



MEDICAL TEACHING INSTITUTION (MTI)

ABBOTABAD

Published under Authority

MTI Abbottabad Efficiency and Discipline (Amendment) Regulations, 2023

BOG No. R-1/2023

Dated 19th November, 2023.

In exercise of the powers conferred under Section 24 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 the Board of Governors (BoG) Medical Teaching Institution (MTI), Abbottabad frame the following regulations, namely:--

1. Short title, commencement and application.—(1) These regulations shall be called the MTI Abbottabad Efficiency and Discipline (Amendment) Regulations, 2023. .

(2) These shall come into force at once.

(3) These regulations shall apply to all the employees of MTI as categories under regulations 2(h).

2. Definitions.—(1) In these regulations, unless there is anything repugnant in the subject or context requires otherwise,--

(a) “Act” means the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015.

(b) “accused” means a person against whom proceedings and action under these regulations is initiated.

(c) “authority” means authority as prescribed in these regulations.

(d) “appellate authority” means appellate authority as defined in these regulations.

(e) “Board of Governors” means BoG MTI Abbottabad as constituted under Section 5 of Act.

(f) “Chairman” means chairperson of the BoG MTI as defined under Section 5(6) of the Act.

(g) “college” means a Medical College or a Dental College in public sector.

(h) “employee” means :-

(i) Executives and other employees of BoG, MTI, Abbottabad

(ii) Regular BPS employee of Medical Teaching Institutions appointed under this Act and regulations made under this Act, including employee of the Medical Teaching Institution appointed by the Management Council under the Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, Khyber Pakhtunkhwa Medical Teaching Institution Reforms (Amendment) Act, 2018, a civil servant who has opted to become an employee of MTI under section 16 of this Act.

(iii) a civil servant,

a) who is on deputation to Medical Teaching Institution;

b) A civil servant who is on detailment to MTI.

(iv) “Contract Pay Scale” (CPS) the employees covered under Medical Teaching Institution Contract Pay Scale Regulation 2020.

(v) “Contract employees, daily wages” of MTI other than CPS and executives.

(i) “Medical Faculty” means [and includes] the Basic Science Faculty and Clinical Faculty which includes Senior Registrar and above as well as [Dean] of a College, involved in teaching, training or patient care;

(j) “Medical Teaching Institution” means, :-

- (i) a medical college, a dental college or other health related teaching institutions and their affiliated teaching hospital in the public sector; or
- (ii) any public sector teaching hospital which is affiliated with or attached to a medical college, a dental college or any other health related teaching institution of private sector or of any autonomous institution of public sector; or
- (iii) a specialized care hospital in the public sector notified as such by the Health Department of Government;-
- (k) “Dean” means academic head of MTI.
- (l) “Government” means the Government of Khyber Pakhtunkhwa.
- (m) “Health Care Services” means preventive, curative, promotive, rehabilitative, health services and includes diagnostic, support services, laboratory, accident and emergency, pharmacy and paramedic support.
- (n) “member” means member of the Board including Chairperson.
- (o) “charges” means allegations framed against the accused relating to an act of omission or commission cognizable under these regulations, provided that where the proceedings under these regulations are to be initiated against two or more employees of various categories of the institution, the procedure as prescribed under these regulations shall be followed.
- (p) “inquiry” means an inquiry under these regulations leading to framing of charge, explanation and order of removal from post and termination of contract, Show Cause notice as the case may be.
- (q) “the competent authority” means authority, competent to appoint inquiry officer, inquiry committee or issue Show Cause Notice and impose penalties as specified under these regulations,
- (r) “appellate authority” means authority to whom an appeal shall lie.
- (s) “penalties” means any of the minor or major penalties, including recovery of financial loss from pay, pension, gratuity, G.P.Fund, C.P. Fund or recoverable as arrears of land revenue as per Land Revenue Act, 1967.
- (t) “Policy Board” means the Policy Board constituted under section 4(A) of Act.
- (u) “section” mean section of Act.
- (v) ‘rule’ means rules framed under the Act;
- (w) “Inefficiency” means, in relation to the discharge of duties, failure to perform efficiently and effectively as per role and responsibilities assigned to such office holder by or under the policy of Government, MTI Act, 2015, MTI Rules, 2015, MTI Regulations, decisions of BoG, failure to devise annual Business and Strategic Plan, non achievement of targets. It shall include

failure to ensure merit in recruitment, promotion, appointment and poor supervisory control of subordinates and various committees.

