

Prevention of Sexual Harassment Policy (POSH)



Islamic University of Science & Technology (IUST)

Awantipora, Kashmir (J&K)

Aim of the Policy

The Prevention of Sexual Harassment Policy aims to provide a framework for promoting respectful and legal practices in the workplace free from any intimidation or sexual harassment. IUST recognizes the significance of the policy that outlines regulations governing the conduct of members of the University community with clear guidelines on how to handle sexual harassment. As such, the University strongly feels that there is a need to formulate guidelines for dealing with the perpetrators and strict execution of the process of addressing reported cases.

Vision of the Policy

IUST acknowledges that sexual harassment is a violation of fundamental human rights, debilitates morale and interferes with the effectiveness of employees and students and denigrates the living, working and learning environment. Therefore, the University is not only committed to promote a safe secure work and study environment in which the dignity of all stakeholders is respected but also to ensure that cases of Sexual Harassment are dealt with firmly by observing utmost confidentiality and impartiality.

Operational Definition of Terms

Respondent means a person alleged to have committed an act of sexual harassment.

Case Officer means the person assigned to present the University's case in formal Internal Disciplinary proceedings, who may also be the person assigned to investigate the case.

Complainant means a person who lodges a complaint under this policy, or a person against whom an act of sexual harassment as defined in the policy has or has allegedly been perpetrated.

Confidentiality means ensuring that information is accessible only to those authorized to have access to it.

Employee disciplinary procedure means the disciplinary procedure that applies to both faculty and staff.

Employee means an employee of the University or a person who has agreed to be bound by the rules and policies of the University concerning faculty/staff.

Officer/Official means any employee of the university with managerial, supervisory or Warden's responsibilities.

RO means the Reporting Office. This shall be run by the Directorate of Gender and Development Studies and Gender Mainstreaming Committee appointed by the Vice Chancellor.

University means Islamic University of Science and Technology University.

Workplace refers to the University work and study environment.

Student means a registered student of the University who has agreed to be bound by the rules and policies of the university concerning students.

Rules on conduct for students mean the rules on the conduct of students adopted by the University from time to time.

Same-sex harassment means harassment where the alleged perpetrator and the victim are of the same sex.

Sexual Harassment: includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:

1. Physical contact or advances;
2. A demand or request for sexual favours; in return for professional advancement (quid pro quo) or otherwise
3. Making sexually coloured remarks;
4. Showing pornography;
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
6. Any other conduct that has the purpose of interfering in or obstructing the individual's work or creating a hostile work environment
7. Sexual harassment by one in a position of power or influence constitutes direct, or a quid pro quo, sexual harassment when
 - (i) submission by an individual is made wither an explicit or implicit term or condition of employment, or academic progress
 - (ii) submission to or rejection of such conduct is used as the basis for employment decisions affecting that employee such as promotions, demotions, salary raises, hiring or termination or affecting that student's academic progress/achievement

Internal Committee: means an Internal Complaints Committee constituted by the University. The term of the members shall not be more than three years.

Local Committee: means the Local Complaints Committee constituted by the University.

Chairperson means the Chairperson of the Internal/Local Complaints Committee constituted by the University.

Member: means a Member of the Internal Committee or the Local Committee, as the case may be.

Prescribed: means prescribed by rules made under this policy.

Respondent: means a person against whom the aggrieved woman has made a complaint.

Responsibilities Regarding Sexual Harassment

- A.** All students of the University as well as all employees and consultants working for the University, are responsible for ensuring that their behaviour is not contrary to this policy
- B.** All students, staff and consultants are required to reinforce the maintenance of a harassment free work environment

Scope of the Policy

This policy applies to all categories of Employees of the University, including any person employed on regular, temporary, adhoc or daily wage basis, , including contractors or consultants, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied. It also applies to all students and scholars.

All stakeholders including faculty, staff, and students are subject to this Policy and are expected to observe and adhere to this Policy in their conduct with each other. The Sexual Harassment Policy will apply to all activities and operations taking place at the University, whether on or off campus as long as the activities are associated and organised by the University. It is binding on all stakeholders that deal with the Institution and its affiliated structures. The implementation of the Policy will be the responsibility of everyone in the University.

