

**THE SENATE**  
**FEDERAL REPUBLIC OF NIGERIA**  
*NATIONAL ASSEMBLY*

**COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND  
LEGAL MATTERS**

**REPORT**

**ON**

**A BILL FOR AN ACT TO PREVENT, PROHIBIT AND REDRESS  
SEXUAL HARASSMENT OF STUDENTS IN TERTIARY  
EDUCATIONAL INSTITUTIONS AND FOR MATTERS  
CONNECTED THEREWITH (SB.77)**

JUNE, 2020

# **REPORT OF THE SENATE COMMITTEE ON JUDICIARY, HUMAN RIGHTS & LEGAL MATTERS ON A BILL FOR AN ACT TO PREVENT, PROHIBIT AND REDRESS SEXUAL HARASSMENT OF STUDENTS IN TERTIARY EDUCATIONAL INSTITUTIONS; AND FOR RELATED MATTERS (SB.77).**

## **1.0 BACKGROUND**

The Prevention, Prohibition and Redress of Sexual Harassment of Students in Tertiary Educational Institutions Bill, 2019 was sponsored by ***Senator Ovie Omo-Agege (Delta Central Senatorial District)***, the Deputy President of the Senate and One Hundred and Six (106) Senators, as Co-sponsors (List attached herewith). The Bill was read for the *First Time* on Wednesday, 9<sup>th</sup> October, 2019.

The Senate at its Plenary Sitting on Wednesday, 6<sup>th</sup> November, 2019, deliberated on the general principles of the Bill. After extensive deliberations on the merits of the Bill, it was read for the *Second Time*, and referred to the Senate Committee on Judiciary, Human Rights and Legal Matters, for further legislative action (vide *Order of Referral dated 7<sup>th</sup> November, 2019*) and to report back with its recommendations.

## **2.0 Method of Work**

After the referral of the Bill, the Committee held several meetings whereby it deliberated and agreed on the following legislative framework in furtherance of this assignment, to wit:

- i. conduct a public hearing in order to avail the general public the opportunity to make their inputs on the proposed legislation;
- ii. consult widely with stakeholders on the justifications and merits of the proposed legislation;
- iii. assess the Bill as to conformity with the minimum normative human rights standards; and
- iv. consider any other matter incidental to, that would be of assistance, in the discharge of its assignment.

### **3.0 Objectives of the Bill**

The objectives of the Bill in the Committee's view, among other things, are to –

- i. prohibit the offence of sexual harassment of students in tertiary institutions;
- ii. criminalise the act of neglect or failure of administrative heads of tertiary educational institutions to address complaints of sexual harassment within a specified period of time;
- iii. create a strict liability offence by removing mutual consent, as a defence in the prosecution of sexual harassment cases in tertiary educational institutions; and

- iv. maintain and sustain the fiduciary relationship that exists between educators and students with the aim of making our tertiary institutions conducive centres of learning and moral rectitude.

#### **4.0 Legislative Action**

As part of the Committee's legislative action on the Bill, it held several meetings and deliberated further on the merits of the proposed legislation. In the course of deliberations, the Committee critically and painstakingly analysed the views expressed by Distinguished Senators during debates on the general principles of the Bill at its second reading stage and the public reactions that followed thereafter. Accordingly, the Committee resolved to conduct a Public Hearing in order to avail stakeholders and the general public the opportunity to make their inputs on the proposed legislation.

In line with the Legislative Agenda of the 9<sup>th</sup> Senate, that is, to allow inclusivity in law-making processes, the Committee placed advertisements in print and electronic media and invited memoranda from stakeholders and the general public with a view to sensitising them on the provisions of the proposed Bill, ahead of the Public Hearing.

The Committee received memoranda from the following organisations and individuals, namely:

1. The Hon. Minister, Federal Ministry of Women Affairs;
2. The Nigerian Police;

3. The Nigerian Law Reform Commission;
4. The National Human Rights Commission;
5. National Agency for the Prohibition of Trafficking in Persons
6. Legal Aid Council of Nigeria;
7. National Centre for Women Development;
8. Council of Legal Education;
9. Tertiary Institutions and Universities;
10. National Board for Technical Education;
11. Nigerian Supreme Council for Islamic Affairs;
12. International Federation of Women Lawyers (FIDA);
13. Women Rights Advancement and Protection Alternative (WRAPA);
14. Academic Staff Union of Universities (ASUU);
15. Amnesty International, Nigeria
16. Academic Staff Union of Polytechnics (ASUP);
17. Women Advocates Research & Development Centre (WARDC);
18. Women Aid Collective (WACOL)
19. National Female Students Association of Nigeria (NFSAN);
20. National Association of Nigeria Students (NANS)
21. Gender Technical Unit (GTU);
22. Civil Society Organisations;
23. Gender Mobile Initiative;
24. Partner West Africa, Nigeria;
25. Education as a Vaccine;
26. SUG, University of Abuja;
27. Dr. Nasiru Isa Fagge, Former ASUU President
28. Dr. Oladipo;
29. Martins Ababe, Founder, Youth Development; and
30. Members of the General Public.

Mr. President, Distinguished colleagues, apart from the memoranda that the Committee received, oral presentations were also made at the public hearing by some stakeholders, including NGOs, Civil Society Organisations and Individuals, who were unable to make submissions before the hearing.

## **5.0 Public Hearing**

On Monday, 17<sup>th</sup> February, 2020, the Committee conducted a public hearing in line with its Resolution and the Legislative Agenda of the 9<sup>th</sup> Senate, to elicit views of stakeholders and the general public.

### **5.1 Opening**

The President of the Senate, ***Senator Ahmad Ibrahim Lawan, Ph.D, CON***, who was represented by ***Senator Abdullahi Yahaya***, the Leader of the Senate, declared the Public Hearing open. In his keynote address, the President of the Senate stated that the question of sexual harassment has been a nagging question in most environments. He stated when the Bill was first introduced in the Senate, it was suggested that the scope should be expanded to cover all spheres because sexual harassment, is not only limited to our higher institutions, as reports abound, of such unwholesome practices in work places, religious institutions and homes by people who take advantage of weaker compatriots. But, be that as it may, it is still good to start from somewhere. He stressed that sexual harassment, is not just a moral offence, but also criminal, as it is an assault on human virtue and good conscience.

He emphasised that harassments, intimidations and manipulations of all sorts, are actions that should have no place in any democratic society. Therefore, anyone who indulges in such practices, should incur the wrath of the law.

Furthermore, he stated that as citizens of this country, we have a common responsibility to fight the menace of sexual harassment because anyone or any family, could be victim. He charged the stakeholders to examine the Bill in detail to see how it can be improved upon in order to come up with measures that will prevent and adequately sanction this ugly trend. He urged participants to be forthright in their suggestions and contributions, to enable the country build a system that is respectable in the comity of nations.

Finally, he thanked the participants for coming to attend the Public Hearing and wished them successful deliberations. On that note, he declared the Public Hearing open.

## **5.2 Proceedings**

Mr. President, Distinguished Colleagues, I wish to state that the Public Hearing recorded a huge turnout of stakeholders and members of the general public who spoke for and against the passage of the legislation by the Senate.

The highlight of presentations beginning with the stakeholders who supported the passage of the Bill, are as follows:

Mr President, it should be noted that stakeholders unanimously canvassed the position that sexual harassment of students by educators has reached epidemic levels and most tertiary institutions' internal mechanisms for checkmating this ugly trend, are not effective enough to stop perpetrators from pressurising students into sexual harassment. Most often, internal disciplinary actions are either non-existent or inadequate, hence the need for this legislation to adequately nip the dastardly act, in the bud.

Stakeholders advocated the need to promote and uphold the highest ethical and moral standards by practitioners and educators in the country's tertiary educational institutions. As a result, it is imperative for the government to develop an elaborate legal framework that will drive and guarantee the objective, or the realisation of the educational policies of government, to be able to meet up with the challenges of the evolving global digital millennium. This, no doubt, will guarantee a safe and free environment, conducive for education and learning, which is a human right that must be protected, respected and enforced in accordance with our Constitution, and international and regional human rights treaties that Nigeria, is a party to.

The stakeholders strongly held the view that the aim of sanctioning sexual harassment in tertiary institutions is to ensure that adequate learning environment is created for both male and female students so that no student on account of his or her gender should have to learn in a tensed environment, characterised by sexual harassment. The prevalence of sexual harassment, they said, is a serious menace that must be addressed frontally in our tertiary institutions, through this



legislation, the enactment of which is long overdue. Accordingly, they urged Senators to pass this Bill without delay, having being sponsored by one hundred and six Senators of the Federal Republic of Nigeria representing Three Hundred and Eighteen (318) Senatorial Districts, who have convergences of legislative interests.

Furthermore, they averred that sexual harassment in educational institutions should not be treated with levity in view of the special nature of relationship, that exists between educators and students, which is anchored on the doctrine of *loco parentis*. This is to the effect that an educator is under obligation to play the role of a father or guardian, and further presupposes that he is legally and ethically bound to protect students from sexual harassment, and sexual violence. An Educator is also under obligation to ensure that order and discipline prevail in schools in the interest of peace, public safety, public morality and good conscience. Accordingly, they posited that the introduction of this Bill is a laudable effort by the National Assembly to give effect to the Fundamental Objectives and Directive Principles of State Policy and other forms of protection, guaranteed to citizens in Chapter II, under the 1999 Constitution of the Federal Republic of Nigeria, as amended. In this regard, all known principles, moral, legal or otherwise, support the passage of this legislation by this hallowed Chamber.

Similarly, they stated that the menace of sexual harassment when viewed from the premise of accountability, exposes a grievous form of corruption, being an abuse of entrusted power for personal gain, thereby compromising merit, hardwork and transparency, which has pressured some students to resort to alternative means to reading in

order to compete for grades. They further maintained that the intent and purport of the Bill, aligns with the focus on sexual and gender-based violence and harmful practices and other existential issues that Rights Organisations are seriously advocating against. So, this should be a thing of worry and concern for everybody, hence the need for the speedy passage of this Bill by the Senate, without delay.

It was also argued that the need to tackle sexual perversion in our educational institutions, which this Bill seeks to address, is commendable as it contains innovative provisions, which seek to improve the existing extant laws on the subject matter. However, given the fact that sexual harassment is one of the social evils generally plaguing our society, it will be appropriate if the scope and application of the Bill, is expanded to deal with every possible incident of sexual harassment within the Nigerian society to include, primary and secondary schools, as well as work places. They argued that this will obviate the need for any future enactment of similar legislation on sexual harassment, even though the legislative intent of this Bill is targeted at tertiary educational institutions only.

On whether the National Assembly has the legislative powers to criminalise any mischievous human action, including sexual harassment of students by educators, it is apposite that stakeholders posited unequivocally that the conduct, which this Bill seeks to prohibit and punish, has negative effect on the standards of education. Therefore, it is the duty of the National Assembly to prescribe minimum standards of education at all levels, which include ethical and moral standards, among others. In this regard, Item 60 (e) of the Exclusive Legislative List, Second Schedule to the

Constitution, reinforces this position. Accordingly, they commended the passage of the Bill by Distinguished Senators, as it is within the legislative powers of the National Assembly to enact this law.

Finally, stakeholders also argued that the aim of criminal legislation is to curb undesirable behaviour and to isolate a potential criminal and make him or her to be aware of the repercussions of his/her actions, otherwise criminal legislation, would be meaningless. In Conclusion, they reiterated that the National Assembly is legally, legislatively and constitutionally qualified to enact into law, this Bill that seeks to tame this hydra-headed monster in the name of sexual harassment/sex for grades, which has become a pandemic in our tertiary institutions.

Mr. President, Distinguished colleagues, in contrast with the above position, the Academic Staff Union of Universities (ASUU) and one other stakeholder, opposed the passage of the Bill. They justified their positions on the grounds that the Bill violates all known global norms and legal principles in the sense that universities and other tertiary institutions, are established by law as autonomous bodies. For example, the Universities (Miscellaneous Provisions) (Amendment) Act 2003, otherwise known as the Universities Autonomy Act No. 1, of 2007, provides that universities being autonomous bodies, can regulate their own affairs, including misconduct generally amongst staff and students, with clearly articulated appropriate redress mechanisms. Therefore, any law, that is likely to replace or supersede these laws, violates the autonomy of the Universities and the Federal Government of Nigeria and Academic Staff Union of Universities (ASUU) Agreement of 2009. As such, the Bill should be rejected.

In addition, they stated that the proposed legislation being *Ad hominem* legislation, violates the cardinal principle of law, which frowns at laws that target a particular person or a particular group, which, in this case, are the "educators" in tertiary institutions.

Similarly, they argued that the Bill failed to take cognisance of various extant legislations with specific references to the Criminal Code (sections 218, 219, 220, 223, 224, 226 and 227); the Penal Code (sections 275, 276, 278, 281 and 282); the Child Rights Act, 2003 (section 11); the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (section 5) and the Violence Against Persons (Prohibition) Act, 2015. They pointed out that all these laws cited above, have adequate provisions to deal with the issue of sexual offences and they are quite wider in scope than the provisions of this proposed Bill.

Furthermore, they stated that the Bill is discriminatory, selective, spiteful, impulsive, *ad hominem*, lacks logic and any intellectual base by attacking the character and persons of those in the tertiary institutions as if the act is peculiar to tertiary institutions alone without addressing the issue holistically.

In the same vein, they stated that the Bill is made up provisions that are incapable of curbing the menace of sexual harassment in Nigeria, as its application is restricted to tertiary institutions alone, leaving out primary schools, secondary schools and work places. As a matter of fact, there is no extant law that covers the issue of sexual harassment in all its ramifications as it affects the different segments

of our society. Therefore, the need for a comprehensive legislation targeted at addressing the issue of sexual harassment as a whole, rather focusing on this Bill, is sacrosanct.

Finally, they reiterated that ASUU, as a Union does not condone cases of sexual harassment in any form and that the Bill should fail because it is unwarranted, jurisprudentially weak, a bundle of contradictions and has no probative value.

Mr President, Distinguished colleagues, those were the highlights of various shades of views, opinions and propositions that were canvassed before the Committee at the legislative hearing. From the foregoing, it is the Committee's concerted view that the majority opinion supported the passage of the Bill with modifications.

## **6.0 Legislative Summary**

Mr. President, Distinguished colleagues, the Committee has painstakingly analysed the presentations made at the Public Hearing, as highlighted above and juxtaposed them with the provisions of the Bill. Consequently, we hereby highlight a legislative summary, which gives a detailed clause – by – clause analysis of some key provisions of the Bill in line with public views or reactions, at the hearing. This summary, no doubt, provides the underlining reasoning for our observations, findings and recommendations.

## **Long Title**

The Long Title of the Bill was redrafted as set out in the attached table to clearly convey the intendment of the Bill in line with the views canvassed by the stakeholders. Also, the committee deleted the word "redress" from the Long Title so as to defocus the objectives of the Bill from mere reliefs, damages or compensation for wrong done in civil matters. It is our concerted view that redress in sexual harassment cases, if given prominent attention would create room for more civil settlement in matters of sexual harassment than criminal retribution, which is the intendment of the Bill, to serve as deterrent to would – be offenders.

