

## **-Visvesvaraya Technological University (Prevention, prohibition and redressal of sexual harassment of women employees and students) Regulations 2019.**

### **Preamble:**

The Supreme Court judgment of 1997 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.

The Supreme Court of India, in a landmark judgment in August 1997 (Vishaka & others Vs The State of Rajasthan & others) stated that every instance of sexual harassment is a violation of “Fundamental Rights” under Articles 14, 15 and 21 of Constitution of India and amounts to a violation of “Right to Freedom” under Article 19(1)(g). Another Supreme Court Judgment in January 1999 (Apparel Export Promotion Council Vs Chopra) has stated that sexually harassing behavior “needs to be eliminated as there is no compromise on such violations”.

Sexual harassment is widely condemned as a form of human rights violation, and as an infringement on life and liberty of women as defined by the Constitution of India. Sexual harassment is contrary to anti-discrimination laws [Article 15: “Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth “ and Article 19(1)(g) : Right to Freedom which upholds a woman’s right to practice any profession, or to carry on any occupation, trade and business”].

Visvesvaraya Technological University (VTU), Belagavi is committed to create, ensure and maintain a community in which students, teaching and non-teaching staff can work together in an environment free of violence, harassment, exploitation and intimidation. This includes all forms of gender violence, sexual harassment and discrimination. In line with this, VTU, Belagavi is committed to uphold the Constitutional mandate for ensuring the above mentioned human rights, are framed at VTU.

## 1. Title, Jurisdiction and commencement

- (a) These Regulations may be called as the Visvesvaraya Technological University (Prevention, prohibition and redressal of sexual harassment of women employees and students) Regulations 2019.
- (b) Jurisdiction of these regulations are as follows:
- (i) Head office, VTU Belagavi
  - (ii) Regional offices Belagavi, Mysuru, Kalburgi, Bengaluru, PG Centres at Muddenahalli, Mysuru, and Kalaburgi, VTU Extension centre Mangalore, Skill development centre Dandeli & other centres for excellence which may be established by VTU in future.
  - (iii) Constituent College UBDT College of Engineering, Davanagere,
  - (iv) Temporary offices set up as per needs (such as valuation centres) and
  - (v) All constituent, affiliated and autonomous colleges under VTU umbrella.
- (c) These regulations shall come into force from the date of approval of the Executive Council of VTU.

## 2. Definitions:

In these regulations unless the context otherwise requires:

- (a) **'Aggrieved Woman'** means all women working, or visiting any workplace whether in the capacity of regular, temporary, adhoc, or daily wage basis, including a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name and also includes students as defined in regulation No. 2(o). Such aggrieved women are protected under these regulations.
- (b) **'Act'** means the Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act 2013 (Section 14 of 2013).

### (c) Campus

- (i) **'University Campus'** Means the location or the land on which a Visvesvaraya Technological University and its related institutional facilities like libraries, teaching / learning area, residences, halls, toilets, student centers, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centres, canteens, Bank counters, etc. are

situated and also includes extended campus like VTU PG Centres and covers within its scope places visited as a student of the VTU including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution on field trips, internships, study tours, excursions, short-term placements, places used for camps, cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of the VTU.

- (ii) **‘College Campus’** means the location or land on which affiliated/Constituent/Autonomous Colleges of VTU exists with the facilities as defined under clause (c)(i).
- (d) **‘Commission’** means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956);
- (e) **‘Covered Individuals’** are the persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or a fellow student or guardian of the offended person.
- (f) **‘Employee’** means a person employed at a workplace for any work on regular, temporary, adhoc or daily wage basis either directly or through an agent, including a contractor with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of the employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name
- (g) **‘University’** means Visvesvaraya Technological University (VTU) affiliating engineering colleges in the state of Karnataka.
- (h) **‘Colleges’** means, Affiliated or Constituent or Autonomous colleges coming under purview of VTU.
- (i) **‘Executive Authority of the University’** is the Vice Chancellor of the University.

**(j) ‘Executive Authority of the College’** is Principal of the concerned College.

**(k) ‘Internal Complaints Committee’ (ICC)** means a committee to be constituted by a University under sub regulation (1) of regulation 5 of these regulations.

**(l) ‘College Internal Complaints Committee’ (CICC)** means a committee constituted by the College and shall be bounded by the provisions under sub regulation (1) of regulation 5 of these regulations.

**(m) ‘Protected Activity’** Includes reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation.

**(n) “Sexual Harassment”** includes

- (i) any one or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:
  - (a) Physical contact or advances;
  - (b) A demand or request for sexual favours;
  - (c) Making sexually coloured remarks;
  - (d) Showing pornography;
  - (e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature
- (ii) Any one (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-
  - (a) Implied or explicit promise of preferential treatment as quid-pro-quo for sexual favours;
  - (b) Implied or explicit threat of detrimental treatment in the conduct of the work.

- (o) “Student”** means a person duly admitted and perusing a programme of study either through regular mode or part time, including short-term training programmes in VTU / Colleges.

Provided that a student who is in the process of taking admission in VTU campus / College campus, although not yet admitted, shall be treated, for the purposes of these regulations, as a student of the VTU/College where any incident of sexual harassment takes place against such student;

Provided that a student who is a participant in any of the activities in VTU/College in which the student may not be part when such student is enrolled, shall be treated, for the purposes of these regulations, as a student of the VTU/College where any incident of sexual harassment takes place against such student;

- (p) “Third Party Harassment”** refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of VTU/College but a visitor to the VTU / College in some other capacity or for some other purpose or reason;

- (q) “Victimisation”** means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour;

- (r) “Workplace”:**

Means the campus of VTU/College including-

- (i) Any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the University/College.
- (ii) Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereof in University/College.
- (iii) Any place visited by the employee or student arising out of or during the course of employment or study including transportation provided by the Executive Authority for undertaking such journey for study in the University/College.

- (s) “Respondent”** means, a person against whom the aggrieved women has made a complaint under Section 9 of the Act read with regulation 7.

### **3. Responsibilities of the University and Colleges**

- (a) Wherever required, appropriately subsume the spirit of the above definitions in its policy and regulations on prevention and prohibition of sexual harassment against the employee and the students, and modify its ordinances and rules in consonance with the requirement of the Regulations;
- (b) Publicly notify the provisions against sexual harassment and ensure their wide dissemination;
- (c) Organise training programmes or as the case may be, workshops for the officers, functionaries (including security staff), faculty and students as indicated in the SAKSHAM Report (Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses) of the Commission, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;
- (d) Act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
- (e) Publicly commit itself to a zero tolerance policy towards sexual harassment;
- (f) Reinforce its commitment to creating its campus free from discrimination, harassment, retaliation or sexual assault at all levels;
- (g) Create awareness about what constitute sexual harassment including hostile environment harassment and quid-pro-quo harassment;
- (h) Include in its prospectus and display prominently at conspicuous places or Notice Boards (the existence of Internal Complaints Committee (ICC/CICC)) as constituted under clause Grievance Redressal Mechanism) the penalty and consequences of sexual harassment and make all sections of the institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual harassment, contact details of members of ICC/CICC, complaints procedure and so on. Any existing body already functioning with the same objective (like the gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC/CICC;
- (i) Inform employees and students of the recourse available to them if they are victim of sexual harassment;

- (j) Organise regular orientation and training programmes for the members of the ICC/CICC to deal with complaints, steer the process of settlement or conciliation, etc., with sensitivity;
- (k) Proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within University / College or owing to intimate partner violence or from peers or from elements outside of the geographical limits of University /College.
- (l) Be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC/CICC to curb and prevent sexual harassment on its campus;
- (m) Treat sexual harassment as a violation of the disciplinary rules.
- (n) Ensure compliance with the provisions of these regulations, including appointments of ICC/CICC within a period of sixty days from the date of publication of these regulations.
- (o) Monitor the timely submission of reports by the ICC/CICC.
- (p) Prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Commission/University respectively.

