

## Policy to Prevent Sexual Harassment

### PREAMBLE

1. Punjab Institute of Medical sciences, Jalandhar (PIMS) is committed to creating and maintaining a community in which students, teachers and non-teaching staff can work together in an environment free of violence, harassment, exploitation, intimidation and stress. This includes all forms of gender violence, sexual harassment and discrimination on the basis of sex/gender or amongst the same sex members. Every member of the Institute should be aware that while the University is committed to the right to freedom of expression and association, it strongly support gender equality and opposes any form of gender discrimination and violence.
2. Sexual harassment has come to be widely condemned as a form of human rights violation, and as an infringement on life and liberty as defined by the Constitution of India. Such behavior is seen to transgress common dignity, gender equality, and fundamental rights. Sexual harassment is contrary to anti discrimination laws of the land. [Article 15: "Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth" and Article 19(1)(g): Right to Freedom which upholds a woman's right "to practice any profession, or to carry on any occupation, trade or business".]
3. The Supreme Court of India, in a landmark judgment in August, 1997 (Vishaka V. State of Rajasthan) stated that every instance of sexual harassment is a violation of "Fundamental Rights" under Article 14, 15 and 21 of the Constitution of India, and amounts to a violation of the "Right to Freedom" under Article 19 (1)(g). Another Supreme Court judgment in January, 1999 (Apparel Export Promotion Council V/s Chopra) has stated that sexually harassing behavior "needs to be eliminated as there is no compromise on such violations". The Supreme Court further reiterated that sexual harassment "is a violation of fundamental right to gender equality and the right to life and liberty.
4. The Supreme Court judgment of 1997 makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to evolve a specific policy to combat sexual harassment in the workplace. Educational institutions are bound by the same directive.

### OBJECTIVE OF THE POLICY

5. The policy has been framed keeping the following objectives in view:-
  - (a) To fulfill the directives of the Hon'ble Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work places.
  - (b) To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the University.
  - (c) To ensure the implementation of the policy in letter and spirit through proper reporting of complaints and their follow-up procedures.
  - (d) To **promote a social and psychological environment** which will raise awareness about sexual harassment in its various forms.
  - (e) To generate public opinion against sexual harassment and all forms of gender-based violence.
  - (f) To ensure that PIMS upholds the commitment to ensure an environment without gender bias or gender based discrimination.

### 'DEFINITIONS'

6. The following constitute sexual harassment:

**"Sexual Harassment"** – For the purpose of this policy "Sexual Harassment" shall include, but will not be confined to the following :

- i) Unwelcome sexual advances, requests for sexual favours, and/or verbal or physical conduct of a sexual nature made, either explicitly or implicitly, in return for a term or condition of teaching/guidance, employment, participation or evaluation of a person's engagement in any University activity;

ii) When unwelcome sexual advances and/or verbal, non-verbal, or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or through e-mail or any other communication mediums, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature, have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive environment;

iii) Forcible physical touch or molestation; Eve teasing, innuendos and taunts, physical confinement against one's will and any other act to impinge upon one's privacy;

iv) Any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of education or career development, or otherwise making the environment at the University hostile or intimidating to a person belonging to the other / same sex;

(vi) Any such conduct committed by a third party or outsider in relation to a student, teacher or non-teaching employee, or vice versa during the course of a person's engagement with PIMS.

**"Teacher/Non-teaching employee"** means any person on the rolls of PIMS to whom this policy is applicable, including temporary, part time or honorary employees, by whatever name called, and would include persons engaged on a casual or a project basis and also those engaged through a contractor.

**"Third Party"** means any person or persons not on the rolls of PIMS but, in the course of work related activities, interacting with PIMS students, teachers or non-teaching employees,

**"Committee for the Prevention of Sexual Harassment"** means a forum of minimum 5 people who will investigate complaints of alleged Sexual Harassment and make recommendations for resolution to the Competent Authority.

**"Competent Authority"** means the Appointing Authority.

## **JURISDICTION**

7. This Policy is applicable to all allegations of Sexual Harassment made by a student, teacher, non-teaching employee or third party, or against a student, teacher, non-teaching employee or third party, irrespective of whether Sexual Harassment is alleged to have taken place within or outside PIMS premises.

## **COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT**

8. An **ENQUIRY COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT** headed by a women, as well as at least 50% women members should be constituted to prevent the pressure or influence from senior levels. The committee should involve a third party, familiar with the issue of sexual harassment which must make an annual report to the Department concerned and action be taken by them. Committee will be constituted by the CEO. The term of the Committee will be two years. This committee will be deemed to be an inquiry authority for the purpose of Service Regulations and report of the committee shall be deemed to be an Inquiry Report for disciplinary purposes.

## **POWERS AND FUNCTIONS OF THE COMMITTEE**

### **PREVENTIVE STEPS.**

9. It will be the endeavour of the committee:-
- (a) To facilitate a safe environment that is free of sexual harassment;
  - (b) To promote behaviours that create an atmosphere that ensures gender equality and equal opportunities

### **REMEDIAL.**

10. "To ensure that the mechanism for registering complaints is safe, accessible and sensitive".
- (a) The mechanism for registering complaints should be safe, accessible and sensitive.
  - (b) To take cognizance of complaints about sexual harassment, conduct enquiries, provide assistance and redressal to the victims, recommend penalties and take action against the harasser, if necessary.
  - (c) To advise the competent authority to issue warnings or take the help of the law to stop the harasser, if the complainant consents.
  - (d) To seek medical, police and legal intervention with the consent of the complainant.
  - (e) To make arrangements for appropriate psychological, emotional and physical support (in form of counseling, security and other assistance) to the victim if so desires.

### **Procedure for Registering Complaints**

- 11 (a) All complaints must be brought by the complainant in person to **any member** of the committee. The exception for this will be in case of forced confinement of the person. In such a case, brought by another person on behalf of the complainant, the committee will examine whether an investigation, intervention or some other assistance is needed. In exceptional cases, third party / witness complaints may be entertained. In such cases, the committee will

ascertain whether the person alleged to have been harassed wishes to lodge a formal complaint. Once such a complaint is received the committee shall proceed to investigate it as per the procedure specified.

(b) If the complainant wishes, can be accompanied by a representative.

(c) A complainant can go directly to the competent authority. However, in such cases, which should be exceptional, the complainant should give reasons for doing so. In such cases, it is open to the competent authority to refer the complaint back to the appropriate committee/authority.

### **Enquiry Procedure**

12. A suggested enquiry procedure would be as follows:-

(a) Any person may register a complaint of Sexual Harassment against an employee or third party of the University or vice versa, with the Chairperson or, at their choice, any of the other members of the Committee. They should do so at the earliest point of time, but preferably within 30 days from the date of occurrence of the alleged incident.

(b) The complaint may be made orally or in writing. If the complaint is made orally, the Complainant will be requested to confirm the complaint in writing and sign it.

(c) The Committee, or a minimum of 3 members of the full Committee, will meet with the Complainant latest within 30 days of receipt of the complaint. They will inform the Complainant of this meeting date at the earliest.

(d) At the first meeting with the Committee, the Complainant will be heard and her/his statements will be recorded. The Complainant will be asked to produce any corroborative material that can substantiate the complaint.

(e) The Committee will record the proceedings of the enquiry, and the attendance of all parties present at any of the meetings.

(f) Thereafter, the person accused of the alleged Sexual Harassment will be called for a meeting with the Committee. The letter of invitation will mention the fact that a complaint has been registered against him/her. During the meeting the complaint will be related to the Accused in detail, and the Accused will be given the opportunity to provide his/her view of the situation.

(g) The Committee will provide the Accused with a copy of the statement of allegation made by the Complainant, and provide the Accused with an opportunity to submit a written response, should he/she so desire, within 15 days of receipt of the statement.

- (h) The Complainant will be provided with a copy of the written response submitted by the Accused.
- (i) If the Complainant or the Accused want to call on witnesses, they must write to the Committee with the names and contact details of those witnesses, after which the Chairperson of the Committee will call the witnesses.
- (j) If the Complainant wishes to provide any documentary evidence, he/she must supply true copies of those documents to the Chairperson of the Committee. Similarly, if the Accused wishes to tender any documentary evidence, he/she will be requested to provide true copies of those documents to the Complaints Committee. To ensure that the documents are considered as true copies, parties will be required to sign the documents submitted.
- (k) After having heard both parties, the Committee will conduct an enquiry into the evidence provided by both parties. The enquiry may include meetings with witnesses, consultation with experts and any other activities required to establish a balanced view of the case.
- (l) The Committee will provide every reasonable opportunity to the Complainant and to the Accused to put forward, and defend their respective cases.
- (m) The Committee will complete the enquiry as soon as is reasonably possible, and communicate its findings and its recommendations for the disciplinary action, if any, to the Competent Authority.
- (n) Should the preliminary enquiry establish that the complaint does not fall under the purview of a Committee for the Prevention of Sexual Harassment, or the complaint does not prime facie appear to be an offence of Sexual Harassment, the Committee may decide to refer the Complainant to the Department Director, who can look into the case taking into consideration the principles of good conduct as laid down in the University's Code of Conduct (or similar document).
- (o) In case the complaint registered by the Complainant is found to be frivolous or false, the Complainant will be liable for punishment.

