



## Dr. D. Y. PATIL VIDYAPEETH, PUNE

(Deemed to be University)

(Re-accredited by **NAAC** with a **CGPA** of **3.62** on a four point scale at '**A**' Grade)

**20<sup>th</sup>** rank in **Medical Category** and **46<sup>th</sup>** rank in **University Category** in India (**NIRF-2019**)

(Declared as **Category - I University** by UGC Under Graded Autonomy Regulations, 2018)

(An ISO 9001 : 2015 and 14001 : 2015 Certified University)



## GUIDELINES FOR THE INTERNAL COMPLAINTS COMMITTEE-2013

(AMENDED UP TO 2019)



### NOTIFICATION

Ref. No. : DPU/430C/2019  
Date : 06.05.2019

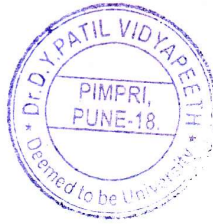
In pursuance of the resolution passed by the Board of Management at its meeting held on **12<sup>th</sup> April 2019**, in its resolution no. **BM-19 (iv) – 19** and the decision taken by the Vidyapeeth Authorities.

It is hereby notified for information of all concerned that the Dr. D. Y. Patil Vidyapeeth, Pune has published Guidelines for **Internal Complaints Committee**, for your information and record.

The revised guidelines comprises as follows;

- Definition of Sexual Harassment
- Preventive Measures
- Composition of Committee
- Complaint Mechanism
- Enquiry Procedure

The Guidelines for **Internal Complaints Committee** will serve as detailed guideline for the **Internal Complaints Committee** and will be useful to all the concerned. This will come into force with immediate effect.



*A. N. Suryakar*

**(Dr. A. N. Suryakar)**  
**Registrar**

**DR. D. Y. PATIL VIDYAPEETH, PUNE.**

Copy to;

1. P.S. to Chancellor for the Kind information of Hon'ble Chancellor, Dr. D. Y. Patil Vidyapeeth Pune.
2. P.S to Vice Chancellor for the Kind information of Hon'ble Vice Chancellor, Dr. D.Y.Patil Vidyapeeth Pune.
3. Director (IQAC)
4. All the Heads of the Institutes
5. Web master for uploading on website

Encl: as above

## I. Objective

The occurrence of sexual harassment in the workplace, any reference to sexism, gender stereotyping or gender based discrimination and need for healthy, safe environment for all workers including women has been taken note of and the Hon'ble Supreme Court has laid down guidelines for its prevention and deterrence in 1997. Whereas the sexual harassment results in violation of fundamental rights of a women to equality under Article 14 and 15 of the Constitution of India ("Constitution") and right to life and live with dignity under Article 21 of the Constitution and her right to practice any profession or to carry on any occupation, trade or business which includes right to safe working environment. The protection against sexual harassment and right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination Against Women ("Convention"), which has been ratified on 25th June, 1993 by the Government of India. Based on the guidelines framed by the Hon'ble Supreme court of India in Vishaka versus State of Rajasthan and the statute ratified vide Convention, the Government of India, Ministry of Law and Justice has constituted the "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("the Act") and made it effective from December 09, 2013.

In deference to the aforesaid guidelines, DPU is committed to providing and promoting a safe, healthy and congenial atmosphere irrespective of gender, caste, creed or social class of the employees. DPU in its endeavour to provide a safe and healthy work environment for all its employees has developed a policy to ensure zero tolerance towards verbal, physical, psychological conduct of a sexual nature by any employee or stakeholder that directly or indirectly harasses, disrupts or interferes with another's work performance or creates an intimidating, offensive or hostile environment such that each employee can realize his / her maximum potential.

This policy is meant to sensitize the employees about their fundamental right to have safe and healthy environment at their workplace and what conduct constitutes sexual harassment, the ways and means which we are adopting to prevent occurrence of any such event, and in the chance of an occurrence, to enable a fair mechanism for dealing with such conduct DPU has constituted an **Internal Complaint Committee ("ICC")** of DPU Infrastructure be referred to as the "Committee".

## II. Scope

The Prevention of Sexual Harassment Policy is applicable: -

- a) To all consultants and employees of DPU Infrastructure Finance Limited and DPU Equipment Finance Limited, which as per section 2 (f) of the Act, means any person who has been employed as regular, temporary, ad hoc or on daily wages basis either directly / through an agent / contractor (with/ without the knowledge of the principal employer, with or without remuneration / voluntary under express / implied terms of employment and shall include contract worker / probationer / apprentice / Executive Trainees / Management Trainees, etc. hereinafter defined as “Employees /Consultants”
- b) To employers, which as per section 2 (f) of the Act, shall mean any person authorized / designated to be the employer within the means of the Act by DPU.
- c) On office premises and all areas which can be termed as notional extension of employer’s premises. It also includes any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. The incident is covered during / after office hours.
- d) All the visitors & vendors associated with us & visiting any premises of the company, or whose premises our employees visit during the course of business. The ICC is required to enquire all Complaint made under the provisions of the Act and as per this Policy / guideline in just and fair manner and submit their report to the respective Employer (s), as the case may be. It is pertinent to mention that the Employer only has the right to punish any accused hereunder and ICC is an advisory body to meet the ends of justice. Any act of sexual behavior is included if such an act is perceived to be detrimental to a healthy and congenial work environment. This act is only applicable when both or either the alleged harasser i.e the Respondent (defined hereinafter) & a Person who has been subject to Sexual Harassment i.e the Complainant (defined hereinafter) are employees / consultants of the company. In the event any employee experiences any act of sexual harassment at any place other than its workplace and / or extended workplace, the Employer is obligated to provide all the assistance, support and help to the said employee for redressal of his / her Complaint.

### III. Guidelines

It is mandatory on all employees / consultants to follow this policy and the guidelines formulated herein. Sexual Harassment at the work place will be deemed to be a violation/breach of terms of employment, and a criminal offence in addition to violation of gender equality guaranteed under the constitution.

