

**MEMORANDUM**

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Subject: **Policy against Sexual Harassment**

Date: 14 October 2015

To: Executive Council & Programme Coordinators

From: University Staff Office  
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**1. BACKGROUND OF THE POLICY**

CEPT University is committed to creating and educational environment that supports and nurtures all individuals equally. It strives to identify various dimensions of gender disparity and work towards ameliorating them.

This policy is drafted on the recommendation of the Gender Parity Mission, Presidents, Office, CEPT University and is applicable from 5<sup>th</sup> August, 2015. It is aimed at establishing a secure environment of study/ workplace where all members can participate in the working of the institution with dignity, without fear of prejudice, gender bias or sexual harassment and any form of intimidation or exploitation. This policy indicates the CEPT University measures taken to uphold the aforementioned aim and address complaints made against any sexual harassment.

The Policy has been formulated in compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and is an adaptation of the Jawaharlal Nehru University's Rules and Procedures of Gender Sensitization Committee against Sexual Harassment. It is envisaged that the policy will become more and more relevant to the context of CEPT after various feedbacks from the formed Committees (refer to Section 7). The Gender Parity Mission will be the implementing body for this policy. This body shall implement this CEPT policy against sexual harassment in accordance with the guidelines laid down by the Honourable Supreme Court of India, in its ruling on Writ Petition (Criminal) Vishakha vs State of Rajasthan on 13<sup>th</sup> August, 1997, on prevention and deterrence of sexual harassment at work place. It may be pointed out that although the rules and procedures laid out in the Policy follow the

spirit of the above mentioned judgement, they cover a wider spectrum of sexual harassment in consonance with the requirements of an institution of higher education.

This Policy is applicable to all the members of CEPT University. The Policy encompasses activities carried out at CEPT University and those undertaken during any trip/ excursions/ field visits etc. instances that affect work relations by the members as a part of any work or study programs at CEPT University. In case a complaint relates to a person who is not a member of the CEPT University, the University shall extend all possible support to the aggrieved person.

## **2. DEFINITION OF SEXUAL HARASSMENT**

Sexual harassment in this context (as defined by the Supreme Court Judgement), includes:

- a) any unwelcome sexually determined behaviour, whether directly or by implication, and includes physical contact and advances (stalking, lurid stares, physical contact or molestation, sounds or display of derogatory nature),
- b) a demand or request for sexual favours,
- c) sexually coloured remarks (jokes, letters, phone-calls or emails),
- d) showing pornography or making lewd gestures,
- e) other unwelcome physical, verbal or nonverbal conduct of sexual nature .

This conduct could be a part of, but not confined to, condition of instruction, employment, participation or evaluation of a person's engagement in any academic or campus activity. Any of the above mentioned activities that have a purpose or effect on interfering with the individual's performance or of creating an intimidating, hostile or offensive campus environment shall be considered as sexual harassment.

## **3. CLARIFICATIONS ON OTHER TERMS USED**

- a) "Aggrieved person" is the complainant.
- b) "Campus" includes all the areas that are occupied and managed by the CEPT University.
- c) "Counsellor" is any person empanelled by the GPM or the University, who has expertise in social and personal counselling on matters arising out of incidents of sexual harassment.
- d) "Grievance Redressal Cell": <http://cept.ac.in/5/259/about/grievance-redressal-cell>.

