

## Adapted Bylaws pursuant to the Prevention of Sexual Harassment Law, 5758-1998

Sexual harassment and intimidation against a sexual background violate a person's dignity, liberty, privacy and equality between the sexes: they are also criminal acts and grounds for an action in tort, commencing from the taking effect of the Prevention of Sexual Harassment Law, 5758-1998, on Elul 29, 5758 (September 20, 1998).

The Caroline and Joseph Gruss Institute of Yeshiva University in Israel (R.A.) is obligated to create an environment in which there are relations of mutual respect and fairness vis-à-vis its employees, the students and anyone that has contact therewith in the employment framework (In these bylaws "the employee", unless explicitly stated otherwise or in the event that the meaning of section suggests otherwise).

Sexual harassment and intimidation impair employment relations and are contrary to the employer's policy, and it will not tolerate them.

These bylaws are intended to clarify the main provisions of the law and the Prevention of Sexual Harassment Regulations (Employer's Obligations), 5758-1998. In the event of a discrepancy between these bylaws and the law and the regulations promulgated thereunder, the law and the regulations will prevail, and they may be inspected as stated in Section 11 of these bylaws.

In addition, the purpose of these bylaws is to ensure that the Institute acts as a workplace and learning environment in which there is no sexual harassment and/or intimidation originating from sexual harassment, and to regulate the actions of the various bodies at the Institute on this issue.

All of the provisions of these bylaws in the masculine apply to members of both genders.

### What do these bylaws contain?

Part	Sections	
A	1-5	Definitions, including the definition of sexual harassment and intimidation (and "employment relations");
B	6-7	The consequences of sexual harassment and intimidation (criminal offense, grounds for an action in tort);
C	8-9	The employer's policy and liability;
D	10-13	Prevention of sexual harassment and intimidation;
E	14	What to do if you have been sexually harassed or intimidated?
F	15-20	Complaint procedure at the employer and handling of employer's liability;
G	21-28	Miscellaneous: Employee of a manpower contractor employed at another person (Section 21); An employer employing 25 employees or less (Section 22); The main significant provisions regarding sexual harassment and intimidation (Section 23); Applicability of YU's policy (Section 24); Frivolous complaint and aiding a frivolous complaint (Section 25); Control (Section 26); Preserving archive material (Section 27); Evidence and documentation (Section 28).

## Part A: What are sexual harassment and intimidation?

### 1. Definitions:

- a. The “**Institute**” or the “**Employer**” – The Caroline and Joseph S. Gruss Institute of Yeshiva University in Israel - R.A., number 58-035836-4, or the Institute’s management, as the case may be.
- b. The **Law** – the Prevention of Sexual Harassment Law, 5758-1998 (see Annex 1) and the Equal Employment Opportunities Law, 5748-1988 (see Annex 2), according to the context.
- c. The **Regulations** – the Prevention of Sexual Harassment (Employer’s Obligations) Regulations, 5758-1998 (see Annex 3).
- d. The **Injured Party** – any person who claims that he was sexually harassed or intimidated in the framework of the place of work or study.
- e. The **Complainee** – the person to whom, in the complaint, an act of sexual harassment or intimidation is attributed, and on the date of the event and on the date of the filing of the complaint, is an employee or service provider or student of the Institute.
- f. The **Officer** – A prevention of sexual harassment officer.
- g. The **Substitute** – Substitute prevention of sexual harassment officer.
- h. **YU** – Yeshiva University, a New York not-for-profit education corporation which is an associate of the Institute.

### 2. What is sexual harassment?

- (a) Although in most cases sexual harassment is committed by a man against a woman, sexual harassment may be committed both by a man and by a woman, against a man or a woman; and the Law covers all of these possibilities.
- (b) Pursuant to the Prevention of Sexual Harassment Law, 5758-1998, sexual harassment is one of five forms of prohibited conduct<sup>1</sup>:
  - (1) Blackmailing a person to carry out an act of a sexual nature.

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<sup>1</sup> Pursuant to Section 7(e) of the Prevention of Sexual Harassment Law, an employer to whom the duty to publish bylaws applies (an employer who employs more than 25 employees) is obligated to make to the sample bylaws the “necessary adjustments”. In Section 8 of the Regulations, reference is also made to adjustments that an employer is obligated to make in the sample bylaws. It is emphasized that the definitions “sexual harassment”, “intimidation” and “employment relations” which appear in the sample bylaws are from the Law, and therefore there is no room to make any “adjustments” to these definitions. The examples, conversely, are not in the Law and therefore may be adjusted to the particular context of each employer and its employees.

