

# **UNHCR's Policy on Harassment, Sexual Harassment, and Abuse of Authority**

**UNHCR**

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**UNHCR**

**United Nations High Commissioner for Refugees**  
Haut Commissariat des Nations Unies pour les réfugiés

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## I. INTRODUCTION

This Policy Framework on Harassment, Sexual Harassment and Abuse of Authority is the result of an inter-agency process of the United Nations Development Group (UNDG) Sub-Group on Harassment, formed in 2002, to review and update the existing sexual harassment and harassment policies of its member organizations. The UNDG has supported the commitment that all international organizations must have “zero tolerance” for harassment in the workplace, and will not tolerate conduct that can be construed as harassment, sexual harassment or abuse of authority. Such behaviour or conduct is contrary to the spirit of the United Nations Charter, its Staff Rules and Regulations (Articles 1.2 a and 1.2 b and staff rule 101.2 (d)) and to the Standards of Conduct for the International Civil Service. Staff or non-staff personnel responsible for such behaviour or conduct may be subject to appropriate administrative or disciplinary measures. The policy framework is intended to serve as a basis for UNDG member agencies to update their existing policies.

As a member of the UNDG, UNHCR has therefore formulated an organizational policy on harassment, sexual harassment and abuse of authority, amplifying several provisions of the Code of Conduct, which was introduced in October 2002. UNHCR’s policy framework is particularly linked to Principle 4 (*Contribute to building a harmonious workplace based on team spirit, mutual respect and understanding*) and Principle 9 (*Refrain from any form of harassment, discrimination, physical or verbal abuse, intimidation or favouritism in the workplace*) of the Organization’s Code of Conduct, and is intended to support the building of a positive, respectful and motivating environment.

## POLICY STATEMENT

- ❑ Every staff member and non-staff member has a right to work in a harassment-free and respectful environment.
- ❑ UNHCR is committed to address inappropriate behaviour, including harassment, by or towards its employees.
- ❑ Employees responsible for conduct which can be construed as harassment, sexual harassment or abuse of authority may be subject to appropriate administrative or disciplinary measures.
- ❑ Measures to deal with inappropriate behaviour (including harassment) will be based on the principles of fairness, impartiality, sensitivity and respect.
- ❑ Everyone who works for UNHCR has a responsibility to sustain a respectful work environment by upholding the highest standards of conduct and applying necessary confidentiality measures.
- ❑ UNHCR will ensure that adequate resources are available to promote a positive work environment and to prevent inappropriate behaviour in the workplace.
- ❑ Staff members have the right to choose an informal or formal dispute resolution process.
- ❑ The Organization will provide appropriate mechanisms to prevent or deal with retaliation related to the reporting of allegations of harassment.

## II. DEFINITIONS

For the purpose of this Policy, the following definitions will apply:

### **Harassment**

1. Any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another. Harassment includes - but is not limited to - words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle or cause personal humiliation or embarrassment to another; or that cause an intimidating, hostile or offensive work environment. It includes harassment based on any grounds such as race, religion, colour, creed, ethnic origin, physical attributes, gender or sexual orientation. It can include a one-off incident or a series of incidents. Harassment may be deliberate, unsolicited and coercive. Harassment may also occur outside the workplace and/or outside working hours.

### **Sexual Harassment**<sup>1</sup>

2. Any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another. Sexual harassment may occur when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive environment. It can include a one-off incident or a series of incidents. Sexual harassment may be deliberate, unsolicited and coercive. Both male and female colleagues can either be the victim or offender. Sexual harassment may also occur outside the workplace and/or outside working hours.

### **Abuse of Authority**

3. The improper use of a position of influence, power or authority by an individual against another colleague or group of colleagues. This is particularly serious when an individual misuses his/her influence, power or authority to negatively influence the career or employment conditions (including - but not limited to - appointment, assignment, contract renewal, performance evaluation or promotion) of another. It can include a one-off incident or a series of incidents. Abuse of authority may also include misuse of power that creates a hostile or offensive work environment, which includes - but is not limited to - the use of intimidation, threats, blackmail or coercion.

