

INDIAN INSTITUTE OF MANAGEMENT, RAIPUR

Guidelines to deal with complaints against sexual harassment of women at work-Place.

General:-

Central Government with a view to providing protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and matters connected therewith has recently enacted "The Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act 2013.

Sexual Harassment includes such unwelcome sexually determined behaviour (Whether directly or by implication) as:

- a) Physical contact & Advances
- b) A demand or request for sexual favours
- c) Sexually coloured remarks
- d) Showing pornography
- e) Any other unwelcome physical, verbal or nonverbal conduct of sexual nature.

There may be instances when the victim women may have apprehension and a reasonable ground to believe that her objection to the acts of sexual harassment as defined above would disadvantage her in connection with her employment and may face adverse consequences, if the victim does not consent to such unwelcome sexually determined advances or behaviour.

The Supreme Court of India in its judgement in Vishakha & Others Vs State of Rajasthan makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the court and to evolve a specific policy to combat sexual harassment in the workplace. In compliance with the mandate of the Supreme Court guidelines as well as the Act recently passed by the Government of India, IIM Raipur will adopt the following to prevent, prohibit and punish sexual harassment of women at workplace. The institute is committed to providing for all women, who fall within its institution including its academic, non-academic staff and students at the place of work and study an atmosphere free from sexual harassment, intimidation and exploitation.

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Without prejudice to the generality of this obligation following instructions are issued.

- a. Express prohibition of sexual harassment as defined above at the workplace.
- b. The rules/regulations of IIM Raipur relating to conduct and discipline shall include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- c. Appropriate work conditions shall be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
- d. Criminal proceedings: Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.
- e. Disciplinary action: Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.
- f. Third-party harassment: Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person-in-charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

Constitution of IIM Raipur Committee on sexual harassment-

The committee shall consist of :

1. Two faculty members
2. One member of the staff
3. One Woman from outside with known contribution to Women cause on recommendation of State Women Commission.
4. One additional outside member preferably from a Government academic institute.
5. Chief Administrative Officer as Member Secretary

Note-

1. The Lady Member will be chairman of the Committee.
2. 50 percent of the members of the committee will be women.
3. Chief Administrative Officer of the Institute will be member-Secretary of the committee.
4. No person who is a complainant, witness, or defendant in the complaint harassment shall be a member of the Committee.


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The Committee against Sexual Harassment envisaged and constituted under this order will be deemed to be an inquiry authority for the purposes of CCS Rules and the Report of the Committee against Sexual Harassment shall be deemed to be an inquiry report under the CCS(CCA) Rules. The disciplinary authority will act on the report of the Committee against Sexual Harassment in accordance with the Rules.

Procedure – If being a woman working in IIM Raipur and have been sexually harassed in any of the forms given below:

- (a) Physical contact and advances;
- (b) A demand or request for sexual favours;
- (c) Sexually coloured remarks;
- (d) Showing pornography;
- (e) Any other unwelcomed physical; verbal or non-verbal conduct of sexual nature.


And has reasonable ground to believe that she has been subjected to an unwelcome act at the work place as defined in Vishakha Guidelines can file a complaint to Director IIM Raipur or to any member of the Committee or through existing channel. Filing of a complaint shall not adversely affect the complainant's status/job,/salary/promotion/ grades etc. The complaint in writing must be filed by her in person if she wishes to conduct inquiry. It is clarified that it is the reasonable perception of the women that would be relevant in determining whether any conduct was sexually determined & if so whether such conduct was unwelcome or not, and that her objection would disadvantage her in connection with her education or employment including evaluation, grading, recruitment or promotion or when it creates hostile working, educational or living environment.

The complaint will be forwarded to Member Secretary of the Committee against sexual harassment for calling for meeting of the Committee in consultation with Chairperson of the Committee.

Action to be taken by the committee:

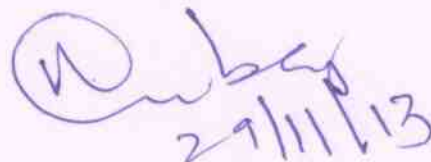
If the Committee against Sexual Harassment decides not to conduct an inquiry into a complaint it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the complainant in writing.

If the committee reaches the conclusion that the conduct of the defendant amounts to a specific offence under Indian Penal Code or any other law, the employer shall take up the complaint with appropriate authority.

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The committee if decides to hold an inquiry, it shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity.

1. During the inquiry proceedings the complainant and/or their witnesses and the defendant shall be called separately so as to ensure freedom of expression and an atmosphere free of intimidation.
2. The complainant will be allowed to be accompanied by one representative during the inquiry.
3. The Committee shall strive to complete the inquiry in the shortest possible time, preferably within three months from the date on which the complaint is referred to and not exceeding it.
4. Within one week of the institution of inquiry proceedings by the Complaints Committee, the Committee shall prepare a document containing a summary of the complaint such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant and the defendant. The defendant shall be given all this information in the prescribed format along with a copy of the Rules and Procedures of this Policy. The Committee shall also make available to the defendant a true copy of the complaint(s) lodged by the complainant(s).
5. The Committee must inform the defendant in writing about the material particulars of the charges made against him and he should be given a period of 5 days to respond to the charge sheet.
6. The Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.
7. Within not more than five working days on the receipt of the first intimation of the inquiry, the complainant and the defendant shall submit, to the Convenor of the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine.
8. The complainant and the defendant shall be responsible for presenting their witnesses before the Committee. However, if the Committee believes that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.


