

**POLICY for Prevention, Prohibition and Redressal of
Sexual Harassment of Women at Work-place
NIBM, Pune
September, 2019**

Objective

The National Institute of Bank Management, Pune will strive to provide secure environment for its women employees and students studying in the Institute. It is committed to promote gender equality in the Institute's campus, as well as the society at large, as envisioned by the Constitution of India

I. Introduction

The "Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act", was passed by the Parliament in 2013. The guidelines clearly state that :*"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 required."*

Educational institutions also fall within the gambit of this Act and follow the Supreme Court directives for the same. The National Institute of Bank Management, Pune (NIBM, Pune) follows a zero tolerance approach towards Sexual Harassment at the Workplace and aims to:

- provide a governing mechanism to deal with any incident of sexual harassment of women in the work place.
- work towards gender sensitization/awareness among the faculty, staff, officers and students of the Institute
- ensure that such complaints would not result into unwarranted retaliation by any party involved
- implement mechanism for speedy redressal of such complaints.

As mandated by the Act, the **Internal Complaints Committee [ICC]** is in place at NIBM, Pune to address the issue of Prevention of Sexual Harassment at the workplace. Members comprise the following:

1. Dr. Alka Vaidya (Faculty Member, Chair)
2. Dr Shomi Srivastava, (Faculty Member)
3. Dr Sarita Bhatnagar (Faculty Member)
4. Rosamma Peter (Staff Member)
5. Yvette D'mello (Staff Member)
6. Sunil Salvi (Staff Member students)
7. Dr Sushama Keskar (External Member)

This body has been charged with the following responsibilities:

- to develop a policy related to Sexual Harassment at the Workplace;
- to develop prevention and redressal mechanism for speedy resolution of such cases;
- to ensure implementation and follow-up mechanism;
- to conduct awareness and training programmes for faculty, students, officers and staff on issues to sexual harassment at the workplace to create a stress free environment free of any discrimination;
- to report to the competent authority, the steps taken to implement the act in the institution.

Official email address for any correspondence- iccchair@nibmindia.org

Terms used:

Complainant: A person who makes a formal complaint to the committee against another person about sexual harassment.

Respondent: A person against whom the complaint of sexual harassment has been received by the committee.

What constitutes sexual harassment?

According to the ACT, sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- Physical contact and advances; or
- A demand or request for sexual favours; or,
- Making sexually coloured remarks; or,
- Showing pornography; or,
- Any other unwelcome physical, verbal or non-verbal conduct perceived to be of a sexual nature.

Unwelcome acts or behaviour include any of the following:

- unwelcome sexual advances
- requests for sexual favours
- verbal or physical conduct of a sexual nature is forced on an employee or a student for employment, teaching/guidance, participation, or evaluation of a person's engagement in any activity
- loaded comments, sexual innuendos, sexually-coloured jokes, lewd emails/SMS/online chats, text, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature;
- any form of intimidation, interference, or hostility;

- use of body/body part in a sexually objectionable manner, without consent ;
- deprecatory comments to degrade/discriminate against person(s);
- create a hostile environment on the basis of a person's gender identity/sexual orientation; and,
- humiliating treatment that is likely to affect health and safety.

What does not construe sexual harassment?

Any teaching activity done for educational purpose of explaining sexuality, reproductive, health, and other research topics, in a scientific manner will not be considered as harassment.

Jurisdiction

- The policy applies to all students (full time, part-time, fellows, etc.), faculty (permanent, visiting, adjunct and contract, etc.), officers, administrative and academic staffs (both permanent and temporary, on contract etc.) on active roll of NIBM, Pune.
- The policy and the rules & regulations would also apply to service providers, contract employees, and outsiders who may be within the physical area of NIBM at the time of commission of the act.
- The policy also applies to those persons engaged in official duty in off campus visits/meetings/workshops/field work conducted by the Institute.

The ICC is empowered to:

1. Summon and enforce the attendance of any person (COMPLAINANT /RESPONDENT /WITNESS) and examining him/her on OATH and recording the statements;
2. Request the discovery and production of any documents necessary for conducting the enquiry;
3. Request to produce SMS/Whatsapp history, call logs, etc.
4. Organize sensitization programmes; and/or,
5. Any other means prescribed by the said ACT.