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<sup>1</sup> This definition is an illustration and explanation of the existing ST/AI/379 which provides, for all UN Staff, the legally binding definition of sexual harassment.

### **Retaliation**

4. Threats or acts of retribution against an individual who raises concerns, makes claims or assists in providing information about harassment, sexual harassment, or abuse of authority. Examples of retaliation may include - but are not limited to - threatening the non-renewal of a contract, an unsubstantiated negative PAR, publicly or privately speaking of the allegations (e.g. with the complainant), continued harassment in any form, discriminatory treatment, isolation or failure to consider individual concerned for a warranted post or promotion.

### **Staff Member**

5. Any person who is employed by or seconded to UNHCR under a Letter of Appointment in accordance with the United Nations Staff Regulations and Rules.

### **Non-Staff Personnel**

6. Any person who is working with UNHCR under a reimbursable loan, secondment agreement with NGOs, internship, UNV arrangement, consultancy, standby arrangement, or any other arrangement.

### **Alleged Offender**

7. The Alleged Offender subject to the resolution processes described hereunder may be any staff member or non-staff personnel.

### **Third Party**

8. A colleague who assists a complainant or an alleged offender in an informal process.

## **III. PREVENTION**

### **Role of Staff Members and Non-Staff Personnel**

9. Staff members and non-staff personnel must:
- a) be respectful to their colleagues and maintain the highest standards of conduct and necessary confidentiality;

- b) maintain a harmonious working environment<sup>2</sup> for other colleagues by behaving in a manner which is free of intimidation, hostility, offence and any form of harassment, sexual harassment or abuse of authority;
- c) familiarize themselves with UN/UNHCR's policies, including an understanding of conduct which constitutes harassment, sexual harassment or abuse of authority; and educate themselves through mandatory as well as optional training;
- d) be aware of the various options and internal channels available to them for addressing harassment, sexual harassment or abuse of authority;
- e) refrain from all forms of retaliation.

10. Failure of a colleague to promote and maintain a respectful work environment or to assist in enforcing established standards of conduct may result in appropriate administrative or disciplinary action.

### **Role of Managers and Supervisors**

11. Managers and supervisors must at all times:

- a) act as role models by upholding only the highest standards of conduct in order to achieve a harassment-free environment;
- b) facilitate, inspire and help to create a harmonious working environment free of intimidation, hostility, offence and any form of harassment, sexual harassment and abuse of authority;
- c) communicate UNHCR's policy on harassment, sexual harassment and abuse of authority to all staff members and non-staff personnel; and be available to provide guidance on prevention and dealing with such form of misconduct;
- d) ensure that incidents of harassment, sexual harassment or abuse of authority are promptly and adequately addressed. In such cases, managers and supervisors must demonstrate fairness, impartiality, respect for confidentiality and be free from intimidation or favouritism;
- e) take all necessary measures to prevent and address retaliation;
- f) take all necessary actions to prevent staff members and non-staff personnel who supervise others from engaging in harassment, sexual harassment or abuse of authority. Managers and supervisors must also take measures consistent with the present policy should they witness any acts of harassment, sexual harassment or abuse of authority.

12. Managers or supervisors at any level have a personal responsibility to communicate and/or properly address any known act of harassment, sexual harassment or abuse of authority. Failure to do so may result in appropriate administrative or disciplinary action.

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<sup>2</sup> Reference is made to the UNHCR's Code of Conduct, (June 2004 version), Principles 4 & 9.

### **Role of UNHCR**

13. In implementing the present framework, UNHCR shall act consistently and take the appropriate administrative, investigative, and disciplinary action required; and inform UNHCR's partners of its policy, regardless of the staff member's or non-staff member's function, title, length of service or contractual status.

14. UNHCR will, on a periodic basis, provide training to staff members and non-staff personnel regarding prevention of harassment, sexual harassment and abuse of authority. Staff members and non-staff personnel are required to participate in the training.

15. The Mediator and the Staff Welfare Section provide initial advice on incidents of harassment, sexual harassment or abuse of authority and the various options available. See Annex A "Resources".

