



The Jammu & Kashmir (Prevention of Unfair means)

Examination Act 1987

ACT NO..XX of 1987

(29th December, 1987)

SRO 109: In exercise of the powers conferred by sub-section (3) of section 1 of the Jammu and Kashmir (Prevention of Unfairmeans) Examination Act, 1987 (Act No. xx of 1987) the Government here-by appoint 15th March, 1991, the date on which the said Act shall come into force.

By order of the Government of Jammu & Kashmir

An Act to regulate the conduct of examinations and to provide for the punishment of unfairmeans used or committed in such examinations:

1. Be it enacted by the Jammu & Kashmir State Legislature in the 38th year of the Republic of India as follows:
2. Short, title, extent & commencement – (I) This Act may be called the Jammu & Kashmir (Prevention of Unfairmeans) Examination Act, 1987.
3. It extends to the whole of the State of Jammu & Kashmir.
4. It shall come into force on such date as the Govt. may, by notification in the Govt. Gazette, appoint.

Definition in this Act, unless the context otherwise requires:-

- a. “Board” means the Jammu & Kashmir State Board of School Education established under the Jammu and Kashmir Board of School Education Act 1975;
- b. “Candidate” means a person appearing or claiming to appear in an examination.
- c. “Competent Authority” means a University or the Board, as the case may be;
- d. “Conduct of Examination” includes supervision of examination, preparation or distribution of question papers, coding, evaluation, processing of examination results and certification thereof;
- e. “Examination” means any examination held by a University or the Board;
- f. “Examination Centre” means the premises specified by the competent authority as such for holding of an examination;
- g. “Inspection team” means a team of two or more persons appointed and authorized by the competent authority to inspect any examination centre and submit its report to

the competent authority about the conduct of examination of each such examination centre provided that the Competent authority may appoint any person to perform and discharge the functions of the Inspection Team;

- h. “Regulations” means the regulation made by the Board under the Jammu and Kashmir Board of School Education Act, 1975;
- i. “Statutes” means the Statutes made by a University under the Act under which the University is established;
- j. “Supervisory staff” means any person appointed by the competent authority under any law for the supervision and conduct of an examination and includes such other persons as are appointed by the competent authority to perform the duties and functions connected with the conduct of an examination;
- k. “Unfair means” in relation to an examination means if a candidate
 - l. “possesses or keeps accessible in the Examination hall any paper, etc book or material connected with the subject of the examination in which he/she is appearing
 - I. gives assistance or guidance to or receives it from any other candidate or communicates or attempts to communicate with any other candidate or person in or outside the examination hall in respect of any matter connected with the subject of the examination in which he is appearing; or
 - II. changes his seat with any other candidate or occupies a vacant seat or the seat of any other candidate not allowed to him; or
 - III. refuses to obey the orders of the supervisory staff;
 - IV. misbehaves or commits an act of violence or creates disturbance of any kind in and around the examination halls; or organizes a walkout or instigates others to stage a walkout; or
 - V. smuggles an answer book, or part thereof or continuation sheet into the examination hall or takes out or arranges to send out an answer book or part thereof or a continuation sheet, or replaces the answer book, its inner sheets, or continuation sheet during or after the examination with or without the connivance of the supervisory staff; or
 - VI. impersonates or misrepresents any other candidate in connection with the examination; or
 - VII. threatens the supervisory staff on duty in or outside the examination hall with any injury to his person or to any of his relations or friends; whether by words either spoken or written or by signs or by visible representations or otherwise with a view to inducing the supervisory staff or any person on duty in or outside the examination hall to show any concession; or

- VIII. discloses his identity or makes a distinctive mark in the answer book for purposes of his identification; or
- IX. appeals to or approaches the supervisory staff by himself or through any relative, guardian or friend for obtaining any concession in respect of the examination in which he/she is appearing or has appeared or makes an appeal to the supervisory staff in his/her answer book; or
- X. uses abusive or obscene or indecent language in the answer book; or
- XI. obtains or attempts to obtain admission to an examination on false representation made on his admission form or forges another person's signatures on his admission form; or
- XII. during the course of examination, writes either on blotting paper, or any other piece of paper a question set in the paper, or anything connected with or relating to a question set in the paper or solution thereof; or
- XIII. possesses a solution to a question set in the paper through the connivance of any member of the supervisory or menial staff or an outside agency; or
- XIV. leaves the examination hall without delivering the answer book and takes it away with him or intentionally tears off the answer book or any part thereof or continuation sheet or part thereof inside or outside the examination hall; or
- XV. approaches or attempts to influence directly or indirectly, regarding his unfairmeans/misconduct case to a member of the Committee for scrutiny of misconduct/unfairmeans cases;
- XVI. forces his entry into an examination hall for the purpose of taking the examination even after being told that he is not eligible to sit for the examination;
- XVII. possesses any lethal weapon or firearm or comes in drunken condition to the examination hall;
- XVIII. engages in any other act or omission which has the tendency to disrupt the orderly conduct of the examination;

“University” means a University established under any Act passed by State Legislature.

