



O.P. Jindal Global University

A Private University Promoting Public Service

JGU Rules on Gender Sensitisation against Sexual Harassment

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1 Background

- a) Sexual harassment has come to be widely condemned as a form of human rights violation, an infringement on life and liberty and a grave form of gender-based discrimination. Such behaviour is an affront to dignity, gender equality, and fundamental rights.
- b) Sexual harassment is contrary to anti-discrimination provisions in the Constitution of India: Article 15: “Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth” and Article 19(1) (g): Right to Freedom which upholds a woman’s right “to practice any profession, or to carry on any occupation, trade or business”.
- c) Sexual Harassment is an offence under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 No. 14 of 2013. Section 3(1): No woman shall be subjected to sexual harassment at any workplace.” Section 19 Every employer shall- (a): provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace. Section 4(1): Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”.

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 Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the “Right to Freedom” under Article 19 (1)(g). 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”. 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 violations”.

- d) Educational institutions are bound by the same Act (Section 2(o)”workplace” includes- . . (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational.... distribution or service.”) Following this, O.P. Jindal Global University (JGU) is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction. It is with this objective that these Rules have been framed.

2 Objectives and Scope of the Rules on Gender Sensitisation against Sexual Harassment.

- a) These Rules reiterate the commitment of JGU to creating and maintaining a community in which students, teachers, researchers, faculty members and non-teaching staff can work together in an environment free of all forms of sexual harassment.
- b) In framing the rules and procedures laid down in these Rules, the spirit of The Sexual Harassment of Women At Workplace Act 2013, and the Supreme Court judgments

mentioned in the background section have been followed; however, the rules and procedures cover a wider spectrum of sexual harassment and deal with issues in consonance with the requirements of an academic institution.

- c) These Rules and Procedures apply to all students, academic staff, faculty members, and non-teaching staff on the active rolls of JGU, the Officers of JGU, the members of the Authorities and Committees of JGU as well as to service providers and outsiders who may be within the territory of JGU at the time of commission of the act/behaviour coming under the purview of these Rules.
- d) These Rules would not only apply inside the campus but also on off-campus official duty (workshops, field work, group holidays/excursions organized by JGU, interviews/meetings with outside people and any other activity organized by JGU outside the campus including the period of traveling for such activity).
- e) In particular, these rules and procedures laid down shall be applicable to all complaints of sexual harassment made:
 - i. By a student against a member of the academic or non-teaching staff or a co-student or the Officers of JGU, or the members of the Authorities and Committees of JGU; or by a member of the academic or non-teaching staff or the Officers of JGU, or the members of the Authorities and Committees of JGU against a student or another member of the academic or non-teaching staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
 - ii. By a service provider or an outsider against a student or a member of the academic or non-teaching staff or the Officers of JGU, or the members of the Authorities and Committees of JGU or by a student or a member of the academic or non-teaching staff or the Officers of JGU, or the members of the Authorities and Committees of JGU against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.
- f) In order to implement these Rules, a Committee on Gender Sensitisation against Sexual Harassment (COGSASH) shall be appointed whose composition and mandate will be as described below.

3 Definitions of Sexual Harassment and Gender Sensitisation

Sexual Harassment

- a) Sexual Harassment in the given context, is described in The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013 in Paragraph 2(n) as: “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:
 - i. physical contacts and advances; or
 - ii. a demand or request for sexual favours; or
 - iii. making sexually coloured remarks; or
 - iv. showing pornography; or
 - v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature;”

- b) Within JGU the definition of the above applies equally to men and women and also includes harassment by a member of one sex to a member of the same sex.
- c) The key expression in the above definition is *unwelcome* which indicates the unwanted and non-consensual nature of the behaviour in question.
- d) The explanation of Sexual Harassment shall include but will not be confined to the following:
- e) Section 3(2): “The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:
 - i. Implied or explicit promise of preferential treatment in employment; or
 - ii. Implied or explicit threat of detrimental treatment in employment; or
 - iii. Implied or explicit threat about present or future employment status; or
 - iv. Interference with work or creating an intimidating or offensive or hostile work environment; or
 - v. Humiliating treatment likely to affect health or safety.”

And further to also include:

- vi. Making unwelcome sexual advances, or requesting sexual favours, or verbal or physical conduct of a sexual nature explicitly or implicitly made as a term or condition for instruction, employment, participation or evaluation of a person's engagement in any activity related to JGU.
- vii. Unwelcome sexual advances or verbal, or non-verbal or physical conduct such as loaded comments, remarks, jokes, letters, phone calls, or e-mails, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, and sounds or display of a derogatory nature which have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive campus environment.
- viii. Committing any form of sexual assault by a person using 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 the person's will.
- f) The overwhelmingly dominant form of sexual harassment is that perpetrated by men against women. However, sexual harassment could also be perpetrated by women against men or occur between persons of the same sex.