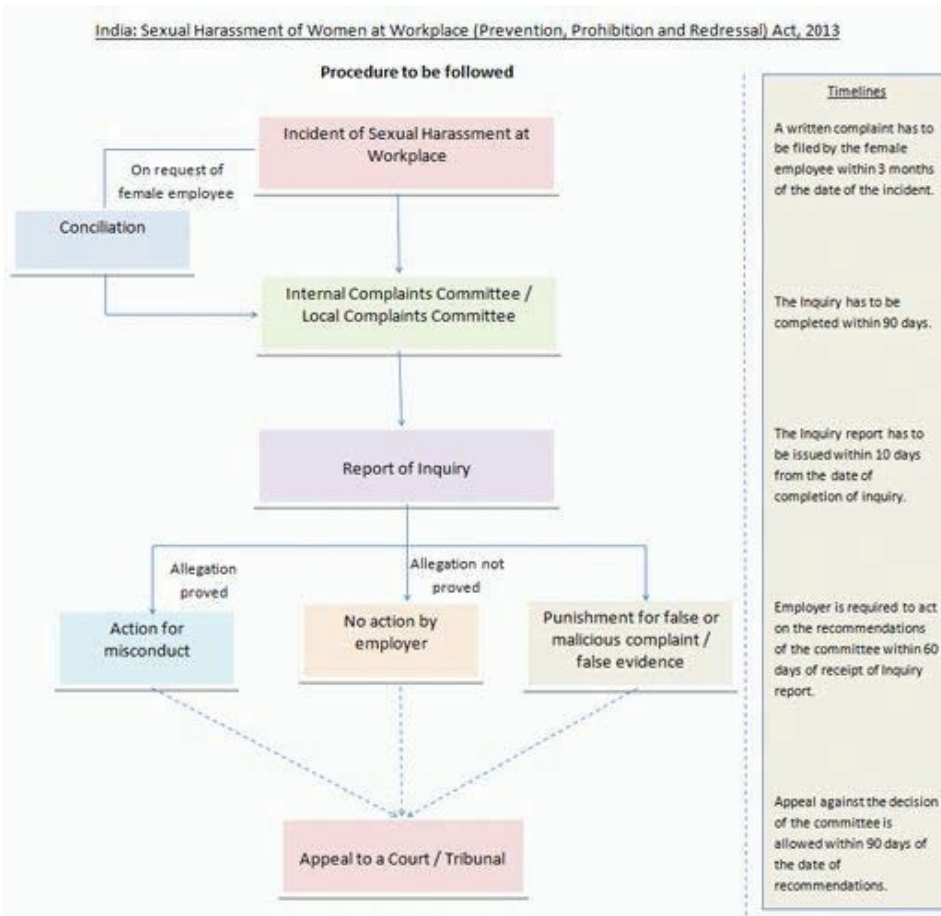
- e) "GPM" is the Gender Parity Mission: <http://cept.ac.in/5/394/about/gender-parity>
- f) "Outsider" is any person who is not a registered student or an employee of the University.
- g) "Service provider" includes any person who runs or manages commercial enterprise, or provides services within the campus.
- h) "Student" is an individual who is a bonafied/ registered student at the CEPT University.
- i) "Staff" is all the full time and part time academic and administrative staff as defined by the University Staff Office.
- j) "University" refers to the entity or the authorities responsible for the functioning of the entity.

#### 4. SCOPE

The rules and procedures identified by this Policy shall be applicable to all complaints made:

- a) By a student against a member of Full/ Part Time Academic Staff or Full/ Part Time Administrative Staff or Co-student; or by the member of Staff (Full/ Part Time - Academic/ Administrative) against a student or another member of the Staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- b) By a service provider or an outsider against a student or a member of the Staff or made by a student or a member of the staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.

## 5. GENERAL PROCEDURE



Source:

<http://www.mondaq.com/india/x/238076/Discrimination+Disability+Sexual+Harassment/Indias+New+Labour+Law+Prevention+Of+Sexual+Harassment+At+The+Workplace>

The above procedure is adapted for the CEPT University (for any individual regardless of their gender) as follows:

- a) Any student, member of the staff, service provider or outsider may lodge a complaint of sexual harassment against a student, a member of the staff, service provider or outsider. Third Party complaints and witnesses' complaints shall be entertained in case of grave circumstances. The Gender parity Mission shall take notice of grave violations of the basic principles of gender sensitivity and justice on this campus.
- b) Complaints can be lodged directly by emailing to the Gender Parity Mission ([gpm@cept.ac.in](mailto:gpm@cept.ac.in)) or through existing channels for lodging grievances such as University authorities, teachers, wardens, student council members etc. If complaints are made through any such channel, the person to whom the complaint is made should bring it to notice of a GPM coordinator within two working days of its receipt by her/ him.

