

POLICY DOCUMENT
of
INTERNAL COMPLAINT COMMITTEE TO PREVENT SEXUAL HARASSMENT OF
WOMEN AT THE WORKPLACE

INTERNATIONAL INSTITUTE OF INFORMATION TECHNOLOGY, BANGALORE
(IIITB)

POLICY AGAINST SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE

Preamble

1. The Parliament of India passed the “Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act,” in the year 2013. The ACT provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected therewith or incidental thereto.

2. The guidelines explicitly state the following:

“It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolutions, settlement, or prosecution of acts, of sexual harassment by taking all steps require.”

3. Educational institutions are also bound by the Supreme Court’s directive and the Act. The University Grants Commission (UGC), through its policy document titled “Saksham” has mandated all Educational Institutions under its purview to put in place measures for ensuring safety for women and also periodically organize Gender Sensitization programmes on campuses. The International Institute of Information Technology, Bangalore (IIITB), is committed to creating and maintaining an environment which is free of all forms of gender violence, sexual harassment, and discrimination on the basis of sex/gender. Following this, the institute is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction. As directed by the act, and as per the UGC “Saksham” guidelines, IIITB has constituted a committee called “Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace.” The following policy has been made keeping in mind the above facts.

Objectives

4. The objectives of the Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace are as follows:

- (a) To develop a policy against sexual harassment of women at the Institute.
- (b) To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the Institute.
- (c) To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.

- (d) To uphold the commitment of the Institute to provide an environment free of gender-based discrimination.
- (e) To create a secure physical and social environment to deter any act of sexual harassment.
- (f) To promote a social and psychological environment to raise awareness on sexual harassment in its various forms.

The Definition of Sexual Harassment

9. According to THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT 2013, sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- (a) Physical contact and advances; or
- (b) A demand or request for sexual favors; or
- (c) Making sexually colored remarks; or
- (d) Showing pornography; or
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

10. Any act falling under the purview of following cases will be considered as an incident of sexual harassment (Clarification of Unwelcome acts or behavior):

- (a) When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation, or evaluation of a person's engagement in any activity.
- (b) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
- (c) Interfering with her work or creating an intimidating, offensive, or hostile environment for her.
- (d) When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.

- (e) When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the premises or any publicforum of the institute is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.
- (f) When a person shows any humiliating treatment to woman that is likely to affect her health and safety.
- (g) Teaching activities or explanation of various issues related to fertility, reproductive health and other research topics in a scientific manner will not be considered as harassment.

Jurisdiction

11. The policy and the rules & regulations would apply to all students, faculty and non-teaching staffs on active roles of IIITB. The policy and the rules & regulations would also apply to service providers and outsiders who may be within the territory of the IIITB at time of commission of the act coming under the purview of the policy.

- (a) The policy would apply inside the campus but also on off-campus official duty (workshops, field work, group holidays/excursions organized by IIITB, interviews/meeting with outside people and any other activity organized by IIITB outside the campus including the period of travelling for such activity).
- (b) The policy would also apply to students in the final year who are pursuing internships in external agencies /establishments as a part of their academic requirements. The scope of the ICC includes sexual harassment that students might be subject to during internship and the ICC would liaison with such a committee in the institution hosting IIITB students as an intern.
- (c) The employees in companies / startup firms working under the aegis of the Innovation Centre of IIITB will also fall under the ambit of this policy.
- (d) In particular, the rules and procedures laid down in this policy shall be applicable to all complaints of sexual harassment made:
 - (i) By a student against a member of the academic or non-teaching staff or a co-student or by a member of the academic or non-teaching staff against a student or another member or the academic or non-teaching staff in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

(ii) By a service provider or an outsider against a student or a member of the academic or non-teaching staff or by a student or a member of the academic or non-teaching staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.

(iii) In the above, the following definitions will apply:

(aa) Members of the IIITB include faculty (permanent and temporary), staff (permanent and temporary), research scholars/students (full time and part time) and any other visitors.

(bb) Faculty refers to any person or the staff of the Institute who is appointed to a faculty position, whether full time/temporary/ad-hoc/ part-time/ visiting/ honorary or on special duty /deputation and shall also include faculty employed on a casual or project basis.

(cc) Staff refers to any person in the Institute who is not included in the category of faculty. It shall also include staff of the Innovation Centre, contract workers and daily wagers.