Gender Sensitisation

- a) Gender Sensitisation involves creating awareness about gender issues and working towards and creating an enabling environment of gender justice where men and women can work together with a sense of personal security and dignity.

4 Complaints

(Note: This part presents only a summary of the procedure that will be followed. For detailed guidelines, please refer to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013)

Complaints Mechanism

Complaints Filing Process

- a) Any student, service provider, outsider, or a member of the academic or non-teaching staff may lodge a complaint of sexual harassment against a student, service provider, outsider, or a member of the academic or non-teaching staff or an Officer of JGU, or a member of the Authorities or a Committee of JGU.
- b) Complaints should be lodged by the concerned person directly with any member of COGSASH. Third party complaints and witness complaints shall not be entertained except in cases where the complainant has been forcibly prevented from making a complaint; in such cases a complaint can be made on her/his behalf until she/he can approach COGSASH.
- c) Complaints may be oral or in writing. If the complaint is oral, it would be converted into a written form by the COGSASH member receiving the complaint and authenticated by the complainant under her/his dated signature or thumb impression as the case may be as soon as possible. Complaints may also be received by email via the official shc@jgu.edu.in email address.
- d) Details of the incident(s) of harassment, date, time, and place must be recorded. Complaints must be filed within three months of the incident or of the most recent incident.
- e) The history of who the complainant approached (family, friends, teachers etc) before making a formal complaint must also be recorded.
- f) Upon receipt of the complaint, the COGSASH member to whom the complaint is made shall forward the same to the Complaints Screening Committee.

Manner in which complaints can be made:

- a) Complaints should be lodged by the concerned person directly with any member of COGSASH. Complaints may be received orally, by email or in writing. *See above for further details.*
- b) If the complainant is unable to file a complaint themselves the following will apply:
 - i. First is where the victim is physically incapacitated from making a complaint, it can be made by someone on her/his behalf, which includes a friend or any person who knows of the incident and has the written authorization of the victim to make a complaint.
 - ii. Second, where the victim is mentally incapacitated from making a complaint someone can make the complaint on her/his behalf.
 - iii. Third, if the victim is unable to file a formal complaint, someone who knows of the incident can do so provided they have the written authorization of the victim to make the complaint.
 - iv. Fourth is when the victim has passed away, a person who knows of the incident may file a complaint if they have received the written authorization of the victim's heirs.

Procedure for inquiry:

- a) One written copy of the complaint must be received (either in writing, by email or a transcript by a Committee member of an oral complaint). A copy of the complaint must be submitted with the details of witnesses to the Complaints Committee.
- b) One copy has to be given to the respondent (person against whom a complaint has been filed) within 7 days from when the complaint was received.
- c) Within 10 days of receiving a copy of the complaint and other accompanying documents, the respondent has to respond with documents and details of witnesses.
- d) The Complaints Committee must adhere to the principles of natural justice when inquiring into a complaint.
- e) The inquiry can be terminated, or proceeded with *ex parte* (when the respondent does not cooperate) if the party (either the complainant or respondent) does not present themselves for three consecutive hearings and no reasonable cause has been offered.
 - i. Proviso: The termination of the inquiry or proceeding with the inquiry *ex parte*, as the case may be, may not be done without serving a written notice to the party in question. Such notice must be served at least 15 days before the relevant decision is to be made.
- f) No lawyer is allowed to represent either party.
- g) A minimum of three members are needed to conduct the inquiry, which must include the Chairperson.

ANNEXE 1 - Composition of COGSASH and Selection Procedures

1. Composition

- a) COGSASH shall have seven members. More than half of the members of COGSASH shall be women. Members of all constituencies at JGU are sought to be included in COGSASH. The composition of the members is given below.
 - i. A Presiding Officer who shall be a woman employed at a senior level at the workplace from amongst the employees
 - ii. Three faculty members (two women, one man) with a representation of different schools within JGU preferably with experience in social work, legal knowledge and who are committed to the cause of women.
 - iii. Representation from non-teaching staff
 - iv. One outside expert from an NGO or association committed to the cause of women or sexual harassment. Fees or allowances will be paid to the outside expert as will be prescribed.
 - v. Student Representatives will also be selected to help promote the Committee to the student body, encourage participation in training activities and act as a point of contact for any person who wishes to make a complaint and would like support to do so. The Committee will select one student from every JGU School and may appoint two Student Representatives, one female and one male if it feels necessary.

2. Selection procedure

- a) The Members of the COGSASH shall be nominated by the Vice Chancellor of JGU in consultation with the Registrar.
- b) Amendments to the Committee will then be made via a recommendation and vote system managed by the Member Secretary and Presiding Officer of the Committee with approval from the Registrar/Vice-Chancellor of JGU.
- c) Once all internal members of the new COGSASH have been selected, they will choose a woman faculty member from amongst them as the Presiding Officer and nominate the outside expert.

3. Time frame of selection

- a) For all COGSASH subsequent to the first COGSASH, first the internal members of the new COGSASH would be selected according to the procedures outlined above at least two months before the end of the tenure of the existing COGSASH. These members would then meet to nominate the outside expert. The new COGSASH (including the outside expert) has to be fully constituted at least one month before the end of the tenure of the existing COGSASH.

4. Tenure

- a) As per The Act 2013 Section 4(3) “The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.”
- b) However, if a vacancy arises in COGSASH owing to absence of a member without intimation for three consecutive meetings, resignation of a member, or disqualification of a member, the vacancy will be filled up for the residual period by the selection procedure outlined above. A person shall be disqualified for being a member of COGSASH if there is any complaint concerning sexual harassment (either pending or proven) against him/her.

5. Powers, Functions and Meetings of COGSASH

- a) Powers:
 - i. COGSASH shall create awareness about sexual harassment and deal with and punish acts of sexual harassment.
 - ii. Members of COGSASH shall be sensitive to the issue of sexual harassment and shall not let personal biases and prejudices (whether based on gender, caste, class, sexuality) and stereotypes (e.g., pre-determined notions of how a “victim” or “accused” should dress or behave) to affect their functioning as members.
 - iii. Functions: COGSASH shall have the following two functions:
 - iv. Gender sensitisation and awareness generation
 - v. Dealing with complaints about sexual harassment, including receipt of complaints, screening, informal mediation, conducting formal inquiry and redressal.
- b) Meetings: In order to carry out the above functions, COGSASH shall follow the rules mentioned below:
 - i. COGSASH shall meet twice a year in addition to a public meeting for reporting/audit purposes (see clause 7). Additional meetings could be held as necessary to deal with issues or complaints that may arise.
 - ii. Members shall be intimated of meetings in writing or by electronic communication at least five working days in advance except in the case of an Emergency Meeting mentioned in clause 3 below.
 - iii. Any member of COGSASH may request the Presiding Officer to call an Emergency Meeting. A notice of at least one working day shall be required for such a meeting to be called.
 - iv. The quorum for all meetings shall be more than half of the existing members of COGSASH. Motions shall be carried by a simple majority of those present and voting (except in the two cases discussed in Sections 9 and 13 below). The procedure for voting will be secret ballot conducted by the Chairperson.
 - v. If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. For an adjourned meeting, the required quorum shall be the same as in a regular meeting except in the case of an adjourned Emergency Meeting where there shall be no requirement of quorum.
 - vi. Minutes of all meetings shall be recorded, confirmed and adopted.
 - vii. COGSASH shall hold at least one public meeting every year where it shall report to the JGU community about its activities and present its Annual Report.

6. Gender Sensitisation and Awareness Generation

- a) For the purpose of creating gender sensitisation and awareness generation JGU and COGSASH shall perform the following functions:
 - i. These Rules in its entirety shall be made available at the library counter, the Registrar's Office and the JGU website. This information must be publicized widely.
 - ii. COGSASH shall ensure the prominent publicity of these Rules in JGU by displaying it (in a summary form) on the main notice board and the employees' notice board (at the entrance), the library notice board and at the canteen/dining halls and student housing.
 - iii. The names of the members of COGSASH and the Committee's email address (shc@jgu.edu.in) shall be displayed in the main notice board and the library notice board.
 - iv. These Rules shall be translated in Hindi so as to be accessible to all members of the JGU community.
 - v. These Rules shall be briefly mentioned in the prospectus and orientation brochures of all academic programmes offered at JGU along with information about where it would be available.
 - vi. Each recruitment announcement of JGU shall include the following line:
"JGU is an equal opportunity employer and is committed to providing an environment free from sexual harassment".
 - vii. COGSASH shall organize programmes for the gender sensitisation of JGU community through workshops, seminars, posters, film shows, debates, skits, etc.
 - viii. COGSASH shall empanel a list of counsellors to extend support in specific instances of sexual harassment as well as to facilitate gender sensitisation in general. In specific instances, COGSASH shall inform the complainant, the defendant and other interested parties about the contact details of the panel and encourage them to use the same.
 - ix. These Rules, in summary form, shall be printed on the admission, application and registration forms of JGU for the students each year/semester, and signed by them before they submit their forms.
 - x. All new service contracts for employees on JGU at all levels must include acceptance of these Rules as a part of the service contract.

7. Definitions

- a) "Academic staff" includes any person on the staff of JGU who is appointed to a teaching and/or research post, whether full-time, permanent, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation, and shall include persons employed on a casual or project basis.
- b) "Appropriate Authority" shall refer to any person to whom the power of Directorship may be delegated, except in the case where either the complainant or/and the defendant is/are part of "faculty" in which case the appropriate authority would be the Governing Body.
- c) "Authority" means Authority as provided under the Haryana Private Universities Act, 2006.
- d) "Campus" includes all places of work (instruction, research and administration), as well as hostels, guesthouses, canteen and other public places on the Sonipat Campus.

- e) “Committees” Means the Internal Complaints Committee as constituted under Section 4 of the The Sexual Harassment of Women at the Workplace Act 2013.
- f) “Employee” means any person on the staff of JGU, including faculty, non-teaching staff, and project staff; permanent, temporary, part-time, visiting, ad-hoc and honorary employees by whatever name called and would include persons employed on a casual basis and also those employed through contractors. It includes any person employed at a workplace for any work on a regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principle employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.” Section 2(f) The Sexual Harassment Act 2013.
- g) “Faculty” includes any person on the staff of JGU who is appointed on a temporary or permanent basis, including researchers in various categories and research associates, and any outside faculty temporarily affiliated with JGU.
- h) “Non-teaching staff” includes any person on the staff of JGU who is not appointed to a teaching and/or research post, whether full-time, permanent, temporary, ad-hoc, part-time, daily wage, honorary or on special duty or deputation, and shall include persons employed on a casual or project basis, as also persons employed through a contractor.
- i) “Off-campus official duty” would refer to any activity being undertaken outside the “campus” on behalf of JGU, this would include, but not be restricted to, workshops, field work, group holidays/excursions organized by JGU, and interviews/meetings with outside people along with the period of traveling for such activity.
- j) “Officers” means Officers as provided under the Haryana Private Universities Act, 2006.
- k) “Outsider” includes any person who is not a student, or member of the academic or non-teaching staff of JGU.
- l) “Outside expert” includes any person with expertise in fields relevant to the working of COGSASH; this could include an academician, an experienced person from an NGO, an activist or a legal expert from outside JGU.
- m) “Project staff” includes any person on the staff of JGU who is appointed on a temporary or permanent basis as part of a specific project.
- n) “Student” means any person who is enrolled for any degree/diploma/certificate course at JGU (full-time/part-time/short term/long term). It also includes a student of another University or college or research institution who has been placed or has opted for placement with JGU or is auditing/attending courses at JGU or is temporarily affiliated with JGU.
- o) “Service provider” includes any person or entity who provides services to JGU or its “employees” and “students”.
- p) “Supreme Court Judgments” shall refer to the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India in its judgment

dated 13 August 1997 in Vishaka vs. State of Rajasthan and the judgment dated 20th January 1999 in Apparel Export Promotion Council vs. A. K. Chopra. .

- q) “Visitors” would include all persons who are not employees or students of JGU; these include “service providers”, participants in a seminar, workshop or a training programme, students’ relatives, alumni or students from another institution, and any other outsiders who are on the “campus” of JGU to meet with any employee or student or use the library and other facilities of JGU.

ANNEXE 2 - Complaints Mechanism

1. Complaints Filing Process:

- a) Any student, service provider, outsider, or a member of the academic or non-teaching staff may lodge a complaint of sexual harassment against a student, service provider, outsider, or a member of the academic or non-teaching staff or an Officer of JGU, or a member of the Authorities or a Committee of JGU.
- b) Complaints should be lodged by the concerned person directly with any member of COGSASH. Third party complaints and witness complaints shall not be entertained except in cases where the complainant has been forcibly prevented from making a complaint; in such cases, a complaint can be made on her/his behalf until she/he can approach COGSASH.
- c) Complaints may be oral, by email (to shc@jgu.edu.in) or in writing. If the complaint is oral, it will be converted into a written form by the COGSASH member receiving the complaint and authenticated by the complainant under her/his dated signature or thumb impression as the case may be as soon as possible.
- d) Details of the incident(s) of harassment, the date, time, and place must be recorded. Complaints must be filed within three months of the incident or the most recent incident.
- e) The history of who the complainant approached (family, friends, teachers etc) before making a formal complaint must also be recorded.
- f) Upon receipt of the complaint, the COGSASH member to whom the complaint is made shall forward the same to the Complaints Screening Committee.

2. Complaints Screening Process:

- a) COGSASH shall designate by rotation five persons from amongst its members for a period of six months to screen complaints. These five persons would constitute the Complaints Screening Committee.
- b) The main function of the Complaints Screening Committee is to carefully study the complaint and determine whether a formal inquiry by COGSASH is to be instituted. For this purpose, it may hear the complainant and the defendant as well as other involved parties and examine any written documents produced (letters, copies of sms, e-mails, photographs etc.).
- c) The Complaints Screening Committee shall meet within three-working days of the complaint being lodged. Any action necessary to facilitate the screening process (such as talking to the parties involved) should be initiated within three working days after the first meeting of the Complaints Screening Committee.
- d) The entire screening process shall not take more than two weeks from the date of the initial complaint. On completion of the screening process, the Complaints Screening Committee shall make a formal recommendation to COGSASH about whether or not a Formal Inquiry process should be put in place, along with the reasons and documentary evidence, if any, thereof, in writing. A Formal Inquiry is to be recommended if the Complaints Screening Committee feels that the complaint needs further investigation, i.e., the complaint is not

prima facie baseless. However, the recommendation of the Complaints Screening Committee is not binding on COGSASH.

- e) During both the complaints screening process as well as the Formal Inquiry process (detailed in the subsequent section), the following principles and procedures shall be followed:
 - i. At no time in the complaints receiving and screening procedure shall the defendant(s) and the complainant be placed face to face, or put in a situation where they may be face to face (e.g., they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the complainant from facing any serious health and/or safety problems, in accordance with the guidelines in the Supreme Court Judgments.
 - ii. At no time in the complaints receiving and screening procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
 - iii. At all points in the complaints receiving and screening procedure, confidentiality of both parties shall be maintained. If any member of the complaints screening Committee, the formal Inquiry Committee or COGSASH violates this norm, s/he will be automatically disqualified.

- f) COGSASH may issue an order of restraint to the defendant(s) in accordance with the procedure outlined below:

A restraint order shall provide a summary of the complaint, the date(s), time(s), and location(s), of the alleged incident(s). It shall warn the defendant(s) that any attempt on her /his part or by person(s) acting on her /his behalf, to contact, or influence, or intimidate, or exert pressure on the complainant or any person in the complainant's confidence may prove prejudicial to her/his case.

- g) The complainant or any other person shall intimate in writing the Complaints Screening Committee, the Presiding Officer of COGSASH and/or the Inquiry Committee of any violation of the order of restraint by the defendant(s), or any persons acting on her /his behalf.
- h) Should the Complaints Screening Committee, the Chairperson of COGSASH, or the Inquiry Committee be convinced of the truth of such allegations, the Presiding Officer of COGSASH and/or the Chief Inquiry Officer may summon the defendant(s) in person and issue a verbal and written warning that such behaviour may lead to an adverse inference being drawn against her/him. The Inquiry Committee or COGSASH shall retain the right to close the Inquiry proceedings, and to give an *ex parte* decision on the complaint.
- i) The Inquiry Committee and COGSASH shall consider all violations of the restraint order when determining the nature of offence of a defendant.
- j) The Complaints Screening Committee shall also be responsible for taking the necessary steps to ensure that both the complainant as well as the defendant are informed about and provided access to counselling services at least once; further follow-up would be left to the discretion of the concerned party. COGSASH may recommend suitable NGOs for this purpose as and when required.

3. Withdrawal of Complaints:

- a) The complainant may withdraw his/her complaint in writing at any time during the complaints receiving and/or Inquiry procedure. However, COGSASH must ascertain the reasons for withdrawal of the complaint record the same in writing and get it counter-signed by the complainant.
- b) The Complaints Screening/Inquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening/Inquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the defendant(s), or any person on her/his behalf, on the complainant. In such an instance, the Complaints Screening/Inquiry proceedings shall continue in accordance with the procedure outlined in the Rules.

4. Complaint-related procedures:

- a) A complainant has the right to go public if s/he so desires. Going public before giving the complaint to COGSASH by the complainant should not prejudice the COGSASH members. Once a complaint has been given to COGSASH, the complainant should preferably not go public until the inquiry is completed.
- b) Notwithstanding its commitment to confidentiality requirements, COGSASH retains its right to collectively issue a public statement or publicly respond to allegations made against COGSASH or any of its members. However, members of COGSASH cannot go public in their individual capacity.
- c) Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.
- d) COGSASH 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. COGSASH shall take action against anyone who intimidates the complainant or members of COGSASH, during or after the screening and inquiry.
- e) Any member of COGSASH charged with sexual harassment in a complaint must step down as member during the screening and inquiry into that complaint.

5. Formal Inquiry:

- a) Once the Complaints Screening Committee communicates its decision to COGSASH, COGSASH shall meet within five working days from the date of such communication to (i) decide whether the complaint merits further scrutiny and (ii) in case the complaint merits further scrutiny, to constitute the Inquiry Committee.

6. Composition of the Inquiry Committee

- a) The Inquiry Committee shall consist of five persons, at least 50% women, led by the Chief Inquiry Officer who shall be a woman, chosen from within the members of COGSASH. As a third-party voice, it shall include the outside expert. To the extent possible, it shall include a representative each from the constituency of the complainant and the defendant.
- b) If a student is lodging a complaint he/she may request that a Student Representative is also part of the ICC. This suggestion will be considered by the Chief Inquiry Officer and approved so long as there is not seen to be any breach of interest or impartiality.

- c) No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of the Inquiry Committee.
- d) COGSASH may, at its own discretion, co-opt any person with gender sensitivity to be a part of the Inquiry Committee, provided that the majority of members are the members of COGSASH. Such a person shall not serve as the Chief Inquiry officer.

7. Functions, powers and responsibilities of the Inquiry Committee

- a) The Inquiry Committee shall enquire into the complaint of sexual harassment and shall submit a detailed report to COGSASH, in which it shall communicate its findings based on its investigations.
- b) The Inquiry Committee shall conduct the proceedings in a fair manner and shall follow the principles of natural justice by providing reasonable opportunity to the complainant and the defendant for presenting and defending his/her case.
- c) The Inquiry Committee shall have to complete the inquiry within a reasonable time not exceeding three months from the date the complaint is referred to it.
- d) At any time in the inquiry proceedings, the Inquiry Committee shall not put the complainant and the defendant in a situation where they may be face to face.
- e) The Inquiry Committee may call any person to appear as a witness, if it is of the opinion that it shall be in the interest of just decision-making.
- f) The Inquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the complainant as well as the defendant.
- g) Records of all evidence gathered in the course of the inquiry shall be maintained.
- h) The Inquiry Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall be deemed irrelevant to a complaint of sexual harassment.
- i) If the defendant fails, without valid ground, to present himself/herself for three hearings convened by the Chief Inquiry Officer the Inquiry Committee shall have the right to take a decision on the complaint based upon the available evidence.
- j) The identities of all witnesses shall be protected by the Inquiry Committee. A coding system may be used for this purpose.
- k) All persons heard by the Inquiry Committee shall take and observe an oath of secrecy about the proceedings. Any violations of the oath of secrecy would invite action by the appropriate authority as per the recommendation of COGSASH.
- l) After completing the investigation, the Inquiry Committee shall submit a detailed report of its findings to the Chairperson of COGSASH, including an indication of whether it finds the defendant guilty or not guilty along with reasons for its decision.

Note:

Most cases of sexual harassment occur in private, so there may not be any eye-witness. The Inquiry Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the testimonies of the complainant, the defendant, and witnesses if any. This inquiry is not a criminal investigation. Strong probability, rather than 'proof beyond reasonable doubt', is enough to take a decision on the complaint.