Duties of the supervisory staff. The Supervisory staff shall:-

- a) be bound and responsible to act and to perform their duties in accordance with and as required by or under the Statutes or the Regulations, as the case may be;
- b) not allow, connive at or facilitate the commission of any unfairmeans by any candidate;

- c) not allow any person other than the members of supervisory staff or members of the inspection team, to enter, or loiter in or around the examination centre.

Power of the Competent Authority. The competent authority may appoint any eligible teacher or other official of the University or Board or the Education Department, as the case may be, as a member of the Supervisory staff and it shall be obligatory on such person to accept the assignment.

Penalties

- a) If any person contravenes, or attempts to contravene or abets the contravention of any of the provisions of this Act, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to rupees two thousand or with both.
- b) If any person being under an obligation to perform any duty in connection with the conduct of an examination fails to perform such duty or commits any dereliction of duty, he shall be guilty of offence under sub-section (1) and shall be punished accordingly.
- c) If any person obstructs or threatens any member of the inspection team, supervisory staff or any authority, officer or person appointed by the competent authority from performing lawful duty or from entering any centre in the exercise of any power conferred on him/her by or under this Act, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to rupees two thousand or with both.
- d) Exception: The provisions of this section shall not apply to a candidate.
- e) Offences by companies ;Where an offence under Section 5 of this Act is committed by a company engaged in the conduct of examination, the person who at the time of offence was incharge of and responsible for the conduct of the business of the company, as well as the company, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- f) Explanation: For the purpose of this section, “company” means any corporate body and includes a firm or other association of the individuals.
- g) Offences to be non-cognizable and non-bailable:-
- h) Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, all offences under this Act shall be non-cognizable and non-bailable.
- i) Cognizance of offences and procedure for trial not withstanding anything contained in the Code of Criminal Procedure, Samvat 1989:-
- j) all offences under this Act shall be triable by a Judicial Magistrate of Ist class empowered by the Government in this behalf;

- k) no court shall take cognizance of any offence under this Act, except on a complaint lodged by the competent authority;
- l) Any candidate who copies or has copied in the Examination Hall from any paper, book or note or any other material relevant to the subject of Examination in which he/she is appearing;
- m) All offences under this Act shall be triable in accordance with the procedure laid down under section 259-A of the Code of Criminal Procedure Samvat 1989.

Misconduct by a candidate-If any candidate commits misconduct or uses unfair means he shall be liable to disciplinary action under the Statute or the Regulations as, the case may be.

Persons engaged in the conduct of examination to be public servants. Every person engaged in the conduct of the examination shall be deemed to be public person with in the meaning of Section 21 of the Ranbir Penal code.

Application of other laws not barred. The provision of this Act shall be in addition to and not in derogation of any other law in force on the subject.

Mis-conduct or Unfairmeans in Exams

Definition: In these Regulations unless the context otherwise requires:

- a. "Examination" means an examination conducted by the J&K State Board of School Education.
- b. "Candidate" means a person appearing or claiming to appear or has appeared in an examination.
- c. "Examination hall" means premises specified by the Joint Secretary (Examinations) or any other officer authorised by the Chairman for holding of an examination.
- d. "Officer Incharge Examination" means the officer incharge of an examination centre, whether designated as Superintendent and or practical examiner or otherwise.
- e. "Superintendent" means superintendents of examination centres and shall include Deputy Superintendents appointed for purposes of supervising the conduct of examinations at a centre.
- f. "Inspector" means any persons appointed by the Board for inspecting the examination centres constituted by the Board.

- g. “Vigilance Squad” means a squad of persons appointed by the Board from among the officers of the Board, the Education Department and other authorised State Govt. Officers to inspect the examination centres and make a confidential report to the Chairman or any officer authorised by him regarding the conduct of examinations and functioning and integrity of the supervisory staff at the examination centres.
- h. “Evaluators, Examiners” means the persons appointed for checking/marking answer scripts of the candidates.
- i. “Authorised State Government Officers” means
1. Divisional Commissioner
 2. Deputy Commissioner/District Development Commissioner,
 3. Additional Dy. Commissioner,
 4. Sub-Divisional Magistrate,
 5. Tehsildar and
 6. Police Officer (not below the rank of Inspector) of the area.
- j. “Officers of the Education Department” shall mean all the gazetted officers of the Education Department.
- k. Provided that the Officers mentioned under (i) and (j) above shall be so authorised in case of such Examination Centres only as fall within the area of their jurisdiction.
- l. “Officers of the Board” means the Officers of the Board not below the rank of Assistant Secretary.
- m. “Outside Interference” means entry into Examination halls of unauthorised persons, material, documents, books, aids and or communication from outside into the examination hall by use of high Technology gadgets like remote control radio pens, infrared beams in electronic media, human voice or any information connected with the examination and shall include intimidation and or inducement of the supervisory staff and or vigilance staff and or examiners by any source from within or outside the examination hall, directly or indirectly, with a view to promote use of unfairmeans by some or all the candidates and interfering with fair conduct of the examination.
- n. “Vitiation of sanctity of Examination” means supervisory/ vigilance staff voluntarily or under threat, assisting in use of unfairmeans by the candidates

through their active participation or by passive action of not supervising conduct of the examination in an effective manner and shall include:

- I. Un-authorized opening of question papers.
- II. Public interference in and around examination hall with the object of intimidating supervisory staff and passing un-authorized information to candidates within the examination hall or from outside to facilitate use of unfairmeans by the candidates.
- III. Mass copying with or without the connivance of the examination staff.
- IV. Easy access to or possession of copying materials by candidates on mass scale.

