



Isalathiso: 20210210-919
Inombolo yefayili: 3/3/4/2/2/Sexual Harassment
Imibuzo: C Esau

ISetyhula: 0008/2021

Umhla wokuphelelwa: Awukho

Iya: KumaSekela Balawuli-Jikelele, kuBalawuli abaziiNtloko, kuBalawuli (kwaNdlunkulu nakwii-ofisi zezithili), kumaSekela Balawuli, kuBaphathi beeSekethe, kwiiNtloko zoQuquzelelo neNgcebiso ngezeSLES, kumaGosa eZithili, kwiiNqununu nakooSihlalo bamabhunga olawulo azo zonke izikolo zikarhulumente

Isishwankathelo esifutshane: *Le setyhula ichaza inkqubo eya kulandelwa xa izehlo zongcungcuthekiso ngokwezesondo zichazwa ngabaqeshwa yaye isebenza kubo bonke abaqeshwa abaqeshwe liSebe leMfundo leNtshona Koloni nakumabhunga olawulo.*

Isihloko: Ungcungcuthekiso ngokwezesondo

1. Intshayelelo

- 1.1 Ungcungcuthekiso ngokwezesondo yingxaki exhomisa amehlo eyenzeka qho kumaziko emfundo kuMzantsi Afrika. Akukho straktsha siyondeleleneyo sokujongana nezi zikhalazo yaye kubaluleke gqitha ukuba kwamkelwe umgaqo-nkqubo ogxila kwimigaqo nemithetho echaphazelekayo emalunga nongcungcuthekiso ngokwezesondo. ISebe leMfundo leNtshona Koloni (iSebe iWCED) linomsebenzi wokuthatha inyathelo xa abaqeshwa nabanye abantu abasebenzisanayo kunye nabaqhagamshelana neSebe iWCED bengcungcuthekiswa ngokwezesondo.
- 1.2 Ungcungcuthekiso ngokwezesondo kwimeko yasemsebenzini luhlobo oluthile localulo olungafanelekanga (*unfair discrimination*) yaye aluvumelekanga ngokwezizathu ezimalunga nezesini kunye/okanye nokuzichaza nokuzazi komntu nokubanomdla wokwabelana ngesondo nesini esithile (*sexual orientation*). Inggwalaselo emalunga nezesondo iba lungcungcuthekiso ngokwezesondo ukuba:
 - a) isenzo siyazondelela, nangona isehlo esinye songcungcuthekiso sinokuba lungcungcuthekiso ngokwezesondo;
 - b) ixhoba liyicacisile ukuba isenzo sithathwa njengolwaphulo-mthetho; kunye/okanye

c) umenzi bekufanele ukuba uyayazi ukuba isenzo eso sithathwa njengesingamkelekanga.

1.3 Lo gama amabhinqa asoloko eziithagethi zongcungcuthekiso ngokwezesondo, nawuphi na umntu angalixhoba longcungcuthekiso ngokwezesondo nokuba ukwesiphi na isikhundla kwiziko. Ukuxhaphaka kwempatho-gadalala ngokwezesondo (*sexual abuse*) nongcungcuthekiso olwenzeka maluwalaselwe ngovelwano.

2. Injongo

Injongo yale setyhula kukwazisa abaqeshwa ngemigaqo nemithetho echaphazelekayo emalunga nongcungcuthekiso ngokwezesondo, kwakunye nokukhuthaza intlonipho nolwazi ngamalungelo abaqeshwa, ngokukodwa amalungelo abo ezokhuseleko, ukhuseleka kobuqu, ukuhlonipheka komzimba kunye nokuphathwa ngokulinganayo. Le setyhula ifuna ukudala iimeko apho abaqeshwa banokuxhamla ilungelo lokusebenza, ukufundisa nokufaka ulwazi kwimeko-bume engenalo ungcungcuthekiso ngokwezesondo kunye nokubonelela ngengcaciso emalunga neenkqubo eziya kulandelwa xa kujongenwe nokuthintela ukuqhubeka okokoko kwezenzo zongcungcuthekiso ngokwezesondo ezilolu hlobo.

3. Ungcungcuthekiso ngokwezesondo

Ungcungcuthekiso ngokwezesondo zizenzo eziyindlela yokuziphatha engamazwi omlomo/intetho, ezizinto ezibonwayo, nezenziwa emzimbeni ezingamkelekanga okanye ezingafunekiyo eziyimo yezesondo exhomisa amehlo okanye ezityhutyhayo nezichaphazela iimeko zomsebenzi okanye ezidala indawo yomsebenzi ibe nobutshaba. Le meko yokungafuneki kongcungcuthekiso ngokwezesondo iyayahlukanisa indlela yokuziphatha eyamkelekileyo nekuvunyelwana ngayo macala omabini.

