



BITS Pilani

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Policy Document on
**Prevention of
Sexual Harassment
of
Women Employees
and Students**



BIRLA INSTITUTE OF TECHNOLOGY AND SCIENCE, PILANI
PILANI, GOA, HYDERABAD AND MUMBAI CAMPUSES

Policy Document on Prevention of Sexual Harassment
of
Women Employees and Students

In accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women employees and students in Higher Education Institutions) Regulations, 2015

I. Purpose and Scope:

Birla Institute of Technology and Science is committed to providing a safe environment for all its employees and students, free from discrimination on any ground and form of harassment at work including sexual harassment. To achieve the above objective, this Policy has been framed in line with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("**Act**") and University Grants Commission (Prevention, Prohibition and Redressal) of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 ("**Regulations**")

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II. Definitions:

- (i) Aggrieved Woman means in relation to workplace, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.
- (ii) Campus means the location of BITS Pilani and its other campuses (Goa, Hyderabad and Mumbai) and related institutional facilities (BITS Institutions) like libraries, laboratories, lecture halls, residence, toilets, student centers, hostels, dining halls, stadium, parking areas, parks like settings, guest house, and other amenities like health centers, canteens, bank counters etc. This also includes extended campus and cover within its scope, including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution on field trips, internships, practice schools, study tours, excursions, short- term placements, places used for camps, cultural festivals, sports meet and such other activities where person is participating in the capacity of an employee or a student of the BITS Institutions.
- (iii) Employee means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, whether for remuneration or not, apprentice, trainee, or working on a voluntarily basis or otherwise, whether the terms of employment are expressed or implied and includes a co-worker, a contract worker, probationer or called by any other such name.
- (iv) Executive Authority means the Chief Executive Authority of BITS Institutions, engaged in general administration.
- (v) Respondent means a person against whom a complaint of sexual harassment has been made by the complainant.
- (vi) Sexual Harassment means
 - (a) An unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates, or creates an 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 behavior (whether directly or by implication), namely-
 - (i) Any unwelcome physical, verbal or nonverbal conduct of sexual nature;
 - (ii) A demand or request for sexual favors;
 - (iii) Physical contact and advances;
 - (iv) Making sexually colored remarks; or
 - (v) Showing pornography.

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- (b) Any one (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behavior that has explicit or implicit sexual undertones-
- (i) implied or explicit promise of preferential treatment as quid pro quo for sexual favours , or
 - (ii) implied or explicit threat of detrimental treatment in the conduct of work , or
 - (iii) implied or explicit threat about her present or future status of the person concerned, or
 - (iv) creating an intimidating offensive or hostile learning environment
 - (v) humiliating treatment likely to affect the health, safety, dignity or physical integrity of the person concerned.

(vii) Student means a person duly admitted and pursuing a program of study either through a regular mode or through work integrated learning programs, including short term training programs in/from BITS Institutions

Provided that a Student who is in the process of taking admission in BITS' Institutions, although not yet admitted shall be treated as Student of BITS for the purposes of this policy, where any incident of sexual harassment takes place against such student ;

Provided that a student who is participant in any of the activities in BITS Institutions other than the BITS Institution where such student is enrolled shall be treated, for the purpose of this policy, as a student of BITS where any incident of sexual harassment takes place against such student..

(viii) 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 BITS Institutions, but a visitor to BITS Institutions in some other capacity or for some other purpose or reason.

(ix) Workplace mean the campuses including-

- Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled wholly or substantially financed by funds provided directly or indirectly by the Institute.
- Any sports institution, stadium, sports complex or game venues, whether residential or not, used for training, sports or other activities relating thereof in BITS Institutions.
- Any place of work and shall include any place where the employee, student or the respondent visits in connection with his/her work, during the course of his/her employment/contract/engagement with BITS Pilani, including transportation provided.

