

NCERT POLICY FOR THE PREVENTION, PROHIBITION AND PUNISHMENT OF SEXUAL HARASSMENT OF WOMEN

PREAMBLE

The Supreme Court of India in its 1997 judgment in Vishakha and others vs. State of Rajasthan and others makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to evolve a specific policy to combat sexual harassment in the workplace. Educational institutions are bound by the same directive.

In compliance with the mandate of the aforementioned Supreme Court Judgment, NCERT adopts the guidelines & procedures to prevent, prohibit and punish sexual harassment of women at the workplace. NCERT is committed to providing for all women who fall within its jurisdiction including its, academic, non-academic staff and students at the place of work and study free from sexual harassment, intimidation and exploitation. Every woman shall have a right to be free from Sexual Harassment and the Right to Work in an environment free from any form of Sexual Harassment.

The right of women to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international instruments such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which has been ratified by India.

The Supreme Court in the Vishakha judgment has held that each incident of sexual harassment results in the violation of the fundamental rights of Gender Equality and the Right to Life and Liberty. Sexual harassment is a clear violation of woman's right to gender equality as guaranteed under Articles 14 and 15, her right to live with dignity under Article 21 and her right to work with dignity in a safe environment under Article 19 (1) (g) of the Constitution of India.

OBJECTIVES OF THE POLICY

- ☐ To fulfill the directive of the Supreme Court of India enjoining all employers to develop and implement a policy against sexual harassment of women at the work place.
- ☐ To uphold Women's Right to Protection against Sexual Harassment and the Right to Livelihood and towards that end for the prevention and redressal of Sexual Harassment of Women.
- ☐ To evolve a permanent mechanism for the prevention, prohibition and redress of sexual harassment of women at workplace within the jurisdiction of NCERT and its constituents.
- ☐ To actively promote a social, physical and psychological environment that will raise awareness about and deter acts of sexual harassment of girls and women.

- ☐ To ensure the implementation of the policy in letter and spirit by undertaking all necessary and reasonable steps including the constitution of appropriate Committees for purposes of gender sensitization and to conduct enquiries into complaints of sexual harassment.
- ☐ To uphold the commitment of NCERT and its constituents to provide an environment free of discrimination and violence against women.
- ☐ To generate public opinion against sexual harassment of women at the workplace.

DEFINITIONS

a. **Sexual harassment:** The following shall constitute sexual harassment of women:

1. When submission to unwelcome sexually determined behaviour such as sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature, are explicitly or implicitly made a term or condition of teaching/guidance, education, employment, participation or evaluation of a woman's engagement in any NCERT activity.

2. When unwelcome sexually determined behaviour, including but not limited to, sexual advances, physical and /or verbal or non-verbal or conduct, such as loaded comments, remarks or jokes, letters, phone calls, sms or emails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature have the purpose and /or effect of interfering with a woman's work or academic performance or of creating an intimidating, hostile or offensive employment, educational or living environment.

3. When a man uses with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to a woman without her consent or against her will, such conduct will amount to sexual assault.

(a) It is clarified that it is the **reasonable perception of the woman that would be relevant** in determining whether any conduct was sexually determined and, if so, whether such conduct was unwelcome or not and that her objection would disadvantage her in connection with her education or employment, including evaluation, grading, recruitment or promotion, or when it creates a hostile working, educational or living environment.

(b) "Hostile Environment" is said to be created when any act of Sexual Harassment has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive employment, educational or living environment.

b. **Academic staff** includes Professors, Associate Professor, Assistant Professor and such other persons as may be designated as such for imparting education/instructions or for giving guidance or rendering assistance to students for pursuing any course of study. It includes any person or the staff of the council who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, visiting, honorary, consultancy, or on special duty or deputation. It also includes persons employed on a casual or project basis. Persons on the academic staff of any of the institutions associated with NCERT or participating in any workshop/seminar/training/conference/consultancies are covered by these rules during the stay or official stay with NCERT.

c. **Non-Teaching Staff** includes any person on the staff of the NCERT & its constituents, who is not included in the category of academic staff. It shall also include administrative staff, technical staff, officers, consultants, support staff, contractual workers and daily wagers only to the extent that they are performing NCERT & its constituents related activities.

d. **Student** includes a student of NCERT & its constituents, and includes any person who has enrolled for pursuing any course of study or research for that duration with NCERT.

e. **Director, Joint Director (s) and Principal** includes director of NCERT, Joints Director of NCERT, CIET and PSSCIVE and all Principals of RIEs.

f. **Campus** includes all places of work at the NIE headquarters in Delhi or any Regional Institutes of Education and PSSCIVE. It includes all places of instruction, research and administration, as well as hostel, health centres, sports grounds, parks, streets, lanes and canteens, etc. on the NIE, RIEs & PSSCIVE campus.

g. **Employee** includes a person employed for any work directly, or by or through any agency (including a contractor), with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis, whether the terms of employment are express or implied, and includes any person employed as a temporary, casual, piece-rated or contract worker, probationer, trainee, apprentice or by any other name called. It also includes any person who is a temporary resident of any of the accommodations or premises allotted by NIE, RIEs and PSSCIVE.

SCOPE OF THE POLICY AND RULES AND PROCEDURES

Jurisdiction

These Rules and Procedures shall be applicable to all complaints of sexual harassment made by a woman against a man only by a woman member of NCERT and its constituent units against any male member of NCERT and its constituent units provided the harassment has taken place at work place.

Responsibilities of NCERT and its constituent units

(a) Ensure a safe environment free from Sexual Harassment for women including prevention and deterrence of Sexual Harassment.

(b) Prepare and prominently display the policy for the prevention and prohibition of Sexual Harassment.

(c) Maintain a proactive program to educate all members as to the definition of sexual harassment and procedures for redressal.

(d) Undertake workshops and training programmes at regular intervals for sensitizing the members.

(e) Prominently display notices in various places spreading awareness about the issue of “Sexual Harassment at the Workplace” and giving information for the redressal mechanism that has been put in place and encouraging women to file their grievances.

(f) Facilitate initiation of proceedings under this Policy through the institution of Committee Against Sexual Harassment for redressal of an act/s of sexual harassment.

The Complaints Mechanism and the Scope of its Functions Guiding Principles for Constitution of Committees

a) The Complaints and redressal mechanism at NCERT and its constituent units, has been formulated in accordance with the following principles:

i). In view of the structure and spread of NCERT across the country it is essential to decentralise the complaints redressal mechanism. This will ensure that the complaint mechanism is effective and accessible for all. Accordingly separate Committees Against Sexual Harassment have been provided for at different levels which will function as Complaint Committee.

ii). In order to ensure that the Committees Against Sexual Harassment are gender sensitive, representative members will be drawn from different categories.

iii). In order to create autonomous institutional structures to enquire into complaints of sexual harassment, members from outside NCERT with a known contribution to women’s rights issues shall be included in each Committee.

iv). The 1997 Supreme Court judgment makes it mandatory for each Committee to have a woman chairperson.

v). Not less than half of the Committee members shall be women.

vi). All members of the Committee Against Sexual Harassment should be neutral and unbiased.

vii). If in the Complaints Enquiry Committee the member representing the category of the defendant is junior in the hierarchy of NCERT to the defendant, then for that particular enquiry that member shall be substituted on the Committee by another person, senior in rank to the defendant.

viii). Filing of a complaint shall not adversely affect the complainant’s status/job, salary/promotion, grades etc. During the pendency of an enquiry and till the final determination of a complaint of sexual harassment under this Policy the organization shall not alter the conditions of service/study of the Complainant/Supporter/Witness concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy.

b). All these Committees shall have statutory status and be empowered to carry out the mandate of this policy including conducting an enquiry into complaints of sexual harassment.

c). As clarified by the Supreme Court in Medha Kotwal Lele and ors. Vs UOI and ors. W.P. (CrI.) No. 173-177/1999, order dated. 26.04.04, the Committee Against Sexual Harassment envisaged and constituted under this Policy will be deemed to be an inquiry authority for the purposes of CCS Rules and the Report of the Committee Against Sexual Harassment shall be deemed to be an inquiry report under the CCS rules. The disciplinary authority will act on the report of the Committee Against Sexual Harassment in accordance with the Rules.

STRUCTURE AND COMPOSITION OF THE COMPLAINANT COMMITTEE AGAINST SEXUAL HARASSMENT

Implementation of the policy will be achieved through the following structures:

i .Committee Against Sexual Harassment (CASH):

A complaints and redressal body to be set up at the Headquarters where many educational, technical, administrative and managerial activities of NCERT are carried out. This Committee shall have jurisdiction over all complaints at the NIE Headquarters (which includes CIET), also including those arising from the Regional Institutes of Education & Pandit Sunderlal Sharma Central Institute of Vocational Education (PSSCIVE).

It will function as the guiding body for all Awareness, Preventive and Redressal work related to this Policy. The Director may for special reasons, refer any complaint under this Policy for enquiry directly to CASH.

ii. Regional Committees Against Sexual Harassment (RIE and PSSCIVE CASH):

A complaints and redressal body to be set up in each Regional Institute of Education and PSSCIVE of NCERT. This Committee shall have jurisdiction over all complaints received at their Regional institute within the supervisory jurisdiction of that institute.

The Chairperson of the RIE and PSSCIVE CASH should be a woman member of RIE/ PSSCIVE. In case no appropriate woman member is available at the Regional Centre, an external woman member will function as the Chairperson.

Composition

(i) a) Regional Committee Against Sexual Harassment (RIE/PSSCIVE CASH)

It shall be composed of one chairperson and five members drawn from the following categories:-

- ☐ Two Academic staff members representing different levels.
- ☐ Two Non teaching staff members of which one shall be from the “officers” category and one from “other staff” category representing various levels.
- ☐ One woman with known contribution to women’s issues, to be co-opted by the Committee from outside the Regional Institutes.

b) Procedure for constitution of RIE/PSSCIVE CASH

The panel of names for RIE/PSSCIVE CASH for each regional institute will be recommended by the Principal/JD of the regional institute/PSSCIVE in consultation with the academic and non-academic staff of the Regional Institute/PSSCIVE.

(ii) a) Composition of Committee Against Sexual Harassment (CASH) at NCERT

It shall be composed of a chairperson and seven members drawn from the following categories:-

- ☐ Three Academic staff members representing different levels.
- ☐ Two Non teaching staff members of whom one shall be from the “officers” category and one from “other staff” category representing different levels.
- ☐ Woman and one man with known contribution to women’s issues, to be co-opted by the Committee from outside NCERT.

b) Procedure of Constitution of CASH at NCERT

Academic staff members: The outgoing CASH committee shall recommend at least three names for the existing Academic staff category out of which the Director shall nominate one persons to CASH.

Non-teaching other staff members: The outgoing CASH committee shall recommend at least two names for the Non Teaching Staff category out of which the Director shall nominate 1 person to CASH.

External experts: The outgoing CASH shall recommend a panel of at least four names for the external two women and two man experts from which the Director shall nominate two experts woman and one man to CASH.

Duration: The duration of the committee will be two years extendable to one year.

Continuity:

- a) To ensure a measure of continuity in the Committees Against Sexual harassment, each of the outgoing Committee Against Sexual Harassment shall nominate one person from among them to continue as a member of the said Committee for another term of 2 years.
- b) The representation on the Committee of the category to which the member nominated by the Committee to continue belongs shall accordingly be adjusted to ensure that no category of members is over represented.
- c) In no event shall any member of Committee continue as a member for more than 2 terms i.e. 4 years.
- d) All these members should be local.

Power and Duties of all Committees Against Sexual Harassment

A. Preventive

Gender sensitization and Orientation

1. To work towards creating an atmosphere promoting equality, non discrimination and gender justice
2. To promote and facilitate measures to create a work and study environment that is free of sexual harassment of women.
3. To publicise widely the policy against sexual harassment in Hindi, English and the language of the region where the Centre is located, especially through the prospectus, programme guide or other appropriate document and display the same on notice boards, website, offices and residential areas etc.
4. The CASH as well as RIE/PSSCIVE CASH shall publicise the phone numbers of the Security Office at the Headquarters and at RIE.
5. Every recruitment/admission announcement must state: NCERT has a policy against sexual harassment and is committed to providing an environment free from sexual harassment of women at the workplace.
6. To regularly organize and carry out programmes for gender sensitization of NCERT members through workshops, seminars, posters, film shows, debates etc. It may enlist the help of specialized NGOs to carry out these programmes.
7. The Complaints Committee shall take suo moto notice of grave violations of the basic principles of gender sensitivity and gender justice on the campus.

B. REMEDIAL

Enquiry

1. To receive and take cognizance of complaints made about sexual harassment of women at the workplace.
2. To conduct enquiries into these complaints, place findings before the concerned disciplinary authority and recommend penalties against the harasser in accordance with the rules and procedures laid down.
3. To ensure the safety of the complainant and witnesses during the pendency of the enquiry and till the final determination of the complaint, by advising the concerned authorities to issue warnings, suspension or any other order, if the harasser harasses or intimidates the complainant or witnesses.
4. To make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is dealing with the complaint. The committee shall take action

against anyone who threatens or intimidates the complainant or members of the committee. This may be in the nature of issuing a restraining order against the defendant or any other person/s.

5. To seek medical, police and legal intervention with the consent of the complainant.

6. To make arrangements for appropriate legal, psychological / emotional and physical support for the complainant if she so desires in terms of providing referral numbers.

7. In the case of third party/ outsider harassment, with the consent of the aggrieved woman, the NCERT shall initiate action by making a complaint with the appropriate authority having jurisdiction over the offence. Further NCERT and the committee will actively assist and provide available information regarding NGO and Counseling services in that area to the complainant woman in pursuing the complaint.

Guidelines for all Committees Against Sexual Harassment:

- a. The Chairperson (woman) and members of the committee to be nominated by the Director from the panels recommended.
- b. At least 50% of the members in each of these categories should be women.
- c. The term of each Committee shall be two years. The previous Committee will however continue till the new Committee is constituted.
- d. In the event of the expiry of the term of a Committee Against Sexual Harassment during the pendency of an enquiry then for purposes of that complaint the Committee Against Sexual Harassment will be regarded as a valid Committee, under this Policy and Service Rules, till the submission of the Enquiry Report to the disciplinary authority.
- e. A person shall be disqualified from being appointed, elected, nominated or designated as, or for being continued as, a member of any Committee Against Sexual Harassment if there is any complaint concerning sexual harassment pending against him, or if he has been found guilty of sexual harassment/serious misconduct.
- f. In any complaint where the defendant is the Head of the institution then the said complaint shall be enquired into by the CASH.

Procedure for Registering Complaints

- i. The mechanism for registering complaints should be safe, accessible and sensitive.
- ii. All complaints must be brought by the complainant in person.

The following exceptions will be admitted:

- a. In cases of forced confinement of the person. In such a case, brought by another person on behalf of the complainant, the committee will examine whether an enquiry, intervention or some other assistance is needed.
- b. In cases of appeals where it is difficult for the complainant to travel in person to the location of the appellate body.

c. In exceptional cases, third party/witness complaints may be entertained. In such cases, the committee will ascertain whether the woman alleged to have been sexually harassed wishes to lodge a formal complaint. Once such a complaint is received the committee shall proceed to enquire into it as per the procedure specified.

iii. If the complainant wishes, she can be accompanied by a representative.

iv. Complaints can be lodged directly with any member of the relevant Committee Against Sexual Harassment, or through existing channels for lodging grievances, such as the NCERT authorities, academic and non-academic staff association etc. If the complaint is made through any such channel, the person to whom the complaint is made should bring it to the notice of the Committee within two working days of its receipt by her/him.

v. A complaint can be directly referred by the Director to the CASH. However, in such cases, which will be exceptional, the Director may record the reasons for the same.

vi. The complaint may be oral or in writing. If the complaint is oral, it shall be reduced in writing by the Complaints Committee member receiving the complaint and the same shall be authenticated by the complainant under her dated signature or thumb impression as the case may be.

vii. All complaints made to any Committee member must be received and recorded by the member, who shall then inform the Chairperson about the complaint, who in turn shall call a meeting of the Committee.

viii. All meetings of the committee will be called by the Chairperson and a notice of at least 5 working days must be given for the meeting, in exceptional cases emergency meeting may be convened as per the requirement.

ix. Within ten days of the receipt of a complaint, the concerned Committee Against Sexual Harassment must determine whether a prima facie case of sexual harassment is made out. It shall carefully consider the complaint and may hear the complainant and the defendant and/or any other relevant person to determine whether an enquiry by the Committee is to be instituted. If the Committee considers it necessary to hear the defendant at this preliminary stage it shall issue a notice to him in the prescribed form for the purpose.

x. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of a Committee.

xii. Any committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.

xiii. If the Committee Against Sexual Harassment decides not to conduct an enquiry into a complaint it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the complainant in writing.

xiv. For specific purposes a sub enquiry committee can be constituted from amongst the CASH and RIE/PSSCIVE CASH and a special expert invitee can be called as per the requirement of the case.

Procedure to be followed by the Committee:

The committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity.

- i. During the enquiry proceedings the complainant and/or their witnesses and the defendant shall be called separately so as to ensure freedom of expression and an atmosphere free of intimidation.
- ii. The complainant will be allowed to be accompanied by one representative during the enquiry.
- iii. The Committee shall strive to complete the enquiry in the shortest possible time, preferable within three months from the date on which the complaint is referred to and not exceeding it.
- iv. Within one week of the institution of enquiry proceedings by the Complaints Committee, the Committee shall prepare a document containing a summary of the complaint such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant and the defendant. The defendant shall be given all this information in the prescribed format along with a copy of the Rules and Procedures of this Policy. The Committee shall also make available to the defendant a true copy of the complaint(s) lodged by the complainant(s).
- v. The Committee must inform the defendant in writing about the material particulars of the charges made against him and he should be given a period of 5 days to respond to the charge sheet.
- vi. The Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.
- vii. Within not more than five working days on the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit, to the Convener of the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine.
- viii. The complainant and the defendant shall be responsible for presenting their witnesses before the Committee. However, if the Committee believes 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.
- ix. 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.
- x. The Committee shall have the power to summon any official papers or documents pertaining to the complaint under enquiry.

xi. The Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.

xii. The Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.

xiii. The defendant, the complainant, and witnesses shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings. The responsibility of communicating with the witnesses lies with the complainant/defendant regarding the date, time and venue of the meeting.

xiv. The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present himself for three consecutive hearings convened by the Enquiry Committee.

xv. The venue of the enquiry should take into consideration the convenience and security of the complainant.

xvi. If the complainant, defendant, or witness desire to appear before the Committee accompanied by one person of their choice, they shall communicate to the Convener of the committee the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying.

xvii. The identities of the Complainant and all witnesses shall throughout be protected and kept confidential by the Committee.

xvii. The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings once prepared with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/or the defendant on her/his behalf shall be only a member of NCERT. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The complainant(s)/defendant should inform the committee specifically if they wish to exercise this right. At no point in time, however, can the concerned parties take these documents outside the office of the Committee Against Sexual Harassment.

xviii. The complainant and the defendant 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 defendant shall have no right to directly cross examine the complainant or her witnesses

xix. The defendant/complainant may submit to the Committee, a written list of questions that he/she desires to pose to the complainant/witness. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the defendant or his nominee, that is designed to intimidate or subject the complainant or her

witnesses to mental and physical trauma, can lead the Committee to recommend disciplinary action against the defendant.

xx. All proceedings of the Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.

xxi. All persons heard by the Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings to protect the dignity of the complainant and the defendant. Any violation of the oath of secrecy may invite penalties.

Exception: A complainant has the right to go public about the complaint of sexual harassment if she so desires. If the Complainant goes public before filing the complaint with the Committee Against Sexual Harassment, the same shall not prejudice the Committee members. Once a complaint has been given to the Committee, the complainant should preferably not go public till the enquiry is completed, unless there are compelling reasons for her to do the same.

xxii. The members of the Committee shall maintain confidentiality about the proceedings conducted by them.

xxiii. If the complainant desires to tender any documents by way of evidence, the Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the complainant.

xxiv. In the event that the Committee thinks that supplementary testimony is required, the Convener of the Committee 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.

xxv. Nothing precludes the Complaints Committee from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings. If a new fact or evidence is brought to the notice of the Committee Against Sexual Harassment after submission of the Enquiry Report to the appropriate disciplinary authority, then in the event of the constitution of the reconvened Enquiry Committee, at least half of the members of the present Committee shall be those who originally enquired into the said complaint.

xxvi. The committee shall be sensitive to the covert, private and insidious nature of Sexual Harassment and shall take into account that often the aggrieved woman may not be able to submit/ present direct or corroborative evidence.

xxvii. The committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct, personal and sexual history.

xxviii. The committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the respective organization / workplace, the employer-employee equations and other power differences while appreciating the evidence.

xxix. The committee shall, inform the complainant/s, that she may give her evidence in writing provided that she makes herself available for examination by the defendant on the same, unless the alleged victim of Sexual Harassment opts to give her evidence orally.

xxx. The committee shall inform the complainant/s that she may give her answers to questions of a sensitive nature in writing at the enquiry proceedings during cross examination.

xxxi. All information received in the course of the examination and enquiry into a complaint of sexual harassment shall be held in trust by the concerned Committee Against Sexual Harassment and the same shall not be made available pursuant to an application under the Right To Information Act, 2005. Such information shall constitute an exception under Section 8 (e) of the Right To Information Act, 2005, as the same is held by the Committee Against Sexual Harassment in a fiduciary relationship and the non disclosure of the same will not be against public interest. To the contrary disclosure of such information may endanger the life or physical safety of the complainant or any of the witnesses. An exception to this Rule will be when the complainant herself applies for information under the Right to Information Act, 2005.

Enquiry to be completed within 90 days: - The enquiry shall be completed and the Enquiry Report submitted to the Committee Against sexual Harassment within a period of 90 days from the date on which the enquiry is commenced. In the event of any delay in submission of the Enquiry Report the reasons for the same shall be recorded in writing.

Findings of the Committee:

i) (a) After concluding its enquiry, the Committee shall prepare a detailed and written report of its findings. The enquiry report shall specify the details of the charge(s) against the defendant, the statements made and evidence presented in the enquiry and a discussion of the reasons upon which the findings arrived at by the Committee.

(b) No observations regarding the work and behaviour of either the complainant or defendant shall be made which are not related to the alleged act of sexual harassment. However, the Committee may consider as relevant any earlier complaints of sexual harassment against the defendant.

ii) Upon the completion of an enquiry the said Committee may by a detailed and reasoned order pass any of the following orders:

(a) If the Committee finds no merit in the complaint, it shall write to the competent authority giving reasons for its conclusions. The concerned Committee may then dismiss the complaint which was subject of the Inquiry.

(b) If the Committee find the complaints proven on a balance or probabilities it shall give a detailed and reasoned finding to that effect.

(c) In the event that the Committee finds the defendant guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken taking into consideration the gravity of the offence of which he has been found guilty and the impact on the complainant. It shall also

recommend whether after disciplinary action has been taken, the disciplinary authority should publicise the identity of the offender, the misconduct and the disciplinary action taken.

Report of the Committee

i) The report of the Committee shall be deemed to be an inquiry report under the Central Civil Services (Conduct) Rules, 1964 or any other rules governing the concerned educational institution.

ii) Within 5 working days of the preparation of the report of the Committee, the Chairperson of the Committee Against Sexual Harassment shall convene a meeting. Each member of the Committee Against Sexual Harassment shall have the right to access the entire enquiry proceedings, or any part thereof. The Committee Against Sexual Harassment will discuss the Report and recommendations for disciplinary action, if any. Within five working days of the adoption of the report, the Chairperson of the Committee Against Sexual Harassment shall forward the Enquiry Report, together with a summary of the opinions to the Director.

Action to be taken by Disciplinary Authority

i) Upon receipt of the Enquiry Report the disciplinary authority will promptly act on the Enquiry report. If the disciplinary authority disagrees with or wishes to modify the recommendations made by the Committee Against Sexual Harassment it may do so by recording the reasons in writing. The same shall also be communicated in writing to the concerned Committee Against Sexual Harassment.

ii) A copy of the Enquiry Report shall be given by the disciplinary authority to the complainant and the defendant.

iii) The disciplinary authority shall however take disciplinary action only after giving the defendant an opportunity to reply to the findings of the Committee Against Sexual Harassment through an oral or written representation in accordance with the service rules and principles of natural justice.

iv) The disciplinary authority **shall take disciplinary action within 1 month of receipt of the Report from the Committee Against Sexual Harassment.**

v) No person accused of an act of Sexual Harassment under this policy shall be part of the decision making process referred to this section.

APPEAL:

i) The complainant and the defendant shall have the right to appeal if they are dissatisfied with the decision of the concerned Committee Against Sexual Harassment or the disciplinary authority.

ii) An appeal shall lie before the following:

(a) An appeal against a decision of RIE/PSSCIVE CASH shall be heard by CASH. If not satisfied by CASH they have the right to appeal to an apex body which may be constituted as and when required with an external woman expert as chairperson and two academic members of NCERT.

Redressal

- i) RIE/PSSCIVE CASH and CASH can ask for the suspension/ transfer of the alleged harasser from his official position, during the pendency of the enquiry if his presence is likely to interfere with the enquiry.
- ii) The victim of sexual harassment will have the option to seek transfer of the perpetrator or their own transfer where applicable.
- iii) The Head of the institution upon receipt of the enquiry report shall refer the same to the Governing Body or any other appropriate body and institute disciplinary action on the basis of the recommendations of the concerned Committee Against Sexual Harassment.
- iv) The disciplinary action will commensurate with the nature and impact of the sexual harassment.

Penalties

- 1). Any member of the NCERT & its Constituents, non teaching staff, student, service provider, and resident found guilty of sexual harassment shall be liable for disciplinary action.
- 2). The penalties listed below are indicative, and shall not constrain the NCERT & its Constituents authorities from considering others, in accordance with the rules governing the conduct of all members of the NCERT.

A. In the case of academic/administrative/ technical/ non teaching staff/ management, disciplinary action could be in the form of one or more of the following:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour
- iv. Gender sensitization
- v. Counselling
- vi. Adverse remarks in the Confidential Report
- vii. Debarring from supervisory duties
- viii. Denial of membership of statutory bodies
- ix. Denial of re-employment
- x. Stopping of increments/promotion
- xi. Reverting, demotion
- xii. Transfer
- xiii. Dismissal
- xiv. Withdrawal of residential facilities and prohibition from entry on the campus etc.
- xv. Any other relevant mechanism.

B. In case of students, disciplinary action could be in the form of:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour

- iv. Gender sensitization
- v. Counselling
- vi. Debarring entry into a hostel/ campus
- vii. Withholding results
- viii. Debarring from exams
- ix. Debarring from contesting elections
- x. Debarring from holding posts
- xi. Expulsion
- xii. Denial of admission
- xiii. Declaring the harasser as "persona non grata" for a stipulated period of time
- xiv. Any other relevant mechanism.

(NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurise the complainant in any way).

3). Penalty in Case of a Second Offence

A second or repeated offence, may, on the recommendation of the concerned Committee Against Sexual Harassment, attract an enhanced penalty.

4). Non-adversarial modes of redress and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour, counselling etc.

Monitoring and Review

1. The RIE/PSSCIVE CASH will send an Annual Report to the NIE Committee Against Sexual Harassment, detailing the work undertaken by them.

2. The CASH will provide a brief annual report to the Director of all complaints of sexual harassment monitored by it.

3. In the above-mentioned Annual Reports, confidentiality of the complainant and witnesses will be maintained. These reports will be accessible to NCERT and its constituents only.

4. The CASH will organise a meeting once every year for all members of RIE/PSSCIVE CASH to meet and discuss their experiences on the functioning of the committees.

Amendments to the Policy

On the basis of their experience of the working of the policy, the RIE/PSSCIVE CASH will have the power to make recommendations to the CASH about changes in the Policy/ Rules and Procedure. The CASH after adequate consultation with all the RIE/PSSCIVE CASH can make recommendations to the Director about changes in the policy/Rules and Procedures, as and when required in keeping with the preamble and objectives of the policy.

Where Sexual Harassment amounts to criminal offence:-

Where the conduct of Sexual Harassment amounts to a specific offence under the Indian Penal Code (45 of 1860) or under any other law; it shall be the duty of the Committee Against Sexual Harassment to immediately inform the complainant of her right to initiate action in accordance with law with the appropriate authority, and to give advice and guidance regarding the same.

Any such action or proceedings initiated shall be in addition to proceedings initiated and /or any action taken under this Policy.

Networking

- a) Committees Against Sexual Harassment may liaison with concerned departments of NCERT and its constituents with respect to awareness, orientation, sensitization and other preventive work, as and when deemed necessary by the committees.
- b) If necessary, assistance may be sought from the Director, Joint Director, Secretary, Principals, Head of the Department, and other similar persons in authority.
- c) They should establish networks with legal experts, legal aid centres, counselling centres, health centres, police stations, Crimes against Women cells, women's groups in the city and other organisations such as the National/State Commission for Women and National/State Human Rights Commission.