For example: an employer who threatens to terminate an employee if she refuses to have sexual relations with him.

(2) An indecent act.

For example: an employee or officer who touches an employee for sexual stimulation or exposes himself to her, without her consent.

(3) Repeated suggestions of a sexual nature, even though the person to whom the suggestions are made has demonstrated that he is not interested.

However, there is no need to demonstrate non-consent in the following cases:

I – Exploitation of authority relations at work.

For example: a manager who exploits authority relations vis-à-vis his secretary.

II – Exploitation of authority relations, dependence, education or care of a minor, an exploitable<sup>2</sup> or a patient.

For example: An employee who exploits authority relations or education vis-à-vis a student; an employee at a home who exploits dependence relations of a patient.

(4) Repeated references to a person's sexuality, even though the person to whom the references are made has demonstrated that he is not interested.

For example: Repeated reference to the sexual aspect of a person's appearance, despite his clarifications that it bothers him.

However, there is no need to demonstrate non-consent in the cases stated in Paragraph (3) above.

(5) Humiliating or degrading reference to the sex or sexual inclination of a person, regardless of whether or not he demonstrated that it bothers him.

(c) Non-consent

(1) As a rule, a person needs to demonstrate that he does not consent to an act of sexual harassment; this obligation does not apply in respect of the following:

I – Blackmail (Paragraph (b)(1) above);

II – A humiliating or degrading reference (Paragraph (b)(5) above);

III – Exploitation of authority relations at work between the harasser and the harassed (in respect of the acts in Paragraphs (b)(3) and (4) above);

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<sup>2</sup> The term "exploitable" is defined in the Prevention of Sexual Harassment Law by way of reference to Section 368A of the Penal Law, 5737-1977. In this section, "exploitable" is defined as follows: "A person who, due to his age, illness or physical or mental disability, mental impairment or for any other reason, is unable to take care of his sustenance, well-being or health needs".

IV – Exploitation of authority relations, dependence, education or care – of a minor, exploitable (in respect of acts in Paragraphs (b)(3) and (4) above);

V – Exploitation of dependence in the framework of mental or medical care – of the patient by the caregiver (in respect of acts in Paragraphs (b)(3) and (4) above).

(2) Non-consent is demonstrated either by unequivocal words or conduct.

3. **What is not harassment?**

Despite the legislator’s attempt to define sexual harassment in a detailed manner, by their nature the definitions are never black and white. For example, it is difficult to predefine everything that will be deemed as a “humiliating” or “degrading” reference in relation to a person’s sex or sexuality. However, the prohibition against sexual harassment is not a prohibition against good-natured courting with mutual consent.

4. **What is intimidation?**

(a) Pursuant to the Prevention of Sexual Harassment Law and the Equal Employment Opportunities Law, 5748-1988<sup>3</sup>, intimidation is any one of the following, if the act is carried out in the framework of employment relations:

(1) An employer or an officer on its behalf harms an employee or an employee candidate – when the source of the harm is sexual harassment.

However, with respect to sexual harassment of the type of repeated suggestions of a sexual nature and repeated references to a person’s sexuality, it is sufficient that the source of the harm is a single suggestion only or a single reference only.

Examples:

An officer who prevents an employee’s promotion due to her refusing his one-time suggestion of sexual intercourse;

An employer who terminates an employee due to her refusing his one-time suggestion of sexual intercourse.

(2) An employer or an officer on its behalf harms an employee or an employee candidate – when the source of the harm is a complaint regarding intimidation as stated in this section or a lawsuit due to intimidation as aforesaid.

(3) An employer or an officer on its behalf harms an employee or an employee candidate – when the source of the harm is an employee’s aiding another employee in connection with a complaint or lawsuit regarding intimidation as stated in this section.

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<sup>3</sup> The term in Section 7 of the Equal Employment Opportunities Law is “harm against a background of sexual harassment”. Since harm against a background of sexual harassment is a type of “intimidation”, these bylaws also refer to the prohibited conduct according to the said Section 7 as “intimidation”.

For example: an employee gave testimony in connection with intimidation against another employee; the employer or the officer reduce her employment conditions due thereto.