“Committee for Serutiny and Disposal of Unfairmeans (“UFM” for) cases; means the Sub Committees constituted by the Committee for Examinations separately for Jammu Division and for Kashmir Division to consider and decide the cases relating to misconduct and use of unfairmeans in the examinations conducted by the Board.

“Appellate Committee” means the Sub Committee constituted by the Committee for Examinations, separately for the Jammu Division and for Kashmir Division with powers to review or modify the decisions of the Sub Committee for serutiny and disposal of unfairmeans cases.

“Year” means two sessions of an examination i.e. annual/bi-annual/supplementary or otherwise,

“Disqualification” means disqualification from appearing in all or any of the examinations of the Board.

“Code Officer” means any person appointed by the Joint Secretary, Secrecy or any other officer authorised by the Chairman as such for affixing codes on the answer books of candidates of various examinations conducted by the Board.

“Subject Expert” means the persons nominated by the Chairman to scrutinize and check the answer books of the candidates of various examinations conducted by the Board, either after or before their evaluation to determine whether or not unfair means have been used in the examination.

“Board” means the J&K Board of School Education.

“Chairman” means the Chairman J&K State Board of School Education.

Words importing singular number also include plural number and vice versa.

Words importing the masculine gender also include the feminine gender.

Officer in charge examination: duty and powers

- a. Every day before the start of examination the “Officer incharge examination” shall by way of general announcement, call upon all the candidates present in the examination hall to search their pockets and part with and deliver to him papers, books or notes or any other incriminating material which they may have in their possession. Where a late comer is admitted, this warning shall be repeated and given to him at the entrance of the examination hall.
- b. “The Officer incharge examination” shall forward to Joint Secretary, Examination or any officer authorised by the Chairman a declaration signed by him and witnessed by all the invigilators there on duty to the effect that he in fact called upon the candidates to hand over papers, books, or notes or any other incriminating material in their possession and that all the late comers were also given this warning individually as required under the preceding regulation.
- c. The “Officer incharge Examination/Inspector /Vigilance Squad” or any person authorised by the Board may make a search of a candidate’s person suspected of unauthorised possession of copying material or a lethal weapon, etc, at any time during the course of examination or at the entrance of the hall before the commencement of the examination.

The “Officer Incharge Examination” shall report to the Joint Secretary (Secrecy) or any other officer authorised by the Chairman, occurrence of each case where use of unfairmeans/misconduct in the examination is suspected or detected with evidence available and statement of the candidate concerned on the form, supplied for the purpose, recorded.

No force will be used to get statement of the candidate using unfairmeans. In case the candidate using unfairmeans refuses to give statement the fact of his/her refusal to do so shall be recorded by the officer incharge and attested by two other members of the supervisory staff on duty at the time of occurrence.

A candidate alleged to be guilty of unfairmeans/misconduct in the examination shall be permitted to answer the remaining part of the question paper but on a separate answer book and the answer book in which the unfairmeans/misconduct is suspected shall be seized by the officer incharge examination who shall send both the answer books to the Joint Secretary, Secrecy, along with a copy of seating plan and his brief report. In case the candidate refuses to surrender the answer book and does not accept the separate answer book, the fact shall be recorded by the officer incharge of the examination. It shall be conclusive evidence of the fact that the candidate was resorting to or attempting to resort to use of unfairmeans in the examination.

Whenever an unfairmeans case is detected by a Coding officer, Sub/Single/Head Examiner or an officer of the Board during coding/evaluation/re-valuation or thereafter, he/she shall make a confidential report on a plain paper to the Joint Secretary, Secrecy, who shall place the case before the Committee for Scrutiny and Disposal of Unfairmeans Cases for appropriate action under the Regulations.

In case of general disturbance/walkout the Officer-in-charge/overall Incharge/Vigilance Squad/Inspector shall make a detailed report concerning the incident to the Joint Secretary Examinations who after enquiry shall place the case before the Chairman for appropriate action under the Regulations against the defaulters.

