

## **CHARTER ACCORDING TO ARTICLE 7 (d) (2) OF THE SEXUAL HARASSMENT PREVENTION ACT, 5758 – 1998**

Sexual harassment and torment on sexual ground violate human dignity, freedom and privacy, as well as gender equality; as of the entrance into force of the Sexual Harassment Prevention Act, 5758-1998 on September 20<sup>th</sup> 998, those constitute also criminal acts, as well as a cause of action for a tort claim. Sexual harassment and torment violate working relations and contradict the policy of the Technion Institution, who shall act for prevention of this phenomenon.

This charter is designated to clarify the main provisions of the act and the Sexual Harassment Regulations (Employer Duties), 5757- 1998. In the event of any contradiction between this charter and the law and regulations there under, the law and the regulations prevail and those can be reviewed in accordance with the specified in section 11 of this charter.

### **WHAT IS THERE IN THIS CHARTER?**

Part	Sections	
A'	1-4	What is sexual harassment and tormenting (and "work relations framework"
B'	5-6	Results of sexual harassment and tormenting (criminal offense, cause of a tort action)
C'	7-8	Employer policy and liability
D'	9-11	Prevention of sexual harassment and tormenting
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F'	13-18	A complaint procedure to the employer and employer's liability to handle
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### **PART A': WHAT ARE SEXUAL HARASSMENT AND TORMENTING?**

#### **1. What is sexual harassment?**

- (a) Although in most cases sexual harassment is committed by a man towards a woman, sexual harassment can be committed by both, a man and a woman, towards a man or a woman, and the law covers all of these possibilities.
- (b) According to the Sexual Harassment Prevention Act, 5758- 1998, sexual harassment is one of five forbidden forms of behavior, as follows:
  - (1) Extortion of a person for execution of an act of a sexual character.  
For example:  
An employer who threatens to terminate the employment of a female employee if she refuses to have sexual relations with him.
  - (2) An indecent act  
For example:  
An employee or a superior who touches a female employee for the purpose of sexual stimulation, or exposes oneself before her, without her consent.
  - (3) Repetitive proposals of sexual character, even though the person to whom those are addressed has shown lack of interest therein.  
**However** there is no need to demonstrate lack of consent in the following cases:  
I – a survivor of authority work relations.  
For example:

A manager who abuses an authority towards his secretary.

II – a survivor of relations related to authority, dependence, education or care for a minor, a helpless<sup>1</sup> or a patient.

For example:

An employee who abuses authority or education relations towards a pupil; an employee at a home who abuses dependence relations with the patient.

- (4) Repetitive reference to a person's sexuality, even though the person to whom such references are made has shown lack of interest therein.

For example:

Repetitive references to the sexual aspect of a person's appearance despite clarifications on part of the same that such disrupt them.

**However**, there is no need to demonstrate lack of consent in the cases excluded in section (3) above.

- (5) A disrespectful or humiliating reference to a person's sexuality or a person's sexual orientation, regardless if the same has or hasn't shown that the matter disturbs him.

(c) Lack of consent

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

I – extortion (section (b)(1) above);

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

III – abuse of authority working relations between the harasser and harassed (with respect to the acts in sections (b)(3) and (4) above);

IV – abuse of authority, dependency, education or care relations – of a minor, helpless (regarding the acts in sections (b)(3) and (4));

V – abuse of dependence within the framework of mental or medical care – of the patient in the career (with respect to the acts in sections (b)(3) and (4)).

- (2) Lack of consent is demonstrated whether verbally or by behavior which is unequivocal.

## 2. What is not harassment?

Despite the legislature's attempt to define in more detail the meaning of sexual harassment, it is the nature of definitions to always remain within the gray area. For example: it is difficult to predefine all that will be deemed as "degrading" or "humiliating" with respect to a person's sexuality or sexual orientation. Nevertheless, the prohibition of sexual harassment does not prohibit courting executed bona fide and with mutual consent.

## 3. What is tormenting?

- (a) According to the Sexual Harassment Prevention Act and the Equal Work Opportunities Act, 5748-1998<sup>2</sup>, tormenting is each of the following, if the act is executed within the framework of working relations:

- (1) An employer or a person appointed thereby offends an employee or a person seeking employment – when the origin of the offence is sexual harassment.

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<sup>1</sup> The term "helpless" is defined in the Sexual Harassment Prevention Act 5758-1998 by way of reference to article 368A of the Penal Act, 5737-1977. In this article "helpless" is defined as follows: "a person who as a result of his age, medical condition or physical or psychological disabilities, his mental impairment or any other reason, is unable to care for his subsistence, health or wellbeing."

