

POLICY AGAINST SEXUAL HARASSMENT AT IIM JAMMU

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 come under the gambit of this ACT and follow the Supreme Court directives for the same. The Indian Institute of Management (IIM) JAMMU pursues a zero-tolerance approach towards Sexual Harassment at the Workplace and aims to:

- provide a regulatory mechanism to deal with unlawful harassment
- set in place measures to deal with sexual harassment of women at the work place
- work towards gender sensitization among the faculty, staff, officers and students of the institute
- ensure that such complaints would not invite retaliation
- implement speedy redressal of complaints

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

1. Dr. Harsha Jariwala, Chairperson
2. Dr. Garima Maurya, Co-Chairperson
3. Prof. Sanjay Gupta, Member
4. Dr. Chinmaya Kumar Swain, Member
5. Ms. Nisha Kumari, Member
6. Chairperson, J&K UT Women Commission
7. Ms. Purvi Sarkar, Asstt. Registrar, IIT Jammu
8. Ms. Tarun Kanti Kujur, Convenor of the Committee

This body has been charged with the following responsibilities:

- to develop a policy related to Sexual Harassment at the Workplace;
- to evolve prevention and redressal mechanisms for speedy resolution of such cases;
- to ensure implementation and follow-up mechanisms;
- to impart periodic training to faculty, students, officers and staff on issues to sexual harassment at the workplace to create a stress-free environment free of any discrimination;
- to publicize the policy in English and Hindi through notice boards and distribution of pamphlets;
- to publicize in English and Hindi the names and phone numbers of the helpline number; and,

- to report, to the competent authority, the steps taken to implement the act in the institution.

HELPLINE NO. : _____ (Dr. Harsha Jariwala, Chair, Internal Complaints Committee) and send email to iccchair@iimj.ac.in with a copy to harsha@iimj.ac.in

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:

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

Unwelcome acts or behaviour includes any of the following:

- unwelcome sexual advances, requests for sexual favors;
- verbal or physical conduct of a sexual nature made a condition of teaching/guidance; employment, participation, or evaluation of a person's engagement in any activity
- unwelcome sexual advances;
- loaded comments, sexual innuendos, off the cuff remarks, sexually-colored jokes, lewd emails, 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 denigrate/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 with the express educational purpose of explaining fertility, 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, Doctoral and Post-Doctoral fellows, etc.), faculty (permanent, visiting, adjunct and contract, etc.), officers, administrative and academic staffs (both permanent and temporary, etc.) on active roll of IIM Jammu.
- The policy and the rules & regulations would also apply to service providers, contract employees, and outsiders who may be within the physical area of IIM Jammu 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 /COMPLAINEE /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. Organize gender sensitization programmes; and/or,
4. Any other means prescribed by the said ACT.

Complaint Procedure

STAGE 1

- The complainant (or a legal heir or such other person) shall have the right to file a complaint regarding sexual harassment against another student /employee /faculty /administrative staff / research staff / any of the members of the Committee (the Complainee) 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);
- All complaints will only be accepted in writing. However, the Committee is allowed to take action even in the absence of a written complaint;
- The complaint has to be signed by the complainant;
- The complainant will be accorded full secrecy during the process. No identity will be disclosed by the Committee to any other person;
- A meeting will be convened within a period of FIVE working days from the date of such communication, by the Chairperson for making preliminary enquiries and verify the facts of the case; and
- The committee can suggest the option of conciliation to the complainant and the complainee so that the matter is resolved between the parties. This step may be taken only if the complainant is willing. The matter may be resolved by giving a warning and registering the same 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

- A written notice is required to be sent asking for a written submission from both the parties
- Within five working days from the starting of the inquiry process, the ICC will furnish a copy of the complaint both to the complainant and the complainee
- Within a week, both parties shall submit, to the ICC, their replies to the documents that have been served on them. The replies may also include a list

of questions that the party wishes the Enquiry Committee to ask the other party or its witnesses.

- Within one week of the receipt of the replies and list of question in (2) above, 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.
- All parties can also submit any documentary evidence at the time of the oral hearing.
- The ICC shall be empowered to ask questions that it deems fit to all parties during the oral hearing.
- The ICC is empowered to disqualify questions that it deems to be irrelevant, mischievous, or gender-insensitive.
- Additional witnesses may be produces to substantiate the claims made by the parties
- The ICC is empowered to ask for official documents relevant to the investigation
- The ICC is required to provide reasonable opportunity to both the complainant and the complaine to present their case
- The complainant and the complaine may not be placed face to face at any time during the proceedings
- The sexual history of the complainant and the complaine may not be probed into or put under consideration during the investigation of the present case
- The ICC can take a decision in case of the absence of the complaine for three consecutive hearings conducted during the proceedings
- Lawyers are not allowed during the enquiry but both sides can avail help from them.

Note:

- In many sexual harassment cases no eye witnesses may necessarily exist. The ICC will rely on the oral testimonies, other circumstantial evidence, written evidence or proof produced in the inquiry/probe
- 'Proof beyond reasonable doubt', is enough to take a decision on the complaint.

Complaint Withdrawal

- The complaint may be withdrawn by the complainant at any time during the proceeding
- The ICC is required to ascertain the reasons of the withdrawal
- Sign and countersign must be done by the complainant and the same must be recorded in writing
- 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 that are likely to be rare, 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 recommend punitive action against the complainant.

- If the Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend punitive action against the said witness
- If 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 (faculty, staff or research staff) of the Institute involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:
- Warning
 - Written apology
 - Bond of good behavior
 - Adverse remarks in the Service book
 - Debarring from teaching duties or duties as a guide or examiner or as a resource person
 - Denial of membership of statutory bodies
 - Denial of re-employment or renewal of contract
 - Stopping of increments/promotion
 - Reverting, demotion
 - Suspension
 - Dismissal
 - Any other relevant mechanism
- B.** Where the Committee finds a research scholar/student of the institute is involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:
- Warning
 - Written apology
 - Bond of good behaviour
 - Debarring entry into the hostel/mess/guest house/campus
 - Suspension for a specific period of time
 - Withholding results
 - Debarring from exams
 - Stopping of fellowship and contingency grant
 - Expulsion
 - Denial of admission
 - Declaring the harasser as "persona non grata" for a stipulated period of time
 - Community service
 - 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.
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 behaviour 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 quarter, 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

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