### IV. Definition of Sexual Harassment

For the purpose of this Policy, Sexual Harassment shall include:

1. Any form of verbal or physical behaviour which is unsolicited and unwelcome and interferes with an individual's work performance by creating an intimidating/insecure working environment. Unwelcome sexually determined behaviour (whether directly or by implication) in any form, such as:
  - a) Physical contacts and advances;
  - b) A demand or a request for sexual favours;
  - c) Sexually coloured remarks;
  - d) Showing pornography;
  - e) Any other unwelcome physical, verbal/non-verbal conduct of sexual nature.
2. Where any of these acts is committed in circumstances where the Complainant has a reasonable apprehension that in relation to the Complainant's employment or work whether drawing salary, or honorarium or voluntary, whether in public or private enterprise such conducts can be humiliating and may constitute a health and safety problem. This list is illustrative and not exhaustive and applicable irrespective of gender.

#### 3. Definitions for reference:

**Complainant:** can be a Person who has been subject to Sexual Harassment and / or any Person reporting an incident of Sexual Harassment. A third party can also be a Complainant, however, a written Complaint from the Person who has been subject to Sexual Harassment is mandatory to be filed with the ICC as the case may be.

**Respondent:** The person who is alleged / reported to have committed an act of Sexual Harassment.

## V. Preventive Measures

1. Each of the Committees will meet regularly. Minutes of the Meeting (“MoM”) of the same will be prepared and submitted on quarterly basis / as decided by the Committee to the Employer. The quorum for the meeting of the Committee would constitute of at least three members present in person or at least fifty percent of the total members of Committee whichever is higher.
2. At the end of every calendar Year an annual report containing all the details like number of Complaints filed, the stage of each Complaint and number of Complaints redressed will be prepared and furnished by the respective Employer, should be reported in their annual report.
3. Sensitization programmes / workshops would be organized, meetings would be convened for all employees as well as special meetings to be conducted with only the women employees by the ICC on a regular basis in order to do the following:
  - a) To sensitize employees about their right to have safe and healthy work environment
  - b) To spread awareness about same either by way of publication, advertisement or by convening meetings
  - c) To discuss with women employees on general issues involving challenges faced by them at work place, if any and workshops on various aspects of the Act
  - d) Increase awareness amongst employees and overcome the hesitation and discomfort in discussing issues involving Sexual Harassment at work place by convening meetings so that employees can come up in open and share their views and ideas;
  - e) The Committee would also assist Complainants if required to file a Complaint
4. Introduce a system to record names of employees who have to stay late (beyond 8PM) in office with reasons. Security on duty need to visit the work places every half an hour post 8 PM.
5. Maintain records of all sexual harassment cases and findings
6. Display penal provisions of sexual harassment

## **VI. Reporting of Sexual Harassment Complaints**

Any aggrieved person who feels / presumes that he / she has been subject to sexual harassment by a person, including a supervisor, manager, employee of other organisation or vendor by way of any action or words should immediately report or complain the incident to the ICC as set forth below as the case may be or to any member of ICC within three months from the date of occurrence of the said incident and in case of a series of incidents within a period of three months from the date of the last incident. Delay in reporting makes it more difficult to establish the facts of a case and may contribute to the repetition of offensive behavior. If a Complaint cannot be made in writing, any member of the ICC as the case may be shall render all reasonable assistance to the aggrieved person for making the Complaint in writing.

## **VII. Confidentiality**

The company will do everything consistent with enforcement of this policy and with the law to protect the privacy of the individuals involved and to ensure that the Complainant and the Respondent are treated fairly. Information about individual Complaints and their disposition is considered confidential and will be shared only on a “need to know” basis. However, the ICC members and / or Employer shall not be held responsible under present confidentiality clause in the event the Complaint is filed by a third party and / or material facts with regard to Complaint are already known to other persons / individuals.

Further, once the Complaint is redressed by the ICC, as the case may be the Employee should share the information with all employees with regard to the filing, redressal and disposal of the Complaint in a fair and timely manner without disclosing name of the Complainant and Respondent.

## **VIII. Assurance against Retaliation**

This policy seeks to encourage all employees to express freely, responsibly, and in an orderly way opinions and feelings about any problem or Complaint of sexual harassment. Retaliation against persons who report or provide information about sexual harassment or behaviour that might constitute sexual harassment is also strictly prohibited. Any act of reprisal, including internal interference, coercion, and restraint, by an employee, violates this policy and will result in appropriate disciplinary actions. Such disciplinary action will be proposed by the Committee as per the provisions of the Act and as per this Policy / guideline and on the recommendation of the respective Committee the Employer, as the case may be would ensure implementation of same.

## **IX. Complaint Reporting Channel**

### **Internal Complaints Committee (“ICC”)**

#### **Composition: As per the Scheduled hereunder:**

1. A Complaint should be made in writing.
2. Each member of the Committee will hold office for not more than three years.
3. ICC Committee is mandatorily required to involve an external member (a senior member of an NGO or other body who is familiar with the issues of sexual harassment) during the enquiry of Complaint(s) and formalization of the Report in connection therewith. Provided one-half of the total member so nominated shall be women.
4. In the ICC not less than two members from amongst employees preferably committed to cause of women or who have had experience in social work or have legal knowledge.

## **X. Complaint Mechanism**

1. A Person who has been subject to Sexual Harassment may make in writing a Complaint of sexual harassment at workplace to the Committee within a period of three months from the date of incidence and in case of series of incidences within a period of three months from the date of last incidence. Provided that where such Complaint cannot be made in writing, the presiding Chairperson or any member of the ICC or the chairperson shall render all reasonable assistance to the Complainant for making the Complaint in writing.
2. If the Committee is satisfied that the circumstances were such that prevented the Complainant from filling the Complaint within said period they can extend the time limit not exceeding three months.
3. The Complainant is required to send the written Complaint to the ICC either by way of copies of the letter detailing Complaint. The Complainant may also email the Complaint to a Committee member. The Complaint may be made in the format provided in Schedule B, herein or in such manner containing all the information as provided in Schedule B.



4. It is pertinent to mention that the written Complaint is mandatorily required to be filed by the Complainant with full name and details for seeking any action under this Policy and / or the Act. Any anonymous Complaint shall not be entertained.
5. Where the Complainant is unable to file the Complaint of their own, their legal heirs or parents, spouse, children or sibling can file the Complaint.
6. A third party can also be a Complainant however, a written Complaint from the Person who has been subject to Sexual Harassment is mandatory to be filed with the ICC as the case may be.
7. Both written / emailed Complaint must provide the details of the incident together with the name/s of the Respondent/s and the Complainant/s as available.