Complaint Procedure

STAGE 1

1. The complainant (or a legal heir or such other person) shall have the right to file a complaint with the ICC regarding sexual harassment against another student /employee within THREE months from the date of the incident (or within a period of 3 months from the date of last incident, if there are a series of incidents);
2. All complaints will **only** be accepted in writing by the ICC.
3. The complaint has to be signed by the complainant;
4. The complainant will be accorded full secrecy during the process. No identity will be disclosed by the Committee to any other person except the respondent;
5. A meeting will be convened within a period of FIVE working days from the date of such communication, by the Chairperson of ICC for making preliminary enquiries and verify the facts of the case.

6. The committee can suggest the option of conciliation to the complainant and the respondent so that the matter is resolved between the parties. This step may be taken only if the complainant has shown willingness in writing. The matter may be resolved by giving a warning and registering the same in the complaint register, or an apology letter by the respondent in the complaint register

In case the complainant is not open and willing for conciliation, or if the process of reconciliation fails, the same may be processed in accordance with the ACT, and the same has to be resolved within a stipulated time of 90 working days.

STAGE 2

1. A written notice along with a copy of the complaint will be sent by the ICC to the respondent within seven working days from the starting of the enquiry process asking for an explanation.
2. The respondent must send his explanation to the ICC within 10 working days.
3. With 7 working days of receipt of the explanation by the respondent the ICC shall start the process of an oral hearing, where the complainant, the accused, and their witnesses will separately be given a chance to give an account of the instances alluded to in the complaint.
4. All parties can also submit any documentary evidence at the time of the oral hearing.
5. The ICC shall be empowered to ask questions that it deems fit to all parties during the oral hearing.
6. The ICC is empowered to disqualify questions that it deems to be irrelevant, mischievous, or gender-insensitive.
7. Additional witnesses may be summoned by the ICC to substantiate the claims made by the parties.
8. The ICC is empowered to ask for official documents relevant to the investigation.
9. The ICC is required to provide reasonable opportunity to both the complainant and the respondent to present their case.
10. The complainant and the respondent may not be placed face to face at any time during the proceedings.
11. The ICC can take a decision in case of the absence of the respondent for three consecutive hearings conducted during the proceedings
12. Lawyers are not allowed during the enquiry.

Note:

In many sexual harassment cases, eye witnesses may not necessarily exist. The ICC will rely on the oral testimonies, other circumstantial evidence, written evidence or proof produced in the inquiry/probe

Complaint Withdrawal

- The complaint may be withdrawn by the complainant at any time during the proceeding by submitting a written application.
- The ICC is required to ascertain the reasons of the withdrawal.
- The enquiry will be terminated unless the ICC feels that the withdrawal is due to coercion or harassment
- 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.
- In such cases, 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 consider it as misconduct as per the service rules applicable.
- If the Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, the Committee may consider it as misconduct as per the service rules applicable.
- If the complaint is not proved, then it does not mean that the complainant's intention was false or malicious.

STAGE 3

Disciplinary Actions

The nature of the disciplinary action will depend on the nature of the offence:

- A.** Where the Committee finds an employee of the Institute involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:
1. Warning
 2. Written apology
 3. Bond of good behavior
 4. Adverse remarks in the Service book of employee/student's records
 5. Denial of membership of statutory bodies
 6. Denial of re-employment or renewal of contract
 7. Stopping of increments/promotion
 8. Demotion
 9. Suspension
 10. Dismissal
 11. Any other relevant mechanism

- B.** Where the Committee finds a student of the Institute is involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:
1. Warning
 2. Written apology
 3. Bond of good behavior
 4. Suspension for a specific period of time
 5. Withholding results
 6. Stopping scholarship, grants, fellowship, if any
 7. Expulsion
 8. Denial of re-admission
 9. Community service
 10. Any other relevant mechanism
- C.** In such cases where the Committee finds a third party/outsider to be guilty of sexual harassment, the Director can recommend an appropriate disciplinary action.

NOTE: Action will be taken against person(s) who try to pressurise the complainant in any way. and also on those who attempt to intimidate the members of the committee

STAGE 4

Redressal

1. The Committee will submit a report along with recommended disciplinary actions to the Director within 10 days of completion of enquiry.
2. The Director, upon receipt of the enquiry report, shall take disciplinary action within two months, taking into cognizance the recommendations of the Committee
3. The disciplinary action would be commensurate with the nature of the violation.
4. 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 behavior etc.
5. 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 quarters, etc.
6. The Committee, in exceptional cases, can ask the Institute to allow the complainant to proceed on leave for a period of up to three months (the leave may not be deducted from his/her leave account).
7. Grant such other relief to the complainant as may be prescribed.

Amendments to the Policy

- The policy will be suitably amended as per modifications in the prevailing Act/laws.
- The committee may amend the policy from time to time.
