct, which impairs dignity can be insulting, degrading, exploitative, abusive or offensive to the recipient of such conduct;~~

~~13.4.1.2 which creates a hostile or intimidating work environment for one or more employees or is calculated to, or has the effect of, inducing submission or actual or threatened adverse consequences;~~

~~13.4.1.3 is related to one or more grounds in respect of which discrimination is prohibited in terms of section 6(1) of the Employment Equity Act 55 of 1998, being: race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth; and~~

~~13.4.1.4 includes violence, physical abuse, psychological abuse, emotional abuse, sexual abuse, gender-based abuse and racial abuse. It includes the use of physical force or power, whether threatened or actual, against another person or against a group or community.~~

~~13.4.1 **Harassment** is conduct that is unwelcome and can be insulting, degrading, exploitative, abusive or offensive to the recipient of such conduct; and~~

~~13.4.2~~

~~13.4.2 **Sexual harassment** is unwelcome and unsolicited conduct of a sexual nature – be it verbal, visual or physical. The type of conduct which constitutes sexual harassment which SALGA will not tolerate includes, but is not limited to the following:~~

~~13.4.3 threats, demands or suggestions that an employee's work status or any employment decision or condition affecting an employee is contingent upon the employee's tolerance of or agreement to sexual advances or requests for sexual favours;~~

~~13.4.2.1 is the unwelcomed and unsolicited conduct of a sexual nature - be it verbal, non-verbal, visual or physical conduct, whether expressed directly or indirectly; and~~

~~13.4.2.2 is a form of unfair discrimination and is prohibited on the ground of sex, gender, or sexual orientation.~~

~~13.4.3.1 abusing the dignity of an employee through unwelcome, insulting, degrading, exploitative or offensive sexual remarks or conduct;~~

~~13.4.3.2 unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment; and~~



13.4.2.3 ~~sexual favouritism in the workplace which results in the granting or offering of employment opportunities or benefits based on submission to sexual advances or requests for sexual favours.~~

13.4.3 **Racial, Ethnic or Social Origin harassment:** ~~may include but is not limited to the following:~~

13.4.3.1 is wanted conduct related to a person's membership or presumed membership of a group identified by one or more of characteristics associated with such group; and

13.4.3.2 occurs where a person is subject to physical, verbal conduct, non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient.

13.4.4.1 ~~unwelcome racist remarks, jokes, innuendoes or taunting about a person's racial or ethnic background;~~

13.4.4.2 ~~false and vindictive allegations and accusations in relation to race, language or ethnic background;~~

13.4.4.3 ~~the displaying of racial graffiti or material;~~

13.4.4.4 ~~racial telephone calls, letters, emails, or other form of written or electronic communications;~~

13.4.4.5 ~~conduct which creates an intimidating, hostile, or offensive environment for working;~~

13.4.4.6 ~~refusing to talk to or work with an employee because of his or her ethnic or racial background;~~

13.4.4.7 ~~insulting gestures or practical jokes based on racial or ethnic grounds which cause embarrassment or awkwardness; and or~~

13.4.4.8 ~~attempted or actual assault relating to racial or ethnic origins.~~

13.4.5 Harassment, be it of any nature, may occur as a single incident or as a series of repeated incidents.

## **13.5 TYPES OF HARASSMENT**

### **Harassment**

13.5.1 Includes, but is not limited to:

13.5.1.1 the result of physical, verbal, or psychological conduct;

13.5.1.2 physical harassment including physical attacks, simulated or threatened violence or gestures;

13.5.1.3 verbal bullying including threats, shaming, hostile teasing, insults, constant negative judgment, criticism or racist, sexist or LGBTQIA+ phobic language;