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III. Responsibilities of BITS Institutions:

- (a) Wherever required, appropriately subsume the spirit of the above definitions in its policy and regulation on prevention and prohibition of sexual harassment against the employees and the students, and, modify its rules and regulations in consonance with the requirement of the UGC Regulations.
- (b) Publicly notify the provisions against sexual harassment and ensure their wide dissemination.
- (c) Organize training programmes or as the case may be, workshops for the officers, functionaries, faculty, staff including those on outsourced rolls and students, as indicated in the SAKSHAM Report (Measures for ensuring the safety of Women and Programmes for Gender Sensitization on BITS Institutions) of the UGC, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under the UGC Regulations.
- (d) Act decisively against all gender-based violence perpetrated against employees and students of all sexes recognizing 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 making its campus free from discrimination, harassment, retaliation, or sexual assault at all levels,
- (g) Create awareness about what constitutes sexual harassment including hostile environment 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 of redressal of complaints pertaining to sexual harassment, contact details of member of Internal Complaints Committee, complaints procedure and so on.
- (i) Inform employees and students of the recourse available to them if they are victims of sexual harassment
- (j) Organize regular orientation or training programs for the members of the ICC to deal with complaints, steer the process of settlements or conciliations 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 BITS Institutions or owing to intimate partner violence or from peers or from elements outside of geographical limits of BITS Institutions.
- (l) Be responsible to bring the 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 to curb and prevent sexual harassment on its camp.
- (m) Treat sexual harassment as a misconduct under service rules and initiate actions for misconduct if the respondent is an employee.
- (n) Treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion), if the respondent is a student.

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- (o) Ensure compliance with the provisions of UGC Regulations, including appointment of ICC.
- (p) Monitor the timely submission of reports by the ICC.
- (q) Prepare an annual status report with details on the numbers of cases filed and their disposal and submit the same to UGC.

IV. Internal Complaints Committee (ICC):

In accordance with the relevant provisions of the Act, an Internal Complaints Committee (ICC) has to be constituted to prevent sexual harassment and to receive and effectively deal with complaints.

Term: The members of the ICC shall hold office for a maximum period of three (3) years from the date of their nomination.

The constitution of the ICC shall be as follows-

Presiding Officer (One): a woman faculty employed at a senior level (not below the rank of a professor) at BITS Institutions, nominated by the Executive Authority;

Members: 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 a legal knowledge, nominated by the Executive Authority.

Member: One Member from amongst non- governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment nominated by the Executive Authority.

Members: Three students (if the matter involves students), who shall be enrolled at the undergraduate, master's and research scholar levels respectively, elected through transparent procedure.

In the constitution of ICC, at least one-half of the total Members so nominated shall be women.

V. Responsibility of ICC:

The ICC shall:

- a) 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 will lead to further resentment, alienation or violence.
- b) 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.

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- c) Ensure that victims or witnesses are not victimized or discriminated against, while dealing with complaints of sexual harassment.
- d) Ensure prohibition of retaliation or adverse action against a covered individual because the Employee or the Student is engaged in protected activity.
- e) Provide assistance if an Employee or a Student chooses to file a complaint with the police;

VI. Process of making complaint of sexual harassment-

Any aggrieved employee or student including male students and students of the third gender may submit in writing or online a complaint of sexual harassment at workplace to the ICC, along with supporting documents and the names and addresses of the witnesses, within a period of three months from the date of incident and in case of series of incident, within a period of three months from the date of the last incident.

Provided, if a complaint cannot be made in writing, ICC members shall render all reasonable assistance to the complainant for making the complaint in writing;

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

Friends, Relatives, Colleagues, Co-students, Psychologist, or any other associate of the victim may file the complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

VII Conciliation

- The ICC may, before initiating an inquiry and at the request of the Complainant, take steps to settle the matter between her and the respondent through conciliation.
Provided that no monetary settlement shall be made as a basis of conciliation.
- Where a settlement has been arrived, the ICC shall record the settlement so arrived and forward the same to the Executive Authority to take action as specified in the recommendation.
- The ICC shall provide copies of the settlement as recorded to the complainant and the respondent.
- The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punitive intervention.
- Where a settlement is arrived at, no further inquiry shall be conducted by the ICC.

VIII Inquiry into complaint

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The ICC where the respondent is an employee, shall proceed to make an inquiry into the complaint, in accordance with the service rules applicable to the respondent and, where no such rules exist, in such manner as may be prescribed, in cases where the respondent is an employee of another employer (other than BITS Pilani Institutions). The ICC shall forward the relevant complaint to the employer concerned to ensure appropriate inquiry in accordance with the Act/Regulations.