## **Clause 1**

Clause 1 deals with the objective of the Bill. The Committee redrafted the objective of the Bill for elegance and clarity and substituted in place of sub-clauses (1), (2) and (3), paragraphs (a), (b) and (c) instead thereof. Similarly, the word 'prohibition' substitutes the word 'prevention' in paragraph (b) of this clause because the proposed Bill seeks to prohibit and punish the offence of sexual harassment and not to prevent. As you are aware, crime prevention can be seen as efforts made to reduce or deter criminals from committing crime, which can be carried out through sensitisation, among other measures. However, prohibition is a legal restriction against certain conducts, which by omission or commission amounts to an offence punishable by law.

## **Clause 10**

Clause 10 deals with commencement of criminal proceedings. The Committee deleted this clause because it did not create any offence. Therefore, its inclusion in the Bill is superfluous.

## **Clause 11 renumbered as Clause 10**

This Clause deals with Penalty. This Clause was amended as set out in the attached table because in our concerted view, maximum sentences are very rarely imposed. Therefore, we are of the view that Judges should be given the discretion to deal with various situations that may arise, taking into account, degrees of seriousness of sexual harassment, which may vary due to nature of each case. This amendment is also in line with the Administration of Criminal Justice Act and sentencing guidelines in many jurisdictions. Also, penalties for offences were categorised so that the lesser offences do not carry equal punishments with the principal offence(s).

## **Clause 12**

Clause 12, just like the previous clause 11 also deals with Penalty. The Committee in its wisdom, merged the clauses and renumbered them as sub-clauses (1) and (2). This is necessary because the two clauses deal with the same subject matter. The only difference is the variation in the offences and the corresponding punishments, which have been addressed by the discretion recommended for Judges to deal with situations, based upon mitigating factors.

## **Clause 14**

Clause 14 of the Bill has been deleted because the reference to clauses 2 and 3 under the Bill do not create any cause of action. And in any case, the action being a civil action will inevitably attract the standard of proof that is required in civil actions.

## **Clause 15 renumbered as Clause 12**

This Clause deals with institutional disciplinary measures. The Committee deleted sub-clause (1) of this clause because it curtails the power of the Independent Sexual Harassment Investigative Committee in the tertiary institutions to commence or continue disciplinary proceedings under the Bill. This is necessary because a case instituted may take years to conclude. Also, criminal and civil proceedings have different standards of proof; beyond reasonable doubt and preponderance of evidence respectively. Accordingly, sub-clauses (2), (3) and (4), have been substituted as paragraphs (a), (b) and (c) as set out in the attached table.

## **Clause 16 renumbered as Clause 13**

This Clause deals with Independent Sexual Harassment Prohibition Committee. The Committee redrafted the side-note of this clause by substituting the word "Prohibition", with the word "Investigative" because the duty of the Committee is to carry out investigation and



report back to the Administrative Head and not to prohibit the offence of sexual harassment.

### **Clause 17 renumbered as Clause 14**

This Clause deals with institutional disciplinary procedures. The Committee amended this clause in sub-clause (5) (a) by introducing the phrase "prosecution or" in order to provide for prosecution of offenders in addition to dismissal and reduction in rank, as the case may be, and new paragraph (c) was introduced to ensure appropriate restitution to the victim of sexual harassment in the tertiary institution. Also, a new sub-clause (6) was introduced to this clause, to ensure that failure of the Administrative Heads of Institutions to take necessary actions regarding sexual harassment complaint will not stall the complaint.

### **New Clause 20**

This is a new Clause introduced by the Committee. It deals with remedy on grounds of false allegation. This provision is necessary to check malicious and frivolous allegations of sexual harassment in tertiary educational institution.

### **Explanatory Memorandum**

The Committee found that there is no Explanatory in the draft Bill. In view of the fact that Explanatory Memorandum in our jurisdiction, is usually presented together with a Bill, the Committee has made provision for it in this report. However, it should be noted that even

though, it has no legal effect, it is meant to explain the purpose of the Bill, as at the time of introduction to the Parliament in a brief and concise manner.

## **7.0 Observations**

Flowing from the submissions/presentations made by stakeholders and the general public on this proposed legislation and having analysed same, we hereby make the following observations:

1. That from the preponderance of views expressed at the public hearing, majority of the stakeholders supported the passage of the Bill, except the Academic Staff Union of Universities and one other stakeholder;
2. That sexual harassment in our tertiary institutions is one of the major factors responsible for the decline in academic excellence in the country today, as hard work, merits and transparency have been compromised by this ugly trend, which has provided a hostile learning environment for students, thereby creating an enabling atmosphere for mediocrity, indiscipline and inefficiency in our tertiary institutions;
3. That some stakeholders were of the view that the National Assembly lacks the legislative competence to legislate on this subject matter on the ground that the legislation is not on the Exclusive Legislative List, the Concurrent Legislative List, or the supplementary provisions of the Constitution of the Federal Republic of Nigeria 1999, as amended;

4. That the absence of a legislation to particularly mitigate the menace of sexual harassment in our tertiary institutions is the reason for the overwhelming rise in cases of sexual harassment as have been reported in recent times;
5. That the Academic Staff Union of Universities (ASUU) is of the view that the Bill is *ad hominem* because it targets a particular community, which in this case, are the educators in the tertiary institutions, whereas sexual harassment is a general societal problem that is not peculiar to tertiary institutions alone;
6. That ASUU is also of the opinion that the Bill is an affront and unnecessary interference with the Universities' autonomy as guaranteed by their enabling laws. More so, there are extant laws with sufficient provisions to deal with the subject matter; and
7. That a cross-section of stakeholders at the Public Hearing supported the widening of the scope of the Bill to accommodate primary and secondary schools, work places and religious organisations in order to holistically deal with the subject matter of sexual harassment in the country.

## **8.0 Findings**

After a painstaking evaluation and analysis of submissions, observations and other viewpoints espoused by stakeholders, during our mark-up session, we hereby make the following findings:

1. That the introduction of this Bill is a welcome development and coming at the time when victims of sexual harassment in our tertiary institutions are in a state of despair and probably feeling unsafe and unprotected as a result of the absence of legislations that would curb this menace;
2. That the Bill attracted unprecedented support from not only Distinguished Senators as demonstrated by the 106 Senators that co-sponsored the Bill but an overwhelming number of Nigerians who see the Bill as a necessary legislative intervention that will bring sanity and good order to the educator-student relationship in our tertiary institutions;
3. On the legislative competence of the National Assembly, to enact this legislation, it is trite that the National Assembly has the legislative powers and competence to legislate on this subject matter by virtue of the provisions of Section 4 (2), (3) and (4) of the Constitution of the Federal Republic of Nigeria, 1999, as amended. This presupposes that *the National Assembly has the legislative powers to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter, included in the Exclusive Legislative List and the Concurrent Legislative List, to the extent permitted by the Constitution. Thus, the subject matter is adequately covered by the Constitution.* The position of the law is further reinforced by the decision of the Supreme Court in case of the *Federal Government of Nigeria v. Anache & 3 Others*, SC.316/2001, the Court held that the National Assembly has powers to legislate for the good governance of the nation by virtue of Section 4 (2) and

Item 60 of the Second Schedule to the Constitution, which allows the National Assembly, powers to extend beyond the Federation;

