

INTERNAL COMPLAINTS COMMITTEE (ICC)
Gujarat Biotechnology University (GBU)
Gandhinagar, Gujarat

Rules and Regulations
Standard Operating Procedures (SOPs)

Rules and Procedures of the Internal Complaints Committee (ICC) Under the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 and Gazette notification of MHRD dated 2nd May, 2016 under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013]

GBU is committed to providing a safe work environment, ensuring every employee is treated with dignity, respect and encouraging equality of opportunity. Women form a major workforce of the University and GBU will not tolerate any form of sexual harassment at workplace. GBU has constituted an Internal Complaint Committee (ICC) as per the guidelines of the University Grant Commission (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and Students in higher education institutions) Regulations, 2015.

A. Definitions

“Aggrieved woman”: means in relation to work place, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent. The Act recognizes the right of every woman to a safe and secure workplace environment irrespective of her age or employment/work status. Hence, the right of all women working or visiting the workplace whether in the capacity of regular, temporary, adhoc, or daily wages basis is protected under the Act. It includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise.

“Act” means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013)

“University”: means the location or the land on which GBU and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centres, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centres, canteens, Bank counters, etc., are situated and also includes extended campus and covers within its scope places visited as a student of the GBU including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution on field trips, internships, study tours, excursions, short- term placements, places used for camps , cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of GBU.

“Employee” means a person as defined in the Act and also includes, for the purposes of these Regulations trainee, apprentice (or called by any other name), interns, volunteers, teacher assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps

“Executive Authority” means the chief executive authority of the HEI, by whatever name called, in which the general administration of the HEI is vested. For GBU, the Executive authority will be the Director General (DG).

“Higher Educational Institution” (HEI) means a university within the meaning of clause (j) of section 2, a college within the meaning of clause(b) of sub-section (1) of section 12A and an institution deemed to be

a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956). GBU is the higher education institution here.

“Sexual harassment”: According to the Honourable Supreme Court, sexual harassment can be defined as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. Examples included sexually suggestive remarks about women, demands for sexual favors, and sexually offensive visuals in the workplace. The definition also covers situations where a woman could be disadvantaged in her workplace as a result of threats relating to employment decisions that could negatively affect her working life. It will also include any conduct that has the purpose or the effect of interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment and/or submission to such conduct is either an explicit or implicit term or condition of employment and /or submission or rejection of the conduct is used as a basis for making employment decisions. Inappropriate conduct could also be a joke, a prank or even a compliment. These gestures also lead to harassment although the intention of the individual might not be to offend the other person.

Sexual harassment as per UGC act will include:

(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 non-verbal 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 of 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;
- e) Humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned;"

B. Composition of the Internal Complaint Committee (ICC)

The complaints committee will consist of the representation of members as prescribed in the Act 2013, wherein at least one-half of the total members so nominated shall be women. The nomination of the external member shall be by invitation by the Director from amongst academicians, social activists and/or legal representatives of Non- Governmental Organizations (NGO).

The ICC shall consist of the following members to be nominated by GBU:

- 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;
- b) Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(o);
- c) Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;"

- d) 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;
- e) 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.
- f) 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 the Executive Authority.
- g) At least one-half of the total members of the ICC shall be women.
- h) Persons in senior administrative positions in the HEI, such as Vice- Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.
- i) The term of office of the members of the ICC shall be for a period of three years. HEIs may also employ a system whereby one –third of the members of the ICC may change every year.
- j) The Member appointed amongst the non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.

The Complaints Committee shall ordinarily meet twice in a year. The Presiding Officer may convene an urgent meeting. All members shall attend the meeting of the Complaints Committee and any member other than the external member/s who is absent from two consecutive meetings without prior intimation, shall be liable to cancellation of his/her membership. At least 60% of the Complaints Committee, of which two members are women, should be present to constitute a quorum. Where there is difference of opinion among the members, the majority shall prevail. If the Presiding Officer cannot make it to a meeting, she may nominate another Presiding Officer from among the members of the committee. The Complaints Committee shall have statutory status and be empowered to carry out the enquiry and investigations into complaints of sexual harassment. The Presiding Officer shall nominate a convener from amongst the members to conduct the review meetings and record minutes of the minutes. A record of each meeting should be maintained and distributed to each appointed member, which includes the following:

1. The date of meeting
2. An indication of members present and absent
3. Points discussed
4. Decision taken, person responsible and target date
5. Proposed date and time of next meeting
6. Follow up of previous meeting decisions
7. Human resources and quality assurance department to co-ordinate committee activities and maintain documentation.

Termination of members

Where the Chairperson or any Member of the Internal Committee:

- a) Contravenes the provisions of section 16; or
- b) Has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- c) He has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- e) Has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

Key duties of Internal Complaints Committee

- a) To ensure that each complaint is addressed responsibly and impartially facilitating just and fair inquiry process without retaliation (for complainants or the witnesses).
- b) To deal with Sexual Harassment grievances.

