

Policy on the Prevention, Prohibition and Redressal of Sexual Harassment in the Workplace with its attendant rules and procedures

1. LEGAL CONTEXT

- a) In 1997, the Supreme Court of India in a landmark judgment in *Vishaka and others v. State of Rajasthan and others* for the first time acknowledged sexual harassment at the workplace as a human rights violation and laid down guidelines making it mandatory for every employer to provide a mechanism to redress grievances pertaining to workplace sexual harassment. These guidelines had the force of law until Parliament enacted 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' (hereinafter referred to as SHWW Act of 2013).
- b) IIT Bombay's Women's Cell was formed in 2002. It inquired into grievances of sexual harassment. After the enactment of SHWW Act of 2013 to redress grievances of sexual harassment, the Director of the Institute, as the employer, constituted the Internal Complaints Committee.
- c) With the adoption of this policy, the Cell shall henceforth be called the Gender Cell (GC). In recognition of the Institute's belief that its employees and students have a right to be treated with dignity and respect, the Cell shall be concerned with issues of gender amity and shall work proactively towards developing a safe and secure environment for employees, and towards ensuring that all students may gain their education without fear of prejudice, gender bias, hostility, or sexual harassment.
- d) As an educational and research institution established on a 750-acre campus, there are several types of legal relations viz. employer-employee, student faculty, research scholar-supervisor, vendor-customer, residents and visitors, auto-drivers and passengers etc. In view of this, to prevent or deter the commission of acts of sexual harassment and to provide a procedure for the solution, settlement or prosecution of acts of sexual harassment, the following policy is being put in place by the Institute.

2. CONSTITUTION OF COMMITTEES

- a) The IIT Bombay Gender Cell (GC) will inquire into complaints of sexual harassment through its Internal Complaints Committee (GC-ICC).
- b) The GC and GC-ICC will strive to uphold the highest standards of ethics, fairness and accountability in their functioning and will work towards an egalitarian environment where men and women are afforded equitable treatment and equality of opportunity.
- c) The Director, being the employer for the purpose of constituting the GC and the GC-ICC, shall do so by an order in writing.
- d) The GC shall consist of at least 16 members, of whom a minimum of 50 per cent shall be women, and be constituted as follows: a senior woman faculty member as Convener and at least three other women faculty members one of whom shall

be the Co-Convener; one senior male faculty member and one other male faculty member; one senior woman staff representative and one junior staff representative; the SC/ST-OBC Liaison officer and one convener of the SC/ST Cell; Head, Computer Centre and GATI, Convener as ex-officio members; at least one external member who shall either be from an NGO or an association committed to the cause of women, or a person familiar with the issues relating to sexual harassment; one temporary/contract employee; four student members (two UG and two PG, with at least one woman at each level). The UG students shall be respectively 'Institute Girls' Nominee' and ISHA (Institute Secretaries of Hostel Affairs) representative. The PG students shall be chosen by the Gender Cell through a process of call for EOI (expressions of interest) and/or SOP (statements of purpose), followed by an interview and recommended to the Director. All members shall have a term of three years, except for student members and the temporary/contract employee for whom the term shall be one year. The PG students' membership, subject to the GC's recommendation and the Director's approval, may be extended *once* for one more year.

- e) The GC-ICC shall consist of at least 10 members, of whom a minimum of 50 per cent shall be women, and be constituted as follows: Convener (GC) as Chairperson/Presiding Officer; Co-Convener (GC); one other woman faculty member; one senior male faculty member; one senior woman staff representative; one junior staff representative; the SC/ST-OBC Liaison officer and one convener of the SC/ST Cell; one external member who shall either be from an NGO or association committed to the cause of women, or a person familiar with the issues relating to sexual harassment; one UG and one PG student (at least one of whom shall be a woman). All members appointed to GC-ICC shall be from among those appointed to the GC.
- f) The Director, as employer, may increase the membership of the GC and/or GC-ICC under the different categories at any time in keeping with the needs of the Institute in consultation with the Convener, GC.
- g) The terms of the members of the GC-ICC shall be three years except for the student members whose term shall be one year. The PG students' membership, subject to the Convener's recommendation and the Director's approval, may be extended *once* for one more year.

3. OBJECTIVES OF THE GENDER CELL (GC)

- a) Work to foster an environment that promotes equality, non-discrimination, and gender justice.
- b) Promote gender amity, sensitize and spread awareness about gender issues among all members of the Institute's community, including employees, students, and residents on campus.
- c) Provide guidelines for protection from sexual harassment and uphold the basic right to work and live with dignity.
- d) Make recommendations to the Institute regarding measures that should be taken to help prevent sexual harassment and acts that affect the dignity of women, ensure that the rules and regulations are gender just, and also make recommendations regarding procedures for the prevention, prohibition,

resolution, settlement, and prosecution of acts of sexual harassment by and of anyone who has working relations with the Institute.

- e) Deal with cases of sexual harassment through the GC-ICC in accordance with this policy and within a fixed time frame, while ensuring that support services are available to the complainant as well as the termination of the harassment, and recommend appropriate punitive action against the guilty to the Director.

