

Guidelines for Preventing and Dealing with Sexual Harassment 2020

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Introduction

- The law to prevent sexual harassment was legislated in 1998 and applies to all persons and to all contacts with those around them.
- **It is intended to guide the public in how to act in a way that protects each person's sexual autonomy and ensures respect for others in the sexual context.**
- It determines what is permitted and forbidden in human relations in all workplaces in Israel and the obligations of all employers towards their employees and all those who come in contact with them.

Did You Know?!

- The sexual harassment law states that all the listed forms of sexual harassment **constitute criminal offenses.**
- In other words, the sexual harassment law is **part of Israel's penal code.**

Did you know?!

- The sexual harassment law prohibits five types of sexual harassment
- The law **prohibits retaliation connected to sexual harassment** and sets more severe punishment for such retaliation than for actual harassment
- **Universities and colleges are liable** for sexual harassment when one student harasses another
- **Every person in a workplace has the right to submit a complaint** of sexual harassment by an employee

Five Types of Forbidden Sexual Harassment

- **Sexual blackmail with threats** (e.g., “If you don’t...you will suffer)
- **“Indecent acts”** – any act with sexual overtones such as: rubbing up against someone, kissing, exaggerated speech and other acts **not acceptable to others.**
- **Repeated sexual advances** to a person who has reasonably shown that s/he is not interested in them.
- If persons in **positions of authority** (in studies, work, medical or mental treatment) exploit subordinates or if the act involves persons younger than age 15, **this is prohibited sexual harassment even if the person does not indicate that s/he is not interested.**

Prohibited types of harassment - continued

- Debasing or humiliation – debasing or humiliating behavior regarding a person’s **gender, sexuality or sexual orientation** is prohibited sexual harassment even if it is a one-time occurrence and even if the offended person did not indicate that s/he is not interested in it.
- Retaliation – Real or threatened detriment of any type whatsoever connected to efforts to prevent a complaint or suit for sexual harassment and that entails some form of retaliation against the complainant or accusee is forbidden.

How to show that you are not interested

- A person who is the object of a sexual advance and is not interested in receiving additional advances of this type **should clarify this in words or behavior that leave no reasonable doubt about the person's feeling**. To this end a person can use a letter or a third person and **it is recommended that the attitude to the advance be documented** for presentation as evidence at a later stage, if necessary.

Paths for dealing with sexual harassment

- **First path:** The injured party can complain about sexual harassment or retaliation **to the police**. This procedure means initiating criminal action which will be overseen **by the police and the attorney general's office**.
- ✓ Such a procedure can lead to acquittal or conviction
- ✓ Conviction will entail punishment:
 - ✓ A fine
 - ✓ Incarceration

- **Second path:** Damages – it is possible to **sue for damages in a civil suit**
- **Third path:** connected to the place of work –
 - ✓ It is possible to **file a complaint with the person(s)** appointed by the employer to implement the law
 - ✓ If the harassee and harasser work for the same employer – the harassee can **sue the harasser in the Labor Court**
 - ✓ The harassee can choose any of the paths – **selecting one of them does not negate the option of using another path.**

Employer's obligations

- The employer must issue an unequivocal message to the work environment under his/her authority that sexual harassment and retaliation are unacceptable **and forbidden** and that the workplace will treat such actions as a **violation of the law** which will be dealt with diligently and severely.

Employer's liability “within work relations”

- The Sexual Harassment Law places **responsibility on the employer** for any sexual harassment and retaliation that occur in the place of work.
- **It is the employer's obligation to appoint a person in charge** of informing and instructing the workplace about the law and to serve as the address for complaints and questions about the subject.
- The employer and/or his/her representative must **deal with every case of harassment** or rumor of harassment that comes to his/her attention, efficiently and **with maximal fairness to all those involved, while maintaining maximal confidentiality.**

Workplace relations include:

- The workplace
- And/or any other place in which activity for the employer is conducted, during work or after work hours, and the **exploitation of authority** in work relations in any place whatsoever.

The employer's obligations include:

- **a) Preventive obligations**
- 1. **Appointing a person in charge** – in a college with more than 2,000 students, at least two people will be appointed; an academic faculty representative, an administrative staff representative, and at the institution's discretion, a student representative.
- 2. **The person in charge, soon after his/her appointment**, will attend a workshop of no less than 18 hours that deals, inter alia, with the essence of the position, the sexual harassment law, preventive actions and manners of dealing with complaints.

- **3. Instruction and explanatory actions**
- The institution will ensure that at least once a year instruction and explanatory actions are offered about the prevention of sexual harassment and retaliation. Such actions can **use technological means such as computerized software.**

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- **4. The employer must ensure that the following actions are taken:**
- **Preparation of regulations based on the law and their publication on the institution's internet site**
- **It should be updated** as needed and according to directives of the Council for Higher Education.
- **It should be translated** into English and Arabic.
- **Its existence should be made known to teachers, workers and students** and it should be accessible on online sites for all to see: on the human resources, student authority, library and academic faculty committee sites
- **The law and regulations should be brought to the attention of all new students and employees**, along with information about submitting complaints and the availability of services to assist in cases of sexual harassment and retaliation at the College.

- **B) Obligations to treat complaints** include the treatment of any case of sexual harassment or retaliation **that comes to the attention of the employer**, whether the harasser complained or not, and even if knowledge of it comes from an anonymous source
- **Bringing the case** to the attention of those in charge of sexual harassment for a full and comprehensive clarification.
- At the conclusion of the clarification, those in charge **will immediately submit to the employer a detailed summary** in addition to their **conclusions and recommendations**.
- As soon as the recommendations are received from those in charge, the employer should act without delay – **within seven work days** a decision must be made whether to take disciplinary steps against the person charged with harassment.

- **The institutions must determine appropriate disciplinary steps** including the composition of the disciplinary court and court procedures for dealing with sexual harassment complaints and taking into account comments by the State Controller. **(From the most recent regulations)**

- The sexual harassment law states that:
- Employers who fulfill their obligations as set down in the law will not bear legal liability for sexual harassment or retaliation that occurs within the work relations under their control.