16. UNHCR will take all necessary action to maintain the confidentiality of the process. Appropriate administrative or disciplinary action will follow any breach of confidentiality.

17. UNHCR will take all necessary measures to prevent retaliation against a complainant and/or witness.

## **IV. DISPUTE RESOLUTION PROCESS**

18. Staff members and non-staff personnel may choose to deal with any complaint or grievance through either an informal or formal process as detailed in Sections V and VI of the present framework.

19. No action should be taken against any staff member or former staff member who reports in good faith information on perceived misconduct that subsequently proves unfounded. No action may be taken against staff or others as a reprisal for reporting allegations of misconduct or disclosing information to, or otherwise cooperating with, the Inspector General's Office (IGO). An investigation will be initiated against any staff member who is credibly alleged to have retaliated against another staff member or other person who submitted a complaint to the IGO or otherwise cooperated with the IGO.

20. Where a staff member or former staff member has been notified of a decision (which may be administrative or disciplinary in nature) and he/she believes that the decision derives from harassment, sexual harassment or abuse of authority, he/she can seek the administrative review of that decision in accordance with the applicable appeals procedure.

21. A non-staff member or former non-staff member who has been notified of a decision that he/she believes derives from harassment, sexual harassment or abuse of authority shall refer to and seek the advice of UNHCR's designated focal point, i.e. the Mediator.



22. The time frames for the different dispute resolution processes are included in the table below:

**Time Frames for Dispute Resolution Processes**

Process	Time Frame
Informal Process	<ul style="list-style-type: none"> <li>Normally should be undertaken within one year of the incident of alleged harassment, sexual harassment or abuse of authority. However, staff members are strongly encouraged to initiate action as soon as possible.</li> </ul>
Formal Process	<ul style="list-style-type: none"> <li>Written complaints, whether filed immediately or after ending or conclusion of the informal process, should be made as soon as possible, normally within one year of the incident.</li> </ul>
Request for Review	<ul style="list-style-type: none"> <li>Any requests for reviews of an administrative decision must be filed in accordance with the timeframes stated in the applicable staff regulations and rules of the UN.</li> </ul>
<b>In exceptional circumstances, all time frames may be extended.</b>	

23. Individuals have the option of deciding upon any of the *dispute* resolution processes available to them and are encouraged to speak with persons knowledgeable of these processes. The designated time frame, normally within one year of the incident, applies for written complaints after the ending or conclusion of the informal procedure.

24. A procedural flow chart for addressing cases of harassment, sexual harassment and abuse of authority is available under Annex B of the present policy.

25. It is strongly advised that all parties maintain detailed written records (including hard copies of e-mails) of all incidents, dates, places, witnesses and their feelings at the time of the alleged harassment, sexual harassment or abuse of authority and any steps taken subsequently to resolve the matter. All parties should note that not all informal processes are successful and that an investigation may occur in the future; written records could prove useful should any more formal approaches occur.

## V. THE INFORMAL PROCESS

### Informal Options

26. An informal process can provide individuals with the opportunity to resolve any complaints or grievances in an open, honest, non-threatening and non-contentious manner. The informal options available to complainants include:

- approaching the alleged offender;
- involving a third party;
- involving the Mediator.

### **Approaching the Alleged Offender**

27. An individual may not understand that he/she is being offensive and, if asked, may stop or alter his/her behaviour. Complainants who feel that they are being subject to harassment, sexual harassment or abuse of authority are encouraged, where possible, to inform the alleged offender that his/her conduct is unwelcome and request that such conduct cease.

28. Complainants are strongly encouraged to keep notes on their informal discussions with the alleged offender. If the complainant fears retaliation they may consider contacting the Mediator.

### **Involving a Third Party**

29. Upon request of either the alleged victim or the alleged offender, a third party<sup>3</sup> may agree to assist him/her. It is mandatory that the third party ensures that confidentiality is respected in accordance with UN Staff Rules. The third party should be fully knowledgeable about the present framework. The third party should always act in the best interests of the alleged victim/alleged offender yet refrain from defaming the character of the individuals involved. The third party should be aware that sometimes the best form of assistance is a referral to a more appropriate source within UNHCR. When uncertain about what appropriate actions to take, the third party should consult the Mediator with the consent of the alleged victim or alleged offender.

