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## **Prevention of Sexual Harassment Directive**

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**Appendices:** A. Prevention of Sexual Harassment Law, 5759-1998  
B. Employment (Equal Opportunities) Law, 5748-1988  
C. Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998

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### **1. Purpose:**

Sexual harassment and sexually motivated prejudicial treatment undermine human dignity, liberty and privacy and gender equality, and since the coming into force of the Prevention of Sexual Harassment Law, 5759-1998 on 29<sup>th</sup> Elul 5758 (20<sup>th</sup> September 1998), they also constitute criminal actions and grounds for a claim in tort. Sexual harassment and prejudicial treatment are also serious disciplinary offences under the Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998.

The purpose of this Directive is to ensure that Ben-Gurion University of the Negev serves as a workplace and study environment which is free of sexual harassment, to prevent professional conflicts of interest and exploitation of relationships of authority, and to avoid the harm that may be done to the educational and learning process as a result of intimate relations between a teacher and a student in the University.

Any words appearing in this Directive in the masculine or the female gender shall be regarded as applying to members of both sexes.

### **2. Definitions:**

**For the purposes of this Directive -**

<b>"University"</b>	Ben-Gurion University of the Negev
<b>"The Law"</b>	The Prevention of Sexual Harassment Law, 5759-1998 and the Employment (Equal Opportunities) Law, 5748-1988, which are attached herewith as an integral part of this Directive.
<b>"The Regulations"</b>	The Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998, which are attached herewith as an appendix and constitute an integral part of this Directive.
<b>"Sexual harassment"</b>	<a href="#">As defined in section 3(a)</a> of the Prevention of Sexual Harassment Law and as defined in section 7 of the Employment (Equal Opportunities) Law which are referred to above, on the part of an employee, student or

	service provider towards another at the place of work or study.
<b>"Prejudicial treatment"</b>	<a href="#">As defined in section 3(b)</a> of the Prevention of Sexual Harassment Law <a href="#">and as defined in section 7 of the Employment (Equal Opportunities) Law</a> which are referred to above, on the part of an employee, student or service provider towards another at the place of work or study.
<b>"The place of work or study"</b>	The University and its facilities, or another place in which activities are conducted on behalf of the University, including activities for the community, activities of social involvement and other activities on behalf of the University even if they do not entail work or study; during work or study; while exploiting a work or study relationship of authority, in any place.
<b>"Relationship of authority"</b>	Any relationship which facilitates direct or indirect influence by a person in authority on a person whose status, conditions and affairs may be influenced by the person in authority.
<b>"Relationship of academic authority"</b>	A relationship of academic authority includes, inter alia: direct tuition (participation in a course delivered by the teacher in an exercise/laboratory/work instruction), instruction of research students, granting of scholarships, academic prizes or other benefits, membership of committees in which the student's affairs are discussed, and taking part in any action which determines or has any impact on the affairs of the student in question.
<b>"Victim"</b>	A person who claims that he was sexually harassed or prejudicially treated at the place of work or study.
<b>"Complainee"</b>	A person who is accused of performing an act of sexual harassment or prejudicial treatment and who on the date of the incident was an employee, student or service provider.
<b>"The Complaints Commissioner"</b>	The Sexual Harassment Complaints Commissioner.
<b>"Employee"</b>	A member of the University's academic, administrative or technical staff, as well as anyone employed by the University, including a temporary employee, a provisional employee, a permanent employee, an employee working under a personal contract, a retired employee who continues his activities in the University or remains in its facilities, and anyone working for or on behalf of the University as part of the regular internal system and including an employee of a manpower contractor.
<b>"Service provider"</b>	A person, other than an "employee" as defined above, who provides a service to the University or an employee or person acting under the authority, in the name or on behalf of such a service provider.
<b>"Student"</b>	A person who on the date of the incident was in one of the following categories: <ul style="list-style-type: none"> <li>- He has registered for studies in the University and been accepted by it as a student including for studies in preparatory programs and within special study</li> </ul>

