

Gender Amity Committee Policy Assam Don Bosco University Guwahati

Preamble

ADBU has commitment towards the establishment of an institute which promotes and practices the ideals of social and natural justice, human dignity and rights of all human beings. Therefore, we realize the significance of having an Anti Harassment Policy and establishment of the Committee Against Harassment, whose foremost role and responsibility is prevention, prohibition and punishment of harassment, to create an atmosphere free from sexual harassment and any such from of practices which impedes the equal opportunity of development and growth for any women in the institute. “The advantages of workplace mechanisms over legislations”, according to ILO report, “is that their role is primarily preventive. Rather than being confined to responding to harassment, they are intended to ensure that it does not take place. Effective workplace policies protect employees by dissuading potential harassers, and identifying and responding to harassing behaviour in its early stages. In addition, well functioning complaints procedures mitigate the likelihood of targets of harassment being forced to resort to the legal process.” This policy will draw its legitimacy from the constitution of India in general and from CEDAW ratified by GoI and the directives of Supreme Court of India in Anti-Sexual Harassment Policy for working women (the Vishaka Guidelines and norms laid down in Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384, and laws against harassment in particular.

Objectives:

The Policy will have following five fold objectives

1. 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. Thus, take initiatives as deemed necessary to prevent or deter any act of sexual harassment caused towards any working women and women student who are part of ADBU and evolve a permanent mechanism for the prevention, prohibition and redress of sexual harassment of women within the jurisdiction of ADBU.
2. To uphold the dignity of every person irrespective of gender.
3. Take pro-active role in creating social, physical and psychological environment and awareness about this policy by making these information and needed trainings accessible to encourage the early reporting of any such experience, and in creating a sensitized work and study environment for the person engaged with the institute.
4. Take all necessary and immediate steps to deal with any kind of violation of the Anti Harassment Policy whenever any such case are brought to the notice of the committee. To support any staff member or student who experiences harassment whilst on placement including providing assistance in making use of any internal procedures in place at the site or in accessing external agencies.
5. To ensure that complaints will be dealt with in a sensitive, equitable, fair, timely and confidential manner, which ensures that persons against whom complaints have been made are accorded natural justice through the use of procedures that are impartial, open and fair to all parties and to ensure that persons making complaints are protected from victimisation or reprisals for reporting the harassment to ADBU.
6. 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 harassment.

Definitions:

1. Sexual Harassment

Any **unwelcome** sexually determined behaviour, such as Physical contact, A demand or request for sexual favours, sexually coloured remarks, Showing pornography, Any other physical, verbal or non-verbal conduct of a sexual nature.

2. Unwelcome	UNWELCOME is the key in defining sexual harassment. It is the impact and effect the behaviour has on the recipient that will define the behaviour as sexual harassment.
3. Workplace	The workplace includes any office premises of the institution, and any centres and projects run by the institute
4. Natural Justice	Is the minimum standard of fairness to be applied in the investigation and adjudication of a complaint. It is also referred to as procedural fairness. The requirements of natural justice are: <ul style="list-style-type: none"> • fully informing a person of any allegation(s) made against them • giving them the opportunity to state their case, provide an explanation or put forward a defence • ensuring that proper investigation of the allegations occurs, that all parties are heard and relevant submissions are considered ensuring that the decision-maker acts fairly and without bias
5. Victimization	When a person is subjected to less favourable treatment because it is known or suspected that they: <ul style="list-style-type: none"> • have made or propose to make a complaint against any person under this procedure • have brought or propose to bring proceedings under any of the antidiscrimination laws • have furnished any information or documents relating to a complaint <i>This also applies to a person who is associated with another person who has made a complaint</i>
6. Hostile Environment	“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.
7. Harassment	“Harassment” will include instances of sexual harassment, victimisation and creation of hostile environment

Scope

This policy is applicable to all staff (whether fixed term or ongoing, casual or sessional), students, prospective students, consultants, service provider and visitors. There are no exclusions to the policy.

Jurisdiction

These Rules and Procedures shall be applicable to all complaints of gender harassment made by students, faculty and staff members and will address:

- Grievance of any member of the university irrespective of where the harassment is alleged to have taken place.
- By any member of the university against another member of the university irrespective of whether the harassment is alleged to have taken place within or outside the campus
- By an outsider against a member of the University when harassment is alleged to have taken place within the campus.
- In the case of third party/ outsider harassment, with the consent of the aggrieved person, the University can take immediate steps and 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.

What Constitutes as Sexual Harassments at work place?

Acts of Sexual Harassment	As laid down under Vishaka Guideline sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as: <ol style="list-style-type: none"> a) Physical contact and advances; b) A demand or request for sexual favours; c) Sexually coloured remarks; d) Showing pornography;
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e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Within ADBU Policy the list is expanded to include following acts constitutes as an act of sexual harassment, though this is not the exhaustive list:

- Engages in any other unwelcome conduct of a sexual nature, which could be verbal, or even non-verbal, like staring to make the other person uncomfortable, making offensive gestures, kissing sounds, etc.
- Uninvited touching, kisses, embraces or other physical contact, including unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them, touching or fiddling with a person's clothes, such as lifting up skirts, flicking bra straps or putting hands in a person's pockets
- Jokes or comments with sexual overtones which the recipient finds offensive, makes an unwelcome remark with sexual connotations, like sexually explicit compliments/cracking loud jokes with sexual connotations/ making sexist remarks etc
- It is harassment for a group of workers to joke and snigger amongst themselves and conduct themselves in an attempt to humiliate or embarrass another person.
- Making threats or promises in return for sexual favours, such threats or promises may be implied or explicit
- Displays of sexually graphic material including posters, pinups, cartoons, graffiti, material from the internet or messages left on notice boards, desks or common areas, including material transmitted by e-mail and including offensive screen-savers.
- "Flashing" or sexual gestures
- Staring or leering at a person or at parts of their body;
- Requests for sex or persistent questions or insinuations about a person's private life
- Repeated invitations to go out after prior refusal.
- Offensive phone calls or letters
- Stalking

Some behaviour may also constitute a criminal offence such as sexual assault or stalking

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

Guiding Principles

- Respectful, dignified and courteous treatment of, all staff, students and all persons who deal with ADBU;
- ADBU aims to establish a climate where harassment does not occur, emphasising prevention through training and awareness raising activities;
- ADBU will ensure that all members of the ADBU community have access to the information and support needed to prevent harassment or to deal with it appropriately if it occurs;
- Complaints will be dealt with in a sensitive, impartial, timely and confidential manner, which ensures that persons against whom complaints have been made are accorded natural justice through the use of procedures that are impartial and open;
- ADBU will ensure, as far as is practicable, that persons making complaints are protected against victimisation and reprisals; and
- ADBU will actively encourage the reporting of behaviour that breaches this policy. ADBU will ensure that the prevention of harassment is recognised as a key organisational goal and prime management responsibility.

Committee Against Harassment

Committee Against Harassment in the work place

- The Institute authority or the governing body will be responsible and accountable for the formation and proper functioning of the committee.
- A some amount of fund has to be allocated separately for the functioning and activities to be undertaken by the committee.
- Committee will be constituted of 4 or more members to be nominated from the staff and governing body members of the institute and two third party member, person from civil society group or someone who is familiar with the issue of harassment.
- In addition two students representatives selected among themselves will also be part of the committee.
- The composition of the committee will be such that at least half of the total members will be women.
- The committee will be formed for one year term.
- The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.
- The employers and person incharge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

Roles and Responsibilities

Roles and Responsibilities of the Institute

ADBU has a moral and legal obligation to prevent any form of stress caused through sexual harassment in the Institute. Therefore, the policy for sexual harassment at work place is being established and the Committee for Prevention and Complain of Sexual Harassment at Workplace is being made liable for enforcing the policy at its best practice. With minimum seven members as per the Vishaka guidelines given by the supreme court of India in Vishaka Vs State Govt. Rajasthan [1997(7) SCC.323]. All persons covered by the scope of this policy are required to comply with this policy and promote a climate of mutual respect while the authority will be accountable for the conduct of people they manage at ADBU.

The institute shall put forth all supports to the committee in responding to the complaints on harassment, publicizing and creating awareness on the policy among its employees (permanent, contractual, daily wagers, etc.), students, interns, visitors and guests. It will also hold some training sessions on sexual harassment prevention as per the need may arise. The names and contact details of the member of the Committee and the policy details along with complaints lodging procedures will be displayed in all work areas, public spaces and on institute website.

The institute would maintain a proper documentation of the cases and the action.

The institute shall impose penalties on the offender and decide on all the actions relating to sexual harassment on the basis of the gravity of offences and on the basis of the investigation and recommendation of the Committee of the Institute within ten days of receiving the recommendation. If the authority does not accept the recommended action, it should give three valid reasons for doing so.

The Roles, Responsibilities and Scope of the Complaint Committee

- Four members of the committee will be nominated from the organization staff or governing body members, half this member would be women and one women member nominated would be the Convenor of the committee. Plus three third party members nominated from the outside of the institute who must be either social worker or has experience in working on harassment issues. The committee would be nominated for two-year term; same person could not be nominated as member of this committee for more than two terms.
- To create a work and study environment promoting equality, non discrimination and gender justice and that is free of sexual harassment of women.
- Take action if they observe unacceptable conduct that could constitute harassment;

- Promote this policy within their sphere of influence and to ensure that all persons have access to the policy and its requirements.
- Ensure that students and staff are aware of ADBU's commitment to assist them should they experience sexual harassment on placement and encourage the use of the services;
- Receive complaints, investigate and recommend appropriate steps and penalty to the authority who will be giving the final resolution in a timely, confidential and fair manner. The first attempt would be to resolve any complaint of harassment at the local level, whenever possible.
- It needs to submit an annual report on sexual harassment to the appropriate government authority.
- In case where the management does not accept the recommended action by the committee, it should give three valid reasons.
- Formalise and publicise complaint procedures that are easy.

The Complaints Committee must remember:

- *It needs extensive orientation for effective functioning.*
- *The complainant, on submission of complaint has at stake personal life and career.*
- *The impact harassment has on any person*
- *It is difficult for a person to articulate a complaint of harassment. Hence there can be long time interval between the harassment and the actual complaint.*
- *It needs to handle complaints in a confidential manner and within a time-bound framework*
- *All harassment crimes are committed in private, so that there may not be any eyewitnesses.*
- *Discard pre-determined notions of how a victim or accused should look or behave. Beware of stereotypes.*
- *Provide safety for friends and supporters of the complainant.*
- *Treat the complainant with respect and Help the complainant regain his/her self-respect.*
- *Do not, under any circumstance, get aggressive.*
- *Do not insist on a detailed description of harassment. This could increase the complainant's trauma.*
- *Do not try and determine the impact of the harassment on the complainant. Let the complainant determine it. Help the complainant, if necessary.*
- *Do not discuss the complaint among the presence of the complainant or the accused.*
- *Remember, this is a human rights issue, therefore, (a) do not give too much weightage to intention, focus on the impact, and (b) 'proof beyond reasonable doubt' is not required, a strong probability is sufficient.*

Other Responsibilities of Complain Committee

- *Encourage the complainant to note details of each incident of harassment and monitor any changes in work patterns or attitude on the part of the alleged harasser so as to avoid as far as possible attempts at victimisation or accusations of poor work performance, etc.*
- *Make discreet enquiries as to whether other workers have experienced similar problems and if so, ask them details of any harassment, which has occurred.*
- *If the problem should involve transfer of one of the people involved, try to ensure that the harasser-rather than the victim- is the person required to move.*
- *Always document the results of any sexual harassment complaint or investigation and also document any corrective action asked to the employee or supervisor to take. Follow up on any corrective action to prevent the sexual harassment from occurring again in the future.*
- *Inform all employees that it is their obligation to report sexual harassment that they either experience or witness.*

Complain and Redressal Procedures

Complain and Redressal Procedures

- a) Victim or any person who is aware of the happening of cases of harassment can lodge complain with any of the Complaint Committee members through telephone, email, letter, fax or verbal complain.
- b) The respective member would first try to resolve the problem informally. If the informal resolution is not possible the complain will be forwarded formally to the complain committee.
- c) The complain committee would investigate with the matter by interviewing both the parties (victim and alleged offender), questioning third party if required, investigating all

relevant materials or documents, if any available, while maintaining full confidentiality.

d) 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.

e) The victim of harassment will have the option to seek transfer of the perpetrator or their own transfer where applicable.

f) The complain committee would submit written report and recommendation on the case to the authority (governing body/Secretary) within thirty days from the days when complain first lodged with the member of complain committee.

g) The Authority would take action of either mutual mitigation of the case or penalization of the offender on the basis of the gravity of the case based on recommendation made by the complain committee within ten days of receiving the recommendation.

h) Wherever necessary the committee will also provide arrangement for the counsellor for the victims of harassment, and all necessary support required.

Penalties and Consequences for the policy breach

ADBU will treat all allegations of harassment seriously and impartially. The consequences for breaching this policy will depend on the seriousness or degree of the case. Outcomes may include, though these are not exhaustive list:

- Gaining a commitment from one or more persons to cease, and not to repeat, the behaviour;
- Making an apology to the affected person or persons;
- Providing mediation between the parties, if **both** parties agree to mediation process and to the mediator
- Offering support to both the person making the complaint and the person against whom the complaint is made;
- Referral of matter to the Police;
- Depending on the gravity of the offences disciplinary action or penalization may include Verbal Warning, Written Warning, Demotion in the job, Transfer and Termination of Job against the person found responsible for harassment;
- Depending on the gravity of the offences disciplinary action or penalization may include Verbal Warning, Written Warning, Demotion in the job, Transfer and Termination of Job against the person making a complaint of harassment if, after investigation, the complaint is found to have been malicious or vexatious.
- Disciplinary action may be taken against anyone who victimises or retaliates against a person who has made a complaint.

Policy Amendment

On the basis of their experience of the working of the policy, the Committee Against Harassment will have the power to make recommendations to the management authority about changes in the Policy/ Rules and Procedure. The Committee after adequate consultation with all the members and relevant persons and institutions can make recommendations to the Registrar about changes in the policy/Rules and Procedures, as and when required in keeping with the preamble and objectives of the policy.

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Existing Relevant Indian Laws on Harassment

- **The Constitution of India:** Fundamental Rights – Right to Equality (Article 14), Right to life and live with dignity (Article 21), Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15) and Provision for just and humane conditions of work (Article 42).
- **Convention for the Elimination of Discrimination Against Women (CEDAW) Provisions**
- **Sexual Harassment of Women at the Workplace, 2008**
- **Laws under Indian Penal Code (IPC):**
 1. **Section 209:** Obscene acts and songs, to the annoyance of others like:
 - a) does any obscene act in any public place or
 - b) sings, recites or utters any obscene song, ballad or words in or near any public place.*Punishment:* Imprisonment for a term up to 3 months or fine, or both. (Cognisable, bailable and triable offense)
 2. **Section 354:** Assault or use of criminal force on a woman with intent to outrage her modesty.
Punishment: 2 years imprisonment or fine, or both
 3. **Section 376:** Rape
Punishment: Imprisonment for life or 10 years and fine
 4. **Section 294:** The obscene act or song must cause annoyance
 5. **Section 509:** Uttering any word or making any gesture intended to insult the modesty of a woman.
Punishment: Imprisonment for 1 year, or fine, or both. (Cognisable and bailable offense.
- **The Indecent Representation of Women (Prohibition) Act (1987)**
- **The Anti-Sexual Harassment Policy for working women (namely the Vishaka Guidelines in Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384**
- **The Protection of Human Rights Act, 1993.**
- **The Standing Orders under the Industrial Employment (Standing Orders) Act, 1946**
- **Transgender Persons (Protection of Rights) Act, 2019.**

References

Vishaka Guidelines against Sexual Harassment at Workplace

VISHAKHA GUIDELINES: A STUDY OF UNIVERSITIES IN KERALA, VISHISHTA SAM, CCS Working Paper No. 200, Summer Research, Internship Programme 2008, Centre for Civil Society

Prevention of Sexual Harassment Policy of CAE

http://wcdhry.gov.in/Womenharrassment_F.htm

<http://www.ignou.ac.in/ignou/footer/sexual%20harassment>

http://www.legalserviceindia.com/articles/rape_laws.htm

<http://safedelhi.jagori.org/deal-with-sexual-harassment/legal-information/>

www.cae.edu.au/web/policies/Prevention_Sexual_Harassment_Policy.pdf