

As approved by the faculty in March 2014

Regulations for the Internal Complaints Committee against Sexual Harassment

Part A: Applicability and definitions

The Internal Complaints committee shall implement the Policy Against Sexual Harassment, the regulations made in this regard, read along with the guidelines laid down by the Hon'ble Supreme Court of India in its ruling in Vishaka v. State of Rajasthan and The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013 in order to uphold the commitment of the University to providing an environment free of discrimination and violence against any person on the grounds of gender or sexual identity.

- I. Applicability:
These regulations shall be applicable to all complaints of sexual harassment made:
 - 1) By a student **against** any employee, any service provider, another student, a member of the University bodies
By an employee **against** a student, another employee, service provider, a member of the University bodies
In either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
 - 2) By a service provider or a visitor **against** a student, an employee or a member of the University bodies
By a student or an employee **against** an visitor
In either case if the sexual harassment is alleged to have taken place within the campus.
- II. DEFINITIONS:
 - i. **“Aggrieved person”** is the person against whom any act of sexual harassment is alleged to have been perpetrated.
 - ii. **“Respondent”** is the person against whom the complaint of sexual harassment is made.
 - iii. **“Employee”** includes a 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, piece-rated or contract worker, probationer, trainee, apprentice or by any other name called.
 - iv. **“Service Provider”** includes any person who runs or manages commercial enterprises, or provides services, on the campus. It includes, but is not

limited to, 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.

- v. **“Sexual Harassment”** shall include, but will not be confined to, the following:
- a. When unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature, explicitly or implicitly, are made a term or condition of instruction, employment, participation, or evaluation of a person’s engagement in any academic or campus or internship activity.
 - b. When unwelcome sexual advances and verbal, non-verbal, or physical conduct including such comments meant to indicate such intention, slander, remarks or jokes, letters, phone calls or electronic communication, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature that have the purpose or effect of interfering with an individual’s performance or of creating an intimidating, hostile or offensive campus/out of campus environment.
 - c. When comments, conduct, behaviour or teaching practice in the classroom or any public forum denigrates a person’s gender identity or sexual orientation.
 - d. Violating sexual privacy, including publicizing or threatening to publicize sensitive information pertaining to a person’s sexual life with the effect of causing harm, or choices through any medium whether verbal, written or online.
- vi. **“Student”** includes any person who is/was enrolled for any course, whether full time or part time, on line or off line with NALSAR and includes an undergraduate or postgraduate student, a Research Scholar, a visitor, and a repeater. It also includes a student of another University or college who has been placed or has opted for placement with NALSAR or short-term courses at NALSAR. With regard to students of offline courses the University will have jurisdiction with regard to all incidents on campuses under its control.
- vii. **“Member of University bodies”** any member of any regulatory bodies or a member of any of the University bodies
- viii. **“Qualified Counsellor”** includes any person who is a trained psychologist or works with an NGO that engages in women’s rights issues and is a trained

- psychiatrist or otherwise qualified to provide professional support and counselling.
- ix. **“Visitor”** includes all persons who visit the campus and are not students, employees and service providers.

PART B: PROCEDURE FOR THE INTERNAL COMPLAINTS COMMITTEE

III. COMPLAINT

Any aggrieved person may make a complaint of sexual harassment in writing to the Internal Complaints committee. Provided where the complaint cannot be made in writing the committee shall provide assistance to make the complaint in writing. In exceptional circumstances the committee may take cognisance on third party or witness complaints.

IV. CONSTITUTION OF THE INTERNAL COMPLAINTS COMMITTEE

The Internal Complaints Committee shall consist of the following nine members of whom 5 members shall be women:

- i. One resident faculty member and two other faculty members,
- ii. Two student representatives to be selected by a selection committee in accordance with the procedure provided below,
- iii. One independent external member who shall be a qualified counsellor
- iv. One member of the non-teaching staff
- v. One person trained and experienced in restorative justice (RJ) procedures.