- c) The GPM coordinator would forward this complaint to at least three, but no more than five members of the GPM who will act as a Complaints Screening Committee.
- d) The complaint may be oral or in writing. The written complaint must indicate the instance(s) and time of harassment. If the complaint is oral, it shall be written up by the Complaints Screening Committee member receiving the complaint, on **FORM I**, prescribed for the purpose and authenticated by the complainant under his/ her dated signature or thumb impressions as the case may be.

#### *Functions of the Complaint Screening Committee*

- e) The Complaint Screening Committee will carefully study the complaint and may hear the complainant and the defendant as well as other involved parties to determine whether an Enquiry Committee is to be instituted.
- f) The Complaints Screening Committee or the Enquiry Committee may issue an order of restraint to the defendant(s) in accordance with the procedure outlined in the Section 5 (n).
- g) The Complaints Screening Committee shall communicate its recommendations, along with the reasons and documentary evidence, if any, thereof, in writing to the Chair person of the Enquiry Committee as soon as possible.
- h) In a special provision for physically challenged complainants, or complainants in serious medical condition, the Complaints Screening Committee may, on determining the complaint to be prima facie complaint of sexual harassment, recommend the institution of enquiry proceedings.

#### *Withdrawal of Complaint*

- i) The complainant may withdraw his/ her complaint in writing at any time during the complaints receiving and/ or inquiry procedure.
- j) The complaints screening/ enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening. Enquiry Committee is informed, knows, or has reasons to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the defendant(s), or

any person on her/ his behalf, on the complainant. In such instance the Committees shall continue the procedure as outlined.

#### *Restraint Order*

- k) A restraining order shall be provided by the Complaints Screening Committee on request of the complainant. The complainant must fill the **FORM II** prescribed for the purpose. This form should have a summary of the complaint, the date(s) and location(s) of alleged incidents(s).
- l) The Complaints Screening Committee shall warn the defendant(s) that any attempt on her/ his part or by person(s) acting on his/ her behalf, to contact, or influence, or intimidate, or exert pressure on the complainant or any person in the complainant's confidence may prove prejudicial to her/ his case.
- m) Should the Complaints Screening Committee, Coordinator of the GPM or the Enquiry Committee be convinced of the truth of such allegations, The Coordinator of the GPM or the Chairperson of the Enquiry Committee may summon the defendant(s) in person and issue verbal and written warning that such behaviour may lead to an adverse inference drawn against her/ him. The Enquiry Committee or the GPM may retain the right to close the enquiry proceedings, and to give an ex parte decision on the complaint.
- n) The Enquiry Committee shall consider all violations of the restraint order when determining the nature of offence of a defendant found guilty of sexual harassment.

#### **6. FORMATION AND ROLE OF THE ENQUIRY COMMITTEE**

- a) Once the Complaints Screening Committee has decided that the complaint merits further investigation, it shall inform the GPM coordinator. The Coordinator, along with the Complaints Screening Committee will constitute an Enquiry Committee. GPM shall designate from within the members of such committee the Chair Person.
- b) The composition of the Enquiry Committee shall conform to the guidelines below:
  - The Enquiry Committee shall consist of five persons.
  - It shall have at least 50% as women
  - It shall have one third party, i.e., legal advisor on gender laws, eminent activist

on gender issues or an eminent academician who have researched on the matter, as a part of the committee.

- In cases involving student/ or staff, it shall include a representative from that body of university members belong to the complainant and the defendant. For example, if the complaint is against an academic staff by a student, the Enquiry Committee must have one Academic Staff and one Student.
- No person who is a complainant, defendant or witness in the complaint of sexual harassment shall be a part of the Enquiry Committee.
- The membership of an Enquiry Committee shall not be changed or in any other way modified during its proceedings unless it is found that there is a pending complaint of a disciplinary manner against her/ him, or has been found guilty of serious misconduct.
- Members of the Enquiry Committee cannot be a part of the same Faculty or Department as the complainant or defendant(s).
- Enquiry Committee may, at its own discretion, co-opt ant person(s) with demonstrable sensitivity to gender issues to be a part of the committee, provided the majority of its members agree. However, this member cannot serve as the Chair Person.