	<p>frameworks, from the time of registration and as long as he is registered as a student, including on study vacations.</p> <ul style="list-style-type: none"> <li>- He had applied to be accepted as a student and his application was rejected, from the time of registration until receipt of the rejection notice.</li> <li>- He had graduated but not yet received a certificate.</li> </ul>
<b>"The Disciplinary Rules"</b>	The Disciplinary Rules which apply to the complainee.
<b>"The Disciplinary Authorities"</b>	As defined in the Disciplinary Rules.
<b>"Support team"</b>	Staff members and students who shall be appointed by the Directorate in order to provide academic, vocational and psychological support and assistance to any victim who chooses to receive it.

**3. Sexual harassment and prejudicial treatment are prohibited and constitute a serious disciplinary offence**

- 3.1.** Sexual harassment or prejudicial treatment as defined in the Law or within the meaning of this Directive are improper and prohibited acts.
- 3.2.** Sexual harassment or prejudicial treatment within the meaning of this Directive constitute serious offences under the Disciplinary Rules.
- 3.3. Intimate relations where a relationship of authority exists:**
- 3.3.1. Within the framework of a relationship of authority:** Consensual intimate relations between adults are the private matter of those involved in the matter, and are of no interest to the University as a public institution. However, the existence of intimate relations within the framework of a relationship of authority constitutes a conflict of interest, and establishes a presumption of improper exploitation of authority. It is appropriate that a person in authority in the University refrain from engaging in intimate relations within the framework of a relationship of authority, however, should intimate relations develop as aforesaid, then the person in authority must report them immediately to his supervisors, so that the supervisor can act to correct the relationship of authority by moving one of the couple to another position or unit, or in any other way, while taking care to prevent his subordinate, in so far as possible, from being detrimentally affected, acting in coordination with him and giving consideration to his needs.
- 3.3.2. Within the framework of a relationship of academic authority:** Where a relationship of academic authority exists, maintaining intimate relations is strictly prohibited. Without derogating from the said prohibition, should an intimate relationship develop as aforesaid, then the teacher shall be obliged, while making proper disclosure, to inform the academic department/unit in which he is employed in advance, to sever immediately any relationship of academic authority with the student, or to ask the

aforementioned academic department/unit in advance to act in order to sever that relationship of authority, inter alia, by finding an alternative course for the student, replacing the course tutor, transferring the test or work to be marked or graded by another teacher, or in any other way, while taking care to prevent harm to the student.

- 3.3.4. Should a relationship of authority exist, including academic authority, the person in authority must make proper disclosure, and in the wake thereof suspend his participation in a discussion dealing with subordination.
- 3.3.5. Noncompliance with the provisions of paragraph 3.3 above constitutes a disciplinary offence.
- 3.3.6. The provisions of this paragraph do not apply to spouses or cohabitantes who are subject to the directive regulating the employment of relatives at the University.

#### **4. Appointment of the Complaints Commissioner:**

- 4.1. The University shall appoint 2 Prevention of Sexual Harassment Commissioners (preferably women) (one from the senior academic staff and the other from the administrative-technical staff, and both of whom have tenure at the University) and their Deputies (preferably men), as prescribed in paragraph 4 of the Regulations. The Commissioners and their Deputies shall be chosen as follows: The President shall establish a 4-member Search Committee comprising of a representative of the senior academic staff, a representative of the administrative and technical staff, a representative of the junior staff and a student representative - each of whom shall be appointed by the Senate, the Director-General of the University, the Junior Staff Council and the Students Union - respectively, as the case may be. The Search Committee shall invite candidates from amongst the members of the senior academic staff and the members of the administrative and technical staff who have tenure with the University to present their candidacy for the Commissioner and Deputy Commissioner positions. The Committee shall recommend to the President candidates, and as far as possible multiple candidates, for each position. The President shall then choose the Commissioners and Deputy Commissioners from among the candidates recommended to him as aforesaid. The Commissioners and the Deputies shall undergo training in accordance with the requirements of the Law.  
The Deputies shall be appointed in such a way that on each campus of the University there shall be least one serving Deputy. The period of the Commissioners' and their Deputies' appointment shall be three years with the possibility of extending their tenure by additional periods. The names of the Commissioners and their Deputies shall be posted on the campus noticeboards and on the University's website.
- 4.2. The Commissioner shall act independently and in accordance with the provisions of the Law, the Regulations and this Directive, in order to realize their objectives.
- 4.3. The Commissioner shall be the party in charge of handling sexual harassment and prejudicial treatment within the University and therefore any officeholder who becomes aware of a suspected case of sexual harassment or prejudicial treatment