(dd) Research scholars refer to all PhD/Post-Doctoral Fellows (full time and Part time).

(ee) Students of the Institute include all IMTech, M.Tech (Regular and sponsored), MSc (Digital Society), participants of Short Term Courses or participants of any other special programme / workshop or such other new programmes as and when that will be started by IIITB.

(ff) Any other visitor refers to any person visiting library / faculty members / any other place in campus; or appearing /participating in interview/ entrance tests /seminars/ workshops/conferences.

(gg) Campus refers to all places of work and residence within the Institute territory. It includes all administrative section, academic section, library & computer centre, project offices as well as hostel & mess, guest house, innovation centre, Food Court, bakery /commercial shop within campus, security cabin and public places, etc. within the IIITB campus.

Constitution of the Internal Complaints Committee (ICC)

12. In order to implement the policy, a Committee shall be appointed by the Director whose composition and mandate would be as described below:-

- (a) A senior female Faculty member from the Institute, as the Chair person
- (b) Two Faculty members(Preferably one female and one male;)
- (c) Two Staff members (Preferably one female and one male)
- (d) Three students [two females and one male from IMTech final year / M Tech final year nominated jointly by the Student's Activity Counsel and Warden (Women's Hostel)]
- (e) One External female member (preferably lawyer by profession or from NGO committed to the cause of women or familiar with issues related to sexual harassment)
- (f) The term of each member shall be of three years (except the student members who would change as they pass out).
- (h) The previous committee members will continue till the new committee is constituted at the end of three years term

Disqualification

13. No person shall be appointed or continue to be a member of the Committee, if he/she is

- (a) Declared insolvent by the competent Court;
- (b) Lunatic or a person of unsound mind;
- (c) Convicted for an offence involving moral turpitude;
- (d) Involved in a misconduct amounting to immoral trafficking;
- (e) Convicted in any criminal offence/s;
- (f) Facing any inquiry relating to sexual harassment or found guilty of sexual harassment; punished for any misbehaviour or misconduct.

Statutory Status

14. The Internal Complaints Committee to Prevent Sexual Harassment of Women at the Workplace is empowered to carry out the mandate of the policy and has statutory power as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:

- (a) Summoning and enforcing the attendance of any person (COMPLAINANT /COMPLAINEE /WITNESS) and examining him/her on OATH and recording the statements
- (b) Requiring the discovery and production of valid Documents
- (c) Any other matter which may be prescribed

Power and Duties of the Committee

15. The committee is NOT to act as a moral police; neither will it intrude on anyone's privacy. The role of the Committee is to create awareness about sexual harassment and to deal with and recommend punishment for non-consensual acts of sexual harassment, and not to curtail sexual expression within the campus. Members are expected to be sensitive to the issue and not let personal biases and prejudices (whether based on gender, caste, class) and stereotypes (e.g., predetermined notions of how a "victim" or "accused" should dress up or behave) affect their functioning as members of the committee.

(a) Preventive

- (i) To create and ensure a safe environment that is free of sexual harassment, including safety from persons/visitors coming into contact at the workplace.
- (ii) To publicise the policy in English, widely, especially through notice boards and distribution of pamphlets. (Translation in Kannada may be done on as required basis).
- (iii) To publicise in English the names and phone numbers of members of the Committee through available media in the institute.

(b) Gender Sensitization

Gender Sensitization involves creating awareness about issues of gender and sexuality and working towards and creating an enabling environment of gender justice where all can work together with a sense of personal security and dignity. Sensitization and Awareness will be a basic function of the Committee formed. The following is a list of methods in which awareness and sensitization of students, staff and faculty will be conducted:

- (i) An orientation seminar will be organized to discuss the nature and scope of the sexual harassment of women at the workplace (Prevention, Prohibition and Redressal) Act 2013, at the beginning of the academic year.
- (ii) One or more workshops/seminars annually where external experts on the subject will interact with all employees and students
- (iii) Seminars, performances and discussion forums where gender sensitization and gender awareness will be the focus – these will happen during the academic year.
- (iv) Spreading awareness of the policy and implementation of the same through intranet, websites, informal sessions, performances, cultural events, etc., about the policy being implemented by IIITB.

