

National Law University, Delhi Policy

on

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

(PREVENTION, PROHIBITION AND REDRESSAL)

POLICY STATEMENT

National Law University, Delhi (referred as NLUD or University) is committed towards maintaining and nurturing a safe and healthy workplace for the members of the University community. The present policy seeks to ensure an academic work environment free of sexual harassment of any sort and is designed to meet the legal requirements under '*the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*' (referred as the Act) read with *University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015*. The present Policy will only be interpreted in addition to and in light of the Act and UGC Regulations and is required to clarify the ambiguity, if any. The Act and the Regulations along with rules, policies or guidelines have been enacted to enforce the fundamental rights and freedoms enshrined in the Constitution of India.¹

Since the incidents of sexual harassment violate the above-mentioned fundamental rights and freedoms, and deny or limit an individual's ability to participate in or benefit from University's programmes or activities, NLUD reiterates its commitment to provide non-discriminatory educational and work environment. The University by organizing orientation programs, workshops, seminars or conferences is mandated to provide awareness and gender sensitisation. It is the Policy of the University to prevent incidents of sexual harassment at workplace, to encourage reporting of the incidents, if any and to provide for prompt redressal for such incidents with the help of equitable and speedy investigation.

¹ Under Part-III of the Constitution of India, Articles 14-16 provide for the right to equality, equality of treatment and opportunity and prohibits discrimination of any kind, unless justified. Article 19 provides for fundamental freedoms viz. the right to speech, expression, movement and right to work with dignity in a safe environment. Article 21 lays down a person's right to live with dignity.

1. SCOPE:

The Policy shall apply to all students, faculty, staff or employee of the NLUD, or third parties whenever the misconduct occurs, in connection with a University activity or routine teaching or administrative work or programme organized by NLUD on NLUD Campus or off NLUD Campus and/or related to the conduct, which may have the effect of creating an intimidating or offensive or hostile work environment for one or more member(s) of the University community.

2. DEFINITIONS –

1) Following terms may be defined as follows:

- i. ‘Complainant’ shall mean any person alleging an incident of sexual harassment, or on whose behalf such complaint has been filed;
- ii. ‘Internal Complaints Committee’ is the Committee constituted by the Competent Authority to look into the incidents of sexual harassment at NLUD Campus
- iii. ‘NLUD’ refers to National Law University Delhi;
- iv. ‘NLUD campus’ shall be deemed to include the premises of the University;
- v. ‘NLUD community’ shall include students, faculty, staff of the University
- vi. ‘Respondent’ shall mean any person against whom a complaint of sexual harassment has been filed;
- vii. ‘Sexual Harassment’ means and includes any unwelcome conduct, verbal, physical, textual, electronic, visual or graphic actor threat of a sexual nature, and shall include
 - a) any physical contact or advance;
 - b) any advances, demands or requests for sexual favour;
 - c) sexually coloured communication that is targeted at a particular person and leads to humiliation or harassment;
 - d) sexually explicit content or gestures;
 - e) showing pornography;
 - f) any single or repeated sexually determined behaviour or conduct that creates intimidating or a hostile work environment;
- viii. ‘Third party’ refers to any person who is not part of the NLUD community.
- ix. Staff or employee of NLUD shall mean anyone employed by NLUD in any of the offices including full-time, part-time, temporary, contractual or casual staff, researchers, trainees and consultants.

- 1) **Prohibition of Sexual Harassment**– All instances of sexual harassment at workplace are prohibited and shall be dealt as per the Act, UGC Regulations and this Policy.

