



Shiv Nadar Institution of Eminence (SNIoE) Deemed to be University

Internal Complaints Committee Policy Document

Shiv Nadar Institution of Eminence Deemed to be University, Delhi-NCR is committed to providing a place of work and study free of gender and sexual harassment, intimidation, discrimination or exploitation. The emphasis of the Policy is on gender sensitization, and equitable, accountable and representative process of resolution and redressal in case of sexual harassment complaints, and it strives to create a gender inclusive culture on campus.

The University is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the pursuit of knowledge, and this Policy is not intended to stifle teaching methods or freedom of expression. Sexual harassment, however, is never an exercise of academic freedom or freedom of expression. It compromises the integrity of the University and its traditions of intellectual freedom, and it also violates the principle of Equality and dignity of all its members.

It is expected that all students, faculty and staff, as well as part-time and contractual workers will treat one another and visitors to the University with respect. All members of the University community, including those who are in temporary or short-term positions, as well as visitors on campus are subject to this policy. Anyone violating this policy is subject to disciplinary action.

The responsibility for promoting and implementing this policy has been vested with the University's Internal Complaints Committee (i.e. ICC, also known as the Gender Committee and formally known as the Committee on Sensitization of Gender, Prevention and Redressal of Sexual Harassment i.e. CSG). This document describes the role and constitution of the ICC, as well as the procedures for seeking redressal of sexual harassment.

1. Background and Definitions

The Supreme Court of India, in a landmark judgment on 13 August 1997 (*Vishaka & others vs. the State of Rajasthan & others*) stated that every instance of sexual harassment is a violation of Fundamental Rights; under Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the Right to Freedom under Article 19 (1)(g). A second Supreme Court Judgment on 20 January 1999 (*Apparel Export Promotion Council vs. A.K. Chopra*) stated that sexually harassing behaviour needs to be eliminated as there is no compromise on such violations. The Supreme Court further reiterated that sexual harassment is a violation of the fundamental right to gender equality and the right to life and liberty. These judgments were followed by The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Bill which was passed by the Lok Sabha in September 2012, and became The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act which came into force in 2013 (henceforth referred to as the "2013 Act"). In 2015, the University Grants Commission promulgated the University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations (henceforth referred to as the 2015 "UGC Regulations", in pursuance of the 2013 Act.

Following the Supreme Court guidelines on the prevention and deterrence of sexual harassment in the workplace, the University adopted and announced its Policy against Sexual Harassment in July 2012. The Policy is attached as an Appendix A to this document. We highlight some of the key elements below. The emphasis of the Policy is on gender sensitization, and equitable, accountable, representative and a quick process of resolution and redressal in case of sexual harassment complaints, and it strives to prevent a division of men and women or LGBT into opposing interest groups.

2. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when it is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions or evaluations, or permission to participate in a University activity, or when the conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating or hostile academic work or living environment on the basis of a person's gender identity/sexual orientation.

Determining what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs. Sexual harassment may take many forms - subtle and indirect, or blatant and overt. For example,

- It may be conduct towards an individual of the opposite sex or the same sex.
- It may occur between peers or between individuals in a hierarchical relationship.
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- It may consist of repeated actions or may even arise from a single incident.

Even in consensual sexual advances or relationships involving a member of the faculty (or staff) and a student, there is a power equation and an inducement or fear component is implicit. The University forbids such relationships.

Reports of sexual harassment are taken seriously and will be dealt with promptly by the Internal Complaints Committee. The specific action taken in any particular case will depend on the facts of the reported complaint. The University will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible.

The Committee also has the power to take suo motu notice of incidents of sexual harassment that come to its notice, where no formal complaint has been made. In such cases, the Committee may institute a suo motu complaint, and conduct an enquiry calling forth such witnesses as it deems fit.

Reprisals against an individual who in good faith reports, or provides information in an investigation, about behavior that may violate this Policy, are against the law and will not be tolerated. Intentionally providing false information, however, is grounds for disciplinary action.

3. Workplace

The Policy defines the term workplace as extending to all public spheres that remain in contact with members of the University community. Such public spaces include not just the physical premises under the supervision of the University system, but even areas where University members reside or travel to as part of their work as members of the University. The jurisdiction includes field trips, sports tournaments, conferences, festivals and all other activities undertaken by any person as a member of the University.

Student

A student of SNIOE means a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short-term training programmes in the university. For the purposes of this policy any student who is in the process of taking admission, although not yet admitted, shall be treated as a student of SNIOE.

Third Party Harassment

This refers to a situation where sexual harassment occurs as a result of an act by any third party or outsider, who is not an employee or a student of the university, but a visitor to the university in some other capacity.

What to do

- Know your rights - Sexual harassment is illegal, both the law of the land and SNIOE, Delhi-NCR prohibit sexual harassment.
- Speak up - If you can, tell the person to stop. State clearly and firmly that you want a particular behavior to cease. Get information and support. If you feel you cannot speak up, ask your friends to help you and bring it to the notice of the University.
- Keep records that might be useful for pursuing the case.

