

**IIT Bombay Policy on the Prevention,
Prohibition and Redress of Sexual
Harassment in the Workplace with its
attendant rules and procedures**

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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 to ensure 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 conducive to their professional growth.
- 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 16 members, of which at least 50 per cent shall be women: senior woman faculty as Convener, at least three other women faculty one of whom will be Co-Convener, one senior male faculty, one other male faculty, one senior woman staff representative as member, one junior staff member, the SC/ST-OBC Liaison officer as member, Head, Computer Centre as ex-officio member, 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, 1 temporary/contract employee, 4 student members (two UG and two PG, at least one woman at each level). The UG students shall be respectively '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 and SOP, followed by interview. All members shall have a term of three years, apart from 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 10 members, of which at least 50 per cent shall be women: Convener (GC) as Chairperson/Presiding Officer, Co-Convener (GC) as member, one other woman faculty as member, one senior male faculty as member, one senior woman staff representative as member, one junior staff member, the SC/ST-OBC Liaison officer as member, 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 of the 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.

3. Objectives of the Gender Cell (GC)

- a) To work towards creating an atmosphere towards promoting equality, non-discrimination and gender justice.
- b) Promote gender amity amongst the Institute's employees and students and all who live on the campus, spread gender awareness and sensitize all about these issues.
- 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 deter 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 herein.
- 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.

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. Such inquiry 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 (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 steps necessary and reasonable 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 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” includes all places of work and residence at the Institute or any of the existing or likely to be set up extension campuses. It includes all places or any site or online platform or any premises where the Institute’s activities such as instruction, research and administration are carried on, as well as staff quarters, hostels, health centres, guest houses, sports grounds, parks, streets, lanes and canteens etc in the Institute and its extension campuses.
- 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 journey, 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 carried on 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 visiting, guest or 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, 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 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 behavior (whether directly or by implication) namely:

- i. Physical contact and advances;
- ii. A demand or request for sexual favors;
- iii. Making sexually colored remarks;
- iv. Sending, displaying or showing of pornographic material in physical form or through any electronic media;
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature, and
- vi. 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, can amount to sexual harassment if it occurs or is present in relation to or connected with any act or behavior of sexual harassment:

- i. implied or explicit promise of preferential treatment in employment as quid pro quo for sexual favors;
- ii. implied or explicit threat of detrimental treatment in employment;

- iii. implied or explicit threat about a complainant's present or future employment status;
- iv. interference with the work of the complainant and creating an intimidating or offensive or hostile work environment for the complainant;
- v. meting out of humiliating treatment which is likely to affect the complainant's health or safety;
- vi. indecent exposure;
- vii. coerced sexual intercourse, including date rape;
- viii. physically blocking passages or walk ways;
- ix. sexual assault or physical assault with sexual intent;
- x. unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching or unnecessary close proximity;
- xi. 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;
- xii. 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;
- xiii. physical violence, including sexual assault;
- xiv. sharing sexist jokes, letters, messages either by electronic mail, mobiles 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;
- xv. any unwelcome messages, images, video clips sent via mobiles, 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.
- xvi. display of sexually offensive pictures, materials or graffiti;
- xvii. unwelcome inquiries or comments about a person's sex life;

- xviii. comments on personal appearance, comments on physical features, age, sexual orientation, etc. and spreading rumours about an individual's sexual behaviour;
- xix. unwelcome sexual flirtation, advances, propositions including continued expressions of sexual interest after the recipient has made it clear that such invitations are not welcome
- xx. making offensive gesticulations, at the complainant or verbal abuse with sexual overtones;
- xxi. 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;
- xxii. implied or explicit promise of preferential treatment in employment by grant of promotion, local or foreign travel, favorable working conditions/ assignments, or in education by giving a passing grade, granting of honors or scholarship, 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.
- xxiii. derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person;

NOTE: The above instances of sexual harassment are illustrative and not exhaustive.

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 behavior 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 behavior 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 cultural value or practice to legitimize behavior 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 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:

- i. Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- ii. 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 redress mechanism and constitution of the GC-ICC that has been put in place, to encourage people to file their grievances.
- iii. Organize workshops, awareness and training programmes at regular intervals to sensitize the employees and students of the Institute with issues of sexual harassment in the workplace including the law and the provisions of this policy, and mandate that all employees and students have received adequate training in this regard. Organize orientation programmes for the members of the GC-ICC to deal with sexual harassment complaints in the manner as prescribed in the policy. These programmes may be organized through the Institute's GC.
- iv. 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.
- v. Assist in securing the attendance of the respondent and witnesses before the GC-ICC.
- vi. Provide assistance to the complainant if the complainant chooses to file a complaint to the police in relation to an offence under the Indian Penal Code or any other law for the time being in force.
- vii. 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 not either 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.
- viii. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
 - ix. Monitor the timely submission of reports by the GC-ICC.
 - x. Ensure that filing of a sexual harassment complaint shall not adversely affect the complainant's status, job, remuneration, promotion, education, research or grades as case may be.
 - xi. Include in the Annual Report, as prepared and submitted by the GC-ICC in each calendar year, the number of cases filed, if any, and their disposal under this policy.
 - xii. 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.
 - xiii. 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.
 - xiv. Conduct regular review of the efficacy and implementation of this policy.
 - xv. Provide robust infrastructure and ensure its maintenance for the safety of students and women.
 - xvi. Ensure that there is adequate and well-trained security, including a good proportion of women security staff, who must receive gender sensitization training.
 - xvii. Ensure transport between different sections of the campus if required, to enable employees and students to work late in libraries, laboratories and attend programmes after regular office hours.
 - xviii. Accord priority to the construction of women's hostels.
 - xix. Provide adequate health facilities within the campus including gender-sensitive doctors and nurses and the services of a gynecologist and counsellor.
 - xx. 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 complainants in distress. The Gender Cell shall regularly publish and update these names and contact numbers on its website.

- xxi. 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 in person to the Security Office.
- xxii. Ensure that all persons issued temporary ID cards will be made aware of this policy.

8. Functions of the GC-ICC

1. Preventive and Prohibitory

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

- i. 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.
- ii. 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.
- iii. Ensure that events organized on campus such as conferences, workshops, student events, sport meets and festivals should 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.
- iv. Regularly organize and carry out programmes for gender sensitization of the Institute members through workshops, seminars, posters, film shows, debates etc. It may enlist the help of specialized NGOs/individuals/organizations to carry out these programmes.
- v. Recommend both the removal of programs/posters in the Institute containing sexually objectionable content and the taking of appropriate action in this regard.
- vi. 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.

2. Remedial

2.1. Inquiry

- i. The GC-ICC shall receive and take cognizance of complaints made about sexual harassment at the workplace.
- ii. 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 complainant or respondent belong to any of the marginalized sections, the committee conducting the inquiry shall include the member who is the SC/ST-OBC Liaison officer. 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 of the inquiry committee shall be women. Hereinafter, the term GC-ICC shall refer to the “inquiry committee” with reference to acts done while conducting an inquiry under this policy.
- iii. 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.
- iv. It shall take necessary steps during the pendency of an inquiry as outlined in this policy.
- v. It shall make arrangements for appropriate legal, psychological/emotional and physical support for the complainant if so desired.
- vi. In the case of 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.
- vii. 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 atmosphere of respect, solidarity and trust even as the GC-ICC sets about the task of eliciting, verifying and corroborating.
- viii. It shall maintain all records viz. the written complaint, the notes of the meetings, the evidence and action-taken report, etc. for future reference. It shall maintain communication with the complainant and respondent to keep them informed of the various stages of the inquiry proceedings.

- ix. 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, number of cases disposed of, number of cases pending and the nature of action taken by the employer on the findings of the GC-ICC.
- x. It shall inform the complainant of the availability of criminal provisions for redress in addition to the internal compliant mechanism and assist the complainant in filing a police case where assistance is requested.
- xi. 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, if the respondent harasses or threatens the complainant, witnesses or members of the GC-ICC, a separate charge shall be framed and the 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:

- i. A complainant may make a complaint of sexual harassment 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. 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.
- ii. 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. The Presiding Officer or any other member of the GC-ICC may also render reasonable assistance to the complainant, for making any such complaint in writing, if the complainant is unable to make the complaint in writing themselves, and it shall be authenticated by the complainant under dated signature or thumb impression as the case may be. A complaint may be initiated by email BUT will not be considered to have been received until it has been authenticated by the complainant.
- iii. 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.
- iv. Complainants, respondents and witnesses are advised, wherever possible, to use email accounts on the IITB internal server to correspond with the GC-ICC.

- v. 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 association, etc. If the complaint is made through any such channel, the person to whom the complaint is made should 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 as per procedure laid out in point ii above.
- vi. 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 may make the complaint with the written consent of the complainant or the complainant's legal heir(s).
- vii. The immediate response on receiving a complaint must be to provide initial support to the complainant who may be referred to a lawyer, doctor and/or counselor if so desired.
- viii. 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 the witnesses.
- ix. After receiving and recording, the complaint shall be referred to the GC-ICC which must determine whether a prima facie case of sexual harassment is made out.
- x. 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.
- xi. If the GC-ICC determines that inquiry must be instituted, it will send a true copy of written complaint lodged by the complainant to the respondent within seven days of this determination.
- xii. 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 within a period of ten days. A copy of the written reply of the respondent shall be provided to the complainant.
- xiii. The complainant shall be informed of her right to seek interim relief and the nature of relief available to her under the policy.

- xiv. 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 to inquire into that complaint.
- xv. 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 committee is inquiring into that complaint.

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 case. However, if the complainant informs the GC-ICC that any of the terms or conditions of the settlement have not been complied with by the respondent, the GC-ICC shall proceed to hear the complainant in accordance with the procedure laid down herein.

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 to the employer:

- i. To take steps to ensure the safety of the complainant and witnesses during the pendency of the inquiries 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 workplace and campus, the GC-ICC may make certain proposals to the employer. Instances of these may be as follows:
 - a) If the complainant is a student and the respondent is a faculty, the respondent will not be allowed to act as examiner to this student.
 - b) If the complainant is a research scholar and the respondent is the supervisor, the supervisor may be changed.

- c) 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.
 - d) If the respondent is an outsider, the respondent will not be allowed to enter the Institute premises, apart from presence at GC-ICC meetings where required.
 - e) 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 adequate steps to protect their employment and other rights while ensuring their safety shall be recommended to the employer by the GC-ICC.
- ii. To make efforts to ensure that the complainants and the witnesses are not further victimized or discriminated against while it 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 appropriate disciplinary action by the concerned authority.
 - iii. To transfer the complainant or the respondent to any other workplace if they are employees of the Institute; or
 - iv. To grant leave to the complainant not exceeding 3 months if the complainant is an employee of the Institute, which shall be in addition to the leave that would be otherwise entitled as per the service rules applicable to the complainant.
 - v. Grant such other relief as may be appropriate.

The recommendations of the GC-ICC shall be implemented by the employer and a report shall be sent to the GC-ICC regarding such implementation.

5. Procedures for inquiring into complaints:

- i. The procedure elucidated here will be generally followed. However, keeping in view the nature of sexual complaints and inquiries and the fact 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 for finding out if the complaint

against the respondent is prima facie true. While conducting the inquiry, the GC-ICC shall keep in mind that the burden of proof is that of 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 that may be referred to and comply throughout with the principles of natural justice and fair play and in consistency with SHWW Act of 2013.

- ii. The GC-ICC shall provide reasonable opportunity to the complainant and the respondent for presenting and defending their case. 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 they shall be appraised of their rights therein.
- iii. The complainant and the respondent shall be responsible for presenting their witnesses before the GC-ICC, and for communicating with them regarding the date, time and venue of the meeting.
- iv. 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 interests of justice.
- v. 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.
- vi. All those heard by the GC-ICC including witnesses shall take and observe an oath of secrecy about the proceedings to protect the dignity of the complainant and the respondent. Any violation of the oath of secrecy may invite penalties.
- vii. 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.
- viii. 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 him/her under oath.
- ix. 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 any earlier complaints of sexual harassment against the respondent.
- x. The GC-ICC shall be sensitive to the often covert, private and insidious nature of sexual harassment and shall take into account that often the complainant may not be able to submit or present direct or corroborative evidence.

- xi. 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.
- xii. In cases of harassment via postings 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.
- xiii. 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.
- xiv. 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 statement of witnesses shall be endorsed by the persons concerned and the Presiding Officer in token of authenticity thereof.
- xv. If a party fails to remain present without sufficient cause for three consecutive hearings during the inquiry after due notice, the GC-ICC shall after giving a notice of 15 days to the party, proceed to hear the proceeding ex parte and give its finding.
- xvi. The following details also will not be disclosed to the public, press or media in any manner:
 - a) Identity, name and address of the complainant, respondent and witnesses.
 - b) Information pertaining to conciliation and inquiry proceedings
 - c) Recommendations of the GC-ICC
 - d) Action taken by the employer
- xvii. The complainant and respondent shall depose separately during the inquiry. Complainants and witnesses will not depose in the presence of the respondent.
- xviii. 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, including each other. However, such cross-examination shall be conducted in the form of written questions/questionnaires and responses via the GC-ICC only.
- xix. The complainant/respondent may submit to the GC-ICC a written list of questions that are desired 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 behavior, 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.