4. Iintlobo zongcungcuthekiso ngokwezesondo

Ungcungcuthekiso ngokwezesondo lungaquka izenzo zokuziphatha ngokwasemzimbeni, ngokwamazwi/ngentetho okanye ngokungasebenzisi mazwi/ntetho yaye aziphelelanga kule mizekelo ilandelayo:

4.1 Iintlobo zongcungcuthekiso ngokwezesondo ngokwasemzimbeni ziquka konke ukudibana ngokwasemzimbeni okungafunekiyo, ukususela ekubambeni ukuya ekudlakatheliseni ngokwezesondo (*sexual assault*) nokudlwengula, yaye kuquka ukumkhulula umsetshe umntu oko kusenziwa ngumntu okanye ekho lowo ungowesini esahlukileyo.

4.2 Iintlobo zongcungcuthekiso ngokwezesondo ngamazwi/ngentetho (*verbal forms*) ziquka izikweko ezingamkelekanga (*unwelcome innuendos*), iingcebiso nemikhuba engcolileyo (*suggestions and hints*), izicengo ezingezesondo (*sexual advances*),

ukukhwenca okunezandi ezingezesondo (*sexual overtones*), iinkqulo ezinxulumene nezesondo okanye izithuko (*sex-related jokes or insults*), iintetho ezingamkelekanga malunga nomzimba womntu ezenziwa kuye okanye ekhona, okanye ezijoliswe kuye, imibuzo engamkelekanga nengafanelekanga malunga nobomi bezesondo bomntu, nokubetha umlozi okanye iingxolo ezingcolileyo ezibhekiswa emntwini okanye kwiqela labantu.

- 4.3 lintlobo zongcungcuthekiso ngokwezesondo ngaphandle kwamazwi/kwentetho (*non-verbal sexual harassment*) kuqukwa ukusetyenziswa kweentshukumo zamalungu omzimba ezingamkelekanga, ukuziqhala amalungu angasese ngokungafanelekanga (*indecent exposure*), ukuboniswa ngokungamkelekanga kwemifanekiso yamanyala (*sexually explicit pictures*), izigwagwiso kunye nemikhuba engcolileyo (*slogans and hints*), kunye nembalelwano yasekhompyutheni, iileta neefeksi ezineentsingiselo ezirheshayo ngokwezesondo (*sexual connotation*) eziquka iindidi ezininzi zamakhasi onxibelelwano nee-aplikeyishini (*social media and applications*)
- 4.4 Ungcungcuthekiso ngokwezesondo ngenjongo yenzuzo ethile (*Quid pro quo harassment*) lwenzeka xa isuphavayiza, ilungu lezolawulo okanye umqeshwa ephembelela okanye ezama ukuphembelela inkqubo yengqesho, unyuselo-sikhundleni, uqeqesho, ululeko, ukugxothwa emsebenzini, ukunyuswa komvuzo okanye amanye amaqithi-qithi omqeshwa okanye umenzi-sicelo somsebenzi, kutshintshiselwane ngokunyikilelana ngezesondo.
- 4.5 Umkhethe ngokwezesondo (*sexual favouritism*) wenzeka xa umntu okwisikhundla segunya evuza (*rewards*) kuphela abo baphendulayo kwizicengo ngezesondo (*sexual advances*), lo gama abanye abaqeshwa abafanelekileyo abangamkeli naziphi na izicengo ngezesondo bangafakwa kwizikhundla zonyuselo-zikhundleni, iireyithingi zobuncutshe emsebenzini ezinomkhethe (*favourable merit ratings*) okanye unyuselo-mivuzo okunomkhethe.
- 4.6 Ukuchwechwela (*stalking*) kuthetha ukulandela ngokuphinda-phindayo okanye ukulalela okanye umthintele (*accosting*) ummangali.

5. **Inkqubo yokufaka izikhalazo ezimalunga nezesondo**

Zimbini iindlela ezifumanekayo ukujongana nongcungcuthekiso ngokwezesondo. Kunokwenziwa ilinge lokusombulula umbandela lowo ngendlela engamiselwanga okanye kulandelwe inkqubo emiselweyo. Ummangali makangabikho phantsi koxinzelelo lokukhetha nokuba yeyiphi na kwezi ndlela.

5.1 **Inkqubo engamiselwanga**

- 5.1.1 Ummangali unokuzama ukujongana nalo mba ngendlela engamiselwanga ngokudibana naye amxelele lo mntu uzibandakanya kwisenzo sokuziphatha okungalunganga ukuba esi senzo singalunganga siqwalaselwayo asamkelekanga, yaye sisenzo solwaphulo-mthetho okanye simenza ummangali angakhululeki emoyeni, kangangokuba siphazamisana nomsebenzi wakhe yaye ufuna umophuli-mthetho azikhwebule kwisenzo sokuziphatha esingamkelekanga.
- 5.1.2 Amaqela achaphazelekayo anokumel;wa ngoogxa babo abangabaqeshwa (*fellow employee*) okanye ngummeli wombutho wemanyano wabasebenzi (*union representative*)
- 5.1.3 Makungagcinwa okanye kufakwe ezifayilini zamaqela achaphazelekayo iirekhodi zeenkqubo ezimiselweyo zokuxoxa ngezi zenzo. Nakuba kunjalo, amaqela anokuvumelana ngokubhala imizuzu, iinkqubo zengxoxo, ezinokusetyenziswa kamva ukucacisa nokuba yeyiphi imeko yeqela elichaphazelekayo nokuba leliphi na ukuba ungcungcuthekiso olumalunga nezesondo luyaqhubeka.
- 5.1.4 Ukuba inkqubo engamiselwanga ayikwazanga ukuphumeza isiphumo esinqwenelekayo yaye isenzo siyaqhubeka, okanye sixhomisa amehlo, kunokufaneleka ukuzibandakanya kwinkqubo emiselweyo.
- 5.1.5 Izenzo ezixhomisa amehlo zongcungcuthekiso ngokwezesondo ziquka, umzekelo, ukudlakatheliswa ngokwezesondo (*sexual assault*), ukudlwengula, ukumkhulula umntu abe ze (*strip search*) okanye ungcungcuthekiso ngokwezesondo olunenjongo ethile (*quid pro quo harassment*), yaye kukhethwa ukuba kujongwane nezi zenzo ngokwenkqubo emiselweyo.

