

POLICY TO ADVANCE THE AGENDA OF GENDER SENSITIZATION AND TO PREVENT AND DEAL WITH SEXUAL HARASSMENT ON DURGAPUR GOVERNMENT COLLEGE CAMPUS

Introduction

Sexual harassment constitutes a gross violation of right to equality and dignity for any gender. The Supreme Court of India, in a landmark judgment in August 1997 (*Vishaka & Others vs. the State of Rajasthan & others*) stated that every instance of sexual harassment is a violation of “Fundamental rights” under Article 14, 15 and 21 of the Constitution of India, and amount to a violation of the “Right to Freedom” under Article 19(1) (g). Another Supreme Court Judgment in January 1999 (*Apparel Export Promotion Council vs. Chopra*) has stated that sexually harassing behaviour “needs to be eliminated as there is no compromise on such violence”. The Supreme Court further reiterated that sexual harassment “is a violation of the fundamental right to gender equality and the right to life and liberty”. In 2013 the Government of India notified the sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Act, consistent with the Vishaka Judgment, the Act aspires to ensure safe working spaces for women and to build enabling work environments that respect women’s right to equality of status, opportunity and dignity.

Following this, Durgapur Government College is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction. Hence, a specific policy defining sexual harassment is framed to address the specific form and extent of sexual harassment on the college campus. The main objective of the policy is to evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender-based violence within the campus and to create and maintain a respectful, supportive, inclusive and empowering academic environment.

Definition

‘Gender Sensitization’ will involve creating awareness about gender issues and working towards creating an enabling environment of gender justice where everyone can work and interact together within an atmosphere of personal security and dignity.

- 1) Dissemination of information regarding the Supreme Court guidelines on sexual harassment, the constitutional provisions and international conventions, such as CEDAW, relating to gender issues, which are valid in court of law, through discussions etc, of gender discrimination in an unequal society,
- 2) Dissemination regarding the latest developments in the area of activism that is geared to establish gender justice in society in general and the workplace in particular and to abolish sexual harassment,
- 3) Counselling

“Sexual Harassment” is defined as any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

“Sexual Harassment” includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or action. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

There are **three kinds of sexual harassment** and the following examples are not exhaustive.

Unwanted sexual statements (Non-Verbal): Gesture; Staring/leering; invading personal space; pin-ups; offensive publications, offensive letters/memos; unsolicited and unwanted gifts.

Unwanted personal attention (Verbal): Language of a suggestive or explicit nature; unwanted proposition; jokes of a sexual or explicit nature; use of “affectionate names”; question or comments of a personal nature.

Unwanted physical or sexual advances (Physical): Deliberate body contact; Indecent exposure; coerced sexual contact.

Explanation of the Policy guideline which shall include but will not be confined to the following unless the context otherwise requires----

- 1) ‘College’ means Durgapur Government College.
- 2) ‘Campus’ means Durgapur Government College campus and its related institutional facilities like library, laboratories, lecture halls, residences and quarters, halls, toilets, students centres, hostels, canteens etc.
- 3) ‘Workplace’ means any space, not necessarily confined to the College premises, in which college related academic, administrative or other activities take place, including places visited by the employee or student arising out or during the course of employment or study.
- 4) ‘Employee’ means any person on the staff of the College, including teaching and non-teaching staff, temporary, part-time, honorary employee by whatever name called and will include persons employed on a casual or project basis and also employed through contractor.
- 5) ‘Students’ means any person who is duly admitted and pursuing a programme of study (Under Graduate or Post Graduate course with the college, including Research Scholars and Project Assistants by whatever name called) either through regular mode or distance mode, including those students who is in the process of taking admission, also not yet admitted, shall be treated for the purpose of this policy as a student.
- 6) ‘Eminent Woman Academician’ means a full time woman faculty Member of any College (other than Durgapur Government College) or University, preferably with experience in the discipline of Woman’s Studies.
- 7) ‘Member of NGO’ means an individual, preferably a woman, who has expertise in issues of gender justice and belongs to a Non-Government Organization or any other registered body working with gender issue on a secular, non-profit basis outside the College.
- 8) ‘Counsellor’ means a woman trained and experienced in psychological counselling of traumatized persons.
- 9) ‘Competent authority’ means Principal Durgapur Government College or Director of Public Instructions, as specially spelt out in a given text.
- 10) The ‘Committee’ means Internal Complaints Committee constituted in pursuance of UGC (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 read with Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the constitution is given below and vested with the powers and responsibilities as given under.
- 11) ‘Third party harassment’ refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or an outsider, who is not an employee or a student of the college but a visitor to the college by some other capacity or some other purposes.

Constitution of the Committee:

Adoption of a particular mode of constitution of the ICC must be discussed widely in the institution in a democratic and transparent manner.