What not to do

- Do not blame yourself. Sexual harassment is not something one brings on oneself. It is not a consequence of certain ways of dressing or acting. It is a violation of an individual's right to work and live with dignity.
- Do not ignore it. Ignoring sexual harassment does not make it go away. The harasser may misinterpret a lack of response as approval of the behavior.

- Do not delay. Delay in action increases the probability that unwanted behavior will continue or escalate.
- Do not hesitate to ask for help. Speaking up may prevent others from being harmed as well.

4. Constitution of the ICC

The CSG was constituted by the Vice-Chancellor in July 2012. Thereafter, the CSG was renamed as the Internal Complaints Committee. SNIoE shall annually notify the names and contact details of the members of the ICC.

Membership

As per the 2015 UGC Regulations, the constitution of the ICC in SNIoE, Delhi-NCR will be as follows:

- A woman faculty member, not below the level of Professor, in the role of Chairperson or Presiding Officer nominated by the Executive Authority.
- A Member Secretary will be appointed for a term
- Minimum three faculty members nominated by the Executive Authority.
- Minimum two staff representatives nominated by the Executive Authority.
- A minimum of three students enrolled at the undergraduate level (ensuring one representative of the third/transgender/ queer community), and one each from the masters and research scholar level, selected through interactions/ association with the ICC and appointed by the Executive Authority.

- One or two members, a lawyer, a member of an NGO, another University or educational institution, or a member of women's organization or a social association, nominated by the Executive Authority.
- At least half of the total representatives of the ICC must be women.
- Anyone in a senior administrative position such as the Pro-Chancellor, Vice-Chancellor, Registrar, Deans, and Heads of Departments etc. will not be members of the ICC.
- All members sign a legally binding Non-Disclosure Agreement to maintain the confidentiality of all proceedings.

Terms of Office

The selection and terms of the members shall be as follows:

- The term of each member shall be three years.
- The term of office for the member secretary will be three years maximum.
- One-third of the members of the ICC may change annually
- The ICC will have a panel of transcribers and the University shall bear the cost of transcription of all proceedings.
- The external member(s) from among lawyers, NGOs or women's organizations will be paid adequate allowance for holding the proceedings of the ICC. Transport to the University and back will also be arranged for the external members, as required.

5. Complaints and Inquiries

- Any member of the University can approach the ICC with a complaint, preferably in writing, within three months from the date of the incident(s). Once ICC decides to take up a case, the Investigation Committee Chair will request the complainant to duly fill up

the SNloE complaint form (see Annexure 1). If the complaint cannot be made in writing the Chair of ICC or any Member of the ICC whom the Complainant has approached, will provide reasonable support to the person for making the complaint in writing.

- In the case of any delay in approaching the ICC or giving a written complaint, beyond the stipulated three months, the ICC will discuss the reasons that prevented the Complainant from filing a complaint within the time limit, and will waive the three-month limitation giving reasons for the same in writing.

Proceedings

- On receipt of a complaint of gender and sexual harassment, the Chair of the ICC will organize an emergency meeting of all the members within a maximum of two working days .
- Once the ICC members decide that the complaint is a case of gender and sexual harassment, the ICC Chair will then constitute an Inquiry Committee (IC) from among its members to review, investigate and recommend action regarding the said complaint.
- The ICC Chair will place the Defendant under a Restraining Order. The Complainant will also be asked to refrain from discussing the case in any forum whatsoever. The Complainant might also be asked to adhere to certain protocols necessary to maintain confidentiality of the proceedings and ensuring fair hearings
- The ICC Chair along with the IC Chair will conduct a meeting with the Complainant and the Defendant informing them about the rules and norms of the Inquiry or ICC processes.

Inquiry Committee

- The ICC's Inquiry Committee will be specifically constituted for each case, and will follow the ICC rules and norms.
- The Inquiry Committee will have at least three members, of whom at least two members will be women, and the Chief Inquiry Officer or Chair of the Inquiry Committee will be a woman.
- At least one of the members will be from the student representatives in the ICC if the complaint involves a student.
- At least one of the members will be from the staff representatives in the ICC if the complaint involves a staff member.
- The ICC will maintain anonymity during the proceedings of a case, keeping the name(s) and identity of the Complainant(s) and Defendant(s) and all Witnesses strictly within the members of the IC

Conduct of the Case

- The Complainant will be required to fill out the SNIoE Complaint Form (Annexure) and submit the same to the IC Chair within two working days of the constitution of the IC.
- The IC Chair will send a copy of the Complaint to the Defendant within seven working days of receiving the complaint.
- Upon receiving the case information and the copy of the complaint from the Inquiry Committee, the Defendant will acknowledge the receipt within 24 hours. The Defendant will then file his or her written reply to the Inquiry Committee, along with a list of documents, names and addresses of witnesses in the Defendant Response Form (Annexure) within ten working days.

