

POLICY ON SEXUAL HARASSMENT



Nitte University

(Deemed University under Section 3 of UGC Act, 1956)

Placed under Category 'A' by MHRD, Govt. of India

Accredited with "A" Grade by NAAC

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PREAMBLE

Nitte University, Mangalore 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 University should be aware that while the University 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.

SCOPE OF REFERENCE FOR NITTE UNIVERSITY

In formulating a policy for preventing and redressing sexual harassment, the fact that Nitte University consists of a number of academic departments and administrative offices in the university campus and 5 constituent colleges and research centres, health centres, hospital has been considered. The University 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 Nitte University, will extend to all public spheres that remain in contact with members of the University community. Such public spaces include not just the physical premises under the supervision of the University system, but even areas in and outside Mangalore, where the University members reside or travel to as part of their work as members of the University. The jurisdiction will include fieldtrips, sports tournaments, conferences, college festivals and all other activities undertaken by any person as a member of Nitte University.

GUIDING PRINCIPLES FOR DEFINITION OF SEXUAL HARASSMENT AND REDRESSAL MECHANISM

This policy defines sexual harassment and the mechanisms of redressal by looking at the specific structures, needs and imperatives in the Nitte University. It is guided by the definition of sexual harassment given by the Supreme Court in 1997 in *Vishaka vs. State of Rajasthan*.

OBJECTIVES OF THE POLICY

Following are the objectives of the Policy

1. To fulfill the directive of the Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work place.
2. To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the Nitte University.
3. To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
4. To uphold the commitment of the Nitte University to provide an environment free of gender-based discrimination.
5. To create a secure physical and social environment which will deter acts of sexual harassment

6. To promote a social and psychological environment which will raise awareness about sexual harassment in its various forms.
7. To generate public opinion against sexual harassment and all forms of gender-based violence.
8. To make recommendations to the Vice-Chancellor 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
9. 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;
10. To recommend appropriate punitive action against the guilty party to the Vice-Chancellor.

DEFINITION OF SEXUAL HARASSMENT

The following constitute sexual harassment:

1. When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation or evaluation of a person's engagement in any University activity.
2. When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature have the purpose and/or effect of interfering with an individual's performance or of creating an intimidating, hostile, or offensive environment.
3. When a person/s uses, with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
4. When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the classroom or other public forum of the University is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.

JURISDICTION

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

1. By a member of the university against any other member of the university irrespective of whether the harassment is alleged to have taken place within or outside the campus.
2. By a resident against a member of the university or made by a member against a resident irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
3. By an outsider against a member of the University or by a member of the university against an outsider if the sexual harassment is alleged to have taken place within the campus.
4. By a member of the university 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 university/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.

In the above the following definitions will apply:

'Members of the University' includes students, teachers and non-teaching staff of the University.

'Students' includes regular students as well as current ex-students of Nitte University.

'Teachers' includes any person on the staff of the university 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.

'Non-Teaching Staff' includes any person on the staff of the university 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.

'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 Nitte University or by any of its constituent colleges, academic departments, health centres or hospitals.

'Outsider' includes any person who is not a member of the university or a resident. It also includes but is not limited to any private person offering residential, food and other facilities to members of Nitte University or any college/institution affiliated to Nitte University.

'Campus' includes all places of work and residence in the Nitte University or in any of its constituent colleges, academic departments, health centres or hospitals. It includes all places of instruction, research and administration, as well as hostels, health centres, hospitals, sports grounds, staff quarters, public places (including parks, streets and lanes) and canteens, etc. on the Nitte University campus or the campus of any of its constituent colleges, academic departments, health centres or hospitals.

GUIDING PRINCIPLES FOR CONSTITUTION OF COMMITTEES

The policy has abided by the following principles:

1. In order to decentralize the complaints procedure and provide easy access to all, separate Committees have been provided at each constituent college. The academic departments that are located in the constituent college are covered under the Committee provided at the respective constituent college. The Head of the Institution shall be responsible for creating the Committee at the respective institution.
2. In order to create autonomous institutional structures to look into complaints of sexual harassment, members from outside the institution with a known contribution to **gender issues** have been included in each Committee.
3. To make the Committees representative, each category of University members is given representation in the Committee.
4. As per the 1997 Supreme Court Judgment, it is mandatory for each committee to have a woman chairperson as well as at least 50 per cent women members.