(b) Defense of a false complaint / false claim

In a trial regarding intimidation as stated in Paragraph (a)(2) or (3) – the employer and the officer may claim in their defense that the employee or employee candidate was aware that the claim or complaint were filed based on untrue details.

5. **What are “employment relations”?**

Pursuant to the Prevention of Sexual Harassment Law, sexual harassment or intimidation in the framework of “employment relations” exists in each one of the following 4 circumstances:

(1) At the workplace;

(2) At another place at which activity is carried out on behalf of the employer;

Examples:

A hall in which the employer and its employees are presenting an exhibition of the employer’s products;

A training or study institute at which a course is being held on behalf of the employer;

A restaurant at which a party is being held on behalf of the employer for its employees.

(3) During work;

For example: a trip made during work time in the framework of the work, such as for a work meeting outside of the workplace.

(4) While exploiting authority in employment relations anywhere (such as at an officer’s home).

**Part B: The consequences of sexual harassment and intimidation**

6. **Sexual harassment and intimidation are unlawful**

(a) Sexual harassment and intimidation against a sexual background constitute unlawful conduct which violates a person’s dignity, liberty and privacy and equality between the sexes.

(b) Sexual harassment and intimidation constitute (according to the Prevention of Sexual Harassment Law, and for purposes of intimidation – also according to the Equal Employment Opportunities Law, 5748-1998) –

- (1) A criminal offense, which may lead to the harasser's or intimidator's imprisonment or to his being charged with a penalty;
- (2) A civil tort, in respect of which a lawsuit may be filed; in such a claim, financial damages and other permanent or temporary remedies may be claimed from the harasser, the intimidator, and in certain cases – from their employer.

7. **Sexual harassment and intimidation constitute disciplinary offenses<sup>4</sup>**

Sexual harassment and intimidation constitute disciplinary offenses, for which the harasser or the intimidator may be charged with a disciplinary penalty.

**Part C: The employer's policy and liability**

8. **Sexual harassment and intimidation are contrary to the employer's policy**

Sexual harassment and intimidation impair employment relations and are contrary to the employer's policy, and it will not tolerate them.

9. **The employer's liability**

(a) In addition to a prohibition that applies to the employer, as to any person, against harassing and intimidating, the Law imposes thereon special liability for the acts of its employees and of officers on its behalf, in the framework of employment relations; an employer needs to take three types of reasonable measures, as specified herein:

- (1) Prevention of sexual harassment and intimidation (see Part D);
- (2) Efficient handling of sexual harassment or intimidation of which it was aware (see Part F);
- (3) Remediating of the harm due to sexual harassment or intimidation, or due to the filing of a complaint or a claim regarding the same (see Part F);

(b) According to the Law, an employer who failed to take measures as stated in this section will be responsible for sexual harassment or intimidation committed by its employee or an officer on its behalf in the framework of employment relations, and the employer may be sued in a civil claim due thereto.

**Part D: Prevention of sexual harassment and intimidation**

10. **Preventive steps**

(a) The employer requires of each officer on its behalf and of every employee, to refrain from acts of sexual harassment and intimidation in the framework of employment relations and to do everything in his power to prevent such acts, all in order to create, together with the employer, a work environment without sexual harassment and intimidation.

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<sup>4</sup> With respect to an employer to which the provisions of Section 3 of the Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998, apply.

- (b) The employer requires of each officer on its behalf to take an active and leading role in the prevention of sexual harassment and intimidation in the framework of employment relations.
- (c) Information and instruction actions: the employer requires of each officer and of every employee to participate in instruction and information actions carried out on its behalf regarding the prohibition against and prevention of sexual harassment and intimidation; alternatively, the employer allows its employees to participate, during working hours, in such actions, which are organized, in reasonable timeframes, by other entities, such as a representative workers organization or women's organizations, provided that the same does not prejudice the proper course of work.

**11. Cooperation with the workers' representative body**

The employer cooperates with the workers at the workplace, in information and instruction actions regarding the prohibition against and prevention of sexual harassment and intimidation.

**12. Receipt of Information**

(a) An employee is entitled –

(1) Pursuant to the Regulations – to inspect each one of the following and to receive photocopies thereof –

- The Prevention of Sexual Harassment Law, 5758-1998;
- The Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998;
- Disciplinary instructions of the workplace with respect to sexual harassment and intimidation.

(2) To receive information regarding information and instruction actions of the employer regarding the prohibition against and prevention of sexual harassment and intimidation.

