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Procedure No.
05-059

Procedure for the Prevention of Sexual Harassment

Appendices: A. Prevention of Sexual Harassment Law 5758 – 1998
B. Equal Opportunities of Employment Law 5748 - 1988
C. Prevention of Sexual Harassment Regulations (Duties of Employers) 5758 - 1998

1. Aim:

Sexual Harassment and sexually based Persecution violate human dignity, liberty, privacy, and equality between the sexes; moreover, such are also criminal acts and constitute grounds for legal procedures in tort claims, beginning upon the entering into force of the Prevention of Sexual Harassment Law 5758 – 1998 on Elul 29th 5758 (September 20th 1998). In addition, the Prevention of Sexual Harassment Regulations (Duties of Employer) 5758 – 1998 also state that Sexual Harassment and Persecution constitute serious Disciplinary offenses.

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The aim of this Procedure is to ensure that the Ben-Gurion University of the Negev shall serve as a workplace and study environment free of Sexual Harassment, sexually based Persecution, prevention of professional conflict of interests as well as the violation of the educational and study processes, which may occur following intimate relations between an instructor and student at the University.

2. Definitions:

For the purposes of this Procedure –

- "University"** The Ben-Gurion University of the Negev.
- "The Law"** The Prevention of Sexual Harassment Law 5758 – 1998 and the Equal Opportunities of Employment Law 5748 – 1988. These Laws are attached to this Procedure and constitute an integral part thereof.
- "The Regulations"** The Prevention of Sexual Harassment Regulations (Duties of Employer) 5758 – 1998. These Regulations are attached as an Appendix to this Procedure and constitute an integral part thereof.

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"Sexual Harassment" As defined in section 3(a) of the Prevention of Sexual Harassment Law, and as defined in section 7 of the aforementioned Equal Opportunities of Employment Law, by an employee, or student, or service provider, towards another within the framework of the workplace or place of studies.

"Persecution" As defined in section 3(b) of the Prevention of Sexual Harassment Law, and as defined in section 7 of the aforementioned Equal Opportunities of Employment Law, by an employee, or student, or service provider, towards another within the framework of the workplace or place of studies.

"The Framework of the Workplace or Place of Studies" The University; other place at which activities on behalf of the University take place, including community service activities, social involvement activities and other activities on behalf of the University even if such do not entail studies or work; whilst working or studies; whilst exploiting authority in workplace or studies relationships, at any place whatsoever.

"Academic Authority Relationships" Academic Authority Relationships include: direct instruction (participation in a course conducted by the instructor within practices / laboratories / guidance for writing papers), assisting research students, grant of scholarships, academic rewards or other benefits, membership in committees that discuss the student's affairs, and participation in any action deciding any of the issues of the student in discussion.

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"The Assaulted" He/she who claims he/she have been sexually harassed within his/her workplace or place of studies.

"The Respondent" He/she who had been accused of an action of Sexual Harassment or Persecution in a grievance, and at the time of the event as well as on the date of its filing is an employee or student or service provider.

" Ombudsman"A commissioner in charge of grievances concerning Sexual Harassment issues.

"Employee" He/she who is among the members of the academic staff of the University, or the members of the administrative and technical staff of the University, as well as any person holding employer

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– employee relations with the University, including temporary employees, transient employees, permanent employees, persons employed via personal contracts, as well as any person acting on behalf of, or for the University as a part of its ordinary internal system, including employees of any human resources contractor.

"Service Provider" He/she who provides services to the University and is not an "Employee" as set forth above, the employee of such an aforesaid Service Provider or any person acting on behalf of, in name of, or for the Service Provider.

"Student" He/she who on the date of the event had been among one of the following:

- Enrolled for studies at the University and had been accepted by it as a student, including studies at preparation courses and special studies courses, beginning at the time of his/her enrollment and for as long as he/she is registered as a student, including school vacation periods.
- Has applied to be accepted as a student and his/her application had been rejected, beginning at the time of his/her application and up to the time of receiving the notice of rejection.
- Has completed his/her studies but has not yet received his/her diploma.

"The Disciplinary Regulations" The Disciplinary code that applies to the Respondent.

"The Disciplinary Authorities" As such are defined in any of the Disciplinary Codes.

"President", "Rector" The President, Rector, and the CEO of the University.

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3. Sexual Harassment and Persecution are Forbidden and Constitute a Grave Disciplinary Offense

- 3.1.** Sexual Harassment and Persecution as their definition by Law or as set forth in this code are prohibited and improper acts.
- 3.2.** Sexual Harassment or Persecution, as their definition in this code constitute grave disciplinary offenses regarding the Disciplinary Regulations.
- 3.3. Consensual Intimate Relationships between a Student and an Instructor:**

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3.3.1. Consensual intimate relationships between adults are private matters between those involved, and are not the concern of the University as a public institution. However, in the event such intimate relationships exist between an instructor and a student of the University, the instructor involved is obligated to prevent professional conflict of interests that may arise due to their relationship. Such conflict of interest may harm the educational and study processes, create an improper study and community environment, and lead to an improper exploitation of authority.

3.3.2. Instructors at the University are obligated to avoid academic authority relationships (of any type: lectures, practices, reviewing papers, guiding for advanced degrees) with a partner with whom he/she have an intimate relationship.

3.3.3. In the event such an aforementioned intimate relationship has evolved, the instructor is obligated to notify of so, with full disclosure, to the head of the department / academic unit at which he/she is employed, to promptly discontinue any academic authority relations with the student, or to request that the head of the aforesaid department / academic unit act in order to terminate such authority relations, among others, by locating an alternate course for the student, replacing a guide, or turning over exams or papers to be reviewed and assessed by another instructor, or in any other manner, all the while preventing any harm being caused to the student.

3.3.4. In any event of academic authority relations, the instructor is obligated to full disclosure, and following so to suspend his/her participation in any discussion concerning such student.

3.3.5. Violation of the provisions of section 3.3 aforementioned constitutes a disciplinary offence.

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4. Appointment of an Ombudsman:

- 4.1.** The President of the University, after consulting with the Rector of the University and its CEO, shall appoint an Ombudsman and deputies to such, in accordance with that set forth in Regulation 4 of the Regulations.

The duration of the appointment shall be determined by the President within the appointment letter.

The names of the Ombudsman and his/her deputies shall be publicized on the bulletin boards throughout the University's Campus.

- 4.2.** The President, after consulting with the Rector and CEO, shall be entitled to terminate the appointment of the Ombudsman, or any of his/her deputies, even prior to the expiration of the term of appointment.

5. The Duties of the Ombudsman:

- 5.1.** To recommend to the President in all regarding the prevention of Sexual Harassment and Persecution throughout the University, as well as handling such events of Sexual Harassment and Persecution as aforementioned.

- 5.2.** To receive grievances regarding Sexual Harassment or Persecution, and investigate such for the purpose of providing the President with recommendations as to the manners of handling such.

- 5.3.** To provide information, assistance, and counseling to those who contact him/her.

6. Handling a Grievance:

6.1. Submitting a Grievance and its Investigation:

- 6.1.1.** A grievance regarding the suspicion that Sexual Harassment or Persecution had been conducted (hereinafter referred to as the "**Grievance**") shall be referred to the Ombudsman.

- 6.1.2.** The grievance may be filed by any of the following:

- (1) An Assaulted as such is defined in section 2 of this Procedure;
- (2) Another person on behalf of the Assaulted.

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6.1.3. The grievance may be submitted verbally or in writing. In the event a grievance had been filed verbally, its contents shall be put in writing by the Ombudsman, and the complainant shall sign the written report confirming its contents. The Ombudsman shall provide the complainant with a copy of the written report.

6.1.4. The Ombudsman shall inform the complainant as of the manner of treating the Sexual Harassment or Persecution, as legally required.

6.1.5. As soon as a grievance had been filed with the Ombudsman, he/she shall onset procedures for investigating the complaint.

6.1.6. Upon receiving such a grievance, the Ombudsman shall summon the Respondent, present him/her with the details of the grievance and request his/her response.

In the event a grievance had been filed by a complainant who is not the Assaulted– the Ombudsman shall verify the facts included in the grievance with the Assaulted prior to contacting the Respondent, and shall contact the Respondent to receive his/her response only after the Assaulted had given his/her consent to do so.

6.1.7. For the purpose of investigating the grievance, the Ombudsman shall be entitled to summon to be investigated before him/her whomever may hold any information and / or document concerning, or that may concern, the grievance.

Failure to appear at an investigation and / or failure to disclose information and / or submitting false information and / or failure to assist the Ombudsman in investigating the grievance, constitute a disciplinary offense regarding the Disciplinary Regulations.

6.1.8. The Ombudsman shall conduct the investigation continuously, as far as such is possible, up to its completion.

6.1.9. The investigation of the grievance shall be conducted whilst protecting the dignity and privacy of the complainant, the Assaulted, the Respondent and any other person; and among others, the Ombudsman shall refrain from disclosing any information he/she had come across while investigating the grievance, unless required to do so for the purposes of the investigation itself or in accordance with the Law.

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- 6.1.10.** Shall the Ombudsman believe that the circumstances of the event require an expert in the field in which the grievance is to be investigated, he/she shall be entitled to be assisted by such an expert.
- 6.1.11.** The Ombudsman shall not handle the investigation of a grievance in the event he/she hold personal interest in the issue of the grievance, or the persons it involves.
- 6.1.12.** The Ombudsman shall be entitled – and under the circumstances described in section 6.1.11 obligated to - delegate the investigation of the grievance onto one of his/her deputies; moreover, he/she shall be entitled to instruct that the investigation of the grievance shall be conducted before a panel of three, in which he/she shall serve along with two of his/her deputies or three of the Ombudsman's deputies.
- 6.1.13.** In the event the Ombudsman and his/her deputies are prevented from investigating the grievance for any reason, including due to circumstances set forth in section 6.1.11, the grievance shall be brought before the President; the President shall be entitled to investigate the grievance on his/her own, or to delegate its investigation, after consulting with the Rector of the University and its CEO, onto another, including anyone who is not an Employee.
- 6.1.14.** The President and the person who had been elected to investigate the grievance as aforesaid in sections 6.1.12 or 6.1.13 - shall hold all of the authorizations granted to the Ombudsman, and be liable for all of the liabilities imposed on the Ombudsman.
- 6.2.** Upon the completion of the investigation, the Ombudsman shall provide the President with a written summary of the investigation of the grievance, and detail his/her recommendations as of the manner of continuing its handling, including any of the issues detailed in sections 7.1 a-d of this Procedure.
- 6.3. Interim Measures:**
- The Ombudsman, in coordination with the President and the authorized Authorities at the University, shall be entitled to instruct of taking interim measures, the purpose of which is to protect the complainant, during the investigation of the grievance, from any harm made to work or study issues due to the filing of the grievance, from any harm that may cause the obstruction of the investigation of the grievance, or any other harm within the work relations or study

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relations; among others, the Ombudsman, in such coordination as aforementioned, is entitled to keep afar the Respondent from the complainant, as far as possible and as he/she may see fit under the circumstances of the issue.

6.4. Archiving the Grievance by the Ombudsman:

6.4.1. The Ombudsman is entitled to instruct the archiving of the grievance in any of the following cases:

- a. He had found that there are no real grounds for the grievance.
- b. The Assaulted had requested to withdraw his/her grievance, or do discontinue the investigation of the grievance, provided that the Ombudsman became convinced that the assaulted requested so voluntarily under no coercion or other improper influence.

6.4.2. In the event where the Ombudsman had decided to archive the grievance, he shall provide a reasoned notification to the Assaulted, the complainant (in the event where the grievance had been filed by a complainant who is not the Assaulted, the Respondent, and to the President of the University. In the event where a grievance had been filed by a complainant who is not the Assaulted, and the Assaulted had not given his/her consent as aforementioned in section 6.1.6 – the Ombudsman shall not notify the Respondent regarding the archiving of the grievance.

7. Taking Measures:

7.1.

a. After the Ombudsman had provided the President of the University with his/her conclusion and recommendations - the President shall decide of making use of his/her authorization regarding each of the following:

- (1) Instructing those involved, including regarding proper conduct rules, to remove the Respondent away from the Assaulted, and taking the measures required to prevent the repetition of the Sexual Harassment or Persecution and / or to repair the harm caused to the Assaulted due to the harassment or Persecution;
- (2) Initiating Disciplinary Proceedings in accordance with the Disciplinary Regulations;

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- (3) Refrain from taking any measures.
- b.** The President shall provide a written, reasoned notification of his/her decision, as aforementioned in subsection a, to the Assaulted, the complainant (in the event where the grievance had been filed by a complainant who is not the Assaulted, the Respondent, and to the Ombudsman. In addition, the President shall allow the complainant and the Respondent to review the Ombudsman's conclusion and his/her recommendations.
 - c.** The President is entitled, due to a change of circumstances, to revise his/her decision in accordance with the aforementioned subsection a, or to suspend its execution, and in the event he had done so – he shall provide a written, reasoned notification of such, to those set forth in the aforementioned subsection b.
 - d.** The President is entitled to delay his/her decision as aforementioned in subsection a, to suspend its execution or revise such due to disciplinary or legal measures regarding the subject of the grievance, and the event he had done so - he shall provide a written, reasoned notification of such, to those set forth in the aforementioned subsection b.
 - e.** In the event where the President had made use of his/her authorizations in accordance with the aforementioned subsection d – he shall be entitled to instruct of raking interim measures as aforementioned in section 6.3, and within such he shall be entitled to terminate the interim measures that had been instructed of by the Ombudsman, to amend such, restrict such, add to such or to instruct of taking alternate measures.
 - f.** The President shall not be obligated to accept the recommendations provided by the Ombudsman.
 - g.** The President shall hold all of the authorizations held by the Ombudsman in accordance with the aforementioned section 6.1.7.
 - h.** In the event where the President shall believe that the investigation had not been fully exhausted – he shall be entitled to return the investigation of the matter to the Ombudsman for completing the investigation.
- 7.2.** The President shall be entitled to delegate his/her authorizations in accordance with this Procedure – in whole or in part, whether generally or for a specific case or a specific type of cases – to another, including the Ombudsman, and including another who is not an employee.

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8. The Disciplinary Process:

- 8.1.** In the event where it had been decided to initiate Disciplinary Proceedings against the Respondent – the Ombudsman shall provide the complainant / prosecutor regarding the matter, with all of the materials that are relevant to the grievance. If necessary, the Ombudsman shall assist the complainant / prosecutor in the preparation of the file.
- 8.2.** Upon initiating the Disciplinary Proceedings against the Respondent, the proceedings shall be conducted in accordance with the Disciplinary Regulations that apply to the Respondent within the disciplinary Court of competent jurisdiction to decide in the case of the Respondent.
- 8.3.** Upon the initiation of the Disciplinary Proceedings, the Respondent shall be entitled to receive, upon his/her request, any investigation material that had been collected by the Ombudsman during the course of the investigation.
- 8.4.** In the event where Disciplinary Proceedings had been initiated against the Respondent – the panel hearing the proceedings shall be granted the authorization to instruct of taking interim measures as set forth in section 6.3 , and it shall be entitled to terminate interim measures that had been instructed upon be the Ombudsman.
- 8.5.** In the event where the Respondent had been convicted of an offense of Sexual Harassment and / or Persecution within the Disciplinary Proceedings – he/she shall be sentenced with the penalties set forth by the Disciplinary Regulations, and / or the following the following penalties: a given written or verbal warning, reprimand, payment of damages to the Assaulted, suspension from work for a specified period, exclusion from studies for a fixed period, or permanently, termination of employment with / without any severance pay, with / without any pension, with / without any grant.
- 8.6.**
- a. The hearing of the Disciplinary Proceedings shall be held behind closed doors.
 - b. No identifying detail regarding the Assaulted who had been exposed within the Disciplinary Proceedings shall be made public.
 - c. Subject to the aforesaid in subsection b, the publication of the verdict given in the Disciplinary Proceedings shall be at the Court's discretion.

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9. False Accusation and Assistance in False Accusations:

Filing a false accusation, providing false information in support of a false accusation or any other assistance for false accusations constitute severe disciplinary offenses regarding the Disciplinary Regulations, and he/she who had been convicted of such an offense by Disciplinary Proceedings shall be sentenced with the penalties set forth in the Disciplinary Regulations and / or the penalties as set forth in section 8.5 of this Procedure.

10. Information and education actions:

The University will maintain information and education actions to prevent the phenomena of Sexual Harassment and Persecution in general, and particularly within the workplace or studies.

The VP of Human Resources regarding employees, and the Dean of Students regarding students - consulting with the Ombudsman – are responsible for carrying out this provision, as well as the publication of these Regulations - via posting such on the bulletin boards throughout the campus of the university.

General Provisions:

- 11.** The Ombudsman shall collect and coordinate data regarding grievances he/she had received during the course of his/her work and shall submit an annual report to the President of the University regarding the scope of the phenomenon of Sexual Harassment and Persecution at the university.
- 12.** Any employee and any student are entitled, upon their request, to receive a copy of the Law, the Regulations, and this Procedure from the Ombudsman.
- 13.** This Procedure shall come into force on the date of its approval.
- 14.** In the event the provisions of this Procedure contradict any of the Disciplinary Regulations, the provisions of this Procedure shall prevail.

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- 15.** This Procedure is intended to add to the provisions of Law and not detract from such.
- 16.** This Procedure is valid beginning on the date of its publication, and it nulls any previous Procedure regarding the prevention of Sexual Harassment, including Procedure No. 05-059 dated January 1991.

David Bareket
Vice President and CEO