

Frequently Asked Questions

1. What constitutes sexual harassment?

Some examples of sexual harassment: Unwelcome sexual advances involving verbal, non-verbal, or physical conduct such as loaded comments, sexually coloured remarks or jokes, letters, phone calls, SMSs or through e-mails or any other communication mediums, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature, have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive environment, forcible physical touch or molestation; Eve teasing, innuendos and taunts, physical confinement against one's will and likely to intrude upon privacy.

2. Can I file a complaint if I have been sexually harassed only once?

Yes

3. I was not touched but asked for sexual favours, is it sexual harassment?

If it is unwelcome to the recipient, it will be sexual harassment.

4. I refused to give sexual favours. Now I am being threatened because I said no. Is this sexual harassment?

Yes. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

- a) Implied or explicit promise of preferential treatment
- b) Implied or explicit threat or detrimental treatment
- c) Implied or explicit threat about the present or future employment status or projects / assignments / examination results
- d) Interference with work / projects / assignments or creating an intimidating or offensive or hostile work environment
- e) Humiliating treatment likely to affect health or safety

5. No one is sexually harassing me directly, but I am constantly being sent pornographic material and when I enter college, I am being laughed at by the entire group of friends of the sender. Is this sexual harassment?

Yes. This is an example of sexual harassment by creating a hostile work environment.

6. I was sexually harassed, who can I file a complaint with?

One can file the complaint directly with CMGI of IIMA. The details of the CMGI members are available on the website of IIMA.

7. Can other genders file a complaint of sexual harassment?

Yes, anyone can complain regardless of gender.

8. What is CMGI?

IIMA has set up an Internal Committee known as the Committee for Managing Gender Issues (“CMGI”) in accordance with the Act. However, CMGI has not been set up only to deal with complaints of sexual harassment but also to focus on creating awareness, counselling and educating about gender issues

9. Do I have to take permission from anyone before I file a complaint?

No

10. By when must a complaint be filed?

Complaint must be made within a period of 3 (three) months from the date of incident and in case of a series of incidents, within a period of 3 (three) months from the date of last incident.

11. What if I am not able to file a complaint in 3 months?

The committee can extend the time limit for receiving a complaint to another period of 3 (three) months if it is satisfied that the circumstances were such which prevented you from filing a complaint within the first 3 (three) months. Committee will record the reasons for such extension of 3 (three) months in writing. Hence, you have to file a complaint within maximum 6 months. Any perceived delay in filing a complaint, by itself, shall not be a relevant factor in deciding the veracity of the complaint or in appreciating evidence presented.

12. Who needs to file a complaint?

The person who has experienced / faced / has been the recipient of sexual harassment (aggrieved).

13. Can anyone file a complaint on behalf of the aggrieved?

Yes. If the aggrieved is unable to make a complaint on account of physical incapacity, a complaint may be filed by the following persons (with the written consent of the Complainant):

- relative or friend; or
- her co-worker; or
- an officer of the National Commission for Women or State Women’s Commission; or
- any person who has knowledge of the incident,

If aggrieved is unable to make a complaint on account of mental incapacity, a complaint may be filed by:

- relative or friend; or
- a special educator; or
- a qualified psychiatrist or psychologist; or

- the guardian or authority under whose care s/he is receiving treatment or care; or
- any person who has knowledge of the incident jointly with the aggrieved person's relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care s/he is receiving treatment or care

If aggrieved for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with his/her written consent.

14. How do I make a complaint?

You can lodge complaints with any member of the committee. The complaint can be submitted physically to any member or electronically (chr-cmgi@iima.ac.in). You can make a complaint along with supporting documents (if any) and relevant details concerning the alleged incident(s), your name and details, name and details of the person against whom the complaint is being filed ("Respondent") and names and addresses of the witnesses (if any).

15. Can the complaint be filed orally?

No

16. Can I file an anonymous complaint?

No it's not recommended. A written complaint would be required and a written complaint helps you in many ways. First, there is creation of a record, hence, your complaint cannot be ignored. Second, you and committee members will be able to know about the incidents at one go instead of you having to report multiple times.

In case you are not able to write the complaint, the committee shall assist you in writing the same. For any assistance, you can contact any committee member on the phone number and / or email id provided online.

17. I am being sexually harassed after college hours, can I file a complaint?

Yes. Even if someone is getting sexually harassed after college hours, they can file a complaint with authorities of IIMA if they have been harassed by someone associated with IIMA or in IIMA premises. It is applicable even if such an incident is happening in any of the following:

- a) All offices, the campus (including student accommodation, residences, classrooms, playground, canteen, library, auditorium, student activity centre and other public places on the campus) or any other premises where IIMA's business is conducted
- b) All IIMA related activities performed at any other site away from IIMA's premises
- c) Any social, business or other functions/gatherings/parties/picnics etc. where the conduct or comments may have an adverse impact on women studying, living and/or working at IIMA.
- d) An alleged act of sexual harassment committed during or outside of office/working hours.
- e) Any sexual harassment by employee / student on any social networking website during or outside of office/working hours.

- f) Any place visited by the employee / student arising out of or during the course of employment / enrolment at IIMA including transportation provided by IIMA for undertaking such journey.

18. I went with a professor for a meeting outside college and he/she harassed me on the way. Am I eligible to file a complaint?

Yes

19. I have witnessed an incident of sexual harassment, can I file a complaint?

Yes. But with the written consent of the person who experienced or was the recipient of sexual harassment.

20. I was sexually harassed within college/IIMA premises by a student/professor/other staff, Can I file a complaint with the committee?

Yes

21. I was sexually harassed within college/IIMA premises by a stranger, can I file a complaint with the committee?

No. you should file a police complaint for proper redressal. IIMA can help you in doing the same. Please do inform CMGI about it.

22. I was sexually harassed by a stranger in a bus/train, can I file a complaint with the committee at IIMA?

No. You should file a police complaint for proper redressal. IIMA can help you in doing the same. Please do inform CMGI about it.

23. What do I do if I have a complaint against a person from the management of the college/IIMA?

You can reach out to us and even file a complaint with the committee of IIMA. However, the complaint will be inquired into by a local committee since the complaint is against a person from the management. Alternatively, you can also directly file a complaint with the local committee.

24. What is a Local Committee?

Local Committee (LC) is a committee constituted in every district of the country of taking complaints against employers, taking complaints by domestic workers and complaints by employees whose employers don't have an internal committee due to having less than 10 employees. They function like IC.

25. What if I am threatened after making a written complaint?

If you face any problem, immediately reach out to any committee member. Immediate action will be taken to protect you. IIMA does not tolerate retaliation against complainants and witnesses and strict action will be taken against the person who is retaliating.

26. Do I get a copy of the complaint if a complaint has been filed against me?

Yes. A copy of the entire complaint will be given to you within 7 working days of receipt of the complaint by the committee.

27. Do I have the right to respond to the complaint against me?

Yes. Once you receive a copy of the complaint, you have to respond in writing in 10 working days. The reply can go along with list of documents, and names and addresses of witnesses (if any).

28. How many days do I have to respond to the complaint against me?

10 working days

29. Is it mandatory for me to do conciliation?

No

30. What is conciliation?

Prior to initiating an inquiry, the CMGI may, at the written request of the Complainant take steps to settle the matter between the Complainant and the Respondent through conciliation.

31. Can I do conciliation after the inquiry?

No

32. How much time does it take to inquire into a complaint?

CMGI/IC is supposed to complete the inquiry within 90 days from the day of receiving the response from Respondent.

33. Can I come for the inquiry proceeding along with my lawyer?

No

34. The committee has called me / the committee has asked me for documents, what should I do now?

The committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice. It has powers to summon and enforce the attendance of any person. Any refusal, by any employee/student to attend any hearing before committee when summoned or to provide to committee, any documents and / or information within his / her power or possession may constitute as misconduct, rendering such employee/student for adverse action by committee.

35. What happens if I stop going for hearings in the inquiry?

Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if you (whether you are Complainant or Respondent) fail, without sufficient cause, to present yourself, for 3 (three) consecutive hearings convened by the Chairperson. Also, note that such termination or ex-parte order will not be passed without giving you a 15 (fifteen) days advance notice.

36. Will the complaint be handled confidentially?

Yes. All details will be strictly confidential. All students / employees who may act as witnesses and are part of the committee proceedings will need to sign a confidentiality agreement/letter/arrangement. If any person (including witnesses) breaches confidentiality, IIMA shall recover a sum of rupees five thousand as penalty from such person.

37. Will I be asked to take leave from college if I file a complaint?

No. That will happen only if you submit a written request for any leave during pendency of inquiry.

38. What can be done if I do not want to attend lectures of the professor against whom I have filed a complaint of sexual harassment?

You can request the committee for such relief in writing.

39. What is the relief I can ask for during the time my complaint is pending?

If you are a complainant, you can make a written request to the committee to give you relief during the pendency of an inquiry. Committee may recommend the following to IIMA:

- a) transfer you or Respondent to any other place (if possible)
- b) grant leave to you up to a period of 3 (three) months (the leave granted shall be in addition to the leave you may be otherwise entitled to)
- c) grant any other relief which IIMA thinks is appropriate
- d) restraint Respondent from reporting on your work performance or writing your confidential report and assign the same to another head/officer
- e) Restrain Respondent from supervising your academic activity and assign the same to another officer (if respondent is a professor).

On receiving a recommendation from committee, IIMA shall implement the recommendations.

40. What is the relief I can ask for during the time a complaint against me is pending?

There is no remedy available for a person (Respondent) against whom a complaint has been filed. Remedy is available only for a complainant.

41. Are there any other laws that talk about sexual harassment?

Yes. The Indian Penal Code, 1908 states that sexual harassment is a criminal offense and provides for a jail term as well for the accused.

42. Are there any other related offenses?

Yes. Stalking and voyeurism are also related offenses which may happen simultaneously with sexual harassment or before or after an incident of sexual harassment. These are also criminal offenses under Indian Penal Code, 1908 and provide for a jail term for the accused.

43. Can I file a complaint both with the Police and with IIMA?

Yes, you can.

44. Do I get a copy of the inquiry report?

Yes (complainant and respondent both get a copy of the inquiry report).

45. In how many days does college/IIMA have to take action on the inquiry report submitted by the committee?

60 days

46. What if management does not take any action on my complaint?

You can reach out to the CMGI/IC or management or choose to appeal with courts/tribunal as per law.

47. What if I am not happy with the conclusion of the CMGI in the inquiry report?

You can file an appeal with courts / tribunal as per law

48. In how many days do I need to file an appeal?

90 days

49. Are there any specific duties for an employer under law?

Yes. The law has provided for several duties of an employer. Some of them are:

- Provide a safe working environment at workplace which includes safety from persons coming into contact at workplace.
- Display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting the CMGI/Internal Committee (“IC”).
- Formulate and widely disseminate an internal policy for prohibition, prevention and redressal of sexual harassment.
- Declare the names and contact details of all the members of IC.
- Organize workshops and awareness programs at regular intervals for sensitizing employees.
- Organize orientation programs for IC members.
- Conduct capacity building and skill building programs for IC members.
- Carry out employees awareness programs and create forum for dialogue.

50. What happens if one does not fulfil the duties prescribed under law?

If one does not constitute the CMGI/IC or fulfil the rest of the duties enshrined under the Act, there can be a penalty under the law which may extend to Rs. 50,000. In case of not fulfilling the duties repeatedly, the penalty can be doubled and in cases where one is required to obtain a license to do business, such license may be cancelled or an application for registration or renewal may be withdrawn and cancelled.

51. What are the steps an employer can take to prevent sexual harassment at workplace?

An employer can:

- Organize regular training programs for CMGI/IC members so that they are fully up to date on the law and the procedure.

- Organize awareness programs for employees on a time to time basis to keep them informed of their rights and duties and what may constitute sexual harassment.
- Organize sessions for management so that they can comply with the law effectively and take measures to prevent instances of sexual harassment and create a healthy work atmosphere.
- Have orientation programs for new joiners/students to inform them of the organization's beliefs and policy.
- Have gender sensitization programs to instil the feeling of equality at workplace. This can go a long way in showing that the employer is an equal opportunity employer.
- Ensure that CMGI/IC meets on a regular basis to discuss issues and keep themselves updated.
- Provide CMGI/IC with all the facilities they require.

52. Can college/employer/IIMA share details of a complaint with anyone other than the concerned parties?

No. College/Employer/IIMA cannot share or display / share details of any matter of sexual harassment or the identities of the concerned persons, on any public platform or with anyone who is not involved in the matter. The law provides that any information related to a matter of sexual harassment cannot be published, communicated or made known to the public, press or media in any manner.

53. Does an employer which has 10 employees, but none of whom are women, still need to have an CMGI/ IC?

Yes

54. Who can be an External Member?

Anyone from amongst NGOs or associations that are committed to the cause of women or a person familiar with the issues relating to sexual harassment.

55. Is it mandatory to have an external member?

Yes. A third party independent member is a must.

56. Is there a term for the CMGI members?

Yes, all the CMGI/IC members can hold office for three years.

57. Can a CMGI/IC member be removed before completion of the term?

Yes, the law provides for certain situations in which a CMGI/IC member can be removed from the CMGI/IC before completion of the term for example if there is conflict of interest, if the committee member is the alleged harasser or the complainant etc. The vacancy has to be refilled in accordance with provisions of the law.

58. Is CMGI/IC required to follow a procedure for hearing a complaint?

Yes. The law has provided for a procedure. CMGI/IC has to follow principles of natural justice while handling a complaint and it has powers of a civil court for calling witnesses and production of documents.

59. Is an employer required to create awareness about prevention of sexual harassment amongst students/employees?

Yes

60. Is it mandatory for college/employers to have a policy against sexual harassment?

Yes

61. How can college/employer inform students/employees about the policy?

Students/employees can be informed by the following:

- Circulate the policy to your students/employees on email
- Publish it on the website or intra-net
- Display posters at conspicuous places in the workplace

The additional benefit of displaying posters is that not only the employees but also the visitors shall be made aware of the policy. This could prevent unwanted behaviour from visitors.

This document is prepared by CMGI . If above questions does not help you. Please contact CMGI at chr-cmgi@iima.ac.in.

**Promila Agarwal
Chairperson, CMGI**