### **Involving the Mediator**

30. The Mediator will facilitate mediation on a strictly confidential basis.

31. If staff members or non-staff personnel wish, they may approach the Mediator who will discuss the matter with all concerned parties. The Mediator will assist the parties to understand both views and reach an informal resolution.

32. In cases where the situation indicates that an instance of alleged misconduct has occurred that may warrant administrative action or disciplinary measures, the Mediator will advise the alleged victim on the procedure to follow in order to commence formal proceedings.

### **Moving from an Informal Process to a Formal Process**

33. Individuals may choose to deal with any complaint or grievance through either an informal or formal process as detailed in Sections V and VI of the present framework. If the complainant is not satisfied with the results of the informal process, he/she may submit a written complaint to begin the formal process.

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<sup>3</sup> A staff member who assists a complainant or an alleged offender in an informal process.

## VI. THE FORMAL PROCESS

### **Filing a Complaint**

*Who can submit a complaint?*

34. Any individual<sup>4</sup> may file a formal complaint, for example to bring it to the attention of the Inspector General's Office (IGO), regardless of his/her link to UNHCR.

*To whom should the complaint be submitted<sup>5</sup>?*

35. The complaint should be submitted to the IGO where an Official will be designated to handle such complaints (see annex A for further details).

36. A complaint can be submitted in any form. The complaint shall state the date(s) and location of the alleged incident of harassment, sexual harassment or abuse of authority. Name of witnesses and/or documentary proof, which may corroborate the allegation, could also be included in the complaint.

### **The Fact Finding Process**

37. Upon receipt of the formal complaint, a determination by the competent official must be made as to whether this complaint is admissible and should be investigated. The complaint would be investigated if it appears to have been made in good faith, within the set time limits and within UNHCR's definition of harassment, sexual harassment and/or abuse of authority as set out in the present policy framework.

*Establishment of an Investigating Body<sup>6</sup>*

38. If the complaint is admissible, it should be promptly investigated by an internal investigating body in accordance with existing procedures.

*Role of the Investigating Body*

39. The main task of the investigating body is to collect evidence, establish the facts and compile a report with appropriate findings and recommendations.

40. The investigating body must remain neutral throughout the investigation and due process is essential to the integrity of the process. The investigating body should not presume the guilt of any party.

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<sup>4</sup> This also includes former staff, non-staff personnel or someone who is aware of an incident. For more details, see IOM/FOM65/2003, (5.2) or subsequent IOM/FOMs on "the role and function of the Inspector General's Office".

<sup>5</sup> Ibid.

<sup>6</sup> For UNHCR, this should be read as Inspector General's Office (IGO) (see IOM/FOM above).

### *Time Frame for Starting the Investigation*

41. The investigation should begin as soon as possible, and usually within one month after the complaint has been filed formally.

### *Investigation*

42. The goal of an investigation is to find facts which will, for the most part, be obtained by interviewing the victim, the alleged offender and other witnesses as deemed relevant by the investigating body. The facts should establish the time, sequence and nature of the occurrence.

43. Normally, no investigative findings should be reported in an investigation report before the subject of an investigation has been afforded the opportunity to respond to the allegation made against him/her. The subject of the investigation will be afforded such opportunity as soon as possible with due regard to the interests of all parties concerned, the interests of the Office and the integrity of the investigation process. The fact that a staff member is under investigation should not be used against someone when considering non-renewal of contract or promotion.

44. Both parties may suggest a list of persons to be interviewed by the Investigating Body. The Investigating Body will interview such persons at its discretion<sup>7</sup>.

### *Conclusion of the Investigation*

45. The Investigating Body should submit its findings and recommendations in a confidential report to the Division of Human Resources Management (DHRM)<sup>8</sup>. This report should be based on written and oral statements, physical or any other evidence such as emails, photographs, tape recordings, etc.