4. JURISDICTION

- a) This policy shall apply to all categories of persons described in Section 5 'Definitions', in the manner described here.
- b) The term 'complainant' shall refer to the person filing the complaint before the GC-ICC and the term 'respondent' shall refer to the person against whom the complaint of sexual harassment has been filed. Though the complainant has been referred to as 'she' and 'her' at various places in this policy, the term may be construed to include other genders where applicable.
- c) This policy shall be applicable to all complaints of sexual harassment made:
 - i. By a woman employee or woman student, against a male belonging to any of the categories of persons described in the section titled 'Definitions', when the sexual harassment is alleged to have taken place within the campus or the workplace.
 - ii. By a woman resident, service provider or outsider in complaints of sexual harassment made in relation to the 'workplace'
 - against a male student or employee when the sexual harassment is alleged to have taken place within the campus or the workplace
 - against a male service provider or outsider when the sexual harassment is alleged to have taken place within the campus.
 - iii. By a male student or a student belonging to sexual minorities against a male student or employee, when the sexual harassment is alleged to have taken place within the campus or the workplace.

4.1 Explanations

- a) Any complaint outside of these specifications may be examined by the GC-ICC in terms of jurisdiction and taken up for consideration.
- b) When the respondent is an employee, the GC-ICC shall have inherent jurisdiction under SHWW Act of 2013 & SHWW Rules 2013 to deal with complaints of sexual harassment at the workplace and such inquiries shall be made as per the provisions of the service rules applicable to the respondent. Where the Central Civil Services (Conduct) Rules, 1964 (CCS(C) Rules) are applicable to the respondent, it may be noted that sexual harassment is prohibited under Rule 3C of the said Rules and the inquiry of the GC-ICC will be the departmental proceedings, and the procedure as laid down under this policy will prevail over that as laid down under Central Civil Services (Classification, Control and Appeal) Rules (i.e., CCS (CCA) Rules) as provided under the Proviso of Rule 14 (2) of the CCS (CCA) Rules.
- c) When the respondent is not an employee, the GC-ICC shall be the ex-officio body to inquire into complaints of sexual harassment at the workplace including in the

campus of IIT Bombay. All complaints of sexual harassment of students against other students as set out in Paragraph 4 of this policy shall be handled by the GC-ICC in accordance with the provisions of this policy.

- d) Harassment by service providers and outsiders is third party harassment as these are persons with whom employees and students come into contact, directly or indirectly, as the Institute or people involved with the activities of the Institute have a relationship including a business relationship with them. Where an act of sexual harassment occurs as a result of an act or omission by any third party, the Institute shall take all necessary and reasonable steps to assist the complainant in terms of support and preventive action. Further, where the respondent is a third party and the Institute has no control over the employment of such a person, the GC-ICC shall forward such complaints to the employer of the respondent, or assist the complainant in filing an FIR with the police.

5. DEFINITIONS

- a) 'Institute' means the Indian Institute of Technology Bombay.
- b) 'Employer' means the Director of the Institute, Disciplinary Authority, or Board of Governors as the case may be.
- c) 'Campus' encompasses all places of work and residence at the Institute, or any of the existing or prospective extension campuses. It includes all physical locations, any site or online platform, and any premises where the Institute's activities such as instruction, research and administration are conducted, as well as employee quarters, hostels, health centres, guest houses, sports grounds, parks, streets, lanes, canteens etc. in the Institute and its extensions.
- d) 'Workplace' means the campus of the Institute and also covers within its scope any place visited by the employee or the student arising out of or during the course of employment or study including transportation whether provided by the employer or not for undertaking such journeys, and including locations outside the Institute visited on field/industrial trips, seminars, conferences, workshops, internships, study tours, excursions, short-term placements, places used for camps, cultural festivals and competitions, sports meets and other activities as well as outside accommodation when used for official purposes. It also includes off-site and online platforms where any of the activities of the Institute are conducted and where a person is participating as an employee or a student of the Institute.
- e) 'Hostile Work Environment' means an environment that is created when an act of sexual harassment on the part of the respondent has the purpose or effect of interfering with an individual's educational or work performance and/or creates an intimidating, offensive or hostile employment, educational, or living environment.
- f) 'Employee' includes all academic, administrative and technical staff of the Institute, permanent, temporary or ad hoc, full-time or part-time, holding a visiting or an honorary position, on deputation or special duty, and any person employed for any work directly, or by or through any agency (including a contractor), with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis, whether the terms of

employment are express or implied, and includes any person employed as a temporary, casual, daily wage, *badli*, piece-rated or contract worker, teaching or research assistants, consultants, advisers and persons involved in projects, camps, field studies and short visits, probationer, trainee, apprentice or by any other name called.

- g) 'Student' means a person duly admitted to, pursuing or completed (and awaiting degree) any programme of study in the Institute. It shall include part-time and sponsored students, and students pursuing programmes either through regular mode or any other mode, including a non-degree or short-term programme in the Institute, and students of other universities, institutes or colleges who come on placement or for short-term courses, internships or training at the Institute
- Provided that a student who is in the process of taking admission in the Institute, although not yet admitted, shall be treated, for the purposes of these Rules, as a student of the Institute where any such incident of sexual harassment takes place against such student.
 - Provided that a student, who is a participant in any of the activities in the campus, shall be treated, for the purposes of these Rules, as a student of the Institute where any such incident of sexual harassment takes place against such student.
- h) 'Resident' includes any person who is a temporary or permanent resident of any of the accommodations or premises managed and/or allotted by the Institute. These include any residential quarters/hostels provided by the Institute or any other residences provided by the Institute to any of its employees/students in the Institute or at any extension campuses.
- i) 'Service Provider' includes any person who runs/manages or provides commercial enterprises/services within the campus (such as cable TV, computer, milk, food, newspaper or any type of delivery/distribution/vendor. It includes, but is not limited to, domestic workers, persons working in shops, canteens, hostels and restaurants on the campus, as well as persons working in premises allotted on the campus, such as the shopping complexes).
- j) 'Outsider' includes any person who is visiting the campus and is not covered by any of the other categories defined by this policy.
- k) 'Affiliated persons' shall include all those persons affiliated with other legal entities (e.g. other institutions or companies) operating on campus. Their affiliation can be of the same nature as defined by the categories as defined above, viz, employee, student, residents, service provider and outsider. If cases are not covered by the companies/legal entities themselves, they will fall under the jurisdiction of this policy. Written agreement on this issue shall be sought from the companies.