4. That from the standpoint of the aforementioned constitutional provisions and judgment of the Supreme Court, it is clear that the National Assembly can legislate on the subject matter and the law when passed, shall apply throughout the Federation. The enactment of Acts, such as the NAFDAC Act, the EFCC Act, the Examination Malpractices Act and the ICPC Act, etc., stemmed from this and other relevant provisions of the Constitution. Equally, the legislations can be seen as giving effect to the Fundamental Objectives and Directive Principles of State Policy and other rights guaranteed to citizens under the provisions of Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria, as amended;
5. That Item 60 (e) of the Exclusive Legislative List, Second Schedule to the Constitution, gives the National Assembly the power to make laws prescribing minimum standards of education. Since sexual harassment compromises the standard of education in the tertiary institutions, the National Assembly can make laws relating to standards of conduct of educators and students in tertiary educational institutions;
6. The National Assembly can also legislate on the Concurrent Legislative List to the extent prescribed therein, with respect to making laws for the tertiary education, Items 27, 28, 29, and 30 of the Concurrent Legislative List, are instructive. Item 27 specifically gives the National Assembly the power to make laws for the Federation in respect of university education, technological education

or such professional education as may from time to time be designated by the National Assembly;

7. That this Bill is not targeted at a particular community i.e. the educators and that it does not interfere with the autonomy of the universities, rather it is intended to reposition and strengthen our tertiary educational institutions to maintain the core values of etiquette and excellence, which are the cardinal objectives of our educational institutions;
8. That in spite of the existing internal procedures in some tertiary institutions, these do not have the force of law and sexual harassment cases, still continue unabated, hence this Bill will bridge the huge gap and give a legal backing to any internal rule by the educational institutions to check the incidences of sexual harassment;
9. That contrary to ASUU's claim that there are extant laws that can sufficiently address sexual harassment in our tertiary institutions, we found that there are no such laws in place, the only one that comes close to that, is the Violence Against Persons (Prohibition) Act, 2015, which is only applicable in the Federal Capital Territory, Abuja;
10. That this legislation is meant to address incidence of sexual harassment in tertiary institutions only, as there are other laws that address sexual offences in respect of persons under the age of 18 years such as the Child's Rights Act 2003;
11. That the Bill seeks to amplify the provisions of the Constitution, especially section 21 which upholds the preservation of culture, that

enhance human dignity and consistent with freedom, equity and justice and section 42, which prohibits sex discrimination. Apart from giving effect to the constitutional provisions, the Bill equally reinforces the provisions of the Violence Against Persons Prohibition Act, 2015 by emphasising on the implementation of the sexual component within the tertiary educational institutions, considering the endemic nature of sexual harassment in our tertiary institutions; and

12. That by enacting this Bill into law, the Nigerian Government would be fulfilling part of its International Obligations undertaken through the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples Rights, the Protocol to the African Charter on the Rights of Women in Africa, and the African Charter on the Rights and Welfare of the Child, amongst others.

## **9.0 Recommendation**

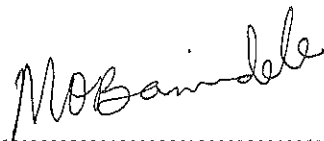
Flowing from the presentations of stakeholders and the foregoing observations/findings, the Senate Committee on Judiciary, Human Rights and Legal Matters, to which the Bill was referred, having considered same, recommends as follows:

*"That the Senate do consider and pass the Sexual Harassment of Students in Tertiary Educational Institutions (Prohibition) Bill, 2020, as amended".*

I SO MOVE.

## 10.0 Conclusion

Finally, we wish to use this opportunity to thank the President of the Senate and indeed, our Distinguished Colleagues for the opportunity to serve in this capacity and to respectfully commend the passage of this Bill to the Senate.

A handwritten signature in black ink, reading "MOBamidele", positioned above a horizontal dotted line.

**Senator Michael Opeyemi Bamidele**

Chairman



## ENDORSEMENT PAGE

### Senate Committee on Judiciary, Human Rights and Legal Matters

#### Membership

1. Senator Michael Opeyemi Bamidele - Chairman: 
2. Senator Orker-Jev Emmanuel Y. - V/Chairman: 
3. Senator Bala Ibn Na'Allah - Member: .....
4. Senator Abdullahi Adamu, CON - Member: .....
5. Senator James E. Manager, CON - Member: 
6. Senator Ike Ekweremadu - Member: 
7. Senator Chukwuka Godfrey Utazi - Member: 
8. Senator Gabriel T. Suswam - Member: 
9. Senator Aishatu Ahmed Dahiru - Member: .....
10. Senator Ajibola Basiru Surajudeen - Member: 
11. Senator Peter O. Nwaoboshi - Member: 
12. Senator Ibrahim Hassan Hadejia - Member: 
- Charles Luri Bala Esq. - Committee Clerk: 

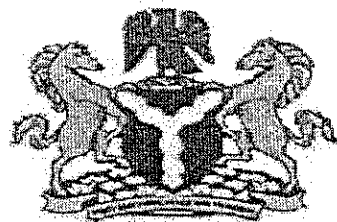
Sponsor: **SENATOR OVIE OMO-AGEGE** (*Delta Central*)

Co-sponsors:

1. **SENATOR THEODORE ORJI** (*Abia Central*)
2. **SENATOR ORJI UZOR KALU** (*Abia North*)
3. **SENATOR ENYINNAYA ABARIBE** (*Abia South*)
4. **SENATOR PHILIPS TANIMU ADUDA** (*FCT*)
5. **SENATOR YAROE BINOS DAUDA** (*Adamawa South*)
6. **SENATOR DAHIRU AISHATU AHMED** (*Adamawa Central*)
7. **SENATOR ISHAKU ELISHA CLIFF** (*Adamawa North*)
8. **SENATOR BASSEY ALBERT** (*Akwa Ibom North West*)
9. **SENATOR CHRIS EKPEYONG** (*Akwa Ibom North East*)
10. **SENATOR EYAKENYI AKON ETIM** (*Akwa Ibom South*)
11. **SENATOR UCHE EKWUNIFE** (*Anambra Central*)
12. **SENATOR IFEANYI UBAH** (*Anambra South*)
13. **SENATOR STELLA ODUJA-OGIEMWONYI** (*Anambra North*)
14. **SENATOR JIKA DAUDA HALLIRU** (*Bauchi Central*)
15. **SENATOR BULKACHUWA A. MUHAMMAD** (*Bauchi North*)
16. **SENATOR LAVAL GUMAU** (*Bauchi South*)
17. **SENATOR EWHRUDJAKPO LAWRENCE** (*Bayelsa West*)
18. **SENATOR DEGI BIOBARAKU WANGARA** (*Bayelsa East*)
19. **SENATOR DIRI DOUYE** (*Bayelsa Central*)
20. **SENATOR PATRICK ABBA MORO** (*Benue South*)
21. **SENATOR EMMANUEL YISA ORKAR-JEV** (*Benue North West*)
22. **SENATOR GABRIEL SUSWAM** (*Benue North East*)
23. **SENATOR KASHIM SHETTIMA** (*Borno Central*)
24. **SENATOR KYARI ABUBAKAR SHAIB** (*Borno North*)
25. **SENATOR MOHAMMED ALI NDUME** (*Borno South*)
26. **SENATOR GERSHOM BASSEY** (*Cross River South*)
27. **SENATOR ROSE OKOJI OKO** (*Cross River North*)
28. **SENATOR ONOR SANDY OJANG** (*Cross River Central*)
29. **SENATOR JAMES MANAGER** (*Delta South*)
30. **SENATOR PETER NWAOBOSHI** (*Delta North*)
31. **SENATOR SAM EGWU** (*Ebonyi North*)
32. **SENATOR MICHAEL AMA-NNACHI** (*Ebonyi South*)
33. **SENATOR JOSEPH OGBA** (*Ebonyi Central*)
34. **SENATOR CLIFFORD ORDIA** (*Edo Central*)
35. **SENATOR MATTHEW URHOGHIDE** (*Edo South*)
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 A. 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 IBRAHIM YAHAYA OLORIEGBE** (*Kwara Central*)
66. **SENATOR UMAR SULEIMAN SADIQ** (*Kwara North*)
67. **SENATOR ASHIRU OYELOLA** (*Kwara South*)
68. **SENATOR ADEBAYO OSINOWO** (*Lagos East*)
69. **SENATOR SOLOMON OLAMILEKAN ADEOLA** (*Lagos West*)
70. **SENATOR OLUREMI TINUBU** (*Lagos Central*)
71. **SENATOR AKWASHIKI GODIYA** (*Nasarawa East*)
72. **SENATOR ABDULLAHI ADAMU** (*Nasarawa North*)
73. **SENATOR UMARU TANKO AL-MAKURA** (*Nasarawa South*)
74. **SENATOR MOHAMMED SANI MUSA** (*Niger East*)
75. **SENATOR ABDULLAHI ALIYU SABI** (*Niger North*)
76. **SENATOR BIMA MUHAMMAD ENAGI** (*Niger South*)
77. **SENATOR BOROFACE ROBERT AJAYI** (*Ondo North*)
78. **SENATOR AKINYELURE PATRICK AYO** (*Ondo Central*)
79. **SENATOR NICHOLAS TOFOWOMO** (*Ondo South*)

80. **SENATOR ODEBIYI TOLUPE AKINREMI** (*Ogun West*)
81. **SENATOR IBIKUNLE AMOSUN** (*Ogun Central*)
82. **SENATOR RAMONI OLALEKAN MUSTAPHA** (*Ogun East*)
83. **SENATOR ORIOLOWO ADELERE ADEYEMI** (*Osun West*)
84. **SENATOR FADAHUNSI FRANCIS ADENIGBA** (*Osun East*)
85. **SENATOR AJIBOLA BASIRU** (*Osun Central*)
86. **SENATOR ABDULFATAI BUHARI** (*Oyo North*)
87. **SENATOR KOLA BALOGUN** (*Oyo South*)
88. **SENATOR TESLIM FOLARIN** (*Oyo Central*)
89. **SENATOR ISTIFANUS GYANG** (*Plateau North*)
90. **SENATOR DIMKA AYUBA** (*Plateau Central*)
91. **SENATOR IGNATIUS DATONG LONGJAN** (*Plateau South*)
92. **SENATOR THOMPSON SEKIBO** (*Rivers East*)
93. **SENATOR BARINADA MPIGI** (*Rivers South East*)
94. **SENATOR JOCELYN APIAFI** (*Rivers West*)
95. **SENATOR ABDULLAHI IBRAHIM GOBIR** (*Sokoto East*)
96. **SENATOR ALIYU WAMAKKO** (*Sokoto North*)
97. **SENATOR SHEHU ABUBAKAR TAMBUWAL** (*Sokoto South*)
98. **SENATOR SHUAIBU LAU** (*Taraba North*)
99. **SENATOR YUSUF ABUBAKAR YUSUF** (*Taraba Central*)
100. **SENATOR EMMANUEL BWACHA** (*Taraba South*)
101. **SENATOR IBRAHIM GAIDAM** (*Yobe East*)
102. **SENATOR BOMAI IBRAHIM MOHAMMED** (*Yobe South*)
103. **SENATOR YA'U SAHABI** (*Zamfara North*)
104. **SENATOR MOHAMMED HASSAN** (*Zamfara Central*)
105. **SENATOR LAWALI HASSAN ANKA** (*Zamfara West*)



**THE SENATE**  
**FEDERAL REPUBLIC OF NIGERIA**  
*NATIONAL ASSEMBLY*

**COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS**

**REPORT**

**ON**

**A BILL FOR AN ACT TO PREVENT, PROHIBIT AND REDRESS SEXUAL  
HARASSMENT OF STUDENTS IN TERTIARY EDUCATIONAL INSTITUTIONS AND  
FOR MATTERS CONNECTED THEREWITH (SB.77)**

JUNE, 2020

# SEXUAL HARASSMENT OF STUDENTS IN TERTIARY EDUCATIONAL INSTITUTIONS (PROHIBITION) BILL, 2019

## Arrangement of Clauses

Clauses:	Clauses:
1. Objective	1. Objective <i>of the Bill</i>
2. Relationship of Authority, Dependency and Trust	2. Relationship of Authority, Dependency and Trust
3.	3. <i>Fiduciary Duty of Care</i>
4. Offences	4. Offences
5.	5. <i>Defence on Grounds of Marriage</i>
6.	6. Students' Consent not a Defence
7.	7. Proof of Commission of Offences
8. Commencement of Criminal Proceedings	8. <i>Filing of Sexual Harassment Complaint</i>
9.	9. Petitioner or Complainant to forward Petition to Appropriate Authorities
10.	Deleted
11. Penalty	10. Penalty
12.	Deleted
13. Civil Action for Breach of Fiduciary Duty	11. Civil Action for Breach of Fiduciary Duty
14.	Deleted
15. Institutional Disciplinary Measures	12. Institutional Disciplinary Measures
16. Independent Sexual Harassment Prohibition Committee	13. Independent Sexual Harassment Investigative Committee
17. Institutional Disciplinary Procedure	14. Institutional Disciplinary Procedure

18. Judicial Review	15. Judicial Review
19. Criminal liability of Administrative Head	16. Criminal liability of Administrative Head
20.	17. Penalty for Failure of Administration Head to Set up Independent Sexual Harassment Investigative Committee
21. Liability for false Complaint	18. Liability for false Complaint
22.	19. Implementation of Recommendation of Independent Sexual Harassment Investigation Committee
23. Protection of Students from Victimization	<b>20. Remedy on grounds of False Allegation</b>
24.	21. Protection of Students from Victimization
25.	22. Penalty for Victimization of Students in Respect of Complaint
26. Definition of Terms	23. Public Officers Protection Laws not Applicable in the Commencement of Proceedings for Breach of Fiduciary Duty of Care
27. Citation	24. Interpretation
	25. Citation

**REPORT OF THE SENATE COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS ON A BILL  
FOR AN ACT TO PREVENT, PROHIBIT AND REDRESS SEXUAL HARASSMENT OF STUDENTS IN TERTIARY  
EDUCATIONAL INSTITUTIONS AND FOR MATTERS CONNECTED THEREWITH.**

PROVISIONS OF THE BILL	COMMITTEE'S RECOMMENDATION	REMARKS
<p align="center"><b>LONG TITLE</b></p> <p>A Bill For an Act to Prevent, Prohibit and Redress Sexual Harassment of Students in Tertiary Educational Institutions and for Matters Connected Therewith, 2019.</p>	<p align="center"><b>LONG TITLE</b></p> <p>A Bill For an Act to <b><i>Make Comprehensive Provisions for the Prohibition and Punishment of</i></b> Sexual Harassment of Students by Educators in Tertiary Educational Institutions; <b><i>and for Related Matters.</i></b></p>	<p>Long title, redrafted for elegance. Also the word "redress" was deleted to de-emphasise restitution i.e. civil settlement in matters of sexual harassment, from criminal retribution, which is intended to serve as deterrent to offenders.</p>
<p align="center"><b>Objective</b></p> <p>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:</p> <p>(1) protection of students against sexual harassment by educators in tertiary educational institutions;</p> <p>(2) prevention of sexual harassment of students by educators in</p>	<p align="center"><b><i>Objective of the Bill</i></b></p> <p><b><i>1. The objective of the Bill is to create equal learning opportunities for students of tertiary institutions in an atmosphere devoid of sexual harassment and to promote ethical standards of education and respect for human dignity in tertiary educational institutions by providing for:</i></b></p> <p align="center"><b>(a)</b> Retained as in the Bill</p> <p align="center"><b>(b) prohibition</b> of sexual harassment of students by</p>	<p>This amendment clearly spells out the objective of the Bill for ease of understanding.</p> <p>Paragraph (b) Redrafted to reflect the intendment</p>



