



ORDINANCE : G-001

Regulations For Prevention of Gender/Sexual Harassment

Notified on 12/09/2023

Established under Uttar Pradesh Private Universities(Amendment) Act,

2023

(UP ACT No. 10 of 2023)

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PREAMBLE

T.S. Mishra University (TSMU) is committed to treating every employee/student with dignity and respect. We seek to create a work environment that is free from sexual harassment of any kind, whether verbal, physical or visual. This policy provides guidelines for prompt redressal of complaints related to sexual harassment and is in full compliance with Ministry of Human Resource Development (University Grants Commission) Notification dated the 2nd May, 2016: “University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015; and “The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013” (the “Act”).

The provisions of the Act and Regulations of the University Grants Commission shall be followed by the TSM University.

All cases under the Ordinance shall be dealt with by Internal Complaint Committee (ICC) constituted by Vice Chancellor of TSMU. The Rules, Regulations or any such other instrument by which ICC shall function, shall be updated and revised from time-to-time, in the light of court judgments, other laws & rules and revisions in the legal framework within the Act.

1. **Scope & Jurisdiction:**

All allegations of sexual harassment by employee/students of TSMU are covered under this regulation. Even if the complainant is not a staff or faculty member, but the complaint is against a faculty or staff member, it will be heard by Internal Complaint Committee.

In the case of sexual harassment of a third person by a staff of the University, the Internal Complaint Committee may in its discretion provide information regarding the student or staff to facilitate a proper determination of the third person's complaint.

2. **Definitions:**

“Sexual harassment” means-

- (i) “An unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication), namely:
 - (a) any unwelcome physical, verbal or non-verbal conduct of sexual nature;
 - (b) demand or request for sexual favours;
 - (c) making sexually coloured remarks
 - (d) physical contact and advances; or
 - (e) showing pornography”
- (ii) any one (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-
 - (f) implied or explicit promise of preferential treatment as quid pro quo for sexual favours;
 - (g) implied or explicit threat of detrimental treatment in the conduct of work;
 - (h) implied or explicit threat about the present or future status of the person concerned;
 - (i) creating an intimidating offensive or hostile learning environment;
 - (j) humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned;

“campus” means-

the location or the land on which TSMU and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centers, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centers, canteens, and counters, etc., are situated and also

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

“workplace” means the campus of TSMU including:

(a) Any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by TSMU;

(b) Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereof in TSMU;

(c) Any place visited by the employee or student arising out of or during the course of employment or study including transportation provided by the Executive Authority for undertaking such journey for study in TSMU.’

“Protected activity” includes:

reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation;

“Covered individuals” are:

persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or a fellow student or guardian of the offended person;

“Third Party Harassment”:

refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of the HEI, but a visitor to the HEI in some other capacity or for some other purpose or reason;

3. Complainant:

Complaint can be made by any individual who is –

- i) A student of the University

- ii) An employee of the University or holding a consultative position in the University
- iii) An applicant for admission into any course offered by the University

4. **Internal Complaint Committee (ICC):**

The ICC will be constituted by the Vice-Chancellor, as under:

A. **Composition:**

- (i) Presiding Officer: who shall be a senior woman faculty member
- (ii) Two faculty members:
- (iii) Two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge,
- (iv) Three students, if the matter involves students, who shall be enrolled at the undergraduate, master's, and research scholar levels respectively,
- (v) One member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.

B. **Eligibility for Membership of the Committee:**

- (i) The Committee will comprise of faculty members of the rank of Professor or Associate Professor as chairperson or a staff member in an equivalent position in the University.
- (ii) In appointing ordinary members, the Vice- Chancellor may take into account the seniority, ability and background of the members.
- (iii) The Committee may co-opt as many members as are necessary to make an informed, reasonable and expeditious decision.
- (iv) At least one-half of the total members of the ICC shall be women.
- (v) One representative from SC/ST/OBC.
- (vi) The Committee may include additional members as desired.
- (vii) Minimum three members shall be required to complete the quorum for a committee meeting.
- (viii) Persons in senior administrative positions such as Vice- Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.

- (ix) The term of office of the members of the ICC shall be for a period of three years.
- (x) In case the Presiding Officer or any member of the Internal Committee:
 - (a) contravenes the provisions of section 16 of the Act; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

Such Presiding Officer/ Member shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

C. Responsibilities of Internal Complaints Committee (ICC) –

The Internal Complaints Committee shall:

- (i) Adopt fair process and principles of natural justice;
- (ii) Provide assistance if an employee or a student chooses to file a complaint with the civil authorities/police;
- (iii) Provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation, or violence;
- (iv) Protect the safety of the complainant by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the offender;
- (v) Ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment; and
- (vi) Ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

5. Process of making complaint of sexual harassment:

- (i) An aggrieved person is required to submit a written complaint on prescribed format (annexure I) to the ICC within three months from the date of the incident and in case of a series of incidents within a period of three months from the date of the last incident.
- (ii) Friends, relatives, Colleagues, Co-students, Psychologist, or any other associate of the victim may file the complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.
- (iii) All relevant material and details concerning the alleged sexual harassment/incidence including the names of the contravener and the complaint shall be included with the complaint.
- (iv) If the complainant feels that she/he cannot disclose her/his identity for any particular reason, the complainant shall address the complaint in writing to the Vice Chancellor and submit the complaint in person or in a sealed envelope. Upon receipt of such complaint the Vice Chancellor shall retain the original complaint with himself/herself and send to the internal Complaint Committee a gist of the complaint containing all material and relevant details, without disclosing the name of the complainant and other particulars that might disclose the identity of the complainant.