C. Remedial

- (i) The mechanism for registering complaints should be safe, accessible, and sensitive.
- (ii) To take cognizance of complaints about sexual harassment, conduct enquiries, provide assistance and redressal to the victims, recommend punitive action or take immediate action against the harasser, if necessary.
- (iii) To recommend disciplinary action for any complaint registered with the Committee after the enquiry to the Director/administration/or concerned authorities and to follow-up action and monitor the same.
- (iv) To recommend Institute to provide assistance to the complainant if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time-being in force.
- (v) To recommend the Institute to provide the medical intervention with the consent of the complainant or even without consent in such cases where the complainant is physically or mentally incapacitated to give her consent.
- (vi) To inform the administration to arrange for appropriate psychological, emotional, and physical support (in the form of counselling, security and other assistance) to the victim if she so desires.

Meetings of the Committee

16. The members of the Committee shall meet at least four times in a year. The Chairperson shall preside over the meeting. In the absence of the Chairperson, the second senior female Faculty member shall preside over the meeting. The Chairperson may upon the request of not less than one third of the total members of the Committee, call a meeting on a date not later than fifteen days after the receipt of such requisition.

- (a) The quorum of the meeting of the Committee shall be five of its members. If the quorum is not complete in any meeting, it shall be adjourned for half an hour and thereafter, the meeting shall precede with those members who are present in the meeting.
- (b) All decision in the meeting will be taken through mutual consent from the members of the Committee present in the meeting. In the case of any disagreement among the members regarding any decision, Chairperson of the Committee shall hold the authority to take the final decision and her decision would be considered as final.

Allowances

17. The travelling allowances should be paid to the External members of the Committee for attending all the meetings of the Committee or any invited guest coming for the work of Committee. Alternatively, transport could be arranged by the institute. Honorarium as applicable as per institute's policy should be paid to the External members.

Complaint Procedure

18. The complaint procedure is as appended below:-

- (a) Any woman employee or female student (hereinafter mentioned as the 'COMPLAINANT') shall have the right to file a complaint concerning any harassment including sexual harassment against a male student /employee /faculty /administrative staff / research staff / any of the members of the Committee (hereinafter mentioned as the 'COMPLAINEE') as the case may be.
- (b) Any COMPLAINANT may file a complaint within a period of 3 months from the date of incident. In case of a series of incidents, COMPLAINANT should file a case within a period of 3 months from the date of last incident.
- (c) This includes all women in the institute including but, not limited to employees, contract employees, students, research staff etc.
- (d) Where the aggrieved woman is unable to file a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.
- (e) All complaints will only be accepted in writing. The Committee is allowed to take action even in the absence of a written complaint. Though a written complaint is must (as per the Vishakha Guidelines), however if the woman does not want to do the same, anybody can write on her behalf.
- (f) Any complaint in writing has to be signed by the COMPLAINANT and will be read out to the complainant and will not be acted upon till the same is signed by the complainant.
- (g) The complainant shall be afforded full secrecy at each stage.
- (h) The name, address, identity or any other particulars calculated to lead to identification of the COMPLAINANT shall be kept confidential and will not be disclosed even to the Committee, till the meeting in this regard is convened.

- (i) Within a period of 5 working days from the date of such communication, the Chairperson shall convene a meeting to deal with the complaint and make preliminary enquiry/fact finding enquiry to verify the facts of the complaint. An Enquiry Committee will be constituted if the complaint is found genuine.
- (j) In case, the Enquiry Committee decides to proceed with the complaint, they may have the option to settle the matter between COMPLAINANT & COMPLAINEE through conciliation. For this the wishes of the complainant shall be ascertained and if the complainant wishes that a warning would suffice then the alleged offender shall be called to the meeting of the Committee, heard and if so satisfied that a warning is just and proper, he may be warned about his behaviour. The matter shall then be treated as concluded and disposed of with a note to that effect made in the Complaint Register.
- (k) If the ICC concludes that the allegation is malicious or made by the complainant knowing it to be false or she produced a forged or misleading document, It may take action against the complainant as prescribed. Mere inability to substantiate a complaint or provide adequate proof will not result in action against the complainant.
- (l) **Privacy of Complainant.** ICC will not publish, communicate or make known the contents of the complaint to public, press or media in any manner. Contents of the complaint include:
 - (a) Identity and address of the aggrieved woman, respondent and witnesses,
 - (b) Information related to conciliation and inquiry proceedings,
 - (c) Recommendations of the ICC,
 - (d) Actions taken by the employer.
 - (e) Any violation is a punishable.

