

INTERNAL COMPLAINTS COMMITTEE POLICY



**B
M
C**



**BHARATA MATA
COLLEGE
THRIKKAKARA**

Affiliated to MG University, Re-accredited by NAAC with 'A+' Grade, ISO 9001-2015 Certified

PREAMBLE

Everybody has the right to be treated with dignity and respect and a right to a safe and healthy work environment. Sexual harassment is a violation of an individual's right to work and live with dignity. Bharata Mata College has constituted an Internal Complaints Committee (ICC) in pursuance of guidelines issued by the Supreme Court, UGC as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to provide for the effective enforcement of the basic human rights of gender equality and guarantee against sexual abuse, and to provide a conducive atmosphere in the campus. Instances of sexual harassment will be taken seriously and disciplinary action will be taken according to the nature and gravity of the behaviour reported. The College will respect the confidentiality and privacy of individuals reporting and the accused of sexual harassment to the extent possible. Care will be taken to see that complainant, witness, and the harasser does not face victimization and discrimination during the process of enquiry. Intentionally providing false information is a ground for disciplinary action and a penalty will be levied on the complainant. All members of Bharata Mata College-students, teaching faculty and administrative staff, who are on active rolls will come under the purview of this policy.

CONTENTS

1.	DEFINITIONS.....	05
2.	SCOPE.....	06
3.	OBJECTIVES	07
4.	RESPONSIBILITIES OF INTERNAL COMPLAINTS COMMITTEE.....	08
5.	COMPOSITION OF ICC	09
6.	PROCESS OF MAKING COMPLAINT OF SEXUAL HARASSMENT	09
7.	PROCESS OF CONDUCTING INQUIRY.....	10
8.	INTERIM REDRESSAL.....	11
9.	PUNISHMENT AND COMPENSATION.....	11
10.	ACTION AGAINST FRIVOLOUS COMPLAINT.....	12
11.	GLOBAL NORMS AND GOOD PRACTICES.....	13



DEFINITIONS

- “Aggrieved woman” means a woman who alleges to have been subjected to any act of sexual harassment by the respondent.
- ‘Act’ means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013).
- “Campus” means the location or the land on which the college and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centres, dining halls, stadiums, parking areas, parks-like settings and other amenities like canteens, bank counters etc. are situated and also includes extended campus and covers within its scope places visited as a student, 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 institution.
- “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 of the institution or a fellow student or guardian of the offended person.
- “Employee” means a person as defined in the Act and also includes, for the purposes of these Regulations 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 and short-visits,
- “Sexual Harassment” means-
 - (i) An unwanted conduct of sexual nature which 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:-
 - *any unwelcome physical, verbal or non-verbal conduct of sexual nature;
 - *demand or request for sexual favours;
 - *making sexually coloured remarks;
 - *physical contact and advances; or
 - *unsolicited sharing of pornographic content

- (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 tones; implied or explicit promise of preferential treatment as quid pro quo for sexual favours; implied or explicit threat of detrimental treatment in the conduct of work; implied or explicit threat about the present or future status of the person concerned; creating an intimidating offensive or hostile learning environment; humiliating treatment likely to affect the health, safety, dignity or physical/mental/emotional well-being of the person concerned;
- “Student” means a person duly admitted and pursuing a programme of study, including short-term training programmes in the college.
- “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 institution but a visitor to the HEI in some other capacity or for some other purpose or reason.
- “Victimisation” means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour.
- “Workplace” means
 - (a) the campus including any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned or controlled by the institution.
 - (b) Any sports competition or games venue, whether residential or not used for training, sports or other activities relating thereof in the institution;
 - (c) Any place visited by the employee or student arising out of or during the course of employment or study.

SCOPE

- Provisions apply to all Students, Research Scholars, Faculty and Non-Teaching staff who are on active rolls of BMC.
- Rules and regulations applicable to the complaints of the following nature:
 - (a) A student against a member of the academic/ non-teaching staff/ co-student.
 - (b) By a member of the academic/ non-teaching staff against a student/ another member of academic/ non-teaching staff.

OBJECTIVES

- To prevent sexual harassment by promoting gender amity among students, research scholars, teaching and non-teaching staff.
- To redress cases of sexual harassment against all genders in a time-bound manner, aiming at ensuring support services to the victim and termination of the harassment.
- To recommend appropriate punitive action against the guilty to the College Council and the Management.
- To sensitize college community and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;
- To act decisively against all gender-based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
- To publicly commit itself to a zero-tolerance policy towards sexual harassment.
- To reinforce its commitment to creating a campus free from discrimination, harassment, \retaliation or sexual assault at all levels.
- To create awareness by displaying 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.
- To inform employees and students of the recourse available to them in the event of sexual harassment.
- To organise regular orientation or training programmes for the members of the ICC to deal with complaints, steer the process of settlement or conciliation, etc. with sensitivity.
- To 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 the institution or owing to intimate partner violence or from peers or from elements outside of the geographical limits of the college.
- To 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 to curb and prevent sexual harassment on its campus.
- To treat sexual harassment as a misconduct under service rules and initiate action for misconduct if the perpetrator is an employee.

- To treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion) if the perpetrator is a student.
- To monitor the timely submission of reports by the ICC.
- To prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the higher authorities.

COMPOSITION OF ICC

- A Presiding Officer who shall be a woman faculty member employed at a senior level (not below an Associate Professor) at the college, nominated by the College Council; Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated by the College Council.
- A minimum of two faculty members and two non-teaching employees.
- Three students, if the matter involves students, who shall be enrolled at the undergraduate/ Masters, and research scholar levels respectively.
- One member from non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- At least one-half of the total members of the ICC shall be women.
- The term of office of the members of the ICC shall be for a period of three years. HEIS may also employ a system whereby one —third of the members of the ICC may change every year.