8. Communication of findings of the Inquiry Committee and follow-up procedures

- a) Within three working days of the receipt of the report of the Inquiry Committee, copies of the report shall be made available to all members of COGSASH.
- b) As soon as the report is received by COGSASH, all members of COGSASH shall have access to records of evidence collected by the Inquiry Committee.
- c) Within three working days of the receipt of the report of the Inquiry Committee, the chairperson of COGSASH shall convene a meeting to deliberate upon the findings of the Inquiry Committee. COGSASH may adopt the findings of the Inquiry Committee in *toto* with regard to the culpability or otherwise of the defendant and recommend suitable action. If COGSASH does not agree with the findings of the Inquiry Committee, it shall refer the case back to the Inquiry Committee for consideration of the concerns expressed by COGSASH. The Inquiry Committee shall have to resubmit its findings within five working days from the date the case is referred back to it. Within three working days of the resubmitted findings, a meeting of COGSASH shall be convened. If COGSASH does not agree with the resubmitted findings, any modifications of the same can be made by it only with a 2/3rd majority of the total members of COGSASH.
- d) In the event that a decision about both culpability of the defendant as well as the action to be taken is not reached by COGSASH in a single meeting, at most one more meeting may be called within two working days to arrive at the final decision.
- e) Within two working days of the decision of COGSASH, the chairperson of COGSASH shall communicate the decision of the COGSASH to the appropriate authority, along with the report of the Inquiry Committee, together with a summary of opinions of its members (including dissenting opinions).
- f) Within three working days from the date of communication of the findings by COGSASH, the appropriate authority shall convene a meeting with COGSASH to discuss the decision of COGSASH and the report of the Inquiry Committee for follow-up action.
- g) In the event that no action has been taken one week after the meeting between the appropriate authority and COGSASH, the Chairperson of COGSASH shall convene a meeting of COGSASH with the appropriate authority to take stock of the situation.
- h) In the event that the action taken is different from the one recommended by COGSASH, the Presiding Officer of COGSASH shall convene a meeting of COGSASH with the appropriate authority and enquire about the reasons for the divergence.
- i) In the event that appropriate follow-up action has not been taken by the appropriate authority one week after the meeting described in clauses (i) and (ii) above, COGSASH shall communicate its discontent in writing to the authority.

- j) In the event that any new fact or evidence arises or is brought before COGSASH at any stage of the inquiry proceedings or even after the communication of the findings to the appropriate authority, COGSASH can take cognizance of this and take appropriate action; this may include reconstitution of the Inquiry Committee, in which case the new Inquiry Committee shall include at least half of the members of the Inquiry Committee that originally enquired into the said complaint.

9. Redressal

(1). Guiding Principles

- a) The guiding principle of the redressal mechanism is to use retributive measures along with measures that go beyond retribution. There will be provisions for punishment for the offender once the offence is proved. There will also be measures at every step of the Inquiry and the punishment to treat the offender as a human being susceptible to changing one's behaviour on positive suggestions and social pressures.
- b) Redressal shall involve supportive measures for the complainant and protection against victimization. Filing of a grievance or complaint will not reflect upon/adversely affect the complainant's status, future evaluation of grades, assignments, employment, promotion etc.
- c) As a general principle, everyone who is associated with redressal of sexual harassment needs to be sensitive towards both the offender and the complainant. To this end, it is advisable that they undergo periodic orientation and training.

(2). Punishments

- a) Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff or an Officer of JGU, or a member of the Authorities or Committee of JGU found guilty of sexual harassment shall be liable for disciplinary action. The penalties listed below (in ascending order) are indicative, and shall not constrain the JGU authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time.
- b) **Penalties in Case of Faculty**
 - i. Warning, reprimand, or censure.
 - ii. Withholding of one or more increments for a period not exceeding one year.
 - iii. Removal from a position of authority at JGU
 - iv. Disbarment from holding an administrative position at JGU
 - v. Suspension from service for a limited period
 - vi. Compulsory retirement
 - vii. Dismissal from service
 - viii. The penalty awarded shall be recorded in his/her Confidential Record. The right to an official character certificate may also be withdrawn where applicable.
- c) **Penalties in Case of Non-Teaching Staff and Project Staff**
 - i. Warning, reprimands, or censure.
 - ii. Transfer
 - iii. Withholding of one or more increments for a period not exceeding one year
 - iv. Suspension from service for a limited period

- v. Compulsory retirement
- vi. Dismissal from service
- vii. Further, the penalty awarded shall be recorded in his/her Confidential Record. The right to an official character certificate may also be withdrawn where applicable.

d) Penalties in Case of JGU Students

- i. Warning or reprimand.
- ii. Withdrawal of the right to an official character certificate from JGU.
- iii. Withdrawal of hostel accommodation for the entire period of study.
- iv. Rustication from JGU for a period up to two semesters.
- v. Expulsion from JGU, and/or a bar on appearing for the examination/interview offered by JGU.
- vi. Withholding of a degree conducted by JGU. Further the penalty awarded shall be recorded in his/her Personal File.

(d) Penalties in Case of Outsiders

- i. Warning, reprimands, or censure.
- ii. A letter communicating her/his misconduct to her/his place of education, employment or residence.
- iii. Declaration of the campus as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study or employment offered by JGU.
- iv. Any other action as may be necessary.