- xx. 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.
- xxi. The complainant and the respondent shall have the right to receive *anonymized* witness statements where the statements have been anonymized.
- xxii. 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.
- xxiii. If any compelling or substantive new fact or evidence comes to light after the submission of the enquiry report to the appropriate authority, in the event the GC-ICC reconvenes, it need not restrict itself only to new material 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 its inquiries 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 its own decision(s) once in the manner described in this clause.
- xxiv. The inquiry shall be completed, as far as possible within a period of 90 days from the date of the receipt of the complaint. Provided that if for reasons beyond control, the inquiry cannot be completed within 90 days as aforesaid, the GC-ICC may proceed to complete the same expeditiously and submit its report to the employer.
- xxv. On the completion of the inquiry, the GC-ICC shall submit a written inquiry report 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 finding.
- xxvi. Nothing in these rules and procedures shall preclude anybody from simultaneously lodging a complaint with the police in respect of any act amounting to an offence under the law.
- xxvii. 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 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 life or physical safety of the complainant or any of the witnesses. If a member of the GC-ICC contravenes this provision, s/he may be liable for penalties/punitive measures and will be immediately removed from membership of GC and 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, s/he may be subject to appropriate disciplinary action.

9. Zero Tolerance to Retaliation, Victimization and Discrimination

If a complainant or witness feels the experience of 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 or witness should immediately report the matter by sending an 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.

10. Report on Findings and Recommendations and Action Taken:

- i. 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.
- ii. The Report shall have two parts: (A) A summary of the findings of GC-ICC and recommendations based on the 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. (B) The second part of the report will contain documentation of the complete timeline starting from the receipt of the complaint to the final recommendations, including names of all witnesses examined by the GC-ICC, all evidence considered by GC-ICC, and signed copies of the statements of witnesses, as well the original complaint submitted by the complainant and the response submitted by the respondent. After being discussed 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.

- iii. 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 any disagreements and dissenting notes shall be a part of the single document. The final findings shall be as per the majority with the dissenting notes of any member/s recorded in the combined document.
- iv. 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.
- v. 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 to impose 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.
- vi. The GC-ICC may also recommend to the Director to deduct, notwithstanding anything contained in the service rules as applicable to the respondent, from the salary/wages of the respondent such sum as it may consider appropriate to be paid to the complainant or the legal heirs as determined by the GC-ICC as compensation. Provided that in case the employer is unable to make such deduction from the salary/wages of the respondent due to the respondent being absent from duty or the cessation of employment, it may direct the respondent to pay such sum to the complainant or the legal heirs.
- vii. The determination of the sum of such compensation shall be guided by provisions of section 15 of SHWW Act of 2013, namely:
 - a) the mental trauma, pain, suffering and emotional distress caused to the complainant;
 - b) the loss in the career opportunity due to the incident of sexual harassment;
 - c) medical expenses incurred by the complainant for physical or psychiatric treatment;
 - d) the income and financial status of the respondent; and/or
 - e) feasibility of such payment in lump sum or in instalments.
- viii. Where the respondent is a student, the penalties will include a written apology and one or more of the following penalties:
 - a) Warning
 - b) Undergoing counselling session(s) and/or gender sensitization training programme
 - c) Debarring from holding any position of responsibility or contesting elections or holding positions in any student bodies

- d) Carrying out community service
 - e) Fixed-time suspension during which the student may not enrol for any course, stay in the hostel or enter the campus
 - f) Payment of fine
 - g) Withholding award of degree for a fixed period
 - h) Expulsion
 - i) Other similar or appropriate punishment
- ix. Where the respondent is a resident, recommended action may include:
- a) Warning to the employee and concerned resident
 - b) Informing the ICC of the employing institute/organization where the resident works
 - c) Declaring the campus out of bounds to the resident
 - d) Helping the complainant to file FIR
 - e) Other similar or appropriate punishment
- x. Where the respondent is a service provider or outsider, recommended action may include:
- a) Warning to employing company if any
 - b) Informing the ICC of the employing institute/organization where the respondent works
 - c) Declaring the campus out of bounds to the respondent
 - d) Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
 - e) Helping the complainant to file FIR
 - f) Other similar or appropriate punishment
- xi. Where the GC-ICC arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made such complaint knowing it to be false or any evidence produced by the complainant is forged, fabricated and/or misleading, it may recommend to the employer to take action including disciplinary action against the complainant in a manner as may be prescribed.
- Provided that a mere inability to substantiate a complaint or provide adequate proof or 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.
- xii. 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 to take action against such

witness in accordance with the service rules applicable to such witness or such other manner as may be prescribed.

- xiii. 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 taken. It is clarified that the report of the GC-ICC shall be treated as the inquiry report on the basis of which 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.
- xiv. 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 no victimization is occurring.

11. 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.

12. Savings

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

13. 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 Director/ Board of Governors.