### **Redressal**

13. The complaints may be addressed as follows:-

- (a) The committee can ask the Institute to suspend the alleged harasser from an administrative post / classes if his / her presence is likely to interfere with the enquiry.
- (b) The victim of sexual harassment as per the Supreme Court judgement, will have the option to seek transfer of the perpetrator or their own transfer where applicable.

(c) The Head of the Institution upon receipt of the enquiry report, shall refer the same on the basis of the recommendations of the Complaint Committee under relevant service rules.

(d) The disciplinary action will be commensurate with the nature of the violation.

(e) In the case of Institute employee, disciplinary action could be in the form of:-

Warning

Written apology

Bond of good behaviour

Adverse remarks in the confidential report

Debarring from supervisory duties

Denial of membership of statutory bodies

Denial of re-employment

Stopping of increments / promotion

Reverting, demotion

Suspension

Dismissal

Any other relevant mechanism

In case of students, disciplinary action could be in the form of

(i) Warning

(ii) Written apology

(iii) Bond of good behaviour

(iv) Debarring entry into a hostel / campus

(v) Suspension for a specific period of time

(vi) Withholding results

- (vii) Debarring from exams
- (viii) Debarring from contesting elections
- (ix) Debarring from holding posts such as member of Committee of Courses,
- (x) Expulsion
- (xi) Denial of admission
- (xii) Declaring the harasser as “persona non grata” for a stipulated period of time.
- (xiii) Any other relevant mechanism

#### **Protection against Victimization**

14. PIMS has an obligation to ensure that a person who registers a complaint in good faith and without malice is protected, and will not allow a person raising a concern to be victimized for doing so. In the unfortunate event where, despite the best of precautions, the Complainant would be victimized, PIMS shall treat this as a serious matter and take disciplinary action against the perpetrator.

#### **‘Annual Report’**

15. The Chairperson of the Committee will prepare an Annual Report at the end of each financial year, giving a full account of the activities of the Committee during the year gone by, and provide a copy of this report to the CEO.

#### **MEMBERS OF THE COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT**

16. A complaint committee headed by a woman as well as at least 50% women members shall be constituted to prevent the pressure or influence from senior levels. The committee will involve a third party, familiar with the issue of sexual harassment and will make an annual report to the Department concerned and take action on concerned issues.

17. The committee will be constituted by the CEO and term of the committee will be two years. This committee will be deemed to be an inquiry authority for the purpose of Service Regulations and report of the Committee shall be deemed to be an Inquiry Report for disciplinary purposes.

18. In line with the above, a committee constituted by the CEO for a period of one year w.e.f. 15.01.2014 to 14.01.2015 is as follows & placed in place of existing one.

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|-------------------------------|--------------------------|--------------|
| 1. Dr. (Mrs.) Jagminder Bajaj | Professor (Pharmacology) | Chair Person |
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2. Ms. Satinder Ahuja	Head (HR)	Member
3. Ms. Parminder Berry	President NGO Ashi. (External Expert)	Member
4. Dr. H. S. Lamba	A.P. (Department of Pathology)	Member
5. Mrs. Vijay Kumari	Deputy Nursing Superintendent	Member
6. Miss Anshika Chawla	Class Representative (MBBS Batch 2012)	Student Member

19. In case of any vacancy created, the CEO is authorized to fill the vacancy keeping in mind overall structure/representation of various categories on the committee

**Complaints made with a malicious intent:**

If, on investigation, it is revealed that the complaint was made with a malicious intent and with the motive of maligning the concerned individual / tarnishing his/her image in the Institute and to settle personal/professional scores, strict action will be taken against the complainant.

In the event that the formal request for inquiry is proved to be malafide, Anti-Sexual Harassment Committee shall recommend to the CEO that the person found guilty of such a malafide and fraudulent act be required to issue a written public apology to the person who has been so falsely accused of sexual harassment, which is to be displayed prominently on all notice boards in the Company.

Insufficient evidence to support a complaint does not necessarily mean that the charge was intentionally false. Material, circumstantial and factual evidence needs to be produced which could prove the complaint made was with malicious intent.

**Possible disciplinary actions for filing complaints with malicious intent:**

- A letter of warning that will be placed in the personal dossier of the harasser.
- Immediate transfer or suspension without pay or both.
- Fine equivalent to one months' salary that can be credited to a fund created to be utilised for the welfare of the employees.
- Stoppage of increment with or without cumulative effect.
- Reduction in rank.
- Curtailment of privileges.
- Termination/dismissal from the services of the Company.
- Any other action that the disciplinary authority may deem fit
- Filing a complaint before the relevant police station/court.

The intent of this policy is to create a harmonious and safe working environment. To ensure that this is upheld in both letter and spirit, we urge PIMS employees to desist from lodging wrongful allegations. This would apply to third parties also.

**Revision and term of the Policy:**

This Policy shall be reviewed at least once in two years.