46. Upon reviewing the investigative findings, if it is determined that the allegations of misconduct are a) unfounded, b) have not been sufficiently established, or c) that the facts alleged do not amount to misconduct, the case may be closed by the IGO. In these cases, a clearance letter will be sent to the staff member who was the subject of the investigation. The latter has the right to have this letter placed in his/her individual file upon request. The complainant would also be informed, as would the subject's manager, where applicable.

47. If the alleged offender is no longer employed by the Organization at the start of this process, the fact-finding process should normally be carried through to a conclusion in coordination with the alleged offender's new employer or the local authorities as applicable. Relevant information will be recorded and retained by UNHCR for further review and action should the alleged offender be re-employed by the Organization. In such case the report prepared by the investigating body will be placed on the PEREX status file.

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<sup>7</sup> In accordance with ST/AI/ 371, the complainant does not have access to the investigating complaint.

<sup>8</sup> In accordance with (5.6.1) of IOM/FOM65/2003 or subsequent IOM/FOMs on "the role and function of the Inspector General's Office".

## **Disciplinary Phase**

### *Staff Members*

48. After completion of the investigation process, and in cases where the allegations have been established, the Director of DHRM will, in accordance with IOM/38-FOM/36 of 30 May 2002, proceed as follows:

- a) should the facts reported in the investigation appear in the view of the Director of DHRM to indicate that misconduct has not occurred, decide that the case should be closed and inform the staff member thereof in writing; or
- b) should the facts reported in the investigation appear to indicate that misconduct may have occurred, the Director of DHRM shall inform, in writing, the staff member subject of the investigation of the contents of the allegations made against him/her, and of his/her right to reply and to a counsel. All documentary evidence related on which the allegations are based will be shared with the staff member;
- c) based on the response of the staff member, or the absence thereof at the end of the prescribed time limit, the Director of DHRM may:
  - i) close the case, and inform the staff member thereof in writing; or
  - ii) refer to a Joint Disciplinary Committee for recommendation to the Secretary-General in accordance with the applicable Staff Regulations and Rules; or
  - iii) propose to the staff member, after consultation with the High Commissioner, an agreed disciplinary measure, such as loss of one or more steps-in-grade; deferral of a step-in-grade for a specified period; suspension without pay; fine; or, demotion. Should the staff member accept, the agreed measure will be recommended to the Secretary-General for decision; or
  - iv) should the facts reported in the investigation indicate that misconduct has occurred and that the seriousness of the misconduct warrants immediate separation from service, recommend to the Secretary-General, in consultation with the High Commissioner, the summary dismissal of the staff member.
- d) the Director of DHRM may also choose to institute measures not deemed to be disciplinary measures in accordance with the United Nations Staff Regulations and Rules

### *Non-Staff Personnel*

49. The Director of DHRM must determine whether the nature of the investigated conduct constitutes a breach of the standards of conduct expected of non-staff personnel based on the arrangement governing his/her work with UNHCR. Following that determination, the Director of DHRM must decide whether to pursue remedial action in accordance with the said arrangement.

### *Wrongful Accusations*

50. When the facts appear to substantiate the conclusion that the victim has intentionally made false statements in connection with the lodging of a formal

complaint, appropriate action could be taken against him/her<sup>9</sup>. Such appropriate action could include disciplinary action.

### **Appeal**

51. Staff members and former staff members may, subject to the administrative or disciplinary measure imposed and further to the above formal process, appeal against such measure in accordance with the applicable internal procedures.

### **Referral to Local Authorities**

52. At any juncture in either the informal or formal process, should it become apparent that the alleged act of harassment, sexual harassment or abuse of authority constitutes a serious breach of local laws, management should be informed. Thereafter, the Director of DRHM<sup>10</sup> will consider, in accordance with the established procedures, the referral of the alleged offender to the appropriate local authorities.

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<sup>9</sup> In accordance with existing procedures set out in IOM/65-FOM/65/2003 (5.2.7), or subsequent IOM/FOMs on “the role and function of the Inspector General’s Office”.

<sup>10</sup> Ibid (5.6.1).

## ANNEX A RESOURCES<sup>11</sup>

UNHCR will commit the resources for prevention and dealing with harassment, sexual harassment and abuse of power. These resources will work together in ensuring that an anti-harassment message is clear and accessible to everyone working with the organization. The managers' role and the role of each individual will complement the organizational commitment in addressing these issues.

### **The Manager**

Problems among colleagues would normally be reported to the manager or, if the problem is with the manager, to the manager's manager. The manager is responsible for ensuring that all staff under supervision has access to UNHCR's Policy on Harassment, Sexual Harassment, and Abuse of Authority and has also received the Code of Conduct. In the event of allegations of misconduct, the manager is responsible for ensuring that these are reported without delay to the Inspector General's Office (IGO).

### **The Division of Human Resources Management (DHRM)**

The Division of Human Resources Management is responsible for ensuring that this policy is implemented and monitored by the Office of the Director. Formal allegations of misconduct can only be issued by the Director of DHRM as per para. 6 of ST/AI/371. The relevant contact for each staff member is either the Office of the Director or the respective Human Resources Officer in the Personnel and Administration Section (PAS).

**Email:** hqcc01@unhcr.ch

**Phone:** *(your respective Human Resources Officer)*

### **The Staff Welfare Section (SWS)**

The Staff Welfare Section, which is a part of DHRM, will provide initial advice in cases of possible incidents, as well as assist staff and non-staff members in psychological preparation for a personal approach or mediation. The Staff Welfare Section is bound by a professional code of ethics to maintain strict confidentiality.

**Email:** hqsw00@unhcr.ch

**Phone:** + 41 22 739 7947

### **The Mediator**

The Mediator is responsible for the facilitation of the informal process in dealing with harassment and abuse of power, and provides initial advice in case of possible incidents.

<sup>11</sup> Additional resources: Addressing Grievances in UNHCR; Code of Conduct -June 2004 (IOM/68-FOM/70/2004), and Code of Conduct Guidelines for Managers (IOM/06-FOM06/2004).

The Mediator is a neutral, independent contact who can provide advice and help explore options for resolving work-place related problems and conflicts.

Recourse to the Mediator is strictly voluntary and is treated with strict confidentiality that can only be waived with the consent of the staff member(s) concerned. However, resorting to the Mediator does not have the effect of suspending an administrative decision or the measure that is being challenged.

<p><b>Email:</b> hqmtor00@unhcr.ch <b>Phone:</b> +41 22 739 8240</p>
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### **The Inspector-General's Office (IGO)**

The Inspector General's Office is responsible for the facilitation of the formal process in dealing and ensuring the investigation of allegations of misconduct that involve persons with a direct contractual link with UNHCR. This may include ensuring that the complainant is fully informed of the existence of the informal mechanism before initiating an investigation. The principles governing the work of the IGO are impartiality, objectivity and appropriate confidentiality.

<p><b>Email:</b> inspector@unhcr.ch <b>Hotline:</b> +41 22 739 8844</p>
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### **The Legal Affairs Section (LAS)**

The Legal Affairs Section provides legal advice to staff members regarding their status as international civil servants and on internal procedures.

LAS also provides advice to the Administration on personnel issues, monitors disciplinary cases, liaises with the IGO during investigations, and drafts recommendations to the Secretary-General's office. It also drafts and prepares the submissions to the Joint Appeals Board and the Joint Disciplinary Committee.

<p><b>Email:</b> hqfle00@unhcr.ch <b>Phone:</b> + 41 22 739 7831</p>
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### **The Staff Council (SC)**

The Staff Council plays an important role in promoting a positive work environment and for the dissemination of information on the policy to staff, particularly in the field.

The Staff Council will explore the possibility of alternative options to assist staff in need of legal advice.

<p><b>Email:</b> hqsr00@unhcr.ch <b>Phone:</b> +41 22 739 8591</p>
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## ANNEX B

### PROCEDURAL FLOWCHART FOR ADDRESSING CASES OF HARASSMENT, SEXUAL HARASSMENT, AND ABUSE OF AUTHORITY