- 2) **Constitution of the Internal Complaints Committee (ICC)** – The Vice-Chancellor shall, by an order in writing, constitute a Committee to be called as Internal Complaints Committee (ICC hereinafter).
 - i. The Committee shall consist of the following members to be nominated by the Vice-Chancellor:
 - a) a Presiding Officer/Chairperson who shall be a senior level woman faculty member-not below the rank of Professor
 - b) two members out of the faculty members who have legal knowledge or expertise in the subject
 - c) two members out of the staff/non-teaching employees who have knowledge or experience in the subject
 - d) one or two external member(s) familiar with the issues of sexual harassment from governmental/semi-governmental or non-governmental organization
 - e) three student representatives, one each from graduate, post-graduate and research streams respectively

 - ii. In case, a particular dispute relates to faculty, representatives from non-teaching employees and students will not be the part of ICC during the resolution of complaint or during inquiry proceedings

 - iii. In a dispute relating to non-teaching employees, representatives from students will not be the part of ICC during the resolution of complaint or during inquiry proceedings

 - iv. One member from faculty may be nominated by the Vice Chancellor, if required

 - v. At least half of the members of the ICC shall be women.

3) Who can file the complaint- Any women either a member of NLUD community or visitor to NLUD may make, in writing (as per the Format given in Annexure-A), a complaint of sexual harassment at workplace to the ICC.

Provided that if the complainant is unable to submit the complaint in writing by herself or himself, the ICC may allow any other person to file a complaint on her behalf if it considers it reasonable and appropriate.

4) Filing of Complaint –

- 1) The complainant shall file a complaint in writing before ICC in the given format at the earliest point of time or within 3 months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incidents. The ICC, for the reasons to be recorded in writing, may extend the time limit not exceeding three months.
- 2) The complaint may be given by hand or by post to the Presiding Officer/Chairperson of ICC
- 3) If complaint has been filed online, hard copy of the same must reach to the office of ICC within 7 working days.
- 4) ICC shall extend all reasonable assistance to the aggrieved person for making the complaint in writing, if required.
- 5) The complaint should be specific and shall include the list of witnesses, if any.
- 6) Before initiating the inquiry, the ICC at the request of the complainant, may take steps to settle the matter between the complainant and the respondent.

5) Inquiry into the complaint –

- 1) On accepting the complaint, the ICC shall send notice to the respondent within 7 working days along with a copy of the complaint.
- 2) The respondent shall reply to the complaint in writing, along with a list of witnesses, if any, within 10 working days from the date of receiving the notice.

- 3) Meanwhile the complainant may be called and heard by ICC and a hand-written statement may be taken on record.
- 4) On receipt of the reply of the respondent, the ICC shall provide a copy of the same to the complainant within 5 working days.
- 5) ICC shall comply with the basic principles of natural justice with regard to both/all the parties to the complaint during the inquiry proceedings.
- 6) ICC may ask any of the parties to the complaint and the witnesses not to bring mobile phones or recorders during the deposition or proceedings, to maintain and ensure confidentiality.
- 7) ICC may try to settle the matter between the parties through conciliation, subject to the request made by the complainant.
- 8) The ICC should take steps to ensure that the complainant and the respondent are not put in a position where they may be face to face, unless it is deemed absolutely necessary and the complainant assents to the same.
- 9) The ICC, if it so requires, may at any time, call upon any person to be a witness, and may ask any questions as it deems necessary to such a witness and record their statements on oath.
- 10) If the complainant or respondent desires to cross-examine any witness(s), ICC may have to facilitate the same and records the statement(s).
- 11) No copy of any of the documents pertaining to either party be handed over to anyone except the parties, to maintain confidentiality required in the proceedings.
- 12) All notes, statements and documents are to be kept strictly confidential. Members shall be given the documents for perusal during the inquiry meetings.
- 13) All proceedings of the ICC shall be recorded in writing. The record of the proceedings and the statements of witnesses shall be endorsed and authenticated by the persons concerned as well as by the members of ICC present in that meeting.
- 14) Minutes of the proceedings may preferably be prepared and authenticated on the same day as far as possible or under exceptional circumstances may be

prepared the very next day and got signed by circulation either through hard or soft copy according to the availability of members.

