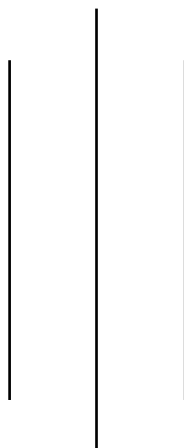




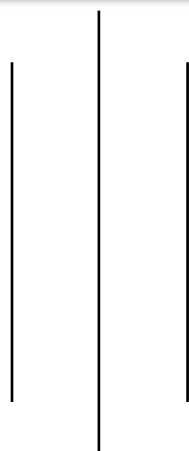
# UNIVERSITY GRANTS COMMISSION

NURTURING EXCELLENCE IN HIGHER EDUCATION PROGRAM (NEHEP)

2021/22 – 2025/26



## Code of Conduct on Sexual Exploitation and Abuse/Sexual Harassment



DECEMBER 2022

## 1. Introduction

The government of Nepal has developed National Higher Education Program Framework, NHEPF (2021/22 – 2025/26) for promoting higher education in the country. The framework compliments the nation's aim of achieving sustainable economic growth and attaining the Middle-Income country (MIC) status by 2030. To support the national framework on higher education, University Grants Commission, with loan assistance from IDA/WB is implementing **Nurturing Excellence in Higher Education Program (NEHEP)**. The objective of the program is "to strengthen labor market relevance and quality of higher education, boost collaborative research and innovation, and enhance equitable access for underprivileged and disaster affected groups and areas. NEHEP will support the national program through the four key results areas namely (i) improving employability, entrepreneurship, and collaborative research; (ii) strengthening governance and financing of higher education; (ii) widening access to quality higher education; and (iv) extending digitization of higher education. In order to have descent work environment while carrying out activities related to national higher education program in general and NEHEP in particular UGC felt the need for developing a code of conduct related to sexual exploitation, abuse and harassment. Therefore, UGC has issued this **Code of Conduct (CoC) for Sexual Exploitation and Abuse/Sexual Harassment (SEA/SH)**.

SEA/SH is one form of Gender-based violence (GBV) that is directed against a person on the basis of gender. GBV constitutes a breach of the fundamental right to life, liberty, security, dignity, equality between women and men, non-discrimination, and physical and mental integrity. Gender Based violence can be physical, sexual or psychological/emotional, or a combination of two or three of these.

The constitution of Nepal 2072 has provisioned for rights to equality (clause 18), rights against untouchability and discrimination (clause 24), right against exploitation (clause 29), rights to employment (clause 33), rights to labor (clause 34) and rights to women (clause 38). Apart from constitutional rights, two acts promulgated by the government of Nepal relate to sexual harassment, abuse and exploitation. The *Sexual Harassment at Workplace (Prevention) Act, 2014* aims to protect the rights of individuals to a safe environment in the workplace. Likewise, the Labor Act, 2017 is meant to protect the rights of wage workers.

This CoC acknowledges that everyone has a right to work in an environment that is safe, promotes equality, dignity at work and encourages individuals to treat each other with respect. With issuance of this CoC, UGC shall ensure that its employees, associates and stakeholders are made aware of this CoC.

## 2. Applicability and Coverage

This CoC applies to officials including members of the commission, all employees of the UGC. In addition, it is also applicable to all professional service providers, members of the various councils within the Commission, experts of the technical/cluster committees, consultants, and those providing expert services to the UGC.

If any contradiction in this document befallen with the Government of Nepal's Act, rules and regulation; Government of Nepal's Act, rules and regulation prevails first.