#### **4. Supportive Measures-**

- (1) The rules, regulations or any such other instrument by which ICC/CICC shall function have to be updated and revised from time-to-time, as court judgements and other laws and rules will continue to revise the legal framework within which the Act is to be implemented.
- (2) The Executive Authority of the University / College must mandatorily extend full support to see that the recommendations of the ICC/CICC are implemented in a timely manner. All possible institutional resources must be given to the functioning of the ICC/CICC, including office and building infrastructure (computers, photocopiers, audio-video, equipment, etc.) staff (typist, counselling and legal services) as well as a sufficient allocation of financial resources.
- (3) Vulnerable groups are particularly prone to harassment and also find it more difficult to complain. Vulnerability can be socially compounded by region, class, caste, sexual orientation, minority identity and by being differently abled. Enabling committees must be sensitive to such vulnerabilities and special needs.

- (4) Since research students and doctoral candidates are particularly vulnerable the University must ensure that the guidelines for ethics for Research Supervision are put in place.
- (5) University must conduct a regular and half yearly review of the efficacy and implementation of their anti-sexual harassment policy.
- (6) All Academic Staff Colleges (now known as Human Resource Development Centres (HRDC's)) and Regional Centres for capacity Building (RCCBs) must incorporate sessions on gender in their orientation and refresher courses. This should be across disciplines, and preferably mainstreamed using the UGC SAKSHAM Report which provides indicative modules in this regard.
- (7) Orientation courses for administrators conducted in VTU/Colleges must have a module on gender sensitization and sexual harassment issues. Regular workshops are to be conducted for all sections of the VTU/Colleges community.
- (8) Counselling services must be institutionalised in University and its colleges (affiliated, constituent colleges and PG Centres) and must have well trained full-time counsellors.
- (9) Deficit in lighting in the University and college Campus are experienced as unsafe places by the institutional community. Adequate lighting is a necessary aspect of infrastructure and maintenance at University/Colleges.
- (10) Adequate and well trained security including a good proportion or balance of women security staff is necessary. Security staff must receive gender sensitization training as a part of conditions of appointment.
- (11) For the safety of the employees and students transport facility should be provided.
- (12) Proper, safe and secured hostel facilities to be provided for girls.
- (13) Concern for the safety of women students must not be cited to impose discriminatory rules for women in the hostels as compared to male students. Campus safety policies should not result in securitization, such as over monitoring or policing or curtailing the freedom of movement, especially for women employees and students.
- (14) Adequate health facilities are equally mandatory at campuses. In case of women this must include gender sensitive doctors and nurses, as well as the services of a gynaecologist.
- (15) The Women's Development Cells in colleges shall be revived and funded to be able to carry out the range of activities required for gender sensitization and remain autonomous of the functioning of anti-sexual harassment committees and ICC/CICC. At the same time they shall extend their activities to include gender sensitization programmes in consultation with ICCs/CICC and help to disseminate anti-sexual harassment policies on



campuses on a regular basis. The 'cultural' space and the 'formal academic space' need to collaborate to render these workshops innovative, engaging and non-mechanical.

- (16) Hostel Wardens, Provosts, Principals, Vice Chancellors, Legal Officers and other functionaries must be brought within the domain of accountability through amendments in rules or Ordinances where necessary.

### **5. Grievance redressal mechanism:**

- (1) Head of the institution shall constitute an Internal Complaints Committee (ICC) in case of University / College Internal Complaints Committee (CICC) in case of College, with inbuilt mechanism for gender sensitization against sexual harassment.

The ICC/ CICC shall have the following composition:-

- (a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below the rank of Professor in case of a university, and not below the rank of Associate Professor or Reader in case of a college) at the educational institution, nominated by the Executive Authority.

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(r).

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 organization.