shall refrain from dealing with it himself and shall refer it to the Commissioner to handle.

- 4.4. The President, with the approval of the Executive Committee and subject to a hearing, may revoke the appointment of the Commissioners or any of their Deputies even before their tenure expires.

5. **The functions of the Complaints Commissioner:**

- 5.1. To make recommendations to the President regarding the prevention and handling of cases of sexual harassment and prejudicial treatment within the University.
- 5.2. To receive complaints of sexual harassment and prejudicial treatment and investigate them in order to make recommendations to the President regarding the ways of dealing with them.
- 5.3. To provide information, guidance and advice to those consulting with him.
- 5.4. To ensure, in collaboration with the Human Resources Department, that information and training activities are provided at the University as required by the Law.

6. **Handling of a complaint:**

6.1. **Submission and investigation of the complaint:**

- 6.1.1. A complaint of suspected sexual harassment or prejudicial treatment (hereinafter: "the complaint") shall be referred to the Commissioner.
- 6.1.2. The complaint may be submitted by one of the following:
  - A. A victim, as defined in paragraph 2 of this Directive, or his representative;
  - B. A third party who became aware of a case of sexual harassment.
- 6.1.3. The complaint may be the written record. submitted in writing or verbally. The contents of a verbal complaint shall be recorded by the Commissioner, and the complainant shall sign the recording to verify its content. The Complaints Commissioner shall give the complainant a copy of the written record.
- 6.1.4. The Complaints Commissioner shall inform the complainant of the ways in which sexual harassment or prejudicial treatment can be dealt with according to the Law, and that sexual harassment constitutes a criminal offence and a civil wrong and that he may, regardless of his complaint to her, file a complaint with the Police and/or a civil lawsuit. Should a suspected case of sexual harassment or prejudicial treatment be reported and the party who reported it does not wish to file a complaint, the Commissioner shall inform him of her duty to investigate, in so far as possible, any suspicion of sexual harassment even if no complaint was filed. The Commissioner shall inform the complainant that (should he so

wish) he may receive guidance from a Counsellor as specified in section 6.6 of this Directive.

**6.1.5.** Where a complaint has been submitted to the Complaints Commissioner, she shall open complaint investigation proceedings without delay.

**6.1.6.** Upon receipt of the complaint, the Complaints Commissioner shall summon the complainee, present to him the details of the complaint and request his response.

If the complaint was submitted by someone other than the victim, the Complaints Commissioner shall clarify the facts set out in the complaint with the victim before contacting the complainee.

**6.1.7.** For the purpose of investigating the complaint, the Complaints Commissioner may summon for questioning before her anyone who may have information and/or a document concerning or which may concern the complaint.

Failure to appear for questioning and/or failure to disclose information and/or the giving of false information and/or failure to provide assistance to the Complaints Commissioner in her investigation of the complaint constitute a disciplinary offence under the Disciplinary Rules.

**6.1.8.** The Commissioner shall conduct the investigation immediately after receiving the complaint, efficiently and, in so far as possible, continuously, until its completion. Except in exceptional cases which shall be specified by the Commissioner, the duration of a complaint investigation shall not exceed 30 working days from the date of on which the complaint was filed.

**6.1.9.** The investigation of the complaint shall be conducted while protecting the dignity and privacy of the complainant, the victim, the complainee and any other person, and inter alia, by the Complaints Commissioner not disclosing information received by her during the investigation of the complaint unless required to do so for the sake of the investigation itself or by law.

