



SHRI MATA VAISHNO DEVI UNIVERSITY

Kakryal, Katra-182320, Jammu & Kashmir
Recognized under Section 2(f) & 12(B) of the UGC Act, 1956
registrar@smdvu.ac.in

Ref. No.: SMVDU/AA/32nd EC-ATR/21/428-431

Date: 17th Aug, 2021

NOTIFICATION

Subject: Reconstitution of Gender Sensitization Committee against Sexual Harassment (GSCASH) as Internal Complaint Committee (ICC) at SMVDU.

With reference to the approval granted by the Executive Council in its 32nd meeting held on 21st February, 2021, Gender Sensitization Committee against Sexual Harassment (GSCASH) is hereby reconstituted as Internal Complaint Committee (ICC) as per details below, in line with directions from Secretary UGC issued vide Letter no. DO. No. F. (1-3/2014(GS) Pt.1, dated: 19th May 2019:

1. 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;

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 organizations 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.



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5. The Member appointed from 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."

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 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.

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.

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.



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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.

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.



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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.

Interim redressal:

The HEI may,

- a) transfer the complainant or the respondent to another section or department to minimize the risks
- b) involved in contact or interaction, if such a recommendation is made by the ICC;
- c) grant leave to the aggrieved with full protection of status and benefits for a period up to three months;
- d) restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
- e) 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;
- f) 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 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 counseling 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;

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- 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:

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.

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.



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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.

[Handwritten Signature]
17/08/21
Registrar
[Initials]

Copy to:

1. All Deans/ I/c Deans/ Heads/ I/c Heads/ Section Heads for information.
2. Finance Officer, for information.
3. PS to VC, for kind information of Hon'ble Vice Chancellor.
4. I/c Website, for uploading on University website.