6. SEXUAL HARASSMENT

Sexual harassment as per the Supreme Court Judgment and SHWW Act of 2013 includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) such as:

- a) Physical contact and advances;

- b) A demand or request for sexual favours;
- c) Making sexually coloured remarks;
- d) Sending, displaying or showing of pornographic material in physical form or through any electronic media;
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature, and
- f) Any other acts or omissions that are of like nature to the instances above.

6.1 Instances of Sexual Harassment

The following circumstances, among other circumstances, if present in relation to or connected with any act or behaviour of a sexual nature, can amount to sexual harassment. NOTE: *These instances of sexual harassment are illustrative and not exhaustive.*

- a) implied or explicit promise of preferential treatment in employment as quid pro quo for sexual favours;
- b) implied or explicit threat of detrimental treatment in employment;
- c) implied or explicit threat about a complainant's present or future employment status;
- d) interference with the work of the complainant and creating an intimidating or offensive or hostile work environment for the complainant;
- e) meting out of humiliating treatment which is likely to affect the complainant's health or safety;
- f) indecent exposure;
- g) coerced sexual intercourse, including date rape;
- h) physically blocking passages or walkways;
- i) sexual assault or physical assault with sexual intent;
- j) unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, inappropriate touching or unnecessary close proximity;
- k) physical contact or attempt thereof when the victim is under the influence of any intoxicating substance, drugs or alcohol and, thereby, is not fit to withhold consent or refuse to participate in any activity of sexual nature;
- l) physical contact or attempt or preparation thereof by rendering a person directly or abetting in so rendering a person under the influence of any intoxicating substance, drugs or alcohol and, thereby, prevent the person from withholding consent or refusing to participate in any activity of sexual nature;
- m) physical violence, including sexual assault;
- n) sharing sexist jokes, letters, messages by electronic mail, mobile apps or otherwise that may cause humiliation or offense to the complainant and despite requests by the complainant or others to desist from sharing the same, are still carried out by the offender or, even without such advice, when they are, by their nature, humiliating, offensive or vulgar;
- o) any unwelcome messages, images, video clips sent via mobile phones, emails, or any links to webpages/sites, and which cause or are likely to cause either

awkwardness, offense, embarrassment or harassment will also amount to sexual harassment.

- p) display of sexually offensive pictures, materials or graffiti;
- q) unwelcome inquiries or comments about a person's sex life;
- r) comments on personal appearance, comments on physical features, age, sexual orientation, etc. and spreading rumours about an individual's sexual behaviour;
- s) unwelcome sexual flirtation, advances, propositions including continued expressions of sexual interest after the recipient has made it clear that such invitations are not welcome;
- t) making offensive gesticulations, at the complainant or verbal abuse with sexual overtones;
- u) persistent unwanted attention with sexual overtones or watching, stalking or contacting a person physically or virtually or unwanted touching or brushing against a complainant's body;
- v) implied or explicit promise of preferential treatment in employment by grant of promotion, local or foreign travel, favourable working conditions/ assignments, or in education by giving a passing grade, granting of honours or scholarships, participation or engagement of the complainant in any of the Institute's activities, or the grant of benefits or payment of a stipend or allowance etc.;
- w) derogatory or degrading remarks or innuendoes directed towards the members of one sex, or towards a person's sexual orientation, or used to describe a person.

6.2 **Explanation**

- a) Sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace. Sexual harassment may be part of a pattern of behaviour or occur only once. It may be directed at an individual or at a group of people. It may take place during face-to-face contacts, but can also be inflicted by means of telephone calls, letters or e-mails. There is a wide range of ambiguous behaviour that might offend some people but not necessarily others: comments on dress, compliments about appearance, unintentionally offensive jokes that many others would find acceptable. Individuals will have different views about what is offensive. However, the Institute does not allow any value or practice to legitimize behaviour that harasses, intimidates, threatens or humiliates others. The conduct has to be offensive to the recipient and might not be intended to be so by the perpetrator. What matters is that the sexual conduct is unwanted and unwelcome to the person against whom the conduct is directed.
- b) It is the reasonable perception of the complainant/victim that would be relevant in determining whether any conduct was sexually determined and, if so, whether such conduct was unwelcome or not or that her objection would disadvantage her in connection with her employment or education, including evaluation, grading, recruitment or promotion, or when it creates a hostile working, educational or living environment.
- c) In any instance of abuse by a person or persons whose identity is currently not known, the identification of the alleged perpetrator may be taken up by GC-ICC and appropriate bodies of the Institute, to the extent possible. When deemed

advisable, the complainant will be helped to file a case with the police.