#### **Conciliation and Settlement**

Before initiating an inquiry, the ICC may, at the request of the aggrieved woman, take steps to arrive at a settlement between the parties. However, no monetary settlement can be made as the basis of such conciliation (Sec. 10(1))

#### **XI. Enquiry Procedure**

1. A timely enquiry of Complaints of sexual harassment is of utmost importance. Normally, the enquiry shall be concluded and acted upon at the earliest from the date of the Complaint being made in writing.
2. The ICC, as the case may be will conduct an enquiry and provide an opportunity to the Complainant as well as the Respondent to represent their case and explanations/ reasoning thereto.
3. In the event any Complaint is received, the following procedure shall be followed by the ICC:
  - a) An enquiry is initiated through the members of ICC, as the case may be as advised by the Chairperson at the earliest after receiving the Complaint in writing / email.

- b) The enquiry seeking detailed information / explanation/ reasoning will be conducted with the Complainant as well as Respondent independently by the ICC.
- c) The enquiry proceedings convened by ICC should always be minuted and / or video recorded and same to be saved and maintained for records by the ICC as the case may be. The proceedings of the enquiry (while the witness makes his/ her submission) should be recorded on camera.
- d) On submission of report the ICC shall consider the report at the earliest and, on being satisfied for the need, may order full enquiry into the Complaint.
- e) It is important to mention herein that the ICC on receipt of any Complaint from the Complainant should upfront seek his / her expectation from the ICC with regard to Complaint and the ICC should also brief the Complainant about the option of conciliation available to him / her with the Respondent, if so desired by the Complainant. However, once the enquiry is initiated the option of conciliation cease to exist.
- f) The ICC will study the findings and shall then proceed to deal with the Complaint in accordance with the Policy and the Act and redress the Complaint within ninety (90) days from the date of receipt of the Complaint and accordingly submit its detailed finding and advise in connection with the Complaint to the respective Employer, as the case may be.
- g) However, the ICC may close the enquiry and / or is not required to initiate same in the event the Complainant fails to appear before the ICC and / or fails to revert to the query(s) raised by the ICC for three consecutive events. The ICC shall record the reasons for closure of the Complaint accordingly. Further, in the event the Respondent deliberately avoids his / her appearance before the ICC, the employer or any person so appointed by the employer should direct / instruct the Respondent to appear before the ICC.
- h) Thereafter, the ICC will present the decision including handover of all the collected material i.e. the duly signed statement of the Complainant, Respondent, witnesses, involved parties and material objects if any along with recommendation to the HR head of respective business.
- i) In the event that there are no eyewitnesses, the ICC may have to resolve a sexual harassment claim based on the credibility of the

parties. Circumstantial evidence also would play important role during the decision making process by the Committee.

- j) The employer may seek clarification from the ICC on the recommendation and will implement the same.
- k) The final decision shall be communicated to the Complainant and the Respondent.
- l) An enquiry in connection with any Complaint may be initiated / continued irrespective of the fact that police proceeding has also been initiated in connection with the said Complaint.

## **XII. Procedure of Submission**

The enquiry Committee / Member/s of the Committee should be prepared to deal with the Complainant's embarrassment and anger by patiently, but firmly, explaining the detail and documentation that are needed for an accurate enquiry.

1. The Complainant should be interviewed first, to ensure that all important details and witnesses are identified promptly and if any material object is provided the same should be received, numbered and preserved.
2. It is important for the ICC to be objective and non-judgmental and allow the Respondent to respond to each allegation. The ICC should inform the Respondent of the type of disciplinary action that may be taken if the Complaints are found to be true.
3. Both parties should be told to avoid contact with one another, and ways to minimize contact should be implemented.
4. In the event the Complainant has filed a Complaint against his / her reporting manager or any person placed high on hierarchy then during the course of enquiry the Complainant may:
  - a) Either seek a transfer;
  - OR
  - b) Take leave from employment for a maximum period of 3 months.
5. The Complainant should report any further incidents of harassment or retaliation during the continuance of enquiry.

6. Witnesses should be told as little as possible about the details of the Complaint in order to maintain confidentiality under the Policy.

### **XIII. Criminal Proceedings**

1. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the respective Employer (as the case may be) based on the findings and advice of the ICC may initiate appropriate action in accordance with law by making a Complaint with the appropriate authorities. Detailed list of penal section involving sexual harassment is provided in Schedule C, herein.
2. The ICC would provide assistance to the aggrieved if they chose to file Complaint under the Indian Penal Code.
3. The ICC would ensure that Complainants or witnesses are not victimized or discriminated against while dealing with Complaints of sexual harassment.

### **XIV. Mala Fide Complaints**

1. If the enquiry reveals that the Complaint is unjustified or Complainant had raised the concern with ulterior motives, Employer or any person duly authorized by the Employer will counsel the Complainant and recommend suitable action to prevent recurrence.
2. However, the Employer or any person duly authorized by the Employer will ensure that the Complainant is not victimized.
3. Requisite penal actions, as mentioned in Schedule C may be invoked against Mala Fide Complainant.

### **XV. Professional Consequences of Violation of the Policy**

1. Any employee, supervisor or manager who is found to have violated the harassment policy (whether sexually harassing another employee of opposite sex or the same sex or if any person falsely accuses another person of sexual harassment) shall be subject to appropriate disciplinary action.
2. In the event any criminal proceedings are initiated the matter may be referred to Group Head Legal or such other person as may be authorized by the Employer.

3. The organization shall not tolerate any form of retaliation against employees for bringing bonafide Complaints or providing information about harassment.
4. However, as per the findings of the enquiry of a Complaint it is found out that the Complaint was false or was made with a mala fide intent, the Complainant may be subject to disciplinary actions, up to and including termination.
5. If any act of sexual harassment occurs as a result of an act or omission by any third party or outsider, the respective Employer will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

## **XVI. Conclusion**

At DPU, we endeavor to provide conducive and healthy work environment where the relationship amongst the employees as well as with the Employer are cordial and supporting in all aspects, so that each employee shall have an enriching experience. The objective of this policy is to ensure our employees that DPU is determined to provide them excellent, comfortable, safe and healthy work environment, so that they can come out with their best in all facets.

