

**MANAGEMENT DEVELOPMENT INSTITUTE GURGAON POLICY
AGAINST SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL)**

Based on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' read with All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016.

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POLICY STATEMENT

Management Development Institute Gurgaon (referred to as “MDI” or “Institute”), as a premier B-School, is committed to conducting and governing itself with ethics, transparency, and accountability and to this, it has developed governance structures, practices and procedures that ensure ethical conduct at all levels. Thus, in acknowledgement of and consonance with these values, the Institute is dedicated to ensuring that the work environment at our Institute is conducive to fair, safe and harmonious relations and maintaining and nurturing a safe and healthy workplace for the women members of the Institute.

The present Policy seeks to ensure an academic work environment free of sexual harassment against women and is designed to meet the legal requirements under ‘the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013’ (hereinafter referred to as “Act”) read with All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016 (hereinafter referred to as “Regulations 2016”).

Sexual harassment against women has come to be widely condemned as a form of human rights violation, an infringement on life and liberty and a grave form of gender-based discrimination. Such behaviour is an affront to dignity, gender equality, and fundamental rights.¹ The incident of sexual harassment violates women’s fundamental right to equality, their right to live with dignity and deny or limit a woman’s ability to participate in or benefit from the Institutes’ programmes or activities; MDI reiterates its commitment to provide non-discriminatory educational and work environment. The Institute, by organizing orientation programs, workshops, seminars, or conferences, is mandated to provide awareness and gender sensitisation. It is the policy of the Institute to prevent incidents of sexual harassment at the 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 The Supreme Court of India, in a landmark judgment in 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). 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”. Another Supreme Court Judgment in January 1999 (Apparel Export Promotion Council vs. Chopra) has stated that sexually harassing behaviour “needs to be eliminated as there is no compromise on such violations”.

CHAPTER 1: GENERAL

1. **Name**

These Rules are called the Management Development Institute Gurgaon Policy against Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal).

2. **Scope**

The Policy shall apply to all students, faculty, staff, or employee of MDI, or third parties whenever the misconduct occurs, in connection with the Institutes' activity or routine teaching or administrative work or programme organized by MDI on MDI Campus or off MDI 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 Institute community.

CHAPTER II: DEFINITIONS

3. Definitions

- (a) “**Academic Staff**” includes any person on the staff of MDI who is appointed to a teaching and/or research post, whether full-time, permanent, temporary, ad-hoc, part-time, visiting, honorary, adjunct, emeritus or on special duty or deputation, and shall include persons employed on a casual or project basis
- (b) “**Act**” means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013).
- (c) “**Aggrieved Woman**” means a woman of any age, whether employed/enrolled or not, who alleges to have been subjected to any act of sexual harassment by a Respondent. An aggrieved woman may be a student, service provider, outsider, or a member of the academic or non-teaching staff or involved in delivering services at MDI or any associated locations, including transport, off-site visits, and locations.
- (d) “**Competent Authority or Appropriate Authority**” means the Board of Governors/ Director/ Registrar/ CAO Admin of the Institute, whichever is applicable.
- (e) “**Complainant**” shall mean any woman alleging an incident of sexual harassment or on whose behalf such complaint has been filed.
- (f) “**Employee**” as defined under the Act and means any person including faculty, non-teaching staff, and project staff; permanent, temporary, part-time, visiting, ad-hoc and honorary employees by whatever name called and would include persons employed on a casual basis and also those employed through contractors. It includes “[a] person duly employed by MDI and also trainee, apprentice (or called by any other name), interns, volunteers, teaching assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps.”²
- (g) “**External Expert**” includes any person with expertise in fields relevant to the working of ICC; this could include an academician, an experienced person from an NGO, an activist, or a legal expert from outside ICC.
- (h) “**Internal Complaints Committee or ICC**” is the Committee constituted by the Competent Authority to look into the incidents of sexual harassment at MDI Campus.

² Section 2(f) of All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016, herein, ‘The Regulations’.