(b) An employee may demand receipt of such material and information from the officer for such purpose, who is:

Mrs. Stephanie Strauss whose position is Executive Director, Yeshiva University in Israel, work telephone no.: 02-531-3000, ext. 107, email: [stephanie.strauss@yu.edu](mailto:stephanie.strauss@yu.edu),

**13. Prevention of sexual harassment officer**

a. Appointment of a prevention of sexual harassment officer

- 1. A prevention of sexual harassment officer as aforesaid and a substitute will be appointed from time to time by the Institute's Executive Director/Director, as necessary and in accordance with the provisions of Section 4 of the Regulations. The appointment will be in effect so long as it is not cancelled by the Institute's

Executive Director/Director, and he/she will be entitled to determine that such appointment will be for a limited period. The names of the prevention of sexual harassment officer and the substitute will be posted on the notice board on the Institute's campus and on the Institute's website.

2. The officer and the substitute shall act as complaints commissioner and deputy complaints commissioner, respectively.
  3. Insofar as possible, the officer and the substitute will not be of the same sex.
- b. The officer's role and powers:
1. To act as an advisor on prevention of sexual harassment and intimidation phenomena at the Institute and the manner of handling them.
  2. To receive complaints and reports concerning sexual harassment or intimidation, and to investigate them.
  3. To transfer the complaint to a disciplinary proceeding, should he find adequate grounds therefor.
  4. To take, in appropriate cases, steps to prevent any repetition of sexual harassment or intimidation.
  5. To order interim remedies as stated in these bylaws in Part F below.
  6. To refer the injured party, if necessary, to receive medical or other assistance.
  7. To provide information, instruction and advice to persons who approach him/her.

**Part E: What to do if you were sexually harassed or intimidated?**

14.

**(a) If a person believes that he was sexually harassed or intimidated, he has three options pursuant to the Law:**

- (1) Handling under the employer's responsibility: if the harassment or intimidation were committed in the framework of "employment relations", the injured party may file a complaint at the workplace; the procedure for such purpose is specified in Part F.
- (2) Criminal proceeding: the injured party may file a complaint with the police.
- (3) Civil proceeding: the injured party may file, within three years, a claim with the court (usually with the Regional Labor Court) against –
  - The harasser or intimidator himself;
  - And if he is claiming that the employer is liable, also the employer (see Section 9 regarding the employer's liability).



- (b) How are the various proceedings specified above related?
- (1) A person harmed by sexual harassment or intimidation may choose whether to initiate one or more of the said proceedings.
  - (2) The employer may decide how criminal or civil proceedings will affect the manner of the handling under its responsibility (there is a specification in this regard in Part F, Section 20(d)).

**Part F: Complaint procedure at employer and handling of employer's liability<sup>5</sup>**

**15. Who can file a complaint and under which circumstances?**

The complaint may be filed by one of the following:

- (1) An employee who claims that an employer, officer or other employee sexually harassed or intimidated him, in the framework of employment relations;
- (2) Another person who claims that an employee of the employer or an officer on its behalf sexually harassed or intimidated him in the framework of employment relations;
- (3) Another on behalf of a person as stated in Paragraph (1) or (2) – in which case it is suggested that evidence be brought that such person agrees to the filing of the complaint (for example, a letter signed by such person).
- (4) Another person seeking to report on a suspicion of commission of sexual harassment or intimidation at the Institute.

**16. Who should you complain to?**

- (a) A complaint shall be filed with an officer as stated in Section 12(b) above, or his/her substitute, in his/her absence.
- (b) If the officer is the person who is the subject of the complaint (the "Complainee") or he has a personal connection to the subject matter of the complaint or to the persons involved therein, the complaint shall be filed with the officer's substitute, with another officer, and in their absence – with the employer or another person upon whom the employer's management shall decide (in this subsection – the "Employer"). (If he filed the complaint with the Employer as aforesaid, the Employer shall act according to the provisions of this part, as an officer is supposed to act).
- (c) If the Complainee was an employee of a manpower contractor who is actually employed at the Employer –
  - (1) The complaint shall be filed with an officer on behalf of the contractor or with an officer on behalf of the Employer;

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<sup>5</sup> The sections in Part F, apart from Sections 15 and 17(e)(2) are from the Law and the Regulations, and as such there is no room to make changes thereto, apart from additions deriving from the special context of the employer and its employees and which do not derogate from the content of the said sections in Part F.