*Procedure to be followed by the Enquiry Committee*

- c) The Enquiry Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date that a complaint is referred to it, except for reasons the Committee shall provide in writing to the GPM.
- d) The Enquiry Committee shall provide reasonable opportunity to the complainant and the defendant for presenting/ defending her/ his case. The Enquiry Committee may call any person to appear as witness if it is of the opinion that it shall be in the interest of justice.
- e) The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complainant as well as the defendant(s).
- f) The Enquiry Committee may summon, as many times as required, the defendant, complainant and/ or any witnesses for the purpose of supplementary testimony and/ or clarifications.

- g) The Enquiry Committee shall have the right to terminate the inquiry and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present herself/ himself for three consecutive hearings convened by the Chair Person.
- h) Within two working days of the formation of the Enquiry Committee, it shall prepare a summons (FORM III) containing details of the complaint such as location, date and time on which the incident is alleged to have occurred and shall hand it over to the complainant and the defendant(s) along with the true copy of the original complaint and the Rules and Procedures of the Anti-Sexual Harassment Policy. It should also intimate the defendant and the complainant the contact details of the members of the Enquiry Committee.
- i) Within not more than two working days on the receipt of the first intimation of the inquiry, the complainant and the defendant(s) shall submit, in writing, to the Chair Person of the Committee a list of witnesses, together with their contact details, that she/ he desires the Enquiry Committee to examine (FORM IV). The complainant or the defendant(s) have a right to nominate a person to examine the records called upon by the Enquiry Committee, only in presence of the Enquiry Committee. If they wish to do so, they must intimate the committee in the same form.
- j) The complainant, defendant(s) and any other witnesses must be intimated at least seventy two hours before their first hearing through written letter/ email of the date, time and venue of the enquiry proceedings. The first hearing shall be of each individual separately.
- k) The complainant or the defendant can request to be accompanied by another person during the proceedings. This companion however, has no say in the proceedings and shall be treated only as an observer.
- l) The Enquiry Committee must provide in written the details of the proceedings of the first hearing to the complainant and the defendant(s). The complainant or the defendant has the right to ask for the written copies of the proceedings there on by making specific requests to the Enquiry Committee.
- m) Neither the complainant nor the defendant(s) must be present at the time of examination of their witnesses in later hearings. If they have any specific questions



to be asked to the witnesses of the other party, they shall provide them in writing to the Enquiry Committee, well in advance. The Committee has the right to allow the complainant or a defendant during the cross-examination of witness of the other party. However, the committee has the right to disallow certain questions if they have the reason to believe that they are irrelevant, mischievous or gender insensitive.

- n) After concluding the inquiry, the Enquiry Committee shall submit a detailed and reasoned report of its findings to the Coordinator of the GPM. In event that it finds the defendant guilty of the sexual harassment, it shall also recommend the nature of disciplinary actions to be taken on the complaint as referred in Section 9. It should also recommend whether the GPM and the University authorities should publicise the identity of the offender(s), the act and the disciplinary action taken.
- o) The GPM has the right to consider any new fact or evidence which may have come to light after the communication of the findings of the committee and reconvene an Enquiry Committee. This new committee must have at least half of the members of the original Committee that inquired into the complaint.

## **7. OBLIGATIONS OF THE COMMITTEES**

- a) At no time in the complaints receiving and recording the procedure shall the defendants(s) and the complainant be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and made to be wait at the same place), keeping strictly in view the need to prevent the complainant from facing serious health and/ or safety problems, in accordance with the guidelines in the Supreme Court Judgement.
- b) At no time the complaints receiving and recording procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment. However, if there have been formal complaints against the defendant(s) the Enquiry Committee may consider them as relevant.
- c) The Committees shall be responsible for making counselling services available to a person requesting for it.
- d) All the proceedings and statements must be recorded in writing and shall be

signed by the witness (in case of their statements) and the members of the committees.