- (b) Two faculty members and non-teaching employees, preferably committed to the cause of women or who have an experience in social work or have legal knowledge, nominated by the Executive Authority.
- (c) Three students, if the matter involves, who shall be enrolled at the undergraduate, master's and research scholar level respectively, elected / nominated through transparent democratic procedure.
- (d) One member from amongst non-government organisations or associations committed to the cause of women or a person familiar with

the issues relating to sexual harassment, nominated by the Executive Authority.

- (2) At least one-half of the total members of the ICC/CICC shall be women.
- (3) Persons in senior administrative positions in the VTU, such as Vice-Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Principal, Heads of the Departments, etc., shall not be members of ICC/ CICC, in order to ensure autonomy of their functioning.
- (4) The term of office of the members of the ICC/CICC shall be for a period of three years. The student members shall retire after one year of their nomination/election and in their place new student members shall be nominated /elected.
- (5) Any member/chairperson may resign by submitting his / her resignation addressed to the Executive Authority. However when any member resigns it must be through the Chairperson of ICC/CICC. However he/she shall function as member till the resignation is accepted or for a period of two months whichever is earlier.
- (6) The member appointed from amongst the non-government organisations shall be paid. Such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as per the University / College norms.
- (7) Whether Presiding Officer or any member of the Internal Committee:
  - (a) Contravenes the provisions of section 16 of the Act, 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 /She has been found guilty in any disciplinary or a disciplinary proceedings is pending against him; or
  - (d) Has so abused his position as to render his continuance in office 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 this section.

## **6. Responsibilities of Internal Complaints Committee (ICC) / College Internal Complaints Committee (CICC):**

The Committee Shall

- (a) Provide assistance if an employee or a student chooses to file a complaint with the police;
- (b) Provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation or violation;
- (c) Protect the safety of the complainant by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervise, as required during the pendency of the complaint, or also provide for the transfer of the respondent;
- (d) Ensure that victims or witnesses are not victimised or discriminated against, while dealing with complaint of sexual harassment.

**7. The process of making complaint and conducting Inquiry:**

The ICC/CICC shall comply with the procedure prescribed in these Regulations and the Act, for making complaint and inquiring into the complaint in a time bound manner. The Executive Authority shall provide all necessary facilities to the ICC/CICC to conduct the inquiry expeditiously and with required privacy.

**I. Process of making complaint of sexual harassment:**

- i. An aggrieved person is required to submit a written complaint with three copies to the ICC/CICC through Women Cell, within three months from the date of incident and in case of a series of incidents, within a period of three months, from the date of the last incident.
- ii. Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the ICC/CICC shall render all reasonable assistance to the person for making the complaint in writing and should be documented.
- iii. Provided further that the ICC/CICC may, for the reason to be recorded in the writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the person from filing a complaint within said period.
- iv. Friends, relatives, colleagues, Co-students, Psychologist, or any other associated of the victim, may file along with the identity, the

complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental in-capacity or death.

## **II. Process of conducting an Inquiry:**

- (a) Any complaint received by ICC/CICC must be notified to the member/Chairperson of the committee at the earliest through e-mail to obtain the consent.
- (b) The committee should discuss and decide on its jurisdiction to deal with the case or if the jurisdiction other than University, the case may be refer to CICC and as per the report.
- (c) The ICC/CICC shall send one copy of the complaint to the respondent within a period of seven days of receipt of the complaint.
- (d) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten days.
- (e) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.
- (f) The ICC/CICC, before initiating an inquiry at the request of the aggrieved woman, can take steps to settle the matter between her and the respondent through conciliation. In such case, the Executive Authority shall facilitate a conciliation process through ICC/CICC.
- (g) No monetary settlement shall be made as the basis of conciliation. If any settlement is arrived, the committee shall record the settlement so arrived and forward the same to the employer for necessary compliance.
- (h) The committee shall provide the copies of the settlement as recorded under clause (f) above, to the aggrieved woman and to the respondent. No further inquiry shall be conducted by the Committee once the conciliation is done.
- (i) If conciliation is found to be not feasible, notice should be issued to both the parties for hearing.
- (j) The inquiry has to be completed within a period of ninety days of the first date of the hearing on merits. The inquiry report with recommendations, if any, has to be submitted within ten days from the date of completion of the inquiry, to the Executive Authority. Copy of the findings or recommendations shall also be served to both parties of the complaint and either party may file an appeal before the

