



BUNTS SANGHA'S S.M. SHETTY COLLEGE OF SCIENCE, COMMERCE AND MANAGEMENT STUDIES



INTERNAL COMMITTEE POLICY

With effect from the Academic Year 2015-2016 onwards

INTERNAL QUALITY ASSURANCE CELL (IQAC)

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HIRANANDANI GARDEN, POWAI, MUMBAI - 400 076**



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Preamble

The University Grants Commission (Prevention, Prohibition, and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 was issued by the Ministry of Human Resource Development (University Grant Commission) on May 2, 2016.

In exercise of the powers provided by clause (g) of sub-section (1) of Section 26 and sub-section (1) of Section 20 of the University Grants Commission Act, 1956 (3 of- 1956), the Regulation of 2015 was established, which shall apply to all higher educational institutions in India.

As the UGC Regulations are statutory in character, they apply to all universities and institutions across the nation. The institutions can use a variety of measures to ensure that students are aware of the redress mechanism as well as the appropriate people to contact and report problems.

Reporting occurrences of sexual harassment can be done in a variety of ways such as posting notices on bulletin boards, establishing complaint boxes in easily accessible areas across the campus, posting anti-sexual harassment rules on the college website, and emailing students and workers.

The structure of the regulation of 2015

The UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015 is a statute spread over twelve provisions. Regulation 2 (b) of the aforementioned statute clarifies that the term 'Act' with respect to the 2015 Regulation would mean the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. Therefore, some of the definitions provided under Regulation 2 of the 2015 Regulation stand similar to the Act of 2013. The 2015 Regulation introduces a list of new terms with respect to its purpose which are:

'Campus' (Regulation 2(c)): Campus signifies the location or the land where the higher educational institution is located.

'Covered individuals' (Regulation 2(e)): The term 'covered individuals' has been defined exhaustively under Regulation 2(e) of the 2015 Regulation. 'Covered individuals' are all those individuals who are involved in a 'protected activity' as provided under Regulation 2(j).

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'Higher Educational Institute' (Regulation 2(h)): Higher educational institute signifies a university under Section 3 of the University Grants Commission Act, 1956.

'Protected activity' (Regulation 2(j)): Regulation 2(j) of the 2015 Regulation defines the term 'protected activity' inclusively, thereby leaving scope for a wide interpretation of the same. A social term by nature, the protected activity includes participating in a sexual harassment proceeding, working with an internal inquiry into suspected sexual harassment practices, or acting as a witness in an investigation by an outside agency or in litigation.

'Student' (Regulation 2(l)): A person duly admitted and enrolled in a programme in a higher educational institute is referred to as a student.

'Third party harassment' (Regulation 2(m)): 'Third-party harassment is another new concept introduced by the 2015 Regulation under Regulation 2(m). The term signifies sexual harassment as a result of an act by a visitor to a higher educational institute. It does not include an employee or a student of the institute. Thus the concept of 'third party harassment' refers to the harassment by an outsider.

'Victimization' (Regulation 2(n)): 'Victimization' is also a new term introduced by the Regulation of 2015 under Regulation 2(m). Any kind of unfavorable treatment meted out to a person with an implicit or explicit mention to obtain sexual favor is known as victimization.

Responsibilities of Higher Educational Institutes

Regulation 3 of the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015 lays down an elaborate list of responsibilities for the higher educational institutions to abide by.

The responsibilities of **Internal Complaints (IC)** have been embedded in **Regulation 5 of the 2015 Regulation**.

Regulation 6 read with Regulation 8 of the 2015 Regulation states that it is the obligation of the higher education institutions to provide all necessary facilities to the ICC in order to smoothen the process of investigation that the latter will be carried out expeditiously.

Regulation 7 of the UGC Provisions against false or malicious complaints must be made and publicized within all Higher Education Institutions under (Prevention, Prohibition, and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015, to ensure that the provisions for the protection of employees and students from sexual harassment are not misused.

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Regulation 10 of the 2015 Regulation lists down the deterrents to be imposed on anyone found guilty of sexual harassment.

Regulation 12 of the 2015 Regulation that deals with consequences of non-compliance of the provisions laid down by the Regulation of 2015, holds immense importance as it will be ensuring check and balance on the higher educational institutions' actions towards curbing sexual harassment of women employees and students in their respective territories.

Objective of the 2015 Regulation

If the **internal aid of interpretation** is applied in order to understand the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Education Institutions) Regulation, 2015, the long title that it holds describes the general purpose of the statute.

By drawing reference from these two cases, it is clear that the objective or purpose of the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015 is to **prevent, prohibit and redress any kind of sexual harassment** that takes place in higher educational institutions on women employees or students.

IMPLEMENTATION OF THE POLICY

The UGC (Prevention, Prohibition, and Redress of Sexual Harassment of Women Workers and Students in Higher Education Institutions) Regulation, 2015 is a federal law that prohibits sexual harassment of women employees and students in higher education institutions.

It is interesting to note that Regulation 2 (1) presents a gender-neutral vision while defining the term 'student'.

The provision clarifies that 'student' signifies an individual enrolled in a particular program in a higher educational institution thereby avoiding sensitizing a specific gender.

