

# **NITTE**

**(Deemed to be University established u/s 3 of UGC Act, 1956)**

## **POLICY AGAINST SEXUAL HARASSMENT**

### **1. PREAMBLE**

Nitte (Deemed to be University) Mangalore (herein after referred to as 'NU') 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 NU should be aware that while the NU 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. SCOPE OF REFERENCE FOR NITTE (Deemed to be University)**

In formulating a policy for preventing and redressing sexual harassment, the fact that NU consists of a number of academic departments and administrative offices in the NU campus and 5 constituent colleges and research centres, health centres, hospital has been considered. The NU has a constituency of almost 3000 students and 1500 employees. A majority of these people commute to their "work place" (i.e. place of work/study) from various parts of the city. The interpretation of the term, "work place," for the purpose of the policy for NU, will extend to all public spheres that remain in contact with members of the NU community. Such public spaces include not just the physical premises under the supervision of the NU system, but even areas in and outside Mangalore, where the NU members reside or travel to as part of their work as members of the NU. The jurisdiction will include fieldtrips, sports tournaments, conferences, college festivals and all other activities undertaken by any person as a member of NU.

### **3. GUIDING PRINCIPLES FOR DEFINITION OF SEXUAL HARASSMENT & REDRESSAL MECHANISM :**

This policy defines sexual harassment and the mechanisms of redressal by looking at the specific structures, needs and imperatives in the NU. It is guided by the definition of sexual harassment given by the Supreme Court in 1997 in *Vishaka vs. State of Rajasthan* and 'UGC (Prevention, Prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations 2015 (vide MHRD- UGC- Notification dated 02.05.2016)' .

### **4. OBJECTIVES OF THE POLICY :**

Following are the objectives of the Policy

- (a) To fulfill the directive of the Supreme Court & respective UGC guidelines enjoining all employers to develop and implement a policy against sexual harassment at the work place.
- (b) To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the NU.
- (c) To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
- (d) To uphold the commitment of the NU to provide an environment free of gender-based discrimination.
- (e) To create a secure physical and social environment which will deter acts of sexual harassment.
- (f) To promote a social and psychological environment which will raise awareness about sexual harassment in its various forms.

- (g) To generate public opinion against sexual harassment and all forms of gender-based violence.
- (h) To make recommendations to the Vice-Chancellor- NU and the Registrar- NU for changes/elaborations in the Rules, Standing orders and Bye-Laws etc, to make them gender just and to lay down procedures for the prohibition, resolution, settlement and prosecution of acts of sexual harassment by and of women employees and students.
- (i) To deal with cases of sexual harassment, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment;
- (j) To recommend appropriate punitive action against the guilty party to the Vice-Chancellor.

## 5. DEFINITION OF SEXUAL HARASSMENT

The following constitutes sexual harassment:

- a) An unwanted conduct with sexual undertone if it occurs or which is persistent and which demeans humiliates or create a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication) namely:-
  - i. Any unwelcome physical verbal or nonverbal conduct of sexual abuse.
  - ii. Demand or request for sexual favours.
  - iii. Making sexually coloured remarks
  - iv. Physical contacts and advances or
  - v. Showing phonography.
- b) Any one or more than one or all of the following circumstances , if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-
  - i. Implied or explicit promise of preferential treatment as quip pro quo for sexual favours.
  - ii. Implied or explicit threat of detrimental treatment as quid pro quou for sexual favours.
  - iii. Implied or explicit threat of detrimental treatment in conduct of work.
  - iv. Creating asn intimidating offensive or hostile learning environment.
  - v. Humiliating treatment likely to affect the health safety dignity or physical integrity of the person concerned.

## 6. JURISDICTION

The rules and regulations outlined in this policy shall be applicable to all complaints of sexual harassment made:

- (a) By a member of the NU against any other member of the NU irrespective of whether the harassment is alleged to have taken place within or outside the campus.
- (b) By a resident against a member of the NU or made by a member against a resident irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- (c) By an outsider against a member of the NU or by a member of the NU against an outsider if the sexual harassment is alleged to have taken place within the campus.
- (d) By a member of the NU against an outsider if the sexual harassment is alleged to have taken place outside the campus. In such cases the Committee shall recommend that the NU/college authorities initiate action by making a complaint with the appropriate authority. Further the committee will actively assist and provide available resources to the complainant in pursuing the complaint.