<sup>2</sup> The term in article 7 of the Equal Work Opportunities Act is "an offence on the grounds of sexual harassment". Whereas an offence on the grounds of sexual harassment is a type of "torment", this charter treats the forbidden behavior according to the above article 7 as "torment".

**However**, with respect to sexual harassment of the type of repetitive proposals of sexual nature and repetitive reference to a person's sexuality it is sufficient that the origin of the offense is a single proposal only or a single reference only.

Examples:

- An appointed officers who prevents the promotion of a female employee due to her refusal to his one-time offer of sexual contact;
  - An employer terminating the employment of a female employee due to her refusal to his one-time offer of sexual contact.
- (2) An employer or a person appointed thereby who offends an employee or a person seeking employment - when the origin of the offence is a complaint of torment as specified in this section, or a legal claim for such torment.
- (3) An employer or a person appointed thereby who offends an employee or a person seeking employment – when the origin of the offence is the assistance of the employee to another employee with respect to a complaint or a legal claim for torment as in this section.

For example: a female employee has made a testimony about the torment of another employee; the employer or the person appointed thereby worsen her working conditions as a result thereof.

(b) False complaint/legal action defense

In a legal action for torment as per sections (a)(2) or (3) – the employer and the person appointed thereby can claim as defense that the employee or the person seeking employment know that the legal claim or complaint has been submitted on the basis of incorrect data.

**4. What is "working relations framework"?**

According to the Sexual Harassment Prevention Act, sexual harassment or torment within a "working relations framework" takes place in any one of the following 4 circumstances:

(1) At the work place – including branches of the institution located outside of the Technion campus;

(2) At any other place wherein activity takes place by the employer;

Examples:

- A showroom wherein the employer and employees thereof exhibit employer products;
- An institute for training and advanced studies wherein a course takes place on part of the employer.
- A restaurant wherein a celebration takes place on part of the employer and the employees thereof.

(3) During work;

For example:

A travel executed during work time, within work framework, such as for the purpose of a work meeting outside of the work place, or a travel to one of the institution's branches outside of the Technion campus.

(4) By abuse of authority working relations at any place whatsoever (such as at the home of the officer in charge).

**PART B': THE RESULTS OF SEXUAL HARASSMENT AND TORMENT**

**5. Sexual harassment and torment are illegal**

(a) Sexual harassment and torment of sexual grounds constitute illegal behavior violating human dignity, freedom, privacy, as well as gender equality.

(b) Sexual harassment and torment constitute (according to the Sexual Harassment Prevention Act and with respect to torment – also according to the Work Equality Opportunities Act, 5748-1998):

- (1) A criminal offense, which can cause the imprisonment of the harasser or the tormentor, or impose a fine upon the said.

- (2) A civil violation for which a legal claim can be filed; monetary compensation as well as other permanent or temporary remedies can be claimed in such a claim against the harasser, the tormentor, and in certain events also from the employer of the said.

**6. Sexual harassment and torment constitute disciplinary violations**

Sexual harassment and torment constitute disciplinary violations for which the harasser or tormentor can be charged with a disciplinary penalty.

## **PART C': EMPLOYER POLICY AND LIABILITY**

**7. Sexual harassment and torment contradict the policies of the Technion institute**

Sexual harassment and torment violate human dignity, privacy and working relations, and contradict the policies of the institute, and shall be not tolerated with by the same.

**8. Employer liability**

(a) In addition to the prohibition applicable upon the employer, as upon any individual, not to harass and torment, the law imposes thereon a special liability with respect to the acts of its employees and the officers in charge appointed thereby, within the framework of working relations; an employer must undertake reasonable measures of three types, as specified in this charter:

- (1) Prevent sexual harassment and torment (see part D');
- (2) Efficiently handle sexual harassments and torments of which he is aware (see part F');
- (3) Remedy the violation resulting from sexual harassment or torment, or following submission of a complaint or a legal claim regarding the said (see part F').

(b) According to the law, an employer who has not undertaken the measures as specified in this section, will be liable for the sexual harassment or the torment executed by an employee thereof or an officer in charge appointed thereby, within the framework of the working relations, and the employer may be sued in a civil claim for the said.