- Executive Authority within a period of thirty days from the date of receipt of copy of recommendation. The decision of the Executive Authority shall be final.
- (k) The Executive Authority shall act on the recommendations of the committee, within a period of thirty days from the receipt of the inquiry report, unless an appeal against the findings of ICC/CICC is filed within that time by either party.
  - (l) If the Executive Authority decides not to act as per the recommendations of the ICC/CICC, then it shall record written reasons for the same and to be conveyed to ICC/CICC and both the parties of the proceedings.
  - (m) The identities of the aggrieved party or victim of the witness or offender shall not be made public or kept in the public domain especially during the process of the inquiry.

**8. Interim redressal – The Executive Authority shall,**

- (a) Transfer the complainant or the respondent to the another section or department to minimise the risks involved in contact or interaction, if such a recommendation is made by the ICC/CICC;
- (b) Grant leave to the aggrieved with full protection of status and benefits for a period up to three months;
- (c) Restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
- (d) Ensure that the offenders are warned to keep a distance from the aggrieved, and wherever necessary, if there is a definite threat, restrain their entry into the campus;
- (e) Take strict measures to provide a conducive environment of safety and protection to the complainant against the retaliation and victimisation as consequences of making a complaint of sexual harassment.
- (f) If ICC/CICC feels it necessary to provide a interim redressal for a complainant, the same may be recommended to the Executive Authority.

**9. Punishment and compensation-**

- (1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the University/ College, if the Respondent is an employee, the Executive Authority may:
  - a) Issue Warning

- b) Seek written apology
- c) Seek Bond on Good behaviour
- d) Blacklist from examination works / University work.
- e) Debar from Nomination on the committees/statutory bodies of the University
- f) Suspend for specific period of time.
- g) Record adverse remarks in Service books/ confidential service register.
- h) Withhold pay rise or increments.
- i) Reprimand or censure.
- j) Recommend for demotion/suspension/dismissal.
- k) Any other punishment according to the service rules applicable to the respondent.
- l) To file a police complaint in relation to an offence under Indian Penal Code, if aggrieved woman chooses so.

(2) If the respondent is a student, depending upon the severity of the offence, the Institution may :

- a) Issue Warning
- b) Seek Written apology
- c) Seek Bond on Good behaviour
- d) Suspend for specific period of time
- e) Withholding results
- f) Debarring from exams
- g) Debarring from holding posts such as member of committee
- h) Expulsion
- i) Denial of admission /readmission/change of College/Change of Branch
- j) Declaring the harasser as “ persona non grata” for stipulated period of time
- k) Any other relevant action

#### **10. Action against frivolous complaint.-**

To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicized in the workplace. If the ICC/CICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per the provisions of sub-regulations (1) of regulations 9, if the complainant happens to be an employee and as per sub-regulation (2) of this regulation 9, if the complainant happens to be a student. However, the merely inability to substantiate a complaint or provide adequate proof will not attract

attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

**11. Consequences of non-compliance.-**

- (1) The University shall, in respect of any institution that will fully contravenes or repeatedly fails to comply with the obligations and duties laid out for the prevention, prohibition and redressal of sexual harassment of employees and students, take one or more of the following action after providing due notice:-
  - (a) Removing the name of the College from the list of affiliated colleges / withdrawal of affiliation.
  - (b) Withholding any grant allocated to the institution.
  - (c) Declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the University.
  - (d) Informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the University, declaring that the institution does not provide for a zero tolerance policy against sexual harassment;
  - (e) Taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the University Regulations, for such duration of time till the institution complies with the provisions of these regulations.
- (2) No action shall be taken by the University under these regulations unless the Institution has been given an opportunity to explain its position and an opportunity of being heard has been provided to it.

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