- 15) Written notes may be taken while listening to the parties or the witnesses.
- 16) After the completion of the inquiry, the ICC shall submit a detailed report of its findings, along with reasons to the Competent Authority.
- 17) If the ICC finds the respondent guilty of sexual harassment, it shall recommend the nature of remedial action to be taken against the respondent.
- 18) The ICC shall conclude its proceedings and submit its report to the Competent Authority along with copy of the report to the complainant as well as respondent.
- 19) The ICC, where the respondent is member of the University community, shall proceed to take action as per the service rules or the regulations whichever is applicable.
- 20) Due caution must be taken while dealing with the complaints of sexual harassment as this is not like any other type of dispute. Complainants may be embarrassed and distressed, therefore to build confidence, hearings and proceedings during the resolution must be held in a closed place.
- 21) Both the parties while given opportunity of hearing must also give their hand-written statements in their own words before ICC. If any/all of the parties find it difficult to read or write, due assistance may be provided, keeping in mind the confidentiality of the proceedings.
- 22) Care is taken to prevent any disadvantage to or victimization of either the complainant or to the respondent.
- 23) It must be ensured that victim(s) or witness(s) is not victimized or discriminated against while dealing with complaints of sexual harassments.
- 24) The inquiry may be terminated or an ex-parte decision may be given, if complainant or respondent is absent for 3 consecutive hearings, without reason. 15 days written notice may be given to the party, before termination or ex-parte order.
- 25) ICC must ensure that the identity of complainant as well as respondent is kept confidential.

6) **Interim Relief** –During pendency of the inquiry, on a written request made by the complainant, the committee may recommend to the employer to -

- a) Transfer the complainant or the respondent to any other department or section
- b) Grant leave to the aggrieved woman of maximum 3 months
- c) Prevent the respondent from assessing complainant's work performance or to transfer him/her to any other department or section
- d) Grant such other relief as may be appropriate

Once the recommendations of interim relief are implemented, the employer will inform the committee regarding the same

7) **Initiation of Action** –On the receipt of the inquiry report, the Competent Authority shall implement the decision of the ICC.

8) **Appeals** –

- 1) ICC shall have no jurisdiction to entertain any communication from any side, viz. the Complainant, Respondent or any of the witnesses after the submission of the Report. The ICC becomes '*functus officio*' after the submission of its decision on the complaint in hand. The Appeals Committee shall consist of the Vice Chancellor, a senior faculty member and an external member.
- 2) The Appeal may be filed within 90 days of the receipt of the decision of ICC.
- 3) The Appeals Committee may allow an appeal filed after the prescribed period by an order in writing if it is satisfied that there is a reasonable justification for the delay.

9) Confidentiality of Proceedings –

- a) The ICC as well as the University shall take appropriate measures to maintain confidentiality of the identity of both the parties.
- b) To ensure confidentiality of proceedings of the complaint, if any member is a witness/related of either party, he/she shall recuse from the inquiry.
- c) The identity of the complainant, respondent, witnesses and proceedings of ICC and its recommendations and the action taken by NLUD shall not be published, communicated or made known to the public, press or media in any manner and it will be outside the purview of the Right to Information Act, 2005.
- d) No legal practitioner will be allowed to represent either the complainant or the respondent in proceedings before the ICC.
- e) No decision under this Policy, except the final decision in form of Report of the Inquiry Committee or the Appellate Committee shall be made public.

10) Obligations of University Authorities-

The University shall perform the following obligations in order to ensure effective implementation of this Code:

- (1) forward all complaints of sexual harassment to the ICC.
- (2) provide all necessary facilities such as office space, computer, secretarial assistance etc. and other possible assistance to the ICC for smooth conduct of inquiry.
- (3) provide assistance to the complainant in accessing professional counselling and medical services, if required.
- (4) pay appropriate reasonable amount as honorarium along with travel allowance to the external member for attending the ICC meetings
- (5) monitor the timely submissions of the Report(s) by the ICC

11) Considerations while preparing Inquiry Report

While preparing the findings/recommendations, following are considered:

- a) Whether the language used (written or spoken), visual material or physical behavior alleged by the complainant was of sexual nature
- b) Whether the allegations or events follow logically and reasonably from the evidence
- c) Credibility and consistency in the statements of complainant, respondent and witnesses and evidences recorded
- d) Other similar facts etc. for e.g. if there have been any previous accounts of harassment pertaining to the complainant/respondent
- e) Other cases filed before any other fora/agency/department and the result or report, whether having some basis or just to harass or humiliate or for some ulterior motive(s)
- f) Both parties have been given an opportunity of being heard
- g) A copy of the statements was made available to both parties enabling them to make representation against the findings