Guiding Principles

This Policy shall be guided by the guiding laws and principles that are outlined below and international conventions and shall promote the rule of law and promote and protect human rights:

- i. Constitution of India
- ii. The Sexual Harassment of Women at Workplace Act, 2013;
- iii. UN Convention of the Elimination of all forms of Discrimination Against Women (CEDAW)
- iv. The International Labour Organisation Discrimination (Employment and Occupation)
- v. Where there is ambiguity or where the policy is silent, the ICC may take reference of the Act.

Procedure for Handling Sexual Harassment

The Policy shall ensure that Sexual Harassment incidences in the University are reported without fear of stigmatization, reprisal, ostracism, punishment or victimization. The University shall put in place proper reporting structures and mechanisms to enhance its ability to handle sexual harassment cases.

This Policy provides laid down procedures for effective handling of sexual harassment cases when they occur.

Reporting Mechanisms

Any person who believes that s/he has been offended by Sexual Harassment is strongly encouraged to report the incident to the confidential advisors appointed to help in the implementation of this Policy. The individual offended by Sexual Harassment who wishes to pursue or make complaints has two options through which to make the complaint: either through an informal complaint or through a formal complaint.

According to the POSH Act, any woman has the right to file a POSH complaint, and any member of the ICC shall offer her all reasonable assistance in filing a formal complaint if she is unable to do so. Her legal successor may make a complaint if the woman is unable to do so owing to "physical or mental impairment, death, or otherwise."

The complaint must be made within three months of the date of the incident. The ICC, on the other hand, has the power to extend the time limit if "it is satisfied that the lady was prevented from making a complaint within the given term by circumstances."

Formal Complaint

In making a formal complaint, the aggrieved woman will lodge a written and signed complaint to the section/committee assigned with the duty to implement the Policy. The section/committee shall investigate the complaint exhaustively and make adequate disciplinary decisions.

The filing of a written grievance is generally required for the matter to be formally investigated and a determination made as to whether a violation of University Policy prohibiting Sexual Harassment has occurred.

The aggrieved woman should report to the Dean of Students, HoD, Warden of Hostel who are required to report it in two days to the Chairperson, ICC or the offended can report directly to the Chairperson, ICC. All POSH complaints whether filed against students, faculty and other staff members or contractors/consultants are filed with the Chairperson, ICC.

Investigations will be conducted fully, impartially and timely. Investigating officials will provide the respondent with the allegations, to which that individual will be required to respond in a timely manner. During the course of the investigation the formal investigating officials normally will interview the aggrieved woman, the respondent and witnesses identified by each party. The specific issues to be investigated/reviewed may include but are not limited to:

- i. Whether the specific conduct has occurred and constitutes a violation of the University's Sexual Harassment Policy, the type(s) of conduct; frequency of occurrence; date(s) on which or time period over which the conduct has occurred; location of alleged occurrence and all factual circumstances upon which the grievance is based;
- ii. The specific relationship of the respondent to the aggrieved woman (e.g., faculty-student, administrator/officer-staff, staff-student, staff-staff and student-student or any other relationship);
- iii. The effect of the respondent's conduct on the aggrieved woman, including any consequences that may be attributed to the conduct;
- iv. Whether the respondent is aware of the aggrieved concerns;
- v. Whether the department chair or supervisor or else section Head is aware of the aggrieved concerns;
- vi. The names of witnesses having factual knowledge of the circumstances surrounding the grievance;
- vii. Whether any prior steps were taken to resolve the grievance; and/or
- viii. Whether there is any additional resource that may be helpful to resolve the grievance.

Some possible outcomes of a formal investigation include:

- i. A finding that there is a reasonable basis for believing that the alleged violation occurred; or
- ii. A finding that there is no reasonable basis for believing that the alleged violation occurred; or
- iii. A finding that there is a reasonable basis that other Sexual Harassment misconduct may have occurred.

The Policy emphasizes the importance of documenting all cases of Sexual Harassment within

the University's premises or involving the students, College administrators, teaching and non-teaching staff. Thus, it is vital that an account of the incident that the aggrieved woman is complaining about be documented as soon as possible after its occurrence, especially if they decide to bring a formal complaint. The written account should include the date, time and place of each incident, the behaviours involved in the incident, the offended response to it, and the names of any witnesses to it. Complaints must be lodged within a reasonable time, preferably within 72 hours especially in cases where the offended may need medical attention. In any case the time period for reporting should not exceed 45 days from the date of the alleged Sexual Harassment.