- c) To maintain confidentiality and an attitude of empathy at all times towards both the accused and the accuser.
- d) To carry out capacity building interventions for members and staff focusing on building skills on identification and handling of grievances.
- e) To document proceedings from the time of receipt of complaint until its conclusion.
- f) To be aware of the national policies regarding sexual harassment and obtain legal opinion and procure the services of a lawyer specializing in the issue whenever necessary.
- g) To counsel and maintain a sensitive attitude towards both accused and accuser at all times.
- h) To investigate such complaints and take appropriate corrective action.
- i) Director General of GBU is the APPELLATE authority.

C. Responsibilities of Internal Complaints Committee (ICC)

The ICC shall:

- a) Provide assistance if an employee or a student chooses to file a complaint with the police
- b) Provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights and minimize the need for purely punitive approaches that lead to further resentment alienation or violence
- c) Protect the safety of the complainant by not divulging the person's identity and provide mandatory relief by way of sanctioned leave or relaxation of attendance 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 victimized or discriminated against while dealing with complaints of sexual harassment and
- e) Ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity

D. Complaint redressal mechanism

1. Complaint Procedure:

Process of making complaint of sexual harassment - An aggrieved person is required to submit a written complaint to the ICC within three months from the date of the incident and in case of a series of incidents within a period of three months from the date of the last incident using Form I annexed at the end of these guidelines.

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee shall render all reasonable assistance to the person for making the complaint in writing;

Provided further that the ICC may, for the reasons to be accorded in the writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the person from filing a complaint within the said period."

Friends, relatives, Colleagues, Co-students, Psychologist, or any other associate of the victim may file the complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

2. ICC Enquiry Procedure:

- a) 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.
- b) 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.

- c) 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 DG of GBU. Copy of the findings or recommendations shall also be served on both parties to the complaint.
- d) The DG of GBU 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.
- e) An appeal against the findings or /recommendations of the ICC may be filed by either party before the DG of GBU within a period of thirty days from the date of the recommendations.
- f) If the DG of GBU 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 DG of GBU shall proceed only after considering the reply or hearing the aggrieved person.
- g) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. GBU 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 unitive intervention.
- h) 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.

3. *Interim redressal:* GBU may,

- a) transfer the complainant or the respondent to another section or department to minimise the risks involved in contact or interaction, if such a recommendation is made by the 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 examinations 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, restrain 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.

4. *Punishment and compensation:*

i. Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of GBU, if the offender is an employee.

ii. Where the respondent is a student, depending upon the severity of the offence, GBU may,-

- a) withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
- b) suspend or restrict entry into the campus for a specific period;
- c) expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants; and
- d) award reformatory punishments like mandatory counselling and, or, performance of community services.

iii. The aggrieved person is entitled to the payment of compensation. The GBU shall issue direction for payment of the compensation recommended by the ICC and accepted by the Executive Authority, which shall be recovered from the offender. The compensation payable shall be determined on the basis of-

- a) mental trauma, pain, suffering and distress caused to the aggrieved person;
- b) the loss of career opportunity due to the incident of sexual harassment;
- c) the medical expenses incurred by the victim for physical, psychiatric treatment;
- d) the income and status of the alleged perpetrator and victim; and
- e) the feasibility of such payment in lump sum or in instalments.

5. ***Action against frivolous complaint.***—To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicized within all HEIs. If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per the provisions of sub- regulations (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulation (2) of that regulation, if the complainant happens to be a student. However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.
6. The Act provides a civil remedy to women and is in addition to other laws that are currently in force. Consequently, any woman who wishes to report instances of sexual harassment at the workplace has the right to take recourse of both civil and criminal proceedings

References:

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

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FORM I

Proforma for Filing of Complaints of Sexual Harassment

The processing of this complaint by the ICC is subject to physical validation through signature in the ICC office) by the complainant(s) within 24 hours of online submission.

**In order to ensure accessibility and confidentiality for the VH/PH complainant(s), the ICC will arrange for the signature to be collected from them at their place of residence/work inside the campus.*

Complainant(s):

Student/resident/academic staff/ non-teaching staff/outsider/service provider

Name	
Age	
Sex	
Address	
Centre/School	
Phone number	
Email	

I. Person(s) against whom the complaint is being lodged:
 Student/resident/academic staff/ non-teaching staff/outsider/service provider

Name(s)	
Age	
Sex	
Address	
Centre/School	
Phone number	
Email	

II. The Complaint:

1. Is the defendant known to the complainant?	
2. Is this the first incident of this kind? If yes, skip 3 and 4.	
3. Were exactly the same person(s) involved? If no, specify further.	
4. Was the first incident reported? To whom? When? What action, if any was taken?	
5. Approximate date(s), time(s) and location(s) of incident(s), starting from the most recent.	

Additional details of the complaint may be recorded here:

Complaint filed by

Signature:

Date:

Name:

Place:

