

BY-LAWS RELATING TO SEXUAL AND GENDER-BASED VIOLENCE (SGBV)

By-laws relating to Prevention and Response to Sexual and Gender – based Violence enacted by the Council of University of Jaffna, Sri Lanka under Section 135 of the Universities Act No. 16 of 1978 as amended by Acts No. 7 of 1985 and No. 26 of 1988 and enforced with effect from 26th August 2017.

GENERAL

- 01. This By-law may be cited as the Sexual and Gender-Based Violence By-law of University of Jaffna.**
- 02.** The University of Jaffna, Sri Lanka (herein after referred to as “the University”) hereby adopts this by-law as approved by the Council of the University (herein after referred to as “the Council”) at its 421st meeting held on 26.08.2017 being prepared under the provisions of the section 135 of the Universities Act No. 16 of 1978, as amended by the Universities. (Amendment) Act No. 7 of 1985 and No. 26 of 1988,(herein after referred to as “the Act”). This by-law supersedes any other By-laws or Regulations that may have been issued earlier.
- 03.** Notwithstanding anything to the contrary in any of the provisions of this By-laws, the Vice-Chancellor shall take appropriate action he/she deems necessary to maintain discipline at the University and nothing in this By-laws shall be construed in a manner to detract from the powers, duties, and functions conferred on or imposed upon the Vice-Chancellor by the Universities Act No. 16 of 1978 (herein after referred to as the “Act”) or by any other instrument.
- 04.** Upon coming into operation of this By-laws, there shall be established a Gender Equity and Equality Centre (GEEC) (herein after referred to as the “GEEC”) constituted as provided in paragraph 5.
- 05.** The GEEC shall consist of the following members, who shall hold office for a period of 02 (two years) with effect from the date of appointment.
 1. Two Council members nominated by the Council among its appointed members (one male & one female)
 2. Proctor

3. Director/Student Welfare
4. Two Wardens of the Hostels(one male & one female)
5. Chief Marshal or his/her nominee
6. Two female academics from any other state university in Sri Lanka whether retired or in service who has proven scholastic experience in gender issues, appointed by the Vice-Chancellor on the recommendation of the Senate
7. Two female non-state actors engaged in gender related activism appointed by the Vice-Chancellor in concurrence with the Council.
8. Six elected representatives from among the academic staff (three male &three female)
9. Two elected representatives from among the administrative staff (one male& one female)
10. Two elected representatives from among the non-academic staff (one male & one female)
11. Six elected representatives among the students (three male &three female)
12. An Attorney-at-Law appointed by the Vice Chancellor in concurrence with the Council drawn from a short list submitted by the Department of Law, University of Jaffna.

06. The process for formation of the GEEC

1. Director / Student Welfare, Proctor, Chief-Marshall, External Female academics specialized in gender issues, female non-state actors engaged in GEE, Representatives of Wardens and Attorney-at-Law shall be appointed by the Vice-Chancellor.
2. The Election for the specially elected representatives of students, academic, non-academic and administrative staff shall be conducted by an independent three member Election Committee (EC) (TOR and detailed process to be formulated by the pioneer GEEC) appointed by the Vice-Chancellor on the recommendation of the GEEC.
3. Election shall be conducted biennale.
4. Electoral process set out by the GEEC shall commence six (6) months and completed one (01) month prior to the expiration of the existing GEEC.
5. Appointments for non-elected members shall be announced one (01) month prior to the expiration of the existing GEEC.
6. The pioneer members of GEEC shall be appointed by the Vice Chancellor with the approval of the Council.

7. The pioneer members shall hold the office for two years from the date of appointment.

07. Any person shall be eligible for being a candidate for the GEEC election if he or she possesses certificate/s of participation in awareness programme conducted by GEEC

08. Any person shall be disqualified for being appointed or elected or designated or for being continued in the GEEC on the following grounds:
 1. Any complaints concerning SGBV / serious misconduct / breach of confidentiality pending against the person
 2. Found guilty of SGBV / serious misconduct / breach of confidentiality

09. The members shall elect a Chairperson amongst the six elected academic staff members who shall preside at all meetings of the GEEC.