**\* Notwithstanding anything contained in this Policy, the Schedules herein shall be an integral part of this Policy.**

## CODE OF CONDUCT FOR WORK PLACE\*

Sexual harassment is a serious criminal offense which can destroy human dignity and freedom. In an effort to promote the well being of all woman employees at the work place the following code of conduct has been prescribed :-

1. It shall be duty of the employer to prevent or deter the commission of any act of sexual harassment at the work place.
2. Sexual harassment will include such unwelcome sexually determined behaviour by any person either individually or in association with other persons or by any person in authority whether directly or by implication such as :-
  - (i) Eve-teasing
  - (ii) Unsavoury remarks
  - (iii) Jokes causing or likely to cause awkwardness or embarrassment
  - (iv) Innuendos and taunts
  - (v) Gender based insults or sexist remarks
  - (vi) Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like
  - (vii) Touching or brusing against any part of the body and the like
  - (viii) Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings.
  - (ix) Forcible physical touch or molestation
  - (x) Physical confinement against one's will and any other act likely to violate one privacy

and includes any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the work place hostile or intimidating to person belonging to the other sex, only on the ground of sex.

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\* in accordance with the Supreme Court Judgement on " Sexual Harassment of Women at Workplace in Vishaka & other Vs. State of Rajasthan & others (AIR 1997 SC 3011)

**Explanation :-** Where any comment, act or conduct is committed against any person and such person has a reasonable apprehension that,

1. It can be humiliating and may constitute a health and safety problem, or
2. It is discriminatory, as for instance, when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or study, including or promotion or advancement or when it creates a hostile environment, or
3. It would result in adverse consequences if she does not consent to the conduct or raises any objection, it shall be deemed to be sexual harassment.

3. **Eve-Teasing :-**

Eve-teasing will include any person willfully and indecently exposing his person in such a manner as to be seen by other employees or use indecent language or behave indecently or in a disorderly manner in the work place. It will also include any word, gesture or act intended to insult the modesty of a woman by making any sound or gesture or exhibit any object intending that such word or sound shall be heard or that such gesture or object shall be seen by such women or intrudes upon the privacy of a woman employee.

4. Sexual harassment of an employee means use of authority by any person in charge of the management or any person employed by it to exploit the sexuality or sexual identity of a subordinate employee to harass her in a manner which prevents or impairs the employee's full utilisation of employment benefits or opportunities . It also includes behaviour that covertly or overtly uses the power inherent in the status of the employer or the head of the institution or management to affect negatively an employee's work experience or career opportunities and/or to threaten, coerce or intimidate an employee to accept sexual advances or making employment decision affecting the individual or create an intimidating, hostile or offensive working environment.
5. It shall be the duty of the employer to prevent or deter the committing of any act of sexual harassment at the work place.
6. All employers should take appropriate steps to prevent sexual harassment of any nature. Express prohibition of sexual harassment should be notified at the

work place and also published for the general information of the employees and evaluated in an appropriate manner periodically.

7. Appropriate working conditions should be provided in respect of work, leisure, health and hygiene to ensure that there is no hostile environment towards women at the work place and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment in that organisation.
8. Women employees should not be treated as sex objects.
9. No male employee shall outrage or insult the modesty of a female employee at the work place.
10. No male employee shall make any type of sexual advances to woman colleagues or woman subordinates.
11. The head of the organisation shall constitute a Complaints Committee as specified in the Judgement of the Supreme Court, i.e., the Committee should be headed by a woman and not less than half of its members should be women. Further to prevent the possibility of any undue pressure or influence from senior levels such Complaints Committee should involve a third party either a non-government organisation or other body who is familiar with the issue of sexual harassment.
12. **Conducting enquiry by the Complaints Committee :-**
  - (i) Any person aggrieved shall prefer a complaint before the Complaints Committee at the earliest point of time and in any case within 15 days from the date of occurrence of the alleged incident.
  - (ii) The complaint shall contain all the material and relevant details concerning the alleged sexual harassment including the names of the contravenor and the complaint shall be addressed to the Complaints Committee.
  - (iii) If the complainant feels that she cannot disclose her identity for any particular reason the complainant shall address the complaint to the head of the organisation and hand over the same in person or in a sealed cover. Upon receipt of such complaint the head of the organisation shall



retain the original complaint with himself and send to the Complaints Committee a gist of the complaint containing all material and relevant details other than the name of the complainant and other details which might disclose the identity of the complainant.

13. The Complaints Committee shall take immediate necessary action to cause an enquiry to be made discreetly or hold an enquiry, if necessary.
14. The Complaints Committee shall after examination of the complaint submit its recommendations to the head of the organisation recommending the penalty to be imposed.
15. The head of the organisation, upon receipt of the report from the Complaints Committee shall after giving an opportunity of being heard to the person complained against submit the case with the Committee's recommendations to the management.
16. The Management of the Organisation shall confirm with or without modification the penalty recommended after duly following the prescribed procedure.
17. **Disciplinary Action :**

Where the conduct of an employee amounts to misconduct in employment as defined in the relevant service rules the employer should initiate appropriate disciplinary action in accordance with the relevant rules.

18. **Worker's Initiative :**

Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate fora and it should be affirmatively discussed in periodical employer-employee meetings.

19. **Third Party harassment :**

Where sexual harassment occurs as a result of an act or omission by any third party or outsider the employer and the persons incharge shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

# **The sexual harassment of women at workplace (prevention, prohibition and redressal ) Act, 2013**

## **Preamble and background**

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**Object behind the act:** "No woman shall be subjected to sexual harassment at any workplace" (clause 3.1)

### **Introduction:**

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

## Background and provisions

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The Act will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realization of their right to gender equality, life and liberty and equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth.

The Act uses a definition of sexual harassment which was laid down by the Supreme Court of India in Vishaka v. State of Rajasthan (1997). Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choosing or to practice their own trade or business. Vishaka v. State of Rajasthan established that actions resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' are in fact a violation of the victim's fundamental right under Article 19 (1) g. The case ruling establishes that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury.

Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to **Rs.50,000/-**.

## Major Features

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- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organized or unorganized sectors, public or private and covers clients, customers and domestic workers as well.
- While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organizations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.<sup>[16]</sup>
- The Committee is required to complete the inquiry within a time period of **90 days**. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within **60 days**.

- Every employer is required to constitute an **Internal Complaints Committee** at each office or branch with 10 or more employees. The District Officer is required to constitute a **Local Complaints Committee** at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000/-. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business.