6. Process of conducting Inquiry:

- (i) The ICC shall, upon receipt of the complaint, send one copy of the complaint to the respondent within a period of seven days of such receipt.
- (ii) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten days.
- (iii) The inquiry has to be completed within a period of ninety days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within ten days from the completion of the inquiry to the Vice Chancellor. Copy of the findings or recommendations shall also be served on both parties to the complaint.
- (iv) The Vice Chancellor shall act on the recommendations of the committee within a period of thirty days from the receipt of the inquiry report, unless an appeal against the findings is filed within that time by either party.
- (v) An appeal against the findings or /recommendations of the ICC may be filed by either party before the Vice Chancellor within a period of thirty days from the date of the recommendations.

- (vi) If the Vice Chancellor decides not to act as per the recommendations of the ICC, then written reasons shall be recorded for the same and shall be conveyed to ICC and both the parties. If on the other hand it is decided to act as per the recommendations of the ICC, then a show cause notice, answerable within ten days, shall be served on the party against whom action is decided to be taken. The Vice Chancellor shall proceed, only after considering the reply or hearing the aggrieved person, to decide a course of action following the prescribed procedure and initiate any curative/ corrective measures to be taken.
- (vii) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The Vice Chancellor shall facilitate a conciliation process through ICC, as the case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, shall be preferred to purely punitive intervention.
- (viii) The identities of the aggrieved party or victim or the witness or the offender shall not be made public or kept in the public domain especially during the process of the inquiry.

7. Punishment, Disciplinary Action, and/or Compensation:

Appropriate punitive/corrective action will be in accordance with the prevailing norms of the university.

If the alleged harassment rises to the level of a felony, the case will be referred to the civil authorities/police for necessary action.

8. **Third Party Harassment:** where sexual harassment occurs as a result of an act by any third party or outsider on campus and the victim being a university staff/employee, the university shall take all reasonable steps to assist the affected person(s) in prosecution of the accused person.

9. Protection against False Accusations:

Where the Internal Committee arrives at a conclusion that the allegations against the harasser/ respondent is malicious or the complainant/ aggrieved woman/student making the complaint has made the complaint knowing it to be false or the complainant/ aggrieved woman/student making the complaint has produced any forged or misleading document, or the employee/student appearing as a witness deposes falsely, the Internal Committee may recommended to the University to take action against the complainant/ aggrieved woman/student who has made the complaint or the witness who has deposed falsely, in accordance with the prevailing rules and regulations of the university.

However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

10. Harassment-Free Working Conditions.

It is the responsibility of each employee/student to create an atmosphere free of harassment and respect the rights of fellow employee/students, thus, maintaining a positive and healthy work environment for all. All faculty/staff/senior leaders to take appropriate steps to prevent or deter acts of sexual harassment.

The University would take all requisite steps to ensure effective dissemination of this policy through workshops, awareness programs and printed communications in accordance with these regulations.

11. Interpretation:

Any matter not specifically covered under the above guidelines shall be referred to competent authority for necessary advice. The interpretation of this policy rests exclusively with the University. The decision of the University shall be final and binding to all.

12. Annual Report:

The Internal Complaint Committee shall prepare an Annual Report as per format (Annexure –II) giving full account of its activities during the previous year and provide a copy of the report to the Vice Chancellor, who shall report to the Chancellor.

Annexure-I (Format)

Application for Complaint of Gender/Sexual Harassment

Nature of Grievance.....

To,

The Chairman

Prevention of Gender/Sexual Harassment committee

Subject: Application for Redressal of Grievance

Respected Sir/Madam

I/We am/are hereby forwarding my/our application for Redressal of Grievance/s pertaining to Gender/sexual Harassment. Kindly accepts it and do the further processing. My/Our personal details and particulars about my/our grievance are as follows:

1.	Name of Student	
2.	Father's Name	
3.	Course/Batch	
4.	Residential Address of the students	
5.	Permanent Address of the students	
6.	Email of the student	
7.	Mobile No. of the student	
8.	WhatsApp No. of the student	
9.	Nature of Grievance/s in which Redressal is Sought	Write/ Upload Word/PDF File
10.	List of Supporting Documents Attached herewith	Upload Word/PDF File/s

Declaration by the Students/s

I/We hereby declare that the above information furnished by me/us is true to the best of my/our knowledge. In case if it is turned false I/We am/are personally responsible for the punishment.

Signature of the Student

Date:

Place

Annexure II

Reference: DOP&T O.M. No. 11013/2/2014- Estt. A. 111 dated February 2, 2015

Annual Return on cases of Sexual Harassment

Period: From _____ to _____

Name of the University: _____

S.No.	Description	Number of cases
1.	Number of complaints of sexual harassment received in the year	
2.	Number of complaints disposed of during the year	
3.	Number of cases pending for more the 90 days	
4.	Number of workshops on awareness programmes against sexual harassment conducted during the year.	
5.	Nature of action taken	

Note:

- Information is to be provided in consolidated form in respect of university as a whole (including affiliated/constituent colleges).

Chairperson/Board