- During the inquiry the Complainant and the Defendant will not be brought face-to-face, or any situation created where they may be brought face-to-face.
- The past sexual history of the Complainant shall be deemed irrelevant and shall not be brought up during the Inquiry.
- The IC will organize the hearings, giving a fair hearing to both the Complainant and the Defendant.
- Besides the witnesses named by both parties, IC may call any other person as Independent witness. It may also summon any official documents or records pertaining to the Complainant and Defendant, and the site or location of the incident(s) of harassment, if needed.
- Following the hearing, the Complainant and the Defendant may examine the transcripts of the each other's depositions (with the exclusion of the identities of the witnesses and witness transcripts), which will be made available within ten working days of the last hearing.
- Both parties are allowed two days to respond to the IC Chair with clarifications or specific questions (if any) based on the transcripts.
- The IC will mediate cross-questioning between the Complainant and the Defendant till such time as all questions are asked.
- The Complainant (s), the Defendant(s), and all witnesses will be required to sign a Non-Disclosure Agreement.
- The Inquiry will be completed within ninety working days from the date of receiving the complaint.
- On concluding the Inquiry, the IC Chair shall submit a detailed report to the Chair of the ICC (all names anonymous). In case of a guilty verdict the report shall also recommend the nature of disciplinary action to be taken. It shall also recommend whether the name

and act of the offender, with the disciplinary action taken, may be publicized. (The range of possible disciplinary action is described in the Penalties section below.)

- Within three working days of the receipt of the final report of the Inquiry Committee, the Chair of the ICC shall convene an emergency meeting of the ICC. Each member of the ICC may access the full report of the Inquiry Committee.
- If the report is accepted by the ICC, the Chair of the ICCs Inquiry Committee will submit the report to the Executive Authority. The Executive Authority will be given the names of the Complainant, the Defendant, all the witnesses, which will be anonymized in the final report.
- The final report has to be submitted to the Executive Authority within ten working days of the completion of the inquiry report, as accessed by all the ICC members. In case of Faculty vs Faculty cases and Faculty vs Staff cases, Student members may not have access to the report.
- The recommendations made by the IC will also be sent to the Complainant and Defendant at the same time.
- The Complainant or the Defendant may file an appeal against the recommendations of the ICC to the Executive Authority within thirty working days from the date of receipt of the findings or recommendations. The Executive Authority may also constitute an appropriate committee to oversee the appeal in the event of the Defendant or the Complainant filing one.
- The Executive Authority will act on the recommendations of the ICC within a period of thirty working days from the date of receiving the final report with the recommendations.
- The Vice-Chancellor shall forward the Chair's final report submission to the appropriate university authorities, who will if needed, meet with the ICC to discuss and facilitate implementation of the recommendations. At least three members of the inquiry Committee must be present in this meeting.

6. Penalties

Disciplinary action against a person found guilty of sexual harassment may take various forms.

An indicative list is provided below:

Penalties for Faculty Members

1. Warning or censure
2. Withholding of increments
3. Removal from an administrative position
4. Disbarment from holding an administrative position
5. Suspension from service
6. Compulsory retirement
7. Dismissal from service

Penalties for Administrative Staff

1. Warning or censure
2. Withholding of increments
3. Transfer
4. Suspension from service
5. Compulsory retirement
6. Dismissal from service

Penalties for Students

1. Warning or censure
2. Denial of an official character certificate from the university
3. Rustication from the University for one or two semesters
4. Expulsion from the university

5. Bar on future admission to the University
6. Withholding of a degree awarded by the university

Penalties for Third Party Vendors or any other individuals in the University can be a combination of these above.

A hand written apology from the guilty party to the victim is mandatory, as a penalty and self-reflection and learning experience. In addition to the above, the ICC in the University recommends gender sensitization trainings, reading or assignments, for all the above parties involved when found guilty of sexual harassment in any case that the ICC handles.

Action against frivolous complaint or deposition

The ICC and the Executive Authority will ensure that the provisions for the protection of employees and students from sexual harassment will not get misused. During the gender sensitization sessions, the ICC will specify that false or malicious complaints will face punishment. Any allegation made, found false or malicious, or complaint or witness statement made for either party during the inquiry knowing it to be untrue, forged or misleading information will face penalties, as detailed above.

ANNEXURE
SNIOE Response Form

I. Name of Complainant:
E-Mail Address of Complainant:
Designation of Complainant:

II. Name (s) of Defendant (s):
E-Mail Address of Defendant (s):
Contact No of Defendant(s):
Designation of Defendant (s):

III. Witnesses:

A. Name:
Designation:
e-mail Address:
Contact no:

B. Name:
Designation:
e-mail Address:
Contact:

C. Name:
Designation:
e-mail Address:

D. Name:
Designation:
e-mail Address:
Contact No:

E. Name:
Designation:
e-mail Address:
Contact No:

IV. Supporting Documents (if any) (list and attach):