Process

- ICC shall, upon receipt of the complaint, send a copy of the complaint to the respondent within a period of seven days of such receipt.
- 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 10 days, from the date of receipt of the documents.
- The ICC shall make necessary inquiry regarding the complaint in accordance with the principles of natural justice.
- The ICC shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings.
Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.
- The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.
- While conducting an inquiry, a minimum of three Members of the ICC, including the Presiding Officer, or the Chairperson, as the case may be, shall be present.

- The inquiry has to be completed within a period of 90 days from the date of receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within 10 days from completion of the inquiry to the Executive Authority of the Institution. A copy of findings or recommendations shall also be served to both the parties.
- The Executive Authority shall act on the recommendations of the committee within a period of 30 days from receipt of the inquiry report, unless an appeal against the findings is filed within that time by either Party.
- If the Executive Authority decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to the ICC and to 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 10 days, shall be served on the party against whom action is decided to be taken. The Executive Authority shall proceed only after considering the reply or hearing the aggrieved person.
- The identities of the aggrieved party or victim or the witness(es) or the offender shall not be made public or kept in the public domain especially during the process of the inquiry.
- Provided, where the Respondent is not an employee or student of the BITS Pilani Institutions, the complaint shall be referred to the entity where the Respondent is an employee for necessary action as provided for in the Act /Regulations, as the case may be

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IX Interim Relief

During the pendency of an inquiry, on a written request made by the Complainant the ICC may advise the Executive Authority to:

- Transfer the complainant or the respondent to any another section or department to minimize the risks involved in contact or interaction, if such recommendations is made by ICC;
- Grant leave to the aggrieved with full protection of Status and benefits up to a period of 3 months;
- Restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant.
- 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; or
- Take strict measures to provide a safety environment and protection to the complainant against retaliation and victimization as a consequence of making a complaint of sexual harassment.

X Punishment and Compensation

If the ICC arrives at a conclusion that allegation against the respondent has been proved, it shall recommend to the Executive Authority to take necessary steps for sexual harassment as misconduct, and this may include:

- 1) Apology to be tendered by the respondent.
- 2) Suspension;
- 3) Termination;
- 4) Withholding of promotion and/or increments.
- 5) Any other decision which Executive Authority deems fit as per the service rules.

Where the respondent is a student, depending upon the severity of the offence, executive authority may:

- 1) Withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
- 2) Suspend or restrict entry into the campus for a specified period;
- 3) Expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants.
- 4) Award reformatory punishments like mandatory counselling and or performance of community services.

Compensation: Executive Authority may also issue direction for payment of compensation by the respondent.

The compensation payable shall be determined on the basis of:

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- 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.

XI False and Malicious complaint

When ICC arrives at a conclusion that the complaint made is malicious or false, or the evidences, documents produced are forged or misleading, it may recommend the Executive Authority to take such action as mentioned in the Punishment and Compensation clause, against the woman or the person who has made false complaint or produced forged document.

The actions recommended by ICC in such cases, should be similar to the ones proposed for the respondent.

Malicious intent must be clearly established through a separate inquiry. Malicious intent on the part of the complainant shall not be established without any inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

XII Appeal

Any party aggrieved with the recommendations made by the ICC may prefer an appeal to the Executive Authority. The appeal shall be preferred within a period of 30 days from the date of recommendations, communicated to the concerned person. No appeal can be filed against interim relief.

XIII Digital Communication & Proceedings

(i) All communications, documents and/or notices issued in electronic form in relation to the proceedings under this Policy shall be deemed to have been serviced on the respective parties, in accordance with the provisions of the Information Technology Act, 2000 (IT Act).

(ii) The proceedings of the ICC under this Policy shall be conducted either in physical mode or virtual mode, as the facts and circumstances may require, in accordance with the provisions of the IT Act and the Committee shall ensure that such proceedings are conducted as per the requirements laid down by the Act.

XIV Savings and Repeal:

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The earlier Sexual Harassment Policy shall stand substituted with this policy. All the existing inquiry proceedings and/or appeals initiated under the earlier policy will be deemed to have been made under this policy and same shall continue accordingly.

XV Assistance:

BITS Institutions are committed to providing all necessary assistance to the complainant, including assistance for actions mentioned below:

- if he/she chooses to file a complaint in relation to the offence under the Indian Penal Code, 1860, as amended by Criminal Law (Amendment) Act, 2013 (IPC), or any other law for the time being in force
- cause to initiate action under the IPC, or any other law for the time being in force, against the perpetrator, or if the aggrieved women desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place
- treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct