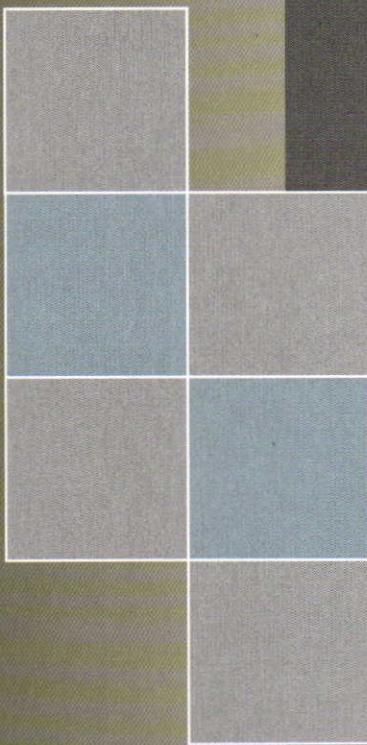


POLICY GUIDELINES AGAINST SEXUAL HARASSMENT IN INSTITUTIONS OF HIGHER LEARNING



**Government of Pakistan
Higher Education Commission
Islamabad**

TASK FORCE

(For Policy Guidelines Against Sexual Harassment In Institutions Of Higher Learning)

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We also thank the staff of HEC who assisted in preparing, formatting and editing the policy guidelines.

We are especially grateful to Dr. S. Sohail H. Naqvi and the esteemed members of the "Commission" for their unrelenting support for devising the policy guidelines.

STATEMENT BY THE TASK FORCE

We, the members of HEC's Task Force on formulation of guidelines for prevention of sexual harassment in Higher Educational Institutions (HEI's) hereby state for the record that the document was developed after detailed deliberation and consultation (with students, faculties, VC's, HEC members) and was formulated keeping in view the autonomous organizational and administrative framework of the Universities of Pakistan as well as the standard practices followed by the universities all over the world. In view of the "Protection Against Harassment of Women at Workplace Act 2010", it is strongly felt that it should be adopted for immediate implementation by the HEI's in its present form.

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PREAMBLE TO GUIDELINES

HEI's are dedicated to the pursuit and dissemination of knowledge. Their members enjoy certain rights and privileges essential to these twin objectives. Central among these rights and privileges is the freedom, within the law, to pursue what seem to them fruitful avenues of inquiry; to teach and to learn unhindered by external or non-academic constraints; and to engage in full and unrestricted consideration of any opinion. This freedom extends not only to members of the HEI's but to all who are invited to participate in its forum. All members of the HEI's must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom. Behavior which obstructs free and full discussion, not only of ideas which are safe and accepted but of those which may be unpopular or even abhorrent, vitally threatens the integrity of the HEI, and cannot be tolerated.

Suppression of academic freedom would prevent the HEI from carrying out its primary functions. In particular, as an autonomous institution HEI is protected from any efforts by the state or its agents to limit or suppress academic freedom. Likewise, neither officers of the HEI nor private individuals may limit or suppress academic freedom.

The common good of society depends upon the search for knowledge and its free exposition. Academic freedom does not require neutrality on the part of the individual; on the contrary, academic freedom makes commitment to a position or course of action possible. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge.

Ideally, the Higher Education Institutes (HEIs) are places where administrators, faculty, employee/staff, and students (all levels/categories) work and learn in an environment free from intimidating, offensive, and hostile behaviors. Sexual harassment vitiates such an environment. Therefore, each member of the HEI campuses must have mechanisms to provide their members with the opportunity to develop intellectually, professionally, personally, ethically, morally and socially in an environment free of intimidation and harassment.

1.0 POLICY STATEMENT

- 1.1 Sexual harassment is prohibited at HEI and constitutes a punishable offence under this policy
- 1.2 In much as sexual harassment is demeaning to human dignity and is unacceptable in a healthy work environment specifically one in which scholarly pursuit may flourish, HEI will not tolerate the sexual harassment of any member of the HEI community and will strive through education and deterrence to create an environment free from such behavior on its premises.
- 1.3 HEI affirms the right of every member of its constituencies to live, study and work in an environment that is free from sexual harassment. Behavior constituting sexual harassment as defined in this document is incompatible with standards of professional ethics and with behavior appropriate to an institution of higher learning.
- 1.4 HEI recognizes that as an academic and free community it must uphold its fundamental commitments to academic freedom along with freedom of expression and association. It will maintain an environment in which students and teaching and non-teaching staff can engage in free enquiry and open discussion of all issues without intimidation and harassment of others. The Harassment Monitoring Officer, like all other officers of the HEI, is obliged to uphold the same principles.
- 1.5 An academic and free community must also include freedom of movement and freedom of access to facilities and resources without fear of harassment, discrimination or violence
- 1.6 All persons entrusted with authority by the HEI have a particular obligation to ensure that there is no misuse of that authority in any action or relationship.
- 1.7 Sexual harassment is a serious human rights issue. It can be exacerbated by discrimination on other grounds of vulnerability such as gender, poverty, disability, race, religion, ethnic origin or sexual orientation.
- 1.8 The HEI recognizes its legal and moral responsibility to protect all of its members from sexual harassment and to take action if such harassment does occur. To these ends it has developed a policy on, and procedures for, dealing with complaints of sexual harassment, including a range of disciplinary measures up to and including dismissal. It has also established an educational program to prevent incidents of sexual harassment
- 1.9 The HEI prohibits reprisal or threats of reprisal against any member of the HEI community who makes use of this policy or participates in proceedings held under its jurisdiction. Any individual or body found to be making such reprisals or threats will be subject to disciplinary action
- 1.10 The intention of this policy and its procedures is to prevent sexual harassment from taking place, and where necessary to act upon complaints of sexual harassment promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned.
- 1.11 All administrators, deans, managers, department chairs, directors of schools or programs and others in supervisory or leadership positions have an obligation to be familiar with and to uphold this policy and its procedures along with informing members of their staff about its existence
- 1.12 Notwithstanding this policy, individuals have the right to seek the advice and services of the Higher Education Commission's cell for prevention of sexual harassment.
- 1.13 All the actions categorized as sexual harassment when done physically or verbally would also be considered as sexual harassment when done using electronic media such as computers, mobiles, internet, e-mails etc.