It further presents a helpful and complete paradigm for addressing the main problems of the women student population when read in conjunction with the **Saksham Committee Report on Measures for Ensuring the Safety of Women and Programs for Gender Sensitization on Campuses.**

The major changes that the Regulation intended to bring about have been laid down hereunder:

The Regulation is a significant step forward in making higher education more accessible to women in the country, as well as establishing positive mechanisms such as Internal

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Complaints Committees with elected student representatives in all colleges, to address the issue of sexual harassment and gender-based violence.

It places a legal obligation on all higher educational institutions to create a campus free of discrimination, harassment, retaliation, or sexual assault at all levels.

It also includes a long list of supporting measures that acknowledge students' increased vulnerability as a result of their 'region, class, caste, sexual orientation, minority identification, and being differently-abled.'

At the same time, the regulations state unequivocally that 'concern for the safety of women students cannot be used to impose discriminatory rules for women in hostels' and that 'campus safety policies should not result in securitization, such as over-monitoring, policing, or restricting the freedom of movement, particularly for women employees and students.'

It also requires, among other things, giving priority to the construction of women's hostels, ensuring reliable public transportation, gender-sensitive health care infrastructure and counseling, adequate lighting on campuses, and sensitization programs with faculty, administrative, and security personnel.

Many women only pursue higher education after overcoming pressures to marry or conform to discriminatory standards placed on them by their own families and communities.

PROCEDURE FOLLOWED IN OUR COLLEGE:-

Objective

According to the POSH Act, any of the following unwelcome behaviors is defined as sexual harassment:

Physical contact and advances

Demand or request for sexual favors

Making sexually colored remarks

Showing pornography

Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

It is also considered sexual harassment if any woman employee is subjected to any of the following:

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Promise of preferential treatment in the college in return of a sexual favor

Threat of detrimental treatment in the college for denying a sexual favor

Threat about the present or future college performance status for denying sexual favor

Any behavior/act with sexual nature that interferes with an student's work or creates an intimidating, offensive or hostile college environment

Any kind of humiliating treatment that relates to any behavior that has explicit or implicit sexual undertones. The kind of treatment that is likely to affect the health or safety of the woman employee.

Inquiry Process

The complainant will submit a written complaint with supporting documents and names and addresses of the witness if any.

The IC will begin the inquiry

Case will be heard at the earliest and within prescribed time.

Every hearing of the inquiry will have a minimum of three IC members including the Presiding Officer of IC .

The Committee will also ensure to follow the principles of natural justice during inquiry.

If the complainant or the respondent does not appear for three consecutive hearings without a valid reason, the IC can terminate the inquiry and pass an order ex-parte (without hearing to both sides completely). Before terminating the complaint in such a manner, the IC will give a notice of fifteen days to the parties.

It is to be noted that neither of the parties can bring any third party to represent them in the inquiry conducted by the IC.

Inquiry Details

Care should be taken to document everything in detail. This section should include the following:

Exact nature of the allegation

Details of the complaint (time, place, related documents etc.)

Applicability of POSH Act for the complaint

Details of how the Internal Committee (IC) received the complaint

Details of people contacted by the complainant before and after the complaint was filed with the IC

Details of the respondent's reply

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Details of the witnesses and their statements

Details of Evidence collected (documents, mails, chats, timestamps etc.)

Details of circumstantial evidence (if any)

Details of other employees who are aware or involved in the case

Inquiry Meetings

During inquiry, the Internal Committee (IC) will hold several meetings with the complainant, respondent, witnesses and among themselves. This section will capture the details of the inquiry meetings like:

Inquiry Meeting number (Example: Inquiry Meeting 1)

Date and time of the meeting

Attendees

Details of examination and cross-examination

Details of the discussion (if the meeting was between the IC members)

General Observations (Example: rude or intimidating behavior by the complainant or respondent)

Meeting Summary

Declaration by the IC

It is recommended for the IC to add a declaration. The declaration can contain the following points.

Copy of this report is sent to the complainant, respondent, and the employer

The Inquiry Report will always be treated as confidential and will not be available for viewing unless required by the law

The undersigned have strictly adhered to the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013

The IC has documented the reasons for their recommendations

None of the IC members have any personal interest in the matter

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If the respondent is found guilty

If the allegation against the respondent is proved, the IC can recommend actions against the respondent.

The IC should keep the following in mind when writing the recommendations.

Severity of the misconduct

Respondent's past track record

Designation and stature of the respondent

Impact of the recommended action on the respondent and the organization

As per the POSH Act, IC has the powers of a civil court and it can award punishments mentioned in the service rules of the organization. If no service rules exist, based on the severity of the offense, IC can make recommendations like:

Written apology

Warning

- Reprimand/Censure
- Termination
- Counselling

Therefore, the University Grants Commission and our college has taken up the duty of implementing the Regulation of 2015 to its full potential thereby providing a time-bound plan for constructing all required infrastructures demanded by the Regulation.

With all of the above provisions in place under the law, the number of complaints filed for sexual harassment is alarming, indicating as our college and higher educational institution administrators are aware of the seriousness of this misconduct and its acrimonious effects on female employees and students.

As responsible citizens of this country to support these regulations and policies and raise awareness for the greater benefit, our college has adopted all the policies in collaboration with W.D.C

Date: 25/01/2015

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