- (2) If the complaint is filed with an officer on behalf of the contractor, the same officer may transfer the handling of investigation of the complaint to the officer on behalf of the Employer, and if the handling is transferred as aforesaid – the officer on behalf of the contractor shall give notice thereof to the complainant.

17. **The content of the complaint**

The complaint shall include a description of the incident, including:

- (1) A specification of the identity of the persons involved in the incident and witnesses, if any;
- (2) The place of the incident;
- (3) In the event that it is claimed that an act of sexual harassment was committed – one of the following:
  - a. Whether the harassed demonstrated to the harasser that the conduct bothered him;
  - b. Whether there are authority, dependence relations, etc. between the harasser and the harassed.

18. **Manner of filing of the complaint**

- (a) A complaint may be filed in writing or orally.
- (b) If a complaint is filed orally –
  - (1) The officer shall record the content of the complaint;
  - (2) The complainant or the person filing the complaint on his behalf shall sign the officer's record in order to confirm the content;
  - (3) The officer shall deliver to the complainant a copy of the signed record.

19. **Investigation of the complaint**

- (a) If a complaint is received, the officer shall –
  - (1) Inform the complainant of the methods of handling of sexual harassment or intimidation pursuant to the Law (Part E, Section 13 and Section 14 above).
  - (2) Act to investigate the complaint, and to this end, *inter alia*, listen to the complainant, the Complainee and witnesses, if any, and check any information that reaches him regarding the complaint.
  - (3) If the complaint is filed by a complainant who is not the injured party – the officer shall verify the facts included in the complaint with the injured party before approaching the Complainee.
  - (4) For the purpose of investigating the complaint, the officer may summon for examination before him/her any person who may have information and/or a

document which pertains or may pertain to the complaint. Failure to appear for examination and/or failure to disclose information and/or delivery of false information and/or failure to assist the officer in the investigation of the complaint is a breach of disciplinary rules.

- (b) An officer will not handle the investigation of a complaint if he has a personal connection to the subject matter of the complaint or to the persons involved therein.
- (c) An officer who has a personal connection as aforesaid will transfer the investigation to another officer or to whomever is appointed by the employer as his substitute, and in the absence of one of the aforesaid – to the employer or to another person upon whom the employer’s management shall decide (in this subsection – the “Employer”); if the officer transfers the handling to the Employer as aforesaid, the Employer shall act as an officer is supposed to act in the investigation of a complaint, according to this section.
- (d) The complaint will be investigated efficiently and promptly.
- (e) A complaint will be investigated with maximum protection of the dignity and privacy of the complainant, the Complainee and other witnesses, and *inter alia* –
  - (1) An officer will not disclose information that reached him in the course of investigation of the complaint unless he is obligated to do so for the purpose of the investigation itself or pursuant to law;
  - (2) An officer will not ask questions in connection with a complainant’s sexual past which is not related to the Complainee, and will not refer to information regarding the complainant’s sexual past as aforesaid; the provisions of this paragraph shall not apply if the officer believes that if he does not ask questions or refer as aforesaid, irreparable wrong will be caused to the Complainee.
- (f) If the officer believes that the circumstances of the incident mandate the assistance of an expert in the field requiring expertise for the purpose of investigation of the complaint – he/she may seek the assistance of such an expert.
- (g) The employer and/or the officer, in coordination with the employer’s management, shall protect the complainant, in the course of investigation of the complaint, from harm on work matters<sup>6</sup> or study matters as a result of the filing of the complaint, or from other harm in the framework of employment relations or in the framework of study relations or any other harm that disrupts investigation of the complaint; *inter alia* the employer shall act to distance the Complainee from the complainant, insofar as possible, and insofar as it appears appropriate thereto under the circumstances.

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<sup>6</sup> The term “work matters” is defined in the Regulations, and according to the definition in the Regulations, all of the following are “work matters”: hiring, employment conditions, including the physical conditions and the surroundings relating to the employment relationship framework, and including salary or other compensation which an employer gives to or for an employee in connection with his work, promotions, professional training or studies, termination, severance pay, benefits and payments given to an employee in connection with retirement.