The term “workplace” in the CoC refers not only to the specific location where work is being performed, but also to locations where work activities may be conducted. These could include, but are not limited to:

- Regular meetings and program activities
- Staff residential facilities within the UGC premises
- All activities within UGC premises
- Social activities organized by UGC or any of its staff or associated professional service providers such as seminars, conferences, field trips etc.
- Official business travel
- Communications including the ones through electronic media

### 3. Definitions of the terms

The terms "gender-based violence" (GBV) and "violence against women" (VAW) are often used interchangeably, since most gender-based violence is predominantly perpetrated by men against women. However, GBV also includes violence against men, boys, and sexual minorities or those with gender-nonconforming identities. Some of the terms and their definitions related to gender-based violence and are applicable to sexual exploitation, abuse and harassment include but not limited to:

<b>Terms</b>	<b>Definitions</b>
<i>Intimate partner violence</i>	Intimate partner violence is behavior that takes place between current or former intimate partners and can include physical, sexual, or psychological harm, such as physical aggression, sexual coercion, psychological abuse, and controlling behaviors. (World Bank Violence Against Women Resource Guide)
<i>Sexual violence/sexual assault</i>	Sexual violence/sexual assault is any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes, rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part, or object. (WHO, 2012)
<i>Sexual exploitation and Abuse (SEA)</i>	Sexual exploitation and Abuse (SEA) is a form of GBV, defined as any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. Acts of SEA may involve actual or threatened violence or inducements such as protection, food, shelter, or the like, in exchange for sex.
<i>Non-partner sexual violence/abuse</i>	Non-partner sexual violence/abuse is the experience of being forced to perform any sexual act that you did not want by someone other than your husband/partner, when aged 15 years or over.
<i>Sexual harassment</i>	Sexual harassment is unwelcome sexual advances, requests

for sexual favors, and other verbal or physical conduct of a sexual nature. (UN Secretary General, 2003).

<i>Human Trafficking</i>	Human trafficking refers to the recruitment, transportation, transfer, harboring or receipt of persons, by means of force, the threat of force, other forms of coercion, abduction, fraud, deception, of the abuse of power, or of a position of vulnerability, or giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the sex work of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs (United Nations 2000.Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children).
<i>Survivor Centered Approach</i>	The Survivor Centered Approach is based on a set of principles and skills designed to guide professionals--regardless of their role—in their engagement with survivors (predominantly women and girls but also men and boys) who have experienced sexual or other forms of violence. The survivor-centered approach aims to create a supportive environment in which the survivor's rights are respected and prioritized, and in which the survivor is treated with dignity and respect. The approach helps to promote the survivor's recovery and ability to identify and express needs and wishes, as well as to reinforce the survivor's capacity to make decisions about possible interventions (World Bank 2018. Good Practice Note Addressing Gender Based Violence in Investment Project Financing involving Major Civil Works).
<i>Child sexual abuse</i>	Child sexual abuse is involving a child below 18 years of age into sexual activity purposefully.
<i>Child and force marriage</i>	Child and forced marriage are a formal marriage or informal union before age 18 (as per WHO).
<i>Consent</i>	Consent is the informed choice underlying an individual's free and voluntary intention, acceptance or agreement to do something. No consent can be found when such acceptance or agreement is obtained through the use of threats, force or other forms of coercion, abduction, fraud, deception, or misrepresentation. In accordance with the United Nations Convention on the Rights of the Child, the World Bank considers that consent cannot be given by children under the age of 18, even in the event that national legislation of the country into which the Code of Conduct is introduced has a lower age. Mistaken belief regarding the age of the child and consent from the child is not a defense.

#### **4. Conducts that may constitute SEA/SH**

The following examples are intended to include all personnel affiliated with the UGC, whether staff, or professional service providers. These examples are provided to illustrate the type of conduct proscribed by this code of conduct. These are references and it should not be considered as an exhaustive list.

- Leering, staring, sexual flirtations or propositions.
- Inappropriate conversation or enquiries of a sexual nature.
- Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading and demeaning descriptions.
- Graphic verbal comments about an individual's body or overly personal conversation.
- Sharing of jokes, stories, drawings, pictures, or gestures of sexual nature.
- Spreading of sexual rumours.
- Inappropriate touching of an individual's body or clothes in a sexual way.
- Displaying objects in a sexually suggestive manner.
- Sending sexually suggestive communications in any format including social media.
- Any form of gender-based violence.
- Attempted or actual sexual assault, including rape.