- (a) A Presiding Officer who shall be a woman faculty member employed at a senior level at the educational institution;
- (b) Not less than two teaching employees and two non-teaching employees, preferably committed to the cause of woman or who have had experience in social work or have legal knowledge;
- (c) Not less than three students, who shall be enrolled at the undergraduate, masters, and research scholar levels respectively
- (d) 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. Provided that at least one –half of the total Members so nominated shall be women. Persons in senior administrative positions in the HEI, such as Vice-Chancellor, pro-VCs, Rector(s) Registrar, Dean(s), Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy.
- (e) The 2013 Act envisages a maximum term of three years for the ICC. The task Force recommends that in an educational institutional, a term of two years is adequate.

Guideline Principles:

- Confidentiality of both parties (complainant and accused) will be maintained throughout the period of investigation and enquiry. However, if at the end of the enquiry process the Committee finds the accused guilty and moves the competent authority for punitive action, the Committee will not be under any compulsion to keep the identity of the accused secret.
- Third party complaints will be entertained, that is in cases of sexual harassment committed by a third party or outside in relation to a member of the college community or vice versa.
- Witness complaint is registered not by the victim herself/himself but by somebody else with adequate knowledge about the event. In such cases the Presiding Officer or any other member of the cell will contact the victim in person, record her/his statement and get it signed by him/her before beginning the process of enquiry.
- During an enquiry, the Committee will not bring into consideration such histories of the complaint and of the accused with regards to their behaviour, conduct and compare as are not connected with and relevant to the case in hand.
- During enquiry and investigation the accused shall be considered innocent of the charge levelled against him/her until proven otherwise.
- Both the complainant and the accused will have the right to present discrete witnesses on their behalf.
- The Committee will ensure that the victim, accused and witness (es), if any, are given adequate opportunity to present their cases to the Enquiry Committee.
- The Committee will ensure that the complainant shall not in any way be persecuted for having registered a complaint.

Complaints Procedure: Procedure for Investigation of Complaints

- 1) Any employee/student of the college departments/Administration/Authority shall have the Right to lodge a complaint concerning sexual harassment against any other student or employee or an outsider, acting individually or collectively.
- 2) Any aggrieved person may make, in writing, a complaint of the sexual harassment at campus to the committee within a period of 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 last incident.
- 3) Complaints can be lodged through existing channels for lodging grievances, such as the students, union/association representatives, teachers, administrative superiors etc. If the complaint is made through any such channel, the person to whom the complaint is made through any such channel, the person to whom the complaint is made should bring it to the notice of ICC within two working days of its receipt by her/him.
- 4) ICC will notify the Respondent within 7 days of receiving copy of the complaint.
- 5) The Enquiry Committee shall submit a detailed report to the appropriate authority within 90 days in which it shall communicate its findings based on its investigations.
- 6) Any complaint in writing shall be signed by the person making the complaint. If the complaint is oral the same shall be documented in writing in detail by the committee member to whom the complaint is made and shall not be acted upon till signed by the complainant. A complaint register shall be maintained by the committee. It should be a confidential document.
- 7) The complaint shall be afforded full confidentiality at this stage.
- 8) A complaint that will be dropped in the Box must bear the name and other details (roll member and course particulars for students, department and designation for the employee) of the complaint for it to be considered by the Committee.
- 9) The Presiding Officer will call for a meeting of the Committee. This meeting shall be governed by the usual quorum regulations.
- 10) The Committee will try to provide the complainant with counselling assistance if so required.
- 11) The composition of the Enquiry Committee will be as follows:
 - The Presiding officer of the Cell will head the Enquiry Committee
 - The Member of the Committee who is a representative of an NGO
 - One Member of the Committee who is a representative of the full-time faculty of the college
 - Two Member of the Committee, one each representing the constituencies of the complainant and the accused respectively. The Enquiry Committee must at all times have at least 50% woman Members. No person against whom a complaint is made shall be part of the Enquiry Committee.
 - In special cases the Committee will have the option of co-opting any other Member of the College Committee (limited to faculty Members, full-time and part-time, non-teaching staff and students) into the Enquiry Committee. At least 50% members of the enquiry committee should be women. Once inducted into the Enquiry Committee, the

person will be governed by the same code of conduct which is applicable to the committee Members.