## **PART D': PREVENTION OF SEXUAL HARASSMENT AND TORMENT**

**9. Preventive measures**

- (a) The institute demands of each officer in charge appointed thereby and of each employee to avoid acts of sexual harassment and torment within the framework of working relations, and to execute all in their ability to avoid such acts, all in order to create jointly with the employer, a sexual harassment and torment free working environment.
- (b) The institute demands of each officer in charge appointed thereby to undertake an active and leading part in prevention of sexual harassment and torment within the framework of working relations.
- (c) The institute demands of each officer in charge appointed thereby and of each employee to participate in training and guidance activities conducted by the said on the subject of prohibition and prevention of sexual harassment and torment; alternatively, the institute will enable its employees to participate in such activities, organized in reasonable times by other entities, such as a representative labor organization or women's organizations, and only provided that this does not hinder the ordinary course of work.

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**10. Cooperation with employee representation**

The institution will cooperate, as necessary, with the labor union at the work place, in explanation and guidance activities on the matter of sexual harassment and torment prohibition and prevention.

**11. Receipt of information and who from**

- (a) An employee is entitled

- (1) In accordance with the regulation - to review and receive a copy of any of the following:
  - Sexual Harassment Prevention Act 5758 – 1998;
  - Sexual Harassment Prevention Regulations (Employer Duties), 5758 – 1998;
  - Disciplinary instructions at the work place regarding sexual harassment and torment
- (2) To receive information regarding explanation and guidance activities of the institution on sexual harassment and torment prohibition and prevention.
- (b) An employee can demand to receive the said material and information at the human resource department or from the officer in charge of handling sexual harassment complaints: Mrs. **Liat Retter**, Head of Administration at the Faculty of Biotechnology & food engineering. Telephone number **077-8875680**.

## **PART E': WHAT DO YOU DO IF YOU HAVE BEEN SEXUALLY HARASSED OR TORMENTED?**

### **12. (a) If a person believes he has been sexually harassed or tormented, he has three options according to the law:**

- (1) Employer's responsibility to handle: if the harassment or torment was executed "within the framework of working relations", the violated person may file a complaint at the work place; the procedure for this matter is specified in part F'.
- (2) A criminal proceeding: the violated person may file a complaint with the police.
- (3) A civil proceeding: the violated person may within three years submit a claim to the court of justice and/or the regional labor court of justice against:
  - The harasser or tormentor himself;
  - And if he claims that the employer is liable, also against the employer (see section 8 regarding employer's liability).

### **(b) What is the relation between the different proceedings specified above?**

- (1) The person violated by sexual harassment or torment may select one or more of the above specified proceedings.
- (2) An employer may decide how the criminal or the civil proceedings will affect the manner of handling for which he is responsible (elaboration on this matter can be found in part F', section 18(d)).

## **PART F': A COMPLAINT PROCEDURE TO THE EMPLOYER AND EMPLOYER'S LIABILITY TO HANDLE**

### **13. Who can file a complaint and in what circumstances?**

A complaint can be filed by any of the following:

- (1) An employee who claims that his employer, officer in charge or other employee has sexually harassed or tormented him within the framework of working relations;  
An employee – anyone with whom the institution conducts employer-employee relations, including personal contract employees, regular and temporary employees, temporary employees, students and contractor employees or such who are employed on a one-time-employment basis.
- (2) Another person, including a student at the ongoing and external studies department, who claims that an employer's employee or that of the person in charge on behalf thereof has sexually harassed or tormented him within the framework of working relations;
- (3) Anybody else on behalf of the person specified in sections (1) or (2) – in this case it is proposed to submit evidence of the fact that such person agrees to the submission of the complaint (for example a letter signed by such a person).

### **14. To whom does one complain?**

- (a) A complaint must be submitted to the officer in charge thereof, Mrs. **Pnina Aloni**, telephone number **04-8224010** or **04-8292766**, and in the absence thereof – to the head of human resources department.

- (b) If the officer in charge is the person subject matter of the complaint (the "Respondent"), or he has a personal matter in the subject matter of the complaint or the people involved therein, a complaint shall be submitted to the person substituting the officer in charge, to another officer in charge and in the absence thereof – to the employer via the head of the human resources department (if the complaint was submitted to the employer, the employer will act in accordance with the provisions of this part, as was the officer in charge to act).
- (c) If the Respondent is an employee of a labor force contractor who is de-facto employed by the institution:
  - (1) The complaint will be submitted to the officer in charge on behalf of the contractor, or to the officer in charge at the institution;
  - (2) If the complaint was submitted to the officer in charge on behalf of the contractor, the same officer in charge may transfer the handling of the complaint to the officer in charge on behalf of the institution, and if handling was transferred as specified – the officer in charge on behalf of the contractor will notify the complaining party of this matter.