Misconduct/Unfairmeans cases

A candidate/person commits misconduct/unfairmeans in respect of an examination if he/she:-

- a. Possesses and/or keeps accessible in the examination hall any paper, note book or material (hand-written or printed) connected with or related to the subject of the examination in which he/she is appearing and or allows someone else to do so which factum may be established as a consequence of search of person or the candidate, or the examination hall or inspection of otherwise. "Material" shall include any marks and/or impressions recorded on any part of the body/apparel of the candidate or furniture in the examination hall which can be used as an aid during the examination. Recovery of incriminating material from and/or around candidate is sufficient. Non-recovery of incriminating material from person of individual candidate is not material to establish use of unfairmeans if answer tally with the recovered material recovered from or around the candidate.
- b. Gives assistance or guidance to or receives it from any other candidate or communicates or attempts to communicate with any other candidate or person in or outside the examination hall, matter which is related to the subject of the examination in which he/she is appearing. Use of high technology gadgets like remote control radio, transmitter pens or infrared beam linked to accomplices outside or inside the examination hall shall be unauthorised communication.
- c. Copies or has copied in the examination hall from any paper, book or note or any other material relevant to the subject of the examination in which he/she is appearing.
- d. Changes his/her seat with any other candidate or occupies a vacant seat or the seat of any other candidate not allotted to him/her or takes a seat in an Examination Centre not allotted to him/her.
- e. Refuses to obey the orders of the Officer incharge examinations.
- f. Misbehaves/commits an act of violence or creates disturbance of any kind in or around the examination hall or organizes a walk out or instigates others to walkout.
- g. Arranges impersonation or impersonates, or misrepresents any other candidate in connection with the examination conducted by the Board or suppresses a fact.
- h. Hires and uses himself/herself directly or through somebody on his /her behalf "ghost writer" to write answer to the questions within the examination hall or

outside the examination hall at any time before declaration of results with or without the connivance of the Sup. Staff? on duty.

- i. Smuggles answer book (s)/or continuation sheet (s) in the examination hall or takes out or arranges to send out continuation sheet (s) or replaces the answer book, its inner sheet (s) with or without the connivance of the staff on duty in connection with the examination.
- j. Threatens the Officer-in-charge of Examination or any person on duty in or outside the examination hall with an injury to his/her person or to any of his/her relations whether by words, spoken or written or by signs or by visible representations with a view to inducing the Officer Incharge examination or any person on duty in or outside the examination hall to grant concession to the candidate.
- k. Assaults the Officer Incharge or any person on duty in or outside the examination hall or any of his relations with a view to crouching the officer incharge examination, or any person on duty to show any concession to the candidate;
- l. Indulges in any other act of misconduct or mischief which results in damage to or destruction of property in the examination centre.
- m. Makes distinctive marks or writes roll number at a page other than the one earmarked for it in the answer-book with an intention to disclose his/her identity;
- n. Appears to or approaches the Officer incharge examination or the Joint Secretary Secrecy or any official/officer of the Board himself/herself or through any other person for obtaining any concession in respect of the examination in which he is appearing or has appeared or makes an appeal to the examiner in his answer book;
- o. Uses abusive or obscene or indecent language or makes indecent caricatures in the answer book;
- p. Obtains or attempts to obtain admission to an examination as an impostor or on false representation made on his admission form or forges another persons signature on his/her admission form;
- q. During the course of the examination, writes on a piece of paper/material a question set in the paper or anything connected with or relating to a question set in the paper or solution thereof;
- r. Possesses a solution to a question set in the paper through connivance of any member of the supervisory or menial staff or an outside agency;
- s. Leaves the examination hall without delivering the answer script and takes away the same with him/her or intentionally tears off the answer script or any part there of or continuation sheet or part thereof inside or outside the examination hall;

- t. Approaches or attempts to influence, directly or indirectly, regarding his/her unfair means/misconduct case, a member of the Sub-Committee for Scrutiny and Disposal of Unfair means/Misconduct cases or any official/officer of the Board;
- u. Forces his/her entry into the examination hall for the purposes of taking the examination even after being told that he/she is not eligible to sit in the examination;
- v. Possesses lethal weapon or fire-arm or comes in drunken condition to the examination hall;
- w. Engages himself in any other act of commission which amounts to the use of unfair-means or misconduct or has the tendency to disrupt the orderly conduct of the examination;
- x. Commits any other act before, during or after the examination which in the opinion of the Chairman tantamount to using unfair means;
- y. During the course of seeing his/her answer scripts before Re evaluation makes insertion in the answer scripts or tampers with the marks awarded by the examiner or misbehaves with the employees of Board on duty or creates disturbance;

General Rules for unfair means cases:

- I. If a candidate is found to have made a wrong statement in his application form for admission to the examination or has attempted to secure admission to any of the examinations of the Board or has secured admission to the examination by making a false statement or on production of a false document or otherwise, he shall be deemed to have used unfair means. In case he has not already appeared at the examination, his application form shall be liable to be rejected and the examination fee paid forfeited. If he has completed his examination, the same shall be cancelled;
- II. If at any stage a candidate has tampered with any entry in the certificate or statement of marks or migration certificate or any other document that has been issued to him by the Board, he shall be deemed to have used unfair means. The Board may cancel the document in question and may even cancel his result, if it deemed necessary.
- III. A candidate is not permitted to write in the answer book, his name or put his signature or any sign or mark which may disclose his identity to the examiner. A candidate infringing this rule shall be deemed to have used unfair means and shall be liable to be punished under the rules.