STATUS:

The Institutional Committees and the University Committee are empowered to carry out the mandate of the policy.

STRUCTURE:

Implementation of the policy will be achieved through the following structures:

Institutional Committee Against Sexual Harassment (I-CASH)

A complaints and redressal body shall be set up in each constituent college.

University Committee Against Sexual Harassment (U- CASH)

This is the apex regulatory and appellate body of Nitte University for redressal and resolution of complaints. It is also the complaints and redressal committee for the employees directly under the employment of the University.

COMPOSITION:

INSTITUTIONAL COMMITTEE AGAINST SEXUAL HARASSMENT (I-CASH)

1. *Two teacher representatives by nomination.
2. *Two non-teaching Staff representatives of the College (of which one must be from Group D) by nomination.
3. *Two student representatives (as applicable) by nomination - one should be a second year graduate student and one should be a post graduate student.
4. One person from outside with known contribution to women's issues, nominated.
5. The Chairperson (woman) to be nominated from amongst the teacher members.
6. The Member Secretary to be selected from amongst the members other than the student category.

*At least 50% of the members in each of these categories should be women.

The Head of the Institution shall constitute the Committee and all nominations shall be made by him/her.

The member secretary shall be from any category except the student category

TERM:

The term of each member (other than students) shall be two academic years. The term of student members shall be one academic year. An academic year is from 2nd May of a previous year up to 30th April of the following year.

UNIVERSITY COMMITTEE AGAINST SEXUAL HARASSMENT (U- CASH):

1. *Three teacher representatives by nomination.
2. *Three non-teaching representatives by nomination. One should be from group D workers.
3. *Three Student representatives by nomination. These should include at least one each from the undergraduate, graduate and researcher categories.
4. *Two persons from outside the University, who have made a known contribution to gender issues. One of these may preferably have a legal background, to be nominated by the Vice- Chancellor.
5. The Director (Student Affairs/Student Welfare) of the University
6. A qualified psychologist having experience in counseling.
7. The Chairperson (woman) will be nominated from amongst the teacher members

*At least 50% of the members in each of these categories should be women.

The Vice-Chancellor shall constitute the Committee and all nominations shall be made by him/her.

The member secretary shall be from any category except the student members.

TERM:

The term of each member (other than students) shall be two academic years. The term of student members shall be one academic year. An academic year is from 2nd May of a previous year up to 30th April of the following year.

MEETINGS:

- a. The Institutional Committee and the University Committee shall meet at least twice a year.
- b. The meetings may be chaired by the Chairperson 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 Chairperson 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. The Committee shall submit its annual report to the Vice-Chancellor, on 30th April every year.

POWER AND DUTIES

Preventive

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

Remedial

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

PROCEDURE FOR REGISTERING COMPLAINTS:

1. Any aggrieved girl student or woman employee of a constituent unit of the University may make in writing, a complaint of sexual harassment to the respective institutional committee (I-CASH). Any aggrieved woman employee of any of the administrative departments/ sections of the University may make in writing, a complaint of sexual harassment to the respective university committee (U-CASH). All complaints must be brought by the complainant in person. The exception for this will be in cases of forced confinement of the person. In such a case, brought by another person on behalf of the complainant, the committee will examine whether an investigation, intervention or some other assistance is needed. In exceptional cases, third party/witness complaints may be entertained. In such cases, the Committee will ascertain whether the person alleged to have been harassed wishes to lodge a formal complaint. Once such a complaint is received the Committee shall proceed to investigate it as per the procedure specified.