RESPONSIBILITIES OF INTERNAL COMPLAINTS COMMITTEE

The Internal Complaints Committee shall:

- provide assistance if an employee or a student chooses to file a complaint with the police.
- 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.
- 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.
- ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment.
- ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

PROCESS OF MAKING COMPLAINT OF SEXUAL HARASSMENT

- An aggrieved person is required to submit a duly signed written complaint 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.
- Provided further that the ICC may, for the reasons to be accorded in the writing, 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.
- The complainant may withdraw his/her complaint in writing at any time while receiving during/enquiry procedure. In such a case, the procedure shall be terminated. If the committee feels or

has enough reason to believe that the withdrawal is the consequence or effect of cohesion/intimidation/ threat exerted by the accused or any person on his/her behalf the enquiry proceedings shall continue.

PROCESS OF CONDUCTING INQUIRY

- 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.
- 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.
- 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 college council. Copy of the findings or recommendations shall also be served on both parties to the complaint.
- The college council along with the enquiry committee will then forward its findings and recommendations to the management for further action.
- The college council in case of students and the management in case of faculty 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.
- An appeal against the findings or recommendations of the ICC may be filed by either party before the college council/management within a period of thirty days from the date of the recommendations.
- If the college council/management 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 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 college council/management shall proceed only after considering the reply or hearing the aggrieved person.

- The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The institution shall facilitate a conciliation process through the ICC, as the case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punitive intervention.
- The identities of the aggrieved party or victim or the witness or the offender shall not be made public or kept in the public domain especially during the process of the inquiry.

INTERIM REDRESSAL

The institution may,

- 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.
- grant leave to the aggrieved with full protection of status and benefits for a period up to three 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.
- 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 against sexual harassment.

PUNISHMENT AND COMPENSATION

- Anyone found guilty of sexual harassment shall be punished in accordance with the service rules, if the offender is an employee.
- Where the respondent is a student, depending upon the severity of the offence, the institute 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 specific 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
- The aggrieved person is entitled to the payment of compensation. The institution shall issue direction for payment of the compensation recommended by the ICC and accepted by the College Council and Management, which shall be recovered from the offender. The compensation payable shall be determined on the basis of:
 1. mental trauma, pain, suffering and distress caused to the aggrieved person.
 2. the loss of career opportunity due to the incident of sexual harassment.
 3. the medical expenses incurred by the victim for physical and psychiatric treatment.
 4. the income and status of the alleged perpetrator and victim.
 5. the feasibility of such payment in lump sum or in instalments.

ACTION AGAINST FRIVOLOUS COMPLAINT

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 in the college. If the ICC 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. However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

GLOBAL NORMS AND GOOD PRACTICES

The international community has developed benchmarks that provide guidance on what the laws around workplace sexual harassment should look like in practice. The key benchmarks are listed below:

1. Recognition that workplace sexual harassment is a form of human rights violation.
2. Recognition that sexual harassment is a form of gender-specific violence.
3. Equality, dignity and worth of a human person must be emphasized
4. Gender-based violence includes sexual harassment and impairs the enjoyment by women of several basic human rights and fundamental freedom. Some of these rights include:
 - The right to life, the right to liberty and security of the person.
 - The right to equal protection under the law.
 - The right to the highest standard attainable of physical and mental health.
 - The right to just and favourable conditions of work.
5. Eliminating violence against women and advancing women's equality includes the right to be free from workplace sexual harassment.
6. Legislation on violence against women should define violence to include sexual harassment. Such legislation should also recognize sexual harassment as a form of discrimination and a violation of women's rights with health and safety consequences.
7. The International Labour Organization (ILO) has also drawn specific attention to domestic workers, who have a right to "enjoy effective protection against all forms of abuse, harassment and violence."

In terms of practice, international law and policy frameworks have an important role to play in encouraging the adoption of an understanding of sexual harassment as a fundamental human right and equality issue, and not just a problem for labour/employment law to solve.

Converting these concepts into practice involves constant monitoring and adapting to changing circumstances. The following are the six simple steps to practice:

1. Make sure there is a policy that has been “effectively” communicated to all people, irrespective of their status.
2. Display details of both informal and formal ways available to a worker to address/complain about sexual harassment.
3. Undertake orientation on workplace sexual harassment for all workers in respective organizations, establishments or institutions.
4. A Complaints Committee which is trained in terms of skill and capacity is critical for building trust.
5. Encourage management and staff to become role models.
6. Men and women should be included in building a culture which no longer tolerates workplace sexual harassment.

Legally, sexual harassment can no longer be dismissed as some moral transgression as “each incident of sexual harassment” is a violation of the fundamental right to equality. Complaints Committee is now charged with the role to ensure that the right remains intact, through a fair, informed, user-friendly process of redress.

**B
M
C**



**BHARATA MATA
COLLEGE
THRIKKAKARA**

Affiliated to MG University, Re-accredited by NAAC with 'A+' Grade, ISO 9001-2015 Certified



Bharata Mata College

Thrikkakara, Kochi-21, Kerala, India

Owned and Managed by the Archdiocese of Ernakulam- Angamaly

Affiliated to MG University, Re-accredited by NAAC with 'A+' Grade, ISO 9001-2015 Certified

Phone : 0484 2425121, +91 82813 03721 Website: www.bharatamatacollege.in