Conciliation

19. The ICC may resort to Conciliation under the following conditions:-

- (a) Conciliation as a mitigation will be resorted to if the ICC finds merit in treating the case as a minor incident and if both parties (victim and accused) agree in writing.

- (b) ICC will record the settlement arrived through conciliation and forward the same after due signature of all parties concerned to the Director, IITB to take action as specified in the recommendation.
- (c) ICC will provide copies of the settlement to the aggrieved woman and the respondent.
- (d) No monetary settlement shall be made as a basis of conciliation
- (e) Post such a conciliation the ICC will not conduct any further inquiry into this complaint.
- (f) If conciliation process fails or if the incident is considered a major one, then an Enquiry Committee will be constituted.

Constitution of the Enquiry Committee

20. The Enquiry Committee will be a part of the main Committee with the following criteria -

- (a) **When COMPLAINANT is a Student:** The presence of two student members (one male and one female) is mandatory along with Chairperson (female member), one Faculty member, and the External Member.
- (b) **When the COMPLAINANT is a Faculty:** Presence of two Faculty members (one male and one female) is mandatory along with Chairperson (female member), one Staff Member, and the External Member.
- (c) **When the COMPLAINANT is a Staff:** Presence of two staff members (one male and one female) is mandatory along with Chairperson (female member), one Faculty Member, and the External Member.
- (d) **When the COMPLAINANT is any other Visitor:** Presence of one Staff member, one Student member, Chairperson (female member), one Faculty Member, and the External Member is mandatory.

***** In all cases presence of at least one Male member is compulsory.**

The Inquiry Process

21. In case the **COMPLAINANT** requests that the complaint should be processed with beyond a mere warning, the same may be processed and has to be solved within a stipulated time of 90 working days.

- (a) Within five days of the start of the enquiry process, the Inquiry Committee shall furnish a copy of the complaint to the accused and complainant

along with a written notice requiring both parties to furnish a written submission. In case the complainant does not have any additions to make to the complaint filed earlier, she can just submit a statement to that effect.

(b) Within a week, both parties shall submit to Inquiry Committee their replies to the documents that have been served on them. The replies may also include a list of questions that the party wishes the Enquiry Committee to ask the other party or its witnesses.

(c) Within one week of the receipt of the replies and list of question in (2) above, The Enquiry Committee shall start the process of an oral hearing.

(d) In the course of the oral hearing, the complainant, the accused, and their witnesses will separately

(e) The accused is to be given a chance to give an account of the instances alluded to in the complaint.

(f) All parties can also submit any documentary evidence at the time of the oral hearing.

(g) The Enquiry Committee shall have the power to ask questions that it deems fit to all parties during the oral hearing.

(h) The Enquiry Committee would also ask questions which have been submitted by the complainant and defendant for the other parties. However, The Enquiry Committee has the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive.

(i) The Enquiry Committee may also call upon additional witnesses and ask them any questions that it may deem fit.

(j) The Enquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the complainant as well as the accused.

(k) The Enquiry Committee shall conduct the proceedings in a fair manner and shall provide reasonable opportunity to the complainant and accused for presenting and defending his/her case.

(l) At no time during the inquiry proceedings shall the accused and the complainant be placed face to face, or put in a situation where they may be face to face.

(m) The Enquiry Committee may consider as relevant any earlier complaints against the accused. However, at no time in the enquiry process shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.

(n) If the accused fails, without valid ground, to present him for three hearing convened by the chairperson of the Enquiry Committee shall have right to take a decision on the complaint based upon available evidence.

(o) Lawyers are not allowed during the enquiry but both sides can avail help from them.

Note:

Most cases of sexual harassment occur in private, so there may not be any eye-witness. The Enquiry Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the complainant, the accused, and witnesses if any as well as any documentary evidence. This enquiry is not a criminal investigation or a proceeding in a court of law – a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the complaint.

Complaint Withdrawal

22. The following points need to be taken into cognizance in case a complainant wants to withdraw her complaint:-

(a) The COMPLAINANT may withdraw her complaint in writing at any time during the inquiry procedure. However, the Committee must ascertain the reasons for withdrawal of the complaint and record the same in writing and get it counter-signed by the complainant.

(b) The complaints enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Enquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the Accused(s), or any person on her/his behalf on the complainant. In such an instance, the complaints enquiry proceedings shall continue in accordance with the procedure outlined in the policy.

Disciplinary Actions

23. Enhancement of disciplinary action, by the Committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institute as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.