**6.1.10.** The complainee's response and any testimony before the Commissioner shall be recorded by her and the complainee shall sign the record to verify its contents and given a copy thereof.

**6.1.11.** Should the Complaints Commissioner be of the opinion that the circumstances of the case necessitate recourse to an expert on a particular subject in order to clarify the complaint - she may consult with such an expert, including obtaining advice from the University's Legal Department.

**6.1.11.** The Commissioner shall not investigate a complaint if he has a personal interest in the subject of the complaint or those who are involved in it.

**6.1.12.** The Complaints Commissioner may - and in the circumstances as stated in paragraph 11.1.6 shall be obliged to - assign the investigation of the complaint to the other Commissioner or to one of his Deputies and may likewise direct that the complaint shall be investigated by a panel comprising of three on which she, the other Commissioner and the Deputy or he and two of her Deputies, or three of the Complaints Commissioner's Deputies, shall serve.

**6.1.13.** Should the two Complaints Commissioners and their Deputies be unable to investigate the complaint for any reason, including due to the circumstances mentioned in paragraph 6.1.11, then the complaint shall be referred for clarification to the President, who may investigate it himself or, after consulting with the University's Rector and its Director-General, assign the investigation to another, including a person who is not an employee.

**6.1.14.** The President and whoever the investigation was assigned to as stated in paragraph 6.1.12 or 6.1.13 shall have all the competencies granted to the Complaints Commissioner and shall be bound by all the obligations imposed on the Commissioner.

**6.2.** At the end of the investigation, the Complaints Commissioner shall submit a written summary of the investigation of the complaint to the President and detail his recommendations regarding the continued handling thereof, including with regard to each of the matters specified in paragraph 1.7A of this Directive. The Commissioner shall attach to her recommendation the complaint, all the witness statements that were taken, and any other relevant information. If the complainee is a service provider, the Commissioner shall deliver her recommendation regarding the relationship with the service provider, including a requirement that disciplinary action be taken by him.

**6.3. Interim measures:**

The Complaints Commissioner, in coordination with the President and the competent authorities within the University, may order that interim measures be taken in order to protect the complainant during the investigation of the complaint, against harm to work or study matters as a result of filing the complaint, against harm which may frustrate investigation of the complaint, against other harm within the framework of an employer-employee or teacher-student relationship, and in order to prevent harm to other people. Inter alia, the Complaints Commissioner may, in coordination as aforesaid, as far as possible and as she deems appropriate in the circumstances, distance the complainee from the complainant and prohibit the complainee, anyone acting on his behalf/affiliated to him from being directly or indirectly involved in taking decisions which are related to the complainant.

**6.4. Dismissal of the complaint by the Complaints Commissioner:**

**6.4.1. The Complaints Commissioner may order the complaint to be dismissed in each of the following cases:**

- A. She found that the complaint was unfounded.
- B. The victim asked to withdraw the complaint or that it not be investigated, provided that the Complaints Commissioner is satisfied that the victim's request was submitted voluntarily without coercion or other improper influence and that the complaint was unfounded.

**6.4.2.** Should the Complaints Commissioner decide to dismiss the complaint, she shall give a written notice of this, setting out the reasons for her decision, to the victim, the complainant (if the complaint was filed by someone other than the victim), the complainee and the President of the University. Where the complaint was filed by someone other than the victim without the victim's consent as stated in paragraph 6.1.6 above - the Complaints Commissioner shall not give a notice to the complainee regarding dismissal of the complaint.

**6.5.** The Commissioner, in consultation with the President, may advise the victim and the complainee to participate in a mediation proceeding, before him or before another mediator. Such mediation proceeding shall only take place after written approval has been received from the victim and the complainee in circumstances in which the Commissioner was convinced that no pressure was exerted on either party to agree to mediation.