10. The members shall elect a Secretary amongst the two elected administrative staff members.

11. The quorum of the meeting shall be 2/3rd of the members.

12. Subject to the provisions of the Act and of any other appropriate instruments, the GEEC shall work under the directive of the Vice-Chancellor who is responsible for maintenance of discipline in the university. The GEEC shall have the following powers, duties and functions:
 1. to conduct meeting once in two months to address the GEE and SGBV issues and report to the Council through the Vice-Chancellor
 2. to conduct special meeting if necessary
 3. to give recommendation to the Vice Chancellor in relation to the appointment of Inquiry Committee
 4. to establish working committees for Resource Mobilization, Education and Research and Monitoring (TOR and SOPs to be developed by the pioneer GEEC)
 5. each working committee shall consist of a chairperson who shall be an academic member of GEEC along with one representation from each faculty
 6. Gender balance of the faculty representation will be in rotation as decided by the GEEC.

7. Grievance committee shall consist of 5 members from GEEC with 3 academics (external and/ or internal), 1 administrative and 1 non-academic staff. Grievance committee shall be chaired by an internal academic staff and secretary shall be the administrative staff.
8. to establish working and / or sub-committees if necessary with the approval from the Vice Chancellor
9. to monitor all working and sub-committees whenever established under the GEEC
10. to advise the Vice-Chancellor on the matters related to SGBV within the University
11. to provide the necessary support to the '**Inquiry Committee**';
12. to do all other acts incidental to the powers aforesaid as may be required in order to further the objectives of this By-laws;
13. to amend / revise /repeal / replace any provisions of the by-law when necessary with the approval of the Council
14. Any questions regarding the interpretation of the By-laws shall be referred to the Council whose decision thereon shall be final.

13. The code of conduct for the GEEC includes:

1. Being impartial
2. Maintaining confidentiality
3. Being patient
4. Not compromising cases/offences
5. Being professional
6. Being supportive

14. An '**Inquiry Committee**' of three (3) (two external and one internal) or five (5) (three external and two internal) members, shall be appointed by the Vice Chancellor on the recommendation of the GEEC. Internal members shall be senior academics trained or experienced in SGBV inquiry procedures and free from any SGBV offences. External member shall be senior executive officers from other Institutions with experience in inquiry process. Gender representation shall be ensured.

15. The Inquiry Committee shall have the following powers, functions and duties:

1. To conduct independent inquiry and give recommendation in writing to the Vice-Chancellor through the GEEC
2. To submit a detailed report based on the inquiry procedure as stated in section 17 to the Vice-Chancellor through the GEEC. Any reason for delay should be recorded in writing.
3. To act with the procedure outlined in section 17 of the By-law.
4. To inquire into the complaints using procedures in conformity with the principles of natural justice and gender sensitivity.

16. The code of conduct for the Inquiry Committee includes:

1. Treating victims and alleged persons with compassion, sensitivity and respect
2. Being impartial
3. Maintaining confidentiality
4. Investigating thoroughly
5. Being patient
6. Not compromising cases/offences
7. Being professional
8. Being supportive

17. STRATEGIES AND ACTIONS TO PREVENT AND ADDRESS SGBV

The GEEC shall *inter alia* be empowered to formulate strategies and actions:

- A. Disseminate information on GEE policies, SGBV and related grievance handling procedures to staff and students annually through awareness programme, interactive dialogue, brochures, handbooks and flyers in Tamil, Sinhala and English.
- Conducting awareness programme - during orientation / induction to students / staff by the Education and Research Committee of GEEC in association with Staff Development Centre
 - Interactive dialogue - Faculty wise programme for staff and students conducted by each faculty with the consultation of GEEC
 - Incorporating GEE and SGBV into the curriculum by the Faculty Curriculum Committee with the consultation of GEEC
 - Brochures, handbooks and flyers - during registration of new entrants by Resource Mobilization and Education and Research Committees of GEEC

- Disseminate information about GEE policies and GEEC activities by posting / circulating relevant material through relevant channels to the university community by all sub-committees of GEEC
 - Sensitize staff who deal with student welfare and discipline annually by all sub-committees of GEEC
 - Design and implement a gender-responsive cross generational leadership and mentoring programme for all female staff - by the Education and Research Committee of GEEC in association with Staff Development Centre
- B. Given that leadership from the Vice-Chancellor, Rector, Registrar, Bursar, Librarian, Deans, and Heads is required to implement the policy and to carry out the relevant measures effectively, the university shall endeavour to
- Provide necessary resources, infrastructure facilities and support for the smooth functioning of the GEEC
 - Ensure GEE in recruitments / nominations wherever applicable
 - Committed to incorporate GEE and SGBV into the curriculum
 - Committed to ensure zero tolerance towards SGBV
 - Ensure a secure environment that includes street and security lighting; posting security at strategic points; providing night surveillance services; availing hotlines for emergencies, etc. particular attention be paid to halls of residence
 - Invest in child care facilities on university premises for the benefit of parenting staff
- C. Create widespread awareness about the grievance mechanism to address complaints of SGBV
- Sensitize the university community about the policies and grievance mechanism by displaying the above in library, offices and online portal by Grievance Committee, Resource Mobilization and Education and Research Committees of GEEC
 - Train volunteer groups of students to raise consciousness on SGBV and grievances among their peers by Resource Mobilization and Education and Research Committees of GEEC
- D. Create awareness and capacity building and encourage staff and students towards the zero tolerance of SGBV within the university