<p>tertiary educational institutions; and</p> <p>(3) redressal of complaints of sexual harassment of students by educators in tertiary educational institutions.</p>	<p>educators in tertiary educational institutions; and</p> <p><b>(c) Redress</b> of complaints of sexual harassment of students by educators in tertiary educational institutions.</p>	<p>of the Bill, which is to prohibit the offence of sexual harassment and not to prevent same.</p>
<p><b>Relationship of Authority, Dependency and Trust</b></p> <p>2. A relationship of authority, dependency and trust shall be construed to exist between an educator and a student in an institution if:</p> <p>(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</p> <p>(2) the educator has direct or indirect academic or non-academic authority over the student; or</p> <p>(3) the student depends, directly or indirectly, on the educator in any manner whatsoever.</p>	<p><b>Relationship of Authority, Dependency and Trust</b></p> <p>2. Retained as in the Bill</p> <p>(a) 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</p> <p>(b) the educator has direct or indirect academic or non-academic authority over the student; or</p> <p>(c) the student depends, directly or indirectly, on the educator in any manner whatsoever.</p>	
<p>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.</p>	<p><b>Fiduciary Duty of Care</b></p> <p>3. Retained as in the Bill</p>	

Offences	Offences	
<p>4. An educator shall be guilty of committing an offence or a felony of sexual harassment if he/she –</p> <p>(1) has sexual intercourse with a student or demands for sex from a student or a prospective student; or</p> <p>(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</p> <p>(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</p> <p>(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</p> <p>(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</p>	<p>4. An educator <b>commits an offence</b> of sexual harassment <b>where</b> he or she:</p> <p><i>(a) violates the fiduciary duty of care in section 3 of this Bill; or</i></p> <p><i>(b) has sexual intercourse with a student or demands for sex from a student or prospective student; or</i></p> <p><i>(c) intimidates or creates a hostile or offensive environment for the student by soliciting for sex from the student or <b>by</b> making sexual advances towards a student; or</i></p> <p><i>(d) directs or induces another person to commit any act of sexual harassment under <b>the provisions of</b> this Bill, or <b>conspires with another person</b> in the commission of sexual harassment by another person without which it would not have been committed; or</i></p> <p><i>(e) grabs, hugs, kisses, rubs or strokes or touches or pinches the breasts or hair or lips or hips or buttocks or any other part of the body of a student; or</i></p> <p><i>(f) displays, requests, gives or sends by hand or courier or electronic or any other means, <b>explicit or suggestive pornographic</b> messages,</i></p>	

<p>(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.</p>	<p><b>whether by text</b>, pictures or videos or <b>other</b> sex related objects to a student; or</p> <p><b>(g)</b> 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.</p>	
<p><b>5.</b> For the purposes of the offences created in Clause 4 of this Act, it shall be a defence that the educator and the student are legally married.</p>	<p><b><i>Defence on Grounds of Marriage</i></b></p> <p><b>5.</b> For the purposes of the offences created in clause 4 of this <b><i>Bill</i></b>, it shall be a defence that the educator and the student are legally married.</p>	
<p><b>6.</b> It shall not be a defence to any offence created in Clause 4 of this Act that a student consented to the offence.</p>	<p><b><i>Students' Consent not a Defence</i></b></p> <p><b>6.</b> It shall not be a defence to any offence created in clause 4 of this <b><i>Bill</i></b> that a student consented to the <b><i>commission of the</i></b> offence.</p>	
<p><b>7.</b> 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.</p>	<p><b><i>Proof of Commission of Offences</i></b></p> <p><b>7.</b> Retained as in the Bill</p>	
<p><b>Commencement of Criminal Proceedings</b></p> <p><b>8.</b> 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</p>	<p><b><i>Filing of Sexual Harassment Complaint</i></b></p> <p><b>8.</b> A written Sexual Harassment Petition, complaining of the offence or <del>felony</del> 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</p>	<p>Amendment to the side-note reflects the intendment of the Bill.</p>

prosecute the educator in accordance with the provisions of this Bill.	Attorney-General who shall take necessary measures to prosecute the educator in accordance with the provisions of this Bill.	
<p><b>9.</b> 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.</p>	<p><b>Petitioner or Complainant to forward Petition to Appropriate Authorities</b></p> <p><b>9.</b> A copy of the written sexual harassment petition, complaining of sexual harassment in <b>section 8</b> of this bill shall be delivered by the petitioner or complainant to the administrative head of the institution, Secretary of the Independent Sexual Harassment <b>Investigative</b> Committee <b>and the head of Department of the alleged offender</b> for record purposes and such actions that may be required under this Bill.</p>	
<p><b>10.</b> 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.</p>	<p><b><i>Commencement of Criminal Proceedings</i></b></p> <p>Deleted</p>	<p>The provision did not create any offence. Therefore, its inclusion in the Bill, is superfluous.</p>
<p><b>Penalty</b></p> <p><b>11.</b> 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.</p>	<p><b>Penalty</b></p> <p><b>10.</b> (1) Any person who commits any of the offences specified in <b>Section 4 (a), (b), (c), (d) and (e)</b> of this Bill <b>commits</b> an offence and shall, on conviction, be sentenced <b><i>to imprisonment for 14 years, or to a fine of 5 Million Naira or both.</i></b></p>	<p>The rationale behind this amendment is that Judges should be given the discretion to deal with various situations that may arise because sexual harassments vary in</p>

<p><b>12.</b> 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.</p>	<p><b>(2)</b> Any person who commits any of the offences specified in <i><b>Section 4 (f) and (g) of this Bill commits an offence and shall, on conviction, be sentenced to 2 year imprisonment, or to a fine of 1,000,000 Naira or both.</b></i></p>	<p>degrees of seriousness. This is also in line with the Administration of Criminal Justice Act and sentencing guidelines in many jurisdictions.</p> <p>The justification for this modification is that offences created in clause 4 (f) and (g) are lesser and should carry a corresponding lesser penalties.</p>
<p align="center"><b>Civil Action for Breach of Fiduciary Duty</b></p> <p><b>13.</b> 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.</p>	<p align="center"><b>Civil Action for Breach of Fiduciary Duty</b></p> <p><b>11.</b> Notwithstanding the provisions of Sections 4, 8, 9, 10 and 11 of this Bill or any other part thereof, the right of a student who complains 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 <b>Sections 2 and 3</b> of this Bill is preserved.</p>	
<p><b>14.</b> 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.</p>	<p>Deleted</p>	<p>This clause has been deleted because clauses 2 and 3 do not create any cause of action. And in any event, the action being a civil action will inevitably attract the civil standard of proof.</p>

### 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

### Institutional Disciplinary Measures

**12.** 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 **where:**

- ~~(a) 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;~~
- (a) a student makes a Sexual Harassment Complaint against an educator, an institution's Independent Sexual Harassment **Investigative** 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;
- (b) an Independent Sexual Harassment **Investigative** Committee established under this Bill has concluded its investigative proceedings and rendered a final decision,

This paragraph has been deleted because it curtails the power of the Independent Sexual Harassment Investigative Committee in the tertiary institutions to commence or continue disciplinary proceedings in line with the provisions of this Bill and for its record purposes. This is necessary because a case instituted may take years to conclude. The provision is also a negation of recitals.

