

Efficiency and Discipline Rules, 2006.

In exercise of the powers conferred by the section-26 of the ¹[Khyber Pakhtunkhwa] Registration and Functioning of Private Educational Institutions Ordinance 2001 (²[Khyber Pakhtunkhwa] Ordinance No. XXVII of 2001) the Government of the ³[Khyber Pakhtunkhwa] is please to make the following rules namely;

“⁴[Khyber Pakhtunkhwa] Higher Education Regulatory Authority Efficiency and Discipline Rules, 2006”

1. Short title, commencement and Application

- i. These rules may be called the ⁵[Khyber Pakhtunkhwa] Higher Education Regulatory Authority Efficiency and Discipline Rules, 2006.
- ii. They shall come into force at once.
- iii. They shall be applicable to all employees of the Authority except those on deputation.

2. Definition

- i. In these rules, unless the context otherwise requires, the following expressions shall have the meanings respectively assigned to them as follows:
 - a. “Chairman” means the Chairman of the Authority appointed in pursuance of the Section-15 of the ⁶[Khyber Pakhtunkhwa] Registration and Functioning of the Private/Educational Institutions Ordinance 2001.
 - b. “Regulatory Authority” means the Regulatory Authority of the ⁷[Khyber Pakhtunkhwa] Higher Education Regulatory Authority.
 - c. “Authority” means Higher Education Regulatory Authority.
 - d. “Inquiry Committee” means a committee constituted by the Authorized officer to conduct inquiry.

¹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

² Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁶ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁷ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- e. “Inquiry Officer” means an Officer appointment by the Authorized Officer to conduct the inquiry.
- f. “Accused” means an employee against whom action is being taken under these rules.
- g. “Contract Service” means service rendered by an employee of the Authority under these rules.
- h. “Employee” means the person appointed by the Authority on contract basis on such terms and conditions as may be approved by the Authority from time to time.
- i. “Penalty” means a penalty, which may be imposed under these rules.
- ii. All other expression herein used but not defined shall have the same meanings respectively as assigned to them under the ⁸[Khyber Pakhtunkhwa] Registration and Functioning of Private Educational Institutions Ordinance No. XXVII of 2001.

3. Disciplinary Action

- i. Every employee shall maintain the highest standard of discipline and order, and shall conform to abide by the rules, regulations, systems and procedures established by the Authority and he/she shall obey all orders and directions given by any officer under whose jurisdiction or control he/she may be placed from time to time.
- ii. Every employee who commits breach of any of these rules, or who displays negligence, inefficiency, or insubordination, or who knowingly does anything detrimental to the interest of the Authority or conflict with its instructions, or who commits a breach of discipline, or who is guilty of any misconduct, breach of trust or neglect of duty, shall be liable to one or more of the following actions depending on the nature of the misdemeanor:
 - a. Verbal reprimand and warning
 - b. Written reprimand
 - c. Restitution in whole or in part any pecuniary loss caused to the Authority due to the negligence, dishonesty or any other act or omission.

⁸ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- d. Dismissal without notice and forfeiture of any benefit or privilege.
- iii. Without limiting the generality of the term 'misconduct' the following shall expressly constitute 'misconduct':
 - a. Willful insubordination or disobedience, whether alone or in combination with others to any lawful or reasonable order of superior
 - b. Theft, fraud or dishonesty in connection with Authority's Business or property
 - c. Willful damage to or loss of Authority's goods or property.
 - d. Taking or giving bribes or any illegal gratification.
 - e. Habitual absence
 - f. Absence without leave for more than ten days.
 - g. Habitual late attendance
 - h. Habitual breach of a law applicable to the employees.
 - i. Riotous or disorderly behaviour during working hours or any act of subversive discipline.
 - j. Breach of any of these rules.
 - k. Professional dishonesty
 - l. Reported to be corrupt.

The misconducts defined above are not exhaustive of the acts and omissions which shall constitute misconduct.

4. Grounds of Penalty

- i. Where an employee in the opinion of the authority.,
 - a. is inefficient or has ceased to be efficient; or
 - b. is guilty of misconduct; or
 - c. is corrupt, or may reasonably be considered corrupt because:-
 - i. he/she, or any of his/her dependents or any other person through him/her, or on account of pecuniary resources or of

property disproportionate to his/her known sources of income; or

- ii. he/she has assumed a style of living beyond his/her ostensible means; or
- iii. he/she has a persistent reputation of being corrupt;

or

- d. is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any un-authorized person, and his/her (retention) in service is, therefore, prejudicial to national security, the authority may impose on him/her one or more penalties.