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9. The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
10. The Committee shall have the power to summon any official papers or Documents pertaining to the complaint under inquiry. The Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
11. The Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
12. The defendant, the complainant, and witnesses shall be intimated at least seventy- two hours in advance in writing of the date, time and venue of the inquiry proceedings. The responsibility of communicating with the witnesses lies with the complainant/defendant regarding the date, time and venue of the meeting.
13. The Inquiry Committee shall have the right to terminate the inquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present himself for three consecutive hearings convened by the Inquiry Committee.
14. The venue of the inquiry should take into consideration the convenience and security of the complainant.
15. If the complainant, defendant, or witness desire to appear before the Committee accompanied by one person of their choice, they shall communicate to the Convenor of the committee the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying.
16. The identities of the Complainant and all witnesses shall throughout be protected and kept confidential by the Committee.
17. The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings once prepared with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/or the defendant on her/his behalf shall be only a member of IIM Raipur. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The complainant(s)/ defendant should inform the committee specifically if they wish to exercise this right. At

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no point in time, however, can the concerned parties take these documents outside the office of the Committee against Sexual Harassment.

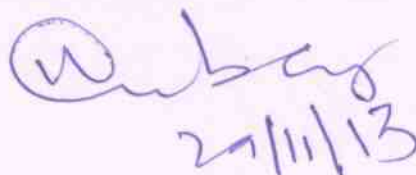
18. The complainant and the defendant shall have the right of cross-examination of all witnesses. However such cross-examination shall be conducted in the form of written questions and responses via the Committee only. The defendant shall have no right to directly cross examine the complainant or her witnesses
19. The defendant/complainant may submit to the Committee, a written list of questions that he/she desires to pose to the complainant/witness. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the defendant or his nominee, that is designed to intimidate or subject the complainant or her witnesses to mental and physical trauma, can lead the Committee to recommend disciplinary action against the defendant.
20. All proceedings of the Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.
21. All persons heard by the Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings to protect the dignity of the complainant and the defendant. Any violation of the oath of secrecy may invite penalties.

Exception: A complainant has the right to go public about the complaint of sexual harassment if she so desires. If the Complainant goes public before filing the complaint with the Committee against Sexual Harassment, the same shall not prejudice the Committee members. Once a complaint has been given to the Committee, the complainant should preferably not go public till the inquiry is completed, unless there are compelling reasons for her to do the same.
22. The members of the Committee shall maintain confidentiality about the proceedings conducted by them.
23. If the complainant desires to tender any documents by way of evidence, the Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the complainant.
24. In the event that the Committee thinks that supplementary testimony is required, the Convenor of the Committee shall forward to the persons

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concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Committee.

25. Nothing precludes the Complaints Committee from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the inquiry proceedings. If a new fact or evidence is brought to the notice of the Committee Against Sexual Harassment after submission of the Inquiry Report to the appropriate disciplinary authority, then in the event of the constitution of the reconvened Inquiry Committee, at least half of the members of the present Committee shall be those who originally enquired into the said complaint.
26. The committee shall be sensitive to the covert, private and insidious nature of Sexual Harassment and shall take into account that often the aggrieved woman may not be able to submit/ present direct or corroborative evidence.
27. The committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct, personal and sexual history.
28. The committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the respective organization / workplace, the employer-employee equations and other power differences while appreciating the evidence.
29. The committee shall, inform the complainant/s, that she may give her evidence in writing provided that she makes herself available for examination by the defendant on the same, unless the alleged victim of Sexual Harassment opts to give her evidence orally.
30. The committee shall inform the complainant/s that she may give her answers to questions of a sensitive nature in writing at the inquiry proceedings during cross examination.
31. All information received in the course of the examination and inquiry into a complaint of sexual harassment shall be held in trust by the concerned Committee Against Sexual Harassment and the same shall not be made available pursuant to an application under the Right To Information Act, 2005. Such information shall constitute an exception under Section 8 (e) of the Right To Information Act, 2005, as the same is held by the Committee Against Sexual Harassment in a fiduciary relationship and the non-disclosure of the same will not be against public interest. To the contrary disclosure of such information may endanger the life or physical safety of the complainant or any


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of the witnesses. An exception to this Rule will be when the complainant herself applies for information under the Right to Information Act, 2005.

Inquiry to be completed within 90 days: - The inquiry shall be completed and the Inquiry Report submitted to the Committee Against sexual Harassment within a period of 90 days from the date on which the inquiry is commenced. In the event of any delay in submission of the Inquiry Report the reasons for the same shall be recorded in writing.

Disposal of the report:

(a) After concluding its inquiry, the Committee shall prepare a detailed and written report of its findings. The inquiry report shall specify the details of the charge(s) against the defendant, the statements made and evidence presented in the inquiry and a discussion of the reasons upon which the findings arrived at by the Committee.

(b) No observations regarding the work and behaviour of either the complainant or defendant shall be made which are not related to the alleged act of sexual harassment.

(c) Detailed written report so prepared will be submitted to the Director, IIM Raipur within 90days for further necessary action.


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