- (i) “**MDI community**” shall include students, faculty, staff of the Institute.
- (j) “**MDI**” refers to Management Development Institute Gurgaon
- (k) “**Member**” means the member of the Internal Complaints Committee.
- (l) “**Non-academic Staff**” includes any person on the staff of MDI (other than teaching)whether full-time, permanent, temporary, ad-hoc, part-time, daily wage, honorary or on special duty or deputation. It shall include persons employed on a casual or project basis, as also persons employed through a contractor.
- (m) “**Regulations 2016**” shall mean All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016
- (n) “**Respondent**” shall mean any person against whom a complaint of sexual harassment has been filed.
- (o) “**Service Provider**” includes any person or entity that provides services to MDI or its “employees” and “students”.
- (p) “**Student**” 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 Institute. Provided that a student who is in the process of taking admission (though not admitted) shall be treated for the purpose of the Policy and Rules as a student of the Institute where any such incident of sexual harassment takes place against such student.
- (q) “**Third Party**” refers to any person who is not part of the MDI community.
- (r) “**Victimisation**” means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour.
- (s) “**Visitors**” include all persons participants in seminars, workshops or training programmes in the Institute, students’ relatives, alumni or students from another institution, and any other outsider who is on the “campus” of the Institute to meet with any employee or student or Officer of the Institute, or member of the Authorities and Committees of the Institute, or to use the library and other facilities of the Institute.

- (t) “**Visits**” will include service providers and outsiders who may be within the territory of MDI at the time of the commission of the act/behaviour coming under the purview of this policy.
- (u) “**Workplace or Campus**” means the campus of MDI including:
 - (a) Any department, organisation, undertaking, establishment, enterprise, institution, office, branch, or unit which is established, owned, controlled, or wholly or substantially financed by funds provided directly or indirectly by the Institute.
 - (b) Any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such journey for study in MDI.
 - (c) Any, sports complex or competition or games venue, whether residential or not, used for training, sports or other activities relating thereof to MDI.
 - (d) The location or the land on which MDI and its related institutional facilities like libraries, laboratories, lecture halls, residence halls, toilets, student centres, hostels, dining halls, stadiums, parking areas, park-like settings and other amenities like health centres, canteens, ATM counters, etc., are situated and also includes extended campus and covers within its scope places visited as a student of MDI including transportation provided for the purpose of commuting to and from the institution, the locations outside MDI on field trips, internships, study tours, excursions, short- term placements, places used for camps, cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of the Institute.

4. **What is Sexual Harassment?**

Sexual Harassment includes, but will not be confined to:

- (i) “unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates 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:
 - (a) any unwelcome physical, verbal, or non-verbal conduct of sexual nature.
 - (b) demand or request for sexual favours

- (c) making sexually coloured remarks
 - (d) physical contact and advances; or
 - (e) showing pornography”
- (ii) “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:
- (a) implied or explicit promise of preferential treatment as quid pro quo for sexual favours.
 - (b) implied or explicit threat of detrimental treatment in the conduct of work.
 - (c) implied or explicit threat about the present or future status of the person concerned.
 - (d) creating an intimidating offensive or hostile learning environment.
 - (e) humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned.”

The key expression in the above definition is *unwelcome*, which indicates the unwanted and non-consensual nature of the behaviour in question.

Management Development Institute Gurgaon is committed to creating and maintaining a community in which students, teachers, researchers, faculty members, and non-teaching staff can work together in an environment free from sexual harassment of women.

CHAPTER III: INTERNAL COMPLAINTS COMMITTEE

5. Composition of ICC

The Competent Authority shall, by an order in writing, constitute a Committee to be called as Internal Complaints Committee (hereinafter referred to as “ICC”).

(a) The ICC shall consist of the following members to be nominated by the Competent Authority:

(a) a Presiding Officer/ Chairperson who shall be a senior level woman faculty member-not below the rank of Professor.

Provided that in case a senior level woman employee is not available, the Presiding Officer/ Chairperson shall be nominated from other offices or administrative units of the workplace.

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer/ Chairperson shall be nominated from any other workplace of the same employer or other department or organisation.

(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.

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

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

(d) One additional member from the faculty may be nominated by the Competent Authority, if required.

- (e) At least half of the members of the ICC shall be women.
- (f) Persons in senior administrative positions within the institution, such as the Director, Registrar, CAO- Admin, etc., shall not be members of the ICC.

6. **Selection Procedure**

- (a) First members of the ICC shall be nominated by the Competent Authority.
- (b) Once all internal membership of the ICC has been filled up, they will nominate an External Expert.
- (c) Subsequent filling up of any membership in ICC shall be made by way of nomination by the Competent Authority.

7. **Tenure**

- (a) The Presiding Officer/ Chairperson and every Member of the ICC shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by MDI.
- (b) However, if a vacancy arises in ICC owing to the absence of a member without intimation for three consecutive meetings, the resignation of a member, or disqualification of a member, the vacancy will be filled for the residual period via an agreement between the Presiding Officer/ Chairperson of the ICC and the Competent Authority.
- (c) An ICC Member shall be suspended from the ICC if a complaint is filed against him for the duration of the inquiry. If a complaint is found to be true, the Respondent to the case shall be disqualified from being a member of ICC.