(x) “misconduct” means conduct prejudicial to good order or service discipline or contrary to Government Servants (Conduct) Rules, 1964 or unbecoming of an officer, or exerting political or exterior influence in respect of any matter relating to the appointment, promotion, transfer, punishment or any other penalty under these regulations or having entered into plea bargain under any law for the time being in force. It shall include unauthorized leakage of documents of institution to media and others, media campaign against employees and BoG of MTI, unlawful gathering, instigating the staff for strike, disruption of medical services, threatening and causing physical harm to patients, staff, citizens, engaging in subversive activities, damaging property and assets of MTI, harassment as defined under various laws, and violation of MTI Act, Rules, Regulations, directives, Standing Operating Procedures (SOPs) as per accepted standards, disclosure, dissemination and sharing of any information, including data pertaining to MTI and its patients, absence without leave, availing ex-Pakistan leave without prior permission and No Objection Certificate (NOC).

(y) “corruption and corrupt practices’ in regard to an employee means as defined under various laws, prescribed under financial and audit rules, anticorruption laws and shall include illegal gains, violation of financial and accounting procedure in civil works, lease out of various services including pharmacy, tendering, maintenance, procurement of machinery, furniture, consumables, furniture, auction and misuse of authority. It shall also include personal gains such as financial, bribery or acquiring a post through fraudulent means, favouring a person in promotion, posting, recruitment, financial loss caused due to inefficiency, misconduct and corruption, abetment in all the cited offences, possession of pecuniary or property disproportionate to his known sources of income or has assumed a style of living beyond his ostensible means.

3. Grounds for proceedings and penalty.- An employee shall be liable to be proceeded under these regulations by the authority if he is-

(a) considered or reported to be inefficient or has ceased to be efficient or

(b) considered or reported to be guilty of misconduct or

(c) considered or reported to be corrupt and accused of corrupt practices.

4. Penalties.- (i) the authority may, by an order in writing, showing reasons, may impose one or more of the penalties in accordance with these regulations.

(ii) the following shall be various minor and major penalties;-

<u>Penalties</u>	<u>Applicability to categories of employees as per regulations 2(h)</u>
<p><u>Minor Penalties</u></p> <p>a) Censure</p> <p>b) Withholding of increment Or increments for a specific period, subject to maximum of three years with or without cumulative effect.</p>	<p>All categories</p> <p>2(h)(i)(ii)(iv)(v)</p>
<p>c) Reduction to a lower stage or stages in pay scales subject to a maximum of three stages with or without cumulative effect.</p>	<p>2(h)(ii)(iv)</p>
<p>d) Withholding of promotion for specific period, subject to a maximum of three years, provided that this penalty shall not be imposed upon an employee who has no further prospect of promotion or will superannuate during the period of said penalty.</p>	<p>2(h)(ii)(iv)</p>
<p><u>(B) Major penalties</u></p> <p>(a) Recovery of embezzled money or financial loss caused due to inefficiency, misconduct or corruption. Recovery as provided under financial rules, pay or other amount payable to the accused and as arrears</p>	<p>All categories</p>

<p>of land revenue under the Land Revenue Act, 1967</p> <p>(b) Reduction or downgradation to lower post and pay scale for specific period subject to a maximum of three years, provided that this penalty shall be imposed upon the accused who is likely to be superannuated within the period of penalty.</p> <p>(c) <u>Compulsory retirement</u></p> <p>(d) <u>Removal from</u></p> <p>i) <u>post</u></p> <p>ii) <u>service</u></p> <p>iii) <u>Termination of contract</u></p> <p>(e) <u>Dismissal</u></p>	<p>2(h)(ii)(iv)</p> <p>2(h)(ii)(iv)</p> <p>All categories as the case may be.</p> <p>2(h)(i)(iv)</p>
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5. Institution of disciplinary proceedings.

- (1)(i) With a view to ensure transparency and merit in inquiry proceeding BoG or the Chairman, in exigency of service, may suspend administrative, financial and legal powers of all categories of 2(h) or remove him from the post till finalization of Inquiry Proceedings.
- (ii) Employees in category 2(h)((ii)(iv) may be placed under suspension or removed from the post till conclusion of inquiry.
- (iii) Criminal offence. An employee who has been charged for criminal offence and is committed to prison; the competent authority shall proceed as under:-

- (a) Executives and other BoG employees falling in the category in Regulations 2 (h)(i)(v) shall, apart from other penalties, be removed from the post. In case of unauthorized absence pay of such employee shall be deducted for the absence period.
 - (b) In case of Civil Servants 2(h)(iii), who are on deputation or detailment, the parent department shall be informed and such official shall be repatriated. Based on findings of inquiry of civil servant draft charge sheet shall be sent to the parent department. Such civil servant shall be associated with the inquiry proceedings and shall have a right of self defence.
 - (c) MTI employees in category 2 (h)(ii)(iv) shall be placed under suspension from the date of arrest. During suspension period such employee shall be entitled to his pay, allowances and other benefits in accordance with Fundamental Rules 53.
 - (iv) In case an employee is absent from official duty during the proceedings, such period shall be treated as extra ordinary leave without pay.
 - (v) For MIT employees falling in category of 2 (h)(ii)(iv), provisions of Fundamental Rules, and Estacode shall mutatis mutandis, apply in regard to leave and penalties in pursuance of disciplinary proceedings.
- 3(i) Proceedings against all categories of employees, as per regulation 2(h) shall be initiated by the specified Competent Authority on the basis of any of the grounds of inefficiency, misconduct and corruption.
- (ii) The authority may dispense with the holding of inquiry through an Inquiry Committee or Inquiry Officer, and issue a Show Cause Notice to employees of category 2(h)(ii)(iv).
 - (iii)(a) In case of Executives and other employees the BoG or the Chairman may initiate an inquiry through an Inquiry Officer or subordinate or sub-committee of BoG, as specified under section6(5)(8) and section7(1)(h).
 - (b) Based on the findings of inquiry report such employee shall be called to explain his position. Reply of such employees alongwith inquiry report shall be placed before the BoG for approval. The BoG may order receiving of financial loss caused to the MTI. Besides criminal proceedings may also be initiated.

(c) The BoG, based on inquiry report, may remove an executive or other employee of BoG and terminate the agreement before the expiration of fixed term contract agreement.

(d). Any such employee 2(h)(i)(v) shall have a right of appeal to the BoG against its decision within a period of fourteen days.

(e) The BoG shall decide such appeal within one month.

(f) An accused employee, 2(h)(i), in his appeal, may request for personal hearing by the BoG.

(iv). The Inquiry Officer or Committee shall probe the matter may coopt Members on need basis, shall have full excess to the record and may record statement of accused and witnesses.

(v). The accused shall have a right to access to record and cross examine the witnesses, at the time of recording of evidence, and may produce evidence and witnesses in his defence.

(vi). Civil servant shall, on receipt of information or findings of inquiry be called upon to explain his conduct for allegations of misconduct, inefficiency and corruption. On receipt of reply, if unsatisfactory, draft charge sheet shall be sent to his parent department.

(vii). The Inquiry Officer or Committee shall submit its findings and recommendations to the Competent Authority. On receipt of inquiry report a Show Cause Notice may be issued to the accused employee to category 2(h)(ii)(iv).

(b) In case of misconduct, inefficiency and corruption causing financial loss to the MTI. The amount as determined during the inquiry shall be recoverable as arrears of Land Revenue.

6. Provision of record.—

(a) After initiation of order of inquiry the authority shall ensure that relevant record of the case and other related documents should be supplied to the inquiry officer or the inquiry committee, as the case may be, within seven days or within such an extended period which the authority may allow;

(b) Accused shall have a right to ask for copies of relevant record.

7. Procedure where inquiry is dispensed with.—If the authority decides that it is not necessary to hold an inquiry against the accused employees 2(h)(ii)(iv), it shall

- (a) inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, which should not be less than ten days and more than fourteen days, from the receipt of the order or within such extended period, as the authority may allow;
- (c) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record or facts of the case, as the case may be, determine whether the charge or charges have been proved against the accused or not;
- (d) afford an opportunity of personal hearing, before passing any order Of penalty.
- (e) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him: and impose any one or more penalties, mentioned in regulation 4, by an order in writing, if the charge or charges have been proved against the accused.

