

UGC REGULATIONS

The Process for Complaint and Inquiry

Step I: An aggrieved woman should give a written complaint either in person or through post or email. It should be submitted to the 'Prevention of Sexual Harassment and Atrocities against Women Committee' within 3 months of the date of the incident. The time limit may be extended for a further period of 3 months if, on account of certain circumstances, the woman was prevented from filing the complaint. If the aggrieved woman is unable to make a complaint, her legal heirs may do so.

Step II: On receipt of the complaint, the ICC will proceed to make an inquiry in accordance with the service rules or in their absence, in accordance with rules under the Act. The inquiry will be completed within 90 days. And the inquiry report will be submitted within 10 days from the date of completion of the inquiry.

Step III: If the ICC finds that the allegations against the respondent are proven, it will submit a report to the Principal to take action for sexual harassment as misconduct in accordance with the provisions of the applicable service rules or where no service rules exist, in accordance with rules framed under the Act.

Step IV: The college management will act on the recommendations of ICC within 60 days of the submission of the inquiry report.

Step V: Appeal against the decision of the ICC is allowed within 90 days of the recommendations. Committee for prevention of sexual harassment and atrocities against students and women.

As per the UGC (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015, notified on 2nd May, 2016.

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 employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(o):

Provided further that in case the other offices or administrative units of the do not have 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 organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by Executive Authority.

At least one-half of the total members of the ICC shall be women.

The term of office of the members of ICC shall be a period of three years.

The member appointed from amongst the non-governmental organizations or associations shall be paid fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.

Where a Presiding Officer or any member of the Internal Committee:

- (a) Contravenes the provisions of 16 of the Act; or
- (b) Has been convicted for an offence or an inquiry into an offence under any law of 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 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 (ICC) – The ICC shall:

- (a) Provide assistance in case an employee or student chooses to file a complaint with the police;
- (b) Provide mechanism 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 the victims or witnesses are not victimised 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 student is engaged in protected activity.

The process for making complaint and conducting an Inquiry-The ICC shall comply with the procedure prescribed in these Regulations and the Act, for the making of complaint and inquiring into the complaint in a time bound manner. The HEI shall provide all necessary facilities to the ICC to conduct 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 three months from the date of the last incident.

Provided that wherever 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 ICC may, for the reasons 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 filling the 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 person is unable to make a complaint on account of physical or mental incapability or death.

Process of conducting an 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 a list of documents within a period of ten days.
- (3) The inquiry shall be completed within a period of ninety days from the receipt of the complaint. The inquiry report along 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 of 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 date of 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 HIE 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 recommendations of 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.

- (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 HIE may:

- (a) Transfer the complainant or the respondent to another section or department to minimise the risk involved in contact or interaction, if such a recommendation is made by 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 examination 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 restrict their entry into the campus.
- (e) Take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimisation 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 HEI, if the offender is an employee.

(2) Where the respondent is a student, depending on 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, scholarship, allowances and identity card

(b) suspend or restrict access to the campus for a specific period

(c) expel or 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 service.

(3) The aggrieved person is entitled to payment of compensation. The HIE shall issue direction for payment of compensation recommended by ICC and accepted by Executive Authority, which shall be recovered by 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 instalments

Action against frivolous complaint- To ensure that the provisions of 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 HIEs. 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 regulation (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulations (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.