**6.6. Victim support:** Any victim who requests it shall be assisted by a member of the support team while the complaint is under investigation. The attendant shall help the injured party and may participate in any proceeding relating to the complaint. The attendant shall receive assistance and cooperation from the Human Resources Department, the Dean of Students, the Heads of Administration, the Deans and Heads of Departments (as applicable) in order to ensure that the victim receives appropriate academic, emotional and professional assistance. The members of the support team shall be obliged to keep their activities confidential.

## **7. Taking of Measures**

- 7.1. A.** After receiving the Complaints Commissioner's summary and recommendations, the President of the University shall decide to exercise the powers vested in him by doing each of the following:
- (1) Giving instructions to those involved, including regarding rules of proper conduct, distancing the complainee from the victim, and taking the steps required in order to prevent the act of sexual harassment or prejudicial treatment recurring and/or to rectify the harm that was caused to the victim as a result of the harassment or prejudicial treatment;
  - (2) Instigating disciplinary proceedings under the Disciplinary Rules;
  - (3) Refraining from taking any measure.
- B.** The President shall give a notice in writing setting out the reasons for his decision as stated in subparagraph A above, to the victim, to the complainant (if the complaint was submitted by someone other than the victim), to the



complainee and to the Complaints Commissioner, and shall allow the victim and the complainee to examine the Complaints Commissioner's summary and recommendations.

- C. Following a change in circumstances, the President may alter his decision under subparagraph A above or delay its implementation, in which case he shall give a written notice setting out his reasons for doing so to those enumerated in subparagraph B above.
- D. The President may defer the giving of his decision as stated in subparagraph A above, stay its implementation or alter it due to disciplinary or legal proceedings relating to the subject of the complaint, in which case he shall give a written notice setting out his reasons for doing so to those enumerated in subparagraph B above.
- E. Where the President exercised his authority under subparagraph D above - he may order the taking of interim measures as stated in paragraph 6.3 above, including the cancellation, alteration, qualification or augmentation of the interim measures ordered by the Complaints Commissioner, or their replacement with other measures.
- F. The President shall not be obliged to accept the Complaints Commissioner's recommendations.
- G. The President shall have all the competencies conferred on the Complaints Commissioner under paragraph 6.1.7 above.
- H. Should the President consider that the investigation had not been completed by the Complaints Commissioner, he may return the matter to the Complaints Commissioner to finish the investigation.

7.2. The President may delegate all or some of his competencies under this Directive - whether generally or in a particular case or particular type of case - to another person, excluding the Commissioner.

7.3. The President's decision shall be given within 10 working days of receiving the Commissioner's recommendation, unless due to special circumstances, which shall be stated in the body of the decision, a deferral is necessary.

## **8. The disciplinary procedure:**

- 8.1. Should it be decided to initiate a disciplinary proceeding against the complainee, the Complaints Commissioner shall forward to the complainant/claimant concerned all the material relevant to the complaint. If necessary, the Complaints Commissioner shall assist the complainant/claimant in preparing the case.
- 8.2. Upon commencement of the disciplinary proceeding against the complainee, it shall be conducted in accordance with the Disciplinary Rules applicable to the complainee in the disciplinary tribunal authorized to adjudicate the complainee's case.

All members of the disciplinary tribunals shall undergo training (at least) once a year in all aspects of the Prevention of Sexual Harassment Law, as well as in aspects of conducting internal disciplinary tribunals.