12) **Punishments for NLU community members**– The ICC may impose any or a combination of the following penalties for sexual harassment which shall be recorded on the permanent academic record of the respondent:

A. In case of students: Depending upon the severity of the violation of code of conduct, one or more than one punishment may be ordered for the erring student, out of the following:

- i. Warning, reprimand or censure; oral or in writing
- ii. Withholding certain privileges from the students such as access to the library, transportation, scholarships, allowances, identity card
- iii. Revocation of hall ticket for any examination
- iv. Suspension from the University or restrict entry for a specified period
- v. Expulsion from the University or Halls of Residence

- vi. Denial of readmission, if serious offence
- vii. Public Apology in writing
- viii. Bar on representing the University in any conference, course, competition, academic, cultural, sports or otherwise, exchange program, or any other co-curricular or extra-curricular activities
- ix. Withholding of degree
- x. Mandatory counselling
- xi. Mandatory attendance in a gender-sensitization workshop
- xii. Mandatory performance of community service
- xiii. Disbarment from holding any position of responsibility within the University

B. In case of employee: In case the offence is proved against the respondent or it is found that the complaint was either frivolous or vexatious, action may be taken against anyone of them under the service rules or other rules, regulations, guidelines or Policy of NLUD. Some of which are as follows:

- i. May be censured or reprimanded or warned
- ii. May be asked to give written apology
- iii. May increment be withheld or promotion deferred for specified period
- iv. Suspension
- v. Termination
- vi. Or any other appropriate action or disciplinary action as per service rules or any other rules applicable or as per the relevant Act or the UGC Regulations applicable

C. Penalties for Third Parties–

(1) The ICC may impose any or a combination of the following penalties for sexual harassment:

- i. Bar from entering the NLUD campus
- ii. Withdrawal of certificate or reward for successful completion of or participation in any conference, seminar, programme or competition organized by the University.
- iii. Warning or Reprimand in writing
- iv. Any other appropriate action as per the NLUD rules applicable

(2) ICC shall inform the Institution or Employer of the Third Party in such cases of the details of the complaint and the penalty imposed.

13) Annual Reports

The ICC shall prepare an Annual Report giving an account of the cases filed, if any and their disposal etc. and forward a copy thereof to the Vice-Chancellor of NLUD.

14) False, Frivolous or Vexatious Complaints

Strict disciplinary action shall be taken by the Competent Authority in case if any complaint is proved to be false or found to be lacking seriousness or sound basis or/and intending to harass someone or filed to settle the score unrelated to complaint filed.

In case ICC arrives at a conclusion that the allegation(s) against the respondent has not proved, it may recommend to the Vice Chancellor that no action is required to be taken in this matter.

15) Saving

Nothing contained in this code shall prejudice any rights available to the employee or prevent any person from seeking any legal remedy under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; National Commission for Woman Act 1990, Protection of Human Rights Commission Act 1993 or under any other law for the time being in force.

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the University shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

The proceedings under this policy shall not, in any way, be affected by any other proceedings against the respondent preferred by the complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.

Annexure-A

Name of the Complainant:

Designation:

Qualification:

Contact Details

(complete postal address, mobile no., landline no., email id):

Name of the Employer:

Designation of the Employer:

Date & Time of Incident alleged:

Brief Details of the incident (s):

Name of the Respondent:

Power Relation with Respondent:

Designation of Respondent:

Employer of Respondent:

First reaction after/during the alleged Incident:

Representation/Complaint before any other fora/agency:

If yes, brief details and copies:

List of Witnesses, if any:

Witnesses Designation, addresses, contact details:

Relationship with the witnesses, if any:

Any previous grievance/incident caused by Respondent:

If yes, give details:

Whether complaint within 3 months of incident:

If not, give reasons:

Complaint: Hand-written _____ Typed _____ Handed-over _____
Mailed _____ Posted _____

Give details of mode of filing the complaint:

