



INDIAN INSTITUTE OF MANAGEMENT CALCUTTA

SEXUAL HARASSMENT ORDER AND RULES-2014

Contents

1. Preliminary	2
2. Object.....	2
3. Short Title and date of Commencement	2
4. To whom the Order shall apply	2
5. Definition of Sexual Harassment.....	2
6. Misconduct	3
7. Definitions	4
8. Constitution of the Sexual Harassment Complaints Committee	5
9. Nomination of members to the SHCC.....	6
10. The tenure of members of the SHCC.....	6
11. Fees or allowances for Member of Internal Committee:	6
12. Meetings of the SHCC	6
13. Attendance	6
14. Cessation of Member from the SHCC	6
15. Quorum	7
16. Power, functions and object of the SHCC	7
17. Procedure for receipt of Complaints	7
18. Screening Committee.....	8
19. Dispute Resolution prior to Enquiry	9
20. Restraint Order.....	10
21. Formal Enquiry by the Enquiry Committee.....	10
22. Functions of the Enquiry Committee.....	11
23. Procedure to be followed by the Enquiry Committee.....	11
24. Communication of Findings	13
25. Appeal	14
26. Criminal Proceedings.....	15
27. Support System	15
28. Obligations of Institute Authorities	16
29. Penalties	16
30. False Complaint/Deposition	18
31. Amendment to the Rules & Procedures of SHCC	19
32. Miscellaneous	19
33. Preparation of annual report :	19
Annexure 1: Restraint Order.....	21

1. Preliminary

In exercise of powers conferred to conduct the affairs of the Indian Institute of Management Calcutta and frame Rules thereof, the Board of Governors in consideration of the Directives on Sexual Harassment in work place and protection of working women against discrimination and curbing acts of Sexual Harassment of women in the workplace as pronounced by the Central Government in The Act of Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the Act) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (Rules) notified by The Ministry of Women and Child Development which has come into force with effect from December 9, 2013 do hereby make this Order and Rule which shall on and from the appointed day form a part of the Service and Conduct rules which henceforth from the appointed day govern the terms and conditions of service of the employees of Indian Institute of Management Calcutta and conduct rules of students enrolled and the conduct of the contract/ casual labourers engaged.

2. Object

To fulfill the object and directives of the Act enjoining the Employers/Institute Authorities to provide elimination and protection to working women against inequality and gender bias and acts of sexual harassment in the work place and in the course of service and study.

3. Short Title and date of Commencement

1. This Order and Rule shall be called Indian Institute of Management Calcutta, Sexual Harassment Order and Rule of 2014.
2. This Order and Rule shall come into force and operative with effect on the 1st Day of January 2014.
3. The Order and Rules made herein shall apply to all pending complaints on Sexual Harassment under investigation and process.

4. To whom the Order shall apply

1. This Order shall apply to all the employees including contractual employees, contractual labourers, students, staff and faculty members, of Indian Institute of Management, Calcutta.
2. It shall not apply to Visitors and Vendors carrying on business in the Campus under license granted by Indian Institute of Management.

5. Definition of Sexual Harassment

The term and expression Sexual Harassment shall mean and include all unwelcome sexually determined behaviour committed in the work place (whether directly or by implication), as:

- a. Physical contact and advances;

- b. A demand or request for sexual favours;
- c. Sexually – coloured remarks;
- d. Showing pornography;
- e. Any other unwelcome physical, verbal or non verbal conduct of sexual nature;
- f. Sexual or indecent gestures and indication;
- g. Entry into a private place marked for female employees and students, with the intent to commit mischief and harassment;
- h. Taking of photographs of female workers/ staff without permission and/or converting it in to pornographic material and circulating the same by means electronic media;
- i. All such acts and conducts against women employees and students, which amount to commission offence defined in the Indian Penal Code.

Explanation: An Act of Sexual Harassment shall be deemed to have been committed, when any of the above acts is committed within the workplace, classroom or within the campus or outside in the circumstances where under the complainant of such an act and conduct has a reasonable apprehension that in relation to the complainant's employment or work or study, whether she is drawing salary, or honorium or voluntary, such conduct is humiliating, hurts the dignity, causes mental torture, fear and anxiety, which constitute health and safety problem, causing restricted movement, fearful living and discrimination in service or recruitment or promotion in the event of raising any objection and not obliging or consenting to such conduct.

- j. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment
 - i. Implied or explicit promise of preferential treatment in her employment, or
 - ii. Implied or explicit threat of detrimental treatment in her employment, or
 - iii. Implied or explicit threat about her present or future employment status; or
 - iv. Interference with her work or creating an intimidating or offensive or hostile work environment for her, or humiliating treatment likely to affect her health or safety.

6. Misconduct

Commission of any of the above acts shall be construed as misconduct in service, either major or minor depending upon the nature of offence as defined hereunder:

(a). Minor Misconduct

Offence of sexual harassment which is verbal, by gesture, by letter, phone calls and SMS shall constitute minor misconduct;

(b). Major Misconduct

Use of physical force, assault and causing physically harm, creating situation by any act for which the complainant, taking of photographs without consent and converting it to pornographic material and circulating the same by use of electronic media,

intimidation by hiring external force, giving out threats to witnesses shall constitute major misconduct.

7. Definitions

1. Complainant: Person upon whom sexual harassment is attempted or perpetuated;
2. Complaint: Information either oral or written made by the complainant against sexual harassment attempted or perpetuated;
3. Complainant: Complainant intimating in writing or orally complaining of commission of Sexual Harassment in workplace classroom or hostel or within the campus;
4. Accused: Person alleged to have committed Sexual Harassment, named in the complaint;
5. Employee: worker, staff, faculty members, permanent, temporary or contractual;
6. Student: Person of either sex enrolled in the courses of the Institute (both part time and full time);
7. Contractual Labour: Labourer supplied by the Contactor and not in the roll of the Institute who are paid directly by the Contractor;
8. Contractual employees: Employees supplied by agency under contract and paid by Institute;
9. Campus: Classrooms and areas within the boundary of the Institute in Joka and City office at Harrington Mansion, Kolkata;
10. Workplace: Place of work within the campus or outside including places visited in course of work or places of any social or sports or extra-curricular activity of the Institute;
11. Criminal proceeding: Proceeding registered in the Criminal Court by State authorities on the basis of a complaint filed with the local police or registered on filing a written complaint before the Court for commission of offence of sexual harassment as defined by the Hon'ble Supreme Court;
12. Prevailing Law: Law declared under Article 141 of the Constitution of India by the Supreme Court in its Judgment in the matter of Vishaka –VS- State of Rajasthan;
13. Sexual Harassment Complaints Committee: Committee constituted to implement the Sexual Harassment Order and Rule and vested with the power to counsel, receive complaints, enquire and prepare a report with findings and recommendation to the Disciplinary Authority for taking appropriate decision and awarding punishment;
14. Complaints Screening Committee: The Sexual Harassment Complaints Committee shall designate two to five persons from amongst its members to receive and screen complaints, henceforth, called the Complaints Screening Committee;
15. Enquiry Committee: The Sexual Harassment Complaints Committee shall designate five to eight persons from amongst its members and one to two ex-officio members to conduct an enquiry on the complaint received, henceforth, called the Enquiry Committee;

16. Preliminary Enquiry or Screening of Complaint: Fact finding enquiry undertaken to find out the veracity of the Complaint;
17. Disciplinary authority: Appropriate authority vested with the power to initiate disciplinary proceedings and take action and pass the final order; as given in the schedule;
18. Disciplinary action and proceeding: Proceeding initiated on the basis of the report and the finding of commission of sexual harassment by the Sexual Harassment Complaints Committee and action taken thereof by the Disciplinary Committee in issuing the final order;
19. Appellate Authority: Authority vested with the power to receive and dispose of Appeals preferred against the final order of the Disciplinary Authority; receive and dispose of appeal against the Order of dismissal of complaint by the Director as given in the schedule;
20. Director: Director of Indian Institute of Management Calcutta;
21. Institute: Indian Institute of Management, Calcutta;
22. Faculty: Member of the teaching staff of the Institute;
23. Administrative staff: Personal engaged in general administration of the Institute including officers of the institute;
24. Staff: Employees of the Institute other than officers.

8. Constitution of the Sexual Harassment Complaints Committee

A Committee by the name of Sexual Harassment Complaints Committee (SHCC) (hereinafter referred to as the Committee) shall be constituted following the guidelines of the Act.

1. The Committee shall consist 7 (seven) members, all of whom shall be nominated by the Director of the Institute.
2. The Committee shall be constituted by representatives from the faculty, administrative staff, staff, students and representatives from the wider community – external members- in the manner as under:
 - a) Two Faculty Members (at least one woman) – representing the Faculty of the Institute.
 - b) One Male member- representing the administrative staff of the Institute.
 - c) One female member- representing the staff of the Institute.
 - d) One Female member- representing the student in the roll of the Institute.
 - e) Representatives from wider community – Two External female members.
3. One of the members representing the faculty has to be a women faculty member and she shall be the Chairperson of the SHCC. The committee shall co-opt other ex-officio members from amongst the faculty, administrative staff and students should the need arise for specific cases.

9. Nomination of members to the SHCC

1. Except in case of nomination of external member, a combined method of selection and election shall be followed in nominating members in the committee. Members before the end of their tenure may suggest names for nomination in their respective place from amongst the section category they are representing.
2. The nomination of the external member shall be by invitation by the Director from amongst renowned academicians, social activists, journalists and/or representatives of Non-Governmental Organizations (NGOs).
3. Nominations of members in the committee by the Director shall be final and not open to challenge. The Director being vested with the power to nominate members in the Committee shall have the power to cancel the nomination of any member.

10. The tenure of members of the SHCC

The tenure of the members of the committee shall be ordinarily for two years from the date of nomination.

11. Fees or allowances for Members of Internal Committee:

The members appointed from amongst the non-governmental organizations or associations shall be entitled to an allowance of two hundred rupees per day (or more if decided by the Institute authorities) for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling. The Institute shall be responsible for the payment of allowance.

12. Meetings of the SHCC

The Committee shall ordinarily meet once every quarter and not less than four times in a year. In case of urgent work the Committee shall meet on dates fixed upon notices issued by the Chairperson.

13. Attendance

Every member shall attend the meetings of the Committee and shall actively participate in the proceedings of the meetings and dealings with the complaints investigation enquiry and the submitting of the report within the time frame and counseling.

14. Cessation of Member from the SHCC

Absence of any member excepting the external member in two consecutive meetings without prior intimation, shall be reported by the chairperson to the Director for cancellation of the nomination of such absenting member and nomination of another member from the category of the member whose nomination is cancelled.

15. Quorum

1. Three members of which two members are women including the Chairperson and excluding the external member in the meeting of the committees shall constitute a quorum for any meeting of the committee.
2. In case of difference of opinion amongst the members the opinion of the majority shall prevail.
3. All the meetings shall be presided, by the Chairperson and in her absence from any meeting, the members present from amongst themselves shall chose any female member present to act and preside over the meeting as Chairperson. No meeting shall be proceeded with and no decision shall be taken in the absence of female members in the meeting.

16. Power, functions and object of the SHCC

1. To receive, entertain, hear complaints lodged by complainants of sexual harassment in the work place, enquire, prepare and submit the report with findings to the Director, who shall after considering the report forward such report to the disciplinary authority for initiating disciplinary proceeding if required and pass necessary orders;
2. To evolve an effective mechanism and steps in the matter of effective prohibition and prevention of acts of sexual harassment in the work place and suggest implementation of the same by notification and order, to make in-depth study of the reasons and factors attributing to the occurrence of sexual harassment in the work place and suggest remedial measures, engage in counseling of complainants and persons complained against;
3. To hold workshops, discourses, organize meetings to discuss and develop a healthy relationship between female and male workers/ students;
4. To help and advice the complainants and their family to seek legal protection from the court of law and prosecution of the persons complained against and involved in perpetuating sexual harassment, who are outsiders and not employees of the Institute and/or persons acting at the instance of any employee of the Institute, within the workplace or outside;
5. To ensure and promote a healthy work environment and successful implementation of the in-house sexual harassment policy;
6. The Committee shall review the effectiveness of the order and rules framed herein in curbing the acts of sexual harassment and suggest amendment of the order and rule as may seem fit and proper;
7. The Committee shall provide fair, sensitive and quick redressal.

17. Procedure for receipt of Complaints

1. Complaints must be made by the complainant in writing, except in case when the complainant is incapacitated and is not in a normal state of mind due to the act of sexual harassment perpetuated; the complaint may then be made by the complainant's relative or friend, co-worker, an officer of the National Commission for Women or State Women's

Commission, any person who has knowledge of the incident, with the written consent of the aggrieved women and or person accompanying the complainant.

2. All complaints in writing shall be addressed to the Chairperson of the Committee. Complaints can also be lodged directly with any member of the SHCC, or through existing channels for lodging grievances, such as the Institute's authorities, hostel in-charge, teachers, students, union/association representatives, administrative superior etc. If the complaint is made through such a channel, the person to whom the complaint is made should bring it to the notice of the Chairperson, SHCC within two working days of its receipt by her/him.
3. Oral Complaints are to be lodged in person or by the person accompanying the complainant before the Chairperson.
4. All oral complaints when made shall be reduced in writing by the Chairperson or Complaints Screening Committee member so designated and signed by the complainant or authenticated by thumb impression as the case may be.
5. Third party complaints may be entertained subject to confirmation by the complainant on call.
6. *Confidentiality*: It shall be the duty of all the persons and authorities designated to ensure that all complaints lodged with SHCC shall be confidential. After the initiation of an enquiry, such confidentiality shall be continued so far as is possible. The name of the complainant or the defendant nor their identity shall be revealed to the press/ media or any other persons whilst reporting any proceedings, case, order or Judgment.

18. Screening Committee

1. Composition:

The Sexual Harassment Committee shall designate two or more from amongst its members to receive and screen complaints, henceforth called the Complaints Screening Committee.
2. Procedure to be followed by Screening Committee:
 - a. The Complaints Screening Committee shall receive and record complaints of sexual harassment. It shall carefully study the complaint and may hear the complainant and the defendant as well as other involved parties to determine whether an enquiry by an SHCC Enquiry Committee is to be instituted.
 - b. At no time in the complaints receiving and recording procedure shall the defendant(s) and the complainant be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the complainant from facing any serious health and/or safety problems, in accordance with the guidelines in the Supreme Court Judgement.
 - c. At no time in the complaints receiving and recording procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
 - d. The Complaints Screening Committee may issue an order of restraint to the defendant(s) in accordance with the procedure outlined below.

- e. The Complaints Screening Committee shall communicate its recommendations, along with the reasons and documentary evidence, if any, thereof, in writing to the Chairperson of SHCC as soon as possible.
- f. The Complaints Screening Committee shall be responsible for making counselling services available to a person requesting for it.
- g. In a special provision for physically challenged complainants, or complainants in a serious medical condition, the Complaints Screening Committee may, on determining the complaint to be a prima facie complaint of sexual harassment, recommend the institution of enquiry proceedings.
- h. The complainant may withdraw his/her complaint in writing at any time during the complaints receiving and/or enquiry procedure.
- i. The complaints screening/enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening/Enquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the defendant(s), or any person on her/his behalf, on the complainant. In such an instance, the complaints screening/enquiry proceedings shall continue in accordance with the procedure outlined in this document.
- j. The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fail without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be provided that such termination or ex-parte order may not be passed without giving a notice in writing fifteen days in advance, to the party concerned.

19. Dispute Resolution prior to Enquiry

- 1. Informal methods of resolving complaints shall be a part of the complaint handling mechanism to provide a platform to resolve the complaint or to stop the harassing behaviour before the complaint escalates into a full blown formal complaint.
- 2. After a complaint of Sexual Harassment has been made, the complainant may request or agree to the resolution of the matter by conciliation between the parties before the commencement of formal enquiry proceedings.
- 3. The Screening Committee shall try to resolve the complaint informally first without the committee intervention, before the complaint goes to the formal channels of the complaints committee.
- 4. Any settlement brought about by such Dispute Resolution must be mutually acceptable to both the complainant and defendant.
- 5. Where any settlement between the complainant and defendant is reached, the Committee will record the Dispute Resolution process and the settlement reached; and will communicate the same to the SHCC.

6. Notwithstanding the settlement reached in the dispute resolution process, the complainant shall have the right to withdraw from any dispute resolution process undertaken or to challenge any settlement on the ground that her consent for the settlement was obtained by force, fraud, coercion or undue influence or on the ground that the terms of settlement have been breached within a week.
7. Any Dispute Resolution Process carried out by the Screening Committee shall be completed within a period of two weeks from the date of the receipt of the complaint, irrespective of the outcome. In special circumstances, extension may be given by SHCC.
8. Where no mutually agreeable settlement can be reached during such above-mentioned Dispute Resolution process, the SHCC shall proceed to conduct the enquiry as per the procedure prescribed in Section 21 below.

20. Restraint Order

1. A restraint order in terms of SHCC Rules shall provide, summary of the complaint, the date (s), time (s), and location (s), of the alleged incident (s). It shall warn the defendant (s) that any attempt on her /his 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 her/his case. A format is provided in Annexure (1).
2. The complainant or any other person should intimate, in writing, the Complaints Screening Committee, the Chairperson of SHCC and/or the Enquiry Committee of any violation of the order of restraint by the defendant(s), or any persons acting on her /his behalf.
3. Should the Complaints Screening Committee, the Chairperson of SHCC, or the Enquiry Committee be convinced of the truth of such allegations, the Chairperson of SHCC may summon the accused in person and issue a verbal and written warning that such behavior may lead to an adverse inference being drawn against her/him. The Enquiry Committee or SHCC shall retain the right to close the enquiry proceedings, and to give an ex parte decision on the complaint.
4. The Enquiry Committee and SHCC shall consider all violations of the restraint order when determining the nature of offence of an accused found guilty of sexual harassment.
5. The Enquiry Committee at the written request of the aggrieved woman may recommend to the Institute to (a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer, (b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

21. Formal Enquiry by the Enquiry Committee

Once the Complaints Screening Committee has decided that the complaint merits further investigation, it shall inform SHCC. The SHCC shall conduct a formal enquiry and provide its resources to ensure the complainant's safety on the campus. The Chairperson of SHCC, in

consultation with the screening committee, shall constitute an Enquiry Committee, the composition of which shall conform to the guidelines below:

1. The Enquiry Committee shall consist of not less than three persons and not more than six persons.
2. It shall have at least 50% women.
3. It shall include at least one third party who is external to the institute, preferably, from an NGO or an eminent woman academician.
4. In cases involving students/academic staff/non-teaching staff, it shall include a representative of the constituency of the complainant and the defendant (i.e., if the complaint is filed by a student against an academic staff member, then the Enquiry Committee shall include one student and one academic staff member).
5. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of an Enquiry Committee.
6. The SHCC may, at its own discretion, co-opt any person(s) with demonstrable sensitivity to gender issues to be a part of an Enquiry Committee, provided that the majority of members are the members of SHCC.

22. Functions of the Enquiry Committee

1. The Enquiry Committee shall inquire into the complaint of sexual harassment using procedures in conformity with the principles of natural justice and gender sensitivity.
2. The Enquiry Committee shall act on any violation of the order of restraint issued to the defendant in accordance with the procedure prescribed herein, in the rules;
3. The Enquiry Committee shall submit a detailed report to the SHCC in which it shall communicate its findings based on its investigations and its recommendations regarding the nature of disciplinary action, if any.

23. Procedure to be followed by the Enquiry Committee

1. The Enquiry Committee shall not, at any time in the enquiry proceedings, cause the defendant and the complainant and/or their witnesses to be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the complainant from facing any serious health and/or safety problems, in accordance with the guidelines in the Supreme Court Judgement.
2. The Enquiry Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date that a complaint is referred to it, except for reasons that the Enquiry Committee shall provide in writing to SHCC.
3. The Enquiry Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.

4. The Enquiry 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.
5. The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complainant as well as the defendant.
6. The Enquiry Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
7. The Enquiry Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
8. The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present herself /himself for three consecutive hearings convened by the Chairperson.
9. The Chairperson shall be responsible for making the defendant and the complainant aware that counselling services can be made available if so desired.
10. Within two days of the institution of enquiry proceedings by SHCC, the Enquiry Committee shall prepare a summons containing details of the complaint such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant as well as to the defendant.
11. Within not more than two working days on the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit to the Chairperson a list of witnesses, together with their contact details, that she/he desires the Enquiry Committee to examine.
12. The Chairperson shall convene the first hearing of the enquiry. The defendant, the complainant, and witnesses shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings.
13. The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/or the defendant on her/his behalf shall be (only) either a student, or a member of the academic or non-teaching staff of IIM Calcutta. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The complainant(s)/defendant should inform the Chairperson specifically if they wish to exercise this right. The Chairperson may allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. At no point in time, however, can the concerned parties take these documents outside the office of the SHCC.
14. The complainant and the defendant shall be responsible for presenting their witnesses before the Enquiry Committee. However, if the Enquiry Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Enquiry Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

15. All proceedings of the Enquiry Committee shall be recorded in writing and the same together with the statement of witnesses shall be endorsed by the persons in the Enquiry Committee.
16. All persons heard by the Enquiry Committee, as well as observers /nominees, shall take and observe an oath of secrecy about the proceedings. Any violation of the oath of secrecy may invite penalties.
17. If the complainant desires to tender any documents by way of evidence, the Enquiry Committee can supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Enquiry Committee shall supply true copies of such documents to the complainant.
18. In the event that the Enquiry Committee thinks that supplementary testimony is required, the Chairperson shall forward to the persons concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Enquiry Committee.
19. After concluding its investigation, the Enquiry Committee shall submit a detailed reasoned report of its findings to the SHCC. In the event that it finds the defendant guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken on the complaint. It shall also recommend whether SHCC and the Institute authorities should, after disciplinary action has been taken, publicize the identity of the offender, the act and the disciplinary action taken. If the Enquiry Committee finds no merit in the complaint, it shall write to the members of the SHCC, giving reasons for its conclusions.
20. Nothing precludes SHCC from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings and even after the communication of the findings to appropriate Institute authorities, provided that in the latter case, the composition of the reconvened Enquiry Committee shall be at least half of the members of the Enquiry Committee that originally enquired into the said complaint.
21. When the Enquiry Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved women or any other person making the complaint has made the complaint knowing it to be false or the aggrieved women or any other person making the complaint has produced any forged or misleading document, it may recommend to the Institute to take action in accordance with the provision of rule 9.

24. Communication of Findings

1. The Committee shall consider the report of the Enquiry Committee and if the majority of the members are of the view that that Enquiry Committee's report discloses sufficient proof of commission of offence of sexual harassment by the Defendant, a detailed report thereof shall be prepared and forwarded to the Director to take further steps.
2. If in the opinion of the majority of the members, the enquiry report does not disclose any proof of commission of offence by the Defendant a report thereof shall be made and forwarded to the Director with the recommendation.
3. The Director may refuse to concur with the report and recommendation to dismiss the complaint and may refer the report back to the Committee for re- consideration on the points noted by him on the report.

4. The Committee after receipt of its report for reconsideration shall meet and reconsider its report in the light of the note of the Director and shall take a decision to either change or maintain its report in the original form and send/ forward the same to the Director for final decision. The Director shall have no discretion but to accept the report forwarded by the Committee after reconsideration and shall pass the final order following the report and recommendation of the Committee.
5. Appeal against the order of dismissal of the complaint by the Director shall be before the Appellate Authority constituted by the Board. The Period to file appeal against the order dismissing the Complaint shall be 60 days from the date of the order of dismissal.
6. The Director upon consideration of the report and findings of proof of the offence committed and the recommendation of the Committee may in case of regular employees refer the matter to the respective Disciplinary Authority for drawing up Disciplinary proceeding against the Accused for misconduct of Sexual Harassment or may refer the report back to the Committee for reconsideration on the points noted by him. The Committee shall reconsider its report on the points noted by the Director and may change or may not change its report and the recommendation by giving reasons and forward the same once again to the Director, who shall abide by the report and recommendation made the Committee on reconsideration.
7. In case of Contractual employees, if the Enquiry Report reveals sufficient proof of commission of offence of sexual harassment which amounts to major misconduct, the Committee shall prepare a report based on the views and findings of the majority of the members and forward the same to the Director for taking appropriate decision. The Director after considering the report, if satisfied with the findings contained in the report of the enquiry committee and the report of the Committee shall recommend filing of criminal proceeding against him by the complainant and or the committee and shall ask the agency to replace the employee for the period till he or she is acquitted from the criminal proceeding. In case of the employee found guilty, the institute shall not allow him to join duty. In case of offence which is minor misconduct, the Director may issue a warning and take a written bond of good conduct from the employee and the agency, in the campus during the period of employment, without prejudice to the right of the Institute to seek his replacement.
8. In the case of a Contract laborer, if the Enquiry Report reveals sufficient proof of commission of offence of sexual harassment which amounts to major misconduct, the Committee shall prepare a report based on the views and findings of the majority of the members and forward the same to the Director for taking appropriate decision. The Director after considering the report, if satisfied with the findings contained in the report of the Enquiry Committee and the report of the Committee shall recommend filing of criminal proceeding against him by the complainant and or the committee and shall ask the Contractor to replace the laborer for the period till he or she is acquitted from the criminal proceeding. In case of an offence which is a minor misconduct, the Director may issue a warning and take a written bond of good conduct in the campus during the period of employment from the laborer and the contractor, without prejudice to the right of the Institute to seek his replacement.
9. In case of employees and staff of the Institute, the Director while referring the matter to the Disciplinary authority shall transmit all the records in original.

25. Appeal

1. Appeal against the Final Order imposing punishment under this Order and Rule shall be made within 15 days from date of receipt of the Order, before the appellate authority. In the case of Employees appointed by the Director the appellate authority shall be the Director, in the case of employees appointed by the Board, the appellate authority, shall be the Chairman of the Board. In case of the students the appellate authority shall be the Director.
2. All appeals shall be in writing and the same shall be disposed of within 15days from the date of filing of Appeal.
3. The time to file against the order imposing punishment shall be 30 days from the date of the Order.

26. Criminal Proceedings

1. When such conduct complained of, amounts to a specific offence under the Indian Penal Code or under any other law, the Committee through the Chairperson, apart from enquiring into the complaint and submitting its report, shall initiate appropriate action by lodging a complaint with the local Police.
2. In case of Criminal Proceeding, in which the person involved is an employee, is found guilty of having committed the offence of sexual harassment which amounts to offence under the Indian Penal Code and is convicted to imprisonment, the disciplinary authority shall upon receipt of the judgment, issue an order of dismissal from service and removal of the name from the rolls if the person involved who is convicted is a student.
3. Irrespective of the filing of criminal proceeding and the result of such proceeding the Committee may proceed with its own enquiry and give its report for action and decision of the Disciplinary authority.

27. Support System

1. The Sexual Harassment Complaints Committee shall be entitled to suggest changes and modification of the Rules and procedures on the basis of study and research on cases of Sexual Harassment.
2. The Committee may take the help of counselors and legal experts having sufficient knowledge and expertise in cases of Sexual Harassment for guidance and consultation.
3. The Committee may suggest setting up of a Counseling Center for the benefit and welfare of the complainant or the Accused and to curb incidents and acts of Sexual Harassment.
4. The Committee in implementing and exercising its power shall be entitled to take the help of medical authorities and legal experts for opinion and guidance.

28. Obligations of Institute Authorities

1. The Institute authorities shall, through a notification each academic year, notify the names and contact details of the members of SHCC, and the fact that SHCC is the Institute body responsible for gender sensitization and enquiries into complaints of sexual harassment.
2. The Institute authorities will ensure that the policy is included in the Admission Brochure and circulated at the time of registration.
3. In order to ensure the permanent placement of the Policy, the Institute authorities and functionaries shall arrange for several copies to be placed on boards for display in prominent places, such as the entrances to the academic and administration buildings, hostels, etc. especially at the beginning of the academic year.
4. The Institute authorities shall provide legal, medical and counselling assistance to those complainants who have to take recourse to the law.
5. The Institute authorities shall forward all complaints of sexual harassment to SHCC, save in cases in which the complainant has expressly prohibited such forwarding.
6. The Institute authorities shall maintain full confidentiality with respect to matters pertaining to SHCC enquiries into complaints of sexual harassment. The Institute authorities shall extend all necessary assistance for ensuring full, effective and speedy implementation of these Rules and Procedures of SHCC.
7. As is required by the Supreme Court Judgement, the Institute authorities shall strive to create a workplace in which the functioning of SHCC and/or the interests of justice are not subjected to undue “pressure from senior levels”.

29. Penalties

Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff found guilty of sexual harassment shall be liable for disciplinary action.

The penalties listed below (in ascending order) are indicative, and shall not constrain the Institute authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time.

(1) Penalties in Case of Academic Staff

- a. Warning, reprimand, or censure.
- b. Withholding of one or more increments for a period not exceeding one year.
- c. Removal from an administrative position at the Centre, Group and/or Institute levels.
- d. Disbarment from holding an administrative position at the Centre, Group and/or Institute levels.
- e. Suspension from service for a limited period.
- f. Compulsory retirement.
- g. Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

(2) Penalties in Case of Non-Teaching Staff

- a. Warning, reprimand, or censure.
- b. Transfer
- c. Withholding of one or more increments for a period not exceeding one year.
- d. Suspension from service for a limited period.
- e. Compulsory retirement.
- f. Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

(3) Penalties in Case of IIM Calcutta Students.

- a. Warning or reprimand.
- b. Transfer to another hostel.
- c. Withdrawal of hostel accommodation for a period up to one term.
- d. Withdrawal of the right to an official character certificate from IIM Calcutta.
- e. Withdrawal of hostel accommodation for the entire period of study.
- f. Suspension or Rustication from the Institute for a period up to two terms.
- g. Expulsion from the Institute, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by IIM Calcutta.
- h. Withholding of diploma awarded by IIM Calcutta.

Further, the penalty awarded shall be recorded in his/her Personal File in the respective programme office.

(4) Penalties in Case of Outsiders

- a. Warning, reprimand, or censure.
- b. A letter communicating her/his misconduct to her/his place of education, employment or residence.
- c. Declaration of the campus as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by IIM Calcutta.
- d. Any other action as may be necessary.

(5) Penalties in Case of Service Providers

- a. Warning, reprimand, or censure.
- b. A letter communicating her/his misconduct to her/his place of employment.
- c. Declaration of the campus as out of bounds for her/him.
- d. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
- e. Any other action as may be necessary.

In addition to the penalties specified under (1)-(5) above, the person may be advised to undergo counselling and gender sensitisation, and to give a written and/or public apology to the complainant.

(6) Penalty in Case of a Second Offence

A second or repeated offence, may, on the recommendation of SHCC, attract a major penalty.

30. False Complaint/Deposition

1. If the Complaints Screening Committee or the Enquiry Committee finds no merit in any complaint/deposition, it shall write to the Chairperson of SHCC giving reasons for its conclusions.
2. Within four working days of the receipt of this communication, the Chairperson of SHCC shall call a Special Meeting to discuss the recommendations of the Complaints Screening Committee or Enquiry Committee, and to decide whether a show-cause notice shall be issued to the complainant/witness (es).
3. Upon the decision to issue a show-cause notice, the Chairperson of SHCC shall issue it to the complainant/witness(es). The show-cause notice shall cite the bases of the Committee's conclusions and require the complainant/witness (es) to explain, within seven days (in writing and/or in person), as to why disciplinary action shall not be taken against her/him.
4. Within four working days of receipt of any explanation from the complainant/witness (es) to this show-cause notice, or after the expiry of the time specified for such explanation, the Chairperson of SHCC shall convene a Special Meeting to consider the explanation or any lack thereof.
5. In event of no, insufficient, or unconvincing explanation, SHCC shall forward its findings to the appropriate Institute Authority for further action.

Protection against Victimisation

1. If the complainant is a student and the defendant(s) is a faculty, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
2. If a witness named by the complainant is a student and the defendant(s) is a teacher, during the duration of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
3. If both the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the Institute, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.
4. If witnesses named by the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the Institute, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.

5. If the defendant(s) is an outsider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.
6. If the defendant(s) is a resident/service provider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the order of restraint issued in accordance with the procedures in Section 15 shall be in force at all times.

31. Amendment to the Rules & Procedures of SHCC

1. Amendments to the Rules and Procedures of SHCC shall have effect only if they are in consonance with the letter and spirit of the Act framed following the Supreme Court Judgment, the Report of the Working Group on Sexual Harassment..
2. Amendments shall be effected by a decision taken in a Special Meeting of SHCC called for the purpose.
3. The proposed amendment (s), together with the objectives and reasons thereof, shall be recorded in writing and circulated by the proposer of the amendment (s) at least fifteen working days prior to the Special Meeting called for the purpose.
4. An amendment motion shall be earned by two-thirds of the members present and voting. In the event of a tie on an amendment motion, it shall be put to vote one more time. If a tie recurs, the amendment motion shall be reconsidered by another Special Meeting to be called after at least fifteen working days.

32. Miscellaneous

1. The provisions of these Rules and Procedures of SHCC shall be duly amended to give effect to the Statute enacted by parliament or the state government and any amendment made thereof, Circular or Ordinance issued in keeping with the Supreme Court Judgement.
2. The proceedings under these Rules and Procedures of SHCC shall not, in any way, be affected by any other proceedings against the defendant preferred by the complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.
3. The provisions of these Rules and Procedures of SHCC shall not restrict the powers of the Institute or the complainant to proceed against the defendant for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.

33. Preparation of annual report :

The annual report which the Complaints Committee shall prepare, shall have the following details :

- i. Number of complaints of sexual harassment received in the year;

- ii. Number of complaints disposed off during the year;
- iii. Number of cases pending for more than ninety days;
- iv. Number of workshops or awareness program against sexual harassment carried out;
- v. Nature of action taken by the Institute.

Annexure 1: Restraint Order

Restraint Order in English

Restraint Order in Bangla

Restraint Order in Hindi

RESTRAINT ORDER

DATE:

Complainant:

Accused:

Summary of the Complaint:

Time:

The IIM Calcutta – Sexual Harassment Complaints Committee hereby directs the accused, pending enquiry, decision on report and final order NOT TO under any circumstances:-

- (1) Contact the complainant**
- (2) Influence the complainant**
- (3) Intimidate or exert pressure on the complainant**

The accused shall also NOT approach any associates or friends of the complainant. Violation of this restraint order in any form would be seriously dealt with, by appropriate order of suspension from the course/ service or any other order /orders as may seem fit proper.

**Chairperson,
IIMC-Sexual Harassment Complaints Committee**

Cc: CAO