<p>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.</p> <p>(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.</p>	<p>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; and</p> <p>(c) internal administrative or disciplinary sanctions are imposed by a Sexual Harassment <b>Investigative</b> 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.</p>	
<p><b>Independent Sexual Harassment Prohibition Committee</b></p> <p><b>16.</b> (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.</p> <p>(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.</p>	<p><b>Independent Sexual Harassment Investigative Committee</b></p> <p><b>13.</b> (1) Retained as in the Bill</p> <p>(2) The membership of the <b>Independent</b> Sexual Harassment <b>Investigative</b> Committee shall be seven (7), staff members <b>and representatives of the Student Union Government</b> of the institution, including a <b>Chairperson</b> 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 Director in the Federal Civil Service.</p> <p>(3) The membership of an Independent Sexual</p>	<p>The word "Assistant" has been deleted because there is no office as the office of "Assistant Deputy Director" in the Federal Civil Service.</p>

Harassment **Investigative** Committee shall at **all times** consists 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) females.

**(4)** In the constitution of an Independent Sexual Harassment **Investigative** 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.

**(5)** The administrative head of an institution who fails to comply with the provisions of **sub-sections** (1) and (2) of this **Section commits** an offence and shall be liable on conviction to 2 years **or to pay a fine of N5,000,000**, or both.

**(6)** The Independent Sexual Harassment **Investigative** Committee shall be independent and impartial in all its dealings, proceedings and affairs.

**(7)** The members of an Independent Sexual Harassment **Investigative** Committee shall be persons of high moral standing and good reputation.

**(8)** The **Chairperson** and **Members** of the Independent Sexual Harassment **Investigative** Committee shall hold office for such period, not exceeding two (2) years,

(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.

from the date of their appointment as may be specified in writing by the administrative head.

(9) Where the **Chairperson** or any Member of **the** Independent Sexual Harassment **Investigative** 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 **Chairperson** 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.

(10) **The quorum of the** Independent Sexual Harassment Prohibition Committee shall **be five (5) members.**

(11) Members present **at the meeting of the Committee** shall select an ad-hoc **Chairperson** and/or Secretary for the purpose of hearing the complaint brought

Redrafted for elegance and for the purpose of clarity.

before it if the substantive **Chairperson** and/or Secretary are absent.

**(12) The** Independent Sexual Harassment **Investigative** Committee shall conduct its proceedings with utmost thoroughness, fairness and in compliance with the rules of natural justice, **and** 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.

**(13)** Decisions of the Independent Sexual Harassment **Investigative** Committee shall be by a simple majority; rendered in writing and read openly to the parties by the **Chairperson** of the Committee.

**(14)** All decisions, including the final decision, of **the** Independent Sexual Harassment **Investigative** 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.

**(15)** The Secretary of **the** Independent Sexual Harassment **Investigative** 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.

**(16)** The Secretary of **the** Independent Sexual

(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

Harassment **Investigative** 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 **Chairperson** and remitted to the institution by the Secretary.

(17) **The** Secretary of an Independent Sexual Harassment **Investigative** Committee who wilfully fails to comply with the provisions of **subsections (14) or (15)** of this **Section** of this Bill **commits** an offence and shall be liable on conviction to imprisonment for six (6) months or a maximum fine of N1,000,000, or both.

(18) 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 **the** Independent Sexual Harassment **Investigative** Committee to carry out its functions under this Bill.

(19) The **Chairperson** of every Independent Sexual Harassment **Investigative** 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.

(20) Except otherwise stated in this Bill, a person **who**

The redrafted phrase is

<p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>wilfully <b>contravenes the provisions of the Bill or fails to perform an obligation under the Bill commits an offence and shall be</b> liable on conviction to imprisonment for twelve (12) months or a maximum fine of N2,000,000, or both.</p> <p><del>(21) 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.</del></p> <p>(21) A member of <b>the</b> Independent Sexual Harassment <b>Investigative</b> Committee shall not be removed from the Committee, except in accordance with the provision of <b>sub-section (9)</b> of this <b>Section</b> or by an order of Court.</p> <p>(22) <b>The</b> Independent Sexual Harassment <b>Investigative</b> 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 <b>the</b> Court.</p>	<p>clearer and captures the offence in the provision succinctly.</p> <p>Sequentially, it is only logical that this sub-clause should come after sub-clause (3), since it deals with membership of the Committee.</p>
<p style="text-align: center;"><b>Institutional Disciplinary Procedure</b></p> <p><b>17.</b> (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</p>	<p style="text-align: center;"><b>Institutional Disciplinary Procedure</b></p> <p><b>14.</b> (1) Retained as in the Bill</p>	

<p>Bill.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(a) the <b>prosecution or</b> dismissal of the educator and reasons for the dismissal shall be stated in</p>	<p>(2) The complaint mentioned in <b>sub-section</b> (1) of this <b>Section</b> 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.</p> <p>(3) <b>Upon receipt of a Sexual Harassment complaint, the</b> administrative head, shall, within fourteen (14) working days, refer or transmit <b>the Sexual Harassment complaints</b> to the Independent Sexual Harassment <b>Investigative</b> Committee for the purpose of investigation, determination and final decision.</p> <p>(4) Upon receipt of a Sexual Harassment Complaint, an Independent Sexual Harassment <b>Investigative</b> 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.</p> <p>(5) Where the complaint of a student is proved or made out, the Independent Sexual Harassment <b>Investigative</b> 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:</p> <p>(a) the <b>prosecution or</b> dismissal of the educator and reasons for the dismissal</p>	<p>The inclusion of the phrase "prosecution or" in the Bill is to</p>
---	--	---

<p>writing and given to all the parties; or</p> <p>(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</p> <p>(c) such sanctions as may be appropriate</p>	<p>shall be stated in writing and given to all the parties; or</p> <p>(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</p> <p>(c) <b>ensure appropriate restitution for the student; or</b></p> <p>Deleted</p> <p><b>(6) Where after the expiration of 14 days the administrative head fails or neglects to refer or transmit the sexual harassment complaints, pursuant to sub-section (3) of this section, the Independent Sexual Harassment Investigative Committee shall proceed to take action on the copy of the Sexual Harassment complaints submitted to its Secretary under section 9 of this Bill, as provided in subsections (4) and (5) of this section.</b></p>	<p>accommodate a recommendation for prosecution of the offender. Also a new paragraph (c) has been introduced to ensure appropriate restitution to the affected student.</p> <p>This new sub-clause is provided to ensure that sexual harassment complaints are not neglected or treated with levity by Administrative Heads of Tertiary Institutions.</p>
<p><b>Judicial Review</b></p> <p><b>18.</b> 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.</p>	<p><b>Judicial Review</b></p> <p><b>15.</b> An educator or a student shall be entitled to apply to a High Court for judicial review of the final decision of <b>the</b> Independent Sexual Harassment <b>Investigative</b> Committee, if the educator or student is dissatisfied with that decision or part thereof, an application for judicial review under this <b>section</b> may be consolidated with any civil proceedings commenced on behalf of the affected student, pursuant to the provisions of this Bill.</p>	<p>This is to check multiplicity of actions.</p>

<p align="center"><b>Criminal liability of Administrative Head</b></p> <p><b>19.</b> Where before the commencement of criminal proceedings for sexual harassment under this Bill, a student or his or her representatives 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.</p>	<p align="center"><b>Criminal liability of Administrative Head</b></p> <p><b>16.</b> Where before the commencement of criminal proceedings <b>for sexual harassment under this Bill</b>, a student <b>or his or her representative makes a sexual harassment complaint</b> to the administrative head of an institution against an educator, it shall be <b>an offence</b>, if the administrative head <b>wilfully fails or neglects</b> to refer the complaint to the institution's Independent Sexual Harassment <b>Investigative</b> Committee within Fourteen (14) working days of receiving the complaint from the student.</p>	
<p><b>20.</b> 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.</p>	<p align="center"><b>Penalty for Failure of Administration Head to Set up Independent Sexual Harassment Investigative Committee</b></p> <p><b>17.</b> An administrative head who <b>commits</b> the offence under Section <b>16</b> of this Bill shall, upon conviction, <b>be liable to pay</b> a fine of N5,000,000.00.</p>	<p>The imposition of fine of N5,000,000, for failure of the administrative head to refer the matter to the Committee on time, suffices. It is also our concerted view that such offence should not carry the weight of imprisonment.</p>
<p align="center"><b>Liability for false Complaint</b></p> <p><b>21.</b> 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</p>	<p align="center"><b>Liability for false Complaint</b></p> <p><b>18.</b> Where at the completion of an investigation into a Sexual Harassment Complaint, an Independent Sexual Harassment <b>Investigative</b> Committee finds or determines in its final decision that the complaint is false and malicious, the Committee <b>shall</b>, recommend sanctions to the administrative head against the student who made the complaint, which</p>	

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.	may include suspension <b>or expulsion of the Student.</b>	
<b>22.</b> 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.	<b>Implementation of Recommendation of Independent Sexual Harassment Investigation Committee</b>  <b>19.</b> An administrative head shall implement every recommendation <b>made by the</b> Independent Sexual Harassment <b>Investigative</b> Committee <b>within 7 working days of the Committee's</b> final decision.	The implementation of the recommendation of the Independent Sexual Harassment Investigative Committee is to be carried out with immediacy.
	<b>Remedy on grounds of False Allegation</b>  <b>20.</b> Where criminal proceedings and appeals are commenced and concluded under the provisions of this Bill and the educator is discharged and acquitted of the charge on the ground that the allegation was false, a disciplinary action may be taken against the student by the administrative head in line with the internal disciplinary procedure of the Institution, which may include but not restricted to expulsion from the institution.	This provision is necessary to check malicious and frivolous allegations of sexual harassment.
<b>Protection of Students from Victimization</b>	<b>Protection of Students from Victimization</b>	
<b>23.</b> 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	<b>21.</b> The administrative head of an institution shall ensure that a student who makes a sexual harassment complaint <b>pursuant</b> to this <b>Bill</b> is adequately protected and not subjected to any form of victimization by the educator who is	



person within the institution or in another institution.	complained against or any other educator or person within the institution or in another institution.	
<p><b>24.</b> 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.</p>	<p><b>Penalty for Victimization of Students in Respect of Complaint</b></p> <p><b>22.</b> <i>Any</i> educator <i>or person</i> in <i>an</i> institution <i>where sexual harassment is alleged</i> or in another institution <i>or any place whatsoever</i>, who victimizes a student <i>or any person</i> in respect of <i>a sexual harassment</i> 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.</p>	Redrafted for elegance.
<p><b>25.</b> 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.</p>	<p><b>Public Officers Protection Laws not Applicable in the Commencement of Proceedings for Breach of Fiduciary Duty of Care</b></p> <p><b>23.</b> 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 commencing 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.</p>	
<p><b>Definition of Terms</b></p> <p><b>26.</b> In this Bill, unless the context indicates otherwise:</p> <p>“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</p>	<p><b>Interpretation</b></p> <p><b>24.</b> In this <i>Bill</i> –</p> <p>Retained</p>	

tertiary academic institution or any other 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 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.

Retained

**"committee" means Independent Sexual Harassment Investigative Committee**

"court" means ***a Magistrate Court***, 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 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

It is apt to define the Committee in the Bill for the purpose of clarity.

Magistrate Court has been introduced to form part of the definition of court because it is our view that some forms of sexual harassments may not be very serious and can properly and expeditiously be dealt with by a Magistrate Court.

	<p>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.</p> <p><b><i>"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 supervisory responsibilities or superiority over a student.</i></b></p>	<p>The phrase 'fiduciary duty' featured prominently in the Bill. It is therefore imperative to define it for the purpose of clarity.</p>
<p>"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.</p>	Retained	
<p>"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.</p>	Retained	
<p>"Sexual harassment" includes:</p>	Retained	
<p>(a) Sexual intercourse between an educator and a student where the student is below the age of 18 years or is an imbecile or of generally low mental capacity or physically challenged.</p>	Deleted	

<p>(b) any unwelcome sexual attention from an educator who knows or ought reasonably to know that such attention is unwelcome to the student;</p> <p>(c) any unwelcome implicit or explicit behaviour, suggestions, messages or remarks of a sexual nature that have effect of offending, intimidating or humiliating the student or a related person in circumstances which a reasonable person having regard to all the circumstances would have anticipated that the student or such related person would be offended, intimidated or humiliated;</p> <p>(d) any implied or expressed promise of reward by an educator to a student or related person for complying with a sexually oriented request or demand;</p> <p>(e) any implied or expressed threat of reprisal or actual reprisal from an educator to a student or related person for refusal to comply with a sexually oriented request or demand;</p> <p>"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;</p> <p>"student" refers to all persons enrolled in any and all educational and</p>	<p>(a) Retained</p> <p>(b) Retained</p> <p>(c) Retained</p> <p>(d) Retained</p> <p><b><i>(e) a single incident of sexual harassment defined in paragraphs (a) to (d) above, constitutes harassment.</i></b></p> <p>"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 <b><i>or male</i></b> educator;</p> <p>"student" refers to all persons enrolled in any <b><i>or</i></b> all</p>	<p>This is necessary to avoid unnecessary legal arguments as to whether a single incident, can amount to harassment.</p> <p>It is our view that the phrase "or male" be added to this definition to expand the scope of</p>
---	---	---

<p>training programs of a tertiary educational institution or post-secondary institution, and this includes persons seeking admission to study in any tertiary educational institution or post-secondary institution;</p> <p>"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.</p>	<p>educational and training <i>programmes</i> of a tertiary educational institution or post-secondary institution, and this includes persons seeking admission to study in any tertiary educational institution or post-secondary institution;</p> <p>Retained</p>	<p>the offence as it has been reported that even male students have been sexually harassed by male/female educators.</p>
<p><b>Citation</b></p> <p><b>27.</b> This Bill may be cited as the <b>Prevention, Prohibition and Redressal</b> of Sexual Harassment in Tertiary Educational Institutions Bill, 2019.</p>	<p><b>Citation</b></p> <p><b>25.</b> This Bill may be cited as the Sexual Harassment <b>of Students</b> in Tertiary Educational Institutions (<b>Prohibition</b>) Bill, 2020.</p>	
	<p><b>EXPLANATORY MEMERANDUM</b></p> <p><b>This Bill seeks to make comprehensive provisions for the Prohibition of Sexual Harassment of Students by Educators in Tertiary Institutions to ensure ethical standards in the educational sector and for Related Matters.</b></p>	<p>Explanatory Memorandum also called explanatory notes is necessary to explain the purposes of the Bill and it is therefore recommended by the Committee.</p>