

NU/AC/CCPSH/20-216
Date: 30.05.2020



NOTIFICATION

- Read: 1. Judgement of hon'ble Supreme Court in the matter of Vishaka & Others v/s. State of Rajasthan & Others reported in 1997 (6) SCC 241
2. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013)
3. Notification No. NU-911 dated 07.01.2006 – Constitution of Complaint Committee for prevention of Sexual Harassment
4. Notification No. NU-284 dated 18.12.2009 - Reconstitution of Complaint Committee for Prevention of Sexual Harassment
5. Notification No. NU-51 dated 24.04.2014 - Reconstitution of Complaint Committee for Prevention of Sexual Harassment
6. University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 dated 02.05.2016
7. Approval of Director General dated 22.05.2020

Sub: **Mechanism for Prevention, Prohibition and Redressal of Sexual Harassment of Women employees and students**

It is hereby notified for information of all concerned that in supersession of existing Complaints Committee for Prevention of Sexual Harassment of Women employees and students published vide notifications mentioned at serial 3 to 5 above, and in pursuance to the regulations published vide UGC notification mentioned at serial 6 above with regard to Mechanism for Prevention, Prohibition and Redressal of Sexual Harassment of Women employees and students, the Director General has nominated the members in the Internal Complaints Committee (ICC) at Nirma University, as under:

| Sr. | Category | Name | Designation |
|-----|-----------------------------------|--|-------------|
| 1. | Senior-level woman faculty member | Dr. Madhuri Bhavsar Professor, Dept. of Computer Science and Engineering, Institute of Technology Nirma University | Chairperson |
| 2. | Two faculty members | i. Dr. Nina Muncherji Associate Professor Institute of Management, irma University ii. Dr. G.V. Narasihma Rao Associate Professor Institute of Law, Nirma University | Member |

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| 3. Two non-teaching employees | i. Dr. Nilesh Patel Dy. Registrar (Examination) Nirma University | Member |
| | ii. Ms Nisha Dave Office Superintendent Institute of Architecture & Planning Nirma University | Member Secretary |
| 4. One member from amongst the NGO or associations | Ms. Prita Jha Founder and President Peace and Equality Cell (PEC) 3, Mirzapur Road, Gheekanta Bhadra, Ahmedabad. (M) 9586060807 Email - pritarjha@gmail.com | External member |
| 5. Three Students from UG, PG and Research Scholar-level (only if the matter involves students) | i. <u>UG-level</u> Ms. Palak Jain B.A.,LL.B. (Hons.) programme Institute of Law, Nirma University Email: 17bal034@nirmauni.ac.in | |
| | ii. <u>PG-level</u> Ms. Yashodhara Khadiya Integrated BBA-MBA programme Institute of Management Nirma University Email: ykhadiya_16@nirmauni.ac.in | Member |
| | iii. <u>Research Scholar-level</u> Ms. Krishan Bhalodi Ph.D. (Full Time) Institute of Pharmacy, Nirma University Email: 19ftphdp57@nirmauni.ac.in | |

Objectives:

- To prevent discrimination and sexual harassment against women, by promoting gender amity among students and employees
- To lay down procedures for the prohibition, resolution, settlement and prosecution of acts of discrimination and sexual harassment against women, by the students and the employees;
- Deal with cases of discrimination and sexual harassment against women, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment;
- Recommend appropriate punitive action against the guilty party to the Chair/Director General of NU.




Important definition:

- (I) **Act** means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
- (II) **Regulation** means University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015
- (III) **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;
- (IV) **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;
- (V) **Campus** means the location or the land on which Nirma University and its constituted 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 institute 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 concerned institute



(VI) **Employee** means a person employed by the Nirma University or its institutes (regular/term/contract basis);

(VII) **Student** means a person duly admitted and pursuing a programme of study including short-term training programmes in the University;
Provided that a student who is in the process of taking admission in any of the institutes under the University, although not yet admitted, shall be treated, for the purposes of these regulations, as a student;

Provided that a student who is a participant in any of the activities in any of the institutes under the University where such student is enrolled shall be treated, for the purposes of these regulations, as a student;

(VIII) **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 University, but a visitor to the University in some other capacity or for some other purpose or reason;

Responsibilities of Internal Complaints Committee (ICC):

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

Process for making complaint and conducting Inquiry: The ICC shall comply with the procedure prescribed in these regulations published vide notification mentioned at serial 6 above for making a complaint and inquiring into the complaint in a time bound manner.

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 Chairperson or any member of the ICC 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 situation where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

Process of conducting Inquiry:

- a) 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,
- b) Upon receipt of the copy of the complaint, the respondent shall file his/her reply to the complaint along with the list of documents, names and addresses of witnesses within a period of ten days,
- c) The inquiry has to be completed within a period of ninety days from the date of 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 Director General. A copy of the findings or recommendations shall also be served on both parties to the complaint,
- d) The Director General 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,
- e) An appeal against the findings or/recommendations of the ICC may be filed by either party before the Director General within a period of thirty days from the date of the recommendations,
- f) If the Director General decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to the 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 Director General shall proceed only after considering the reply or hearing the aggrieved person,
- g) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The institute concerned 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,
- h) 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.

Interim redressal: The concerned institute may -

- a) transfer the complainant or the respondent to another section or department to minimize 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 victimization as a consequence of making a complaint of sexual harassment.



Punishment and compensation:

- 1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the university if the offender is an employee,
- 2) Where the respondent is a student, depending upon the severity of the offence, the following punishment can be imposed:
 - 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 competent authority shall issue direction for payment of the compensation recommended by the ICC and accepted by the Director General, 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 installments

Action against frivolous complaint:

If the ICC concludes that the allegations made were false, malicious or the complaint was made knowingly 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 regulation 10 of the notification mentioned at serial 6 above. 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.

The term of the nominated members shall be for a period of three years from the date of this notification, or till he/she holds the position by virtue of which he/she is nominated, whichever is earlier.

Note: In case of any dispute or doubt under this document, the provisions of the 'University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations 2015 dated 02.05.2016' mentioned at serial 6 above, be referred.

Executive Registrar

To,

1. All above members
2. All Heads of Institute
3. All Dy. Registrar

Copy to,

1. All Heads of Dept./Academic Area
2. Chief Accounts Officer
3. All AR
4. Statistician
5. Publication Officer
6. HR Section
7. All OS
8. Estate Section
9. Transport Section
10. Security Officer
11. Website in-charge: update on NU website
12. Prominent notice boards of all Institutes
13. P.A. to ER

c.f.w.cs. to: 1. Vice President; 2. Director General

