

Zydus Medical College & Hospital, Dahod

Committee against Gender Harassment

[Composition, objectives, duties & Power and Redressal Mechanism]

Preamble: Gender Harassment at workplace violates a woman's fundamental right to equality and right to life, guaranteed under Articles 14, 15 and 21 of the Constitution of India. It not only creates an insecure and hostile working environment for women but also impedes their performance ability in today's competing world. Apart from interfering with their performance at work, it also adversely affects their social and economic growth and puts them through physical and emotional suffering. Gender Harassment at workplace in India, for the very first time, was recognized by the Hon'ble Supreme Court of India in its landmark judgment of Vishaka v. State of Rajasthan ("Vishaka Judgment"), wherein the Hon'ble Court issued directions to the Union of India to enact an appropriate law for combating workplace sexual harassment. In pursuance of the Hon'ble Court directives, ***The Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act 2013 (hereinafter referred as 'The Act')*** was enacted in order to provide a safe and secure working environment to women at workplace. With the enactment of The Act, India is now a part of the group of countries to have prohibited sexual harassment at workplace through national legislation.

1. Consequent to The Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act 2013 and directions of university grant commission, ***Zydus Medical College & Hospital, Dahod, Gujarat***, has adopted the guidelines and mechanism to combat menace of gender discrimination, sexual harassment at workplace and violence of said act. Accordingly, a committee against Gender Harassment & discrimination has been constituted in 2018 for redressal of complaints of violation of Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act 2013. Details of objectives, constitution, duties, and redressal mechanism are given below for information of employees and students of the medical college.
2. **Definition:** the Act, as per the section 2(n), defines sexual harassment include any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely

- i. Physical contact and advances; or
- ii. A demand or request for sexual favors; or
- iii. Making sexually colored remarks; or
- iv. Showing pornography; or
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- vi. Any act falling under the purview of following cases will be considered as an incident of sexual harassment (Clarification of Unwelcome acts or behavior):
 - A. When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation, or evaluation of a person's engagement in any activity.
 - B. When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
 - C. Interfering with her work or creating an intimidating, offensive, or hostile environment for her.
 - D. When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
 - E. When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the premises or any public forum of the institute is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.
 - F. When a person shows any humiliating treatment to woman that is likely to affect her health and safety.

- G. Teaching activities or explanation of various issues related to fertility, reproductive health and other research topics in a scientific manner will not be considered as harassment.

(The above definition of sexual harassment is in consonance with guidelines given by Hon'ble Supreme court in Vishaka v.State of Rajasthan in 1997 and 2013, IPC was amended and interalia section 354 A which provides for sexual harassment and punishment)

B. Objectives of the Committee: The objectives of the Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace are as follows:

- A. To prevent discrimination & sexual harassment against women at the Institute by promoting gender amity amongst the employee and students.
- B. To evolve a permanent mechanism for the prohibition, resolution, settlement, prevention of act of discrimination and redressal of sexual harassment cases and other acts of gender based violence at the Institute.
- C. To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
- D. To uphold the commitment of the Institute to provide an environment free of gender- based discrimination.
- E. To create a secure physical and social environment to deter any act of sexual harassment.
- F. To promote a social and psychological environment to raise awareness on sexual harassment in it's various forms.

C. Jurisdiction:

A. **The** rules & regulations would apply to all students, faculty and non- teaching staffs of ZMCH, Dahod. The policy and the rules & regulations would also apply to service providers and outsiders who may be within the territory of the ZMCH, Dahod at time of commission of the act coming under the purview of the policy. In particular, the rules and procedures laid down in this policy 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 by a member of the academic or non-teaching staff against a student or another member or 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 by a student or a member of the academic or non-teaching staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.

D. Composition:

- i. The Committee shall consist of following nine members except Chair person, who shall be appointed by the Competent authority/Director as under, namely:
- ii. The Committee should be headed by women and not less than half of its members should be women.
- iii. There should be 4 internal members should be amongst the senior and junior faculty, 2 members from the non-medical employees and 2 external members amongst the NGO/Association or legal professionals, .committed to the cause of women or a person familiar with the issue of Sexual Harassment
- iv. An external members should be the 'person familiar with issues relating to women' would mean such persons who have expertise in issues related to sexual harassment and may include any of the following: At least 5 years of experience as a social worker, working towards women's empowerment and in particular, addressing workplace sexual harassment or Familiarity with labour, service, civil or criminal law.
- v. The committee members will continue till the new committee is constituted at the end of three years term.

