
Procedure for Prevention of Sexual Harassment

- Appendices:**
- a. Prevention of Sexual Harassment Law, 5758-1998
 - b. Equality of Opportunity at Work Law, 5748-1988
 - c. Prevention of Sexual Harassment (Employer's Duties) Regulations, 5758-1998

1. **Objective::**

Sexual harassment and pestering on a sexual basis harm the dignity of an individual, his freedom, his privacy and equality of the sexes; these are also criminal acts and a cause for claim for torts, since the Prevention of Sexual Harassment Law, 5758-1998 came into force on 29th Elul 5758 (September 20, 1998). The Prevention of Sexual Harassment Regulations (Employer's Duties), 5758-1998 also determine that sexual harassment and pestering constitute grave disciplinary offences.

The objective of this procedure is to ensure that Ben Gurion University of the Negev shall serve as a workplace and study environment which has no sexual harassment, pestering originating in sexual harassment, prevention of professional conflict of interest, abuse of authority, and harm to the educational study process which could be raised following intimate relations between a teacher and a university student.

All that stated in these regulations in the masculine or the feminine gender is imposed on both genders.

2. **Definitions:**

In the matter of this procedure:

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| “University” | Ben Gurion University of the Negev |
| “The Law” | Prevention of Sexual Harassment, 5758-1998 and the Equal Opportunity at Work, 5748-1988 Law. These laws are attached to this procedure and constitute an integral part of it thereof. |
| “The Regulations” | Prevention of Sexual Harassment (Employer's Duties) Regulations, 5758-1998. The regulations are attached to this procedure as an appendix and constitute an integral part of it thereof. |
| “Sexual harassment” | As defined in Article 3(a) of the Prevention of Sexual Harassment Law and as defined in Article 7 of the Equal Opportunities at Work Law aforementioned, on the part of an employee or a student or a service provider vis-à-vis another within the |

framework of the workplace or studies.

“Pestering”

As defined in Article 3(b) of the Prevention of Sexual Harassment Law, and as defined in Article 7 of the Equal Opportunities at Work Law aforementioned, on the part of an employee or a student or a service provider vis-à-vis another within the framework of the workplace or studies.

“Within the framework of the workplace or studies”

The University and its facilities; any other place in which activity is conducted on behalf of the University including activity for the community, activity of social involvement and any other activity on behalf of the University even if it does not entail studies or work; during work or studies; while abusing authority in employment relations or studies, in any place whatsoever.

“Relations of authority”

Any relationship enabling direct or indirect influence of a person of authority over one whose status, conditions and interests could be influenced by the person of authority.

“Academic relations of authority”

Academic relations of authority included in but not only: direct teaching (participation in a course given by the teacher in an exercise/laboratory/tutorial for papers), guiding research students, awarding grants, study prizes or other benefits, membership on committees in which matters of the student are discussed, and taking part in any activity that entails any decision or influence whatsoever on the matters of the aforementioned student.

“Injured party”

One who claims that he was harassed sexually or that he was pestered within the framework of the workplace or studies.

“Defendant”

One against whom it has been claimed that he perpetrated an act of sexual harassment or pestering, and on the date of the event who is an employee or a student or a service provider.

“Complaints Commissioner”

Complaints Commissioner for matters of sexual harassment.

“Employee”

One who is a member of the academic staff of the University or members of the administrative and technical staff of the University and anyone who has between him and the University employee employer relations, including a temporary employee, a provisional employee, a permanent employee, a personal contract employee including one who is on pension and continues activity in the University or spends time in its facilities and anyone who

acts on behalf of the University or for it as part of the regular internal system including an employee of a manpower contractor.

“Service provider”

One who provides a service to the University and is not “an employee” as defined above, an employee of a service provider as aforementioned or one who acts on behalf of the service provider, in his name or for him.

“Student”

One who on the date of the incident is one of the following:

- Has registered for studies in the University and has been accepted by it as a student including studies in preparatory courses and within special frameworks, from the time of registration and for as long as he is registered as a student, including during vacations from studies.
- He has submitted his candidacy to be accepted as a student and his application has been rejected, from the time of registration and until receipt of the rejection notice.
- Conclusion of his studies however has still not received a diploma.

“Disciplinary regulations” The disciplinary regulations imposed on the defendant.

“Disciplinary authorities” As they are defined for each format for each discipline.

3. **Prohibited sexual harassment and pestering which constitute a grave disciplinary offence**

- 3.1. Sexual harassment or pestering as defined by law or as defined in this regulation are prohibited and invalid acts.
- 3.2. Sexual harassment or pestering as defined in this regulation constitutes grave disciplinary offences in the matter of the disciplinary regulations.
- 3.3. **Intimate relations within the framework of relations of authority:**
 - 3.3.1. **Within the framework of relations of authority:** Consensual intimate relations between adults are the personal affair of those involved, and are not of interest to the University as a public institution. However, conducting intimate relations within the framework of relations of an authority constitutes a conflict of interests, and establishes a presumption of inappropriate abuse of authority. It is fitting that a person of authority in the University shall abstain from intimate relations within the framework of relations of authority, however if such an intimate relationship shall develop then it is the duty of the person of authority to

report immediately of such to his superior, in order that the superior shall take action to sever the relations of authority by transfer of one of the couple to another position or to another unit, or by any other method. All these while adhering to prevention of harm to a subordinate as far as possible and while coordinating with him and taking his needs into consideration.

- 3.3.2. **Within the framework of academic relations of authority:** Within the framework of academic relations of authority there is an absolute prohibition of conducting an intimate relationship. Without diminishing from the prohibition as aforementioned, in the event that an intimate relationship shall develop as aforementioned, it is the duty of the teacher, with full disclosure to inform the head of the academic department/unit in which he is employed, to sever immediately all academic relations of authority with the student, or to request from the head of the aforementioned academic department/unit to take action to sever these relations of authority, *inter alia* by finding an alternative course for the student, by replacing the tutor, by transferring an examination or paper for the examination and the assessment of another teacher, or by any other method, all this while ensuring the prevention of harm to the student.
- 3.3.3. ...
- 3.3.4. In any event of relations of authority including academic relations the person of authority is obligated to fully disclose, and following such to suspend his participation in the hearing dealing with the subordinate.
- 3.3.5. Breach of the provisions of Section 3.3 above constitutes a disciplinary offence.
- 3.3.6. That stated in this section is not imposed on married couples or common-law spouses subject to the employment of family members in the University procedure.

4. Appointment of a Complaints Commissioner

- 4.1. The President of the University, after consultation with the Rector of the University and the CEO of the University, shall appoint 2 commissioners (inasmuch as possible women shall be appointed for this position) (one from the senior academic staff and the second from the administrative staff, both with tenure in the University) and deputy commissioners (inasmuch as possible men shall be appointed to the role of deputies), pursuant to that determined in Regulation 4 of the Regulations, and in coordination with the Commissioner. The commissioners shall undergo training pursuant to the requirements of law.

Appointment of the deputies shall be carried out such that at each campus of the University one deputy at least shall serve. The term of appointment of the commissioner and the deputies shall be three years with an option for extension for additional terms.

The names of the commissioner and the deputies shall be published on the notice boards in the campus and on the University website.

- 4.2. The Commissioner is independent in her actions, and she shall act pursuant to the provisions of the law, the regulations and this procedure for the purpose of realizing their objectives.
- 4.3. The Commissioner is the entity responsible for handling sexual harassment and pestering in the University and therefore any functionary who has become aware of a concern of sexual harassment or pestering is precluded from handling such himself and shall refer the handling to the Commissioner.
- 4.4. The President, with the approval of the Governing Council and subject to a hearing, is permitted to cancel the appointment of the Commissioner or any of the deputies even prior to the conclusion of the term of the appointment.
5. **The roles of the Complaints Commissioner:**
 - 5.1. To recommend to the President in all matters relating to prevention of sexual harassment and pestering in the University and the handling of cases of sexual harassment and pestering as aforementioned.
 - 5.2. To receive complaints in the matter of sexual harassment or pestering and to investigate them for the purpose of providing recommendations to the President regarding methods of handling them.
 - 5.3. To give information, training and consultation to those approaching her.
 - 5.4. To guarantee, together with the Human Resources Division, to conduct information and training activities in the University as obligated by law.
6. **Handling a complaint:**
 - 6.1. **Submission of a complaint and its investigation:**
 - 6.1.1. A complaint regarding concern of perpetration of sexual harassment or pestering (hereinafter: "the complaint") shall be referred to the Commissioner.
 - 6.1.2. The complaint may be submitted by one of the following:
 - a. An injured party, as defined in Section 2 of this procedure.
 - b. Another on behalf of an injured party.
 - 6.1.3. The complaint can be submitted in writing or verbally. If a complaint is submitted verbally, the content shall be recorded by the Commissioner, and the complainant shall sign on the record to verify its content. The Complaints

Commissioner shall transfer to the complainant a copy of the written record.

- 6.1.4. The Complaints Commissioner shall inform the complainant as regards the methods of handling the sexual harassment or pestering pursuant to law, and this includes informing the complainant that sexual harassment constitutes a criminal and civil offence and that he is permitted, without any connection to the complaint, to file a complaint with the Police and/or a civil claim. In the case in which a report is made to the Commissioner as to concern of perpetration of sexual harassment or pestering and the reporter does not wish to file a complaint, the Commissioner shall inform the reporter regarding her duty to investigate, as far as possible, any concern of sexual harassment and even without a complaint being submitted the Commissioner shall inform the complainant that he is able (in the event that he wishes) to accept support during the investigation of the complaint by a University welfare officer (by means of the Human Resources Division) (if the complainant is an employee) or by the Psychology Service of the Students' Deanship (if the complainant is a student). The support shall include emotional support and academic assistance – inasmuch as required, and the option of presence during the investigation and in the disciplinary hearing (inasmuch as there shall be such). The duty of confidentiality shall be imposed on the supporting entities.
- 6.1.5. In the event that a complaint is submitted to the Complaints Commissioner, she shall initiate investigation of the complaint.
- 6.1.6. On receipt of the complaint the Complaints Commissioner shall summons the defendant, present to him the details of the complaint and shall request his response.
- In the event that the complaint has been submitted by one who is not the injured party – the Complaints Commissioner shall investigate the facts included in the complaint with the injured party prior to contacting the defendant.
- 6.1.7. For the purpose of investigating the complaint the Complaints Commissioner is permitted to summons to be examined by her one who could have information and/or a document regarding and which could relate to the complaint.
- Non-appearance for investigation and/or disclosure of information and/or transfer of false information and/or non-provision of assistance to the Complaints Commissioner in investigation of the complaint are disciplinary offences in the matter of the disciplinary regulations.
- 6.1.8. The Commissioner shall conduct the investigation immediately after its receipt, efficiently and consistently as far as possible until its completion.
- 6.1.9. Investigation of the complaint shall be carried out while protecting the dignity and privacy of the complainant, the injured party, the defendant and any other

individual; and *inter alia*, the Complaints Commissioner shall not disclose information that reached her during the investigation of the complaint unless she shall be required to do so for the purpose of the investigation itself or pursuant to any law.

- 6.1.10. The response of the defendant and any testimony given to the Commissioner shall be recorded by her and the defendant shall sign on the record to verify its content, and a copy of the record shall be transferred to him.
 - 6.1.11. If the Complaints Commissioner shall be of the opinion that the circumstances of the case require the service of an expert in an area requiring expertise for the purpose of investigating the complaint – she is permitted to request the services of the expert as aforementioned, including receipt of consultation from the University's Legal Department. The Commissioner shall not handle investigation of a complaint if she has a personal connection to the issue of the complaint or those involved in it.
 - 6.1.12. The Complaints Commissioner is permitted – and in the circumstances as aforementioned in Section 6.1.11 obligated – to impose the investigation of the complaint on the other Commissioner or her deputies; she is also permitted to order that the investigation of the complaint shall be before a panel of three which shall include herself, the other commissioner and deputy or himself and two of his deputies or three deputies of the Complaints Commissioner.
 - 6.1.13. If two of the Complaints Commissioners and their deputies shall be unable to investigate the complaint for any reason whatsoever, including due to circumstances as stated in Section 6.1.11 above – the complaint shall be presented for the investigation of the President; the President shall be permitted to investigate the complaint personally or to impose the investigation, after consultation with the Rector of the University and the CEO of the University, on another, including one who is not an employee.
 - 6.1.14. The President and one upon whom the investigation of the complaint is imposed as aforementioned in Sections 6.1.12 or 6.1.13 – shall have all the authorities awarded to the Complaints Commissioner and all the duties imposed on the Commissioner shall be imposed on him.
- 6.2. At the conclusion of the investigation the Complaints Commissioner shall submit to the President a summary in writing of the investigation of the complaint and shall detail her recommendations as regards the continued handling of it, including in the matter of each of the issues detailed in Section 7.1a of this procedure. The Commissioner shall add to her recommendation for the complaint, all the testimonies that were taken and any additional relevant information. If the defendant is a service provider, the Commissioner shall transfer her recommendation regarding the connection with the service provider including a request that he carry out disciplinary action.

6.3. Intermediate measures:

The Complaints Commissioner, in coordination with the President and the authorized authorities of the University, is permitted to order intermediate measures the objective of which is to protect the complainant, during investigation of the complaint, from harm to matters of employment or matters of study as a result of submitting the complaint, from harm that could interfere with the investigation of the complaint, or from any other harm within the framework of the employment relations or study relations, and to prevent harm to other people. *Inter alia* the Complaints Commissioner is permitted, in coordination as aforementioned, to distance the defendant from the complainant inasmuch as possible and inasmuch as she sees fit in the circumstances of the matter, and to order that the defendant or his representative /one who is associated with him shall not be involved – directly or indirectly in the decision making process relating to the complainant.

6.4. Archiving the complaint by the Complaints Commissioner:

6.4.1. The Complaints Commissioner is permitted to order the archiving of the complaint in the case of any of the following:

- a. If she has found that there is no substance to the claim.
- b. If the injured party has requested to cancel the complaint or not investigate it, on condition that the Complaints Commissioner is convinced that the request by the injured party was submitted of his own free will without coercion or other invalid influence, and is convinced that there is no substance to the complaint.

6.4.2. In the event that the Complaints Commissioner has decided to archive the complaint, she shall give a reasoned notice of such in writing to the injured party, to the complainant (if the complaint was submitted by a complainant who is not the injured party), to the defendant, and to the President of the University. In the event that the complaint was submitted by a complainant who is not the injured party, and the injured party has not given his consent as aforementioned in Section 6.1.6 above – the defendant shall not receive any notice, in the event that the decision to archive the complaint was made prior to a discussion with him.

6.5. The Commissioner, in consultation with the President, is permitted to offer the injured party and the defendant to conduct a mediation proceeding, before him or before another mediator. The mediation proceeding as aforementioned shall be carried out only after receipt of approval in writing from the injured party and the defendant in the circumstances in which the Commissioner has been convinced that no pressure was placed on any of the parties to agree to the mediation.

7. **Taking measures:**

8. When the Complaints Commissioner transfers to the President of the University her conclusions and recommendations – the President shall decide as to implementing his authorities as regards each of the follows:

- (1) Provision of instructions to the parties involved, including rules of appropriate conduct, distancing the defendant from the injured party, taking the measures required in order to prevent recurrence of the act of sexual harassment or pestering and/or in order to repair the harm that was caused to the injured party due to the harassment or the pestering;
- (2) Initiating disciplinary proceedings pursuant to the disciplinary regulations;
- (3) Not taking any measures whatsoever
 - a. The President shall transfer a reasoned notice in writing as to his decision as aforementioned in Subsection a above to the injured party, to the complainant (if the complaint was submitted by a complainant who is not the injured party), to the defendant and the Complaints Commissioner. The President shall also enable the complainant and the defendant to study the conclusions and recommendations of the Complaints Commissioner.
 - b. The President is permitted, due to a change in circumstances, to change his ruling pursuant to Subsection a above or to stay their execution, and if he did so – he shall transfer a reasoned notice of such in writing to those noted in Subsection b above.
 - c. The President is permitted to postpone the provision of the decision as aforementioned in Subsection a above, to stay the execution or change it due to disciplinary or legal proceedings derived from the matter of the complaint, and if he has done so – he shall give a reasoned notice for such in writing to those noted in Subsection b above.
 - d. If the President used his authority pursuant to Subsection b above – he shall be permitted to order the taking of intermediate measures as stated in Section 6.3 above, and he shall be permitted to cancel the intermediate measures ordered by the Complaints Commissioner, to amend them, to object to them, to add to them or to determined in their place other measures.
 - e. The President shall not be obliged to accept the recommendations of the Complaints Commissioner.
 - f. The President has all the authorities awarded to the Complaints Commissioner pursuant to Section 6.1.7 above.
 - g. In the event that the President is of the opinion that the investigation was not exhausted by the Complaints Commissioner = he shall be permitted to return the matter for the investigation of the Complaints Commissioner to complete the investigation.

- 8.1. The President is permitted to delegate his authorities pursuant to this procedure – in entirety or in part, whether in general or in a certain case or a certain type of cases – to another, apart from the Commissioner.
- 8.2. The decision of the President shall be given within 30 days from receipt of the recommendation of the Commissioner unless there were special circumstances which obligate a postponement and these shall be stated in the body of the decision.