## **Penal Code:**

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### **Main article:**

Through the Criminal Law (Amendment) Act, 2013, Section 354 was added to the Indian Penal Code that stipulates what consists of a sexual harassment offence and what the penalties shall be for a man committing such an offence. Penalties range from one to three years imprisonment and/or a fine. Additionally, with sexual harassment being a crime, employers are obligated to report offences.

**For the False complaint:** The burden of proof is on the women who complain of harassment. If found guilty of making a false complaint or giving false evidence, she could be prosecuted.

### **Briefing:**

- Sexual harassment in workplace is a serious irritating factor that renders women's involvement in works unsafe and affects right to work with dignity.
- It is unwelcome verbal, visual or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment. Generally sexual harassment is a sexually oriented conduct that may endanger the victim's job, negatively affect the victim's job performance or undermine the victim's personal dignity.
- It may manifest itself physically or psychologically. Its milder and subtle forms may imply verbal innuendo, inappropriate affectionate gestures or propositions for dates and sexual favours. However it may also assume blatant and ugly forms like leering, physical grabbing and sexual assault or sexual molestation.
- To fit in the concept of sexual harassment the relevant conduct must be unwelcome. That is unwelcome to the recipient of that conduct. Conduct is not sexual harassment if it is welcome. So in order to determine if the conduct was welcome or unwelcome, Courts

would naturally look to the complainant's reaction at the time the incident occurred and assess whether the complainant expressly, or by his or her behaviour demonstrated that the conduct was unwelcome.

- If the evidence shows that the complainant welcomed the conduct the complaint of sexual harassment would fail. For this reason, it is important to communicate (verbally, in writing, or by your own actions) to the harasser that the conduct makes you uncomfortable and that you want it to stop.

## **Background :**

### **Supreme Court guidelines on sexual harassment- A quick recap**

The Supreme Court in *Vishaka v. State of Rajasthan* for the first time recognized, acknowledged and explicitly defined sexual harassment as an – unwelcome sexual gesture or behaviour aimed or having a tendency to outrage the modesty of woman directly or indirectly.

Defining sexual harassment as an act aimed towards gender based discrimination that affects women's right to life and livelihood, the Supreme Court developed broad based guidelines for employers. This mandatory guidelines known as Vishaka guidelines are aimed towards resolution and prevention of sexual harassment. These guidelines bring in its purview all employers in organized and unorganized sectors by holding them responsible for providing safe work environment for women.

The Vishaka guidelines apply to all women whether students, working part time or full time, on contract or in voluntary/honorary capacity. Expressly prohibiting sexual harassment at work place these legally binding guidelines put a lot of emphasis on appropriate preventive and curative measures. (The guidelines include the following as acts of sexual harassment: Physical contact and advances, Showing pornography, a demand or request for sexual favours, Any other unwelcome physical, verbal/non-verbal – such as whistling, obscene jokes, comments about physical appearances, threats, innuendos, gender based derogatory remarks, etc.)

Some of the important guidelines are:

- The onus to provide a harassment free work environment has been laid down on the employers who are required to take the following steps:
- Employers must form a Complaints Committee.
- Express prohibition of sexual harassment in any form and make the employees aware of the implications through in house communication system / posters / meetings.
- Must include prohibition of sexual harassment with appropriate penalties against the offender in Conduct rules.
- Prohibition of sexual harassment in the standing orders under the Industrial Employment (Standing Orders) Act, 1946 to be included by private employers.
- Provision of appropriate work conditions in respect of- work, leisure, health, hygiene to further ensure that there is no hostile environment towards women.
- No woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

- Victims of sexual harassment to be given an option to seek transfer of the perpetrator or their own transfer.

Thus the Vishaka guidelines stipulated that all organisations would form a complaints committee to look into any such allegation. It would be headed by a woman employee and not less than half of its members would be women. All complaints of sexual harassment by any woman employee would be directed to this committee. The committee would advise the victim on further course of action and recommend to the management the course of action against the person accused of harassment.

However in *Medha Kotwal Lele v Union of India* coordinator of Aalochana, a centre for documentation and research on women and other women's rights groups, together with others, petitioned the Court highlighting a number of individual cases of sexual harassment and arguing that the Vishaka Guidelines were not being effectively implemented. In particular, the petitioners argued that, despite the guidelines, women continued to be harassed in the workplace because the Vishaka Guidelines were being breached in both substance and spirit by state functionaries who harass women workers via legal and extra legal means, making them suffer and by insulting their dignity.

The Court stated that the Vishaka Guidelines had to be implemented in form, substance and spirit in order to help bring gender parity by ensuring women can work with dignity, decency and due respect. It noted that the Vishaka Guidelines require both employers and other responsible persons or institutions to observe them and to help prevent sexual harassment of women. The Court held that a number of states were falling short in this regard. It referred back to its earlier findings on 17 January 2006, that the Vishaka Guidelines had not been properly implemented by various States and Departments in India and referred to the direction it provided on that occasion to help to achieve better coordination and implementation. The Court went on to note that some states appeared not to have implemented earlier Court decisions which had required them to make their legislation compliant with the Vishaka Guidelines.

### **Salient features of the Act:**

- The Act has in fact sought to widen the scope of the guidelines issued by the Supreme Court by bringing within its ambit (amongst other things) a "domestic worker" (Sec 2e) defined to mean a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer.
- The Act has defined "sexual harassment" (Sec. 2n) to include any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: (i) physical contact and advances; (ii) a demand or request for sexual favours; (iii) making sexually coloured remarks; (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature. Further, the following may also amount to sexual harassment: (i) implied or explicit promise of preferential treatment; (ii) implied or explicit threat of detrimental treatment; (iii) implied or explicit threat about present or future employment status; (iv) interference with work or creating an

intimidating or offensive or hostile work environment; or (v) humiliating treatment likely to affect health or safety.

