

**A BILL FOR AN ACT TO PREVENT, PROHIBIT AND REDRESS
SEXUAL HARASSMENT OF STUDENTS IN TERTIARY
EDUCATIONAL INSTITUTIONS AND FOR MATTERS
CONNECTED THEREWITH, 2019**

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Co-sponsors:

1. **SENATOR THEODORE ORJI** (*Abia Central*)
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13. **SENATOR STELLA ODUA-OGIEMWONYI** (*Anambra North*)
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18. **SENATOR DEGI EREMIENYO BIOBARAKU WANGARA** (*Bayelsa East*)
19. **SENATOR DIRI DOUYE** (*Bayelsa Central*)
20. **SENATOR PATRICK ABBA MORO** (*Benue South*)
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22. **SENATOR GABRIEL SUSWAM** (*Benue North East*)
23. **SENATOR KASHIM SHETTIMA** (*Borno Central*)
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36. **SENATOR FRANCIS ALIMIKHENA** (*Edo North*)
37. **SENATOR MICHAEL OPEYEMI BAMIDELE** (*Ekiti Central*)
38. **SENATOR ADETUNMBI OLUBUNMI AYODEJI** (*Ekiti North*)
39. **SENATOR ADEBAYO CLEMENT ADEYEYE** (*Ekiti South*)
40. **SENATOR UTAZI CHUKWUKA** (*Enugu North*)
41. **SENATOR CHIMAROKÉ NNAMANI** (*Enugu East*)
42. **SENATOR IKE EKWEREMADU** (*Enugu West*)
43. **SENATOR MOHAMMED DANJUMA GOJE** (*Gombe Central*)
44. **SENATOR SA'IDU AHMED ALKALI** (*Gombe North*)
45. **SENATOR AMOS BULUS KILAWANGS** (*Gombe South*)
46. **SENATOR ONYEWUCHI FRANCIS EZENWA** (*Imo East*)
47. **SENATOR ROCHAS OKOROCHA** (*Imo West*)
48. **SENATOR IBRAHIM HASSAN HADEJIA** (*Jigawa North East*)
49. **SENATOR DANLADI ABDULLAHI SANKARA** (*Jigawa North West*)
50. **SENATOR MOHAMMED SABO** (*Jigawa South West*)
51. **SENATOR SULEIMAN ABDU KWARI** (*Kaduna North*)
52. **SENATOR DANJUMA LAAH** (*Kaduna South*)
53. **SENATOR UBA SANI** (*Kaduna Central*)
54. **SENATOR JUBRIN BARAU** (*Kano North*)
55. **SENATOR KABIRU IBRAHIM GAYA** (*Kano South*)
56. **SENATOR IBRAHIM SHEKARAU** (*Kano Central*)
57. **SENATOR BELLO MANDIYA** (*Katsina South*)
58. **SENATOR KABIR BARKIYA** (*Katsina Central*)
59. **SENATOR AHMAD BABBA KAITA** (*Katsina North*)
60. **SENATOR BALA IBN NA'ALLAH** (*Kebbi South*)
61. **SENATOR ADAMU ALIERO** (*Kebbi Central*)
62. **SENATOR ABDULLAHI ABUBAKAR YAHAYA** (*Kebbi North*)
63. **SENATOR YAKUBU OSENI** (*Kogi Central*)
64. **SENATOR JIBRIN ISAH** (*Kogi East*)