- 13.5.1.4 psychological harassment associated with emotional abuse and involves behaviour that has serious negative psychological consequences for the complainant(s) such as is often the case with verbal abuse, bullying and mobbing;
- 13.5.1.5 slandering or maligning an employee or spreading rumours maliciously;
- 13.5.1.6 conduct which humiliates, insults or demeans an employee;
- 13.5.1.7 withholding work-related information or supplying incorrect information;
- 13.5.1.8 sabotaging or impeding the performance of work;
- 13.5.1.9 ostracising, boycotting, or excluding the employee from work or work-related activities;
- 13.5.1.10 persecution such as threats, and the inspiration of fear and degradation;
- 13.5.1.11 intolerance of psychological, medical, disability or personal circumstances;
- 13.5.1.12 surveillance of an employee without their knowledge and with harmful intent;
- 13.5.1.13 use of disciplinary or administrative sanction without objective cause, explanation, or efforts to problem solving;
- 13.5.1.14 demotion without justification;
- 13.5.1.15 abuse, or selective use of, disciplinary proceedings;
- 13.5.1.16 pressuring an employee to engage in illegal activities or not to exercise legal rights;
- 13.5.1.17 pressuring an employee to resign; or
- 13.5.1.18 online harassment which is committed, assisted or aggravated in part or fully, by the use of information and communications technology such as mobile phones, smart phones, the internet, social media platforms or email.
- 13.5.2 The test for establishing harassment:
- 13.5.2.1 It is not necessary to establish the intention or state of mind of the harasser/perpetrator in order to prove harassment; and
- 13.5.2.2 The factors to determine whether harassment has occurred includes the context of the harassment, the circumstances of the complainant and the impact that the conduct has had on the employee as well as the respective positions of the harasser/perpetrator and complainant.
- Sexual Harassment**
- 13.5.3 Includes, but is not limited to:
- 13.5.3.1 physical conduct of a sexual nature, ranging from touching, kissing, to sexual assault and rape;
- 13.5.3.2 strip searching, including by a person of the same sex in the presence of the opposite sex, or without appropriate privacy;

- 13.5.3.3 following, watching, pursuing or accosting of an employee;
- 13.5.3.4 sexual attention, advances or proposals, or other behaviour, whether explicit or implicit, including suggestions, messages, advances, attention or proposals of a sexual nature;
- 13.5.3.5 implied or express threats of reprisal or actual reprisal to comply with sexually orientated requests, advances, attention or proposals;
- 13.5.3.6 verbal conduct such as innuendos, suggestions, hints, sexual advances, comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's body, inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending of electronic means or otherwise of sexually explicit text;
- 13.5.3.7 non-verbal conduct such as unwelcomed gestures, indecent exposure and the display or sending by electronic means or otherwise of sexually explicit pictures or objects; or
- 13.5.3.8 victimisation, *quid pro quo* harassment, sexual favouritism and creating a hostile working environment.

13.5.4 The test for establishing sexual harassment:

- 13.5.4.1 The factors to determine whether sexual harassment has occurred includes whether the harassment is on the prohibited grounds of sex and/or gender and/or sexual orientation, whether the sexual conduct was unwanted or unacceptable, the nature and extent of the sexual conduct and the impact of the sexual conduct on the employee.

**Racial, Ethnic or Social Origin Harassment**

13.5.5 Includes, but is not limited to:

- 13.5.5.1 abusive language and racist jokes, cartoons, or memes, including communication that amounts to hate speech;
- 13.5.5.2 racially offensive written or visual material, including on-line harassment;
- 13.5.5.3 racist name calling or negative stereotyping impacting on a person's dignity;
- 13.5.5.4 offensive behaviour in the form of open hostility to persons of a specific racial or ethnic group;
- 13.5.5.5 subtle or blatant exclusion from workplace interaction and activities and other forms of marginalisation; and
- 13.5.5.6 threatening behaviour, which intimidates a person or creates a hostile work environment.