- E. Ensure that there is proportionate representation of male and female as office bearers in students' or staff's unions / associations / societies
 - a. Bring amendments to the existing constitutions of students' unions / associations / societies by the Vice Chancellor and the Council
 - b. Encourage registered trade unions to amend their constitutions accordingly – by Education and Research Sub committee
 - c. Sensitize about proportionate representation through the activities of GEEC–by Education and Research Sub committee

- F. Create annual allocation for GEEC in the annual budget of the university based on the proposal submitted by the GEEC
 - a. Prepare the annual budget proposal for GEEC activities – by Resource Mobilization Sub Committee
 - b. Follow up and proceed the financial allocations and disbursements as per the university financial regulations - by Resource Mobilization Sub Committee

- G. Provide institutional avenues for victims and offenders to meet trained counselors and deal with the root causes of SGBV issues
 - a. Establish a counseling division at the university Health Centre
 - b. Train student counselors to deal with SGBV victims and offenders
 - c. Sensitize the university community to direct SGBV victims to appropriate authority
 - d. Provide accessible helpline
 - e. submit detailed report on root causes of SGBV and recommendations for prevention to the Vice Chancellor based on the report from the counseling division and trained student counselors – by Grievance Sub Committee

- H. Compile a database of reported incidents of SGBV within the University
 - a. Prepare a statistics report on SGBV data based on the report from the counseling division and trained student counselors and publish – by Grievance Sub Committee and Education and Research Sub Committee

- I. Recommend the relevant authorities to review and update policies / forms / procedures on the use of gender inclusive languages and public display of visual aids and materials that are demeaning to men and women

- a. Create awareness among the university community – by Education and Research Sub Committee
 - b. Monitor the updates in policies / forms / procedures – by Monitoring Committee
- J. Adopt a gender-responsive research environment that improves our understanding of national development issues, and impacts positively on the lives of men and women
- a. Train the staff and students on gender-focused research skills - by Education and Research Sub-committee in association with Staff Development Centre
 - b. Develop guidelines to ensure that research processes and innovations integrate gender analysis wherever applicable –by Education and Research Sub committee
 - c. Recommend an affirmative action programme to encourage participation of female members of staff, with specific budget allocations to support their multiple roles in society – by Resource Mobilization and Education and Research Sub committees
 - d. Create a research forum or an agenda in the existing research conferences in the university to facilitate the dissemination of gender focused research findings - by Education and Research Sub committee
- K. Recognize and reward “champions” who are active in promoting gender equity/equality and eliminating SGBV
- a. Recommend name of one staff member annually to the Council for the award by the GEEC according to the criteria set out by the GEEC
 - b. Recommend name of one student annually to the Council for the award by the GEEC according to the criteria set out by the GEEC

18. Inquiry Procedure

The inquiry procedure shall be read harmoniously with the procedure laid out in the University Establishment Code. Where there is a conflict between the two the University Establishment Code shall prevail.

- a) All complaints, allegations, and reports of SGBV under this By-law shall be made to the Grievance Committee.
- b) All complaints, allegations, and reports of SGBV may be submitted in written on a prescribed form which is available in the university website.
- c) If the complaint is filed verbally to the Grievance Committee, a prescribed form shall be filled and it must be signed by the complainant for the record.
- d) If the complaint is received by any person other than the members of Grievance Committee, it must be reported to the Grievance Committee at the earliest.
- e) Any person included within the scope of the GEE Policy, who considers him or herself to be a victim of sexual or gender-based violence may file a complaint.
- f) A complaint may also be filed by a third party who is aware of the situation of harassment, including heads of departments and workers' or students' representatives. In these cases, the Secretary of Grievance Committee shall forward a copy of the complaint to the suspected victim so that he or she may ratify it, if appropriate.
- g) All members of the university community have the duty to report to their Heads / Deans / Supervisors AND to the Secretary of Grievance Committee on any situation of possible SGBV that they may be aware of.
- h) The complaint must be presented by the complainant to the Secretary of the Grievance Committee within a period of one month from the date of incident. If the complaint is made after the said period, the complainant shall justify the grounds for the delay to the said Committee. The decision of the Committee shall be final.
- i) Upon receiving notice of a "Complaint", the Grievance Committee shall promptly assess the nature of the complaint.
- j) Once the complaint has been accepted by the Grievance Committee for processing, it shall be forwarded to the Vice-Chancellor through the Chairperson

of GEEC to submit the complaint to the Inquiry Committee. Inquiry Committee may be supported by the Grievance Committee with respect to documentation.

- k) Mechanisms shall ensure that all complaints are addressed with due regard to key principles including confidentiality, impartiality, objectivity, timelines, accuracy and thoroughness.
- l) The committee shall complete its work within a period of 30 days. If the inquiry committee requires more time it should request an extension of time from the relevant authority laying out the exceptional circumstances requiring a time extension. In any event all inquiries shall be completed within 60 days.
- m) Inquiry Committee shall ensure proper documentation of evidence including recording during inquiry.
- n) Complaints once made, it stands.
- o) University ensures that victims are provided with information about their rights when laying charges to discourage withdrawal of SGBV cases.
- p) Inquiry of the complaint shall be carried out independently by an Inquiry Committee.
- q) Secretary to the Grievance Committee shall keep all records on SGBV cases confidential. All the files/documents should be kept in a secure area.
- r) The final outcome and decisions of the Inquiry Committee shall be informed to the Vice-Chancellor for information to the Council and to take necessary appropriate action. If the decision of the inquiry committee is overruled by the Vice Chancellor, a justification for such action should be submitted in writing to the Council and GEEC. A copy of any decisions shall be forwarded to the Grievance Committee. Director of the Centre for GEE of UGC is to be informed of the case and the outcomes by the Vice Chancellor.
- s) The parties involved in SGBV proceedings are protected from any intimidation, threats or reprisals once an incident has been reported.
- t) Any perpetrator (student or staff) on whom punishment has been imposed by the Council or any victim who is not satisfied with the decision on the recommendation of the Inquiry Committee may appeal to the Vice Chancellor against such punishment or decision within a period of one month from the date of communication to him/her of such punishment or decision.

- u) Upon the receipt of an appeal, the Vice-Chancellor shall refer such appeal to the University Services Appeal Board of UGC.

19. Penalties

Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff found guilty of sexual harassment shall be liable for disciplinary action. The penalties listed below (in ascending order) are indicative, and shall not constrain the University authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time and in accordance with the University Establishment Code.

(1) Penalties in Case of Academic Staff

- a. Warning, reprimand, or censure.
- b. Withholding of one or more increments.
- c. Removal from an administrative position at the unit, department, faculty and /or University levels.
- d. Debarment from holding an administrative position at the unit, department, faculty and/or University levels.
- e. Suspension from Service for a limited period.
- f. Compulsory retirement.
- g. Dismissal from service.

Further, the penalty awarded shall be recorded in his/her confidential record.

(2) Penalties in Case of Administrative and Non-Academic Staff

- a. Warning, reprimand, or censure.
- b. Withholding of one or more increments.
- c. Suspension from Service for a limited period.
- d. Compulsory retirement.
- e. Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

(3) Penalties in Case of Students

- a. Warning or reprimand.
- b. Withdrawal of hostel accommodation for a period up to one semester.
- c. Withdrawal of the right to an official character certificate from the University.
- d. Withdrawal of hostel accommodation for the entire period of study.
- e. Withdrawal of any financial assistance (Mahapola Fund, Bursary Fund, VC Fund or any others)
- f. Rustication from the University for a period up to two semesters.
- g. Expulsion from the University, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by the University.
- h. Withholding of a degree awarded by the University.

Further, the penalty awarded shall be recorded in his/her Personal File.

(4) Penalties in Case of Outsiders

- a. Warning, reprimand, or censure.
- b. A letter communicating her/his misconduct to her/his place of education, employment or residence.
- c. Declaration of the university as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by the University.
- d. Any other action as may be necessary.

(5) Penalties in Case of Service Providers

- a. Warning, reprimand, or censure.

- b. A letter communicating her/his misconduct to her/his place of employment.
- c. Declaration of the university as out of bounds for her/him.
- d. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, in the university.
- e. Any other action as may be necessary.