## 7. DEFINITIONS:

- a. **‘Members of the NU’** includes students, teachers and non-teaching staff of the NU.
- b. **‘Students’** means a person admitted and pursuing a programme of study, including short term training programmes under NU or its respective institutes/units.  
Provided that a student who is with in the process of taking admission in the although not yet admitted, shall be treated for the purpose of these regulations as a student, where any incident of sexual harassment takes place against such student.  
Provided that a student who is a participant in any of the activities in NU or its Institutes/Units other than the higher educational institute (HEI) where each student is enrolled shall be treated for the purpose of these regulations, as a student of that HEI, where any incident of sexual harassment takes place against such student.
- c. **‘Teachers’** includes any person on the staff of the NU or any of the constituent colleges and all other academic departments, who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation and shall include employees employed on a casual or project basis.
- d. **‘Non-Teaching Staff’** includes any person on the staff of the NU or any of the colleges/institutions affiliated to it, who is not included in the category of teacher. It shall also include contract workers and daily wagers.
- e. **‘Resident’** includes any person who is a temporary or permanent resident of any of the accommodations or premises allotted to a student or an employee, by the NU or by any of its constituent colleges, academic departments, health centres or hospitals.
- f. **‘Outsider’** includes any person who is not a member of the NU or a resident. It also includes but is not limited to any private person offering residential, food and other facilities to members of NU or any college/institution affiliated to NU.
- g. **‘Campus’** means the location or the land on which a higher educational institute and its related institutional; facilities like libraries, laboratories, lecture halls, residence, halls, toilets, student centre like health centres, canteen, bank counters etc are situated with its scope places visited as a student of institute/NU including transportation provided for the purpose of commuting to and from the institution NU/ units, locations outside the institution on field trips, internships, study tours, excursion, short term placements, places used for camps, cultural festivals, sports meet and such other activities where a person is participating in the capacity of an employee or a student of NU or its respective institute/ units.

## 8. GUIDING PRINCIPLES FOR CONSTITUTION OF COMMITTEE

The policy has abided by the following principles:

- (a) In order to comply with the UGC Regulations on the said aspect, this policy has been incorporated with provisions to constitute an Internal Complaint Committee (ICC).
- (b) In order to decentralize the functions of ICC at institutional and other levels, respective Head of the Institution/Units shall be responsible for organising and conducting awareness programme under the approval of “The Registrar- NU” and report of the same has to be submitted to Internal Complaints committee as and when required by the said committee
- (c) In order to create autonomous structures to look into complaints of sexual harassment, members from outside the institution with a known contribution to **gender issues** have been included in ICC.
- (d) To make the Committees representative, each category of NU members is given representation in the Committee.
- (e) As per the 1997 Supreme Court Judgment, it is mandatory for each committee to have a woman presiding officer as well as at least 50 per cent women members.

## 9. STRUCTURE:

The Internal complaint Committee is empowered to carry out the mandate of this policy. Implementation of the policy will be achieved through the following structures:

- (a) **Internal Complaint Committee (ICC) of Nitte (Deemed to be University):** A committee shall be set up so as to prevent incidents through preventive measures such as awareness program, seminars etc to its students and employees. The Committee shall function as per the guidelines issued by the UGC or from Ministry of Human Resources, Govt of India from time to time. This committee will be a regulatory body for NU and its institutes hospitals and units, for redressal of complaints. It is also the complaints and redressal committee for the employees directly under the employment of the NU and its institutes, hospitals and units.
- (b) **Institutional / Unit level activities:** Respective Head of the institutes / units will be responsible to execute the mandate of this policy by creating awareness on the said aspects through seminars, workshops etc... however it has to be kept in mind that, whenever any complaints of such nature is reported to any of NU or institute /Unit's authorities same has to be handed over or forwarded to Internal Complaint's Committee of NU through proper channel, along with related documents / evidence if any for further process and actions.

## 10. CONSTITUTION AND COMPOSITION OF INTERNAL COMPLAINTS COMMITTEE:

- a. **The Registrar-** NU shall constitute the Internal Complaint Committee, with prior approval from The Vice Chancellor- NU as below.
- b. **Presiding Officer:** Who shall be a woman faculty member of senior level-Professor to be nominated by the Registrar of the NU
- c. **Members:** Not more than eight members to be nominated by The Registrar - NU, among following sections:
  - i. Two Teaching staff /faculty by nomination
  - ii. Two Non teaching staff by nomination
  - iii. Three Students (elected through transparent democratic process)
  - iv. One member from amongst NGO association committed to the cause of women.

Provided that ICC shall have not less than 50% of members shall be a women. Adding to this one among the above members except for student members may be nominated as a Member Secretary by the Presiding Officer.

## 11. TERM OF COMMITTEE:

The Internal Complaint Committee shall function for a period of three academic year and members and Presiding Officer shall not be considered for re-nomination to the next committee. However, the members representing from student section shall remain as a member for one academic year.

## 12. REMOVAL OF MEMBERS:

- (a) That notwithstanding to the clause 12, the Registrar at any point of time may remove any member or Presiding Officer on the ground of dereliction of duties entrusted to the committee or remain absent for continuous for a three meeting without any justifiable grounds or abstain from attending training or seminar organized to the Members or involving in any act which is subversive to discipline or any offence involving moral turpitude or if any members are removed, discharged, suspended or rusticated from the NU in consultation with the Presiding Officer if any members are removed from the committee and in consultation with the Vice Chancellor if the Presiding officer is removed from the Committee without causing any notice.
- (b) The Registrar shall nominate fresh members in their place without much of delay so as to ensure the committee functions its meeting without any hurdle in whatsoever manner. The Committee shall all the time consist of responsible, duty bound and a member who can work for the cause of woman shall always be given priority. No faculty or students have any right to challenge the ICC constituted by the Registrar.

### 13. ACADEMIC YEAR:

The academic year for the purpose of this policy shall mean period starting from \_\_\_\_\_ of every year to \_\_\_\_\_ of consequent year.

### 14. MEETINGS:

- a) The Internal Complaint Committee shall meet at least twice a year.
- b) The meetings may be chaired by the Presiding officer and the Member-Secretary will be responsible to call the meeting and take the minutes and circulate them.
- c) The notice of the meeting may be circulated at least a week in advance.
- d) The quorum for the meetings will be presence of 30% members.
- e) In emergency situations, the meetings may be called at a shorter notice and held with fewer members, after an explanation for doing so. In the absence of the Convenor, the members present shall appoint a female member to act as the Presiding Officer for the said meeting.
- f) In the absence of the Member-Secretary, another member may be appointed by the members present to take the minutes.
- g) An annual report from ICC to Registrar of NU shall be submitted on \_\_\_\_\_.

### 15. POWER AND DUTIES

Role of Heads of the Institutes/ Units is to bring in preventive steps through seminars awareness programmes, workshops etc.. as per the approval of The Registrar - NU. On the other hand role of ICC is not only to undertake preventive measures or steps but also to handle complaints as per the respective UGC guidelines. In other terms ICC will be considered as a prime body to handle complaints under this policy.

#### (a) Preventive Steps

- i. To create and ensure a safe environment that is free of sexual harassment.
- ii. To create an atmosphere promoting equality and gender justice.
- iii. To publicize the policy in Kannada and English widely, especially through prospectuses, notice boards etc.
- iv. To publicize in English and in Kannada the names and phone numbers of members of the committee.
- v. To plan and carry out programmes for gender sensitization.

#### (b) Remedial Steps

- i. The mechanism for registering complaints should be safe, accessible and sensitive.
- ii. 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.
- iii. To recommend to the concerned authorities follow-up action and monitor the same.
- iv. To advise the disciplinary authority concerned to issue warnings or take the help of the law to stop the harasser, if the complainant consents.
- v. To seek medical, police and legal intervention with the consent of the complainant.
- vi. To make arrangements for appropriate psychological, emotional and physical support (in the form of counseling, security and other assistance) to the victim if/so he so desires.

### 16. PROCEDURE FOR REGISTERING COMPLAINTS:

- a) An Aggrieved person is required to file written complaint with in 3 months in writing from the date of incident and in case of series of incidents within a period of three months from the date of last incident.

Provided that where such complaint cannot be made in writing Presiding member or any member of internal complaint committee shall render all reasonable assistance to person for making complaint.

Provided further that ICC may, for reasons to be accorded in writing, extend the time limit not exceeding three months, if it is satisfied that circumstances were such which prevented the person from filing a complaint within the said period.

- b) Friends relatives colleagues costudents psychologists or any other associate of the victim may file complaints where aggrieved person is unable to make complaint on account of physical or mental incapacity.