2. If the complainant wishes s/he can be accompanied by a representative.

ENQUIRY PROCEDURES

1. Any complaints made to any committee member must be received and recorded by the member, who shall then inform the Chairperson about the complaint, who in turn shall call a meeting of the committee.
2. All meetings of the Committee will be called by the Member Secretary in consultation with the Chairperson and a notice of at least 3 to 5 working days must be given.
3. The Committee is bound to maintain confidentiality during the time of the enquiry (in order not to prejudice the proceedings).
4. After the report has been finalized, confidentiality should be maintained, if the complainant so desires, by withholding the complainant's name and other particulars that would identify her. (Revealing the identity either in exceptional cases such as stalking may put the complainant at greater risk or as a result of social prejudices the complainant may face additional adverse effects as a result of public circulation of the finished report.)
5. During an enquiry the quorum for all Committee meetings will be one-third of the total membership, and must include at least one member from the complainant's category as well as, one of the members from outside.
6. The Committee will, within ten days of the receipt of a complaint, establish a *prima facie* case of sexual harassment on the basis of both the definition of sexual harassment as given in this policy, and the jurisdiction of this policy. Reasons for not pursuing a complaint must be recorded in the minutes and made available to the complainant in writing.
7. In case of a complaint filed by another person on behalf of the complainant (where the complainant is in confinement) the complaint will be investigated in order to explore whether a *prima facie* case of sexual harassment exists and whether intervention or some other assistance is required.
8. In case a *prima facie* case is established the Committee shall set up an enquiry committee of 3-5 members, with at least one member of the complainant's category, as well as a member from outside the University.
9. The sub-committee must inform the accused in writing about the charges made against him/her and s/he should be given a period of five days from the date of receipt of the notification to respond to the charges.
10. During the enquiry procedure, the complainant and the accused will be called separately so as to ensure freedom of expression and an atmosphere free of intimidation. The complainant will be allowed to be accompanied by one representative during the enquiry
11. The sub-committee must submit its report to the Committee not later than 15 working days.
12. The Committee will discuss the report and make recommendations for punitive action if required.
13. The entire process of enquiry should be completed within one month.
14. The complainant or the accused may appeal to the Head of the Institution/ Vice-Chancellor, if they are dissatisfied with the decision of the Committee.

NOTE:

- a. A complainant has the right to go public if s/he 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.
- b. Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary /promotion, grades etc.
- c. The Committee 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 take action against anyone who intimidates the complainant or members of the committee, during or after the enquiry.

- d. Any committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.
- e. The Committee should form a small crisis intervention group comprising a group of committee members who should be readily accessible. At least 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.
- f. During the pendency of an enquiry, on a written request made by the complainant, the I-CASH or U-CASH as the case may be recommend to the Head of the Institution to
 - i. transfer the complainant to any other workplace or
 - ii. grant leave to the complainant upto a period of three months or
 - iii. 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.

REDRESSAL

1. The U-CASH /I-CASH can ask the College/University to suspend the alleged harasser from administrative post/classes if his/her presence is likely to interfere with the enquiry.
2. The victim of sexual harassment as per the Supreme Court judgment will have the option to seek transfer of the perpetrator or their own transfer where applicable.
3. The Head of the institution(through the Vice-Chancellor) / Vice-Chancellor upon receipt of the enquiry report, shall refer the same to the Board of Management of the University and institute disciplinary action on the basis of the recommendations of the Complaint Committee under relevant service rules.
4. The disciplinary action will be commensurate with the nature of the violation.

A. In the case of University/College employees, disciplinary action could be in the form of:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour
- iv. Adverse remarks in the Confidential Report
- v. Debarring from supervisory duties
- vi. Denial of membership of statutory bodies
- vii. Denial of re-employment
- viii. Stopping of increments/promotion
- ix. Reverting, demotion
- x. Suspension
- xi. Dismissal

B. In case of students, disciplinary action could be in the form of:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour
- iv. Debarring entry into a hostel/ campus
- v. Suspension for a specific period of time
- vi. Withholding results
- vii. Debarring from exams
- viii. Debarring from contesting elections
- ix. Debarring from holding posts such as member of Institutional committee, membership of college Council etc.
- x. Expulsion
- xi. Denial of admission
- xii. Declaring the harasser as "persona non grata" for a stipulated period of time

(NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurize the complainant in any way).

C. In the case of third party harassment/outsider harassment, the University/College authorities shall initiate action by making a complaint with the appropriate authority.

5. 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.
6. 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.

AMENDMENTS TO THE POLICY

On the basis of their experience of the working of the policy, the U-CASH and I-CASH will have the power to make recommendations to the Vice-Chancellor about 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.