- e) The Committees must maintain the confidentiality of all the proceedings and protect the identities of the witnesses by the use of a coding system for this purpose.
- f) All the members of the Committees, observers, nominees, administrative assistants and the persons heard by the committees shall commit to observe secrecy about the proceedings. Any violations of this commitment may invite penalties as outlined in section 9.
- g) The Committees shall, along with their report on the particular situation for which they are formed, shall also give feedback on the Policy against Sexual Harassment to ensure the relevance of the Policy over the period of time.

#### **8) AND GPM OBLIGATIONS OF THE UNIVERSITY**

- a) Within three working days of the receipt of the report from the Enquiry Committee, the Coordinator of the GPM shall convene an emergency meeting of all the members of the Mission. Each member of the GPM shall have the right to access the enquiry proceedings, or any part of it, and to participate in the deliberations on the complaint. Within two working days of the adoption of the recommendations of the Enquiry Committee, the Coordinator of the GPM shall forward the report, including a summary of the opinions of the GPM members to the President's office, the registrar and the members of the Executive Council for deliberations on the recommendations.
  - a. Within a month of receiving this report the Executive Council must convene in presence of the Chair person of the Enquiry Committee and the Coordinator of the GPM to take the final decision.
  - b. The University Staff Office, the Student Service Office and other functionaries shall provide legal, medical and counselling assistance to those complainants who have to take recourse to the law.
  - c. The University Offices and all members of the GPM shall maintain full confidentiality with respect to matters pertaining to the inquiries and complaints related to sexual

harassment and they shall extend full, effective and speedy support to ensure the procedures to be carried out.

- d. The Members of the GPM will take adequate measures to ensure that during the proceedings the complainant or the defender is not victimised by the other. For example, if the complainant is a student and the defendant(s) is a teacher, during the enquiry, and if the defendant is proved guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, supervision and research. The defendant(s) shall not be allowed to write any reports for the complainant even if she/ he is otherwise authorised to do so. The witnesses must also be extended the same consideration.

## 9) GUIDELINES FOR PENALTY

Any student, staff, service provider or an outsider found guilty of sexual harassment or deliberately fabricating a false case shall be liable for disciplinary action. The penalties listed below are indicative, and shall not constrain the University from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time.

### *Penalties for Academic Staff*

- a. Warning, reprimand or censure.
- b. Withholding one or more increments for a period not exceeding one year.
- c. Removal from an administrative position at the Faculty or University Levels.
- d. Disbarment from any administrative positions at the Faculty or University Levels.
- e. Suspension from Service for a limited period.
- f. Compulsory retirement.
- g. Dismissal from Service.

### *Penalties for Administrative Staff*

- a) Warning, reprimand or censure.
- b) Transfer
- c) Withholding one or more increments for a period not exceeding one year.
- d) Suspension from Service for a limited period.
- e) Compulsory retirement.

- f) Dismissal from Service.

*Penalties for CEPT Students*

- a) Warning or reprimand and/ or a letter of his/her misconduct to the residence.
- b) Removal/ Disbarment from any membership of the council and/ or any assistantship at the University.
- c) Withdrawal of the right to an official character certificate/ recommendation from any member CEPT University.
- d) Rustication from the University for the period not exceeding two semesters.
- e) Expulsion from the University and/ or a bar on applying again for any program of study offered by CEPT.
- f) Withholding the Degree provided by CEPT University.

*Penalties for outsiders/ service providers*

- g) Warning or reprimand and/ or a letter of his/her misconduct to the residence/ place of employment.
- h) Restraining the person from entering the campus and/or a bar on her/ him applying for any programs offered at CEPT.
- i) Withdrawal of the right to run/ manage/ work in any enterprise, or to provide services at the CEPT University.
- j) Any other actions necessary.

In addition to the penalties specified, the offender may be advised to undergo counselling and gender sensitization, and to give a written and/ or public apology to the complainant.

**10) PROVISION FOR APPEAL**

- a. In event of the GPM not taking action on a complaint, or if the complainant or defendant is dissatisfied with the disciplinary action taken by the University, she he shall have the right to appeal to the Grievance Redressal Cell or to take the matter to the court.