Explanation: Among faculty members, there shall be both women and men faculty members.

1. On being constituted, the Committee must go through an orientation process / workshop to be equipped with the tools to deal with complaints and subsequent processes.
2. The Chairperson/acting chairperson shall be a woman in a senior position from within the University. There must always be an acting chairperson appointed from within the committee in case the chairperson is not available.

V. CONSTITUTION OF SELECTION COMMITTEE TO SELECT MEMBERS OF THE COMMITTEE

The Selection Committee shall select and appoint the members of Committee as per the procedure described herein. The Selection Committee shall comprise three members, namely, the Vice Chancellor of the University, the Registrar of the University and a representative of the faculty.

VI. SELECTION PROCEDURE

1. Selection of Faculty Representatives:

Faculty representatives shall be selected by the Selection Committee from a list of nominees. This list of nominees shall comprise:

- i. faculty members suggested by the Student Welfare Committee, and
- ii. any other faculty member that the Selection Committee deems fit.

Explanation: The suggestion of faculty members by the Student Welfare Committee shall be the result of a public survey reflecting student opinion on the matter.

2. Selection of Student Representatives:

Student representatives will be selected from two streams

- i. on the basis of an application made to the Selection committee which will state the reasons for wishing to serve on the committee and the role he/she sees herself/himself playing.
- ii. from a list of nominees as suggested by the Student Welfare Committee

The Selection Committee shall interview the students and conduct the selection keeping in mind criteria like approachability, gender sensitivity, reliability and responsibility.

Provided that one of the student representatives selected by the Committee shall equally represent LLB student and non LLB students and there are both women and men representatives.

3. Selection of Other Members: Other members of the committee shall be selected by the Selection Committee with a view towards appointing members who are gender sensitive, approachable, responsible and reliable.

4. Time Frame: Appointment to the Committee shall be concluded within a period of two weeks of the start of the Academic year or before the date of orientation of the new incoming batch, whichever is later.

VII. TERM

1. The Student representatives shall be selected for a period of one year.
2. The non-student members shall have a term of three years.
3. The term of the incumbent committee shall end only on the date of appointment of new members.
4. Members of the committee may be reappointed on the completion of their terms. No person may serve for more than two consecutive terms.

VIII. FUNCTIONS AND POWERS OF THE COMMITTEE:

The committee has four functions

1. to carry out gender sensitisation programmes
2. to mediate in situations of sexual harassment
3. to initiate formal and informal redressal mechanisms
4. to provide support to the aggrieved person

The powers of the committee:

- a. to recommend preventive action to the disciplinary authority before the enquiry is held such as a transfer order, of either the aggrieved person, or the respondent on the request of the aggrieved person or leave or any other relief
- b. to recommend any interim measures against the respondent pending enquiry such as a restraint order
- c. to recommend action against the respondent under service rules after enquiry

IX. PROCEDURE TO BE FOLLOWED BY THE COMMITTEE:

The committee may receive a complaint from an aggrieved person or by another person on her behalf. The aggrieved person may choose from any of the procedures listed below:

1. Formal Complaint
2. Alternative procedures such as the restorative justice procedures

Provided that a complaint made will be permitted to be withdrawn only after an enquiry by the committee.

Provided that the aggrieved person is entitled to counseling regarding the choice of procedures. Once such counseling is provided and the person has made a choice to maintain a formal complaint mechanism he/she may not be allowed to move to alternative procedures

Provided that the aggrieved person may withdraw from any of the alternative procedures at any stage if s/he is not satisfied with the progress made. Further, there shall be no bar on the aggrieved person's availing herself/himself of the formal complaint procedure of the Committee if s/he withdraws from the alternative procedures.

X. Formal Complaint procedure:

- i. The committee shall have a general duty of confidentiality with respect of parties and proceedings.
- ii. The committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity.
- iii. *Provided* that if the Committee against Sexual Harassment decides not to conduct an enquiry into a complaint it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the aggrieved person in writing.
- iv. During the enquiry proceedings the aggrieved person and/or her/his witnesses and the respondent shall be called separately so as to ensure freedom of expression and an atmosphere free of intimidation.

- v. Both parties will be allowed to be accompanied by one representative each during the enquiry.
- vi. The Committee shall strive to complete the enquiry in the shortest possible time, preferably within one month from the date on which the complaint is referred to and not exceeding two months. .
- vii. The Committee must, within one working day of receiving information that the preferred procedure for the pursuit of the matter is the formal complaints method, inform the respondent in writing about the material particulars of the charges made against him/her along with a written copy of the complaint and she/he should be given a period of three days to respond to the same.
- viii. The Committee shall provide reasonable opportunity to the aggrieved person and the respondent for presenting and defending her/his case.
- ix. Within not more than five working days of the initiation of the formal complaint procedure, the aggrieved person and the respondent shall submit to the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine.
- x. The aggrieved person and the respondent shall be responsible for presenting their witnesses before the Committee. However, if the Committee believes that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.
- xi. The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice and shall also have the power to summon any official papers or documents pertaining to the complaint under enquiry.
- xii. The Committee may consider as relevant any earlier complaints against the respondent. However, the past sexual history of the aggrieved person shall not be admissible as such information shall be deemed irrelevant to a complaint of sexual harassment.
- xiii. The respondent, the aggrieved person, and witnesses shall be intimated at least seventy two hours in advance in writing of the date, time and venue of the enquiry proceedings. The responsibility of communicating with the witnesses lies with the aggrieved person/ respondent regarding the date, time and venue of the meeting.
- xiv. The Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision in favour of the aggrieved person, should

the respondent fail, without valid ground, to present himself/ herself for three consecutive hearings convened by the Enquiry Committee.

- xv. The venue of the enquiry should take into consideration the convenience and security of the aggrieved person.
- xvi. The identities of the aggrieved person and all witnesses shall throughout be protected and kept confidential by the Committee.
- xvii. The aggrieved person and the respondent shall have the right of cross-examination of all witnesses. However such cross-examination shall be conducted in the form of written questions and responses via the Committee only. The respondent shall have no right to directly cross examine the aggrieved person or her witnesses.
- xviii. When cross examination is by way of written questions, the respondent/aggrieved person shall submit to the Committee, a written list of questions. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the respondent or his nominee, that is designed to intimidate or subject the aggrieved person or her witnesses to mental and physical trauma, can lead the Committee to recommend disciplinary action against the respondent.
- xix. All proceedings of the Committee shall be simultaneously recorded in writing and signed by both sides at the end of each day's proceedings. All Committee members, persons heard by the Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings to protect the dignity of the aggrieved person and the respondent. Any violation of the oath of secrecy may invite penalties.

Exception: In order to protect the reputation of the respondent pending a conclusive determination of guilt, the aggrieved person is encouraged to maintain confidentiality with respect to the complaint till the enquiry is completed.

- xx. All documents or other material submitted as evidence shall be made available to either party on demand.
- xxi. The committee shall take note of power differences. The committee shall, inform the aggrieved person/s, that he/she may give her evidence, answers to any questions in writing provided that he/she makes herself available for examination by the respondent in the same manner, unless the aggrieved person opts to give her evidence orally.

XI. PROHIBITION OF PUBLICATION OF INFORMATION

All information received in the course of the examination and enquiry into a complaint of sexual harassment shall be held in trust by the Committee and the same shall not be made available pursuant to an application under the Right To Information Act, 2005. Such information shall constitute an exception under Section 8 (e) of the Right To Information Act, 2005, as the same is held by the Committee in a fiduciary relationship

and the non-disclosure of the same will not be against public interest. The contrary disclosure of such information may endanger the life or physical safety of the aggrieved person or any of the witnesses.

