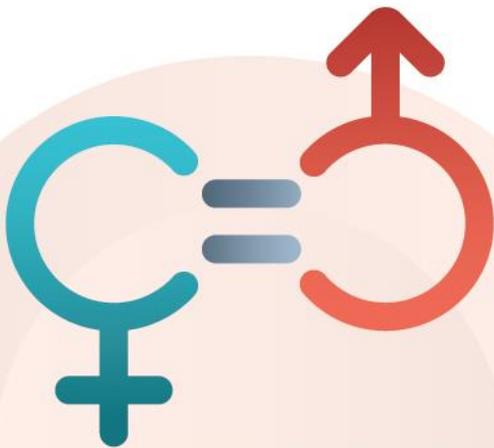




POLICY GUIDELINES



Committee for
Managing
Gender Issues
(CMGI)

April 2018

INDIAN INSTITUTE OF MANAGEMENT AHMEDABAD

ACKNOWLEDGEMENTS

This Policy has been drafted after several discussions, to ensure that the language is simple, clear and easy to understand for all those who read it, while also ensuring that it is in line with Law. Therefore a lot of deliberation and thought has gone into its drafting. I want to thank Ms Geeta Sharma for sharing her valuable comments and suggestions on previous draft of this document. I would also like to thank Mr Deepak Bhatt and his team for graphics related support.

We hope that you would find this Policy simple to read and easy to understand.

Ms. Promila Agarwal

- e) CMGI will record the reasons for such extension of 3 (three) months in writing.
- f) 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.
- g) If the Complainant is unable to make a complaint on account of physical incapacity, a complaint may be filed by any of the following persons (with the written consent of the Complainant):
 - His / her relative or friend
 - His / her co-worker
 - an officer of the National Commission for Women or State Women's Commission
 - any person who has knowledge of the incident
- h) If the Complainant is unable to make a complaint on account of mental incapacity, a complaint may be filed by any of the following persons (with the written consent of the Complainant):
 - His / her relative or friend
 - a special educator
 - a qualified psychiatrist or psychologist
 - the guardian or authority under whose care he / she is receiving treatment or care
 - any person who has knowledge of the incident jointly with the Complainant's relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care he / she is receiving treatment or care.
- i) If the Complainant, 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. If the Complainant is deceased, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his / her legal heir.
- j) The Complainant shall submit the complaint along with supporting documents (if any) and relevant details concerning the alleged incident(s), the name and details of the person against whom the complaint is being filed ("**Respondent**") and names and addresses of the witnesses (if any).

Filing of Response:

- a) On receipt of the complaint, the CMGI shall send one of the copies received from the Complainant to the Respondent within a period of 7 (seven) working days. If the complaint has been received on email, CMGI shall forward the same to the Respondent, with clear instructions that the same is not to be shared with any other employee / student of IIMA or third party.
- b) The Respondent shall file his / her reply to the complaint along with his / her list of documents (if any), and names and addresses of witnesses (if any), within a period of 10 (ten) working days from the date of receipt of the documents.

Counselling services: CMGI shall make Respondent and the Complainant aware that counselling services can be made available if required.

Procedure for Conciliation:

- a) 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.
- b) Conciliation is only a choice of the Complainant.
- c) Conciliation shall not be forced or done by fraud, coercion or undue influence on either the Complainant or Respondent.
- d) Any settlement brought about must be mutually acceptable to both, the Complainant and the Respondent.
- e) Monetary settlement cannot be made the basis of such conciliation.
- f) In case a settlement has been arrived at, the CMGI shall record it and forward it to the management of IIMA to take action as specified in the recommendation of the CMGI.
- g) The CMGI will also provide copies of the settlement as recorded to the Complainant and the Respondent.
- h) If conciliation has been reached, the CMGI will not be required to conduct any further inquiry.
- i) If Complainant feels that the terms of Settlement are not being complied with by the Respondent or action has not been taken by IIMA, Complainant can make a written request to the CMGI to conduct an inquiry into the complaint.

Procedure for Inquiry:

- a) If the Complainant and the Respondent do not wish to go for conciliation or if the conciliation reached is not complied with or IIMA does not take action, CMGI shall, upon a written request from the Complainant to do so, conduct an inquiry into the complaint.
- b) CMGI shall make an inquiry into the complaint in accordance with the principles of natural justice and shall notify in writing, the time and dates of its meetings to the Complainant and the Respondent.
- c) During inquiry, CMGI may call upon any person / witness to appear before CMGI if it is of the opinion that it shall be in the interest of justice. It also has powers to summon any documents pertaining to the Complaint. Any refusal by any employee / student to attend any hearing before CMGI when summoned or to provide to CMGI, any documents and / or information within his / her power or possession shall constitute as misconduct, rendering such employee / student for adverse action by IIMA.
- d) All parties shall be intimated within reasonable time in advance in writing of the date, time and venue of the inquiry proceedings.
- e) All minutes of the inquiry shall be recorded in writing and shall be endorsed by persons present.
- f) The CMGI shall have the right to summon, as many times as required, the Respondent, Complainant and / or any witnesses for the purpose of supplementary testimony and / or clarifications.