Identification and Reporting of Unfair means Cases

- a) As soon as it is brought to the notice of the Superintendent of examination centre that a candidate during the course of examination, has been detected using or attempting to use unfair means as detailed in Para 5, he shall take possession of the answer book of the candidate along with the papers or other materials found with him and provide the candidate with a second answer book immediately. The candidate is not to be expelled from the examination centre in the paper. The Superintendent shall record on the first answer book, the time when the first answer book was taken away from the candidate and on the second answer book the time when it was issued. While issuing the second answer book the candidate shall be asked by the Superintendent to submit his explanation. If the candidate refuses to give his statement, he should not be forced to do so; only the fact of the refusal should be recorded by invigilators which should be attested by the Centre Superintendent on duty at the time of the occurrence. The Superintendent shall call for the statements of the invigilators concerned and forward to the Joint Secretary, Secrecy or any other officer authorised in this behalf in a separate sealed cover, the two answer books used by the candidate alongwith the statement of the candidate or the attested statement or refusal, the statements of the invigilators and his own note on the case for further action by the Board.
- b) As soon as it is brought to the notice of the Centre Superintendent that a candidate has smuggled out an answer book, he should call for the student directly or through the head of the institution where the examination centre is fixed and try to secure the answer book. In case of non-recovery of the answer book, the matter should be reported to the police and a copy of report sent to the Board along with the statements of the invigilators present in the room, and also of the candidate. The statement of peon, police constable etc., if any, relevant to the situation should also be forwarded. The statements should contain the time of occurrence of the incident and details of the case as to how the candidate took away the answer book. Efforts made to recover the answer book should be stated.
- c) In case of impersonation, the Centre Superintendent should send to the Board, the statements of the persons found to be impersonating, the invigilators and that of the real candidate, if possible. He may also report the matter to the police, if necessary.
- d) In case of misconduct of a serious nature, the matter should be reported to the police, if necessary, Statements of the invigilators and that of the peon/policemen concerned may be obtained and sent to the Board for further action.
- e) If a candidate is found guilty of communicating or attempting to communicate either directly or indirectly with an examiner or any other person connected with the examination with the object of influencing him/her in any way, he shall be deemed to have used unfair means and shall be liable to punishment under rules.

- f) If after the examination, it is found that a candidate has copied answers either of some candidate or from any other source, he shall be treated to have used unfairmeans and shall be liable to be punished under the rules.
- g) If any examiner notices any case of copying of answers either among two or more candidates or from any other sources, he should mark the relevant portions of the answers and send the cases immediately, along with his report on the same, to his Head Examiner. The Head Examiner will scrutinize the case and forward it alongwith his own remarks, in sealed cover for necessary action by the Board. If such a case comes to the notice of the Head Examiner himself, he should also mark the relevant portions in the answer books and forward the same immediately, alongwith his remarks in a sealed cover to the Board for further action.
- h) Use of abusive languages or making derogatory remarks in the answer book, shall be treated as use of Unfairmeans.

Initiation of Proceeding.

Proceedings against candidates on ground of use of unfairmeans can be initiated on receipt of written report from any of the following sources of information:

- a) Officer incharge examination/Superintendent of examination hall or Vigilance Squad/Inspector or authorised Government officer.
- b) Code Officer or Examiner or Evaluator.
- c) On basis of “computerised statistical data” which prima-facie reflects copying at large scale having taken place in the centre. Appreciably high score of marks or pass percentage from some examination centres vis-à-vis lower pass percentage from other examination centre both paperwise and centre-wise performance.
- d) Any Officer of the Board who has visited the examination centre.
- e) Any other source after corroboration by an independent enquiry conducted by the Board.

Show Cause Notice

Show cause notice be issued in cases of individual acts of use of unfairmeans or misconduct by candidates. The individual candidates against whom penal action is proposed to be taken be given an opportunity to defend themselves and rules of natural justice be observed.

Second show cause notice is not required before penalty on the individual defaulting candidates.

- I. A copy of report on the basis of which the show cause notice is served is not required to be given to the candidate.
- II. Inter alia in the following cases of individual use of unfair means the show cause notice will be served:-
 - a. Blank pages left in the main answer book and additional answer book at the time of delivery in the examination hall with intention to use blank pages for writing subsequently fresh answer to questions not already answered or rewriting answers to questions already attempted.
 - b. Additional answer books and answer inserted after evaluation by the examiner.
 - c. Two different handwritings in the answer books/continuation sheets.
 - d. No show cause notice is required to be given if the Roll number has been written at place other than the one earmarked for writing the role number or on writing of some "mark" in answer book for purposes of identification of the examinee. The answer book disclosing shall not be evaluated in such a case.
 - e. No show cause notice is required before cancellation of examination or withholding results of examination on ground of mass copying. However, all such eligible candidates whose examination has been cancelled on ground of mass copying will be given opportunity to appear in the next examination.