8. Procedure to be followed by authority.-

- (a) If the authority decides that it is necessary to hold an inquiry against the accused, it shall pass an order of inquiry.
- (b) Competent Authority, through an order, may appoint an Inquiry Officer or Inquiry Committee or sub-committee or subordinate committee of BoG or any other committee specially constituted by the BoG.
- (c) Inquiry Officer or the convener of the inquiry committee, as the case may be, shall as far as possible, be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall, as far as possible, be of a rank senior to the senior most accused;
- (d) the grounds for proceedings, clearly specifying the charges along with apportionment of responsibility which shall be communicated to the accused.
- (e) Authority shall give direction to the accused to submit his written defense to the inquiry officer or convener of the inquiry committee, as the case may be, within reasonable time which shall not be less than ten and more than fourteen days from the date of receipt of orders or within such an extended period as the authority may allow.

- (f) In cases where more than one category of employees are accused in one case, a single inquiry officer or an inquiry committee shall be appointed and the inquiry officer or convener of the inquiry committee so appointed shall, as far as possible, be of a rank senior to the senior most accused in the particular case.
- (g) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.
- (h) In case where the inquiry officer or any of the members of the inquiry committee is required to be replaced for one reason or the other, the authority shall appoint another inquiry officer or the inquiry committee, as the case may be.

8-A. Procedure to be followed by inquiry officer or inquiry committee;

(i) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charge or charges and may examine such oral or documentary evidence in support of the charge or charges or in defense of the accused, as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(ii) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex- parte.

(iii) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day basis. Adjournment shall be given for reasons to be recorded.

(iv) Statements of witnesses shall be recorded in the presence of accused and departmental representative.

(v) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, the matter would be reported to the Competent Authority for suspension and removal of the accused from the post, if not suspended or removed already.

(vi) In case of non response and non attendance of accused the Inquiry Officer or the Inquiry Committee shall proceed exparte and complete the inquiry on the basis of available record. If the accused absents himself from the inquiry on medical grounds, it shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned by the authority on the recommendations of a registered authorized medical officer.

- (vii) The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within time fixed by the authority or within such extended time.
- (viii) The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

- (ix) Revision.- The authority may call for the record of any case pending before the inquiry officer or inquiry committee, as the case may be, and pass such order in relation thereto as it may deem fit.
- (x) No order shall be passed, in respect of an accused, unless the authority has informed him, in writing, of the grounds on which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise necessary in the interest of justice, in particular, when the authority contemplates to pass an order adverse to the interest of the accused:

Provided that no such opportunity of personal hearing or Show Cause shall be given where the authority, for reasons to be recorded, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity or the accused is absent or has not been responding to Show Cause Notices.

(xi) In case, the authority decides to call for a case pending before an inquiry officer or inquiry committee and may pass appropriate orders such as giving directions, including replacement of Inquiry Officer.

9. Powers of the inquiry officer or inquiry committee.- (1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

10. Nothing in Regulations 8 and 9 shall apply in a case

- (a) where the accused is dismissed or removed from service, on the grounds of conduct which has led to a sentence of fine or of imprisonment; or

- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in lower post and pay scale, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

11. (1) Proceedings before or during training, scholarship and leave. - (I) In case where an employee who has been nominated for training or scholarship, is required to be proceeded against and he has not yet joined the training institute or institution, his nomination shall be withdrawn forthwith by the nominating authority under intimation to the training institute or institution concerned, whether such training institution is within the country or abroad.

(2) Such an accused submit bond on stamp paper that he would rejoin the service and the inquiry proceedings.

(3) In case where an employee on leave, is required to be proceeded against, his leave shall be cancelled by the authority and shall be called back from the leave to join the proceedings.

12. Duties of the departmental representative. (1) The departmental representative shall perform the following duties, namely:—

(a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;

(b) cross-examine the witnesses produced by the accused and with the permission of the inquiry officer or the inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and

(c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

(2) In case of failure to perform the assigned duties, the departmental representative shall be liable to disciplinary proceedings.