(a) Where the Committee finds an employee (faculty, staff (section IV 2 a, b) or research staff) of the Institute involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:

- (i) Warning
- (ii) Written apology to the victim / complainant.
- (iii) Bond of good behaviour
- (iv) Debarring from teaching duties or duties as a guide or examiner or as a resource person
- (v) Denial of re-employment or renewal of contract
- (vi) Stopping of increments/promotion
- (vii) Reverting, demotion
- (ix) Suspension
- (x) Dismissal
- (xi) Any other relevant mechanism

(b) Where the Committee finds a research scholar/student of the institute is involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:

- (i) Warning
- (ii) Written apology
- (iii) Suspension for a specific period of time
- (iv) Withholding results
- (v) Debarring from exams
- (vi) Stopping of fellowship and contingency
- (vii) Expulsion
- (viii) Denial of admission for a higher programme.
- (viii) Declaring the harasser as "persona non grata" for a stipulated period of time
- (x) Community service
- (xi) Any other relevant mechanism

(c) In such cases where the Committee finds a third party/outsider to be guilty of sexual harassment, the institute's authorities shall initiate action by making a complaint with the appropriate authority and at the Institute level it can recommend disciplinary action in the form of:

- (i) Warning
- (ii) Written apology
- (iii) Debarring entry into the campus

[NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurise the complainant in any way or try to apply any pressure/threat to the committee.]

In the above-mentioned reports, confidentiality of the complainants will be maintained.

Redressal

24. The redressal mechanism will be as appended below:-

- (a) The Committee will submit a report along with recommended disciplinary actions to the Director.
- (b) The Director of the IIITB upon receipt of the enquiry report shall implement the disciplinary action on the basis of the recommendations of the Committee under relevant service rules within two months.
- (c) The disciplinary action will be commensurate with the nature of the violation.
- (d) In case the complaint is not proved, the Committee shall recommend that no action is required to be taken in the matter. Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.
- (e) In such cases that are likely to be rare, where the Committee arrives at the conclusion that the allegation by the complainant is malicious or false with the full knowledge of the complainant or where the complainant has produced any forged or misleading document, the Committee may recommend punitive action against such COMPLAINANT.
- (f) If the Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend punitive action against the said witness,
- (g) Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour etc.
- (h) The victim of sexual harassment/COMPLAINANT will have the option to seek adjustments such as change of the room/location of the office room, change of the quarter, etc.
- (i) The Committee, in exceptional cases, can ask the institute to allow the complainant to proceed on leave for a period of up to three month (the leave will not be deducted from her leave account).
- (j) Grant such other relief to the complainant as may be prescribed.

- (k) **Compensation.** The following factors will be considered for the purpose of determining compensation to be paid to the aggrieved woman:
- (i) Mental trauma, pain, suffering and emotional distress caused to the aggrieved woman.
 - (ii) Loss in career opportunity due to the concerned incident.
 - (iii) Medical expenses incurred by the victim for physical or psychiatric treatment.
 - (iv) Income or financial status of the respondent.
 - (v) Feasibility of such payment in lump sum or installments.

Obligations of IIITB Authorities

25. The obligations of IIITB are appended below:-

- (a) Provide a safe working environment at the workplace which shall include safety from persons coming into contact at the workplace.
- (b) Display at any conspicuous place at the workplace, the penal consequences of sexual harassment, and the order constituting the IIITB.
- (c) Assist the Committee to organise two or more workshops annually to sensitise the employees and students with the provisions of the Act and orientation programmes for members of the Committee
- (d) Institute should organize gender orientation session/ human processing lab at the beginning of each academic session.
- (e) There is a need to have a counselling centre at IIITB. At least once a week counselling services should be made available to the students on the issues of adjustment, harassment, any other issue related to education and stay at IIITB.
- (f) The Institute through its authorities would ensure necessary facilities to the Committee and the process of an inquiry. It would assist in securing the attendance of the accused and witnesses before the Committee or its sub-committee, as the case may be. It would also make available such information to the Committee as it may require having regard to the complaint.
- (g) Provide assistance to the individual to file a complaint under the IPC
- (h) Treat sexual harassment as misconduct under the service rule and initiate action against misconduct.
- (i) RTIs are not applicable for sexual harassment complaints.

Amendments in the Policy

25. The policy will be suitably amended as per modifications in the prevailing laws. In case of need, committee may amend the policy time to time.