XII. FINDINGS OF THE COMMITTEE

1. After concluding its enquiry under the formal complaints mechanism, the Committee shall prepare a detailed and written report of its findings. The enquiry report shall specify the details of the charge(s) against the respondent, the statements made and evidence presented in the enquiry and a discussion of the reasons upon which the findings arrived at by the Committee.
2. No observations regarding the work and behaviour of either the aggrieved person or respondent shall be made which are not related to the alleged act of sexual harassment. However, the Committee may consider as relevant any earlier complaints of sexual harassment against the respondent.
3. Upon the completion of an enquiry, the said Committee may by a detailed and reasoned order pass any of the following orders:
 - a. If the Committee finds no merit in the complaint, it shall write to the Vice Chancellor giving reasons for its conclusions. The Vice Chancellor may then dismiss the complaint which was subject of the Inquiry. The Vice Chancellor has the power to direct the committee to reconsider its decision stating his/her reasons for doing so.

Provided In case the internal committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved person or any other person making the complaint has made the complaint knowing it to be false or the aggrieved person or any other person has produced a forged or misleading document the committee may recommend to take action in accordance with the rules under Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013.

 - b. If the Committee find the complaints proven it shall give a detailed and reasoned finding to that effect.
4. In the event that the Committee finds the respondent guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken taking into consideration the gravity of the offence of which he has been found guilty and the impact on the aggrieved person. It shall also recommend whether after disciplinary action has been taken, the disciplinary authority should publicize the identity of the respondent, the misconduct and the disciplinary action taken.
5. The committee shall provide both the aggrieved person and the respondent with a copy of the report submitted to the Vice Chancellor.
6. The respondent has the right to apply to the Vice Chancellor to direct the committee to reconsider its decision. The Vice Chancellor must provide reasons for considering the request for reconsideration by the committee.

7. The Vice Chancellor shall act upon the recommendations within 10 days of its receipt.

XIII. INTERIM MEASURES

1. The committee may recommend interim measures during the pendency of the case regarding restraint order against the respondent any other person approaching the complainant, members of the committee during the pendency of the case, prohibitory order against the respondent from entering the campus, or any place therein during the pendency of the complaint.
2. Suspension/ transfer of the respondent from his/her official position, during the pendency of the enquiry if his/her presence is likely to interfere with the enquiry.
3. The aggrieved person will have the option to seek transfer of the respondent or their own transfer where applicable.
4. The Vice Chancellor after taking action upon the recommendations shall place before the Executive Council his action for ratification.
5. The disciplinary action will be commensurate with the nature and impact of the sexual harassment.

XIV. PENALTIES

1. Any member of the University, non-teaching staff, student, service provider, and resident found guilty of sexual harassment shall be liable for disciplinary action.
 - i. The penalties listed below are indicative, and shall not constrain the NALSAR administration from considering others, in accordance with the Rules governing the conduct of all members of the University.
 - ii. In the case of academic/administrative/ technical/ non teaching staff/management, disciplinary action could be in the form of one or more of the following:
 - i. Warning
 - ii. Written apology
 - iii. Bond of good behaviour
 - iv. Gender sensitization
 - v. Counselling
 - vi. Adverse remarks in the Confidential Report
 - vii. Debarring from supervisory duties
 - viii. Denial of membership of statutory bodies
 - ix. Denial of re-employment
 - x. Stopping of increments/promotion
 - xi. Reverting, demotion
 - xii. Transfer
 - xiii. Dismissal
 - xiv. Withdrawal of residential facilities and prohibition from entry on the campus etc.
 - xv. Any other relevant mechanism.
2. In case of students, disciplinary action could be in the form of:

- i. Warning
 - ii. Written apology
 - iii. Bond of good behaviour
 - iv. Gender sensitization
 - v. Counselling
 - vi. Debarring entry into a hostel/ campus
 - vii. Withholding results
 - viii. Debarring from exams
 - ix. Debarring from contesting elections
 - x. Debarring from holding posts
 - xi. Expulsion
 - xii. Denial of admission
 - xiii. Declaring the harasser as "persona non grata" for a stipulated period of time
 - xiv. Any other relevant mechanism.
3. Penalties in Case of Outsiders:
- i. Warning, reprimand, or censure.
 - ii. A letter communicating her/his misconduct to her/his place of education, employment or residence.
 - iii. Declaration of the campus as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Nalsar.
 - iv. Any other action as may be necessary.
4. Penalties in Case of Service Providers
- i. Warning, reprimand, or censure
 - ii. A letter communicating her/his misconduct to her/his place of employment.
 - iii. Declaration of the campus as out of bounds for her/him.
 - iv. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
 - v. Any other action as may be necessary.

Provided that in any case, reasons for the action taken shall be provided to the offender in writing.

Provided further that action may also be taken against any person who tries to coerce or pressurize the aggrieved person in any way.

5. Penalty in Case of a Second Offence: A second, or repeated offence, may, on the recommendation of Committee, attract a major penalty.
6. Where Sexual Harassment amounts to criminal offence: Where the conduct of Sexual Harassment amounts to a specific offence under the Indian Penal Code (45 of 1860) or under any other law; it shall be the duty of the Committee to immediately inform the aggrieved person of her right to initiate action in accordance with law with the appropriate authority, and to give advice and guidance regarding the same. Any such action or proceedings initiated shall be in addition to proceedings initiated and /or any action taken under this Rules.

XV. ANNUAL REPORT OF THE INTERNAL COMPLAINTS COMMITTEE

As required by the Supreme Court Judgement, the University administration shall forward to the General Council, the Annual Report of Committee together with a written report on the Action Taken by them on the recommendations of the Committee.

XVI. MEETINGS OF THE INTERNAL COMPLAINTS COMMITTEE

The Internal Complaints committee shall hold at least two public meetings every year where it shall report to the University community about its activities. Of these, at least one meeting shall be called specifically for the purpose of the presentation of the Annual Report.

PART C: MISCELLANEOUS

XVII. PROTECTION AGAINST VICTIMISATION

1. If the aggrieved person is a student and the respondent is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the respondent shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
2. If a witness named by the aggrieved person is a student and the respondent is a teacher, during the duration of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the respondent shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
3. If both the aggrieved person and the alleged respondent are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the respondent is found guilty, the respondent shall not write the Confidential Reports of the aggrieved person, if she/he is otherwise so authorized.
4. If witnesses named by the aggrieved person and the respondent are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the respondent is found guilty, the respondent shall not write the Confidential Reports of the aggrieved person, if she/he is otherwise so authorized.
5. If the respondent is a visitor, during the duration of the investigation and enquiry, and even after such an enquiry if the respondent is found guilty, the respondent shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.

6. If the respondent is a service provider, during the duration of the investigation and enquiry, and even after such an enquiry if the respondent is found guilty, the order of restraint issued in accordance with the procedures shall be in force at all times.

XVIII. Preventive and remedial activities of the Internal Complaints Committee

- a To publicize widely the policy against sexual harassment through the prospectus, programme guide or other appropriate documents and display the same on notice boards, websites, offices and residential areas etc.

Explanation: Every recruitment/admission announcement must state: NALSAR has a policy against sexual harassment and is committed to providing an environment free from sexual harassment in the University.

- b To regularly organize and carry out programmes for gender sensitization of the University community through workshops, seminars, posters, film shows, debates etc. For this, CASH may enlist the help of specialized NGOs to carry out these programmes.

- c To take *suomoto* notice of practices in violation of gender sensitivity and gender justice on campus.

- d To ensure the prominent publicity of the Policy in all Centres, Schools, Hostels, offices of administration, as well as in all public places on the campus such as the library, health centre, residential areas, canteens, shopping centres, etc.

- e To conduct at least one major activity per semester involving large sections of the University community.