Note:

- Type of penalties for respective levels of SGBVs will be formulated by the pioneer GEEC.
- In addition to the penalties specified under (1)-(5) above, the person may be advised to undergo counseling and gender sensitization, and to give a written and/or public apology to the complainant.
- A second or repeated offence, may, on the recommendation of GEEC, attract a major penalty.

20. Monitoring and Evaluation

To appraise the steps taken and the success in the implementation of the policy:

- Establish a monitoring subcommittee and mechanisms to monitor and evaluate the performance of the GEEC and the University in implementing this By-law;
- Put in place performance indicators with time frames to measure the implementation progress of GEE Policy and SGBV By-law;
- Create avenues for receiving views of members of the university regarding the By-law;
- Review the By-law time to time to take into account emerging issues and trends through research.

21. Definitions

In these By-Laws the definitions of the following words shall be

Complaint

“Complaint” means a complaint that is lodged with the University in the forms of a letter, complaint Pro-forma Form, email or verbally of

- (i) Direct discrimination;
- (ii) Indirect discrimination;
- (iii) Sexual harassment;
- (iv) Racial or religious vilification;
- (v) Victimization;
- (vi) Authorizing and assisting any of the above behaviours;
- (vii) Breach of freedom of association (i.e. people have the right to freely associate with others and to form and join trade unions); and/or
- (viii) Bullying/harassment

The written complaint must be marked “Private and Confidential”; if a complaint is received verbally, the complainant will be asked to sign the record of interview.

Complainant

A complainant is the person who lodges a complaint.

Criminal Behaviour

Some types of sexual harassment and other behaviours may be criminal offences and so may be referred to the Police. These types of behaviour include:

- Physical molestation or assault
- Indecent exposure
- Sexual assault
- Stalking
- Obscene communications (telephone calls, letters etc.)
- Serious racial or religious vilification
- Victimization

Defamation

A complaint of sexual harassment, harassment and discrimination which is brought to the attention of a respondent can sometimes result in the respondent threatening to take action for defamation.

Defamation is the publication of a statement about a person which causes that person's reputation with other people to be lowered, or causes them to be shunned, avoided or brought into ridicule.

It is not defamatory to make a complaint to a person who has a legitimate interest in knowing about the incident (ie. to a Contact Officer, Conciliator or Investigator) in order to seek redress under these Guidelines. Where the duties of persons such as Contact Officers, Conciliators and Investigators, involve receiving information and documenting it for reporting to appropriate people, they are, under normal circumstances, protected from liability for defamation by the deference of "qualified privilege".

Discrimination

Direct discrimination means treating someone less favourably than someone without that attribute or someone with a different attribute under the same or similar circumstances. Indirect discrimination occurs if a person imposes or proposes to impose an unreasonable requirement, condition or practice that someone with a protected attribute does not or cannot comply with and a higher proportion of people without that attribute or with a different attribute can comply with.

Respondent

Respondent is the person against whom a complaint has been lodged.

Sexual Harassment

Sexual harassment is defined as any behaviour of a sexual nature that is unwelcome and occurs under circumstances where a reasonable person would anticipate that the person who was harassed would be offended, humiliated, or

intimidated. Sexual harassment can take various forms and could include any of the following:

- Unwelcome touching, hugging, or kissing
- Suggestive comments or jokes
- Unwanted invitations to go out on dates or requests for sex
- Sexually explicit e-mails
- Use of university computer systems for the retention and distribution of sexually explicit material
- Display of sexually explicit posters, screen savers, or pictures
- Accessing sexually explicit internet sites
- Intrusive questions or comments about a person's private life, body, or sex/gender

Unlawful Harassment

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of that person's (or that person's relatives', friends', or associates') race, skin colour, religion, gender, national origin, age, or disability, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- Has the purpose or effect of unreasonably interfering with the individual's work performance;
- Otherwise adversely affects the individual's employment opportunities.

Victimization

It is unlawful to victimize (treating less favourably) someone because they have exercised their rights under workplace anti-discrimination policies or the law because they have:

- Made an inquiry about their rights under workplace policies, equal opportunity or occupational health and safety laws;
- Made a complaint of sexual harassment;

- Been a witness to, or participated in, discrimination, harassment investigation of complaint.

Sexual and Gender-based Violence (SGBV)

Sexual and gender-based violence refers to acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life based on one's gender and/or sexuality. It includes sexual harassment, domestic violence (DM) and intimate partner violence (IPV) amongst other practices (based on the UN Declaration on the Elimination of Violence against Women, 1993)