5.2 **Inkqubo emiselweyo**

- 5.2.1 Ummangali makafake isikhalazo songcungcuthekiso ngokwezesondo ngokubhalela inqununu/umphathi, isuphavayiza, i-ofisi yesithili okanye iCandelo loLawulo loBudlelane eMsebenzini (*Directorate: Employee Relations*) kwaNdlunkulu.
- 5.2.2 Umntu ongengomqeshwa obelixhoba longcungcuthekiso ngokwezesondo emsebenzini lo gama umngcungcuthekisi wayeqeshwe liSebe iWCED, angafaka isikhalazo ngencwadi ebhaliweyo kwiCandelo loLawulo loBudlelane eMsebenzini.
- 5.2.3 Kwimeko apho isenzo singasonjululwanga ngokwanelisayo, lo mbandela lowo kunokujongwana nawo ngokungqinelana nenkqubo yokusonjululwa kwengxoxo mpikiswano yeBhunga i-Education Labour Relations Council.

6. Imisebenzi eluxanduva yokuchaza ngeshlo

- 6.1 Iinqununu/abaphathi/iisuphavayiza kwakhona ziyakhunjuzwa yaye zicelwa ukuba zazise abasebenzi babo ngokuthintelwa kwazo zonke iintlobo zempatho-mpi.
 - 6.2 Nje ukuba isenzo ekutyholwa ukuba senzekile sichaziwe, ngokuxhomekeke kubunjani besityholo, inqununu/umphathi/isuphavayiza kufuneka iwuchaze lo mbandela ngoko nangoko kwiCandelo loBudlelane eMsebenzini nakwi-ofisi yesithili echaphazelekayo.
 - 6.3 Nangona iSebe iWCED lingenamagunya kubaqeshwa abaqeshwe ngamabhunga olawulo, izehlo ezibandakanya abaqeshwa abaqeshwe libhunga lolawulo kwisikolo esithile kufuneka zichazwe kunontlalo-ntle wesithili ngokungqinelana nomhlathi 3.5(d)(i) woxwebhu i-*Abuse No More Protocol of the Western Cape Education Department, 2014*, kunye ne-*South African Council for Educators*, ukuba ngutitshala obandakanyekayo.
 - 6.4 Oku kuya kuqinisekisa ukuba bonke abaqeshwa bafumana ingcebiso eyimfuneko, inkxaso nokubuzisiswa ngeshlo eso kwanokuba, ngokuxhomekeke kubunjani beshlo, unontlalo-ntle ochaphazelekayo uyasichaza ishlo eso kwiNkonzo yamaPolisa oMzantsi Afrika (*South African Police Service*).
 - 6.5 Kukhuthazwa kakhulu izikolo ukuba zityumbe igosa elijongene nezenzo zongcungcuthekiso ngokwezesondo (*sexual harassment officer*) ukujongana nokuchazwa kwalo naluphi na uhlobo lwempatho-mpi kwiCandelo loBudlelane eMsebenzini kunye ne-ofisi yesithili echaphazelekayo.
 - 6.6 Nawuphi na umqeshwa onolwazi lokuba isenzo sokungcungcuthekiswa ngokwesondo senziwe, unomsebenzi oluxanduva lokunika ingxelo ngalo mba. Ukusilela ukunika ingxelo ngomba ololu hlobo kuya kuba nesiphumo sokuthathwa kwenyathelo loluleko apho kucace gca ukuba umqeshwa ebenalo ulwazi ngesenzo songcungcuthekiso ngokwezesondo esilolu hlobo yaye wasilela ukunika ingxelo ngesenzo sokuziphatha komenzi orhanelwayo, kwiSebe iWCED
7. Kucelwa iinqununu/abaphathi/iisuphavayiza ukuba bazise bonke abasebenzi ngokukule setyhula ukuze bakuthathele ingqalelo.
 8. Mabaziswe ngokukhawuleza kangangoko kunokwenzeka bonke abaqeshwa abatsha ngale setyhula bakuba beqeshiwe kulo naliphi na iziko lemfundo leSebe iWCED.