65. **SENATOR DINO MELAYE** (*Kogi West*)
66. **SENATOR IBRAHIM YAHAYA OLORIEGBE** (*Kwara Central*)
67. **SENATOR UMAR SULEIMAN SADIQ** (*Kwara North*)
68. **SENATOR ASHIRU OYELOLA** (*Kwara South*)
69. **SENATOR ADEBAYO OSINOWO** (*Lagos East*)
70. **SENATOR SOLOMON OLAMILEKAN ADEOLA** (*Lagos West*)
71. **SENATOR OLUREMI TINUBU** (*Lagos Central*)
72. **SENATOR AKWASHIKI GODIYA** (*Nasarawa East*)
73. **SENATOR ABDULLAHI ADAMU** (*Nasarawa North*)
74. **SENATOR UMARU TANKO AL-MAKURA** (*Nasarawa South*)
75. **SENATOR MOHAMMED SANI MUSA** (*Niger East*)
76. **SENATOR ABDULLAHI ALIYU SABI** (*Niger North*)
77. **SENATOR BIMA MUHAMMAD ENAGI** (*Niger South*)
78. **SENATOR BOROFACE ROBERT AJAYI** (*Ondo North*)
79. **SENATOR AKINYELURE PATRICK AYO** (*Ondo Central*)
80. **SENATOR NICHOLAS TOFOWOMO** (*Ondo South*)
81. **SENATOR ODEBIYI TOLULOPE AKINREMI** (*Ogun West*)
82. **SENATOR IBIKUNLE AMOSUN** (*Ogun Central*)
83. **SENATOR RAMONI OLALEKAN MUSTAPHA** (*Ogun East*)
84. **SENATOR ORIOLOWO ADELERE ADEYEMI** (*Osun West*)
85. **SENATOR FADAHUNSI FRANCIS ADENIGBA** (*Osun East*)
86. **SENATOR AJIBOLA BASIRU** (*Osun Central*)
87. **SENATOR ABDULFATAI BUHARI** (*Oyo North*)
88. **SENATOR KOLA BALOGUN** (*Oyo South*)
89. **SENATOR TESLIM FOLARIN** (*Oyo Central*)
90. **SENATOR ISTIFANUS GYANG** (*Plateau North*)
91. **SENATOR DIMKA AYUBA** (*Plateau Central*)
92. **SENATOR IGNATIUS DATONG LONGJAN** (*Plateau South*)
93. **SENATOR THOMPSON SEKIBO** (*Rivers East*)
94. **SENATOR BARINADA MPIGI** (*Rivers South East*)
95. **SENATOR JOCELYN APIAFI** (*Rivers West*)
96. **SENATOR ABDULLAHI IBRAHIM GOBIR** (*Sokoto East*)
97. **SENATOR ALIYU WAMAKKO** (*Sokoto North*)
98. **SENATOR SHEHU ABUBAKAR TAMBUIWAL** (*Sokoto South*)

99. **SENATOR SHUAIBU LAU** (*Taraba North*)
100. **SENATOR YUSUF ABUBAKAR YUSUF** (*Taraba Central*)
101. **SENATOR EMMANUEL BWACHA** (*Taraba South*)
102. **SENATOR IBRAHIM GAIDAM** (*Yobe East*)
103. **SENATOR BOMAI IBRAHIM MOHAMMED** (*Yobe South*)
104. **SENATOR YA'U SAHABI** (*Zamfara North*)
105. **SENATOR MOHAMMED HASSAN** (*Zamfara Central*)
106. **SENATOR LAWALI HASSAN ANKA** (*Zamfara West*)

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

Objective

1. This Bill is enacted to promote and protect ethical standards in tertiary education, the sanctity of the student-educator fiduciary relationship of authority, dependency and trust and respect for human dignity in tertiary educational institutions, by providing for:
 - (1) protection of students against sexual harassment by educators in tertiary educational institutions;
 - (2) prevention of sexual harassment of students by educators in tertiary educational institutions; and
 - (3) redressal of complaints of sexual harassment of students by educators in tertiary educational institutions.

Relationship of Authority, Dependency and Trust

2. A relationship of authority, dependency and trust shall be construed to exist between an educator and a student in an institution if:
 - (1) the educator is directly or indirectly involved in the full-time or part-time academic training, teaching, advising, supervision and education of the student; or
 - (2) the educator has direct or indirect academic or non-academic authority over the student; or
 - (3) the student depends, directly or indirectly, on the educator in any manner whatsoever.

3. To uphold the Objective of this Bill, an educator shall observe a fiduciary duty of care to every student by not exploiting a student or his/her relationship with a student for personal gains, sexual pleasure, or immoral satisfaction, or in any way whatsoever that violates the sacrosanctity, honour and inviolability of the fiduciary relationship of authority, dependency and trust between him/her and a student.