- g) CMGI shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Complainant or Respondent fails, without sufficient cause, to present themselves, for 3 (three) consecutive hearings convened by the Chairperson. Provided that such termination or ex-parte order may not be passed without giving a notice in writing, 15 (fifteen) days in advance, to the party concerned.
- h) During the course of inquiry, the Complainant and the Respondent shall be given a fair opportunity of being heard.
- i) Before preparing the inquiry report, a copy of the findings shall be given to the parties in case they wish to make representations against such findings.
- j) In conducting the inquiry, at any point of time, the complaint shall be heard by a minimum of 3 (three) members of CMGI including the Presiding Officer and shall be completed within a period of 90 (ninety) days from the date of receipt of complaint.
- k) The Complainant and Respondent shall not be allowed to bring in any legal practitioner to represent them at any stage of the proceedings before CMGI.
- l) Everyone who is a part of the CMGI proceedings shall be required to keep all details related to the complaint confidential and may need to sign a confidentiality agreement / letter / arrangement.

Procedure for action during pendency of inquiry: During the pendency of an inquiry, on a written request made by the Complainant, CMGI may recommend the following to IIMA:

- a) transfer the Complainant or Respondent to any other workplace
- b) grant leave to the Complainant up to a period of 3 (three) months (the leave granted shall be in addition to the leave the Complainant is otherwise entitled to)
- c) grant any other relief to the Complainant, which the CMGI thinks is appropriate
- d) restraint the Respondent from reporting on the work performance of the Complainant or writing his / her confidential report and assign the same to another head / officer
- e) in case the complaint has been filed by an intern or an apprentice working under the Respondent, restrain the Respondent from supervising any academic activity of the Complainant and assign the same to another officer.

On receiving a recommendation from CMGI, IIMA shall implement the recommendations and send a report of such implementation to CMGI.

Procedure for preparing inquiry report and suggesting actions:

- a) On the completion of an inquiry, the CMGI shall provide a written report of its findings and recommendations to IIMA within a period of 10 (ten) days from the date of completion of the inquiry and such report shall be made available to the parties.
- b) The inquiry report shall specify details of the charges against the Respondent, the statements made and evidence presented by the parties and a statement giving reasons for the findings arrived at by the CMGI. In the event that the CMGI arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to IIMA that no action is required to be taken in the matter. A mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant on the basis that the complaint was false or malicious.

Recommendation of CMGI against Respondent in case Respondent is employee (academic and / or non-teaching) and Guilt is proven: Where the CMGI arrives at the conclusion that the allegation against the Respondent (employee - academic or non-teaching) is proved and such employee is found guilty of sexual harassment, CMGI may give any of the following recommendations:

- a) a written apology from the employee
- b) a letter of warning may be given to the employee
- c) reprimand or censure the employee
- d) removal from an administrative position
- e) disbarment from holding an administrative position
- f) Compulsory retirement
- g) withholding the promotion
- h) withholding of pay rise or increments
- i) immediate transfer or suspension without pay
- j) suspension from service for a limited period
- k) termination from service
- l) undergoing a counselling session
- m) carrying out community service
- n) deduction from the salary or wages of the employee, such sum as CMGI may consider appropriate to be paid to the Complainant or to his / her legal heirs as compensation. In case IIMA is unable to make deductions from the salary of the employee due to his / her being absent from duty or cessation of employment, it may direct them to pay such sum to the Complainant. In case they fail to pay the sum, CMGI may forward the order for recovery of the sum as an arrear of land revenue to the concerned district officer.

Procedure for determining compensation:

CMGI may consider various factors as required under the Act for the purpose of determining the sums to be paid to the Complainant and may take the following into consideration:

- a) the mental trauma, pain, suffering and emotional distress caused to the Complainant
- b) the loss in the career opportunity due to the incident of sexual harassment
- c) medical expenses incurred by the victim for physical or psychiatric treatment
- d) the income and financial status of the Respondent
- e) feasibility of such payment in lump sum or in instalments.

Recommendation of CMGI against Respondent in case Respondent is student and Guilt is proven: Where the CMGI arrives at the conclusion that the allegation against the Respondent (student) is proved and such student is found guilty of sexual harassment, CMGI may give any of the following recommendations:

- a) Warning or reprimand
- b) Transfer to another hostel accommodation
- c) Withdrawal of hostel accommodation for a period up to one term
- d) Repeating a slot / term / courses / programme
- e) Suspension from a slot / term / courses / programme

produced any forged or misleading document, it may recommend to IIMA to take suitable action against the Complainant, in accordance with the provisions of the applicable service rules and / or may include any of the actions mentioned above. Therefore, for filing a false complaint, CMGI may make the same recommendation against the Complainant as it would have recommended against the Respondent if the complaint would have been proved to be a genuine one. Management of IIMA shall then act upon the recommendation given by CMGI within 60 (sixty) days of receipt of the recommendation.

- c) A mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant. The malicious intent on the part of the Complainant will have to be established through the inquiry process before an action against such Complainant is recommended.

CONFIDENTIALITY

It shall be the duty of all persons and authorities designated to ensure that all complaints lodged with CMGI are confidential. After the initiation of an enquiry, such confidentiality shall be continued so far as is possible. The name of the Complainant or the Respondent nor their identity shall be revealed to the press / media or any other persons whilst reporting any proceedings, case, order or Judgment. However, information may be disseminated regarding the justice secured to any victim without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Complainant and witnesses. All discussions / decisions must be documented and retained by the CMGI and must be kept confidential. The above may also include suspension pending inquiry. Appropriate information will be shared with Government authorities as per the Act. If any person (including witnesses) breaches confidentiality, IIMA shall recover a sum of rupees five thousand as penalty from such person.

PROTECTION AGAINST VICTIMIZATION

IIMA will not accept, support or tolerate retaliation in any form against any employee / student who, acting in good faith, reports suspected misconduct, asks questions or raises concerns. Any person who engages in such retaliation directly or indirectly, or encourages others to do so, may be subject to appropriate disciplinary action. While dealing with any complaint of sexual harassment, CMGI shall ensure that the Complainant or the witness are not victimized or discriminated against by the Respondent.

In case of any victimization, CMGI may do the following:

- a) issue a restraint order to warn the Respondent(s) that any attempt on his / her part or by person(s) acting on his / her behalf, to contact, or influence, or intimidate, or exert pressure on the Complainant or any person in the Complainant's confidence may prove prejudicial to his / her case. CMGI may issue a verbal and written warning that such behaviour may lead to an adverse inference (i.e. a contrary / negative view) being

RESPONSIBILITIES OF IIMA

- a) IIMA shall provide legal, medical and counselling assistance to those complainants who have to take recourse to the law.
- b) In case the management of IIMA receives a complaint, it shall forward such complaint to CMGI for proper redressal of such complaint.
- c) IIMA shall maintain full confidentiality with respect to the complaints
- d) IIMA shall extend all necessary assistance for ensuring full, effective and speedy implementation of this Policy
- e) IIMA shall strive to create a safe workplace and provide support to CMGI for its effective and unbiased functioning
- f) IIMA shall forward to the District Officer, the Annual Report of CMGI

WHAT IIMA EXPECTS FROM YOU

- a) Help IIMA provide a safe and respectful environment for all and have shared responsibility of creating the same.
- b) Speak up if you come across sexual harassment. Be aware that IIMA will take allegations seriously and will ask for co-operation in an inquiry if you bring a complaint forward.
- c) Provide support during any inquiry of a complaint, including testifying as witness and giving full and truthful disclosure of all factual information when asked by CMGI, while ensuring that complete confidentiality is maintained, throughout, about any case of sexual harassment within the organization.
- d) Set an example of dignified workplace behaviour and ethical standards in line with IIMA's values.
- e) Handle information related to known or suspected violations of this Policy in a discreet and confidential manner and not attempt to investigate / inquire into the information or suspected violations of this Policy on your own i.e. without involving CMGI.

HOW TO RESPOND

- a) Harassment is unlikely to stop until confronted.
- b) IIMA supports and encourages all members of the community who believe they are being sexually harassed to take steps to end the harassment.
- c) Keep records of any verbal or written communication you have with the harasser.
- d) Talk to or email any member of CMGI.
- e) Filing of a complaint WILL NOT adversely affect career / grades / academic status.

AMENDMENT TO THE POLICY

IIMA reserves the right to amend the Policy from time to time in order to comply with any laws / rules / regulations that come into effect from time to time, related to sexual harassment at workplace.