9. **The disciplinary process:**

- 9.1. If it has been decided to open a disciplinary process against the defendant – the Complaints Commissioner shall transfer to the complainant/plaintiff involved all the relevant material to the complaint. In the event of need the Complaints Commissioner shall assist the complainant/plaintiff in preparation of the file.
- 9.2. On opening the disciplinary process against the defendant, the process shall be administered pursuant to the disciplinary regulations imposed on the defendant in an authorized disciplinary judicial court to hear the matter of the defendant.
- 9.3. On opening of the disciplinary process, the defendant shall be entitled to receive, at his request, any investigative material which was collected by the Complaints Commissioner within the framework of the investigation.
- 9.4. When a disciplinary process is opened against the defendant – the authority is granted to instruct on taking intermediate measures as aforementioned in Section 6.3 above to a lawfully sitting panel, and it shall be permitted to cancel the intermediate measures about which the Complaints Commissioner instructed pursuant to Section 6.3 or the President pursuant to Section 7.1e, to amend, object, add to or determine other measures in their place.
- 9.5. In the event that within the framework of the disciplinary law an option shall be raised to make a plea bargain with the defendant, this shall be carried out only after hearing the position of the injured party.
- 9.6. If the defendant shall be convicted of perpetration of an offence of sexual harassment and/or pestering in a disciplinary proceeding – he shall be punished as determined in the disciplinary regulations and/or the following punishments: a written or verbal caution, a reprimand, payment of monetary compensation to the injured party, suspension from work for an allocated period of time, distancing from studies for an allocated period of time or in perpetuity, dismissal with/without severance pay, with/without pension, with/without a grant.

9.7. ...

- a. The hearing for a disciplinary proceeding shall take place *in camera*.
- b. During the hearing no identifying details regarding the injured party shall be published which shall be disclosed within the framework of the disciplinary proceeding.
- c. Subject to the aforementioned in Subsection c above, publication of the ruling in a disciplinary proceeding shall be given to the discretion of the Court, which shall be directed to act pursuant to publication of peremptory rulings, while redacting details which could lead to identification of the injured party, unless it shall be decided, for reasons that shall be detailed, that in the circumstances of the matter the ruling or parts of it – shall be confidential.

10. **Rights of the injured party:**

Without diminishing from all that stated in this procedure, the injured party shall be entitled:

- 10.1. To receive information about his rights within the framework of the investigation and the disciplinary proceeding or any other proceeding relating to the complaint, and information as to the administration of the disciplinary proceeding.
- 10.2. To study the disciplinary complaint – inasmuch as it shall be submitted and to be present, subject to approval by the disciplinary court pursuant to the relevant disciplinary regulations, at the disciplinary hearing.
- 10.3. Anyone accompanying the injured party shall be permitted to be present in the investigation with the Commissioner. The injured party shall be directed to maintain confidentiality in regard to all the investigation and disciplinary proceedings.

11. **A futile complaint and assistance in a futile complaint:**

Submission of a futile complaint, transfer of false information in support of a futile complaint or other assistance in a futile complaint constitutes a grave disciplinary offence in the matter of the disciplinary regulations and/or the punishments as stated in Section 8.6 of this procedure.

12. **Information and educational actions:**

The University shall take action to conduct information and educational actions for prevention of appearances of sexual harassment and pestering in general, and within the framework of the workplace or studies – in particular.

VP Human Resources – regarding employees and the Dean of Students – regarding students –

on consultation with the Complaints Commissioner – are responsible for execution of this provision, and for publication of these regulations by way of hanging them on notice boards in the University campus.

13. **General instructions:**

The Commissioner shall collect and collate the data regarding complaints that have been submitted to her within the framework of her position and shall submit to the President of the University an annual report regarding the scale of the sexual harassment and pestering phenomenon in the University. The Commissioner's report shall be submitted to the Council for Higher Education and to the Knesset Committee for Promotion of the Status of Women and Gender Equality. The Governing Council shall hold a meeting once a year with the participation of the Commissioner. The Commissioner's report shall be published on the University's internet website.

Every employee and every student is entitled, at his request, to receive from the Complaints Commissioner a photocopy of the law, the regulations and this procedure which shall be published on the Commissioner's website.

14. **Validity of the procedure:**

In the event that there is a contradiction between the provisions of this procedure and the provisions of the disciplinary regulations, the provisions of these regulations shall prevail. This procedure shall be added to the provisions of the law and shall not subtract from them.

15. **Application of the procedure:**

This procedure is valid from the date of its publication, and it cancels any previous procedures dealing with the prevention of sexual harassment including Procedure No. 05-059 of March 2009.

(signature)

Mr David Bareket
Deputy President and CEO