Offences

4. An educator shall be guilty of committing an offence or a felony of sexual harassment if he/she –
 - (1) has sexual intercourse with a student or demands for sex from a student or a prospective student; or
 - (2) intimidates or creates a hostile or offensive environment for the student by soliciting for sex from the student or making sexual advances towards the student; or
 - (3) directs or induces another person to commit any act of sexual harassment under this Bill, or cooperates in the commission of sexual harassment by another person without which it would not have been committed; or
 - (4) grabs, hugs, kisses, rubs or strokes or touches or pinches the breasts or hair or lips or hips or buttocks or any other sensual part of the body of a student; or
 - (5) displays, gives or sends by hand or courier or electronic or any other means naked or sexually explicit pictures or videos or sex related objects to a student; or
 - (6) whistles or winks at a student or screams or exclaims or jokes or makes sexually complimentary or uncomplimentary remarks about a student's physique or stalks a student.
5. For the purposes of the offences created in Clause 4 of this Bill, it shall be a defence that the educator and the student are legally married.

6. It shall not be a defence to any offence created in Clause 4 of this Bill that a student consented to any offence.
7. For the purpose of proving the commission of any of the offences in Clause 4 of this Bill, it shall not be necessary for the prosecution to prove the intention of the accused person or the condition under which the act of sexual harassment was carried out.

Commencement of Criminal Proceedings

8. A written Sexual Harassment Petition complaining of the offence or felony of sexual harassment against an educator may be filed or made by a student or by a student's representative who may be a relative, a guardian, or a lawyer of the student, or any person who has interest in the wellbeing of the student to the Nigerian Police Force, or the Attorney-General who shall take necessary measures to prosecute the educator in accordance with the provisions of this Bill.
9. A copy of the written Sexual Harassment Petition complaining of sexual harassment in Clause 8 of this Bill shall be delivered by the student or the student's representative to both the administrative head and Secretary of the Independent Sexual Harassment Committee of the affected institution for record purposes and such actions that may be required under this Bill.
10. Criminal proceedings shall commence or be deemed to have commenced under this Bill when a charge has been filed in Court and the processes served on an educator who is alleged to have committed a sexual harassment offence under this Bill.

Penalty

11. Any person who commits any of the offences or acts specified in Clause 4 (1), (2) and (3) of this Bill is guilty of an offence of felony and shall, on conviction, be sentenced to an imprisonment term of up to 14 years but not less than 5 years, without an option of a fine.

12. Any person who commits any of the offences or acts specified in Clause 4 (4), (5) and (6) of this Bill is guilty of an offence and shall be liable on conviction to imprisonment term of up to 5 years but not less than 2 years, without an option of a fine.

Civil Action for Breach of Fiduciary Duty

13. Notwithstanding the provisions of Clauses 4, 8, 9, 10, 11 and 12 of this Bill or any other part of this Bill thereof, the right of a student who complains of or alleges sexual harassment by an educator to commence and maintain a civil action in Court for breach of fiduciary duty of care contrary to Clauses 2 and 3 of this Bill is preserved.
14. The standard of proof in any proceedings for an educator's breach of the fiduciary duty owed to a student under Clauses 2 and 3 of this Bill shall be the same standard applicable in all civil proceedings.

Institutional Disciplinary Measures

15. Nothing under this Bill shall preclude an institution from proceeding under its established policies, rules and regulations for the internal administrative discipline of its staff and students, provided that:
 - (1) Where criminal proceedings have been commenced under this Bill or pending in a Court in respect of a complaint of sexual harassment of a student by an educator, no disciplinary body including an Independent Sexual Harassment Prohibition Committee in an institution shall have the power to commence or continue disciplinary proceedings or render any decision in respect of the acts or offences complained of.
 - (2) Where a student makes a Sexual Harassment Complaint against an educator, an institution's Independent Sexual Harassment Prohibition Committee established under this Bill shall investigate, determine and render a final decision on the merits of the complaint in line with the provisions of this Bill. In determining a complaint of sexual harassment, the provisions of this Bill shall

supersede any existing policies, rules or regulations for internal administrative discipline of its staff and students.