- The term ‘employee’ (Sec. 2f) includes regular, temporary, ad hoc, daily wage employees and persons who are working on a voluntary basis i.e. without remuneration. The term also includes contract workers, probationers, and trainees. The Act defines “aggrieved woman” (Sec. 2a) to mean: (i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent; (ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house.
- As per the Act workplace (Sec.2o) includes:
  - (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
  - (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
  - (iii) hospitals or nursing homes;
  - (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
  - (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
  - (vi) a dwelling place or a house.
- **Complaint mechanisms under the 2013 Act**
  - ❖ The Act contemplates the constitution of Internal Complaints Committee (“ICC”) (Sec. 4) at the work place
  - ❖ Every workplace employing 10 or more employees is required to constitute an ICC.
  - ❖ The ICC is required to consist of at least four members, and its presiding officer is required to be a woman employed at a senior level. Provisions have been made in case no senior woman employee is available, to nominate a woman presiding officer from another office, administrative unit, workplace, or organisation.
  - ❖ Further, one half of the members must be women..

➤ **Steps involved in the Complaint Process –Empowerment?**

❖ **Step I**

A complaint is to be made in writing by an aggrieved woman within 3 months of the date of the incident. The time limit may be extended for a further period of 3 months if, on account of certain circumstances, the woman was prevented from filing the complaint. If the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death, her legal heirs may do so.

❖ **Step II**

Upon receipt of the complaint, the ICC must proceed to make an inquiry in accordance with the service rules applicable to the respondent or in their absence, in accordance with rules framed under the Act.

❖ **Step III**

The inquiry must be completed within a period of 90 days. In case of a complaint by a domestic worker, if in the opinion of the ICC a prima facie case exists, the ICC is required to forward the complaint to the police to register a case under the relevant provisions of the Indian Penal Code.

❖ **Step IV**

Where the ICC finds that the allegations against the respondent are proven, it must submit a report to the employer to: (i) take action for sexual harassment as a misconduct in accordance with the provisions of the applicable service rules or where no service rules exist, in accordance with rules framed under the Act; (ii) to deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.

❖ **Step V**

The employer must act on these recommendations within 60 days.

❖ **Scope for Conciliation and Settlement**

Before initiating an inquiry, the ICC may, at the request of the aggrieved woman, take steps to arrive at a settlement between the parties. However, no monetary settlement can be made as the basis of such conciliation (Sec. 10(1))

❖ In case the ICC is of the view that a malicious or false complaint has been made, it may recommend that a penalty be levied on the complainant in accordance with the applicable service rules (Section – 14). However, an inquiry must be also made. Mere inability to substantiate a complaint will not attract action under this provision.



❖ **The Duties of an Employer**

The Act makes it the duty of every employer to:

- a) provide a safe working environment at the workplace which shall include safety from all the persons with whom a woman comes into contact at the workplace;
- b) display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting the ICC;
- c) organise workshops and awareness programmes; d) provide necessary facilities to the ICC for dealing with complaints and conducting inquiries;
- e) assist in securing the attendance of the respondent and witnesses before the ICC;
- f) make available such information to the ICC , as it may require;
- g) provide assistance to the woman if she so chooses to file a criminal complaint;
- h) initiate criminal action against the perpetrator;
- i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct; and
- j) monitor the timely submission of reports by the ICC.

❖ **Penalties**

Where the employer fails to comply with the provisions of the Act, he shall be liable to be punished with a fine which may extend to Rs. 50,000. In case of a second or subsequent conviction under this Act, the employer may be punished with twice the punishment prescribed or by cancellation of his licence or withdrawal of his registration.

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The Gazette of India

EXTRAORDINARY

PART III—Section 4

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NEW DELHI, MONDAY, MAY 2, 2016/ VAISAKHA 12, 1938

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT**

(University Grants Commission)

**NOTIFICATION**

New Delhi, the 2nd May, 2016

**University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015**

**No. F. 91-1/2013(TFGS).**—In exercise of the powers conferred by clause (g) of sub-section (1) of section 26 of the University Grants Commission Act, 1956 (3 of 1956), read with sub-section (1) of Section 20 of the said Act, the University Grants Commission hereby makes the following regulations, namely:-

1. **Short title, application and commencement.**—(1) These regulations may be called the University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015.
  - (2) They shall apply to all higher educational institutions in India.
  - (3) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions.**—In these regulations, unless the context otherwise requires,-
  - (a) "aggrieved woman" means in relation to work place, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
  - (b) 'Act' means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
  - (c) "campus" means the location or the land on which a Higher Educational Institution and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centres, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centres, canteens, Bank counters, etc., are situated and also includes extended campus and covers within its scope places visited as a student of the HEI including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution on field trips, internships, study tours, excursions, short- term placements, places used for camps , cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of the HEI;

- (d) "Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956);
- (e) "covered individuals" are persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or a fellow student or guardian of the offended person;
- (f) "employee" means a person as defined in the Act and also includes, for the purposes of these Regulations trainee, apprentice (or called by any other name), interns, volunteers, teacher assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps;
- (g) "Executive Authority" means the chief executive authority of the HEI, by whatever name called, in which the general administration of the HEI is vested. For public funded institutions the Executive Authority means the Disciplinary Authority as indicated in Central Civil Services (Classification, Control and Appeal) Rules, 1965 or its equivalent rules;
- (h) "Higher Educational Institution" (HEI) means a university within the meaning of clause (j) of section 2, a college within the meaning of clause(b) of sub-section (1) of section 12A and an institution deemed to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956);
- (i) "Internal Complaints Committee" (ICC) means Internal Complaints Committee to be constituted by an HEI under sub regulation (1) of regulation 4 of these regulations. Any existing body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC;

Provided that in the latter case the HEI shall ensure that the constitution of such a Body is as required for ICC under these regulations. Provided further that such a Body shall be bound by the provisions of these regulations;

- (j) "protected activity" includes reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation;
- (k) "sexual harassment" means-
- (i) "An unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication), namely;-
- (a) any unwelcome physical, verbal or non verbal conduct of sexual nature;
- (b) demand or request for sexual favours;
- (c) making sexually coloured remarks
- (d) physical contact and advances; or
- (e) showing pornography"
- (ii) any one (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-
- (a) implied or explicit promise of preferential treatment as quid pro quo for sexual favours;
- (b) implied or explicit threat of detrimental treatment in the conduct of work;
- (c) implied or explicit threat about the present or future status of the person concerned;
- (d) creating an intimidating offensive or hostile learning environment;
- (e) humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned;

- (l) “student” means a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short-term training programmes in a HEI;  
 Provided that a student who is in the process of taking admission in HEIs campus, although not yet admitted, shall be treated, for the purposes of these regulations, as a student of that HEI, where any incident of sexual harassment takes place against such student;  
 Provided that a student who is a participant in any of the activities in a HEI other than the HEI where such student is enrolled shall be treated, for the purposes of these regulations, as a student of that HEI where any incident of sexual harassment takes place against such student;
- (m) “third Party Harassment” refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of the HEI, but a visitor to the HEI in some other capacity or for some other purpose or reason;
- (n) “victimisation” means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour;
- (o) “workplace” means the campus of a HEI including-
- (a) Any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate HEIs;
  - (b) Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereof in HEIs;
  - (c) Any place visited by the employee or student arising out of or during the course of employment or study including transportation provided by the Executive Authority for undertaking such journey for study in HEIs.’

