

Annexure-III

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 Educational Institutions) Regulations, 2016.

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(All India Council for Technical Education)

NOTIFICATION

New Delhi, the 10th June, 2016

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.

No. F. AICTE/WH/2016/01. In exercise of the powers conferred by Section 23 (1), Chapter VI of **All India Council for Technical Education Act, 1987** (52 of 1987), the **All India Council for Technical Education** hereby makes the following regulations, namely:-

1. Short title, application and commencement- (1) these regulations may be called the **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 Educational Institutions) Regulations, 2016.

(2) They shall apply to all technical Institutions in India.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions-In these regulations, unless the context otherwise requires,-

(a) “Aggrieved Woman” means in relation to work place, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(b) ‘Act’ means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);

(c) “Campus” means the location or the land on which a Technical Institution (TI) and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centres, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centres, canteens, Bank counters, etc., are situated and also includes extended campus and covers within its scope places visited as a student of the TI including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution 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 TI;

(d) “Council” means the All-India Council for Technical Education established under section 3 (Chapter 1 of All India Council for Technical Education Act, 1987 (52 of 1987);

(e) “covered individuals” are persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or a fellow student or guardian of the offended person;

(f) “employee” means a person duly employed by the TI and also trainee, apprentice (or called by any other name), interns, volunteers, teacher assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps;

(g) “Executive Authority” means the chief executive authority of the TI, by whatever name called, in which the general administration of the TI is vested;

(h) “Technical Institution” (TI) means an AICTE approved Institution;

(i) “Internal Complaints Committee” (ICC) means Internal Complaints Committee to be constituted by an TI under sub regulation (1) of regulation 4 of these regulations and shall include any duly constituted Body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH));

Provided that in the latter case the TI shall ensure that the constitution of such a Body is as required for ICC under these regulations. Provided further that such a Body shall be bound by the provisions of these regulations;

(j) “protected activity” includes reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation;

(k) “Sexual harassment” means-

(i) An unwanted conduct with sexual undertones 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; and

(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;
- (l) “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 a TI: Provided that a student who is a participant in any of the activities in a TI other than the TI where such student is enrolled shall be treated as a student of that TI where any incident of sexual harassment takes place against such student;
- (m) “third Party Harassment” refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of the TI, but a visitor to the TI in some other capacity or for some other purpose or reason;
- (n) “Victimisation” means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour;
- (o) “Workplace” means the campus of a TI, 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 appropriate Tis;
 - (b) Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereof in TIs;
 - (c) 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 TIs.

3. Responsibilities of the Higher Educational Institution –

3.1 Every TI shall, -

- (a) Wherever required, appropriately subsume the spirit of the above definitions in its policy and regulations on prevention and prohibition of sexual harassment against the women employees and the students, and modify its ordinances and rules in consonance with the requirements of the Act;
- (b) Publicly notify the provisions against sexual harassment and ensure their wide-dissemination;
- (c) Organise Training Programmes or as the case may be, workshops for the officers, functionaries, faculty and students, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;

- (d) Act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
- (e) Publicly commit itself to a zero tolerance policy towards sexual harassment;
- (f) Reinforce its commitment to creating its campus free from discrimination, harassment, retaliation or sexual assault at all levels;
- (g) Create awareness about what constitutes sexual harassment including hostile environment harassment and quid pro quo harassment;
- (h) include in its prospectus and display prominently at conspicuous places or Notice Boards the penalty and consequences of sexual harassment and make all sections of the institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual harassment, contact details of members of Internal Complaints Committee , complaints procedure and so on. Wherever a Gender Sensitization Committee against Sexual Harassment (GSCASH) already exists it must be brought additionally in consonance with the composition mandated by the Act;
- (i) inform employees and students of the recourse available to them if they are victims of sexual harassment;
- (j) Organise regular orientation or training programmes for the members of the ICC or GSCASH to deal with complaints, steer the process of settlement or conciliation, etc., with sensitivity;
- (k) Proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within TIs or owing to intimate partner violence or from peers or from elements outside of the geographical limits of the TI;
- (l) be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC or GSCASH to curb and prevent sexual harassment on its campus.
- (m) Treat sexual harassment as misconduct under service rules and initiate action for misconduct if the perpetrator is an employee;
- (n) Treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion) if the perpetrator is a student;
- (o) Ensure compliance with the provisions of these regulations, including appointment of ICC, within a period of sixty days from the date of publication of these regulations;
- (p) Monitor the timely submission of reports by the ICC or GSCASH; (q) Prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Council.

3.2 Supportive measures-

- (1) the rules, regulations or any such other instrument by which ICC or GSCASH shall function have to be updated and revised from time-to-time, as court judgments and other laws and rules will continue to revise the legal framework within which the Act is to be implemented.
- (2) The Executive Authority of the TIs must mandatorily extend full support to see that the recommendations of the ICC are implemented in a timely manner. All possible institutional resources must be given to the functioning of the ICC, including office and building infrastructure (computers, photocopiers, audio-video, equipment, etc.), staff (typists, counselling and legal services) as, well as a sufficient allocation of financial resources.
- (3) Vulnerable groups are particularly prone to harassment and also find it more difficult to complain. Vulnerability can be socially compounded by region, class, caste, sexual orientation, minority identity and by being differently abled. Enabling committees must be sensitive to such vulnerabilities and special needs.
- (4) Since research students and doctoral candidates are particularly vulnerable the TIs must ensure that the guidelines for ethics for Research Supervision are put in place.
- (5) All TIs must conduct a regular and half yearly review of the efficacy and implementation of their anti-sexual harassment policy.
- (6) Orientation courses conducted in TIs for administrators must have a module on gender sensitization and sexual harassment issues. Regular workshops are to be conducted for all sections of the TI community.
- (7) Counselling services must be institutionalised in all TIs and must have well trained full-time counsellors.
- (8) Many TIs having large campuses have a deficit in lighting and are experienced as unsafe places by the institutional community. Adequate lighting is a necessary aspect of infrastructure and maintenance.
- (9) Adequate and well trained security including a good proportion or balance of women security staff is necessary. Security staff must receive gender sensitization training as a part of conditions of appointment.
- (10) TIs must ensure reliable public transport, especially within large campuses between different sections of the TI, hostels, libraries, laboratories and main buildings, and especially those that do not have good access for day scholars. Lack of safety as well as harassment is exacerbated when employees and students cannot depend on safe public transport. Shuttle buses must be provided to enable employees and students to work late in libraries, laboratories and to attend programmes in the evenings.
- (11) TIs must build requisite women's hostels, which is a priority area. For the growing population of young women wishing to access higher education, hostel accommodation is a necessity in both urban and rural areas and at all levels of higher education which provides a modicum of protection from harassment of all kinds,
- (12) Concern for the safety of women students must not be cited to impose discriminatory rules for women in the hostels as compared to male students. Campus safety policies should not result in securitization, such as over monitoring or policing or curtailing the freedom of movement, especially for women employees and students.

(13) Adequate health facilities are equally mandatory for all TIs. In the case of women this must include gender sensitive doctors and nurses, as well as the services of a gynaecologist.

(14) The Women's Development Cells in colleges shall be revived and funded to be able to carry out the range of activities required for gender sensitization and remain autonomous of the functioning of anti sexual harassment committees and ICCs. At the same time they shall extend their activities to include gender sensitization programmes in consultation with ICCs and help to disseminate anti- sexual harassment policies on campuses on a regular basis. The 'cultural' space and the 'formal academic space' need to collaborate to render these workshops innovative, engaging and non-mechanical.

(15) Hostel Wardens, Provosts, Principals, Legal Officers and other functionaries must be brought within the domain of accountability through amendments in the rules or Ordinances where necessary.

4. Grievance redressed mechanism –

(1) Every TI shall constitute an Internal Complaints Committee (ICC) with an inbuilt mechanism for gender sensitization against sexual harassment. The ICC shall have the following composition:-

- (a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below a Professor in case of a university, and not below an Associate Professor or Reader in case of a college) at the educational institution, nominated by the Executive Authority;
- (b) Two faculty members and two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority;
- (c) Three students (comprising of atleast one girl student) of Pre-Final/Final year at Undergraduate/ Diploma level Institute, as the case may be.
- (d) One member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.

(2) At least one-half of the total members of the ICC shall be women.

(3) Persons in senior positions such as Chairman, Secretary of the Society & Principal / Director etc. shall not be the members of ICCs in order to ensure autonomy of their functioning.

(4) The term of office of the members of the ICC shall be for a period of three years. TIs may also employ a system whereby one –third of the members of the ICC may change every year.