## 17. ENQUIRY PROCEDURES

- a) Any complaints made to any committee member must be received and recorded by the member, who shall then inform the Presiding Officer about the complaint, who in turn shall call a meeting of the internal complaints committee.
- b) All meetings of the Committee will be called by the Member Secretary in consultation with the The Presiding Officer and a notice of at least 3 to 5 working days must be given.
- c) ICC shall upon receipt of the complaint send one copy of the complaint to the respondent within a period of seven days of such receipt.
- d) Upon receipt of the copy of of the complaint, the respondent shall file his or reply to the complainant along with the list of documents and names and addresses of witnesses with in a period of ten days.
- e) The inquiry has to be completed with in a period of 90 days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted with in ten days form the completion of the enquiry to the Resgistrar. Copy of the findings or recommendations shall be served on both parties to the complainant.
- f) The Registrar shall act on recommendations of the committee with in a period of 30 days from the receipt of the inquiry report unless an appeal against the findings is filed within that time by either party.
- g) An appeal against the findings or recommendations of the ICC may be filed by either party before the Vice Chancellor through the Registrar- NU within a period of 30 days form the date of recommendations.
- h) If the Registrar decides not to act as per the recommendations of the ICC, then he shall record written reasons for the same to be conveyed to ICC and both the parties to the proceeding. If on the other hand it is decided to act as per the recommendations of ICC, then a show cause notice answerable within ten days, shall be served on the party, against whom action is decided to be taken. The Registrar shall proceed only after considering the reply or hearing the aggrieved person.
- i) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The Registrar shall facilitate a conciliation process through ICC as the case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punititive intervention.
- j) The identities of the aggrieved party or victim or the offender shall not be made public or kept in the public domain especially during the process of enquiry.
- k) The Committee is bound to maintain confidentiality during the time of the enquiry (in order not to prejudice the proceedings).

### NOTE:

- i. A complainant has the right to go public if she so desires. Going public before giving in the complaint to the committee by the complainant should not prejudice the committee members. Once a complaint has been given to the committee, the complainant should preferably not go public till the enquiry is completed unless required.
- ii. Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.
- iii. The ICC should make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is dealing with the complaint. The committee shall make recommendations to The Registrar- NU to take action against anyone who intimidates the complainant or members of the committee, during or after the enquiry.
- iv. Any committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.
- v. The ICC should form a small crisis intervention group comprising a group of committee members who should be readily accessible. Atleast 75 percent of the crisis intervention group should be women. The telephone numbers of members should be widely publicised. The committee should have names and easy access to groups and/or individuals who can assist by providing legal, medical and/or psychological help.
- vi. During the pendency of an enquiry, on a written request made by the complainant , the ICC the case may recommend to the Registrar- NU to
  - ➔ transfer the complainant to any other workplace or
  - ➔ grant leave to the complainant upto a period of three months or
  - ➔ grant such other relief to the complainant as may be prescribed.

The leave granted to the complainant under this circumstance shall be in addition to the leave she would be otherwise entitled.

## 18 INTERIM REDRESSAL

- a) Transfer the complainant or the respondent to another section or department to minimise the risks involved in contact or interaction, if such recommendation is made by the ICC.
- b) Grant leave to the aggrieved with full protection of status and benefits for a period upto 3 months.
- c) restrain the respondent from reporting on or evaluating the work or performance or tests or examination of the complaint.
- d) Ensure that offenders are warned to keep distance from aggrieved, and where ever necessary if there is a definite threat, restrain their entry into the campus.
- e) Take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimisation as a consequence of making a complainant of sexual harassment.

## 19. PUNISHMENT

- a) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of NU, if the offender is an employee.
- b) Where the respondent is a student, depending upon the severity of the offence, NU may,
  - i.withhold privileges of the student such as access to the library, auditorium halls of residence, transportation, scholarships, allowances and identity card,
  - ii.suspend or restrict entry into the campus for a specific period
  - iii.expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants
  - iv.award reformatory punishments like mandatory counselling and, or, performance of community services
- a) The aggrieved person is entitled to payment of compensation. The NU shall issue direction for the payment of compensation as recommended by the ICC and as accepted by the Vice Chancellor, which shall be recovered from the offender. The compensation payable shall be determined on the basis of
  - i. mental trauma, pain, suffering and distress caused to the aggrieved person.
  - ii. the loss of career opportunity due to the incident of sexual harassment.
  - iii. the medical expenses incurred by the victim for physical and psychiatric treatment
  - iv. the income and status of the alleged perpetrator and victim; and
  - v. Feasibility of such payment in lump sum or in instalments.
- a) In the case of third party harassment/outsider harassment, the NU shall initiate action by making a complaint with the appropriate authority.
- b) Enhancement of disciplinary action, by the committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institutions as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.
- c) Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour etc.

## **21. ACTIONS AGAINST FRIVOLOUS COMPLAINTS**

- a. To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within the institute and NU.
- b. If the ICC concludes that the allegations made were false malicious or the complainant was made knowing it to be untrue or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per clause 17 (a) of this policy and as per clause 17 (b) of this policy if the complainant happens to be a student.
- c. However the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry in accordance with the procedures prescribed, conducted before any action is recommended.

## **22. AMENDMENTS TO THE POLICY**

On the basis of their experience of the working of the policy, ICC or Head of the institutes/ units will have the power to make recommendations to the Vice Chancellor - NU and the Registrar -NU and for bringing changes in the policy. The Vice Chancellor after adequate consultation shall make recommendations to the Board of Management about changes in the policy, as and when required in keeping with the preamble and objectives of the policy.

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