7. DUTIES OF THE EMPLOYER

The employer shall:

- a) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- b) Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- c) Display at conspicuous places in the workplace and also include in its prospectus, the penal consequences of sexual harassment and penalties prescribed in this policy; give information about the redressal mechanism and the constitution of the GC-ICC to encourage people to file their grievances.
- d) Organize workshops, awareness and training programmes at regular intervals to sensitize employees and students of the Institute on issues of sexual harassment in the workplace including the law and the provisions of this policy, and mandate that all employees and students receive adequate training in this regard; organize orientation programmes for the members of the GC-ICC to deal with sexual harassment complaints in the manner prescribed in the policy. Such programmes may be organized through the Institute's GC.
- e) Provide all necessary facilities to the GC-ICC for dealing with complaints and conducting an inquiry, and make available any information to the GC-ICC as it may require with regard to any complaint under inquiry.
- f) Assist in securing the attendance of the respondent and witnesses before the GC-ICC.
- g) Aid the complainant to file a complaint with the police in relation to an offence under the Indian Penal Code or any other law for the time being in force, should the complainant so choose.
- h) Assist the complainant to initiate action under the Indian Penal Code or any other law for the time being in force, against the respondent, or if the complainant so desires, where the offender is a third party, i.e., is neither an employee or a student of the workplace, then inform the GC-ICC of the workplace of the said third party and assist the complainant in the proceedings before the ICC of the said Institute or organization.
- i) Ensure that the filing of a sexual harassment complaint shall not adversely affect the complainant's status, job, remuneration, promotion, education, research or grades as the case may be.
- j) Monitor the timely submission of reports by the GC-ICC.
- k) Ensure that the recommendations of the GC-ICC arising out of the complaints handled by it are implemented in a timely manner, and keep the GC-ICC informed of action taken on the basis of these recommendations.
- l) Include in the Annual Report, as prepared and submitted by the GC-ICC each calendar year, the number of cases filed, if any, and their disposal under the policy.
- m) Provide the GC-ICC with the necessary institutional resources including office, infrastructure such as computer, audio-video equipment, photocopier etc. and

- the required staff (such as, for data entry, accounting and general facilitation, counselling and legal services) with sufficient allocation of financial resources.
- n) Provide robust infrastructure and ensure its maintenance for the safety of students and women.
 - o) Ensure that there is adequate and well-trained security, including a good proportion of women security staff, who have all received gender sensitization training.
 - p) Ensure that the Security Office of the Institute shall designate and make known the names and contact numbers of officers who may be reached by a person in distress. The Gender Cell shall regularly publish and update these names and contact numbers on its website.
 - q) Ensure that when a complainant calls the Security Office of the Institute in case of a distressing incident, an officer, preferably female, shall be sent to the site if the complainant so requests and is unable to come to the Security Office in person.
 - r) Ensure transport between different sections of the campus if required, to enable employees and students to work late in libraries, laboratories, or office spaces, and attend programmes after regular office hours.
 - s) Accord priority to the construction of women's hostels.
 - t) Provide adequate health facilities within the campus including gender sensitive doctors and nurses and the services of gynaecologists and counsellors.
 - u) Ensure that all persons issued temporary ID cards will be made aware of this policy.
 - v) Conduct regular review of the efficacy and implementation of this policy.

8. FUNCTIONS OF THE GC-ICC

8.1 Preventive and Prohibitory

The GC-ICC shall exercise the following preventive and prohibitory functions in association with or through the GC.

- a) Publicize widely the Institute policy against sexual harassment in English and Hindi especially through the prospectus, programme guide or other appropriate documents, and display the same on notice boards, websites, offices, residential areas etc.
- b) Ensure that every recruitment/admission announcement must state that the Institute has a policy against sexual harassment and is committed to providing an environment free of harassment at the workplace.
- c) Ensure that events organized on campus such as conferences, workshops, student events, sport meets and festivals state and publicize that the Institute has a policy against sexual harassment and is committed to providing an environment free of harassment at the workplace.
- d) Regularly organize and carry out programmes for gender sensitization of the Institute members through workshops, seminars, posters, film screenings, debates or other. The GC-ICC may enlist the help of specialized NGOs/individuals/ organizations to conduct these programmes.
- e) Recommend both the removal of programmes as well as posters or other

publicity material in the Institute containing sexually objectionable content and the taking of appropriate action in this regard.

- f) Take *suo moto* notice of grave violations of the basic principles of gender sensitivity and gender justice in the Institute campus/workplace and find appropriate ways to address these in collaboration with the employer.