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### **15. Content of the complaint**

The complaint will include a description of the event, including:

- (1) Specification of the identity of the parties involved therein, as well as witnesses, if any, including if the said are employees of the Technion – Israeli Technological Institute, or other persons related to the Technion;
- (2) Place of occurrence;
- (3) In the event in which an act of sexual harassment is claimed – one of the following:
  - (a) Whether the violated person has shown to the violator that the behavior disturbs him/her.
  - (b) Whether there are any dependency, authority or other relations between the violator and the violated persons.

### **16. Manner of submission of a complaint**

- (a) A complaint can be submitted in writing or orally.
- (b) If an oral complaint is submitted then:
  - (1) The officer in charge will write the content of the complaint;
  - (2) The complaining person or the person filing the complaint on behalf thereof will sign the record of the officer in charge, in order to confirm the content thereof;
  - (3) The officer in charge will submit a copy of the signed record to the complaining person.

### **17. Complaint investigation**

- (a) When a complaint is received, the officer in charge:
  - (1) Will notify the person complaining of the manners of handling of sexual harassment or tormenting in accordance with the law (part E', section 12 above);
  - (2) Will act for investigation of the complaint, and for this purpose shall, inter alia, hear the person complaining, the Respondent and the witnesses, if any, and will examine all information provided to him regarding the complaint.
- (b) The officer in charge will not handle the investigation of a complaint if he has personal matter in the subject matter of the complaint or to any of the persons involved therein.
- (c) The officer in charge who has a personal matter as specified above, will transfer the investigation to another officer in charge, or to anybody appointed by the employer as a substitute thereof, and in the absence of any of the said – to the head of the human resources department; If the officer in charge has transferred the care to the head of the human resources department, the latter will act as the officer in charge was to act for investigation of the complaint, as per the specified in this section.
- (d) Investigation of the complaint will be executed efficiently and without delay.
- (e) Investigation of a complaint will be executed with maximal protection of the dignity and privacy of the complaining and the responding parties, as well as of other witnesses, and inter alia:
  - (1) The officer in charge shall not disclose any information received by him during the course of investigation of the complaint, unless the same is obligated to do so for the purpose of investigation itself or in accordance with the law;
  - (2) The officer in charge will not ask questions regarding the complaining party's sexual record whereas such is not related to the Respondent, and will not take into consideration information about the said complaining party's sexual record; the specified in this

section shall not apply if the officer in charge is of the opinion that if he does not ask such questions or make such considerations, then an irreparable damage will be caused to the Respondent.

- (f) The institution will protect the complaining party during the complaint investigation, from any work-related violation<sup>3</sup> resulting from the submission of the complaint, or from any other violation within the working relations framework, which may disrupt the investigation of the complaint; the institution shall, inter alia, act for distancing the Respondent from the complaining party, if possible and if deemed right in the specific circumstances.
- (g) Upon termination of the complaint investigation, the officer in charge will submit to the institution, without any delay, a written summary of the complaint investigation, accompanied by reasoned recommendations regarding the continuation of handling thereof, including regarding each one of the matters specified in section 18 (a) and (d).
- (h) If the Respondent is an employee of a labor force contractor who is de facto employed by the institution the officer in charge will submit his summary to the contractor as well as to the institution.
- (i) Whereas the institution discovers an event of sexual harassment or tormenting within the working relations framework, and whereas no complaint has been filed or a complaining party has retracted his complaint, the institution shall transfer the investigation of the event to an officer in charge; whereas such an event has been transferred for investigation by the officer in charge, or whereas the officer in charge has become aware of such an event, the officer in charge shall conduct an investigation on the event, if possible, in accordance with this section, mutatis mutandis, and if the complaining party has retracted his complaint, the same shall investigate the reason for such retraction from the complaint.

#### **18. Handling by the institution of a sexual harassment or tormenting case**

- (a) Whereas the institution has received the summary and recommendations of the officer in charge as per section 17(g), it shall decide without delay and within a period not exceeding 7 business days, on exercise of the authorities vested therein, with respect to each one of the following:
    - (1) Instruction of the parties involved in the event, including regarding rules of proper conduct within the working relations framework, and distancing the Respondent from the complaining party, as well as undertaking of measures on work matters, all in order to prevent reoccurrence of the sexual harassment or tormenting act, or in order to remedy the harm caused to the complaining party as a result of the harassment or tormenting;
    - (2) To transfer the care to a disciplinary proceeding in accordance with the disciplinary charger applicable upon the Respondent, in accordance with the affiliation thereof. On the date of drafting of this charger the **disciplinary charters** are as follows:
      - Disciplinary chapter in the Technion academic regulations – with respect to a Respondent who is a staff member, including research staff of the institution.
      - Disciplinary charter for employees of the Technion institution – with respect to a Respondent who is an employee.
      - Students disciplinary charter – with respect to a Respondent who is a student.Regarding an employee on whom no disciplinary charter applies – acts according to the sexual harassment prevention act and regulations shall be undertaken.Sexual harassment and/or torment offences by staff members, employees or students or towards any of the above constitute disciplinary violations in accordance with each one of the disciplinary charters (as defined above).
  - (3) Archiving a complaint.
- (b) The institution will act without delay for execution of its decision under sub-section (a) and will submit a reasoned written notice of its decision to the complaining party, the Respondent and the officer in charge; in that manner the institution will enable the complaining party and the Respondent to review the summary and the recommendations of the officer in charge.

