



Policy for the Prevention, Prohibition and Punishment of Sexual Harassment of Women at Workplace



July 2019

RAJIV GANDHI NATIONAL AVIATION UNIVERSITY (RGNAU)

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1. Short Title

These Rules and procedures will be called the Rules and Procedures for the Prevention, Prohibit and Punishment of Sexual Harassment of Women at the Workplace, 2014

2. Definitions

- a. University means Rajiv Gandhi National Aviation University, RGNAU, a Central University under Ministry of Civil Aviation (MoCA)
- b. Registrar means Registrar of the University.
- c. Staff includes academic, technical and administrative staff.
- d. 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 working on a voluntary basis, whether the terms of employment are express or implied, and includes any person employed as a temporary, casual, badli, piece-rated or contract worker, probationer, trainee, apprentice or by any other name called.
- e. Student includes any person who is pursuing any sort of academic programme in the University. It shall also include part time and sponsored students.
- f. Residents includes any person who is temporary permanent residents of any of the accommodations or premises allotted to the University. These include any residential quarters / hostels provided by the University to any of its employees / students at the Headquarters or any of the extension campuses.

- g. Members includes staff employees, students and residents of the University or anyone working any capacity including persons on the Academic Council, Finance Committee, Contract and Works Committee, Council and other committees or boards constitute by the University.
- h. Outside includes any person but is not limited to any private person offering residential, food or any facilities to the University.
- i. Campus includes all places of work and residence at the university or any of the existing or likely to be set up extension campuses. It includes all places of instruction, research and administration as well as staff quarters, hostel, health centres, sports grounds, parks, streets, lanes and canteens, etc. on the university and its extension campuses.

3. Sexual Harassment

The following shall constitute sexual harassment of women:

- a. Unwelcome sexually determined behaviour such as sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature, which are explicitly or implicitly made a term or condition of teaching/guidance, education, employment, participation or evaluation of a woman's engagement in any University activity.
- b. 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 which 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.
- c. If 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.

Explanation

- 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.

4. Scope

JURISDICTION

These Rules and Procedures shall be applicable to all complaints of sexual harassment made:

- i. By a woman member of the University against any male member of the University irrespective of where the harassment is alleged to have taken place.
- ii. By a woman resident against a male member of the University irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- iii. By a woman member or resident against a male resident when sexual harassment is alleged to have taken place within the University
- iv. By an outsider woman against a male member of the University when sexual harassment is alleged to have taken place within the University

5. General Duties and Responsibilities of the University

The University shall:

- 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 procedure for redressal.
- d) Undertake workshops and training programmes at regular interval 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 about the redress mechanism that has been put in place and encouraging women to seek redressal of their grievances.

- f) Facilitate initiation of proceedings under the Policy through the University of Committee against Sexual Harassment for redressal of an acts of sexual harassment.
- g) Ensuring that filling 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 University shall not alter the conditions of service/study of Complainant / Witness concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy
- h) Provide a space for confidential counselling and other necessary facilities. The provision of the facility shall be well publicised. For this purpose the University shall also engage a professionally competent counsellor.

6. THE COMPLAINTS MECHANISM AND THE SCOPE OF ITS FUNCTIONS GUIDING PRINCIPLES FOR CONSTITUTION OF COMMITTEES

- a) University shall constitute an Internal Complaints Committee in terms of Section 4 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act 2013.
- b) If the member representing the category of the defendant in the Internal Complaints Committee is junior in the hierarchy of University to the complainant, then for that particular inquiry that member shall be substituted on the Committee by another person, senior in rank to the defendant.
- c) **Constitution of INTERNAL COMPLAINTS COMMITTEE (ICC) –**

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”

Provided that where the offices or administrative units of the workplace are located at different places or divisional level or sub-divisional, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consists of the following members to be nominated by the employer namely:

- i. **a presiding officer** who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other sources or administrative units of the workplace referred to sub section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation.

- ii. **not less than two Members** from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge
- iii. **one member from amongst non-governmental organisation** or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that **at least one half** of the total Members so nominated shall be **women**.

(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.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer as may be prescribed.

- (5) Where the Presiding Officer or any Member of the Internal Committee –
- a) contravenes the provisions of section 16; or
 - b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him or
 - c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - d) has so abused his position as to render his continuance in official prejudicial to the public interest,

Such presiding officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any **casual vacancy shall be filled by fresh nomination** in accordance with the provisions of the section.

- d) Internal Complaints Committee shall be deemed to be the inquiry authority appointed by disciplinary authority. The Internal Complaints Committee shall hold the inquiry as per the procedures prescribed herein under :-

7. POWER AND DUTIES OF INTERNAL COMPLAINTS COMMITTEE

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 from sexual harassment of women.
3. To publicise widely the University Policy against sexual harassment in Hindi, and English, 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 Committee shall publicise the phone numbers of the Security Office at the University and create a 24 hour helpline also to be publicized from where calls can be forwarded to persons designated by the Committee.
5. Every recruitment/ admission announcement must state: University 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 the University members through workshops, seminars, posters, film shows, debates etc. It may enlist the help of specialized NGOs to carry out these programmes.
7. The Committee may take suo moto notice of grave violations of the basic principles of gender sensitivity and gender justice on the University campus and act against the same in such manner as it deems appropriate.

B. REMEDIAL

Enquiry

1. To receive and 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 victimized 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 include and be in the nature of issuing a restraining order against the defendant or any other persons or appropriate disciplinary action by the concerned authority.
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.
7. In the case of third party/ outsider harassment with the consent of the aggrieved woman the University shall initiate action by making a complaint with the appropriate authority having jurisdiction over the offence. Further the University and the committee will actively assist and provide available resources to the complainant woman in pursuing the complaint.

8. Procedure for Registering Complaints and the processes

- i. Complaints can be made by the complainant in person or through post or mail. Such complaints may be made within a period of three months from the date of the incident and in case of a series of incidents, within a period of three months from the date of last incident. The Internal Complaints committee may, for the reasons to be recorded in writing, extend the time limit if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the said period.
- ii. Where the complainant is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be authorized by the complainant legal heir may make complaint.

- iii. If the complainant wishes she may be accompanied by a representative.
- iv. Complaints may be lodged directly with any member of the Internal Complaints Committee, or through existing channels for lodging grievances, such as the University 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 Chairman of the Committee within two working days of its receipt by her/him.
- v. A complaint can be directly referred by the Registrar to the Internal Complaints Committee.
- vi. The complaint may be oral or in writing. If the complaint is oral, it shall be reduced in writing by the Internal Complaints Committee Chair person or 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 immediately inform the Chairperson about the complaint, who in turn shall hold a meeting of the Committee, **within three days**.
- viii. All meetings of the committee will be called by the Chairperson and a notice of at least two working days must be given for the meeting.
- ix. Within ten days of the receipt of a complaint, the Internal Complaints Committee 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 to this effect.
- x. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of the Internal Complaints Committee.
- xi. Any committee member charged with sexual harassment in a written complaint must step down as member of the Enquiry Committee or Internal Complaints Committee during the enquiry into that complaint.
- xii. If the Internal Complaints Committee 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.

9. Functions of the Internal Complaints Committee

- a) The Internal Complaints Committee may before initiating an inquiry and at the request of the complainant take steps to settle the matter between her and the respondent through conciliation. However, no monetary settlement shall be made a basis of conciliation.
- b) The Internal Complaints Committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity.

10. Procedure to be followed by the Internal Complaints Committee:

The procedure elucidated herein under is to be generally followed. However, keeping in view the nature of sexual complaints and inquiries, the Internal Complaints Committee is empowered to devise its own procedure for conducting the inquiry, provided that it complies with the principles of natural justice and fair play. No inquiry shall be held to be invalid on the ground that the procedure indicated in these rules was not strictly followed.

(1) Procedure

- i. The complainant will be allowed to be accompanied by one representative during the enquiry.
- ii. The Internal Complaints Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date on which the complaint is referred to it. The Internal Complaints Committee shall be required to provide to the Committee reasons in writing for any delay in concluding the enquiry beyond a period of 3 months.
- iii. Within one week of the institution of enquiry proceedings by the Complaints Committee, the Internal Complaints 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 along with a copy of these Rules and Procedures. The Internal Complaints Committee shall also make available to the defendant a true copy of the complaint(s) lodged by the complainant(s). The defendant shall be given a period of seven days to respond to this document, which shall be deemed to be a “charge sheet” in the context of disciplinary proceedings.
- iv. The Internal Complaints Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.

- v. 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 Internal Complaints Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Internal Complaints Committee to examine.
- vi. The complainant and the defendant shall be responsible for presenting their witnesses before the Internal Complaints Committee. However, if the Internal Complaints Committee believes that the absence of either of the parties to the disputes is on valid grounds, the Internal Complaints 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. It shall be the sole discretion of the Internal Complaints Committee to decide what constitute a "valid ground" keeping in view the circumstances of the case.
- vii. The Internal Complaints 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.
- viii. The Internal Complaints Committee shall have the power to summon any official papers or documents from the concerned section, unit department, centre, etc. of the University pertaining to the complaint under enquiry.
- ix. The Internal Complaints 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.
- x. The Internal Complaints Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose or supplementary testimony and/or clarifications.
- xi. The defendant, the complainant, and witnesses shall be intimated at least three working days in advance in writing of the date, time and venue of the enquiry proceedings.
- xii. The Internal Complaints 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 two consecutive hearings convened by the Internal Complaints Committee.

- xiii. The venue of the enquiry should take into consideration the convenience and security of the complainant.
- xiv. If the complainant, defendant, or witness desire to appear before the Internal Complaints Committee accompanied by one person of their choice, they shall communicate to the Convener of the Internal Complaints 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.
- xv. The identities of the Complainant and all witnesses shall, before, during and after the inquiry be protected and kept confidential by the Internal Complaints Committee.
- xvi. 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 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 University. No person who has been the defendant in a complaint of sexual harassment shall be accepted as a nominee. The complainant(s) / defendant should inform the Internal Complaints Committee specifically if they wish to exercise this right. The Internal Complaints Committee may 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 of time, however, can the concerned parties take these documents outside the office of the Internal Complaints Committee and no photocopies of such official documents shall be supplied to them.
- xvii. 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 Internal Complaints Committee only. The defendant shall have no right to directly cross examine the complainant or her witnesses.
- xviii. The defendant/complainant may submit to the Internal Complaints Committee, a written list of questions that he/she desires to pose to the complainant / witness. The Internal Complaints 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, during or after the Inquiry on the part of the defendant or his nominee, that is designed to intimidate or subject the complainant or her witnesses to mental and/or physical trauma, can lead the Committee to recommend disciplinary action against the defendant.

- xix. All proceedings of the Internal Complaints Committee shall be recorded in writing in English or Hindi as requested by the complainant. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.
- xx. All persons heard by the Internal Complaints 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 about the complaint of sexual harassment if she so desires. If the Complainant goes public before filing the complaint with the Committee, 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.

- xxi. The members of the Internal Complaints Committee shall maintain confidentiality about the proceedings conducted by them.
- xxii. If the complainant desires to tender any documents by way of evidence, the Internal Complaints Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the internal Complaints Committee shall supply true copies of such documents to the complainant.
- xxiii. In the event that Internal Complaints Committee thinks that supplementary testimony is required, it may 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 Internal Complaints Committee.
- xxiv. 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 Internal Complaints Committee after submission of the Enquiry Report to the appropriate disciplinary authority, then in the event of the constitution of the reconvened Internal Complaints Committee, at least half of the members of the Internal Complaints Committee shall be those who originally enquired into the said complaint. The scope of inquiry of such reconvened committee need not be restricted only to new material. It shall be open to the Internal Complaints Committee to reconsider the entire material on record, in light of such new material, if it is deemed appropriate. It is clarified that the Internal Complaints Committee/ inquiry Committee shall have the power to review its own decision(s).

- xxv. The Internal Complaints 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.
- xxvi. The Internal Complaints Committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct, personal and sexual history.
- xxvii. The Internal Complaints 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 orally.
- xxviii. The Internal Complaints 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.
- xxix. The Internal Complaints 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.
- xxx. 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 Internal Complaints Committee 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 Internal Complaints Committee 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.

(2) Enquiry to be completed within 90 days – The enquiry shall be completed and the Enquiry Report submitted to the Sexual Harassment Compliant Committee within a period of **ninety 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. However, the delay, if any would not invalidate the enquiry.

11. Report of the Internal Complaints Committee:

- a) On the completion of the enquiry an Internal Complaints Committee shall provide a report of its findings to the Registrar, RGNAU within a period of **ten days** from the date of completion of the inquiry along with a copy to the parties. Where the Registrar is not the

disciplinary authority, the Registrar shall place the report before the Vice-Chancellor for appropriate action.

- b) Where the Internal Complaints Committee arrives at a conclusion that the allegation has not been proved, it shall recommend to the Registrar, RGNAU that no action is required to be taken in the matter.
- c) Where the Internal Complaints Committee arrives at a conclusion that the allegation against the respondent has been proved, it shall recommend to the Registrar, RGNAU to take action for sexual harassment as a misconduct.
- d) The Internal Complaints Committee may also recommend to deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the complainant or her legal heirs in accordance with the Section 15 of the Sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act 2013.
- e) Subject to consideration of a representation, if any, against a prospected penalty the disciplinary authority shall take disciplinary action within **two months** of receipt of the Report from the Internal Complaints Committee. It is clarified that the report of the Internal Complaints Committee shall be treated as the inquiry report, on the basis of which penalty can be proposed/imposed against the defendant.

12. APPEAL:

The complainant and the defendant shall have the right to appeal if they are dissatisfied with the decision of the disciplinary authority as per the provisions contained in CCS (CCA) Rules or any other rules of the University.

13. Redressal

- a) The Committee 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.
- b) The victim of sexual harassment will have the option to seek transfer of the perpetrator or her own transfer.

14. 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 Internal Complaints Committee 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.

15. In case of any doubts, ambiguity or difficulty in interpreting and/or implementing the provisions of these Rules, the decision of the Registrar in this regard shall be sought and shall be final.

REGISTRAR