**3. Responsibilities of the Higher Educational Institution- (1) Every HEI shall,-**

- (a) Wherever required, appropriately subsume the spirit of the above definitions in its policy and regulations on prevention and prohibition of sexual harassment against the employees and the students, and modify its ordinances and rules in consonance with the requirements of the Regulations;
- (b) publicly notify the provisions against sexual harassment and ensure their wide dissemination;
- (c) organise training programmes or as the case may be, workshops for the officers, functionaries, faculty and students, as indicated in the SAKSHAM Report (Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses) of the Commission, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;
- (d) act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
- (e) publicly commit itself to a zero tolerance policy towards sexual harassment;
- (f) reinforce its commitment to creating its campus free from discrimination, harassment, retaliation or sexual assault at all levels;
- (g) create awareness about what constitutes sexual harassment including hostile environment harassment and quid pro quo harassment;
- (h) include in its prospectus and display prominently at conspicuous places or Notice Boards the penalty and consequences of sexual harassment and make all sections of the institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual

harassment, contact details of members of Internal Complaints Committee , complaints procedure and so on. Any existing body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC; Provided that in the latter case the HEI shall ensure that the constitution of such a Body is as required for ICC under these regulations. Provided further that such a Body shall be bound by the provisions of these regulations;

- (i) inform employees and students of the recourse available to them if they are victims of sexual harassment;
- (j) organise regular orientation or training programmes for the members of the ICC to deal with complaints, steer the process of settlement or conciliation, etc., with sensitivity;
- (k) proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within HEIs or owing to intimate partner violence or from peers or from elements outside of the geographical limits of the HEI;
- (l) be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC to curb and prevent sexual harassment on its campus;
- (m) treat sexual harassment as a misconduct under service rules and initiate action for misconduct if the perpetrator is an employee;
- (n) treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion) if the perpetrator is a student;
- (o) ensure compliance with the provisions of these regulations, including appointment of ICC, within a period of sixty days from the date of publication of these regulations;
- (p) monitor the timely submission of reports by the ICC;
- (q) prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Commission.

3.2 **Supportive measures.**—(1) The rules, regulations or any such other instrument by which ICC shall function have to be updated and revised from time-to-time, as court judgments and other laws and rules will continue to revise the legal framework within which the Act is to be implemented.

(2) The Executive Authority of the HEIs must mandatorily extend full support to see that the recommendations of the ICC are implemented in a timely manner. All possible institutional resources must be given to the functioning of the ICC, including office and building infrastructure (computers, photocopiers, audio-video, equipment, etc.), staff (typists, counselling and legal services) as, well as a sufficient allocation of financial resources.

(3) Vulnerable groups are particularly prone to harassment and also find it more difficult to complain. Vulnerability can be socially compounded by region, class, caste, sexual orientation, minority identity and by being differently abled. Enabling committees must be sensitive to such vulnerabilities and special needs.

(4) Since research students and doctoral candidates are particularly vulnerable the HEIs must ensure that the guidelines for ethics for Research Supervision are put in place.

(5) All HEIs must conduct a regular and half yearly review of the efficacy and implementation of their anti-sexual harassment policy.

(6) All Academic Staff Colleges (now known as Human Resource Development Centres (HRDCs) and Regional Centres for Capacity Building (RCCBs) must incorporate sessions on gender in their orientation and refresher courses. This should be across disciplines, and preferably mainstreamed using the UGC SAKSHAM Report which provides indicative modules in this regard.

(7) Orientation courses for administrators conducted in HEIs must have a module on gender sensitization and sexual harassment issues. Regular workshops are to be conducted for all sections of the HEI community.

(8) Counselling services must be institutionalised in all HEIs and must have well trained full-time counsellors.

(9) Many HEIs having large campuses have a deficit in lighting and are experienced as unsafe places by the institutional community. Adequate lighting is a necessary aspect of infrastructure and maintenance.

(10) Adequate and well trained security including a good proportion or balance of women security staff is necessary. Security staff must receive gender sensitization training as a part of conditions of appointment.

(11) HEIs must ensure reliable public transport, especially within large campuses between different sections of the HEI, hostels, libraries, laboratories and main buildings, and especially those that do not have good access for day scholars. Lack of safety as well as harassment is exacerbated when employees and students cannot depend on safe public transport. Reliable transport may be considered by HEIs to enable employees and students to work late in libraries, laboratories and to attend programmes in the evenings.

(12) Residential HEIs should accord priority to construction of women's hostels. For the growing population of young women wishing to access higher education, hostel accommodation is desirable in both urban and rural areas and at all levels of higher education which provides a modicum of protection from harassment of all kinds.

(13) Concern for the safety of women students must not be cited to impose discriminatory rules for women in the hostels as compared to male students. Campus safety policies should not result in securitization, such as over monitoring or policing or curtailing the freedom of movement, especially for women employees and students.

(14) Adequate health facilities are equally mandatory for all HEIs. In the case of women this must include gender sensitive doctors and nurses, as well as the services of a gynaecologist.

(15) The Women's Development Cells in colleges shall be revived and funded to be able to carry out the range of activities required for gender sensitization and remain autonomous of the functioning of anti sexual harassment committees and ICCs. At the same time they shall extend their activities to include gender sensitization programmes in consultation with ICCs and help to disseminate anti-sexual harassment policies on campuses on a regular basis. The 'cultural' space and the 'formal academic space' need to collaborate to render these workshops innovative, engaging and non-mechanical.

(16) Hostel Wardens, Provosts, Principals, Vice Chancellors, Legal Officers and other functionaries must be brought within the domain of accountability through amendments in the rules or Ordinances where necessary.