5. **Penalties**

- 1. The following are the minor and major penalties
 - a. Minor Penalties:
 - i. Censure;
 - ii. Forfeiture of pay for a specific period
 - iii. Recovery from pay of the whole or any part of any pecuniary loss caused to the Authority by negligence or breach of order.
 - b. Major Penalties
 - i. Removal/dismissal from service of the Authority.
- 2. In this rule, removal or dismissal from service of the Authority does not include the discharge of person appointed during the initial period of one year.

6. **Inquiry Procedure**

The following procedure shall be observed when an employee of the Authority is proceeded against under these rules:

- i. The authority shall decide whether a fact finding inquiry should be conducted through an inquiry officer or inquiry committee

- ii. If the Authority decides that it is not necessary to have an inquiry conducted through an inquiry officer or inquiry committee, he shall:
- a. by order in writing, inform the accused of action proposed to be taken in regard to him/her and the grounds of the action; and
 - b. give him/her a reasonable opportunity of showing cause against that action;
- iii. On receipt of the report of the inquiry officer or inquiry committee or, where no such officer or committee is appointed, on receipt of the explanation of the accused, if any, the authorized officer shall determine whether the charges have been proved. If it is proposed to impose a minor penalty, authorized officer shall pass orders accordingly. If it is proposed to impose a major penalty, authorized officer shall forward the case to the appointing authority along with the charge and statement of allegation served on the accused, the explanation of the accused, the finding of the inquiry officer or inquiry committee, if appointed, and his own recommendations regarding the penalty to be imposed. The authority shall pass order as it may deem proper.
- iv. The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the Authorized Officer, submit his or its finding and the grounds thereof to the authorized officer.
- v. The decision of the Regulatory Authority shall be binding on all concerned. Any employee, who has been penalized under these rules, may wish to lodge an appeal to the Regulatory Authority against the decision within 7 days of the receipt of the decision.
- vi. The following shall act as Authorized Officer or Authority in cases of Chairman and employees of the Authority:

S. #		Authorized Officer	Authority
1.	Chairman	Secretary, HED	Chief Minister, ⁹ [Khyber Pakhtunkhwa]
2.	Member (Full Time)	Secretary, HED	Chief Minister, ¹⁰ [Khyber Pakhtunkhwa]
3.	Secretary HERA	Chairman	Regulatory Authority
4.	Accountant	Chairman	Regulatory Authority
5.	Personal Assistant	Chairman	Regulatory Authority
6.	System Analyst	Chairman	Regulatory Authority
7.	Date Entry Operator	Chairman	Regulatory Authority

⁹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁰ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

8.	Cashier	Chairman	Regulatory Authority
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7. Powers of the Inquiry Officer or Inquiry Committee

- i. For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the following powers namely;
 - a. summoning and enforcing the attendance of any person and examining him/her on oath
 - b. requiring the discovery and production of documents
 - c. receiving evidence on affidavit for the examination of witnesses or documents.
- ii. **Revision:** The authority may, in the case of any order passed by the authorized officer, call for and examine the record of any case and may after making such further inquiry or investigation, if necessary, either personally or through an officer, pass such order as he may deem appropriate.

Provided that in case where the authorized officer has exonerated an accused and the authority decides to impose a penalty on him/her or where the penalty imposed by the authorized officer decided to be increased, the authority shall not impose any penalty or increase the penalty, unless an opportunity is given to the person concerned to show cause as to why such penalty should not be imposed or, as the case may be, be increased.

8. Appeal

A person on whom a penalty is imposed by the Authority/Authorized Officer shall have the right of appeal to the next higher authority and where the penalty is imposed by the Regulatory Authority the aggrieved employee shall have the right of review petition to Regulatory Authority.

9. Appearance of Advocate

No party to any proceedings under these rules before the authority, the authorized officer, an Inquiry Officer or Inquiry Committee shall be represented by an Advocate.

10. Exception

Notwithstanding any thing to the contrary contained in these rules, in cases where employees collectively strike work, willfully absent themselves from duty or abandon their official work, the authority may serve upon them, through the

newspapers or any other manner, such notice as deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting employees any of the major penalties prescribed in these rules.