13.5.6 The test for establishing racial, ethnic or social origin harassment:

- 13.5.6.1 Racial harassment must be assessed objectively with reference to the reaction of a normal or reasonable person in keeping with the values underlying the constitutional order;

- 13.5.6.2 It must be established on a balance of probabilities that the conduct complained of was related to race, ethnic or social origin, or a characteristic associated, or assumed to be associated with such group. An important factor for establishing racial harassment is whether a perpetrator would have spoken the words or behaved in the manner complained of towards the complainant;
- 13.5.6.3 Explicit racial conduct is assumed to be unwanted conduct. A relevant factor would be how the alleged perpetrator treats other persons not of the complainant's racial group or ethnic or social origin.
- 13.5.6.4 Whether such language or conduct amounts to harassment depends on the circumstances of the particular incidence, including whether the conduct was persistent or harmful, demeaning, impairing dignity, humiliating, or creating a hostile or intimidating environment, or was calculated to induce submission by actual or threatened adverse consequences and whether the language and conduct is insulting, abusive and/or derogatory.

### 13.6 ROLES AND RESPONSIBILITIES OF EMPLOYEES

#### Employees

- 13.6.1 Must read and familiarise themselves with this policy as in the case with all other Human Resources policies.
- 13.6.2 Every employee is ~~Are~~ responsible for ensuring that his/her conduct is in compliance with this policy and for avoiding any ~~conducts or statements~~ that may constitute harassment;
- 13.6.3 SALGA encourages employees to initially attempt to resolve a problem of harassment informally and in private. ~~It may be possible and sufficient for an employee to explain clearly to the person engaging in harassment that the behaviour in question is unwelcome, offensive, degrading, insulting and/or results in discomfort and interferes with his/her work and that it should stop;~~
- 13.6.4 ~~Should it not be possible for an employee to resolve the problem of harassment on his/her own, if this is too difficult or embarrassing for an employee to do on his/her own behalf,~~ the employee should seek the support and assistance of a fellow employee or an HR representative to assist him/her in the informal process; ~~and~~
- 13.6.5 ~~If the ~~Should the~~ informal process ~~not yield a positive result and/or does not~~ end the offensive behaviour,~~ the employee may then follow the formal procedure for lodging a complaint as set out in clause 13.7 below;
- 13.6.6 ~~An employee may elect to forego the informal process and immediately proceed with the formal procedure for lodging a complaint as set out in clause 13.7 below; and~~
- 13.6.7 ~~Must at all times report suspected unethical, illegal or suspicious behaviour whether it be in the form of harassment or not, against themselves or another employee, immediately.~~

~~if the employee prefers to institute a formal complaint as the initial response to harassment, he/she must do so in terms of the procedure set out hereunder.~~

#### SALGA

- 13.6.8 To ensure that this Policy is workshopped to employees and applied uniformly within the organisation;
- 13.6.9 Strives to implement policies and procedures to ensure that employees are not subjected to harassment by third parties such as clients, customers, suppliers or others who have dealings with the organisation and are treated with dignity and respect at all times;
- 13.6.10 Communicate to employees that all forms of harassment, including physical, verbal, non-verbal, sexual, racial, ethnic or of social origin is strictly forbidden and pursuance of such could result in disciplinary action leading up to termination of employment;
- 13.6.11 Encourages all employees to raise concerns and lodge formal complaints without fear of retaliation and is committed to treating reports seriously and investigating them thoroughly;
- 13.6.12 Ensure that an employee who lodges a complaint in good faith will not be victimised or subjected to any hostile employment action including:
  - 13.6.12.1 unfair dismissal, demotion or suspension;
  - 13.6.12.2 unfair denial of a promotion, transfer or other employment benefit;
  - 13.6.12.3 bullying and harassment either in person or online;
  - 13.6.12.4 exclusionary behaviour; and/or
  - 13.6.12.5 any other behaviour that singles out the person unfairly.
- 13.6.13 Adopts a zero-tolerance policy towards any form of harassment in the workplace.
- 13.6.14 To make available counselling, treatment and support programmes for employees who are victims of any form of harassment.