- 8.3. Upon commencement of the disciplinary proceeding, the complainee shall be entitled to receive, at his request, all the investigation material which was gathered by the Complaints Commissioner during the investigation.
- 8.4. Should a disciplinary proceeding be instituted against the complainee, the adjudicating panel shall be authorized to order interim measures as stated in paragraph 6.3 above and to annul, alter, qualify, supplement or replace the interim measures ordered by the Complaints Commissioner under paragraph 6.3 or the President under paragraph 7.1 E.
- 8.5. Should the possibility arise under the Disciplinary Rules for a plea bargain to be reached with the complainee, this shall only be done only after hearing the victim's position.
- 8.6. Should the complainee be convicted of committing an offence of sexual harassment and/or prejudicial treatment in a disciplinary proceeding - he shall be sentenced to the punishment prescribed in the Disciplinary Rules and/or to the following penalties: a written or oral warning, reprimand, payment of pecuniary compensation to the victim, suspension from work for a fixed period, removal from studies for a fixed period or permanently, dismissal with/without compensation, with/without a stipend and with/without a grant.
- 8.7.
  - A. The ruling in the disciplinary proceeding shall be given in camera.
  - B. During the hearing, no identifying detail regarding the victim which was disclosed during the disciplinary proceeding shall be published.
  - C. Subject to the provisions of subparagraph B above, the publication of the ruling in the disciplinary proceeding shall be subject to the discretion of the tribunal, which shall be instructed to publish peremptory rulings, while omitting details that may lead to identification of the victim, unless it should decide, for reasons that shall be specified, that the ruling or parts thereof, is to be kept confidential.

**9. The victim's rights:**

Without derogating from all the provisions of this Directive, the victim shall be entitled:

- 9.1. To receive information about his rights within the framework of the investigation and the disciplinary proceeding or any other proceeding connected to the complaint, as well as information about the conduct of the disciplinary proceeding.
- 9.2. To inspect the disciplinary complaint - should one be filed, and to be present, subject to the disciplinary tribunal's approval, during the disciplinary hearing.
- 9.3. The support team attendant or other person chosen by the victim shall be allowed to be present during the Commissioner's investigation. The victim, the attendant or

any other person as aforesaid shall be instructed to keep the entire investigation and disciplinary proceeding confidential.

**10. Submission and aiding of futile complaints:**

The submission of a futile complaint, the giving of false information in support of a futile complaint or other assistance to a futile complaint constitutes a serious disciplinary offense under the Disciplinary Rules, and a person convicted of such an offense in a disciplinary proceeding shall be liable to the penalty prescribed in the Disciplinary Rules and/or the penalties as stated in paragraph 8.6 of this Directive.

**11. Information and education activities:**

The University shall hold ongoing training and information activities, including seminars and dissemination of information on dealing with the sexual harassment phenomenon and ways to prevent it, and inter alia through distribution of courseware on the prevention of sexual harassment and these regulations, to the entire university population. Once every 3 years, the University's employees shall be obliged to attend a seminar or course on the subject of sexual harassment.

Without derogating from the generality of the foregoing, every bachelors and master degree student shall be obliged to take the sexual harassment course within the first 13 weeks from the start of his studies.

The VP of Human Resources - regarding the employees, and the Dean of Students - regarding the students, in consultation with the Complaints Commissioner, shall be responsible for implementing this Directive and for publishing these regulations by hanging them on the notice boards within the University campus.

These regulations shall be posted on the University's prevention of sexual harassment website in the Hebrew, English and Arabic languages. The VP of Human Resources shall be responsible for posting the identity of the Commissioner and Deputy Commissioners and their contact details on the University's website and noticeboards.

**12. General provisions:**

The Commissioner shall collect and gather data on complaints submitted to her within the framework of her work and shall present an annual report to the President of the University regarding the incidence of sexual harassment and prejudicial treatment within the University. The Commissioner's report shall be submitted to the Council for Higher Education and the Knesset Committee for the Advancement of the Status of Women and Gender Equality. The Executive Committee shall hold a discussion once a year with the participation of the Commissioner. The Commissioner's report shall be published on the University's prevention of sexual harassment website and the Commissioner shall present it to the Senate and the Executive Committee once a year.

Every employee and every student shall be entitled, at his request, to receive from the Complaints Commissioner a photocopy of the Law, the Regulations and this Directive shall be published on the Commissioner's website.

**13. Validity of the Directive:**

Should there be any discrepancy between them, the provisions of this Directive shall

override the provisions of the Disciplinary Rules.

**14. Commencement of the Directive:**

This Directive shall come into force on the date of its publication and shall revoke any previous directive dealing with sexual harassment, including Directive No. 05-059 from March 2009.

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**Mr. David Bareket**  
**Vice President and Director-General**