8.2 Remedial

8.2.1 Inquiry

- a) The GC-ICC shall receive and take cognizance of complaints made about sexual harassment at the workplace.
- b) Upon receiving a complaint, the Chairperson/Presiding Officer shall convene an Inquiry Committee from amongst the members of the GC-ICC. The quorum for hearing a complaint shall be a minimum of three members, including the external member and the Chairperson or Presiding Officer as appointed by the Chairperson in her absence. If either the complainant or the respondent chooses to disclose any aspect of their marginalized social background or identity, the Chairperson/Presiding Officer shall ensure suitable representation in the Inquiry Committee being constituted, either from within the ICC or by co-opting a representative for that inquiry. Where the complainant, respondent or witness is a student, one student member shall be part of the Inquiry Committee. At least half of the members on the Inquiry Committee shall be women. Hereinafter, the term GC-ICC shall denote the 'Inquiry Committee' with reference to actions taken while conducting an inquiry under this policy.
- c) The GC-ICC shall conduct inquiries into these complaints, place findings before the concerned employer and recommend penalties against the respondent in accordance with the rules and procedures laid down.
- d) During the pendency of an inquiry, it shall take necessary steps as in this policy.
- e) It shall arrange for appropriate legal, psychological/emotional and physical support for the complainant if the complainant so desires.
- f) In the case of a third party/outsider harassment, with the consent of the complainant, the Institute shall initiate action by making a complaint with the appropriate authority having jurisdiction over the offence. Further, the Institute and the GC-ICC will actively assist the complainant in pursuing the complaint.
- g) It shall treat all the information received and the details of both the complainant and the respondent confidentially and maintain strict confidentiality throughout the process. The inquiry should be conducted in an environment characterized by respect, solidarity and trust even as the GC-ICC undertakes the tasks of eliciting, verifying and corroborating statements.
- h) It shall maintain all records such as the written complaint, the notes of the meetings, the evidence and action-taken/recommended reports and any other documents for future reference. It shall maintain communication with the complainant and respondent to keep them informed of the various stages of the inquiry proceedings.
- i) It shall submit annual reports in the format prescribed under the Act to the appropriate authority stating the number of sensitization programs conducted,

the number of complaints received, the number of cases disposed of, the number of cases pending, and the nature of action(s) taken by the employer on the findings of the GC-ICC.

- j) It shall inform the complainant of the availability of criminal provisions for redressal in addition to the internal complaint mechanism and assist the complainant in filing a police case where such assistance is requested.
- k) Where the respondent is an employee to whom the CCS (CCA) Rules are applicable, a 'charge sheet' shall be provided to the employer for information and for further necessary action. During the period of inquiry, were the respondent to harass or threaten the complainant, or witnesses or members of the GC-ICC, a separate charge shall be framed, and an intimation of the same shall be given to the employer. Further, police/criminal action shall be initiated simultaneously.

8.2.2 Procedure for registering complaints

- a) A complainant may make a complaint of sexual harassment within three months from the date of the incident, and in the case of a series of incidents, within a period of three months from the date of the last incident. However, the GC-ICC may extend the period beyond three months, but not exceeding three months thereafter, for the reasons to be recorded in writing, if it is satisfied that circumstances were such which prevented the complainant from making the complaint within the said period.
- b) All complaints must be in writing. Where the complaint has been made orally, the GC-ICC shall direct the complainant to file a written complaint. If the complainant is unable to make the complaint in writing themselves, the Presiding Officer or any other member of the GC-ICC may render reasonable assistance to the complainant for making any such complaint in writing, and it shall be authenticated by the complainant under dated signature or thumb impression as applicable. A complaint may be initiated by email but will not be considered to have been received until it has been authenticated by the complainant.
- c) The Convener/Co-convener GC or either one of them in the absence of the other shall act as Receiving officer(s) to receive and record complaints.
- d) Complainants, respondents and witnesses are advised, to use their email accounts on the IITB internal server to correspond with the GC-ICC.
- e) Complaints may be lodged directly with the Receiving Officer(s) or through existing channels for lodging grievances, such as the Director and other Institute authorities, academic and non-academic staff associations, etc. If the complaint is made through any such channel, the person to whom the complaint is made shall bring it to the notice of the Receiving Officer(s) at the earliest. In such cases, authentication of the complaint by the complainant will follow the procedure laid out above in point b).
- f) Where the complainant is unable to make a complaint on account of physical or mental incapacity or death or otherwise, the complainant's legal heir(s) or relative, friend, colleague, associate or psychologist or such other person who has knowledge of the incident(s) may make the complaint with the written consent of the complainant or the complainant's legal heir(s).
- g) The immediate response on receiving a complaint must be to provide initial

support and advice to the complainant who may be referred to a lawyer, doctor and/or counsellor if the complainant so desires.

- h) The complaint shall have details of the sexual harassment including location, date, time of the incidents cited in the complaint along with names and identifying details of the respondent. The complainant is required to file along with the complaint, supporting documents and names and contact details of any witnesses.
- i) Once received and recorded, the complaint shall be referred to the GC-ICC which must determine whether, *prima facie*, a case of sexual harassment is to be made.
- j) If the GC-ICC decides not to conduct an inquiry into a complaint, it shall record the reasons for the same and make them available to the complainant in writing.
- k) If the GC-ICC determines that an inquiry must be instituted, it will send a true copy of the written complaint lodged by the complainant to the respondent within *seven* days of this determination.
- l) Upon receipt of the copy of the complaint, the respondent shall file the reply to the complaint and submit the names and contact information of witnesses, if any, within a period of *ten* days. A copy of the written reply of the respondent shall be provided to the complainant.
- m) The complainant shall be informed of the right to seek interim relief and the nature of relief as available under the policy.
- n) No GC-ICC member who is a complainant, witness, or respondent in a complaint of sexual harassment shall be a member of the Inquiry Committee for that complaint.
- o) Any member of the GC-ICC charged with sexual harassment in a written complaint must step down as member of the GC-ICC while an inquiry into that complaint is underway.