#### **13.7 FORMAL PROCEDURE FOR LODGING A COMPLAINT**

- 13.7.1 ~~If the employee feels that he/she is harassed, the employee~~ Harassment of any form may be brought to the attention of SALGA by the aggrieved person or any other person aware of the harassment (eg: an employee representative, friend, colleague and/or trade union).
- 13.7.2 ~~Such aggrieved person or third party representative may lodge~~ should submit a formal complaint/grievance as set out in the Grievance Policy, and procedure;
- 13.7.3 ~~The responsible line manager in consultation with the HR Unit must upon receiving a formal grievance then act in accordance with the provisions as set out in the Grievance Policy, responsible manager and the HR Unit in terms of the grievance procedure shall then institute an investigation in order to take appropriate action;~~

- 13.7.4 During ~~an~~the investigation, it is important that care should be taken to ensure that the aggrieved person is not disadvantaged and that the position of the other parties is not prejudiced if the grievance is found to be unwarranted;
- 13.7.5 Upon completion of the investigation, the ~~line~~ manager in consultation with the HR Unit and the claimant employee will make a ~~determination~~decision on the appropriate action going forward. Should a disciplinary enquiry be necessary, the procedure, as set out in ~~the~~the Discipline and Dismissal Policy~~disciplinary procedure and policy~~, should be followed;
- 13.7.6 Employees are expected to co-operate fully with an investigation on harassment complaints. Cooperation includes maintaining the confidentiality of any information provided in connection with the complaint and not discussing the complaint or the investigation with other employees;
- ~~13.6.6 SALGA views sexual harassment as a serious offence and an employee who is found guilty of such offence could face potential dismissal;~~
- 13.7.7 Should a complaint not be satisfactorily resolved by the internal procedures ~~set out above~~, the complainant may submit the complaint to the CCMA or the Labour Court if applicable; and
- 13.7.8 A victim of sexual assault has the right to institute separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

### 13.8 FALSE ACCUSATIONS

- 13.8.1 False or vindictive accusations will be viewed in a serious light as they could have severely detrimental consequences to employees either in their employment or in their employment prospects; and
- 13.8.2 Where SALGA has reason to suspect that a complainant has laid a false or vindictive accusation, this in itself may form the basis for disciplinary action being taken against the complainant.

### 13.9 CONFIDENTIALITY

- 13.9.1 Formal complaints of any form of harassment will be handled in a manner that ensures that the identities of all persons involved are kept confidential.
- 13.9.2 All internal and external communications related to the incident of harassment must be treated as confidential.
- 13.9.3 Considerations of confidentiality does not preclude SALGA from taking appropriate steps to protect the safety or dignity of employees, either during the conduct of the investigation or subsequently.
- 13.9.4 Anonymous complaints will not be investigated as SALGA is required to disclose to the complainant, the perpetrator and/or their representatives, all relevant information as may

~~be reasonable necessary to enable parties to prepare for any of the proceedings as set out in the Discipline and Dismissal Policy, and the anonymity if the complainant cannot be maintained if the complaint leads to disciplinary action being instituted against the harasser. The identity of the complainant must be revealed to the accused if the latter is to be given a fair opportunity to defend himself/herself;~~

13.9.5 In cases of sexual harassment, management, employees and the parties concerned, must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter if required must be present at the disciplinary enquiry; and

13.9.6 Managers are required to disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings.

#### **13.10 VICTIMISATION**

13.10.1 SALGA will not tolerate any victimisation against any employee who complains about, or furnishes information regarding harassment and, where appropriate, disciplinary action will be taken against the victimiser;

13.10.2 Victimisation may include the taking of unjustified disciplinary action, dismissal, demotion, transfer or any other action which adversely affects the employment and the terms and conditions or the working environment of the employee; and

13.10.3 If an employee believes that he/she has been or is being subjected to victimisation, the employee should report the incident/s to his/her immediate manager and the HR unit in terms of SALGA's grievance procedure. Where the complaint is directed against the employee's immediate manager, the employee should report the incident directly to another manager or the executive line manager and the HR Unit. The complaint will be fully investigated and if well-founded, will result if required in disciplinary action being taken against the party embarking upon such victimisation. Where the complaint is directed against the CEO, the employee should report the incident directly to the Chairperson of SALGA and HR Unit.

#### **13.11 COUNSELLING, TREATMENT, CARE AND SUPPORT PROGRAMMES**

13.11.1 ~~SALGA may grant additional sick leave to a complainant upon receipt of a medical certificate~~