Functions and Powers the Enquiry Committee

- 1) The Enquiry Committee shall enquire into the complaint of sexual harassment using procedures in conformity with the principles of natural justice and gender sensitivity.
- 2) The Enquiry Committee shall act on any violation of the order of restraint issued to the defendant in accordance with the procedure mentioned above.
- 3) The Enquiry will review the written complaints and will respond to complaints.
- 4) The Enquiry Committee will develop a plan and will meet with complainant, respondent and witnesses.
- 5) The Enquiry Committee will record the complaint and have them dated and signed.
- 6) The Enquiry Committee will attempt to ensure that the complainant and the accused are not brought to face each other during the process of investigation.
- 7) The Enquiry Committee will start functioning from the day it is constituted and will be automatically considered dissolved once the report is forwarded to the Principal.
- 8) The Enquiry Committee shall submit a detailed report in which it shall communicate its findings based on its investigations and its recommendations regarding the nature of disciplinary action, if any.
- 9) The Enquiry Committee will act in accordance with the guiding principles listed above.
- 10) The Enquiry Committee will create an atmosphere promoting equality and gender justice.
- 11) The Enquiry Committee will treat the complaint with due importance.
- 12) The Enquiry Committee will discard pre-determined ideas and will determine the harm.
- 13) The Enquiry Committee will seek medical, police and legal intervention with the consent of the complainant.
- 14) The Enquiry Committee will make arrangements for appropriate psychological, emotional and physical support (in the form of counselling, security and other assistance) to the victim if she/he so desires.
- 15) Ensure that the Enquiry Committee fulfils certain responsibilities towards the complainant and the respondent: for example, timely notification of the membership of the Enquiry Committee and the hearings, the provision of the complaint to the respondent as well as the supply of all documents and authenticated but anonymised depositions to both parties, and the provision of support services like counselling and translation services, etc.
- 17) Ensure that the accused/respondent is informed about the nature and the details of the complaint against him including the authenticated (anonymised) depositions of the witnesses from the complainant's side.

Preventive Measures

- 1) To create and ensure a safe, respectful, supportive, inclusive and empowering academic environment.

- 2) To create an atmosphere promoting gender equality and gender justice.
- 3) To publicise the policy widely
- 4) To create awareness about gender issues
- 5) To plan and carry out programmes for gender sensitization.

Remedial Measures

- 6) The mechanism for registering complaints should be safe, accessible and sensitive.
- 7) To take cognisance of complaints about sexual harassment, conduct enquiries, provide assistance and redressal to the victims, recommend penalties and take action against the harasser, if necessary.
- 8) To recommend follow-up action to the concerned authorities and monitor the same.
- 9) To advise the disciplinary authority concerned to issue or take the help of the law to stop the harasser, if the complainant consents.
- 10) To seek medical, police and legal intervention with the consent of the complainant.
- 11) To make arrangements for appropriate psychological, emotional and physical support (in the form of counselling, security and other assistance) to the victim if she/he so desires.

Protection against Victimization

- 1) If the complainant is a student and the defendant is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to evaluation and examination, re-examination, and supervision of research.
- 2) If a witness named by the complainant is a student and the defendant is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant shall not supervise any academic activity of the student witness, including but not limited to, evaluation and examination, re-examination, and supervision of research.
- 3) If both the complainant and the defendant(s) are members of the academic and/ or nonteaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential, if she/he is otherwise so authorized.
- 4) If witnesses named by the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the Institution, during the period of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write Confidential Reports of the complainant, if she/he is otherwise so authorized.
- 5) If the defendant(s) is an outsider, during the period of investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.
- 6) If the defendant(s) is a resident/service provider, the during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the order of restraint issued in accordance with the procedures in Section VI.3(C) shall be in force at all times.

False Complaint/Deposition

- 1) If the Complaints Screening Committee or the Enquiry Committee finds no merit in any complaint/deposition, it shall write to the Presiding Officer, ICC, giving reasons for its conclusions.

- 2) Within four working days of the receipt of the communication, the Presiding Officer, ICC, shall call a Special Meeting to discuss the recommendations of the Complaints Screening Committee of Enquiry Committee, and to decide whether a show-cause notice shall be issued to the complainant/witness (es).
- 3) Upon the decision to issue a show-cause notice, the Presiding Officer, ICC, shall issue it to the complainant/ witness (es). The show-cause notice shall cite the bases of the Committee's conclusion and require the complainant/witness(es) to the Committee's conclusion and require the complainant/witness(es) to explain, within seven days (in writing and/or in person), as to why disciplinary action shall not be taken against her/him.
- 4) Within four working days of receipt of any explanation from complainant/witness(es) to this show-cause notice, or after the expiry of the time specified for such explanation, the Presiding Officer, ICC, shall convene a Special Meeting to consider explanation or any lack thereof.
- 5) In event of no, insufficient, or unconvincing explanation, ICC shall forward its findings to the appropriate Authority for further action.

This policy has been framed in accordance with the

- 1. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,**
- 2. UGC (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015**
- 3. HANDBOOK on Sexual Harassment of Women at Workplace, (Prevention, Prohibition and Redressal) Act, 2013 issued by Government of India Ministry of Women and Child Development November,2015**