

# A BILL FOR

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

*Sponsor: Senator Ovie Omo-Agege*

*Co-sponsors:*

Senator Theodore Orji	Senator Orji Uzor Kalu
Senator Enyinnaya Abaribe	Senator Philips Tanimu Aduda
Senator Yaroe Binos Dauda	Senator Dahiru Aishatu Ahmed
Senator Ishaku Elisha Cliff	Senator Bassey Albert
Senator Chris Ekpeyong	Senator Eyakenyi Akon Etim
Senator Uche Ekwunife	Senator Ifeanyi Ubah
Senator Stella Odua-ogiemwonyi	Senator Jika Dauda Halliru
Senator Bulkachuwa Adamu Muhammad	Senator Lawal Gumau
Senator Ewruhudjakpo Lawrence	Senator Degi Eremienyo Biobaraku Wangara
Senator Diri Douye	Senator Patrick Abba Moro
Senator Emmanuel Yisa Orkar-jev	Senator Gabriel Suswam
Senator Kashim Shettima	Senator Kyari Abubakar Shaib
Senator Mohammed Ali Ndume	Senator Gershom Bassey
Senator Rose Okoji Oko	Senator Onor Sandy Ojang
Senator James Manager	Senator Peter Nwaoboshi
Senator Sam Egwu	Senator Michael Ama-nnachi
Senator Joseph Ogba	Senator Clifford Ordia
Senator Matthew Urhoghide	Senator Francis Alimikhena
Senator Michael Opeyemi Bamidele	Senator Adetunmbi Olubunmi Ayodeji
Senator Adebayo Clement Adeyeye	Senator Utazi Chukwuka
Senator Chimaroke Nnamani	Senator Ike Ekweremadu
Senator Mohammed Danjuma Goje	Senator Sa'idu Ahmed Alkali
Senator Amos Bulus Kilawangs	Senator Onyewuchi Francis Ezenwa
Senator Rochas Okorocho	Senator Ibrahim Hassan Hadejia
Senator danladi Abdullahi Sankara	Senator Mohammed Sabo
Senator Suleiman Abdu Kwari	Senator Danjuma Laah
Senator Uba Sani	Senator Jubrin Barau
Senator Kabiru Ibrahim Gaya	Senator Ibrahim Shekarau
Senator Bello Mandiya	Senator Kabir Barkiya
Senator Ahmad Babba Kaita	Senator Bala Ibn Na'allah
Senator Adamu Aliero	Senator Abdullahi Abubakar Yahaya
Senator Yakubu Oseni	Senator Jibrin Isah
Senator Dino Melaye	Senator Ibrahim Yahaya Oloriegbe
Senator Umar Suleiman Sadiq	Senator Ashiru Oyelola
Senator Adebayo Osinowo	Senator Solomon Olamilekan Adeola
Senator Oluremi Tinubu	Senator Akwashiki Godiya
Senator Abdullahi Adamu	Senator Umaru Tanko Al-makura
Senator Mohammed Sani Musa	Senator Abdullahi Aliyu Sabi
Senator Bima Muhammad Enagi	Senator Boroface Robert Ajayi
Senator Akinyelure Patrick Ayo	Senator Nicholas Tofowomo
Senator Odebiyi Tolulope Akinremi	Senator Ibikunle Amosun
Senator Ramoni Olalekan Mustapha	Senator Oriolowo Adelere Adeyemi
Senator Fadahunsi Francis Adenigba	Senator Ajibola Basiru
Senator Abdulfatai Buhari	Senator Kola Balogun
Senator Teslim Folarin	Senator Istifanus Gyang
Senator Dimka Ayuba	Senator Ignatius Datong Longjan
Senator Thompson Sekibo	Senator Barinada Mpigi
Senator Jocelyn Apiafi	Senator Abdullahi Ibrahim Gobir
Senator Aliyu Wamakko	Senator Shehu Abubakar Tambuwal
Senator Shuaibu Lau	Senator Yusuf Abubakar Yusuf
Senator Emmanuel Bwacha	Senator Ibrahim Gaidam
Senator Bomai Ibrahim Mohammed	Senator Ya'u Sahabi
Senator Mohammed Hassan	Senator Lawali Hassan Anka

[            ] Commencement

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

Objective	1	<b>1.</b> This Bill is enacted to promote and protect ethical standards in
	2	tertiary education, the sanctity of the student-educator fiduciary relationship of
	3	authority, dependency and trust and respect for human dignity in tertiary
	4	educational institutions, by providing for:
	5	(1) protection of students against sexual harassment by educators in
	6	tertiary educational institutions;
	7	(2) prevention of sexual harassment of students by educators in
	8	tertiary educational institutions; and
	9	(3) redressal of complaints of sexual harassment of students by
	10	educators in tertiary educational institutions.
Relationship of Authority, Dependency and Trust	11	<b>2.</b> A relationship of authority, dependency and trust shall be
	12	construed to exist between an educator and a student in an institution if:
	13	(1) the educator is directly or indirectly involved in the full-time or
	14	part-time academic training, teaching, advising, supervision and education of
	15	the student;
	16	(2) the educator has direct or indirect academic or non-academic
	17	authority over the student; or
	18	(3) the student depends, directly or indirectly, on the educator in any
	19	manner whatsoever.
	20	<b>3.</b> To uphold the Objective of this Bill, an educator shall observe a
	21	fiduciary duty of care to every student by not exploiting a student or his/her
	22	relationship with a student for personal gains, sexual pleasure, or immoral
	23	satisfaction, or in any way whatsoever that violates the sacrosanctity, honour
	24	and inviolability of the fiduciary relationship of authority, dependency and
	25	trust between him/her and a student.
Offences	26	<b>4.</b> An educator shall be guilty of committing an offence or a felony of
	27	sexual harassment if he/she-
	28	(1) has sexual intercourse with a student or demands for sex from a
	29	student or a prospective student;
	30	(2) intimidates or creates a hostile or offensive environment for the

1 student by soliciting for sex from the student or making sexual advances  
2 towards the student;

3 (3) directs or induces another person to commit any act of sexual  
4 harassment under this Bill, or cooperates in the commission of sexual  
5 harassment by another person without which it would not have been  
6 committed;

7 (4) grabs, hugs, kisses, rubs or strokes or touches or pinches the  
8 breasts or hair or lips or hips or buttocks or any other sensual part of the body  
9 of a student;

10 (5) displays, gives or sends by hand or courier or electronic or any  
11 other means naked or sexually explicit pictures or videos or sex related  
12 objects to a student; or

13 (6) whistles or winks at a student or screams or exclaims or jokes or  
14 makes sexually complimentary or uncomplimentary remarks about a  
15 student's physique or stalks a student.

16 5. For the purposes of the offences created in Clause 4 of this Bill, it  
17 shall be a defence that the educator and the student are legally married.

18 6. It shall not be a defence to any offence created in Clause 4 of this  
19 Bill that a student consented to any offence.

20 7. For the purpose of proving the commission of any of the  
21 offences in Clause 4 of this Bill, it shall not be necessary for the prosecution  
22 to prove the intention of the accused person or the condition under which the  
23 act of sexual harassment was carried out.

24 8. A written Sexual Harassment Petition complaining of the  
25 offence or felony of sexual harassment against an educator may be filed or  
26 made by a student or by a student's representative who may be a relative, a  
27 guardian, or a lawyer of the student, or any person who has interest in the  
28 wellbeing of the student to the Nigerian Police Force, or the Attorney-  
29 General who shall take necessary measures to prosecute the educator in  
30 accordance with the provisions of this Bill.

Commencement  
of Criminal  
Proceedings

1           **9.** A copy of the written Sexual Harassment Petition complaining of  
2 sexual harassment in Clause 8 of this Bill shall be delivered by the student or  
3 the student's representative to both the administrative head and Secretary of the  
4 Independent Sexual Harassment Committee of the affected institution for  
5 record purposes and such actions that may be required under this Bill.

6           **10.** Criminal proceedings shall commence or be deemed to have  
7 commenced under this Bill when a charge has been filed in Court and the  
8 processes served on an educator who is alleged to have committed a sexual  
9 harassment offence under this Bill.

Penalty

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

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

Civil Action  
for Breach of  
Fiduciary Duty

18           **13.** Notwithstanding the provisions of Clauses 4, 8, 9, 10, 11 and 12 of  
19 this Bill or any other part of this Bill thereof, the right of a student who  
20 complains of or alleges sexual harassment by an educator to commence and  
21 maintain a civil action in Court for breach of fiduciary duty of care contrary to  
22 Clauses 2 and 3 of this Bill is preserved.

23           **14.** The standard of proof in any proceedings for an educator's breach  
24 of the fiduciary duty owed to a student under Clauses 2 and 3 of this Bill shall be  
25 the same standard applicable in all civil proceedings.

Institutional  
Disciplinary  
Measures

26           **15.** Nothing under this Bill shall preclude an institution from  
27 proceeding under its established policies, rules and regulations for the internal  
28 administrative discipline of its staff and students, provided that:

29           (1) Where criminal proceedings have been commenced under this  
30 Bill or pending in a Court in respect of a complaint of sexual harassment of a

1 student by an educator, no disciplinary body including an Independent  
2 Sexual Harassment Prohibition Committee in an institution shall have the  
3 power to commence or continue disciplinary proceedings or render any  
4 decision in respect of the acts or offences complained of.

5 (2) Where a student makes a Sexual Harassment Complaint against  
6 an educator, an institution's Independent Sexual Harassment Prohibition  
7 Committee established under this Bill shall investigate, determine and  
8 render a final decision on the merits of the complaint in line with the  
9 provisions of this Bill. In determining a complaint of sexual harassment, the  
10 provisions of this Bill shall supersede any existing policies, rules or  
11 regulations for internal administrative discipline of its staff and students.

12 (3) Where an Independent Sexual Harassment Prohibition  
13 Committee established under this Bill has concluded its investigative  
14 proceedings and rendered a final decision, such proceedings or decision  
15 shall not operate to bar or prevent criminal prosecution or civil proceedings  
16 in a Court [for acts] of sexual harassment under this Bill.

17 (4) Where internal administrative or disciplinary sanctions are  
18 imposed by a Sexual Harassment Prohibition Committee against or on an  
19 educator in accordance with the provisions of this Bill before  
20 commencement of criminal proceedings, a Court, in passing sentence, shall  
21 have regard to the sanctions already imposed on the educator.

22 **16.-(1)** The administrative head of an institution shall establish an  
23 Independent Sexual Harassment Prohibition Committee in consultation  
24 with the highest management body of the institution.

Independent  
Sexual Harassment  
Prohibition  
Committee

25 (2) The membership of the Sexual Harassment Prohibition  
26 Committee shall be seven (7) staff members of the institution, including a  
27 Chairman who shall not be less than the rank of a senior lecturer or a deputy  
28 director in the federal civil service and a Secretary who shall not be less than  
29 the rank of a lecturer or an assistant deputy director in the federal civil  
30 service. The membership of an Independent Sexual Harassment Prohibition

1 Committee shall at any material time consist of at least two students, two non-  
2 academic staff members and two academic staff members of the institution and  
3 shall include at least three (3) women or females.

4 (3) An administrative head of an institution who fails to comply with  
5 the provisions of sub-clauses (1) and (2) of this Clause of this Bill is guilty of an  
6 offence and shall be liable on conviction to a minimum fine of N5,000,000 or  
7 imprisonment for 5 years, or both.

8 (4) An Independent Sexual Harassment Committee shall be  
9 independent and impartial in all its dealings, proceedings and affairs.

10 (5) The members of an Independent Sexual Harassment Prohibition  
11 Committee shall be persons of high moral standing and good reputation.

12 (6) The Chairman and every Member of an Independent Sexual  
13 Harassment Prohibition Committee shall hold office for such period, not  
14 exceeding two (2) years, from the date of their appointment as may be specified  
15 in writing by the administrative head.

16 (7) Where the Chairman or any Member of an Independent Sexual  
17 Harassment Prohibition Committee-

18 (a) contravenes the provisions of this Bill;

19 (b) has been convicted for an offence or an inquiry into an offence  
20 under any law for the time being in force is pending against him;

21 (c) has been found guilty in any disciplinary proceedings or a  
22 disciplinary proceeding is pending against him; or

23 (d) has so abused his position as to render his continuance in office  
24 prejudicial to the public interest, the Chairman or such a Member, as the case  
25 may be, shall be removed from the Committee by an institution's  
26 administrative head with the approval of an institution's highest management  
27 body and the vacancy so created or any casual vacancy shall be filled by the  
28 administrative head in consultation with the institution's highest management  
29 body.

30 (8) Any five (5) members of an Independent Sexual Harassment

1 Prohibition Committee shall form a quorum. The members present shall  
2 select an ad-hoc Chairman and/or Secretary for the purpose of hearing the  
3 complaint brought before it if the substantive Chairman and/or Secretary are  
4 absent.

5 (9) An Independent Sexual Harassment Prohibition Committee  
6 shall conduct its proceedings with utmost thoroughness, fairness and in  
7 compliance with the rules of natural justice exercise its discretion  
8 judiciously and fairly with regards to facts, evidence and the number of  
9 witnesses that may be allowed to testify during its proceedings.

10 (10) Decisions of the Independent Sexual Harassment Prohibition  
11 Committee shall be by a simple majority; rendered in writing and read  
12 openly to the parties by the Chairman of the Committee.

13 (11) All decisions, including the final decision, of an Independent  
14 Sexual Harassment Prohibition Committee shall be signed by all members  
15 of the Committee who participated in the inquiry and sealed/stamped by the  
16 Secretary with the Committee's seal or stamp which shall be kept in the  
17 custody of the Secretary.

18 (12) The Secretary of an Independent Sexual Harassment  
19 Prohibition Committee shall communicate the final decision of the  
20 Committee in writing and within seven (7) working days of giving the  
21 decision to all parties to a sexual harassment complaint, whether they  
22 participated in the Committee's proceedings or not.

23 (13) The Secretary of an Independent Sexual Harassment  
24 Prohibition Committee shall issue sealed/stamped certified true copies of  
25 the Committee's decisions, including its final decisions, in respect of sexual  
26 harassment complaints to any person, including parties in any of its  
27 proceedings within seven (7) working days of giving such a decision,  
28 provided that the person shall apply for the certified true copies of the  
29 decision and pay such reasonable fees to be prescribed by the Committee's  
30 Chairman and remitted to the institution by the Secretary.

1           (14) A Secretary of an Independent Sexual Harassment Prohibition  
2 Committee who wilfully fails to comply with the provisions of sub-clauses  
3 (12) or (14) of this Clause of this Bill is guilty of an offence and shall be liable  
4 on conviction to a maximum fine of N1,000,000 or imprisonment for six (6)  
5 months, or both.

6           (15) Subject to approval by the highest management body of an  
7 institution, an administrative head shall provide such resources, funding,  
8 facilities, materials and support that are reasonably required for an  
9 Independent Sexual Harassment Committee to carry out its functions under  
10 this Bill.

11           (16) The Chairman of every Independent Sexual Harassment  
12 Committee shall make and submit an annual report on sexual harassment  
13 complaints received and actions taken on them to the highest management  
14 body of the institution.

15           (17) Except otherwise stated in this Bill, a person under a positive  
16 obligation to perform an act or otherwise restrained from performing an act  
17 prescribed in this Bill commits an offence if he wilfully acts contrary to the  
18 provisions of this Bill relating to him and shall be liable on conviction to a  
19 maximum fine of N2,000,000 or imprisonment for twelve (12) months, or  
20 both.