8.2.3 Conciliation

Before initiating an inquiry, the GC-ICC may, at the written request of the complainant, take steps to settle the matter through conciliation. Where a settlement is arrived at, the GC-ICC shall conduct no further inquiry. However, no monetary settlement shall be made the basis of conciliation. The GC-ICC shall take steps to ensure that the conciliation is out of the free will and consent of the complainant and not due to any fear, force, fraud, undue influence or misrepresentation. Where the settlement is arrived at, the GC-ICC shall record the same and obtain the signatures of the parties and forward the same to the employer and close the inquiry. However, if the complainant informs the GC-ICC that the respondent has not complied with any of the terms or conditions of the settlement, the GC-ICC shall proceed with its full inquiry into the complaint.

8.2.4 Action during pendency of an inquiry

During the pendency of an inquiry, on the basis of a written request to GC-ICC by the complainant, the GC-ICC may recommend that the employer:

- a) Take steps to ensure the safety of the complainant and witnesses during the pendency of an inquiry and till the final determination of the complaint, by advising the concerned authorities to issue warnings or any other order, if the

respondent harasses or intimidates the complainant or witnesses or is in a position of command wherein they are expected to report to him. In order to ensure a safe, secure and tension-free atmosphere at the workplace and campus, the GC-ICC may make certain proposals to the employer such as:

- i. If the complainant is a student and the respondent is a faculty member, the respondent shall not be allowed to act as examiner to this student.
 - ii. If the complainant is a research scholar and if the respondent is the thesis supervisor, the supervisor may be changed, if co-supervisor or if a member of the Research Progress Committee, then they may be removed from those roles during the inquiry.
 - iii. If the complainant and the respondent are employees, the reporting structure may be changed if applicable and/or either party may be shifted to an alternate location/department/unit.
 - iv. If the respondent is an outsider, the respondent will not be allowed to enter the Institute premises, apart from presence at GC-ICC meetings when required.
 - v. If the complainant is a service provider or a contract/casual/project/temporary employee, their service conditions and service contract shall not be adversely affected during the period of the inquiry, and the GC-ICC shall recommend to the employer adequate steps to protect their employment and other rights while ensuring their safety.
- b) Make efforts to ensure that the complainants and the witnesses are not further victimized or discriminated against while the Inquiry Committee is dealing with the complaint. The GC-ICC shall recommend action against anyone who threatens or intimidates the complainant or members of the GC-ICC. This may include and be in the nature of issuing a restraining order against the respondent or any other person/s, or taking appropriate disciplinary action by the concerned authority.
- c) Transfer the complainant or the respondent to any other workplace if they are employees of the Institute; or
- d) Grant leave to the complainant not exceeding *three* months if the complainant is an employee of the Institute, which shall be in addition to the leave to which the complainant is otherwise entitled as per the applicable service rules;
- e) Grant such other relief as may be appropriate.

8.2.5 Procedures for inquiring into complaints

- a) The procedure elucidated here will be generally followed. However, given the nature of sexual harassment complaints and inquiries and given that determining what constitutes sexual harassment depends upon the specific facts and circumstances of each case, the GC-ICC is empowered to devise its own procedure for conducting inquiries to *prima facie* determine the validity of the complaint against the respondent. While conducting the inquiry, the GC-ICC shall keep in mind that the burden of proof is the same as in a civil case, and that the standard of proof is preponderance of probability. The GC-ICC shall also note that each party has to prove the submissions made before it. It shall interview the complainant, the respondent, and others related to the case, and examine

relevant documents or evidence, in compliance throughout with the principles of natural justice and fair play and in consistency with SHWW Act of 2013.

- b) The GC-ICC shall provide reasonable opportunity to the complainant and the respondent to present and defend their cases. At the commencement of the inquiry the GC-ICC shall explain to both the complainant and respondent the procedure which will be followed in the inquiry and apprise them of their rights therein.
- c) The complainant and the respondent shall be responsible for presenting their witnesses before the GC-ICC, and for communicating with the witnesses regarding the date(s), time(s) and venue(s) of the meeting(s).
- d) The GC-ICC may also call on any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- e) The members of the GC-ICC shall maintain confidentiality about the proceedings conducted by them. They shall keep confidential the identities of the complainant, respondent and all witnesses before, during and after the inquiry.
- f) All those heard by the GC-ICC including witnesses shall be instructed about the confidentiality of the proceedings to protect the dignity of the complainant and the respondent. Any violation of confidentiality may invite penalties.
- g) The GC-ICC shall have the power to summon any official papers or documents from the concerned sections, units, departments, or centres of the Institute pertaining to the complaint under inquiry.
- h) The GC-ICC shall have the power to summon and enforce the attendance of any person in the Institute relevant to its inquiries and examine them under oath.
- i) No observations regarding the work and behaviour of either the complainant or respondent shall be made in the inquiry report which are not related to the alleged act of sexual harassment. However, the GC-ICC may consider as relevant earlier complaints of sexual harassment against the respondent, if any.
- j) The GC-ICC shall be sensitive to the often covert, private and insidious nature of sexual harassment and shall take into consideration that often the complainant may not be able to submit or present direct or corroborative evidence.
- k) The GC-ICC shall take note of the respective socio-economic positions of the parties, their hierarchy in the workplace, employer-employee equations and other power differentials while appreciating the evidence.
- l) In cases of harassment via posts and messages through electronic and social media, the GC-ICC shall consider the public humiliation that this involves for the complainant as well as the unwitting exposure of others who are using this media to such messages and images while inquiring into the complaint before them.
- m) The GC-ICC shall have the right to summon, as many times as required, the complainant, respondent and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
- n) All proceedings of the GC-ICC shall be recorded in writing. They may be audio-recorded as well where possible. The written/transcribed record of the proceedings and the faithful statements of witnesses shall be endorsed after verification by the persons concerned and the Presiding Officer in token of

authenticity thereof.