- (3) Where an Independent Sexual Harassment Prohibition Committee established under this Bill has concluded its investigative proceedings and rendered a final decision, such proceedings or decision shall not operate to bar or prevent criminal prosecution or civil proceedings in a Court [for acts] of sexual harassment under this Bill.
- (4) Where internal administrative or disciplinary sanctions are imposed by a Sexual Harassment Prohibition Committee against or on an educator in accordance with the provisions of this Bill before commencement of criminal proceedings, a Court, in passing sentence, shall have regard to the sanctions already imposed on the educator.

16. Independent Sexual Harassment Prohibition Committee

- (1) The administrative head of an institution shall establish an Independent Sexual Harassment Prohibition Committee in consultation with the highest management body of the institution.
- (2) The membership of the Sexual Harassment Prohibition Committee shall be seven (7) staff members of the institution, including a Chairman who shall not be less than the rank of a senior lecturer or a deputy director in the federal civil service and a Secretary who shall not be less than the rank of a lecturer or an assistant deputy director in the federal civil service. The membership of an Independent Sexual Harassment Prohibition Committee shall at any material time consist of at least two students, two non-academic staff members and two academic staff members of the institution and shall include at least three (3) women or females.
- (3) An administrative head of an institution who fails to comply with the provisions of sub-clauses (1) and (2) of this Clause of this Bill is guilty of an offence and shall be liable on conviction to a minimum fine of N5,000,000 or imprisonment for 5 years, or both

- (4) An Independent Sexual Harassment Committee shall be independent and impartial in all its dealings, proceedings and affairs.
- (5) The members of an Independent Sexual Harassment Prohibition Committee shall be persons of high moral standing and good reputation.
- (6) The Chairman and every Member of an Independent Sexual Harassment Prohibition Committee shall hold office for such period, not exceeding two (2) years, from the date of their appointment as may be specified in writing by the administrative head.
- (7) Where the Chairman or any Member of an Independent Sexual Harassment Prohibition Committee –
 - (a) contravenes the provisions of this Bill; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest,the Chairman or such a Member, as the case may be, shall be removed from the Committee by an institution's administrative head with the approval of an institution's highest management body and the vacancy so created or any casual vacancy shall be filled by the administrative head in consultation with the institution's highest management body.
- (8) Any five (5) members of an Independent Sexual Harassment Prohibition Committee shall form a quorum. The members present shall select an ad-hoc Chairman and/or Secretary for the purpose of hearing the complaint brought before it if the substantive Chairman and/or Secretary are absent.
- (9) An Independent Sexual Harassment Prohibition Committee shall conduct its proceedings with utmost thoroughness, fairness and in

compliance with the rules of natural justice exercise its discretion judiciously and fairly with regards to facts, evidence and the number of witnesses that may be allowed to testify during its proceedings.

- (10) Decisions of the Independent Sexual Harassment Prohibition Committee shall be by a simple majority; rendered in writing and read openly to the parties by the Chairman of the Committee.
- (11) All decisions, including the final decision, of an Independent Sexual Harassment Prohibition Committee shall be signed by all members of the Committee who participated in the inquiry and sealed/stamped by the Secretary with the Committee's seal or stamp which shall be kept in the custody of the Secretary.
- (12) The Secretary of an Independent Sexual Harassment Prohibition Committee shall communicate the final decision of the Committee in writing and within seven (7) working days of giving the decision to all parties to a sexual harassment complaint, whether they participated in the Committee's proceedings or not.
- (13) The Secretary of an Independent Sexual Harassment Prohibition Committee shall issue sealed/stamped certified true copies of the Committee's decisions, including its final decisions, in respect of sexual harassment complaints to any person, including parties in any of its proceedings within seven (7) working days of giving such a decision, provided that the person shall apply for the certified true copies of the decision and pay such reasonable fees to be prescribed by the Committee's Chairman and remitted to the institution by the Secretary.
- (14) A Secretary of an Independent Sexual Harassment Prohibition Committee who wilfully fails to comply with the provisions of sub-clauses (12) or (14) of this Clause of this Bill is guilty of an offence and shall be liable on conviction to a maximum fine of N1,000,000 or imprisonment for six (6) months, or both.
- (15) Subject to approval by the highest management body of an institution, an administrative head shall provide such resources, funding, facilities, materials and support that are reasonably

required for an Independent Sexual Harassment Committee to carry out its functions under this Bill.