Investigation Procedures

Upon receiving a report, the receiving authority shall refer the matter to the Internal Complaints Committee to investigate. The receiving authority shall also inform the Vice Chancellor/ for necessary interim action especially in cases where the perpetrator is in higher authority than the offended and is likely to interfere with investigations. Investigations will include interviews but shall not be limited to interviews. Interviews shall be confidential and discreet and written statements of complainant, perpetrator and witnesses shall be recorded. Persons with information of the incident will also be interviewed and the investigators will establish the circumstances leading to the incident, nature of the incident, the relationship between the parties, past behaviour and the context under which the alleged incident occurred.

Disciplinary Measures

Once the investigations are complete, these shall be submitted to the Vice Chancellor/Registrar who shall direct the Internal Complaints Committee (ICC) to deliberate on the appropriate disciplinary action. Disciplinary measures shall be instituted against respondent as appropriate once investigations have been conducted and it is established beyond reasonable doubt that the incident occurred. The Internal Complaints Committee (ICC) shall then submit its recommendation to the Vice Chancellor for action. The ICC shall provide the report of its findings to the Vice Chancellor within a period of ten days. In case, the allegations get proved against the respondent, s/he may be prosecuted as per Sec 13 of the aforementioned Act.

Any employee or student who violates this Policy shall be subjected to disciplinary action which could include:

- i. Termination of services.
- ii. Withholding of increments and promotions.
- iii. Debarring from holding responsible/sensitive positions
- iv. Suspension or expulsion of the student from the University.
- v. Barring such persons from accessing the University premises.
- vi. Conciliation.

- The University recognizes that persons may make false reports and therefore prohibits this. Persons who make false allegations are subject to strict disciplinary action. Disciplinary action may include verbal or written reprimand, suspension or termination of service/rustication of student or scholar depending on the seriousness of offence.

Cases beyond the University jurisdiction shall be forwarded to the appropriate external authorities.

Confidentiality

All complaints of Sexual Harassment shall be treated as confidentially to the extent practicable by keeping them in the confidential registry. Only those individuals who may have received informal complaints or are necessarily involved in an investigatory process and in the making of decisions regarding resolution of the complaint should ordinarily be provided access to information regarding any allegation of Sexual Harassment. All information regarding Sexual Harassment complaints shall be maintained in a confidential file and locked away in a secured place in the exclusive office of the body charged with the duty of implementing the Policy.

Due to the sensitivity and the distressing nature of Sexual Harassment cases, all persons involved shall treat the matter with utmost confidentiality. The University shall only disclose such information as required by law and only to the extent that such information will aid further investigation and thereby ensure perpetrators are punished and the vice eradicated.

Support for Victims of Sexual Harassment

There is usually stigma associated with Sexual Harassment and the most offended and especially the females who experience this choose to keep quiet for fear of victimization. Once there is evidence that one is undergoing Sexual Harassment, the University shall provide appropriate counselling for the offended and any other member of the family of the offended where appropriate.

Dissemination of the Policy

IUST shall circulate copies of the Policy in strategic places such as faculties, departments, libraries and hostels. A soft copy of the policy shall be uploaded on the University website also. It shall further orient any incoming new students on the Sexual Harassment Policy. The University will make the Policy part of the conditions of employment and incorporate it in the service contract. The University shall regularly organise awareness programmes for students/faculty and staff to sensitize them about the POSH Policy.

Monitoring and evaluation

The Internal Complaints Committee (ICC) created by this Policy will develop tools for monitoring and evaluating the progress made in the implementation of the Policy strategies. The Committee will continue to undertake research, collect, collate and analyse information to monitor or track progress of the implementation. Evaluation of interventions shall be undertaken annually to assess the extent of impact and the shortcomings thereof, which in turn

will lead the Policy cycle for improvement in content and context.

The Internal Complaints Committee shall further ensure that data relating to Sexual Harassment incidents in the University is updated annually.

Policy Review

The Policy will be reviewed every three (3) years and the Committee shall take into account new developments in research and lessons learnt from the monitoring and evaluation of the Policy. The review will also take into account the social and economic realities.