5. Responsibilities of Internal Complaints Committee (ICC) –

The Internal Complaints Committee shall:

- (a) Provide assistance if an employee or a student chooses to file a complaint with the police;

- (b) provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation or violence;
- (c) protect the safety of the complainant by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the offender;
- (d) Ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment; and
- (e) Ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

6. The process for making complaint and conduction inquiry –

The ICC shall comply with the procedure prescribed in the Act, for making a complaint and inquiring into the complaint in a time bound manner. The TI shall provide all necessary facilities to the ICC to conduct the inquiry expeditiously and with required privacy.

7. Process of making complaint of sexual harassment-

- (1) An aggrieved person is required to submit a written complaint along with supporting documents and names and addresses of the witnesses if any to the ICC within three months from the date of the incident and in case of a series of incidents within a period of three months from the date of the last incident.
- (2) Friends, relatives, colleagues, co-students, psychologist or any other associate of the victim may file the compliant in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

8. Process of conducting Inquiry –

- (1) The 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.
- (2) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten days.
- (3) The inquiry has to be completed within a period of ninety days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within ten days from the completion of the inquiry to the Executive Authority of the TI. Copy of the findings or recommendations shall also be served on both parties to the complaint.
- (4) The Executive Authority of the TI shall act on the recommendations of the committee within a period of thirty days from the receipt of the inquiry report, unless an appeal against the findings is filed within that time by either party.
- (5) An appeal against the findings or /recommendations of the ICC may be filed by either party before the Executive Authority of the TI within a period of thirty days from the date of the recommendations.

(6) If the Executive Authority of the TI decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to ICC and both the parties to the proceedings. If on the other hand it is decided to act as per the recommendations of the 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 Executive Authority of the TI shall proceed only after considering the reply or hearing the aggrieved person.

(7) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The TI shall facilitate a conciliation process through ICC or GSCASH, 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 punitive intervention.

(8) 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 the inquiry.

9. Interim redressal –

The TI may,

- (a) transfer the complainant or the respondent to another section or department to minimise the risks involved in contact or interaction, if such a recommendation is made by the ICC;
- (b) grant leave to the aggrieved with full protection of status and benefits for a period up to three months;
- (c) restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
- (d) ensure that offenders are warned to keep a distance from the aggrieved, and wherever 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 complaint of sexual harassment.

10. Punishment and compensation-

(1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the TI, if the offender is an employee. Depending upon the severity of the offence, the punishments may include anyone or more such as a written apology, warning, reprimand, censure, undergoing counselling or carrying out community service, withholding of promotion, withholding of pay rise or increments and terminating the respondent from service.

(2) Where the respondent is a student, depending upon the severity of the offence, the TI may,-

- (a) withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
- (b) suspend or restrict entry into the campus for a specific period;
- (c) expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;

- (d) Award reformative punishments like mandatory counselling and, or, performance of community services.
- (3) The aggrieved person is entitled to the payment of compensation. The TI shall issue direction for payment of the compensation recommended by the ICC and accepted by the Executive Authority, which shall be recovered from the offender. The compensation payable shall be determined on the basis of-
- (a) Mental trauma, pain, suffering and distress caused to the aggrieved person;
 - (b) The loss of career opportunity due to the incident of sexual harassment;
 - (c) The medical expenses incurred by the victim for physical, psychiatric treatment;
 - (d) The income and status of the alleged perpetrator and victim; and
 - (e) The feasibility of such payment in lump sum or in instalments.

11. Action against frivolous complaint –

(1). 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 all TIs. If the ICC or GSCASH concludes that the allegations made were false, malicious or the complaint 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 the provisions of sub-regulations (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulation (2) of that regulation, if the complainant happens to be a student.

12. Consequences of non-compliance –

(1) The Council shall, in respect of any institution that will fully contravenes or repeatedly fails to comply with the obligations and duties laid out for the prevention, prohibition and redressal of sexual harassment of employees and students, take one or more of the following actions after providing due notice: -

- (a) Withdrawal of declaration of fitness to receive grants.
- (b) removing the name of college from the list maintained by the Council;
- (c) withholding any grant allocated to the institution;
- (d) declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Council;
- (e) informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Council, declaring that the institution does not provide for a zero tolerance policy against sexual harassment;
- (f) recommending the affiliating university for withdrawal of affiliation, in case of a college;

- (g) Taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the All India Council for Technical Education Act, 1987 for such duration of time till the institution complies with the provisions of these regulations.
- (2) No action shall be taken by the Council under these regulations unless the Institution has been given an opportunity to explain its position and an opportunity of being heard has been provided to it.