**4. Grievance redressal mechanism.—**(1) Every Executive Authority shall constitute an Internal Complaints Committee (ICC) with an inbuilt mechanism for gender sensitization against sexual harassment. The ICC shall have the following composition:-

- (a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below a Professor in case of a university, and not below an Associate Professor or Reader in case of a college) at the educational institution, nominated by the Executive Authority;

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(o);

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;”

- (b) two faculty members and two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority;
- (c) Three students, **if the matter involves students**, who shall be enrolled at the undergraduate, master’s, and research scholar levels respectively, elected through transparent democratic procedure;
- (d) one member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.

- (2) At least one-half of the total members of the ICC shall be women.
- (3) Persons in senior administrative positions in the HEI, such as Vice- Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.
- (4) The term of office of the members of the ICC shall be for a period of three years. HEIs may also employ a system whereby one –third of the members of the ICC may change every year.
- (5) The Member appointed form amongst the non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.
- (6) Where the Presiding Officer or any member of the Internal Committee:
  - (a) contravenes the provisions of section 16 of the Act; or
  - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
  - (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
  - (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.”

**5. Responsibilities of Internal Complaints Committee (ICC) - The Internal Complaints Committee shall:**

- (a) provide assistance if an employee or a student chooses to file a complaint with the police;

- (b) provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation or violence;
- (c) protect the safety of the complainant by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the offender;
- (d) ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment; and
- (e) ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

**6. The process for making complaint and conducting Inquiry** – The ICC shall comply with the procedure prescribed in these Regulations and the Act, for making a complaint and inquiring into the complaint in a time bound manner. The HEI shall provide all necessary facilities to the ICC to conduct the inquiry expeditiously and with required privacy

**7. Process of making complaint of sexual harassment** - An aggrieved person is required to submit a written complaint to the ICC within three months from the date of the incident and in case of a series of incidents within a period of three months from the date of the last incident.

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee shall render all reasonable assistance to the person for making the complaint in writing;

Provided further that the ICC may, for the reasons to be accorded in the writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the person from filing a complaint within the said period.”

Friends, relatives, Colleagues, Co-students, Psychologist, or any other associate of the victim may file the complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

**8. Process of conducting Inquiry-** (1) The ICC shall, upon receipt of the complaint, send one copy of the complaint to the respondent within a period of seven days of such receipt.

(2) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten days.

(3) The inquiry has to be completed within a period of ninety days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within ten days from the completion of the inquiry to the Executive Authority of the HEI. Copy of the findings or recommendations shall also be served on both parties to the complaint.

(4) The Executive Authority of the HEI shall act on the recommendations of the committee within a period of thirty days from the receipt of the inquiry report, unless an appeal against the findings is filed within that time by either party.

(5) An appeal against the findings or /recommendations of the ICC may be filed by either party before the Executive Authority of the HEI within a period of thirty days from the date of the recommendations.

(6) If the Executive Authority of the HEI decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to ICC and both the parties to the proceedings. If on the other hand it is decided to act as per the recommendations of the ICC, then a show cause notice, answerable within ten days, shall be served on the party against whom action is decided to be taken. The Executive Authority of the HEI shall proceed only after considering the reply or hearing the aggrieved person.

(7) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The HEI shall facilitate a conciliation process through ICC, as the



case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punitive intervention.

(8) The identities of the aggrieved party or victim or the witness or the offender shall not be made public or kept in the public domain especially during the process of the inquiry.

**9. Interim redressal-**The HEI may,

- (a) transfer the complainant or the respondent to another section or department to minimise the risks involved in contact or interaction, if such a recommendation is made by the ICC;
- (b) grant leave to the aggrieved with full protection of status and benefits for a period up to three months;
- (c) restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
- (d) ensure that offenders are warned to keep a distance from the aggrieved, and wherever necessary, if there is a definite threat, restrain their entry into the campus;
- (e) take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimisation as a consequence of making a complaint of sexual harassment.

**10. Punishment and compensation-** (1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the HEI, if the offender is an employee.

(2) Where the respondent is a student, depending upon the severity of the offence, the HEI may,-

- (a) withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
  - (b) suspend or restrict entry into the campus for a specific period;
  - (c) expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;
  - (d) award reformatory punishments like mandatory counselling and, or, performance of community services.
- (3) The aggrieved person is entitled to the payment of compensation. The HEI shall issue direction for payment of the compensation recommended by the ICC and accepted by the Executive Authority, which shall be recovered from the offender. The compensation payable shall be determined on the basis of-
- (a) mental trauma, pain, suffering and distress caused to the aggrieved person;
  - (b) the loss of career opportunity due to the incident of sexual harassment;
  - (c) the medical expenses incurred by the victim for physical, psychiatric treatment;
  - (d) the income and status of the alleged perpetrator and victim; and
  - (e) the feasibility of such payment in lump sum or in instalments.

**11. Action against frivolous complaint.**—To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within all HEIs. If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per the provisions of sub-regulations (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulation (2)

of that regulation, if the complainant happens to be a student. However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

**12. Consequences of non-compliance.**—(1) The Commission shall, in respect of any institution that will fully contravenes or repeatedly fails to comply with the obligations and duties laid out for the prevention, prohibition and redressal of sexual harassment of employees and students, take one or more of the following actions after providing due notice: -

- (a) withdrawal of declaration of fitness to receive grants under section 12B of the University Grants Commission Act, 1956.
  - (b) removing the name of the university or college from the list maintained by the Commission under clause (f) of section 2 of said Act, 1956;
  - (c) withholding any grant allocated to the institution;
  - (d) declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Commission;
  - (e) informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Commission, declaring that the institution does not provide for a zero tolerance policy against sexual harassment;
  - (f) recommending the affiliating university for withdrawal of affiliation, in case of a college;
  - (g) recommending the Central Government for withdrawal of declaration as an institution deemed to be university, in case of an institution deemed to be university;
  - (h) recommending the appropriate State Government for withdrawal of status as university in case of a university established or incorporated under a State Act.
  - (i) taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the University Grants Commission Act, 1956 for such duration of time till the institution complies with the provisions of these regulations.
- (2) No action shall be taken by the Commission under these regulations unless the Institution has been given an opportunity to explain its position and an opportunity of being heard has been provided to it.

[Advt.-III/4/Exty./53]

JASPAL S. SANDHU, Secy. UGC