21           (18) In the constitution of an Independent Sexual Harassment  
22 Prohibition Committee, an administrative head of an institution shall ensure  
23 that at least one (1) lawyer is a member of the Committee at any material time,  
24 provided that there are lawyers who are staff members of the institution and  
25 satisfy the provisions of this Bill in respect of the membership of the  
26 Committee.

27           (19) A member of an Independent Sexual Harassment Prohibition  
28 Committee shall not be removed from the Committee, except in accordance  
29 with the provision of sub-clause (8) of this Clause of this Bill or by an order of  
30 Court.



1                   (20) An Independent Sexual Harassment Prohibition Committee  
2 shall not be dissolved, suspended or rendered redundant or inoperative by an  
3 administrative head or any person on any ground whatsoever, except by an  
4 order of Court.

5                   17.-(1) Where a student complains of sexual harassment, he or she  
6 shall submit a written Sexual Harassment Complaint to the administrative  
7 head of the institution where the complaint arose and shall specify the name  
8 and department, office or home address of the educator who is alleged to  
9 have committed an offence under this Bill.

Institutional  
Disciplinary  
Procedure

10                   (2) The complaint mentioned in sub-clause (1) of this Clause of this  
11 Bill may be made by the student personally or by the student's representative  
12 who may be the student's relative, guardian, or lawyer, or any person who  
13 has interest in the wellbeing of the student.

14                   (3) An administrative head shall refer or transmit every Sexual  
15 Harassment Complaint received from students to an Independent Sexual  
16 Harassment Committee through its Chairman within fourteen (14) working  
17 days of the receipt of such a complaint for purpose of investigation,  
18 determination and a final decision.

19                   (4) Upon receipt of a Sexual Harassment Complaint, an  
20 Independent Sexual Harassment Committee shall take immediate steps to  
21 investigate, determine and reach a final written decision on the complaint  
22 within 45 working days from the date of receipt of the complaint from the  
23 administrative head.

24                   (5) Where the complaint of a student is proved or made out, the  
25 Independent Sexual Harassment Prohibition Committee shall take the  
26 circumstances of the proven complaint into account and recommend any of  
27 the following sanctions to both the administrative head and the highest  
28 management body of the institution for implementation:

29                   (a) the dismissal of the educator and reasons for the dismissal shall  
30 be stated in writing and given to all the parties; or

1 (b) a reduction in the rank of the educator and reasons for the  
2 reduction shall be stated in writing and given to all the parties; or

3 (c) such sanctions as may be appropriate.

Judicial Review

4 **18.** An educator or a student shall be entitled to apply to a High Court  
5 for a judicial review of the final decision of an Independent Sexual Harassment  
6 Prohibition Committee if the educator or student is dissatisfied with that  
7 decision or part thereof. An application for judicial review under this Clause  
8 may be consolidated with any civil proceedings commenced on behalf of the  
9 affected student pursuant to the provisions of this Bill.

Criminal Liability  
of Administrative  
Head

10 **19.** Where before the commencement of criminal proceedings for  
11 sexual harassment under this Bill a student or his or her representative makes a  
12 Sexual Harassment Complaint to the administrative head of an institution  
13 against an educator, it shall be a misdemeanour if the administrative head fails,  
14 to refer the complaint to the institution's Independent Sexual Harassment  
15 Prohibition Committee within fourteen (14) working days of receiving the  
16 complaint from the student.

17 **20.** An administrative head who is guilty of the offence of not  
18 referring a Sexual Harassment Complaint to an institution's Independent  
19 Sexual Harassment Prohibition Committee under Clause 19 of this Bill for the  
20 purpose of investigation, determination and a final decision, is guilty of an  
21 offence and shall be liable on conviction to a minimum fine of N5,000,000 or  
22 imprisonment for a minimum of 2 years, or both.