- (16) The Chairman of every Independent Sexual Harassment Committee shall make and submit an annual report on sexual harassment complaints received and actions taken on them to the highest management body of the institution.
- (17) Except otherwise stated in this Bill, a person under a positive obligation to perform an act or otherwise restrained from performing an act prescribed in this Bill commits an offence if he wilfully acts contrary to the provisions of this Bill relating to him and shall be liable on conviction to a maximum fine of N2,000,000 or imprisonment for twelve (12) months, or both.
- (18) In the constitution of an Independent Sexual Harassment Prohibition Committee, an administrative head of an institution shall ensure that at least one (1) lawyer is a member of the Committee at any material time, provided that there are lawyers who are staff members of the institution and satisfy the provisions of this Bill in respect of the membership of the Committee.
- (19) A member of an Independent Sexual Harassment Prohibition Committee shall not be removed from the Committee, except in accordance with the provision of sub-clause (8) of this Clause of this Bill or by an order of Court.
- (20) An Independent Sexual Harassment Prohibition Committee shall not be dissolved, suspended or rendered redundant or inoperative by an administrative head or any person on any ground whatsoever, except by an order of Court.

17. **Institutional Disciplinary Procedure**

- (1) Where a student complains of sexual harassment, he or she shall submit a written Sexual Harassment Complaint to the administrative head of the institution where the complaint arose and shall specify the name and department, office or home address of the educator who is alleged to have committed an offence under this Bill.

- (2) The complaint mentioned in sub-clause (1) of this Clause of this Bill may be made by the student personally or by the student's representative who may be the student's relative, guardian, or lawyer, or any person who has interest in the wellbeing of the student.
- (3) An administrative head shall refer or transmit every Sexual Harassment Complaint received from students to an Independent Sexual Harassment Committee through its Chairman within fourteen (14) working days of the receipt of such a complaint for purpose of investigation, determination and a final decision.
- (4) Upon receipt of a Sexual Harassment Complaint, an Independent Sexual Harassment Committee shall take immediate steps to investigate, determine and reach a final written decision on the complaint within 45 working days from the date of receipt of the complaint from the administrative head.
- (5) Where the complaint of a student is proved or made out, the Independent Sexual Harassment Prohibition Committee shall take the circumstances of the proven complaint into account and recommend any of the following sanctions to both the administrative head and the highest management body of the institution for implementation:
 - (a) the dismissal of the educator and reasons for the dismissal shall be stated in writing and given to all the parties; or
 - (b) a reduction in the rank of the educator and reasons for the reduction shall be stated in writing and given to all the parties; or
 - (c) such sanctions as may be appropriate.

Judicial Review

18. An educator or a student shall be entitled to apply to a High Court for a judicial review of the final decision of an Independent Sexual Harassment Prohibition Committee if the educator or student is dissatisfied with that decision or part thereof. An application for judicial review under this Clause may be consolidated with any civil proceedings

commenced on behalf of the affected student pursuant to the provisions of this Bill.

Criminal Liability of Administrative Head

19. Where before the commencement of criminal proceedings for sexual harassment under this Bill a student or his or her representative makes a Sexual Harassment Complaint to the administrative head of an institution against an educator, it shall be a misdemeanour if the administrative head fails, to refer the complaint to the institution's Independent Sexual Harassment Prohibition Committee within fourteen (14) working days of receiving the complaint from the student.
20. An administrative head who is guilty of the offence of not referring a Sexual Harassment Complaint to an institution's Independent Sexual Harassment Prohibition Committee under Clause 19 of this Bill for the purpose of investigation, determination and a final decision, is guilty of an offence and shall be liable on conviction to a minimum fine of N5,000,000 or imprisonment for a minimum of 2 years, or both.