S.N.	Name of the Members	Designation	Contact No.
1	Prof. Dr Neelam M Shah, Professor & Head of Dept, Anaesthesia, ZMCH, Dahod	Chair person	9106584849
2	Prof. Dr S.R.Gosai, Dean	Member	9825280242

	ZMCH, Dahod	Secretary	
3.	Dr Dina Shah Professor & Head of Obstet. & Gynae, ZMCH, Dahod	Convenor	9978909136
4.	Ms. Hetal Rav, Senior Manager, Administration, ZMCH, Dahod	Convenor	9909238236
5.	Dr Bharat Pandya ,Medical Superintendent, ZMCH, Dahod	Member	9638843111
6.	Dr Heena Chaudhari, Assistant Professor of Anatomy, ZMCH, Dahod	Member	9099018517
7	Ms. Meghlata , Assistant Professor of Biochemistry, ZMCH, Dahod	Member	7987794893
8	Mr Surendra Acharya, Nursing Supdt. ZMCH, Dahod	Member	
9	To be appointed	Member	
10	To be appointed	Member	

E. Power & Duties of the committee:

A. The committee is NOT to act as a moral police; neither will it intrude on anyone's privacy. The role of the Committee is to create awareness about sexual harassment and to deal with and recommend punishment for non-consensual acts of sexual harassment, and not to curtail sexual expression within the campus. Members are expected to be sensitive to the issue and not let personal biases and prejudices (whether based on gender, caste, class) and stereotypes (e.g., predetermined notions of how a "victim" or "accused" should dress up or behave) affect their functioning as members of the committee.

B. However , The Act stipulates statutory status to the committee and accordingly the committee shall, while inquiring into a complaint of workplace sexual harassment, have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of:

- i. Summoning and enforcing the attendance of any person and examining him on oath;
- ii. Requiring the discovery and production of documents; and
- iii. Any other matter which may be prescribed

F. Meetings of the Committee

A. The members of the Committee shall meet at least four times in a year. The Chairperson shall preside over the meeting. In the absence of the Chairperson, the second senior female Faculty member shall preside over the meeting. The Chairperson may upon the request of not less than one third of the total members of the Committee, call a meeting on a date not later than fifteen days after the receipt of such requisition.

B. The quorum of the meeting of the Committee shall be five of its members. If the quorum is not complete in any meeting, it shall be adjourned for half an hour and thereafter, the meeting shall precede with those members who are present in the meeting.

C. All decision in the meeting will be taken through mutual consent from the members of the Committee present in the meeting. In the case of any disagreement among the members regarding any decision, Chairperson of the Committee shall hold the authority to take the final decision and her decision would be considered as final.

7. Complaint Procedure:

A. Any woman employee or female student (hereinafter mentioned as the 'COMPLAINANT') shall have the right to file a complaint concerning any harassment including sexual harassment against a male student /employee /faculty /administrative staff / research staff / any of the members of the Committee (hereinafter mentioned as the 'COMPLAINEE') as the case may be.

B. Any COMPLAINANT may file a complaint within a period of 3 months from the date of incident. In case of a series of incidents, COMPLAINANT should file a case within a period of 3 months from the date of last incident.

C. Where the aggrieved woman is unable to file a complaint on account of her physical

or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

- D. All complaints will only be accepted in writing. The Committee is allowed to take action even in the absence of a written complaint. Though a written complaint is must (as per the Act.), however if the woman does not want to do the same, anybody can write on her behalf.
- E. Any complaint in writing has to be signed by the **COMPLAINANT** and will be read out to the complainant and will not be acted upon till the same is signed by the complainant.
- F. The complainant shall be afforded full secrecy at each stage. The name, address, identity or any other particulars calculated to lead to identification of the **COMPLAINANT** shall be kept confidential and will not be disclosed even to the Committee, till the meeting in this regard is convened.
- G. Within a period of 5 working days from the date of such communication, the Chairperson shall convene a meeting to deal with the complaint and make preliminary enquiry/fact finding enquiry to verify the facts of the complaint and **Enquiry Committee** will be constituted if the complaint is found genuine.
- H. In case, the Enquiry Committee decides to proceed with the complaint, they may have the option to settle the matter between **COMPLAINANT & COMPLAINEE** through conciliation. For this the wishes of the complainant shall be ascertained and if the complainant wishes that a warning would suffice then the alleged offender shall be called to the meeting of the Committee, heard and if so satisfied that a warning is just and proper, he may be warned about his behaviour. The matter shall then be treated as concluded and disposed of with a note to that effect made in the Complaint Register.

8. The Inquiry Process:

- A. In case the **COMPLAINANT** requests that the complaint should be processed with beyond a mere warning, the same may be processed and has to be solved within a stipulated time of 90 working days.
- B. Within five days of the start of the enquiry process, the Inquiry Committee shall furnish a copy of the complaint to the accused and complainant along with a written notice requiring both parties to furnish a written submission. In case the complainant does not have any additions to make to the complaint filed earlier, she can just submit a statement to that effect.

- C. Within a week, both parties shall submit to Inquiry Committee their replies to the documents that have been served on them. The replies may also include a list of questions that the party wishes the Enquiry Committee to ask the other party or its witnesses.
- D. Within one week of the receipt of the replies and list of question in (7C) above, The Enquiry Committee shall start the process of an oral hearing.
- E. In the course of the oral hearing, the complainant, the accused, and their witnesses will separately be given a chance to give an account of the instances alluded to in the complaint.
- F. All parties can also submit any documentary evidence at the time of the oral hearing.
- G. The Enquiry Committee shall have the power to ask questions that it deems fit to all parties during the oral hearing.
- H. The Enquiry Committee would also ask questions which have been submitted by the complainant and defendant for the other parties. However, The Enquiry Committee has the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive.
- I. The Enquiry Committee may also call upon additional witnesses and ask them any questions that it may deem fit.
- J. The Enquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the complainant as well as the accused.
- K. The Enquiry Committee shall conduct the proceedings in a fair manner and shall provide reasonable opportunity to the complainant and accused for presenting and defending his/her case.
- L. At no time during the inquiry proceedings shall the accused and the complainant be placed face to face, or put in a situation where they may be face to face.
- M. The Enquiry Committee may consider as relevant any earlier complaints against the accused. However, at no time in the enquiry process shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
- N. If the accused fails, without valid ground, to present him for three hearing convened by the chairperson of the Enquiry Committee shall have right to take a decision on the complaint based upon available evidence.
- O. Lawyers are not allowed during the enquiry but both sides can avail help from them.

9. Redressal

- A. The Committee will submit a report along with recommended disciplinary actions to the DIRECTOR.
- B. The Director of the ZMCH upon receipt of the enquiry report shall implement the disciplinary action on the basis of the recommendations of the Committee under relevant service rules within two months.
- C. The disciplinary action will be commensurate with the nature of the violation.
- D. In case the complaint is not proved, the Committee shall recommend that no action is required to be taken in the matter. Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.
- E. In such cases that are likely to be rare, where the Committee arrives at the conclusion that the allegation by the complainant is malicious or false with the full knowledge of the complainant or where the complainant has produced any forged or misleading document, the Committee may recommend punitive action against such COMPLAINANT.
- F. If the Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend punitive action against the said witness. Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour etc.
- G. The victim of sexual harassment/COMPLAINANT will have the option to seek adjustments such as change of the room/location of the office room, change of the quarter, etc.
- H. The Committee, in exceptional cases, can ask the institute to allow the complainant to proceed on leave for a period of up to three month (the leave will not be deducted from her leave account). Grant such other relief to the complainant as may be deemed fit.

10. Complaint Withdrawal

- A. The COMPLAINANT may withdraw her complaint in writing at any time during the inquiry procedure. However, the Committee must ascertain the reasons for withdrawal of the complaint and record the same in writing and get it counter-signed by the complainant.
- B. The complaints enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Enquiry 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 Accused(s), or any person on her/his behalf on the complainant. In such an instance, the complaints enquiry proceedings shall continue in accordance with the procedure outlined in the policy.

11. Disciplinary Actions

- A. The Act prescribes the following punishments that may be imposed by an employer on an employee for indulging in an act of sexual harassment:
- B. Punishment prescribed under the service rules of the organization;
- C. If the organization does not have service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counselling session, or carrying out community service; and deduction of compensation payable to the aggrieved woman from the wages of the respondent
- D. The Act also envisages payment of compensation to the aggrieved woman. The compensation payable shall be determined based on:
 - E. The mental trauma, pain, suffering and emotional distress caused to the aggrieved employee;
 - F. The loss in career opportunity due to the incident of sexual harassment;
 - G. Medical expenses incurred by the victim for physical/ psychiatric treatment;
 - H. The income and status of the alleged perpetrator; and
 - I. Feasibility of such payment in lumpsum or in installments.
- J. Where the Committee finds a student of the institute is involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:
 - a. Warning
 - b. Written apology
 - c. Bond of good behaviour
 - d. Debarring entry into the hostel/mess/guest house/campus
 - e. Suspension for a specific period of time
 - f. Withholding results

- g. Debarring from exams
- h. Stopping of scholarship and contingency
- i. Expulsion