Liability for  
false Complaint

23 **21.** Where at the completion of an investigation into a Sexual  
24 Harassment Complaint, an Independent Sexual Harassment Prohibition  
25 Committee finds or determines in its final decision that the complaint is false  
26 and malicious, the Committee may, recommend sanctions to the administrative  
27 head against the student who made the complaint, which may include  
28 suspension of the student provided that failure to prove an allegation of sexual  
29 harassment shall not be conclusive to establish that the complaint is false or  
30 made with malice or prevent further investigations or criminal prosecution of

1 an educator for the offence alleged to have been committed contrary to any  
2 provisions of this Bill.

3 **22.** An administrative head shall implement the final decision or  
4 recommendations of an Independent Sexual Harassment Prohibition  
5 Committee if, after twenty-one (21) working days of the Committee's final  
6 decision or recommendations, an educator or student did not bring an action  
7 in Court for a judicial review of the final decision or recommendations.

8 **23.** The administrative head of an institution shall ensure that a  
9 student who makes a Sexual Harassment Complaint under this Bill is  
10 adequately protected and not subjected to any form of victimization by the  
11 educator who is complained against or any other educator or person within  
12 the institution or in another institution.

Protection of  
Students from  
Victimization

13 **24.** Any educator or person in an institution where sexual  
14 harassment is alleged or in another institution who victimizes a student in  
15 respect of a Sexual Harassment Complaint under this Bill shall be liable to  
16 the same criminal sanctions, disciplinary punishment or damages as the  
17 educator whom the student originally complained against.

18 **25.** For the purpose of commencing any civil proceedings in court  
19 for breach of fiduciary duty of care or any criminal proceedings against an  
20 Educator under this Bill, the limitation period for commencement of actions  
21 against a public officer stipulated in the Public Officers Protection laws or  
22 any other law limiting the time of commencement of proceedings against a  
23 public officer in force in Nigeria or any part thereof shall not be applicable.

24 **26.** In this Bill, unless the context indicates otherwise,  
25 "administrative head" means a vice chancellor of a university, a rector of a  
26 polytechnic/monotechnic, a provost of a college of education or any officer  
27 who is the chief executive officer of any tertiary academic institution or any  
28 person acting in that capacity;  
29 "attorney-general" means Attorney-General of the Federation or Attorney-  
30 General of a State;

Interpretation

1 "court" means a High Court of a State or of the Federal Capital Territory and the  
2 Federal High Court;

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

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

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

23 "institution" means any public or private tertiary or post-secondary educational  
24 institution in Nigeria and this includes any university, polytechnic,  
25 monotech, or college of education;

26 "relationship of authority, dependency and trust" means a relationship between  
27 an educator and a student where the educator exercises or is reasonably  
28 expected to exercise direct or indirect supervisory responsibilities over the  
29 student; a relationship that forbids all forms of sexual coercion or sexual  
30 consensus, including amorous relationships that jeopardizes or likely to

1       jeopardize the integrity of the educational process or impairs the learning  
2       environment through conflict of interest;  
3       "sexual intercourse" means penetration of a sexual nature of the vagina or  
4       anus or mouth of the student by the penis or mouth or finger of the educator  
5       or any instrument or toy by the educator and for this purpose, a male student  
6       can be sexually harassed by a female educator;  
7       "student" refers to any person enrolled in any educational or training  
8       programs of a tertiary educational institution or post-secondary institution.  
9       "supervision" means course teaching, training, examining, grading,  
10      advising, counselling, and includes any other form of guidance of a student  
11      on any academic or non-academic matter.

12               **27.** This Bill may be cited as the Prevention, Prohibition and      Citation  
13      Redressal of Sexual Harassment in Tertiary Educational Institutions Bill,  
14      2019.

#### EXPLANATORY MEMORANDUM

This Bill seeks to prevent, prohibit and redress Sexual Harassment of  
Students in Tertiary Educational Institutions.