

National Institute of Construction Management & Research**Pune Campus****Internal Complaints Committee for Prevention, Prohibition and Redressal of Sexual Harassment**

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INTERNAL COMPLAINTS COMMITTEE (Vishakha Guidelines Policy)

1. Objectives of the Internal Complaints Committee for Prevention, Prohibition and Redressal of Sexual Harassment at workplace

The Institute wishes to maintain a work environment that fosters personal and professional growth for all employees. Maintaining such an environment is the responsibility of every faculty, staff and students. The Institute is committed to provide a harassment free environment for its employees and students. Mutual respect, along with cooperation and understanding, must be the basis of interactions between all stakeholders. The Institute will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of an individual, or create an intimidating, hostile or offensive environment.

All employees of the Institute have a personal responsibility to ensure that their behaviour is not contrary to this policy. All employees are encouraged to reinforce the maintenance of a work environment free from sexual harassment.

2. Applicability and Scope

This policy extends to all categories of employees of NICMAR, Pune, including permanent management, faculty, staff, students and employees on contract at NICMAR, Pune or at the workplace related sites and is deemed to be incorporated in terms and conditions of all employees.

Effective Date

In view of the Section 4 (1) of 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013', the Institute hereby constitutes an Internal Complaints Committee. The committee and the related rules and procedures shall be effective from 17th November, 2021 and may be reviewed periodically.

3. The Internal Complaints Committee at NICMAR, Pune

The Internal Complaints Committee at NICMAR, Pune shall consist of the following members:

Sr. No.	Name	Role	Email id
1	Dr. Kirti Rajhans	Presiding Officer	kirtirajhans@nicmar.ac.in
2	Dr. Vijaya Desai	Member	vdesai@nicmar.ac.in
3	Dr. Arpita Mathur	Member	amathur@nicmar.ac.in
4	Mr. G.U. Karande	Member	karande@nicmar.ac.in
5	Mrs. Archana Dange	Member	archana.dange@nicmar.ac.in
6	Mr. Milind Sahastrabudhe	Member (External Consultant)	smilind.adv@gmail.com
7	Two members of Student Council	On Invitation	

4. Important Definitions

a) “Sexual Harassment”

(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 nonverbal 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; humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned

Words and Expressions used and not defined in this policy shall have the meanings respectively assigned to them in Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, as amended from time to time.

- b) **“Student”** means a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short-term training programmes in NICMAR
- c) **“Third Party Harassment”** refers to a situation where sexual harassment occurred as a result of an act or omission by any third party or outsider, who is not an employee or a student of NICMAR, but a visitor to NICMAR in some other capacity or for some other purpose or reason.

5. Who can file a complaint?

The aggrieved person or 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 illness or death.

6. How to file a complaint?

The aggrieved person or anyone related to the case as mentioned above can file a complaint by sending an email or a letter to the Chairperson or any member of the Internal Complaints Committee.

7. Inquiry Process

The procedure below will be generally followed. However, given that determining what constitutes sexual harassment depends upon the specific facts of each case, the ICC may make modifications in the procedure in accordance with the policy and the principles of natural justice. The standard of proof in an inquiry is 'preponderance of probability'.

Receipt of complaint

1. A formal complaint is received, with available evidence and list of witnesses.
2. ICC determines if there is prima facie a case of sexual harassment.
3. If the answer is yes, the respondent is informed and is provided with the copy of the complaint and has to respond within 10 days' time with evidence and list of witnesses.
4. The respondent's response is given to complainant.

Inquiry process

5. ICC hears the complainant and witnesses once or more than once.
6. ICC hears the respondent and witnesses once or more than once.
7. The parties read and sign the transcriptions/statements of their depositions.
8. The statements/depositions of complainant/witnesses, identities of these witnesses may be withheld on request.
9. During the course of inquiry, copies of all evidence provided by the complainant and witnesses are provided to the respondent and the documents of the respondent and witnesses are provided to the complainant.
10. In the course of inquiry, ICC may call anyone else it thinks may be able to help the inquiry and may also call for any documents, material from the Institute which may be relevant – such as CCTV footage, mail server evidence in case of e-mails and so on.

11. Cross-examination is conducted but may not be face-to-face. Each party may send to ICC questions for the other party and witnesses. These questions will be put to the party concerned by the ICC.

12. ICC will normally allow all questions except those that it has reason to believe are irrelevant, mischievous, slanderous or derogatory.