#### **5. Roles and Responsibilities**

The main role and responsibility of UGC is to create and maintain a working environment that is free from sexual harassment, abuse and exploitation. For this, all officials, staff members and associated professional service providers are responsible for disseminating the prepared CoC and conducting awareness raising programmes among the stakeholders. Officials at UGC are required to respond promptly and in a sensitive/confidential manner to any accusation of sexual harassment ensuring that alleged victims do not have fear of reprisals or feel that their grievances are being ignored or trivialised.

This CoC is meant to function as a primary instrument to mitigate and manage SEA/SH and it will be endorsed by the top management to ensure acceptance and compliance by all staff and professional service providers. The UGC especially the top management must clearly demonstrate: i) their commitment to ensuring a workplace free from SEA/SH; ii) that SEA/SH will not be tolerated under any circumstances; iii) that swift disciplinary action will be taken against any staff member (either male or female) or professional service provider found to be in breach of the CoC; and iv) that officials and division heads have the responsibility both to implement the code of conduct and demonstrate leadership by example.

To facilitate the hearing and addressal of complaints against COC, UGC will have a provision of a Focal Person within General Administrative Division. The Focal person will collect the complaint received or registered within the organization and submit to the authority for due process. The Grievance redressal process will be as shown in Annex 1. The UGC-GRM committee comprise: VC – chair person, Member secretary- vice chair, Admin. Director – secretary and Members.

UGC will provision for a Complaint box in a convenient location within the office premises. In addition, a mechanism will also be developed where the concerned people will be able to lodge complaints through other means such as telephone, Hotmail, toll free lines and mobile SMS.

## **6. Mainstreaming SEA/SH in UGC Policy**

UGC will incorporate provisions related to protection against sexual exploitation, abuse and harassment in its policy documents and also include clauses as per this code of conduct in the terms and conditions of their employees. The policy statements will be written in a clear and easily understandable language. It will include (but not limited to):

- Clear definitions of terms and concepts related to sexual exploitation, abuse and sexual harassment;
- Measures for minimization/prohibition of sexual exploitation, abuse and sexual harassment in the workplace;
- A transparent and easy-to-understand complaints submission procedure, timeline, relevant person/division and grievance redressal mechanism (GRM) as shown in the Annex below;
- Disciplinary rules against the harasser and against anyone who makes a false accusation; and
- Protective and remedial measures for the survivors. Specifically, provisions of services will be made available as required and needed for the survivors such as referrals to professional organizations for psycho-social, legal and health related treatments.

## **7. Penalties and Compensation**

The UGC policy statement on SEA/SH shall clearly indicate the disciplinary action to be expected in the case of non-compliance. Depending on the severity of the case, the penalties could range from a written apology to the survivor or disciplinary warning to counselling, transfer, suspension, demotion or dismissal and handover to relevant authority (for criminal cases) as per institutional Act and regulations. The policy statements will also include institutional mechanism for immediate disciplinary action to be taken against anyone who victimises or retaliates against a person who is a victim of SEA/SH.

UGC will have a provision to facilitate the compensation of the victim if the incident falls within the coverage of SEA/SH.

## **8. Disciplinary action against false accusation**

Any staff or professional service provider who has filed a complaint alleging that he/she has been a victim of sexual harassment within the UGC and a subsequent inquiry reveals that the individual has falsely accused the purported harasser of sexual harassment knowingly, and that, in fact, no sexual harassment occurred, shall be subject to disciplinary action, which may include but not be limited to verbal reprimand, written reprimand, suspension without pay, demotion, or dismissal or handover to the concerned authorities.

## 9. Survivor-Centric Approach

UGC administration and responsible staff will take every precautionary measure to ensure that SEA/SH complaints are handled in a confidential, respectful, non-biased manner ensuring the safety, consent of and prompt referral by the survivor.

### Annex 1: GRM Flow Chart within the UGC-GRM Committee