13. (1) Order to be passed on receipt of report from the inquiry officer or committee. On receipt of report from the inquiry officer or the Inquiry Committee, as the case may be, the authority shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these regulations.

(2) If the authority is satisfied that the inquiry has been conducted in accordance with the provisions of these regulations, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these regulations or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(4) The authority may in such case also require the inquiry officer or the inquiry committee, as the case may be, to explain as to why the inquiry has not been conducted in accordance with these regulations, or as to why the facts or merits of the case have been ignored and on the receipt of reply, may determine that the omission or commission by the inquiry officer or the inquiry committee, as the case may be, was not in good faith and there are grounds to proceed against the inquiry officer or inquiry committee, as the case may be, under these regulations.

(5) Where the charge or charges are not proved, the authority shall exonerate the accused by an order in writing.

(6) Where the charge or charges are determined to have been proved against the accused, the authority shall issue a show cause notice to the accused providing him there with a copy of inquiry report by which it shall—

(a) inform him of the charge or charges proved against him and the penalty or penalties proposed to be imposed upon him;

(b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in regulations 4. Penalty of dismissal from service, may not be imposed without affording him an opportunity of personal hearing:

Provided that the accused shall in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;

(7) After duly considering the reply of the accused to the show cause notice and affording personal hearing to the accused, as appropriate, the authority shall, keeping in view the findings and recommendations of the inquiry officer or the inquiry committee, as the case may be, facts Of the case and defence offered by the accused if requested, by an order in writing—

(a) exonerate the accused if charge or charges are not proved; or

(b) impose any one or more of the penalties specified in rule 4 if charges are proved:

Provided that—

(i) where charge or charges of grave corruption are proved against an accused the of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; and

(ii) where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.

(8) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the authority, shall decide the case within a period of thirty days, excluding the time during which the post held by the authority remained vacant due to certain reasons.

14. Personal hearing.—Notwithstanding the provisions contained in these regulations, the authority may, by an order in writing, call the accused and the departmental representative, along with relevant record of the case, to

appear before him, or before a hearing officer, who shall as far as possible be senior in rank to the accused, appointed by the authority for personal hearing on the fixed date and time.

15. Procedure of Disciplinary Proceedings where one or more than one category of employees, as per regulations 2(h) are involved;-

- (i) For employees of category 2(h)(ii) and (iv) procedure as per regulations 6 to 17 shall be followed.
- (ii) In case of more than one category of employees are involved the procedure shall be as under:-
 - a) The Competent Authority may order joint inquiry. Based on findings of inquiry by the Inquiry Officer, or Inquiry Committee, as the case may be, the disciplinary proceedings shall be initiated. One or more penalties as specified in regulations 4 shall be imposed by the relevant authority in case all categories are proved.
 - b) Executives and other employees of BoG 2h(i) shall be called upon to explain their position in regard to findings and recommendations of inquiry report. On receipt of reply the BoG may impose any of the penalty as per regulations 4B(d). Appeal may be filed to BoG against its decision for review.
 - c) Contract employees 2(v) the Competent Authority may impose any of the penalty under regulations 4(d).
 - d) Employees of category (ii) and (iv) any of the penalty or more than one penalties may be imposed as specified in regulations 4(d).
 - e) Category (iii) civil servants on deputation or detailment shall be called upon to explain as per findings of inquiry report. On receipt of their reply draft charge sheet along with recommendations and repatriation shall be sent to their parent department.

16. Appeal.—A civil servant on whom a penalty is imposed shall have such right of appeal provided for as under the Civil Servants (Appeal) Rules, 1977.

17. Appearance of counsel—No party to any proceedings under these rules at any stage of the proceedings before the appellate authority, authority, inquiry officer or any inquiry committee as the case may be, shall be represented by an advocate or counsel.

18. Provided that in case of misconduct and corruption an employee, apart from proceedings and penalties as per regulation 4, shall be ineligible to hold any administrative or executive post. This shall be applicable to the executive as well.

19. BoG, from time to time, may notify in respect of all the employees, except 2h(i) Executives and BoG employees, Competent Authority to initiate disciplinary proceedings, award penalties, first and second appellate authority as the case may be.