13. The cross-examination answers are provided to the party concerned.

14. The ICC will deliberate on the statements; evidence, cross-examination and any other material placed before it and will write its report.

15. Maximum period of inquiry and final report writing is 90 plus 10 days from the receipt of the complaint.

16. In any case concerning an employee, the preliminary report of the ICC is given to them and a time period is given for response.

17. The ICC will take into consideration the response of complainant/respondent and prepare its final report.

Action on ICC report-

18. The final report is tabled before the Director General, NICMAR, who is the disciplinary authority for students and the employees.

19. The Director General will decide action to be taken on the basis of ICC recommendations in its report.

20. The action to be taken will be communicated to the respondent and time will be given for appeal/response.

21. Director General will take into consideration respondent's response and will issue final order on action to be taken.

8. Powers of the Internal Complaints Committee

The Internal Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) The discovery and production of documents; and
- (c) Any other matter which may be prescribed.

9. Responsibilities of the Internal Complaints Committee (ICC)

- (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
- (c) Protect the safety of the complainant
- (d) Ensure that victims or witnesses are not victimised or discriminated
- (e) Both parties to the complaint be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- (f) Prohibition of publication or making known contents of complaint and inquiry proceeding
- (g) Penalty for publication or making known contents of complaint and inquiry proceedings— as per service rules.
- (h) Submit annual report- The Internal Complaints Committee shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer. The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

10. Procedures to be followed after receipt of complaint

- (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 Director General, NICMAR. Copy of the findings or recommendations shall also be served on both parties to the complaint.

(4) Director General, NICMAR 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 Director General, NICMAR within a period of thirty days from the date of the recommendations.

(6) If Director General, NICMAR 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 Director General, NICMAR shall proceed only after considering the reply or hearing the aggrieved person.

(7) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident

The committee may condone the delay on being satisfied.

(8) Conciliation- to settle the matter. No monetary settlement shall be made as a basis of conciliation.

- a) No further inquiry shall be conducted by the Internal Complaints Committee after settlement
- b) In case the party doesn't agree for the settlement and if prima facie case exist, the internal committee shall forward the complaint to the police, within a period of seven

days for registering the case under section 509 of the Indian Penal Code (as per POSH act 2013)

11. Actions during pendency of inquiry (Interim Redressal)

(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Complaints Committee may recommend to the employer to -

- (a) transfer the aggrieved woman or the respondent to any other workplace; or
- (b) grant leave to the aggrieved woman up to a period of three months; or
- (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

12. Punishment for false or malicious complaint and false evidence

Take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

13. Appeal

The aggrieved party can appeal to the court / tribunal within 90 days of the recommendations. (as per POSH 2013)

14. General Responsibilities and Confidentiality

All individuals must follow this policy and the Internal Complaints Committee members and Administration Department shall coordinate for effective implementation of this policy.

Confidentiality:

All information received shall be kept confidential. Any person (including witnesses) who breaches confidentiality shall be subject to disciplinary action.

Protection against retaliation:

Regardless of the outcome of the complaint made in good faith, the employee lodging the complaint and any person providing information or any witness, will be protected from any form of retaliation. While dealing with complaints of sexual harassment, the committee shall

ensure that the Complainant or the witness are not victimized or discriminated by the accused. Any unwarranted pressures, retaliatory or any other type of unethical behaviour from the accused against the complainant while the investigation is in progress should be reported by the complainant to the complaints committee as soon as possible. Disciplinary action will be taken by the Complaints Committee against any such complaints which are found genuine.

15. Dissemination of the Policy

A copy of this Policy shall be given to all employees and to all new joiners and they shall sign a statement acknowledging that they have received, read, understood and will abide by the Policy.

16. Quarterly and Annual Report

As per POSH Act 2013, the Internal Complaints Committee shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer. The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

a) The chairperson of Internal Complaints Committee shall furnish consolidated quarterly report (only when there is such a complaint) after the Meeting held by the committee members on every quarter with the below mentioned details:

- Number of cases,
- Date of complaint,
- Allegation in brief,
- Present status of case
- Any order passed by the disciplinary authority with date
- or if not, Nil report

b) The committee shall in each calendar year, prepare and submit report to the Director General, NICMAR and District Officer with the following details

- Number of complaints of sexual harassment received in the year

- Number of complaints disposed of during year
- Number of cases pending
- Submission of reports with no issue raised during the year.

References

- 1) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- 2) The UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees And Students In Higher Educational Institutions) Regulations, 2015.