Liability for false Complaint

21. Where at the completion of an investigation into a Sexual Harassment Complaint, an Independent Sexual Harassment Prohibition Committee finds or determines in its final decision that the complaint is false and malicious, the Committee may, recommend sanctions to the administrative head against the student who made the complaint, which may include suspension of the student provided that failure to prove an allegation of sexual harassment shall not be conclusive to establish that the complaint is false or made with malice or prevent further investigations or criminal prosecution of an educator for the offence alleged to have been committed contrary to any provisions of this Bill.
22. An administrative head shall implement the final decision or recommendations of an Independent Sexual Harassment Prohibition Committee if, after twenty-one (21) working days of the Committee's

final decision or recommendations, an educator or student did not bring an action in Court for a judicial review of the final decision or recommendations.

Protection of Students from Victimization

23. The administrative head of an institution shall ensure that a student who makes a Sexual Harassment Complaint under this Bill is adequately protected and not subjected to any form of victimization by the educator who is complained against or any other educator or person within the institution or in another institution.
24. Any educator or person in an institution where sexual harassment is alleged or in another institution who victimizes a student in respect of a Sexual Harassment Complaint under this Bill shall be liable to the same criminal sanctions, disciplinary punishment or damages as the educator whom the student originally complained against.
25. For the purpose of commencing any civil proceedings in court for breach of fiduciary duty of care or any criminal proceedings against an Educator under this Bill, the limitation period for commencement of actions against a public officer stipulated in the Public Officers Protection laws or any other law limiting the time of commencement of proceedings against a public officer in force in Nigeria or any part thereof shall not be applicable.

Definition of Terms

26. In this Bill, unless the context indicates otherwise,
“**administrative head**” means a vice chancellor of a university, a rector of a polytechnic/monotechnic, a provost of a college of education or any officer who is the chief executive officer of any tertiary academic institution or any person acting in that capacity.

“**attorney-general**” means Attorney-General of the Federation or Attorney-General of a State

"court" means a High Court of a State or of the Federal Capital Territory and the Federal High Court.

"educator" means every employee of a tertiary educational institution including all academic and non-academic staff, or a faculty or non-faculty member of a tertiary educational institution including a professor, lecturer, graduate assistant, post-doctoral fellow or associate serving as a full-time or part-time instructor or a teaching fellow in similar institutional roles who teaches, educates or trains students or who provides professional educational services; or a staff or member of any tertiary educational institution who may have authority over or a mentoring relationship with any student and also includes, coaches, supervisors of student employees, advisors and directors of student organizations, students' residential fellows, and persons who advise, mentor, or evaluate students or any person who oversees any aspect of any student's academic work.

"fiduciary duty" means an inviolable duty of care founded on honourable human behaviour, obligation of good faith, honesty, and respect for human dignity and rights owed to a student by an educator on the basis of a unique relationship of authority, dependency and trust by which an educator exercises direct or indirect supervisory responsibilities or superiority over a student.

"highest management body" means the body of officials or persons in charge of the day to day management and administration of a tertiary educational institution

"institution" means any public or private tertiary or post-secondary educational institution in Nigeria and this includes any university, polytechnic, monotechnic, or college of education.

"relationship of authority, dependency and trust" means a relationship between an educator and a student where the educator

exercises or is reasonably expected to exercise direct or indirect supervisory responsibilities over the student; a relationship that forbids all forms of sexual coercion or sexual consensus, including amorous relationships that jeopardizes or likely to jeopardize the integrity of the educational process or impairs the learning environment through conflict of interest.

“sexual intercourse” means penetration of a sexual nature of the vagina or anus or mouth of the student by the penis or mouth or finger of the educator or any instrument or toy by the educator and for this purpose, a male student can be sexually harassed by a female educator.

“student” refers to any person enrolled in any educational or training programs of a tertiary educational institution or post-secondary institution.

“supervision” means course teaching, training, examining, grading, advising, counselling, and includes any other form of guidance of a student on any academic or non-academic matter.

Citation

27. This Bill may be cited as the **Prevention, Prohibition and Redressal of Sexual Harassment in Tertiary Educational Institutions Bill, 2019.**