8. **Removal of ICC Members**

ICC members will be removed if:

- a) A Member acts in contravention to section 16 of the Act³, and discloses the parties to, or details of a case, or information that may lead to the identification of any of the parties; or

³ Sec 16, The Act: Prohibition of publication or making known contents of complaint and inquiry proceedings. — Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

- b) A Member is found to have caused an offence or injury under any law for the time being in force, and action is pending against them, or
- c) A Member has been found guilty in any disciplinary proceedings; or
- d) A Member has abused their position to render their continuance in office prejudicial to the public interest.

9. **Mandate of ICC**

- (a) ICC shall raise awareness about sexual harassment of women within the workplace as an unacceptable form of conduct. The ICC will encourage a workplace culture that is supportive and accommodating of diversity. The ICC will respond to complaints of sexual harassment and provide recommendations to the administration for consideration.
- (b) Members of ICC shall be sensitive to the issue of sexual harassment and shall not let personal biases and prejudices (whether based on gender, caste, class, gender identity, religion, sexuality) and stereotypes (e.g., pre-determined notions of how a “victim” or “accused” should dress or behave) affect their functioning as members.
- (c) ICC shall have the following two functions:
 - (a) Gender sensitisation and awareness generation
 - (b) Responding to complaints of sexual harassment, including receipt of complaints, screening, informal mediation, conducting formal conciliation/inquiry procedures and redressal.

a) Gender Sensitisation and Awareness Generation

For the purpose of creating gender sensitisation and awareness generation, MDI and ICC shall perform the following functions:

- i. These Rules in their entirety shall be made available at the library counter, the Competent Authority’s office, and the MDI website. This information must be publicized widely.
- ii. ICC shall ensure the prominent publicity of these Rules in MDI through posters by displaying them (in a summary form) on the main notice board and

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, id entity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

the employees' notice board (at the entrance), the library notice board and at the canteen/dining halls and student housing.

- iii. The names of the members of ICC and the ICC's email address icc2021@mdi.ac.in shall be displayed on the main notice board and the library notice board.
 - iv. These Rules shall be briefly mentioned in the Students Handbook of all academic programmes offered at MDI, along with information about where the full policy is available.
 - v. ICC shall organize programmes for the gender sensitisation of the MDI community, which may include workshops, seminars, posters, film screenings, debates, skits, etc.
- b) Meetings:** In order to carry out the above functions, ICC shall follow the rules mentioned below:
- i. ICC shall meet twice a year. Additional meetings could be held as necessary to deal with issues or complaints that may arise.
 - ii. Members shall be intimated of meetings in writing or by electronic communication.
 - iii. Any member of ICC may request the Presiding Officer/ Chairperson to call an Emergency Meeting.
 - iv. The quorum for all meetings shall be more than half of the existing members of ICC. Motions shall be carried by a simple majority of those present and voting. The procedure for voting will be a secret ballot conducted by the Presiding Officer/ Chairperson.
 - v. If the required quorum is not present at any meeting, such a meeting may continue if reasonable circumstances exist, i.e. term break. During these situations, it is desirable that at least half of the ICC Members are present. If fewer than half of the Members are present, the meeting may be adjourned. For an adjourned meeting, the required quorum shall be the same as in a regular meeting except in the case of an Emergency Meeting where there shall be no requirement of quorum.
 - vi. Minutes of all meetings shall be recorded in writing, confirmed, and adopted.

CHAPTER IV: COMPLAINTS MECHANISM

10. Complaints Filing Process

- (a) Any aggrieved woman may lodge a complaint of sexual harassment.
- (b) Complaints should be lodged in the following manner:
 - (i) Complaints may be made orally (to any member of the ICC), by email (to icc2021@mdi.ac.in) or in writing (to the Presiding Officer/ Chairperson of ICC).
 - (ii) If the complaint is oral, it will be converted into a written form by the ICC Member receiving the complaint and authenticated by the Complainant under her dated signature or thumb impression as the case may be as soon as possible.
- (c) Third-party complaints and witness complaints shall not be entertained except in cases where the Complainant has been forcibly prevented from making a complaint; in which cases, a complaint can be made on her behalf until she can approach ICC.
- (d) Complaints should include details of the incident(s) of harassment. The date, time, and place must be recorded. The Complainant should also list any witnesses to the incident(s) of sexual harassment that is/ are being complained of and the witnesses (if any) batch/ section/ employment position details and contact.
- (e) The history of who the Complainant approached (family, friends, teachers etc.) before making a formal complaint should also be recorded.
- (f) The complaints must be filed within three months (90 days) from the date of the incident or from the date of the last incident. It is, however, provided that ICC, for reasons to be recorded in writing, can extend the time limit beyond three months if satisfied that the circumstances were such that prevented the Complainant from filing a complaint within the initial period of three months. The total number of days from the last incident should not be more than 180 days.
- (g) If the Complainant is unable to file a complaint themselves, the following will apply:
 - First is where the Complainant is physically incapacitated from making a complaint; it can be made by someone on her behalf, which includes

a friend or any person who knows of the incident and has the written authorization of the Complainant to make a complaint.

- Second, where the Complainant is mentally incapacitated from making a complaint, someone can make the complaint on her behalf.
- Third, if the Complainant is unable to file a formal complaint, someone who knows of the incident can do so, provided they have the written authorization of the Complainant to make the complaint.
- Fourth, is when the Complainant has passed away, a person who knows of the incident may file a complaint if they have received the written authorization of the victim's heirs.

For filing a complaint, any member from the ICC may be contact through email at: icc2021@mdi.ac.in The ICC aims to respond to all emails within 24 hours.

11. **How to File a Complaint**

- (a) Before a complaint may be filed, the Aggrieved Woman must contact the ICC via email. A meeting will then be arranged between the Complainant and at least one ICC Member. The meeting will explain the difference between the inquiry and conciliation procedures. Only after this meeting will an official complaint be received.
- (b) The ICC has the authority to limit the number of witnesses who are heard as part of an inquiry. Complainants are therefore recommended to limit the number of witnesses they choose to list and to acknowledge that not all witnesses may be called. This may vary from case to case.

12. **Other complaint-related procedures:**

- (a) A Complainant has the right to go public if she so desires. Going public before giving the complaint to ICC by the Complainant should not prejudice the ICC members. Once a complaint has been given to ICC, the Complainant should preferably not communicate any details of the complaint or the procedure until the inquiry is completed. It is not permissible for any person within or outside of the ICC to make the identity, contact details, or address of a Complainant known or to release details that may result in a complainant's identity becoming known.
- (b) Notwithstanding its commitment to confidentiality requirements, ICC retains its right to collectively issue a public statement or publicly respond to

allegations made against ICC or any of its members. Members of ICC cannot release public statements in their individual capacity.

- (c) Filing of a grievance/ complaint shall not adversely affect the Complainant's status/ job.
- (d) ICC should make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is responding to a complaint. ICC shall take action against anyone who intimidates the Complainant, witnesses, or members of ICC, during or after the screening and inquiry. This action may include disciplinary action.

13. **Withdrawal of Complaint**

- a) The Complainant may withdraw her complaint in writing at any time during the complaints receiving and/ or inquiry procedure. However, ICC must ascertain the reason(s) for the withdrawal of the complaint, record it in writing, and have the reasons counter-signed by the Complainant.
- b) The inquiry procedure shall, on such withdrawal, be terminated, save in instances in which the ICC is informed, knows, or has reason to believe, that the reason for such withdrawal is the consequences or effect of coercion or intimidation exerted by the Respondent(s) or any person on his behalf. In such an instance, the inquiry proceedings shall continue in accordance with the procedure outlined in the Rules.

14. **Complaint Screening Process**

- (a) ICC may designate by rotation five persons from amongst its members for a period of six months to screen complaints, if required. These five persons will constitute the Complaint Screening Committee. One of the members shall be named the Chair of the Committee by ICC. The ICC will select the Chair by way of voting, if so required.
- (b) The main function of the Complaint Screening Committee is to carefully study the complaint and determine whether a formal inquiry by ICC is to be instituted. For this purpose, it may hear the Complainant and the Respondent as well as other involved parties and examine any written documents produced (letters, copies of SMS, e-mails, photographs etc.).
- (c) The Complaint Screening Committee shall meet within three working days of the lodging of the complaint. Any action necessary to facilitate the screening process (such as talking to the parties involved) should be initiated within

three working days after the first meeting of the Complaint Screening Committee.

- (d) The entire screening process shall not take more than two weeks from the date of the initial complaint. On completion of the screening process, the Complaint Screening Committee shall make a formal recommendation to ICC about whether or not a Formal Inquiry Process should be put in place, along with the reasons and documentary evidence, if any, thereof, in writing. A Formal Inquiry is to be recommended if the Complaint Screening Committee feels that the complaint needs further investigation, i.e., the complaint is not prima facie baseless. However, the recommendation of the Complaint Screening Committee is not binding on ICC.
- (e) During both the complaints screening process as well as the Formal Inquiry process (detailed in the subsequent section), the following principles and procedures shall be followed:
 - (a) At no time during the receiving and screening procedure of the complaint shall the Respondent(s) and the Complainant be placed face to face or put in a situation where they may face each other (e.g., they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the Complainant from facing any serious health and/ or safety problems, in accordance with the guidelines in the Supreme Court Judgments.
 - (b) At no time during the complaint receiving and screening procedure shall the past sexual history of the Complainant be probed, as such information shall be deemed irrelevant to a complaint of sexual harassment.
 - (c) At all points during the complaints receiving and screening procedure, the confidentiality of both parties shall be maintained. If any member of the Complaints Screening Committee, the formal Inquiry Committee or ICC violates this norm, s/he will automatically be disqualified.
- (f) ICC may issue an order of restraint to the Respondent (s) in accordance with the procedure outlined below:
 - (a) A restraint order shall provide a summary of the complaint, the date(s), time(s), and location(s) of the alleged incident(s). It shall warn the Respondent(s) that any attempt on his part or by the person(s) acting on his behalf, to contact, or influence, or intimidate,

or exert pressure on the Complainant or any person in the Complainant's confidence may prove prejudicial to his case.

- (b) The Complainant or any other person shall intimate in writing the Presiding Officer/ Chairperson of ICC and/ or the Inquiry Committee of any violation of the order of restraint by the Respondent(s) or any persons acting on his behalf.
- (c) The Inquiry Committee and ICC shall consider all violations of the restraint order when determining the nature of the offence committed by a Respondent.
- (g) The Complaint Screening Committee shall also be responsible for taking the necessary steps to ensure that both the Complainant as well as the Respondent are informed about and provided access to counselling services at least three times; further, follow-up will be left to the discretion of the concerned party. ICC may recommend suitable NGOs for this purpose as and when required.
- (h) ICC may also, during the pendency of the inquiry, grant such relief as provided under Section 12 of the Act to the Complainant.⁴

15. **Formal Inquiry and Period of Completion**

- (a) Once the Complaints Screening Committee communicates its decision to ICC, ICC shall meet within five working days from the date of such communication to:
 - (a) decide whether the complaint merits further scrutiny and
 - (b) in case the complaint merits further scrutiny, to constitute the Inquiry Committee.
- (b) ICC shall complete the inquiry on the Complaint within a period of ninety days.

16. **Composition of the Inquiry Committee**

⁴ 12. Action during pendency of inquiry.—(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to— (a) transfer the aggrieved woman or the respondent to any other workplace; or (b) grant leave to the aggrieved woman up to a period of three months; or (c) grant such other relief to the aggrieved woman as may be prescribed. (2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled. (3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

- (a) The Inquiry Committee shall consist of five persons, at least 50% women, led by the Chief Inquiry Officer, who shall be a woman chosen from within the members of ICC. As a third-party voice, it shall include the External Expert.
- (b) It shall include the constituency of the Complainant and the accused (i.e. if the complaint is filed by a student against an academic staff member, then the Inquiry Committee shall include one student and one academic staff member).
- (c) If a student is lodging a complaint, she may request that a student representative is also part of the Inquiry Committee. This suggestion may be considered and approved by the Chief Inquiry Officer so long as there is not seen to be any breach of interest or impartiality.
- (d) No person who is a Complainant, witness, or Respondent in the complaint of sexual harassment shall be a member of the Inquiry Committee.
- (e) ICC may, at its own discretion, co-opt any person with gender sensitivity to be a part of the Inquiry Committee, provided that the majority of members are members of ICC. Such a person shall not serve as the Chief Inquiry Officer.

17. **Functions, power, and responsibilities of the Inquiry Committee**

- (a) The Inquiry Committee shall enquire into the complaint of sexual harassment and shall submit a detailed report to ICC, in which it shall communicate its findings based on its investigations.
- (b) The Inquiry Committee shall conduct the proceedings in a fair manner and shall follow the principles of natural justice by providing a reasonable opportunity to the Complainant and the Respondent for presenting and defending their case.
- (c) The Inquiry Committee shall have to complete the inquiry within a reasonable time not exceeding three months from the date the complaint is referred to it.
- (d) At any time during the inquiry proceedings, the Inquiry Committee shall not put the Complainant and the Respondent in a situation where they may be face to face.
- (e) The Inquiry Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of just decision-making.
- (f) The Inquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the Complainant as well as the Respondent.

- (g) Records of all evidence gathered in the course of the inquiry shall be maintained.
- (h) The Inquiry Committee may consider as relevant any earlier complaints against the Respondent. However, the past sexual history of the Complainant shall be deemed irrelevant to a complaint of sexual harassment.
- (i) If the Respondent fails, without valid ground, to present himself for three hearings convened by the Chief Inquiry Officer, the Inquiry Committee shall have the right to take a decision on the complaint based upon the available evidence.
- (j) The identities of all witnesses shall be protected by the Inquiry Committee. A coding system may be used for this purpose.
- (k) All persons heard by the Inquiry Committee shall take and observe an oath of secrecy about the proceedings. Any violations of the oath of secrecy would invite action by the Competent Authority as per the recommendation of ICC.
- (l) After completing the investigation, the Inquiry Committee shall submit a detailed report of its findings to the Presiding Officer/ Chairperson of ICC, including an indication of whether it finds the Respondent guilty or not guilty, along with reasons for its decision.
- (m) For the purpose of making an inquiry under these Rules, ICC and the Inquiry Committee shall have the powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely: -
 - (i) Summoning and enforcing the attendance of any persons and examining him or her on oath.
 - (ii) Requiring the discovery and production of documents; and
 - (iii) Any other matter which may be prescribed.

18. **Inquiry Into the Complaint**

- (a) On accepting the complaint, the ICC shall send notice to the Respondent within seven working days along with a copy of the complaint.
- (b) The Respondent shall reply to the complaint in writing, along with a list of witnesses, if any, within ten working days from the date of receiving the notice.

- (c) Meanwhile, the Complainant may be called and heard by ICC, and a hand-written statement may be taken on record.
- (d) On receipt of the reply of the Respondent, the ICC shall provide a copy of the same to the Complainant within five working days.
- (e) ICC shall comply with the basic principles of natural justice with regard to both/ all the parties to the complaint during the inquiry proceedings.
- (f) 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.
- (g) ICC may try to settle the matter between the parties through conciliation, subject to the request made by the Complainant.
- (h) 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.
- (i) 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.
- (j) If the Complainant or Respondent desires to cross-examine any witness(s), ICC may have to facilitate the same and record the statement(s).
- (k) 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.
- (l) All notes, statements and documents are to be kept strictly confidential. Members shall be given the documents for perusal during the inquiry meetings.
- (m) 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.
- (n) 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.

- (o) Written notes may be taken while listening to the parties or the witnesses.
- (p) After the completion of the inquiry, the ICC shall submit a detailed report of its findings, along with reasons to the Competent Authority.
- (q) If the ICC finds the Respondent guilty of sexual harassment, it shall recommend the nature of remedial action to be taken against the Respondent.
- (r) The ICC shall conclude its proceedings and submit its report to the Competent Authority along with a copy of the report to the Complainant as well as the Respondent.
- (s) The ICC, where the Respondent is a member of the Institute community, will make recommendations to the Competent Authority as per the service rules or the regulations, whichever is applicable.
- (t) 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.
- (u) Both the parties, while given an 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.
- (v) Care is taken to prevent any disadvantage to or victimization of either the Complainant or to the Respondent.
- (w) The inquiry may be terminated, or an ex-parte decision may be given if Complainant or Respondent is absent for three consecutive hearings without reason. Fifteen days' written notice may be given to the party before termination or ex-parte order.
- (x) ICC must ensure that the identity of the Complainant, as well as the Respondent, is kept confidential.

19. **Procedure for Conciliation**

- (a) A conciliation procedure is when a grievance of sexual harassment at MDI may be articulated between a Complainant and a Respondent(s) in a non-punitive and supervised forum. The aim of conciliation is for a Complainant to address the inappropriate conduct and reach a common understanding with the Respondent about what they would like to stop from happening and why they feel it is inappropriate and for the Respondent to better understand how their

actions may be interpreted. Once the form of inappropriate conduct has been identified, an agreement of future workplace conduct will be agreed upon between the parties and recorded by members of the ICC.

- (b) A conciliation process shall only be initiated when the Complainant consents to this procedure.
- (c) A conciliation process shall be initiated within ten working days of a Complainant requesting the Committee for the process.
- (d) No monetary settlement shall be made as a basis of conciliation.
- (e) Where a settlement has been arrived at, the ICC shall record the agreement so arrived at.
- (f) The ICC shall provide copies of the settlement as recorded under subsection (e) to the Competent Authority, the Complainant, and the Respondent.
- (g) Where a settlement is arrived at, no further inquiry shall be conducted by the ICC, except when Respondent is found in breach of the agreed settlement. If the Respondent to a conciliation procedure act in violation of the agreement, an immediate inquiry procedure or disciplinary action may be taken.
- (h) If a separate complaint is brought against the Respondent or if the ICC has grounds to believe the Respondent has breached the agreement, an inquiry may be initiated against Respondent.

20. **Communication of Internal Complaints Committee and follow-up procedure**

- a) Within two working days of receiving the report and recommendation from a conciliation or inquiry procedure, the report and the recommendation must be approved by the Presiding Officer/ Chairperson of ICC.
- b) The Presiding Officer/ Chairperson must then send the report and the recommendation to the Competent Authority within two working days from when it was received. On the same day, the ICC shall also communicate to the Complainant and the Respondent by email that the recommendations have been sent to the Competent Authority, specifying the date sent.
- c) The Competent Authority shall confirm, vary, or dismiss the recommendation by ICC within three working days from the date of communication by ICC, or if any concerns are raised, may convene a meeting with ICC to discuss the recommendation.

- d) In the event that no action has been taken one week after receiving the communication/ the meeting between the Competent Authority and ICC, the Chairperson of ICC may convene a meeting of ICC with the relevant Competent Authority to appraise the situation.
- e) In the event that the said Competent Authority has not taken appropriate follow-up action one week after the meeting as described in clause (d) above, the ICC may communicate its discontent in writing to the relevant Competent Authority.
- f) In the event that any new fact or evidence arises or is brought before ICC at any stage of the inquiry proceedings or even after the communication of the findings to the Competent Authority, ICC can take cognizance of this and take appropriate action; this may include re-hearing the case.

21. **Considerations while preparing Inquiry Report**

While preparing the findings/recommendations, the following are considered:

- a) Whether the language used (written or spoken), visual material, or physical behaviour 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 evidence 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.

CHAPTER V: REDRESSAL

22. Guiding Principles

- (a) The guiding principle of the redressal mechanism of complaints related to sexual harassment cases is to ensure the safety and well-being of MDI community members. There will be provisions for punishment for the Respondent once a violation of the policy has been established. There will be measures during the conciliation or inquiry procedure to encourage a practice of reflection and reform to achieve lasting gender equality and safety within the workforce and beyond.
- (b) Redressal shall involve supportive measures for the Complainant and protection against victimization. Filing of a grievance or complaint shall under no circumstances adversely affect the Complainant's status, future evaluation of grades, assignments, employment, promotion etc.
- (c) As a general principle, everyone who is associated with redressal of sexual harassment needs to be sensitive towards both the Respondent and the Complainant. To this end, it is advisable that they undergo periodic orientation and training.

23. Punishments

- (a) Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff or an Officer of MDI, or a member of the Authorities or Committee of MDI found guilty of sexual harassment shall be liable for disciplinary action. The penalties listed below (in ascending order) are indicative and shall not constrain the MDI authorities from considering others in accordance with the rules governing the conduct of employees and students in practice at the time.
- (b) **Penalties in Case of Employees**
 - (i) Warning, reprimand, or censure.
 - (ii) Withholding of one or more increments for a period not exceeding one year.
 - (iii) Transfer, if required
 - (iv) Suspension from service for a limited period
 - (v) Removal from a position of authority at MDI
 - (vi) Disbarment from holding an administrative position at MDI
 - (vii) Suspension from service for a limited period
 - (viii) Compulsory retirement
 - (ix) Dismissal from service

- (x) Any other action that may be necessary

The penalty awarded shall be recorded in his Confidential Employment Record. The right to an official character certificate may also be withdrawn where applicable.

(c) **Penalties in Case of MDI Students**

- (i) Warning or reprimand.
- (ii) Withdrawal of the right to an official character certificate from MDI.
- (iii) Withdrawal of hostel accommodation for the entire period of study.
- (iv) Suspension from MDI for a period of up to one or more terms.
- (v) Expulsion from MDI and/ or a bar on appearing for the examination/ placement interview offered by MDI.
- (vi) Withholding of a degree conducted by MDI may be recommended by the ICC.
- (vii) Penalties awarded shall be recorded in his Personal File.
- (viii) Any other action as may be necessary

(d) **Penalties in Case of / Visitors or Outsiders**

- (i) Warning, reprimands, or censure.
- (ii) A letter communicating his misconduct to his place of education, employment and/ or residence.
- (iii) Declaration of the campus as out of bounds for him, and/ or a bar on appearing for the entrance examination/ interview to any programme of study or employment offered by MDI.
- (iv) Any other action as may be necessary

(e) **Penalty in case of Service Providers**

- (i) Warning, reprimands, or censure
- (ii) A letter communicating his misconduct to his place of employment.
- (iii) Declaration of the campus as out of bounds for 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.
- (vi) **Note:**In addition to the penalties specified under above in all cases, the person may be advised to undergo counselling and gender sensitisation and to give a written and/ or public apology to the Complainant.

