

ROLE & RESPONSIBILITIES OF CMGI MEMBERS

Following are the roles and responsibilities and few tips for CMGI to ensure that they are compliant with Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act and Rules, 2013 (“Law”).

Responsibility regarding Constitution of CMGI

- ✚ CMGI should get informal feedback from relevant people before selecting members of CMGI.

Responsibility regarding filing of complaints

- ✚ If complaints are received, CMGI should take steps to address them immediately
- ✚ CMGI will ensure that counselling facilities are available at all points of time
- ✚ Always keep the **Policy** of the Institution and a copy of Law handy
- ✚ Where complainant cannot make the complaint in writing and seeks help, CMGI must assist her to file it in writing
- ✚ In case complainant does not make complaint within **3 months** of the last incident of sexual harassment, CMGI has to decide whether it wants to grant extension of further period of **3 months** to the complainant or not (CMGI must record reasons for granting such extension, in writing)
- ✚ If complaint is received by anyone other than CMGI and is forwarded to CMGI, CMGI should communicate with such person and inform that the complaint shall be looked at by CMGI. CMGI, in this case, should also introduce itself to the complainant and inform her / him about her / his rights & duties (as the complainant may have reached out to another person / department due to not being aware about the Law and / or the existence of CMGI)
- ✚ The CMGI members would be required to keep the following in mind when receiving a complaint:
 - As CMGI policy is gender neutral, the complainant (aggrieved) need not necessarily be a woman.
 - Complainant (aggrieved) need not necessarily be an employee or student of the Institution.
 - Complaint can also be filed by other people on behalf of the aggrieved (this is as per law and the details are provided in the Policy)
 - CMGI will have to inquire into the complaint if the complaint is against an employee / student of their Institution.
 - The definition of employee is very broad. If a complaint has been filed against a consultant or a contract worker who is working in the Institution, CMGI will still have to inquire into the complaint. Complaints against interns also have to be handled by the CMGI.
 - If a complaint is against an employee / student of another organization / institution but CMGI receives the complaint (because the complainant may be an employee / student of IIMA), CMGI can forward the complaint to the Internal Committee (IC) of that organization / institution (provided that the complaint has been given to them in writing and the

complainant has been told of her rights, wants to exercise them and wants the complaint to be sent to the other IC).

- If a complaint is against a stranger, CMGI (on behalf of the Institution) can assist the complainant to file a complaint with the police if he / she desires to do so.
- Complaints can also be made orally, CMGI must inform the complainant of his / her rights and that he / she should file the complaint in writing (for CMGI to take action) and the same will be kept confidential.
- CMGI may come to know of anonymous complaints too. CMGI may not be in a position to follow the procedure mandated by the Act, due to absence of a formal complainant. However, CMGI can try to find out informally and discreetly about the complaint and try to find the complainant and request him / her to give the complaint in writing

✚ Once complaint is received, CMGI must do the following:

- Follow the timelines throughout the process of inquiry (as prescribed under Law):
 - Send a copy of the complaint to the person against whom complaint is filed (“**Respondent**”) within **7 working days** of receipt of complaint
 - Ensure that Respondent is told that he / she has to respond within **10 working days**
- Before inquiry begins, CMGI must inform the complainant that she / he has the option of **conciliation** in case she / he wishes to choose that and do the following:
 - If complainant chooses that option, she / he must request for it **in writing**.
 - CMGI must then **take steps to settle the matter** between complainant and Respondent.
 - CMGI must ensure that the conciliation does not entail any monetary settlement.
 - CMGI has to then record terms of settlement and forward it to employer (management) and share copy with complainant and respondent.
 - If complainant does not choose conciliation, or conciliation fails, or terms of conciliation are not complied with, and the complainant informs CMGI that is the case, CMGI shall inquire into the complaint.

✚ If complaint is received after limitation period prescribed by Law (as mentioned above), while CMGI may not be able to redress the complaint as per Law, it may take efforts to resolve the complaint outside of it – to ensure that the incident is not repeated and / or may not lead to a more serious crime – any may refer it to the management to take action as the management deems fit.

Responsibilities during Inquiry

- ✚ CMGI has to see whether Institution has implemented any **service rules** (at the time when the complaint was filed). If yes, inquiry has to be in accordance with the procedure prescribed in these service rules (and the policy may also need to be amended accordingly to include provisions of these service rules).
- ✚ CMGI has to finish inquiry **in 90 days**.
- ✚ Inquiry has to be conducted by all CMGI. However, for a particular meeting, a minimum of **3 CMGI members** is mandatory as that is the minimum quorum prescribed by Law and Chairperson’s presence is a must.
- ✚ Respondent, complainant, and witness are not allowed to carry mobile phones, laptop, ipads, or any machine, during any inquiry proceedings conducted by CMGI, without the permission of the members.

- ✦ CMGI should **record all proceedings** of inquiry in writing. It should record minutes of all meetings and attach the documents submitted and inquired into in every meeting. All CMGI members attending the meeting / inquiry should sign inquiry report / minutes of all meetings etc.
- ✦ CMGI has to keep all information **confidential** (including identity of the complainant & respondent, all documents, communications etc.) and share details only on need to know basis (if required) for conducting a fair inquiry. All those who are told about the details must be informed about their obligation of confidentiality..
- ✦ CMGI has to follow **principles of natural justice** i.e. it must be unbiased, must hear both parties before coming to a conclusion and must grant both equal time and opportunity to put forward their side. However, if either party does not turn up for **3 consecutive meetings**, CMGI can proceed without hearing them (after giving 15 days' notice)
- ✦ CMGI has **power to call people** and examine them on oath and **call for any documents** to come to a fair conclusion. This is so because CMGI has been given **powers of a civil court** under this Law.
- ✦ The CMGI members would be required to keep the following in mind when conducting an inquiry:
 - Should give notice of meeting to the complainant or respondent as the case may be (no party must be called without being informed).
 - Be sensitive
 - Assure parties that a fair hearing following the process shall be conducted
 - Explain the procedure (if required)
 - Inform them that complaint will be dealt with confidentially
 - The personal life of parties will not be relevant to an inquiry
 - Questions of a delicate nature during cross-examination may be directed to be put to CMGI (in writing) which will in turn put it to complainant & record the answers (if necessary based on facts and circumstances)
 - Documentary Evidence could be of several kinds (letters, gifts, etc. including electronic evidence such as whatsapp chats, emails, text messages, social media messages, audio recording and video recording etc.)
 - However, there is no such rule that corroboration is necessary to find the Respondent guilty
 - Given the personal nature of the offence of sexual harassment witness are rarely available to give evidence on behalf of victim
 - The mere fact that criminal proceedings have been instituted in respect of the complaint of Sexual Harassment is no reason to stay the proceeding before CMGI. Both may proceed simultaneously
 - Harassment and intimidation of the witnesses and the complainant will be met with severe disciplinary action
 - If the Respondent is found guilty, the complainant will not be forced to work / study with / under the Respondent. Appropriate actions shall be taken to eliminate interaction between them during the case and after the case, if the complaint is justified. Where appropriate, the Respondent and not the complainant should be transferred
 - CMGI should not allow the complainant or Respondent to get lawyers to represent them in the inquiry
 - During pendency of inquiry, complainant may request in writing that he / she wants an interim relief like transfer, leave etc. CMGI may decide whether to grant such request. It should provide reasons in writing

Post Inquiry

- ✚ CMGI has to then prepare an inquiry report with recommendations within **10 days** and submit the same to employer for taking action and share a copy of the inquiry report with complainant and Respondent
- ✚ Few other things to keep in mind:
 - Employer has to take action in **60 days** (once CMGI submits inquiry report to employer)
 - Complainant and / or Respondent have the right to appeal within **90 days**
 - Each year, **CMGI must prepare an Annual Report** and submit to the employer. Following are the details that must be mentioned in the Annual Report:
 - number of complaints of sexual harassment received in the year
 - number of complaints disposed of during the year
 - number of cases pending for more than ninety (90) days
 - number of workshops or awareness programme carried out
 - nature of action taken by employer

Responsibilities related to Gender Sensitization and Orientation

- ✚ CMGI will ensure the prominent publicity of the Policy in the Institute as well as in all public places on the campus such as the library, health centre, residential areas, canteens, shopping centres, etc.
- ✚ CMGI will, through a circular at the beginning of each academic year, enlist and activate an adequately representative team of volunteers (“**Champions**”) .Champions will assist in the gender sensitization and management duties of CMGI, but shall not participate in the task of formal redressal of complaints
- ✚ CMGI will organize programs for the gender sensitization of the Institute community through workshops, seminars, posters, film shows, debates, skits, etc. It may enlist names of specialized bodies / organizations and / or any campus body to carry out these programs including programs done by Champions
- ✚ Shall regularly interact with Champions to understand if they are facing any problems in creating awareness etc.
- ✚ CMGI will conduct at least one major activity per year involving the incoming batch of students
- ✚ CMGI will co-ordinate with the campus security services to devise ways and means by which a system of crisis management that is gender-sensitive as well as prompt and effective is put in place. It will maintain regular contact with the campus security services to ensure that in crises arising out of incidents of sexual harassment, CMGI members, and/or the volunteers identified by it, shall be intimated without delay
- ✚ CMGI shall ensure the widespread publicity of the contact details (both official and personal) of all its members. CMGI shall look into grave violations of the basic principles of gender sensitivity and justice on the campus even if no complaints have been filed and they are not related to sexual harassment – as preventive measure

General Responsibilities

- ✚ Needless to mention, CMGI shall meet whenever a complaint is filed, to inquire into a complaint.

- ✦ Even if no complaint is filed throughout the year, CMGI shall meet at least once in six months i.e. twice in a year (or at such intervals as may be necessary) to discuss the concerns, awareness related activities, refreshing the roles and responsibilities under the Law and the Policy etc.
 - Whether for inquiring into complaint or otherwise, members shall be intimated of meetings in writing or by electronic communication.
 - All members shall make themselves available for such meetings and inform the Chairperson immediately if they are unable to.
 - Minutes of all meetings shall be recorded, confirmed and adopted. The absent members (if any) shall be given a copy of the minutes for information.
 - CMGI members may not be represented by alternates on their behalf.
 - The dates for the two meetings during the year may be decided at the beginning of the year so that all CMGI members block such date in advance.
- ✦ Along with inquiring into complaints of sexual harassment, CMGI members would also be required to keep themselves apprised of any other concerns that may have the potential to lead to an incident and / or a complaint of sexual harassment.
- ✦ If any CMGI member becomes aware of such a situation he / she should immediately inform the Chairperson. Depending on the level of urgency, Chairperson may call for an emergency meeting of CMGI members or add this concern as a topic for discussion during next scheduled meeting.
- ✦ If CMGI members are able to see concerns or foresee risks for future, CMGI members may also be required to take action as preventive measures to curtail or prevent such incidents from happening. Such actions can be taken based on decision taken in meetings of CMGI members.
- ✦ If any CMGI member is of the view that he / she may not be able to give an unbiased and fair recommendation in any inquiry, due to any conflict of interest regarding the complaint filed, such CMGI member would voluntarily recuse himself / herself from the inquiry into such complaint.