2.0 WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a reality which occurs in the classrooms, offices, research laboratories, and HEI environment in general. Sexual harassment may be overt or subtle, and can range from visual signals or gestures to verbal abuse to physical contact along with hand or sign language to denote sexual activity, persistent and unwelcome flirting. Sexual Harassment generally takes place when there is power or authority difference among persons involved (Student/Teacher, Employee/Supervisor, Junior Teacher/Senior Teacher, Research Supervisee/Supervisor).

Further, this also involves treating others unequally on the basis of gender in work-related or academic duties or programs and not providing female students with the same academic opportunities as male students or vice versa; this is also applicable to same sex harassment (male /male, female/female)

The types of behavior constituting sexual harassment may vary in degree of severity. Its definition always has one key element: the behavior is uninvited, unwanted, and unwelcomed.

Sexual harassment in higher education is not a new issue, but has until recently been a hidden silent one. During the last few years, HEI personnel from administrators and faculty to employees and students have recognized the problem in terms of its lost productivity, time consumption, and legal implications (in addition to visible/invisible damage to the victim).

In institutions of higher education, both the offender and the offender's Supervisors/Chairperson/Directors/Institutional Heads can be held liable for acts of sexual harassment.

As HEI, its employees, and students must be aware of the need for freedom of inquiry and openness of discussion in its educational and research programs where they must also strive to create and maintain an atmosphere of intellectual decorum and mutual tolerance in which these essential features of academic life can thrive. No HEI can or should guarantee that every idea expressed in its classrooms or laboratories will be inoffensive to all; pursued seriously, education and scholarship necessarily entail raising questions about received opinions and conventional interpretations. HEI does guarantee, however, that credible accusations of inappropriate sexual remarks or actions will be investigated promptly, thoroughly, and fairly

Once a person in a position of authority at an HEI has knowledge, or should have had knowledge, of conduct constituting sexual harassment, the HEI is exposed to liability. Therefore, any administrator, supervisor, manager or faculty member who is aware of sexual harassment and condones it, by action or inaction, would be held responsible for negligence towards maintaining sexual harassment free campus.

In contrast with sexually harassing conduct, personal relationships among consenting adults of the HEI community which do not breach the social and cultural norms of the society and occur outside the HEI's working environment are, in general, a private matter. There are occasions, however, when the interests of the HEI may be seriously implicated in these relationships, particularly where the HEI relies on its employees to make judgments about others. If two people are in a sexual relationship and in a student/ academic staff member or supervisee/supervisor relationship, then they must take steps to ensure that the conflict of interest created by such a situation is removed in all evaluations. Supervisors should never evaluate alone the work performance/promotion/annual evaluation of those with whom they are involved in intimate relationships. If they fail to take such steps and a conflict of interest is created, this will be a violation of the HEI's Code of Ethics.

In Pakistani Universities relationships with a difference in power and authority can seriously affect the institutional working as well as the credibility of all involved.

3.0 STATEMENT OF PRINCIPLES

- Sexual harassment is offensive sexual behavior by persons in authority towards those who can be benefitted or injured in an official capacity. Therefore, it is primarily an issue of abuse of power, not sex.
- Sexual harassment is a breach of a trusting relationship that should be a sex-neutral and relaxed situation. It is unprofessional conduct and undermines the integrity of the employment relationship.
- Sexual harassment is coercive behavior, whether implied or actual. It is unwanted attention and intimacy in a nonreciprocal relationship.
- Sexual harassment is a violation of professional ethics.

4.0 IN GENERAL: SEXUAL HARASSMENT DEFINED

Unwanted sexual advances;

- Unwelcome requests for sexual favors; and
- Other behavior of a sexual nature where:
 - A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a HEI-sponsored educational program or activity;
 - B. Submission to or rejection of such conduct by an individual is used as a basis for academic or employment decisions affecting that individual;
 - C. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.

5.0 LISTING OF SEXUAL HARASSMENT IN HEI'S

(Actual reported cases)

- Asking female students to visit personal offices of their supervisors/authorities in-charge after office hours to discuss their grades and assignments.
- Asking female students to meet supervisors/authorities in-charge out of the HEI premises with the promise of improvement in grades.
- Financial and sexual gratification from graduate students (PhD, MPhil, Masters) by their supervisors.
- Intimidation of faculty/staff by students/colleagues in order to tarnish the reputation (character assassination) of faculty/staff.
- Harassment by senior students of the junior students, female students or minority students.
- Unwelcome sexual advances —whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life;

- Comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess; Displaying sexually suggestive objects, pictures, or cartoons;
- Unwelcome staring, whistling, brushing against the body, sexual gestures, or suggestive or insulting comments
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities (even if males are discussing this, it is done deliberately in front of female students or colleagues)
- Using derogatory abuses which refer to mother or sister bodies
- Acts of sexual connotation relating to the same, as a common usage in conversation
- Forcing students to publish their research work in Supervisor's name

6.0 SEXUAL HARASSMENT: TYPES AND EXAMPLES

(Actual reported cases)

6.1 By Teacher

- Male Teacher asked the Female student, if you want "A" grade, you need to take your final exam at my home.
- Male head of the department forced the female subordinate employee that if she wants her contract extended she needs to spend time with him after office hours
- Male HOD deliberately touching or hitting the body of female employee by file or pen/pencil.
- Male Teacher's referring to female bodies and reproductive cycles to embarrass female students during class lectures.
- Various complaints recorded of staring at female students especially at their bodies
- Needy female students were given financial support by Faculty member in exchange for sexual favors
- Students complaints of teacher telling vulgar jokes during classes which have sexual innuendos
- Complaints against male supervisor/teacher spending long hours locked away in office with a young female colleague or student

6.2 By Students

- Female student dressing or behaving provocatively while in a meeting or in the presence of the male faculty or supervisor in a one-to-one situation.
- Female student asked the teacher to provide the final grade list of all students. When the teacher refused to do that, the student registered a complaint against the teacher that he tried to hold her hand in parking lot while asking her to meet in private for grade list.
- Female student visiting male teacher in his office unnecessarily and spending long hours and initiating intimacy for benefits (of grades, employment or even monetary).
- Students sending in written notes, letters, emails with requests for intimacy- in exchange for grades
- Character assassination of female teachers to gain political, academic, or financial gains (case of specific HEI teacher who was removed from duty because of harassment by politically motivated students).