- o) Despite due notice, if any party fails to be present without sufficient cause for three consecutive hearings during the inquiry, the GC-ICC shall, after giving a notice of 15 days to the party, proceed with the hearings *ex parte* and give its findings.
- p) The complainant and respondent shall depose separately during the inquiry. Complainants and witnesses will not depose in the presence of the respondent.
- q) The names/identity of witnesses given by complainant will not be disclosed to the respondent/s where they do not wish for such disclosure. Further, respondent/s will not be allowed face-to-face cross-examination of witnesses of the complainant. The complainant and the respondent shall have the right to cross-examine all the witnesses, and each other. However, such cross-examination shall be conducted in the form of written questions/questionnaires and responses via the GC-ICC only.
- r) The complainant/respondent may submit to the GC-ICC a written list of questions that are to be posed to the other side or its witnesses. The GC-ICC shall retain the right to disallow any questions that it has reason to believe are irrelevant, mischievous, slanderous, derogatory, or gender insensitive. Any behaviour, verbal or otherwise, during or after the inquiry on the part of the respondent that is designed to intimidate or subject the complainant or the complainant's witnesses to mental and/or physical trauma may lead the GC-ICC to recommend disciplinary action against the respondent.
- s) Necessary access to any written/photographic or other documentary evidence offered by complainant/respondent shall be provided by the GC-ICC to the respondent/complainant in compliance with the confidentiality provisions of this policy.
- t) The complainant and the respondent shall have the right to receive the *anonymized* witness statements where the statements have been so anonymized.
- u) Nothing precludes the GC-ICC from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the inquiry proceedings.
- v) If any compelling or substantive new fact or evidence comes to light after the submission of the inquiry report to the appropriate authority and if the GC-ICC reconvenes, it need not restrict itself only to the new fact or evidence but could consider the entire material on record if it is deemed appropriate. If the GC-ICC membership has changed during this interval, the reconstituted GC-ICC will invite to the inquiry up to a maximum of three members who had heard the original complaint where available. It is thereby clarified that the GC-ICC has the power to review once its own decision(s) in the manner described in this clause.
- w) The inquiry shall be completed, as far as possible within a period of 90 days from the date of receipt of the complaint. If for reasons beyond its control, the inquiry cannot be completed within 90 days as aforesaid, the GC-ICC may proceed and complete the inquiry expeditiously and submit its report to the employer.
- x) The GC-ICC shall submit a written inquiry report to the employer within 10 days of the completion of the inquiry. The inquiry report shall specify the details of the

charges against the respondent, the evidence considered in the inquiry, the findings on the complaint and the reasons by which the GC-ICC has reached its decision. The report shall also contain the recommendations of the GC-ICC on the basis of its findings.

- y) Nothing in these rules and procedures shall preclude anyone from simultaneously lodging a complaint with the police in respect of any act amounting to an offence under the law.
- z) The following details will not be disclosed to the public, press or media in any manner:
 - i. Identity, name, and address of the complainant, respondent and witnesses.
 - ii. Information pertaining to conciliation and inquiry proceedings.
 - iii. Recommendations of the GC-ICC.
 - iv. Actions taken by the employer.

Note: Notwithstanding anything contained in the Right to Information Act 2005, all information received in the course of the examination and inquiry into a complaint of sexual harassment shall be held in trust by the GC-ICC and shall not be made available pursuant to an application under the Act; neither shall it be published, communicated, or made known to the public, press and other media in any manner. The information is held by the GC-ICC in a fiduciary relationship and its non-disclosure will not be against public interest. On the contrary, disclosure of such information may endanger the safety of the complainant or any of the witnesses. If a member of the GC-ICC contravenes this provision, they may be liable for penalties/punitive measures and will be immediately removed from membership of the GC/GC-ICC. Where any other employee or student, who is a part of the proceedings of the complaint violates the confidentiality provisions of this policy, they may be subject to appropriate disciplinary action.

8.2.6 Zero Tolerance to Retaliation, Victimization and Discrimination

If a complainant/witness should experience retaliation, victimization or discrimination in the nature of intimidation, pressure to withdraw the complaint, or threats for reporting, testifying or otherwise participating in the proceedings, the complainant/witness should immediately report the matter via email to the Presiding Officer of the GC-ICC. The Institute strictly prohibits retaliation/victimization/discrimination against any complainant for filing a complaint or against anyone helping to address the complaint. Any retaliation or reprisals shall be subject to immediate corrective action by the employer, up to and including suspension and termination in case of any physical assault. Alleged retaliation or reprisals are subject to the same complaint procedures and disciplinary action as complaints of sexual harassment.

8.2.7 Report on Findings and Recommendations and Action Taken

- a) On the completion of an inquiry, the GC-ICC shall provide a report of its findings to the Director IIT Bombay within a period of *ten* days from the date of completion of the inquiry, and will also send a copy of the findings and recommendations to both the parties. Where the Director is not the Disciplinary Authority, the Director shall place the report before the Board of Governors, for appropriate action.
- b) The Report shall have two parts: Part A shall include the summary of the findings

of the GC-ICC and its recommendations based on those findings. This document shall contain the names of only the respondent and complainant, and all witnesses shall be anonymized. This is the part of the report that will be provided to both the parties. Part B of the report will contain documentation of the complete timeline of the inquiry starting from the receipt of the complaint to submission of the final report and recommendation, including the names of all witnesses examined, all the evidence considered, the signed copies of the statements of witnesses, the original complaint submitted by the complainant, and the response submitted by the respondent. After discussion with the Director, the second part of the report should be given to the Director under sealed cover. This may be viewed only by the Director or Board of Governors and shall be opened by the Director in their presence or else sent under sealed cover for filing.

- c) The findings and recommendations of the GC-ICC shall be a single combined document based on the joint deliberations of all the members of the GC-ICC who participated in the inquiry and shall include any disagreements and dissenting notes. The final findings shall be as per the majority with the dissenting notes of any member/s, if any, recorded in the combined document.
- d) Where the GC-ICC arrives at the conclusion that the allegation has not been proved, it shall recommend to the Director of the Institute that no action is required to be taken in the matter.
- e) Where the GC-ICC arrives at a conclusion that the allegation against the respondent has been proved, it shall recommend to the Director of the Institute the imposition of either major or minor punishment in accordance with the gravity of the misconduct and in terms of the service rules of the Institute if the respondent is an employee.
- f) Notwithstanding anything contained in the service rules as applicable to the respondent, the GC-ICC may also recommend to the Director a deduction from the salary/wages of the respondent such sum as it may consider appropriate to be paid as compensation to the complainant or the legal heirs as determined by the GC-ICC. Provided that in case the employer is unable to make such a deduction from the salary/wages of the respondent due to the respondent being absent from duty or due to the cessation of employment, it may direct the respondent to pay such sum to the complainant or the legal heirs.
- g) The determination of the sum of such compensation shall be guided by the provisions of Section 15 of SHWW Act of 2013, namely:
 - i. the mental trauma, pain, suffering and emotional distress caused to the complainant;
 - ii. the loss in the career opportunity due to the incident of sexual harassment;
 - iii. medical expenses incurred by the complainant for physical or psychiatric treatment;
 - iv. the income and financial status of the respondent; and/or
 - v. the feasibility of such payment in lump sum or in instalments.
- h) Where the respondent is a student, the penalties will include a written apology and one or more of the following penalties:
 - i. Warning

-
- ii. Undergoing counselling session(s) and/or a gender sensitization training programme
 - iii. Debarring from holding any position of responsibility or contesting elections or holding positions in any student bodies
 - iv. Community service
 - v. Fixed-time suspension during which the student may not enrol for any course, stay in the hostel, or enter the campus
 - vi. Payment of fine
 - vii. Withholding of award of degree for a fixed period
 - viii. Expulsion
 - ix. Other similar or appropriate punishment
- i) Where the respondent is a resident, recommended action may include:
- i. Warning to the employee/resident
 - ii. Informing the ICC of the employing institute/organization where the resident works
 - iii. Declaring the campus out of bounds to the resident
 - iv. Helping the complainant to file an FIR
 - v. Other similar or appropriate punishment
- j) Where the respondent is a service provider or outsider, recommended action may include:
- i. Warning to employing company, if any
 - ii. Informing the ICC of the employing institute/organization where the respondent works
 - iii. Declaring the campus out of bounds to the respondent
 - iv. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on campus.
 - v. Helping the complainant to file an FIR
 - vi. Other similar or appropriate punishment
- k) Where the GC-ICC arrives at a conclusion that the allegation against the respondent is malicious or that the complainant has made such complaint knowing it to be false or any evidence produced by the complainant is forged, fabricated and/or otherwise misleading, it may recommend that the employer take suitable action including disciplinary action against the complainant.
- Provided that a mere inability to substantiate a complaint or provide adequate proof, or the investigation being rendered inconclusive due to any circumstance which may make it difficult to prove such allegation, need not attract such action.
 - Provided further that the malicious intent on the part of the complainant shall be established only after an inquiry in accordance with the procedure prescribed, before any action is recommended.
- l) Where the GC-ICC arrives at a conclusion that during the inquiry any witness has given false evidence or has produced any forged or misleading document, it may recommend to the employer, action against such witness in accordance with the

service rules applicable to such witness or such other manner as may be prescribed.

- m) Subject to the consideration of an appeal, if any, against a proposed penalty the Disciplinary Authority shall take disciplinary action within sixty days of receipt of the final report from the GC-ICC and shall inform the GC-ICC and the complainant on the action(s) taken. It is clarified that the report of the GC-ICC shall be treated as the inquiry report on the basis of which the penalty can be proposed/imposed against the respondent. An appeal not filed within one month of receipt of notice will be liable to be rejected.
- n) Post implementation of the actions, the employer shall follow up with the complainant to ascertain whether the behaviour has in fact stopped, the solution is working satisfactorily, and that there is no victimization.

8.2.8 Appeal

The complainant and the respondent shall have the right to appeal if they are dissatisfied with the decision of the Disciplinary Authority as per the provisions contained in CCS (CCA) rules or other relevant rules of the Institute.

8.2.9 Savings

- a) The proceedings under this policy shall be conducted analogously and shall be independent of any other proceedings in law, should such be the case.
- b) The provisions of this policy shall not restrict the power of the employer or the complainant to proceed against the respondent for any other misconduct or to pursue other criminal or civil remedies.

9. AMENDMENTS TO THE POLICY

Amendments to improve or alter this policy may be formulated and recommended by the Gender Cell and forwarded to the Director for consideration and approval by the Director/ Board of Governors.
