22nd *Heshvan* 5779

October 31, 2018

To:

The Chairman of the Executive Committee – Mr. Muli Aden

**Here**

Dear Sir,

**Re: Bylaws Concerning the Obligations of Academics – Comparison Between New and Old**

Further to your request, I would like to send you a concise document presenting the main points of change. It should be emphasised, that these are completely new Bylaws, covering the various sections, including thematic additions that were not in the previous Bylaws. These are not faced with discreet amendments of one section or another. The Constitutional Committee and the General Counsel’s representative met several times during the Academic Year 5778. In the course of the meetings, a number of bylaws from universities in Israel were reviewed, as well as from several overseas universities. The bylaws were carefully analysed, and the conclusions have been reflected in the new Bylaws, adapted for the University of Haifa.

The following is a review of the principal differences between the Bylaws (enclosed herewith are both):

Institutions with Responsibility for Discipline:

Under the old by-laws, the University Rector was responsible for discipline, in the event of minor transgressions, the Dean had authority (the old by-laws did not define what was considered a minor offense) within the faculty. The Rector, **in his discretion**, could transfer a disciplinary matter to the Academic Disciplinary Tribunal. The President and the Rector were part of the Appeal Committee.

Under the new Bylaws, the Rector and President form no part of the decision-making process, and responsibility has been transferred to a prosecutorial institution. The entities in charge of discipline under the new Bylaws are:

* The Prosecution
* The Academic Disciplinary Tribunal
* The Court of Appeals

Sanctions:

Punitive options have been expanded (under the old Bylaws, as part of the Rector’s authority, only a reprimand or written warning were possible, and the Tribunal was given the authority to dismiss and exclude); currently, the list of sanctions includes a wider range of options for coping with any given situation in a more elaborate manner (for example: Under the new Bylaws, there is an option of denying a right to research funding from University sources, revoking rights or benefits obtained fraudulently, delaying the institution of proceedings, demotion, etc.).

Prosecution:

Under the previous Bylaws, there was no such institution. Under the new Bylaws, the Prosecutorial Institution assumes the decision-making powers of the Rector and President. The Prosecution will look into each case of a disciplinary offense, and decide whether to archive it, forward it to mediation, or institute disciplinary proceedings.

* The Prosecution consists of three senior academic faculty members, with a rank of professor. One of whom will be elected as the chairperson of the Prosecution.
* The Prosecutorial Institution has been given the authority to investigate an incident, and instructions for initial investigation of a complaint, as well as guidelines regarding handling the incident.
* The complaint procedure is described below:

Prosecutor with two Seconds

(Elected by the Senate)

The Tribunal

Revocation / Archiving

Mediation

The Prosecution chooses the mediator by consent

The Tribunals:

* Under the old Bylaws, the Academic Disciplinary Tribunal was comprised of five senior academic staff members represented by rank, and another member of the University’s Executive Committee. The Appeals Committee was composed of the President, the Rector and a senior academic faculty member with the rank of professor, who was not a member of the Academic Disciplinary Tribunal.
* Under the new Bylaws, the Academic Disciplinary Tribunal has been expanded, and will consist of seven members: The Tribunal chairperson with the rank of professor, five academic faculty members with the rank of professor or associate professor, and one public representative.
* Moreover, the Court of Appeals will consist of five members: The Tribunal chairperson with a rank of professor, three senior academic faculty members with the rank of professor or associate professor, and one public representative.
* Under the old Bylaws, all complaints before the Disciplinary Tribunal required a three-judge panel (two senior academic staff members, and one public representative). Under the new Bylaws, authority has been expanded, so that the Tribunal Chairperson may decide whether the offense warrants a hearing before the panel (a panel is a panel of judges for the purposes of reviewing a disciplinary offence) of three judges (two senior academic staff members, and one public representative) or a single judge.

Mediation:

* This option did not exist at all under the old Bylaws.
* It is within the authority of the Prosecution Chairperson, and with the consent of both parties, to forward the complaint to a mediator.
* Mediation is designed for complaints that, by their nature, are a matter of dispute, and originate in a disciplinary offense, between a faculty member and another faculty member, or between a faculty member and the academic unit and its chair.

Representation:

* There is an option for representation by an advocate who is a senior academic faculty member from the University. Under the old Bylaws, there was the possibility of representation by an advocate who was a senior academic staff member from another academic institution, after obtaining permission from the Tribunal Chairperson – this option has not been retained under the new Bylaws.
* An option has been added for representation by a lawyer, with the consent of the Chair of the Tribunal, which did not exist under the old Bylaws.

Additions to the New Bylaws Which Were Insufficiently Addressed by the Old Bylaws:

* A list of disciplinary offenses was defined – Article 4.
* Taking urgent measures after the filing of a complaint such as: Suspension and taking measures to separate the complainant from the subject of the complaint. Article 8.
* Administrator – Responsibility of the Academic Secretariat. Administrative responsibility similar to the Student Disciplinary Coordinator: Fixing hearings, minutes’ management, concentration of complaints and appeals, handling inquiries, transferring materials to members of the Tribunal and Prosecution, archive management, and more.
* Guidelines for action in cases of criminal indictments – Articles 19-23.
* Possibility of pardoning by the University President in consultation with the Rector – Article 26.
* Annual report from the Chairperson of the Academic Disciplinary Tribunal to the University Rector and President – Article 27.

**Addressing the Matter of Resources Necessary to Implement the Bylaws:**

* The Prosecutorial Institution: Three senior academic staff members ranked professor – this is an addition of three new members, did not exist under the previous Bylaws.
* Tribunal: Six senior academic staff members ranked professor or associate professor - this is an addition of two members as compared with the previous Bylaws.
* Appeals: Four academic staff members ranked professor or associate professor - this is an addition of three members (compared to one member previously).

Therefore, the annual resources necessary to operate the mechanism are:

* 2 teaching units for the person serving as the Chair of the Prosecution – A total annual cost of approximately 43K shekels.
* 2 teaching units for the person serving as the Chair of the Tribunal – A total annual cost of approximately 43K shekels.
* An additional administrative position is needed, who will coordinate the field – A total annual cost of approximately 155K shekels.

Yours truly,

[*Signed*]

Dr. Sharon Link

Academic Secretary

Cc:

Prof. Ron Rubin, President

Prof. Gustavo Mash, University Rector

Dr. Marcus Silver, Outgoing Chair of the Constitutional Committee

Ms. Yardena Alon, Senate Division Manager

Ms. Liat Segal, Chief of Staff to Executive Committee Chairman

After a discussion at the Constitutional Committee of the Executive Committee, and in consultation with the Junior Faculty Members Union, other changes were made:

* Sexual Harassment – Article 7.2 explicitly states that a sexual harassment complaint will be filed in accordance with the University Prevention of Sexual Harassment Procedure.
* Transfer of the minutes of the hearing.
* The publication of the Disciplinary Committee’s decisions to the University community.