(f) **Penalty in Case of a Second Offence**

- (i) A second, or repeated offence, may, on the recommendation of ICC, attract a more severe penalty.

24. **Appeals**

- (a) In the event of the ICC not taking action on a complaint, or if the Complainant or Respondent is dissatisfied with the disciplinary action taken by the MDI authorities, she/he shall have the right to appeal to the Competent Authority of the Institute.
- (b) The Competent Authority of the Institute shall hear the appeal himself/ herself or appoint an Appeals Committee that shall consist of three faculty members who are not part of the ICC. Half of this committee should be non-male members.
- (c) The Competent Authority shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the appellant deposing in person. It shall have the power to summon any person as a witness as well as any official record. On the basis of all the evidence before it, including the deposition of the appellant, if it is satisfied that the matter needs to be further inquired into, the Competent Authority shall conduct an inquiry in accordance with the ICC's guiding principles and relevant guidelines.

25. **False Complaints/Depositions**

- (a) If the Complaint Screening Committee or the Inquiry Committee finds no merit in any particular complaint/ deposition, it shall write to the Presiding Officer/ Chairperson of the ICC, giving reasons for its decision recommending that no further action be taken with reference to the complaint.
- (b) Within three working days of the receipt of this communication from the Complaints Screening Committee (three working days in the case of the Inquiry Committee), the Presiding Officer/ Chairperson of ICC shall convene a meeting to discuss the recommendations of the Complaint Screening Committee or the Inquiry Committee to decide whether, in the case of malicious, false complaints a show-cause notice should be issued to the complainant/witness(es). Upon the decision to issue a show-cause notice, the Presiding Officer/ Chairperson of ICC shall issue it to the Complainant/ witness(es) and require the Complainant/ witness(es) to explain within five working days as to why disciplinary actions shall not be taken against her. Within three working days of the receipt of any explanation from the Complainant/ witness(es), the Presiding Officer/ Chairperson shall convene a meeting to consider the explanation. In the event of an unconvincing

explanation, the ICC shall forward its findings to the Competent Authority for follow-up action.

26. **Protection against Victimization**

- (a) In cases where a Respondent is found to have violated this policy, and they are an employee or in a position of influence, the Respondent shall not:
 - (i) supervise any academic activity (such as evaluation, examination, or supervision of research) of the complainant/ witness and/ or
 - (ii) write a confidential report of the complainant's/ witness's performance.
- (b) During an inquiry, a voluntary interim measure may be put in place to ensure the Aggrieved Woman, and the Respondent does not come in contact with each other. These may include but are not limited to transferring desk/ usual working space to another department/ academic section of either party; additional security/ vigilance whilst on campus; voluntary leave (up to three months); relaxation of attendance for students which will not affect their opportunity to sit exams/ assessment.

27. **Confidentiality of Proceedings**

- (a) The ICC, as well as the Institute, shall take appropriate measures to maintain the 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 MDI 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 the form of Report of the Inquiry Committee or the Appropriate Authority, shall be made public.

28. **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 Competent Authority.

CHAPTER VI: ROLE OF THE INSTITUTE

29. The obligation of MDI Authorities

- (a) MDI authorities shall provide a space that will be used as an ICC office for administrative purposes and shall also provide proper stationery and clerical support. The office space must be a closed space where confidential meetings between potential complainants and parties to a case may meet Committee members.
- (b) The MDI authorities shall notify, at the start of each academic year, or if the constitution of the ICC members changes within the year, the names of the Members of ICC contact details.
- (c) ICC's role in promoting greater awareness of gender sensitisation and as the responsible body for hearing complaints of sexual harassment at the Institute shall also be mentioned.
- (d) The authorities shall maintain full confidentiality with respect to all parties' identities and matters pertaining to ICC inquiries into complaints of sexual harassment.
- (e) The authorities shall act promptly on the recommendations of the ICC pertaining to the various issues outlined above.
- (f) As required by the Act, the Competent Authority shall forward to the government department concerned and other concerned authorities the annual report of ICC together with a written report on the action taken by them upon the decisions/ recommendation of ICC every calendar year.

CHAPTER VII: AMENDMENT TO THE RULES

30. **Amendment to the Rules and Procedure of ICC**

- (a) Amendments to the Rules and procedures of ICC shall have effect only if these are compatible with the letter and spirit of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013; Sexual Harassment at Workplace Rules 2013; All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016; the Supreme Court Vishaka judgement and any future Supreme Court judgements deemed applicable.
- (b) Amendments shall be effected by decisions taken in a special meeting of ICC called for this purpose or in amendments that are approved by the ICC Chairperson and the Competent Authority.