In all cases in which the use of unfair means/ misconduct by individual candidates has been reported the following procedure shall be adopted:-

- a. On the receipt of the report regarding unfair means/misconduct by a candidate, the Joint Secretary (Secrecy) or any officer authorised by him in this regard shall serve upon the candidate a notice indicating the charges against him and asking the candidate concerned to appear before the Committee to show cause within stated time as to why he should not be punished for misconduct of and/or use of unfair means. The notice with date of hearing shall be sent on the address of the candidate by post and also published in local newspaper. In case the candidate fails to present himself on the scheduled date, the Sub-Committee shall proceed ex parte against the candidate on the basis of the material on record.
- b. Papers connected with the case including the report of the supervisory staff and written statements of the candidate, if any, shall be placed before the Committee for

Scrutiny and Disposal of UFM/Misconduct cases by the Officer authorised in this behalf by the Joint Secretary, Secrecy.

- c. The Sub-Committee shall afford an opportunity to the candidate of being heard in person on the date fixed for hearing in accordance with regulation 45 (v) (a)
- d. On consideration of the record of the case and also the oral/written statement made by the candidate, if the Sub-Committee is satisfied that the candidate has committed misconduct/unfairmeans in the examination, it shall award punishment to him/her as detailed below depending upon the nature of the case.

S.No	NATURE OF UNFAIRMEANS / MISCONDUCT	PUNISHMENT
1	The candidate is found in possession of paper, book, notes of keeps these accessible during the examination in one paper only.	Cancellation of entire examination taken by the candidate in that session. material relevant to the subject or
2	The candidate gives assistance or guidance to or receives it from any other candidate or person, communicates or attempts to communicate with any other candidate or person outside the examination hall in respect of any matter connected with or related to the subject of the examination in which he is appearing.	Cancellation of entire examination taken by the candidate in that session
3	Forces his entry into the examination hall for the purpose of taking the examination even after being told that he is not eligible to sit in the examination.	Cancellation of entire examination taken by the candidate in that session
4	The candidate is found in Possession of papers, notes, material relevant to the subject in two papers the examination in that session.	Disqualification from appearing in or passing any examination of the Board for a period of one year.
5	The candidate uses abusive or obscene or indecent remarks, caricature or language in the answer book.	Disqualification from appearing in or passing any examination of the Board for a period of one year.

6	The candidate copies in the Examination hall from any paper, books, or note, or any other material Relevant to the subject of the Examination.	Disqualification from appearing in or passing any examination of the Board for a period of one to two years
7	The candidate uses 'ghost writer' in the examination hall to write answers to the questions within the examination hall or outside the examination hall, at any time before the declaration of the result.	Disqualification from appearing in or passing any examination of the Board for a period of one to two years.
8	The candidate leaves the examination hall without delivering the answer script and takes away the same with him/her or intentionally tears off the answer script or any part thereof or continuation sheet or part thereof in or outside the examination hall.	Disqualification from appearing in or passing any examination of the Board for a period of one to two years.
9	The candidate makes insertion in the answer scripts or tampers with the marks awarded by the examine or misbehaves with any employee of the Board on duty or creates disturbance in Secrecy Section while seeing his/her answer scripts before re-evaluation.	Disqualification from appearing in or passing any examination of the Board for a period of one to two years.
10	The candidate is found in possession of papers, books notes or material relevant to the subject in more than two papers of the examination	Disqualification from appearing in or passing any examination of the Board for a period of two years
11	The candidate smuggles in an answer book or continuation sheet or takes out or arranges to send out the question paper or an answer book or a continuation sheet or replaces the answer books inner sheets, or continuation sheet during or after the examination with or without the connivance of staff on duty in connection with the examination.	Disqualification from appearing in or passing any examination of the Board for a period of one to three years

12	The candidate threatens the officer incharge of examination or any person on duty, in or outside the examination hall, of injury to his person or to any of his relation whether by words spoken or written or signs or by visible representation with a view to inducing the officer in-charge examination or any person on duty in or outside the examination hall for any concession.	Disqualification from appearing in or passing any examination of the Board for a period of one to five years depending on the nature of offence.
13	The candidate obtains or attempts to obtain admission to an examination on false representation on his/her admission form or forges another person's signature on his/her admission form	Disqualification from appearing in or passing any examination of the Board for a period of one to five years depending on the nature of offence.
14	Indulges in any other act of misconduct or misbehaviour which results in damage to or destruction of property in the examination centre or of the Board/College/School/any other person connected with the examination.	Disqualification from appearing in or passing any examination of the Board for a period of one to five years depending on the nature of offence.
15	The candidate misbehaves/ disturbance of any kind in or around the examination hall or organises a walk out or instigates others to walkout.	Disqualification from appearing in or passing any examination of the Board for a period of one to five years depending on the nature of offence.
16	The candidate arranges impersonation or impersonates or misrepresents any other candidate in connection with the examination	Disqualification from appearing in or passing any examination of the Board for a period of one to three years
17	The candidate assaults the Officer n-charge or any other person on duty in or outside the examination hall or any of their relations with a view to coerce the officer – in-charge examination or any other person on duty for any concession.	Disqualification from appearing in or passing any examination of the Board for a period of one to three years
18	The candidate possesses any lethal weapon or fire arms or comes in a drunken condition to the Examination hall.	Disqualification from appearing in or passing any examination of the Board for a period of one to three years

	The candidate makes distinctive marks in the answer book or writes roll number in the answer book at place other than earmarked for it with intent to disclose him/her identity	Cancellation of the examination in the paper of the day of incident. day if examination and the officer in charge feels that his presence would disrupt the examination, he may for reasons to be recorded in writing, expel the candidate for the rest of the examination and send a detailed report to the Secretary together with his/her concrete recommendations
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Cancellation of Exams.

If the Chairman is satisfied on the report of the Officer in charge examination or the Vigilance Squad or Inspectors or otherwise that the integrity of an examination of the Board has been violated at any examination centre as a consequence of misconduct/use of unfair means by all or a majority of the candidates appearing at the centre, he may order cancellation of the examination held at the centre without prejudice to any other action under the provisions of these Regulations.

Mass copying

Specific report by the Supervisory Staff or Vigilance Squad or Inspectors detailed for conduct of examination is not mandatory before giving findings of mass copying. The report by Tabulators of examination results on the basis of appreciably high pass percentage from some examination centres vis-à-vis average success of “examinees” from other examination centres shall be sufficient after corroboration by moderators or experts and confirmation by Unfairmeans Committee to cancel the examination on ground of mass copying.

If the information received about mass copying is from a source other than the Supervisory Staff or Vigilance Squad or Examiners or Tabulators or other persons detailed for supervision of conduct of the examinations, evaluation of answer books or tabulation of examination results including an anonymous informer the examination on ground of mass copying will be cancelled only if an independent departmental inquiry corroborates the first information about mass copying.

Notwithstanding anything contained in these Regulations the Chairman may, on receipt of a written report about use of unfairmeans on mass scale from Supervisory or Vigilance Staff or authorised Government servant appointed for conduct of the examination, viz. Superintendents of Examination centres, Inspectors, members of any authorised State Government Office or an officer of the Education Department, cancel the examination partly or wholly for reasons to be recorded in writing if he is of the opinion that the examination conducted at any centre has been vitiated on account of mass copying by

examinees or outside interference or any other reasons which deprive examination of its sanctity. No further departmental inquiry is required if the information received is from source given above and is corroborated by reports of various persons of supervisory/ vigilance staff or authorised government servant.

Notwithstanding any thing contained in these Regulations, the Chairman may also, for reasons to be recorded in writing, cancel any examination either partly or wholly on the basis of any report or information about use of unfairmeans on mass scale from the source other than mentioned in para (vi) above including any anonymous information in case he is satisfied that the sanctity of the examination has been adversely affected on account of mass copying by the examinees or outside interference at any examination centre or for any other reason vitiating the process of fair conduct of examinations.

Provided that the Chairman shall before acting upon any information received from any source other than mentioned in para above have the same corroborated by independent departmental inquiry or verified by the subject experts/officers of the Board or any authorised Government officer or officer of the Education Department. The result of the Examinations of any such centres shall remain withheld pending verification of the above information received by the Chairman and his final order thereon.

The action taken by the Chairman under Regulations (iv) and (vii) above shall not be called in question before any Committee

The cancellation of any examinations under Regulations 20 and 21 shall not prevent the Board from initiating appropriate proceedings against any examinee who may be reported to have used unfairmeans by the concerned examination staff appointed at the centre. Provided also but subject to the foregoing proviso, the examinees of any such centre/shall be allowed to appear in the subsequent examinations conducted by the Board, if otherwise eligible under rules.

Misconduct by Attesting authority, Supervisory and other staff

- a. If any person who is competent to attest an examination form wilfully attests such a form particulars where of he knows to be false and incorrect he/she shall be guilty of having committed misconduct/ branch of touch
- b. If any member of the Supervisory or other staff connected with the conduct of the examination connives with the examinees or otherwise facilitates the commission of unfairmeans he/she shall be guilty of having committed misconduct.

Disciplinary action Against attesting authority:

All the cases of misconduct by the attesting authority, Supervisory and other staff connected with the conduct of examination, shall be dealt with by the Committee for Scrutiny and Disposal of Misconduct/Unfairmeans cases.

Provided further that where the competent authority is of the opinion that misconduct/misbehavior committed by a candidate or any members of the supervisory staff or attesting authority is of exceptional gravity, it may disqualify that candidate, the concerned member of the supervisory staff/attesting authority permanently from appearing in any examination or from any remunerative assignment of the Board.

Without prejudice to the provisions of Regulation and above, wherever the officer incharge examination is of the opinion that the presence of a candidate committing misconduct in the examination hall is likely to create disorder or to prevent other candidates from taking the examination, he may expel the candidate from the examination hall for that day only and report the matter to the Secretary forthwith.

Provided that where any such allegation exists or any inquiry under these Regulations is pending against any candidate the result of the examination of the candidate shall be withheld pending the disposal of the allegation or the completion of the inquiry, as the case may be.

Where during the course of any examination any allegation of misconduct/use of unfairmeans against a candidate is made, the candidate shall not, unless otherwise directed by the competent authority, or provided for in the Regulations, be debarred or prevented from appearing in the examination in the subject or any other subject related to the examination;

Provided that where any such allegation exists or any inquiry under these Regulations is pending against any candidate, the result of the examination of the candidate shall be withheld pending the disposal of the allegation or the completion of the inquiry, as the may be.

In the case of the alleged use of unfairmeans/misconduct in connection with examinations if, in the opinion of the Chairman facts have been brought to light by the conducted within 30 days of the receipt of the written intimation from the Secretary of the decision of the Sub-Committee which, had these been before the sub-committee at the time of taking the decision, might have induced it to come to a different decision, the Chairman may order that such facts be reduced to writing and placed before the Sub-Committee. The Sub-Committee shall then reconsider the case. A unanimous decision of the Sub-Committee after it considers the new evidence shall be final. But in the event of a difference of opinion, the case shall be referred to the Chairman, who may either finally decide the case himself or refer it to the Board for final decision, as he thinks fit.

Commencement of Disqualification

The period of disqualification of a candidate shall, unless otherwise specified, commence from the session in which the candidate is found to have committed misconduct/used unfair means:

Provided the students as have appeared in various examinations conducted by the Board previously and whose examination has been cancelled or who were debarred from

appearing in an examination of the Board for a particular period for using unfair means in the examination shall be treated to have failed in the examination. However, while appearing subsequently in the examination on completion of the period of punishment, they shall be exempted from appearing in the subjects which they have qualified prior to the session in which they have been punished.

Provided further that in such cases where Diploma in Elementary Education examination is cancelled on account of mass copying or some other factors under the UFM regulations, the whole examination (external and internal, excepting part IV) shall be treated to have been cancelled. The marks in internal assessment in Parts I, II and III shall be awarded proportionately based on their performance in external examination (fresh examination) in theory and practical. However, in respect of Part-IV which is exclusively based on internal assessment, the marks secured by the candidates concerned in the previous examination shall be carried forward.

Action under other Law

Any punishment imposed under these Regulations shall not preclude a candidate or a person from any other criminal or civil liability under any law for the time being in force in the State.

A person who commits misconduct/uses unfair means under these Regulations but is not a candidate for any examination shall be dealt with as under:-

The Chairman/Secretary or any officer of the Board authorised by the Chairman/Secretary may, if he so desires, report the case to the police;
In the case of a teacher or a person connected with an Institution, his/her conduct shall be reported to the managing body of the Institution, and the Government in the case of a Government Institution and shall be debarred from remunerative job of the Board for such period as the Chairman may deem appropriate.

I. The Chairman may constitute a Committee for Jammu and Kashmir provinces separately for reviewing the unfair means cases on appeal.

Any candidate aggrieved by an order of the Competent Authority may prefer a review/mercy petition to the Secretary within 10 days from the date of the order. Petition received after the expiry of the time limit shall not be entertained under any circumstances whatsoever provided that the Chairman may entertain an appeal after the expiry of said period if he is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

Constitution of Review committee

Loss of candidate Answer book

I. If a candidate's answer book is lost after having been received at the examination centre or during transit or evaluation or is destroyed/damaged on any account he/she shall be given the option to re-appear in that paper at the subsequent session or immediately after the termination of the examination as may be decided by the Chairman without payment of any fee.

II. In case of a dispute as to whether a candidate's answer book was duly received or not, the finding of the Chairman shall be final. Proper and appropriate action shall also be taken against the official responsible for the loss of the answer book. If it is established that it was due to the official's dereliction of duty, carelessness, negligence, etc. his/her conduct shall be reported to the concerned authority for such action that such an authority may deem necessary.

Complaints against Question papers

I. Complaints, if any, against an individual question paper must reach the Secretary (telegraphically,/by fax if necessary) by the fourth day of the examination in that particular paper. The Secretary shall forward the complaint to the Head Examiner/Examiner subject expert for his/her/their remarks and suggestions. After the remarks and suggestions have been received, these will be placed before the Chairman, who may accept the suggestions regarding moderation in the evaluation of answer books in which case the Examiners shall be informed accordingly. In case the Chairman feels that the suggestions are not adequate enough to meet the requirements of the case. he may take such actions as he deems necessary.

II. Each question paper, irrespective of whether there is a complaint against it or not, shall be sent to the Academic Committee for review and if it passes some adverse remarks against the question paper, these shall be sent to the paper setter for his/her comments and suggestions. These suggestions shall be made by the papersetter within four days of the receipt of the comments and after receipt of the paper setter's remarks the whole case shall be placed before the Chairman for his orders. If the Chairman just does not pass any remark on the question paper, no further action shall be necessary.

Sd/-
Mohd. Aslaam
Secretary
General Administration Department