- (h) If the Complainee was an employee of a manpower contractor who is actually employed at the Institute – the complaint shall be filed with an officer on behalf of the contractor or with an officer on behalf of the Institute.
- (i) If the complaint is filed with an officer on behalf of the contractor, such officer may transfer the handling of the investigation of the complaint to the officer on behalf of the Institute, and if the handling is transferred as aforesaid, the officer on behalf of the contractor shall give notice thereof to the complainant.
- (j) Upon completion of the investigation of the complaint, the officer shall promptly submit to the employer a written summary of the investigation of the complaint, accompanied by his reasoned recommendations in respect of the continued handling thereof, including with respect to each one of the matters specified in Section 20(a) and (d). If the Complainee is an employee of a manpower contractor actually employed at the Institute, the officer shall submit his/her summary to the contractor and to the employer.
- (k) If the Complainee is an employee of a manpower contractor who is actually employed at the employer, the officer shall submit his summary to the contractor and to the employer.
- (l) If the employer learns of an incident of sexual harassment or intimidation in the framework of employment relations, and no complaint was filed, or the complainant retracted his complaint, it shall transfer the incident to the investigation of an officer; if an incident is transferred as aforesaid to the investigation of an officer, or an officer learns of an incident as aforesaid, the officer shall conduct, insofar as possible, an investigation of the incident according to this section, *mutatis mutandis*, and if the complainant retracted his complaint, shall also investigate the reason for the retraction of the complaint.

**20. The employer’s handling of an incident of sexual harassment or intimidation**

- (a) When an employer receives the summary and recommendations of the officer according to Section 19(g), it shall promptly decide, within a period of no more than 7 working days, to exercise its powers in respect of each one of the following:
  - (1) Giving instructions to the employees involved in the incident, including regarding rules of appropriate conduct in the framework of employment relations and distancing the Complainee from the complainant, as well as taking steps on work matters, all in order to prevent repetition of the act of sexual harassment or intimidation, or in order to remedy the harm caused to the complainant due to the harassment or intimidation;
  - (2) Instituting disciplinary proceedings according to the disciplinary arrangement provisions applicable at the employer with respect to sexual harassment or intimidation;
  - (3) Not taking any step.
- (b) For the purpose of making its decision, the employer will be entitled to rely on the officer’s summary and recommendations or to conduct an additional investigation

proceeding to that conducted by the officer, and in the framework thereof shall summon the Complainee, the injured party, witnesses (if any) and any other person connected to the details of the incident.

- (c) If it is decided to conduct an additional investigation proceeding as aforesaid, the provisions of Section 19 above shall apply thereto, *mutatis mutandis*, and in this context the following provisions shall apply:
  - (1) The Complainee will be entitled to receive, at his request, any relevant material collected by the officer in the framework of investigation of the complaint;
  - (2) The employer will be authorized to order the taking of interim measures, as specified in Section 19(g) above, and will be entitled to cancel, modify, qualify or add to them or to determine other measures in lieu thereof.
- (d) The employer shall promptly act to perform its decision according to Subsection (a) and shall deliver written reasoned notice of its decision to the complainant, the Complainee and the officer; the employer shall further allow the complainant and the Complainee to inspect the officer's summary and recommendations.
- (e) The employer may, due to a change in circumstances, modify its decision according to Subsection (a) or delay performance thereof, and shall deliver written reasoned notice thereof to the complainant, the Complainee and the officer.
- (f) The provisions of this section notwithstanding, an employer may postpone its decision, delay performance thereof or modify it, due to disciplinary or legal proceedings pertaining to the incident contemplated in the decision; if the employer does so –
  - (1) It will deliver written reasoned notice thereof to the complainant, the Complainee and the officer;
  - (2) So long as such proceedings have not ended, the employer will act according to the provisions of Section 19(f);
  - (3) Upon the conclusion of the proceedings, the employer will make a decision according to Subsection (a).
- (g) If the Complainee is an employee of a manpower contractor who is actually employed at the employer, the employer and the contractor may agree on the issue of which of them will perform the provisions of this section, in whole or in part.

#### **Part G: Miscellaneous**

##### **21. Employee of a manpower contractor actually employed at the employer**

- (a) Pursuant to the Law and the Regulations, in the case of an employee of a manpower contractor actually employed at the employer (employer in practice) –
  - (1) Everything stated in these bylaws with respect to an “employee” also includes such employee of a manpower contractor;

- (2) Everything stated in these bylaws with respect to an “employer” also includes such employer in practice.

Therefore, an employer in practice bears the same responsibility borne by a regular employer (see Section 9 above) in respect of sexual harassment and intimidation committed by an employee of a manpower contractor employed there.

- (b) Special provisions are stated in Sections 16(c), 19(h) and 20(e) of these bylaws.

22. **Employers of 25 employees or less**

- (a) According to the Regulations, an employer who employs 25 employees or less, who delivers a copy of the sample bylaws to its employees and to officers on its behalf or publishes them in a prominent place controlled thereby, fulfills its obligations –

- (1) To inform its employees and the officers on its behalf of the provisions of the Law and the Regulations;
- (2) To demand of its employees and the officers to refrain from sexual harassment and intimidation and to demand of them to prevent such acts.

Comment: An employer who employs 25 employees or less is not obligated to deliver or publish the sample bylaws as aforesaid – it may choose to otherwise perform its duties stated in Paragraphs (1) and (2).

- (b) Appointment of an officer (see Section 12(b) and Part F)<sup>7</sup>.

Pursuant to the Regulations, an employer who employs less than ten employees may determine itself as an officer; if it determines itself as an officer, everything stated in these bylaws in respect of an officer shall apply thereto.

23. **The main significant provisions regarding sexual harassment and intimidation**

- (a) An employee of the Institute or a student at the Institute who commits an act of sexual harassment or intimidation, as defined in the Prevention of Sexual Harassment Law, 5758-1998, commits a grave breach of the disciplinary rules of the employer.
- (b) In respect of acts as aforesaid, the employer will be entitled to impose one or more of the following penalties:
  - 1- A warning;
  - 2- A written reprimand;
  - 3- Disqualification from filling an academic position, a teaching position and/or a non-teaching position;

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<sup>7</sup> If an employer who employs 25 employees or less chooses to deliver or publish the sample bylaws, despite not being obligated to do so – Sections 11(b) and Part F of these bylaws should be read in accordance with Section 20(b).

- 4- Denial of the right to receive financing from the Institute's sources or through the Institute;
  - 5- Postponement of the institution of proceedings for rising in the ranks;
  - 6- Recommendation for termination from the Institute. If the recommendation is received – the employee will be summoned for a hearing.
  - 7- Recommendation for suspension or expulsion of the student from the Institute and its affiliated programs.
- (c) Any of the above penalties may be for a fixed period or for an indefinite period, as the case may be, and may be suspended, in whole or in part.
- (d) In addition to the above penalties, the employer is authorized to:
- 1- Obligate the Complainee to apologize to the injured party in writing or to any other person.
  - 2- Charge the Complainee with action/s to right the wrong or mitigate the damage or restore the situation insofar as possible.
  - 3- The Complainee's refusal to comply with the decision shall be deemed as a very grave breach of disciplinary rules.

**24. Applicability of YU's policy**

- (a) The Institute's employees will be subject also to YU's non-discrimination and anti-harassment policy ("YU's Bylaws"), attached hereto as Annex 4.
- (b) Insofar as the provisions of Israel law and/or the provisions of these bylaws are stricter than the provisions of YU's Bylaws, the provisions hereof and/or the provisions of Israeli law, as the case may be, shall prevail.
- (c) Insofar as the provisions of YU's Bylaws contradict the provisions of these bylaws and/or the provisions of Israeli law – the provisions hereof and/or the provisions of Israeli law, as the case may be, shall prevail.

**25. Frivolous complaint and aiding a frivolous complaint**

The filing of a frivolous complaint, delivery of false information to support a frivolous complaint or aiding another in a frivolous complaint constitutes a grave breach of the Institute's disciplinary rules.

**26. Control**

The officer shall prepare an annual report regarding the scope of the sexual harassment and intimidation phenomenon at the Institute with maximum protection of the dignity and privacy of the complainant, the Complainee and other witnesses, which will be submitted to the Board of Directors of the Institute and the YU's security and compliance officers.

27. **Preserving archive material**

The officer shall collect and keep data regarding complaints filed with him/her in the framework of his/her work.

28. **Evidence and documentation**

These bylaws are based on and subject to the following laws and regulations:

- 1- The Prevention of Sexual Harassment Law, 5758-1998.
- 2- The Prevention of Sexual Harassment (Employer's Obligations) Regulations, 5758-1998.
- 3- The Equal Opportunities Law, 5748-1988.
- 4- YU's non-discrimination and anti-harassment policy.

These bylaws supplement and do not derogate from the provisions of the law.

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**CONTACT INFORMATION FOR  
PREVENTION OF SEXUAL HARASSMENT OFFICER**

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