

# **Bidhannagar College**

## **Working Rules for Internal Complaints Committee**

In pursuance of the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013* and the Rules framed there under, Bidhannagar College hereby adopts the following procedure for determining complaints filed to the Internal Complaints Committee (ICC) constituted under the Act. The procedure complies with the basic principles of natural justice and fair play and has to be adhered to in all complaints, though, in individual complaints, for reasons to be stated in writing, the ICC reserves the right to make exceptions to the procedure stated hereunder. ICC shall have the necessary powers to take suo motu notice of incidents of sexual harassment and/or gender injustice in the Institute campus and act against the same in such manner as it deems appropriate.

1. (i) Any aggrieved woman may make, in writing, a complaint of sexual harassment at the workplace to the ICC, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of the last incident.

(ii) A written complaint should be submitted to the Committee or any of its members along with list of witnesses and supporting documents. Additional documents and list of witnesses can be submitted to ICC at a later stage during the proceeding. Written complaint can also be lodged.

(iii) Provided that where such complaint cannot be made in writing, the Presiding Officer or any other member of the ICC shall render all reasonable assistance to the woman for making the complaint in writing.

(iv) Provided further that the ICC for reasons to be recorded in writing, can extend the time limit not exceeding three months, if it is satisfied that the circumstances were such that they prevented the woman from filing a complaint within the said period.

2. Any complaint received by the members should be immediately forwarded to the Presiding Officer, and this must be notified to other committee members at the earliest and not later than 3 days and a meeting should be called for discussing the matter.

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3. The Committee shall discuss and decide on its jurisdiction to deal with the case or reject the complaint prima facie and recommend to the Institute that no action is required to be taken in the matter.
4. Notice shall be issued to the respondent within 7 working days of receipt of the complaint and 10 working days shall be given for submission of reply (along with the list of witnesses and documents.)
5. The Committee will provide assistance to the aggrieved woman, if she so chooses, to file a police complaint in relation to an offence under Indian Penal Code.
6. (i) The Committee may, before initiating an inquiry, at the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation.  
  
(ii) No monetary settlement shall be made as the basis of conciliation. Where a settlement has been arrived at, the ICC shall record the settlement so arrived and forward the same to the employer for necessary compliance.  
  
(iii) The Committee shall provide the copies of the settlement as recorded under 6(ii) to the aggrieved woman and the respondent. Where a settlement is arrived at, no further inquiry shall be conducted by the ICC.  
  
(iv) If conciliation is found to be not feasible, notice will be issued to both parties for hearing.
7. As an interim measure, ICC may recommend the following actions to be taken by the concerned authority
  - a) the transfer of the aggrieved woman or the respondent to another section or Department if service rules so permit.
  - b) granting of leave to the aggrieved woman upto a period of three months or :
  - c) restraining the respondent from exercising any administrative authority or supervision or academic evaluation of the aggrieved woman.
  - d) granting such other relief to the aggrieved woman as the case may require.

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8. The Committee shall proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent considering sexual harassment as misconduct.

9. The Presiding Officer shall convene the first hearing of the enquiry. The respondent, the aggrieved woman, and the witnesses shall be intimated at least 7 working days in advance in writing of the date, time and venue of the enquiry proceedings. The subsequent proceedings may be on a day to day basis, to be decided by ICC.

10. The Committee shall provide reasonable opportunity to the aggrieved woman and the respondent for presenting and defending her/his case.

11. The Committee may at any time during the enquiry proceedings, preclude the face-to-face examination of the respondent and the aggrieved woman and/or their witnesses keeping in view the need to protect the aggrieved woman or the witnesses from facing any serious health and/or safety problems.

12. The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice. The aggrieved woman/respondent has to submit the written reply before the committee within the specified time given.

13. The Committee shall have the right to summon, as many times as required, the respondent, aggrieved woman and/or any witnesses for the purpose of supplementary testimony and/or clarifications.

14. The Committee shall have the power to summon any official papers or documents pertaining to the aggrieved woman as well as the respondent.

15. The past sexual history of the aggrieved woman shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.

16. The Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the respondent fail, without valid ground, to be present for *three consecutive* hearings convened by the Presiding Officer.

17. The aggrieved woman and the respondent, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities. Any person nominated by the aggrieved woman and/or the respondent on her/his behalf shall be either a member of the academic or non-teaching staff. *No person who has been found guilty of sexual harassment shall be accepted as a nominee.* The aggrieved woman/respondent should inform the Presiding

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Officer specifically if they wish to exercise this right. The Presiding Officer shall allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. *At no point in time, however, can the concerned parties take these documents outside the office.*

18. The aggrieved woman and the respondent shall be responsible for presenting their witnesses before the Committee. However, if the Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

19. All proceedings of the ICC shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned as well as the committee members present in token of authenticity thereof. In case the minutes cannot be reduced in writing the same day, an audio recording of the proceedings may be made, and the written proceedings will be authenticated on a next available opportunity.

20. If the aggrieved woman desires to tender any documents by way of evidence, the Committee can supply true copies of such documents to the respondent. Similarly, if the respondent desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the aggrieved woman.

21. In the event the Committee thinks that supplementary testimony is required, the Presiding Officer shall forward to the persons concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Committee.

22. (i) The aggrieved woman and the respondent shall have the right of cross-examination of all witnesses. However such cross-examination shall be conducted in the form of written questions and responses via the Committee only. *The respondent shall have no right to directly cross-examine the aggrieved woman or her witnesses.*

(ii) The respondent/aggrieved woman may submit to the Committee, a written list of questions that he/she desires to pose to the aggrieved woman/witness. The

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Committee (ICC) shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive.

23. Amicus Curie can be called for helping the committee if and when required.

24. After concluding its investigation, the Committee shall submit a detailed reasoned report to the Institute.

25. If the Committee finds no merit in the allegations, it shall report accordingly to the Institute.

26. The identity of the aggrieved woman, respondent, witnesses and proceedings of the Committee and its recommendations and the action taken by the Institute shall not be published, communicated or made known to the public, press or media in any manner and it will be outside the purview of the Right to Information Act, 2005.

27. In the event the Committee finds that the allegation(s) against the respondent have been proved, it shall recommend the nature of action to be taken by the Institute. The following actions may be recommended:

- a. A written apology
- b. Warning
- c. Reprimand or censure
- d. Undergoing a counseling session
- e. Carrying out of community service
- f. payment of compensation to the aggrieved woman by the respondent. The determination of compensation to the aggrieved woman shall be decided based on the following facts:
  - i. The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman,
  - ii. The loss of career opportunity due to the incident of sexual harassment,
  - iii. Medical expenses incurred by the victim for physical or psychiatric treatment
  - iv. The income and financial status of the respondent
  - v. Feasibility of such payment in lumpsum or in installments
- g. Any other punishment according to the service rules applicable to the respondent

28. When the Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved women or any other person making the complaint has made the complaint knowing it to be false or the aggrieved women or

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any other person making the complaint has produced any forged or misleading document, it may recommend to the Institute to take action against such falsification.

29. Nothing precludes the college authority from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the inquiry proceedings or even after the communication of the findings to the appropriate authorities.

30. The college authorities will file a compliance report to the Committee within 30 days of issuance of such recommendation.

31. No legal practitioner will be allowed to represent either the aggrieved woman or the respondent in proceedings before the Complaints Committee.

32. The Committee has the powers of a civil court in the following cases

- i. Summoning and enforcing the attendance of any person related to the incident,
- ii. Requiring the discovery and production of any documents
- iii. Any other matter relating to the incident as decided by the Committee from time to time.

33. The aggrieved woman or respondent may prefer an appeal to the competent authority.