- Dressing culturally inappropriately to emphasize body parts (both males/females)

6.3 By Employees

- Using vulgar language to address females (student, faculty and other employees)
- To touch their intimate parts in the presence of women
- Younger faculty member was blocked by Dean of the relevant faculty to get higher education (PhD/Phil).
- Junior faculty was transferred to other department against their will by the authorities as punitive measure for not complying with undue request for (sexual) favors
- Administrative Staff asking the female students to pay them for providing the students for their documents in time,
- Giving extra favors to young female faculty/staff in nominating their names for international/domestic trips for their attention.
- Threatening the females students by using forge/fake documents and pictures to black mail them into compliance.
- Anonymous letters/pamphlets/e-mails defaming or character assassinating of employees/teachers/students.
- Providing material to newspaper/magazine to tarnish the reputation of faculty/employee/students.

7.0 JURISDICTION

- 7.1 For the purpose of this policy, members of the HEI are defined as all administrative, research, teaching and non-teaching employees of the HEI as well as students (including interns and residents) of the HEI. It is mandatory to treat all complaints and identity of complainants as highly confidential where high confidentiality shall be maintained throughout the process.
- 7.2 This policy applies to all members of the HEI community, to those with whom the HEI does business and to any person on HEI property (including contractors who are involved in any business- catering, hostels, or construction etc)
- 7.3 This policy affects the terms and conditions of employment of faculty of the HEI. As such, it is subject to discussion and/or approval in accordance with the HEI policy entitled, the final decision would rest with the HEI authority as designated in the Act and Statutes
- 7.4 Nothing in this policy is meant to supersede the terms and conditions of any collective agreement, or any other contractual agreement, entered into by the HEI and its employees
- 7.5 The following individuals or bodies may initiate a complaint:
 - 7.5.1 Any member of the HEI, on his or her own behalf.
 - 7.5.2 The HEI, on behalf of one of its members
 - 7.5.3 Persons seeking to become members of the HEI in circumstances directly affecting their application to become a member
 - 7.5.4 Former members of the HEI in circumstances directly affecting their dismissal or withdrawal from the HEI
 - 7.5.5 Individuals employed by companies holding contracts with the HEI while fulfilling the terms of the contract; or

- 7.5.6 Invited visitors.
- 7.6 The following individuals or bodies may be the subject of a complaint:
- a. Any member(s) or employee(s) of the HEI; or
 - b. Others on HEI property.
- 7.7 Complaints may be made about any alleged violation of this policy that takes place on HEI premises, be they rented or owned, or in the course of any activities conducted by or on behalf of the HEI on other premises.
- 7.8 The HEI will inform all external agencies who do business on the HEI campus of the existence of the Sexual Harassment Policy.
- 7.9 Students engaged in HEI-sanctioned academic activities on premises off-campus (placement, internship, practicum, research) will have access to the provisions of the policies of the hiring or supervisory agencies, where such policies exist, and/or of the HEC. Students at off-campus placements may seek advice from the HEI Sexual Harassment Office.

8.0 ASSURANCE OF FAIR TREATMENT

- 8.1 The complainant, the respondent, and any other parties to proceedings under this policy are to be treated fairly
- 8.2 This may involve the making of special arrangements, two examples of which are described below
- 8.3 Where the complainant at the time of making a complaint is either a student or instructor of the respondent, the HEI may, in appropriate circumstances, after the respondent has been informed that a complaint has been made, and after receiving recommendations from the Harassment Monitoring Officer, make arrangements with the appropriate administrator for certain work and examinations of the student to be supervised and evaluated by a neutral person
- 8.4 Where the complainant is a staff member whose performance is normally evaluated by the respondent, the complainant is to receive fair employment treatment and protection from adverse employment-related consequences during the procedures of this policy. To that end, the HEI may, after the respondent have been informed that a complaint has been made, and in consultation with the complainant:
- 8.4.1 have the complainant's performance assessed by another administrator, where practicable
 - 8.4.2 temporarily reassign the complainant until the complaint is resolved; or
 - 8.4.3 Delay the complainant's performance appraisal and/or awarding of merit pay until the complaint is resolved, in which case subsequent payment for merit shall be retroactive to the date it would normally have been received and interest shall be paid on the amount owed.
- These assurances shall also be offered to any witnesses in a case.
- 8.5 Should any special arrangement of the type described in **clause 8.2** above be required, the Harassment Monitoring Officer shall, after the respondent has been informed that a complaint has been made, make the request for the special arrangement of the appropriate HEI administrator, and shall provide the administrator with any details of the complaint necessary to enable the administrator to decide what special arrangements are appropriate. The administrator shall treat in confidence all information provided by the Harassment Monitoring Officer.

9.0 PROCEDURES - GENERAL PRINCIPLES FOR PROCEDURES

- 9.1 All persons who allege gender discrimination or sexual harassment under the provisions of this policy must be advised to contact the Harassment Monitoring Officer (HMO). This provision will ensure that all such complainants will have access to a common source of consistent and expert advice and that reliable data may be gathered on the incidence of discrimination and harassment in the HEI community. In the event that a complainant is reluctant to contact the Officer, the complainant may contact a trained or qualified individual or the employment supervisor, manager, Department Chair or Dean. It will be the responsibility of the individual contacted to report the case to the Harassment Monitoring Officer without identifying either the complainant or the alleged offender and to ask for advice on procedure and policy from the Officer to effect a solution, if a solution is necessary.
- 9.2 In the event that the actual case is not referred to the Harassment Monitoring Officer, the individual responsible for the case shall adhere as closely as possible to the policies and procedures of this document. If a complainant chooses not to consult the Officer, but wishes a formal hearing, the complainant shall be directed to file a written request with the secretary of the Syndicate/Executive Council/Board of Governors.
- 9.3 The Harassment Monitoring Officer (HMO) is an employee of the HEI. He/She will be appointed by Syndicate/Executive Council/Board of Governors where he/she is responsible for the application of this policy as herein defined. To this end, the Officer will develop tools/techniques/procedures educational programs by consulting HEI's authority and experts to promote awareness of sexual harassment, and to foster an environment free of sexual harassment in the HEI community, and will carry out complaint resolution. The Harassment Monitoring Officer shall act as an impartial counselor and advisor to any member of the HEI community and maintain a fair and unbiased attitude to all complaints, and to all parties to complaints, at all times. He/She will have a minimum experience of 10 years of service within HEIs and bear sound reputation.
- 9.4 Confidentiality shall be enjoined on the Harassment Monitoring Officer, and supervisory personnel working in concert with the Harassment Monitoring Officer. This does not preclude the discreet disclosure of information in order to elicit the facts of the case, or to implement and monitor properly the terms of any resolution.
- 9.5 The Harassment Monitoring Officer and supervisory personnel working in concert with the Harassment Monitoring Officer will be subject to administrative disciplinary action for inappropriate breaches of confidentiality on their part.
- 9.6 Should the complainant, with respect to the subject matter of a complaint being dealt with under this policy, prefers to seek redress in the courts, proceedings under this policy will be permanently discontinued and any new proceedings under this policy in relation to the incident in question will be barred.
- 9.7 The complainant and the respondent may at any stage of any of the procedures outlined in this policy be represented and/or accompanied by another person of her/his choice.
- 9.8 Failure to comply with a resolution agreed upon or imposed as a result of the procedures within this policy may result in disciplinary action by the HEI.
- 9.9 If, during the informal stages of complaint resolution, the Harassment Monitoring Officer determines that the complaint is frivolous, vexatious or entirely without factual basis, the Officer will advise the complainant and the respondent (if previously informed of the complaint) of this fact, in writing, and will provide reasons for this conclusion. The Officer will advise the complainant that should a tribunal eventually hear the matter, and come to the same conclusion, the complainant could be subject to disciplinary actions under this policy. At this point, the Harassment Monitoring Officer's involvement in the case shall cease.
- 9.10 Teaching, research and non-teaching staff who participate in the procedures outlined in this policy shall be given released time to consult with the Harassment Monitoring Officer

- and attend formal hearings pertaining to their case. Students will be assisted in adjusting schedules as necessary to attend their formal hearings.
- 9.11 Should the Officer believe at any time that the health or safety of members of the HEI community is at risk, the Officer may notify the Director of Security Services and the appropriate administrative officer of the HEI. In a situation where there is threat to either of the two (complainant and respondent) or the monitoring officer, the campus security services and resident officer/director security of the campus need to be alerted.
- 9.12 No one shall be compelled to proceed with a complaint.

10. RECORDS

- 10.1 All notes pertaining to advice sought by persons wishing merely to consult with the Officer, or arising from procedures of an Informal Resolution Without A Written Complaint (**see clause 14.0**), shall be maintained in a confidential file for a period of three years for students and permanent record/dossier of the employee of the HEI from the date of the complainant's initial contact with Harassment Monitoring Officer.
- 10.2 All records pertaining to procedures involving an Informal Resolution with a Written Complaint (**see clauses 18.0**), or Formal Resolution (**see clauses 17.0 to 33.9**), shall be maintained permanently in a confidential file. Any record of a Written Complaint necessitates notification of the respondent. The respondent must be allowed an opportunity to respond to the complaint and to have that response form part of the case.
- 10.3 The notes/records in (10.1), and (10.2) above shall be maintained by the Harassment Monitoring Officer. No one other than the Harassment Monitoring Officer shall have access to the records in (10.1) and (10.2) above, except as otherwise provided for in this policy.

11.0 HEI OFFICE /HARASSMENT COMPLAINT CELL

11.1 Objectives:

The primary purpose of specialized office or cell is to facilitate the policy implementation in letter and spirit. Universities are to set up Offices / Harassment Complaint Cell, where complaints of sexual harassment or any other forms of harassment could be lodged. This would require a team consisting of a full time trained professional designated Harassment Monitoring Officer (Gender sensitized, with strong professional and counseling skills), computer specialist, and assistant who could follow up the documentation through relevant offices. It is appropriate that one of the senior members be female in order to facilitate confidential communication.

The Harassment Complaint Cell would involve the following:

- a. Sensitization of all university faculty, staff, students to sexual harassment through workshops and training. All personnel/staff/faculty that enter the university employment would require completing a two-three day essential sensitization training programs. This would be an ongoing activity
- b. Complaint registration: Formal verbal or written complaint could be lodged in this office, as a first and preliminary step. Resolution through counseling can take place at this first step. However, if the complainant wishes to follow through the hearing and tribunal procedures, he/she would be required to fill a complaint form that would be available in the cell.
- c. Tracking system: Once the complaint has formally been lodged, it would be entered into the database to track the processing of the complaint. It is important that every complaint be treated with utmost confidence and is sent to the concerning authorities/vice chancellor for further orders/inquiries. The preliminary investigation reports should also be uploaded into the database against every reference filed case to facilitate the entire investigation procedure.

- d. Implementation: Since the investigation of such cases requires a constant liaison between the appointed authority/committee and the complainant therefore all the meetings and schedule arranged would be the responsibility of cell.

12.0 FALSE ALLEGATION

Allegations of sexual harassment made out of malice or intent to hurt the reputation of the persons against whom the complaint is filed are to be dealt with as serious offences. Making malafide allegation of sexual harassment knowing it to be false, whether in a formal or informal context, is a serious offense under this policy and action would be taken under the University disciplinary regulations/ as per provisions of the University ACT.

Any Charge found to have been intentionally dishonest or made in willful disregard of the truth, and to malign or damage the reputation however, will subject the complainant (student, staff or faculty) to severe disciplinary action.

Withdrawal of a false complaint after a wide dissemination of, or publicity of the purported offense carried out intentionally to malign the character of the person accused, and done with willful intent to cause physical, psychological or mental harm or stress has to be dealt with more serious penalties. This will ensure that no injustice is meted out.

13.0 GENERAL PROCEDURES FOR ACTION BY HARASSMENT MONITORING OFFICER (HMO)

- 13.1 If the Harassment Monitoring Officer receives repeated allegations of offenses against the same person but each of the persons making allegations is unwilling to file a written complaint and appear as complainant, and if circumstances are considered by the Harassment Monitoring Officer to be such that a complaint should be lodged, the Officer shall inform the highest authority of the HEI or in case of Rector/Vice Chancellor/President/Head of the Institution, to the next highest.
- 13.2 The Harassment Monitoring Officer shall communicate with persons drawn from the pertinent notes/records, who might provide evidence of discrimination or harassment, to determine their willingness to provide testimony if the HEI were to proceed as a complainant against the alleged harasser. The Officer shall not communicate the contents of the notes to such persons in either written or verbal form.
- 13.3 The Harassment Monitoring Officer shall provide to the appropriate senior authorities/officers mentioned in **Clause 13.1** the names of witnesses who agree to testify, the name of the alleged respondent and copies of any written complaints and responses submitted to the Officer relating to alleged offence(s) by the respondent.
- 13.4 The appropriate senior authorities/officers mentioned in **Clause 13.1** shall communicate with the witnesses and the alleged respondent, review all the information and decide (as soon as possible but no later than six weeks from the date of receiving the information) whether to initiate formal procedures against the respondent (**see clause 17.0**) The Harassment Monitoring Officer shall be informed in writing of the senior authorities/officers' decision. If the senior authorities/officers decide to initiate formal proceedings against the respondent, such proceedings normally should be initiated within one month of making the decision.

14.0 CONSULTATION WITH HARASSMENT MONITORING OFFICER

- 14.1 Persons having reason to believe that they have been subjected to sexual harassment are strongly encouraged to contact the Harassment Monitoring Officer as soon as possible. Through consultation, the Harassment Monitoring Officer will assist in determining if the reported events constitute discrimination or harassment under the provisions of this policy, and delineate options for action available to that individual. Persons seeking advice at this stage need not reveal their names or the name(s) of the

other person(s) concerned. The Officer will keep confidential records of all consultations (**see clause 10**).

- 14.2 In cases the Officer deems to be appropriate, the Officer, or a suitably trained alternate appointed by the Officer, may investigate allegations made under this policy in order to:
 - 14.2.1 assist in the resolution of the matter in the informal stage
 - 14.2.2 decide whether to make a recommendation that the HEI proceed as complainant; or
 - 14.2.3 Proceed by way of fact-finding investigation.
- 14.3 Where provisions for dealing with sexual harassment are contained in a collective agreement, the terms of that collective agreement will be applicable. In the event of conflicting jurisdictions between the complainant and the respondent, the procedure governing the respondent shall be followed. The Harassment Monitoring Officer shall remain available to provide counsel and advice.
- 14.4 Where complaints fall outside the jurisdiction of this policy (e.g., co-op placement, internship, practicum), the Harassment Monitoring Officer will direct the complainant to the appropriate resolution process and will remain available as an adviser (**see clauses 7.7 and 8.1**)
- 14.5 The HEI prohibits reprisal or threats of reprisal against any member of the HEI community who makes use of this policy or participates in proceedings held under its jurisdiction. Any individual or body found to make such reprisals or threats of reprisal will be subject to disciplinary action.

15.0 SEXUAL HARASSMENT RESOLUTION

- 15.1 The objective of sexual harassment resolution is to secure a settlement that is consistent with the spirit of this policy and its fundamental principles.
- 15.2 Resolution may be pursued through three progressive levels, "Informal Resolution Without a Written Complaint", "Informal Resolution With a Written Complaint" and "Formal Resolution With a Written Complaint". The Harassment Monitoring Officer will normally encourage all complainants to seek resolution through informal means instead of, or prior to, proceeding to the process of formal complaint resolution. This does not preclude a complainant's requesting to bypass informal procedures and move directly to formal resolution (**see clause 19.0**).
- 15.3 Any complainant who requests Informal Resolution with a Written Complaint or Formal Resolution with a Written Complaint must be prepared to be identified to the respondent. This policy does not, however, prevent anyone from seeking counseling or advice on a confidential basis from the Harassment Monitoring Officer

16.0 INFORMAL RESOLUTION WITHOUT A WRITTEN COMPLAINT

- 16.1 The primary objective of most people who seek the assistance of the Harassment Monitoring Officer is to stop the offending behavior. To this end, it is important to provide for the option of Informal Resolution facilitated by the Harassment Monitoring Officer. Each situation is unique and creativity may be necessary in devising options for Informal Resolution. No third party will be informed of the identity of the respondent unless and until the respondent is informed of the complaint and given an opportunity to respond. The Officer will keep confidential records of all Informal Resolutions (**see clause 10.1**).
- 16.2 After consulting with the Harassment Monitoring Officer or after attempting Informal Resolution Without A Written Complaint, the complainant may decide:
 - I. to take no further action; or
 - II. to proceed with the formulation of a written complaint

17.0 FORMAL WRITTEN COMPLAINTS

- 17.1 A complainant may file a signed, written complaint of breach of this policy to be dealt with informally. The written complaint should be filed with the Harassment Monitoring Officer or, in the event that the complainant chooses to contact another HEI officer (**see clause 9.1**), with that other officer
- 17.2 A written complaint shall be submitted promptly, preferably within 3 months but no later than 12 months from the last date of the alleged harassment. An extension of up to 3 months may be granted by the Officer or other HEI officer where appropriate, upon written request. Any further extension may be granted at the discretion of the Officer or other HEI official only after hearing submissions from both the person seeking an extension in order to make a complaint, and from the potential respondent.
- 17.3 The written complaint shall include the dates of the alleged incident(s), the names of the people involved in the incident(s) and a full description of the incident(s).
- 17.4 The respondent shall be provided with a copy of the complaint, disclosure of all material facts relevant to the complaint, and an opportunity to respond orally or in writing to the written complaint. The respondent is to be provided with ongoing disclosure of the particulars of the complaint as they become known.
- 17.5 No information regarding the complaint will be given to any party unless the respondent has been notified of the complaint, as required by sub-section (17.4) above.

18.0 INFORMAL RESOLUTION WITH A WRITTEN COMPLAINT

- 18.1 If the complainant elects to proceed by way of Informal Resolution with a Written Complaint, the Harassment Monitoring Officer shall discuss the written complaint and any response with the complainant and with the respondent with a view to reaching a resolution acceptable to all parties.
- 18.2 It is expected that Informal Procedures shall be conducted at a reasonable pace, but shall not normally extend past 30 days from submission of the written complaint.
- 18.3 Once the procedure of Informal Resolution With A Written Complaint is initiated by the complainant, and once the respondent has been notified of the complaint and has been given a chance to respond to it, the Harassment Monitoring Officer , after consultation with the complainant, may contact persons with authority over the respondent, or with jurisdiction over the place or context in which the alleged harassment occurred, if alternative arrangements as provided for in **section 8.5** are required, or to elicit the facts of the case.
- 18.4 If a resolution is achieved through Informal Procedures, a Resolution Report prepared by the Officer shall be signed by the complainant and the respondent. Should the resolution include an action or remedy by the HEI, that aspect of the Resolution Report must also be agreed to, signed and, with respect to that aspect, enforced by the member of the HEI Administration with the authority for ensuring that the remedy is imposed or enforced. All parties shall receive a copy of the report and a copy shall be retained in the Officer's confidential files (**see clause 10.2**).
- 18.5 Should the Officer determine that the possibility of reaching a resolution through Informal Procedures has been exhausted; both the complainant and the respondent shall be informed of the same in writing within 5 working days.
- 18.6 Following notification that Informal Procedures have been exhausted, the complainant shall then be advised to:
 - i. request, in writing, a formal hearing; or
 - ii. withdraw, in writing, the complaint.

- 18.7 Should the complainant withdraw the complaint, the report noted in **clause 18.2** will remain in the Officer's confidential files for a period of 7 years (**see clause 10.2**). Both the complainant and the respondent will be notified that the records will remain in the Officer's files for seven years. Should the complainant request a formal hearing, this request will be forwarded to the Secretary of the Board of Governors. Attached to the request will be a copy of the original written complaint and any written response from the respondent.
- 18.8 If the complainant has neither written to the Officer to initiate a formal hearing nor written to withdraw the complaint within 30 working days of being notified in writing that informal resolution has failed, the complaint shall lapse.
- 18.9 Upon receipt of a written complaint, the Harassment Monitoring Officer , or other HEI officer where appropriate, shall determine whether the complainant wishes first to proceed by way of the "Informal Resolution With a Written Complaint" procedure or whether the complainant wishes directly to proceed with the "Formal Resolution" procedure.

19.0 FORMAL RESOLUTION WITH A WRITTEN COMPLAINT

General Considerations

- 19.1 If a complainant requests a formal hearing, the complainant and any witnesses must be prepared to be identified to the respondent.
- 19.2 If a complaint has reached the stage of a formal hearing, the respondent is entitled to a specific disposition of the issue; or, where the complaint is withdrawn once a formal hearing has begun but before it has concluded, to a dismissal of the complaint.
- 19.3 Where a complainant alleges that an incident raises a breach under both the Sexual Harassment and the Anti-Discrimination Policies, the complaint will be dealt with in a single hearing by the same tribunal appointed under both policies.
- 19.4 No reprisal against complainant as there is a possibility of further victimization or hindrance in launching a complaint
- 19.5 **Retaliation** or any other action against complainant of sexual harassment is to be taken seriously under the provisions of this policy. The retaliation against those who
 - File a sexual harassment complaint or testify, assist, or participate in an investigation/proceedings related to such a complaint.
 - Oppose conduct which constitutes sexual harassment even if formal complaint has not been lodged.

All allegations of retaliation would be investigated formally under the purview of this policy, and if substantiated, would result in appropriate disciplinary action.

20.0 HEARING PANEL FOR SEXUAL HARASSMENT

- 20.1 Formal hearings will be conducted before a tribunal selected from the membership of a Hearing Panel for Sexual Harassment. The Hearing Panel will consist of 4 non-teaching staff members appointed by the Syndicate/Executive Council/Board of Governor and 4 members of the teaching staff (gender balance), 2 students (one male/one female) with outstanding merit and integrity appointed by the Syndicate/Executive Council/Board of Governor. The Chair and the Vice-Chair shall be appointed by the Syndicate/Executive Council/Board of Governor from among the members appointed by the Syndicate/Executive Council/Board of Governor. Staff serving on the Hearing Panel will be given released time to do so. The quorum requirement will be 50% of each category.
- 20.2 Members will be appointed to the Hearing Panel for staggered terms to provide for continuity of experience. Student members shall serve one-year terms and teaching and

non-teaching staff members shall serve two-year terms. Shorter terms may be required occasionally to provide for staggering and to fill vacancies. No member shall serve for more than two consecutive terms. Former members will be eligible for reappointment after a lapse of two years. Members of the Hearing Panel will receive generic training by the Harassment Monitoring Officer in the particular sensitivities which surround sexual harassment issues, in procedures which effect fair resolutions and in penalties and sanctions which are appropriate to the various breaches of policy and which act as deterrents to further breaches of policy, together with the principles of Academic Freedom. This training will not deal with specific cases currently before any tribunal established under this policy and is in no way meant to fetter the independence of any tribunal member to decide any case on the basis of the evidence presented in that case and according to his or her conscience.

- 20.3 The Chair or, alternatively, the Vice-Chair, in addition to conducting the business of the Hearing Panel, may chair the tribunals hearing formal complaints, or the Chair may designate Chairs of tribunals from among the membership of the Hearing Panel.

21.0 SELECTION OF TRIBUNAL

- 21.1 Upon receipt of the request for a formal hearing, the Secretary of the Syndicate/Executive Council/Board of Governor shall forward to the Chair of the Hearing Panel the written request for a formal hearing, together with the identity of the complainant and the respondent.
- 21.2 A tribunal will consist of the Chair or Vice-Chair of the Hearing Panel (or designate), as described above in **clause 20.1**, who will chair the tribunal, and two members of the Hearing Panel, selected in accordance with the process described below in **clause 21.3**. Tribunal may co-opt a professional psychologist or gender specialist as needed or considered appropriate.
- 21.3 Mindful of the constituencies represented by the parties in a case, the Chair of the Hearing Panel will select six names of Hearing Panel members, including the Chair or Vice-Chair if either or both has agreed to serve on the tribunal, to be presented to the complainant and the respondent within 15 working days of receipt by the Secretary of the Syndicate/Executive Council/Board of Governor of a request for a formal hearing. The complainant and respondent may object in writing with reasons (i.e., bias, conflict of interest, or other valid reason) to any of the names within 10 working days of receipt of the names. After ruling on any objections presented by the complainant and/or respondent, the Chair will select additional members from the Hearing Panel. If there are any objections whatsoever to the Chair's presence on the Tribunal, the Chair will remove herself or himself from the procedure.
- 21.4 The Chair will inform the Secretary of the Syndicate/Executive Council/Board of Governor of the membership of the tribunal. The Secretary of the Syndicate/Executive Council/Board of Governor shall then proceed to arrange for the formal hearing(s) in accordance with the procedures set out below

22.0 PROCEDURAL RULES FOR FORMAL HEARINGS

- 22.1 Tribunals conducting Hearings under this policy shall follow the procedures set out in the HEI Act or Statutes regarding discipline and conduct-HEI Faculty, staff/employees and students. The procedures detailed below govern in the absence of any judicial determination to the contrary. Where any procedural matter is not dealt with below, the Tribunal may, after hearing submissions from the parties, and guided by the principles of fairness, establish any appropriate procedure.
- 22.2 Members of the tribunal must not hear evidence or receive representations regarding the substance of the case other than through the procedures described in this document.

23.0 PARTIES TO THE HEARING

The signatory(s) to the written complaint (the complainant[s]) and the person(s) alleged in the written complaint to have breached this policy (the respondent[s]) shall be parties to the Hearing.

24.0 SCHEDULING

An attempt shall be made to schedule the Hearing(s) at a time and place convenient for the tribunal and for the parties to the Hearing. However, any party whose reasons for absence are not considered valid by the Chair of the tribunal or whose absence may cause unreasonable delay, shall be notified that the tribunal will proceed in that party's absence.

25.0 NOTICE OF HEARING

- 25.1 The Hearing(s) shall be commenced as soon as possible following the appointment of the tribunal. Each party to the Hearing shall be sent a Notice of Hearing stipulating the time and place of the Hearing, and the parties to the Hearing, and identifying the subject matter of the Hearing.
- 25.2 Prior to the Hearing, members of the tribunal shall be provided with: (a) the complainant's request for a formal hearing, (b) the complainant's original written complaint, and (c) the respondent's written response to the original complaint, if any.

26.0 RECORD OF HEARING

- 26.1 The Secretary of the Syndicate/Executive Council/Board of Governor will prepare a Hearing Record consisting of documents which the parties wish to submit and on which they intend to rely at the Hearing. Excluded from the record are any 'without prejudice' communications made with a view to informally resolving the complaint as well as the report of the Harassment Monitoring Officer, or other HEI official, on the events which transpired to resolve the complaint informally (**see clause 16.0**). Prior to making the record available to members of the tribunal, the parties to the hearing are to have an opportunity to review the content of the record and may bring on record a preliminary motion to the tribunal seeking exclusion of part or all of the record which is to be made available to tribunal members for the purpose of expediting the hearing. The documents contained in the record are not admissible as evidence at the hearing except on consent of all the parties to the hearing or upon being proven as evidence through witnesses at the hearing.
- 26.2 Objective documentation, if required, of the proceeding of the tribunal should be maintained by audio/video recording where high confidentiality of the records and other such material shall be upheld at all times.

27.0 DUTIES OF THE TRIBUNAL CHAIR

- 27.1 The Chair's duties include, but are not limited to:
 - a. maintaining order during hearings;
 - b. answering procedural questions;
 - c. granting or denying adjournments;
 - d. arranging for a permanent audiotape-recording of the proceedings, which shall constitute the official record of those proceedings; and
 - e. reporting decisions of the tribunal to the Head of Institution.

The above duties shall be undertaken in consultation with the tribunal members, if appropriate.

28.0 COUNSEL

- 28.1 Both the complainant and the respondent have the right to be accompanied by an adviser or to be represented by counsel.
- 28.2 All parties will bear their own costs related to the proceedings. The tribunal will not order or recommend the payment of costs, including any legal costs, of the proceedings to any party.

29.0 CLOSED HEARINGS

Hearings shall be held in camera unless either the complainant or the respondent objects that the hearing, or some part of the hearing, should be held in public. In the event of such an objection, the tribunal shall hear representations from all parties. In making its ruling, the tribunal shall consider whether matters of an intimate financial or personal nature are to be raised, whether there is an issue of public safety involved, the desirability of holding an open hearing and other relevant circumstances.

30.0 ORDER OF PROCEEDINGS

- 30.1 The Chair's opening statement which shall identify the parties, introduce members of the tribunal and other participants in the Hearing, identify the nature of the case, confirm that all parties have had an opportunity to see the record and list any evidence which the parties have agreed can be admitted on consent.
- 30.2 The complainant's opening statement, which shall contain a brief description of her/his case, including what she/he believes is the offence.
- 30.3 The complainant's witnesses, each to be examined as follows:
 - examination by the complainant,
 - cross-examination by the respondent,
 - questions from the Tribunal for the purpose of clarification and dealing with omissions,
 - re-examination by the complainant, limited to points of clarification and to new issues arising out of the cross-examination by the respondent and questions from the Tribunal, which issues could not reasonably have been anticipated during the examination-in-chief.
- 30.4 The respondent's opening statement, which shall contain a brief reply to the complainant's case, outlining the main points of her/his defense.
- 30.5 The respondent's witnesses, each to be examined as above (sub-section 30.3) beginning with examination by the respondent, and so on.
- 30.6 Complainant's reply witnesses, limited to matters which could not reasonably have been considered pertinent at the time that the complainant put in her/his case. The complainant will not be allowed to split her/his case. Witnesses called in reply will be examined as above, beginning with the examination by the complainant, etc.
- 30.7 Closing arguments to be made first by the respondent and then by the complainant. Closing arguments should address both the substance of the complaint and the appropriate penalty in the event that the complaint is found to be valid by the tribunal.

31.0 WITNESSES

The following rules govern witnesses.

- 31.1 Only parties to the hearing have the right to call witnesses at the hearing.
- 31.2 The tribunal has discretion to limit testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case.
- 31.3 Parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the tribunal.

- 31.4 The Chair of the tribunal has the power to compel a witness to attend, and parties may request the Chair's aid in this regard.
- 31.5 The Chair, on his or her own initiative may, or at the request of either party to the hearing shall, issue an Order Excluding Witnesses from the hearing room except during the time their testimony is required. Once such an order has been issued, witnesses are not to confer amongst themselves or with other witnesses who have already testified.

32.0 EVIDENCE

The following evidentiary rules apply:

- 32.1 Parties to the hearing have the right to present evidence in support of their case to the tribunal and to see any written or audio visual evidence presented to the tribunal.
- 32.2 The tribunal has the power to require production of written or documentary evidence by the parties or by other sources.
- 32.3 A person appearing before the tribunal may be required to give evidence under affirmation or oath.
- 32.4 The Harassment Monitoring Officer may testify as a witness, if called by one of the parties, but shall not disclose information provided to her or him in confidence by the parties or during 'without prejudice' negotiations, except on consent of the relevant party or parties.
- 32.5 Complainant(s) may be questioned on behavior related to the incident(s) in question. Apart from this, no complainant is to be questioned on previous behavior or character for purposes other than those of establishing credibility as a witness.

33.0 DELIBERATIONS BY THE TRIBUNAL

- 33.1 Following the formal hearing, the tribunal shall deliberate in closed session. The tribunal will decide, either unanimously or by a majority of the members, the merits of the complaint on the basis of evidence and arguments presented at the hearing. In order to be upheld by the tribunal, complaints under this policy must be proven on the balance of probabilities by clear and cogent evidence. Where the complaint is found to be valid, the tribunal will recommend an appropriate penalty, either unanimously or by a majority.
- 33.2 In the event that the tribunal cannot reach a majority decision with respect to the recommended penalty, the two members of the tribunal who do not occupy the position of Chair shall each submit in writing to the Chair the penalty he or she believes is appropriate. The Chair shall select one of these two proposals as the tribunal decision.
- 33.3 The tribunal shall prepare and submit to the Vice Chancellor/Rector/President/Director of the HEI a written report which shall include the tribunal's decision and the reasons for the decision, together with any recommendation for penalty. If there is a note of dissent report, it shall also be submitted to the Vice Chancellor/Rector/President/Director.
- 33.4 Copies of the tribunal's report to the Vice Chancellor/Rector/President/Director shall be sent in confidence to the complainant, the respondent and the Harassment Monitoring Officer. Similarly, the Vice Chancellor/Rector/President/Director will inform all parties, in writing, of the final decision in the case and course of action to be taken, if any.
- 33.5 The Vice Chancellor/Rector/President/Director shall ensure that any penalties recommended are enforced by the authority responsible for implementing or imposing the penalty. If the recommended penalty is suspension or dismissal, the Vice Chancellor/Rector/President/Director shall initiate the appropriate procedure.
- 33.6 If the tribunal decides by a preponderance of reliable evidence that a complaint has been fraudulent, malicious, frivolous or vexatious, or is entirely without factual basis, the Tribunal hearing the original complaint will find that the complainant, as a result of the complaint, is in breach of this policy & it will recommend to the Vice

Chancellor/Rector/President/Director such sanction or remedy against the complainant as it feels is appropriate. Prior to finding that a complaint has been fraudulent, malicious, frivolous or vexatious or is entirely without factual basis, the tribunal will advise the parties that it is considering making such a ruling and specifically invite submissions on this point.

- 33.7 Decisions of the tribunal are binding and cannot be appealed within the HEI.
- 33.8 The tribunal shall make any other recommendations or comments, as appropriate, to the Vice Chancellor/Rector/President/Director, in a document separate from the report containing the tribunal's decision and recommended penalty.
- 33.9 All records pertaining to tribunal procedures, decisions and recommendations shall be retained by the Sexual Harassment Complaint Cell.

34.0 SANCTIONS AND REMEDIES

The following penalties, singly or in combination, may be imposed upon any respondent who is a member of the teaching, research or non-teaching staff in any case where sexual harassment is found to have occurred:

- 34.1 oral or written reprimand;
- 34.2 inclusion of the decision in a specified personnel file(s) of the respondent;
- 34.3 exclusion of the respondent from a designated portion(s) of the HEI's buildings or grounds, or from one or more designated HEI activities, where such penalty is appropriate to the offence and where the penalty does not prevent the respondent from carrying out her/his professional duties;
- 34.4 imposition of conditions, as decided by the Tribunal.
- 34.5 the imposition of a fine;
- 34.6 recommendation for suspension of the respondent without pay;
- 34.7 recommendation that dismissal proceedings be commenced; and/or
- 34.8 other, as deemed appropriate.

35.0 PENALTIES

The following penalties, singly or in combination, may be imposed upon a student respondent in any case where sexual harassment is found to have occurred:

- 35.1 oral or written reprimand;
- 35.2 inclusion of the decision in a specified student file(s) of the respondent, for a specified period of time, not longer than 7 years;
- 35.3 exclusion of the respondent from a designated portion(s) of the HEI's buildings or grounds, or from one or more designated HEI activities, where such penalty is appropriate to the offence and where the penalty does not prevent the respondent from pursuing her/his studies;
- 35.4 imposition of conditions, as decided by the Tribunal
- 35.5 prohibition of the respondent from attendance in a course(s), a programme, or a teaching division or unit, for a period of not more than 1 year; and/or
- 35.6 other, as deemed appropriate.
- 35.7 the tribunal of the Hearing Panel must recommend any appropriate sanction or remedies it deems necessary to guarantee that the behavior is not repeated. The tribunal may also make a recommendation to the Vice Chancellor/Rector/President/Director that the complainant be accommodated for injury or damage to or loss of property, subject to **clause 26**.

- 35.8 Suspension or dismissal may only be recommended, and such recommendations shall be dealt with in accordance with the established policies and procedures and by the terms or existing contracts of employment or collective agreements.

36.0 EDUCATION FOR PREVENTION

To ensure prevention of Sexual harassment on campus the HEI should develop programs to educate and counsel its staff, faculty and students as well as provide written material for reference. Education is essential to sensitizing the university faculty staff and students in order to eliminate sexual harassment on campus. All Universities will develop an ongoing training program. Completion and participation of the training program is to be made a requirement for all those who enter employment or university services. Further, notices be placed by University authorities regarding its policies. The Student Advisor in each faculty/department may disseminate information about these programs, what constitutes sexual harassment, how to respond to it and what to do when someone asks for advice about sexual harassment.

37.0 CONSENSUAL RELATIONSHIP BETWEEN HEI COMMUNITY

Under the policy it is highly inappropriate for any member of the community to establish an intimate relationship with a student, subordinate or colleague on whose academic or work performance he or she will be required to make professional judgments. The policy requires that the individual should not involve themselves in such conduct as the professional responsibility for supervision or oversight would be affected in case such an intimate relationship develops during the working community.

38.0 APPEAL MECHANISM

Three member Appellate Body shall be formed by the Syndicate/Executive Council/Board of Governor for hearing appeals on the decisions of the tribunal. The recommendations of the appellate body will be submitted to the head of the HEI for further perusal of the same where the Head of the HEI may decide to:

- a. Send the recommendation of the Appellate Body to the Tribunal for reconsideration.
- b. Uphold the decision of the Tribunal.
- c. Any aggrieved by the decision of the head of the HEI based on the recommendation of the Tribunal can appeal to the HEI Syndicate/Executive Council/Board of Governors as its supreme appellate body/authority.

39. This policy may be reviewed from time to time, as required.



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