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<sup>3</sup> The term "work matters" is defined in the regulations, and according to the regulation definition, each one of the following are "work matters": receipt to work, working conditions, including physical and environmental conditions related to the working relations framework, and including salary or other remuneration provided by an employer to the employee or there for in relation to his work, promotion at work, training or professional advanced study, termination, benefits and payments made to an employee with respect to retirement from work.

- (c) The institution may, upon change of circumstance, amend its decision under sub-section (a), or delay the execution thereof, and will submit a reasoned written notice to this effect to the complaining party, the Respondent and the officer in charge.
- (d) Notwithstanding the specified in this section, the institution may postpone its decision, delay the execution thereof or change the same due to disciplinary or legal proceedings related to the case subject matter of the decision; if the institution has done as specified:
  - (1) It shall submit a reasoned written notice to the complaining party, the Respondent and the officer in charge to this effect;
  - (2) So long as the said proceedings have not been terminate, the institution shall act in accordance with the provisions of section 17 (f);
  - (3) Upon termination of proceedings, the institution will make a decision in accordance with section (a).
- (e) If the Respondent is a labor force contractor employee de facto employed by the institution, the institution and the contractor may agree on the matter of who among them will execute the provisions of this section, in full or in part.

## **PART G': DISCIPLINARY PROCEEDING**

### **19. Transfer to a disciplinary proceeding**

Whereas it is decided upon transfer of care to a disciplinary proceeding according to section 18 (2) above, the officer in charge shall transfer the material relevant to the complaint to the relevant disciplinary authorities, including:

- 19.1 The complaint and annexes thereto (if submitted in writing) and if submitted orally – a brief of the complaint.
- 19.2 The response of the Respondent.
- 19.3 The investigation report executed by the officer in charge.
- 19.4 Witnesses statements, if made.
- 19.5 A summary of all activities executed so far, including conciliation attempts of the officer in charge or any other person.
- 19.6 A specification of the intermediate measures undertaken, if undertaken, change of examination checking officer, release from a course etc.).

### **20. The disciplinary proceeding**

- 20.1 The institution will handle sexual harassment and/or torment offenses within the framework of the disciplinary law, in accordance with the disciplinary charter applicable on the Respondent.
- 20.2 The forum deliberating the sexual harassment and/or torment offenses will be composed in a manner that representation shall be given to both, the Respondent and the victim. The hearing will take place behind closed doors.
- 20.3 Whereas a Respondent is convicted of committing a sexual harassment and/or torment offense, the penalty set forth in the disciplinary charter and/or the appropriate penalties for such cases shall be imposed there upon.
- 20.4 A disciplinary judgment convicting of sexual harassment and/or torment will be published without specifying the names of the victim and the witnesses on his behalf.  
The disciplinary authorities may decide upon addition publication restrictions.



## **PART H: MISCELLANEOUS**

### **21. An employee of a labor force contractor de facto employed by the employer**

- (a) According to the law and the regulations, in the case of an employee of a labor force contractor who is de facto employed by the employer (actual employer):
- (1) All specified in this charter regarding an "employee" includes also the employee of the labor force contractor;
  - (2) All specified in this charter regarding an "employer" or the institution includes also the same actual employer.
- Therefore, the actual employer bears the same responsibility borne by the ordinary employer (see section 8 above) for sexual harassment and torment executed by the employee of a labor force contractor employed by it.
- (b) Special provisions can be found in sections 14(c), 17(h) and 18(e) of this charter.

### **22. This charter applies with respect to all employees of the Technion institute employed in the Technion institute sites across the country, whether such existing on the date hereof, and whether to be established in the future, if established.**

**Vered Behar**

**Chief HR Office**

To: Human Resources Department

From: \_\_\_\_\_

RE: **Charter in accordance with Article 7(d)(2) of the Sexual Harassment Prevention Act, 5758 - 1998**

I hereby confirm that I have received the above specified charter.

I hereby undertake to read and act in accordance with the charter.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_