(e) Penalties in Case of Service Providers

- i. Warning, reprimands, or censure.
- ii. A letter communicating her/his misconduct to her/his place of employment.
- iii. Declaration of the campus as out of bounds for her/him.
- iv. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
- v. Any other action as may be necessary.

(f). Penalties in case of Officer of JGU, or a member of the Authorities or Committee of JGU

- i. Warning, reprimands or censure.
- ii. Any other action as may be necessary
- iii. In addition to the penalties specified under (a)-(f) above, the person may be advised to undergo counselling and gender sensitisation, and to give a written and/or public apology to the complainant.

(g) Penalty in Case of a Second Offence

- i. A second, or repeated offence, may, on the recommendation of COGSASH, attract a higher penalty.

(3). Appeals

- a) In the event of the COGASH not taking action on a complaint, or if the complainant or defendant is dissatisfied with the disciplinary action taken by the JGU authorities, she/he shall have the right to appeal to an Appeals Committee. Appeals may also be lodged with the JGU authorities.
- b) An Appeals Committee shall consist of:
 - i. One person nominated by the Board of Governors of JGU from amongst its members,
 - ii. One former senior woman member of COGASH nominated by the Vice Chancellor. If there is no former senior woman member of COGASH, the Vice Chancellor could appoint a senior woman member from the currently functioning COGASH. This nominee shall chair the Appeals Committee, and
 - iii. One woman faculty member of JGU nominated by the Vice Chancellor.
- c) The Appeals Committee shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the appellant deposing in person. It shall have the power to summon any person as witness as well as any official record. On the basis of all the evidence before it, including the deposition of the appellant, if it is satisfied that the matter needs to be further enquired into, it shall conduct an inquiry in accordance with the guidelines in the Supreme Court Judgment.
- d) The Appeals Committee shall report to the Board of Governors of JGU its findings and recommendations on the nature of the action to be taken on the appeal.

10. False Complaints/Depositions

- a) If the Complaints Screening Committee or the Inquiry Committee finds no merit in any particular complaint/deposition, it shall write to the chairperson of the COGASH, giving reasons for its decision.
- b) Within three working days of the receipt of this communication from the Complaints Screening Committee (three working days in the case of the Inquiry Committee), the chairperson of COGASH shall convene a meeting to discuss the recommendations of the complaints screening Committee or the Inquiry Committee and to decide whether a show-cause notice shall be issued to the complainant/witness(es). Upon the decision to issue a show-cause notice, the chairperson of COGASH shall issue it to the complainant/witness(es) and require the complainant/witness(es) to explain within five working days as to why disciplinary actions shall not be taken against him/her. Within three working days of the receipt of any explanation from the complainant/witness(es), the chairperson shall convene a meeting to consider the explanation. In the event of an unconvincing explanation, the COGASH shall forward its findings to the appropriate authority for follow-up action.

11. Protection against Victimization

- a) If found guilty, the defendant shall not (i) supervise any academic activity (such as evaluation, examination or supervision of research) of the complainant/witness and/or (ii) write the confidential report of the complainant/witness.
- b) During an inquiry voluntary interim measures may be put in place to ensure the aggrieved victim and the respondent do not come in to contact with each other. These may include but

are not limited to: transferring desk/usual working space to another department; additional security/vigilance whilst on campus; voluntary leave (up to three months); relaxation of attendance for students which will not affect their opportunity to sit exams/assessment.

12. Amendment to the Rules and Procedures of COGSASH

- a) Amendments to the Rules and procedures of COGSASH shall have effect only if these are compatible with the letter and spirit of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, the Supreme Court Vishaka judgement and any future Supreme Court judgements deemed applicable. Amendments shall be effected by decisions taken in a special meeting of COGSASH called for this purpose. Proposed amendments shall be circulated at least five working days prior to the special meeting called for this purpose. An amendment shall be passed by two-thirds of the total members of COGSASH.

13. Obligations of JGU Authorities

- a) The JGU authorities shall notify, each academic year, the names and contact details of the members of COGSASH and the fact that COGSASH is the Committee responsible for gender sensitisation and action against sexual harassment.
- b) The authorities shall maintain full confidentiality with respect to matters pertaining to COGSASH enquiries into complaints of sexual harassment.
- c) The authorities shall act promptly on the recommendations of the COGSASH pertaining to the various issues outlined above.
- d) As required by The Act 2013, the authorities shall forward to the government department concerned the annual report of COGSASH together with a written report on the action taken by them upon the decisions/recommendation of COGSASH.

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