



M.K.E.S. College of Law

POLICY AGAINST SEXUAL HARASSMENT

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1. Preamble

M.K.E.S. College of Law is committed to creating and maintaining a community in which students, teachers and non-teaching staff can work together in an environment free of violence, harassment, exploitation, intimidation and stress. Every member of the M.K.E.S. College of Law should be aware that while the said college is committed to the right to freedom of expression and association, it strongly supports gender equality and opposes any form of gender discrimination and violence. This includes all forms of gender violence, sexual harassment and discrimination on the basis of sex/gender or amongst the same sex members.

2. Guiding Principles

This policy defines sexual harassment and the mechanisms of redressal by looking at the specific structures, needs and imperatives in the NU. It is guided by the definition of sexual harassment given by the Supreme Court in 1997 in Vishaka vs. State of Rajasthan and 'UGC (Prevention, Prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations 2015 (vide MHRD- UGC Notification dated 02.05.2016)'.

3. Objectives of the Policy

Following are the objectives of the Policy: -

- (a) To fulfil the directive of the Supreme Court & respective UGC guidelines enjoining all employers to develop and implement a policy against sexual harassment at the work place.
- (b) To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender-based violence at the M.K.E.S. College of Law.
- (c) To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
- (d) To uphold the commitment of the M.K.E.S. College of Law to provide an environment free of gender-based discrimination.
- (e) To create a secure physical and social environment which will deter acts of sexual harassment.
- (f) To promote a social and psychological environment which will raise awareness about sexual harassment in its various forms.



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- (g) To generate public opinion against sexual harassment and all forms of gender-based violence.
- (h) To deal with cases of sexual harassment, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment;

4. Definitions

The following constitutes sexual harassment: -

(a) An unwanted conduct with sexual undertone if it occurs or which is persistent and which demeans humiliates or create 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:

- i. Any unwelcome physical verbal or nonverbal conduct of sexual abuse.
- ii. Demand or request for sexual favours.
- iii. Making sexually coloured remarks.
- iv. Physical contacts and advances.
- v. Showing pornography.

(b) 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-

- i. Implied or explicit promise of preferential treatment as quid pro quo for sexual favours.
- ii. Implied or explicit threat of detrimental treatment as quid pro quo for sexual favours.
- iii. Implied or explicit threat of detrimental treatment in conduct of work.
- iv. Creating an intimidating offensive or hostile learning environment.
- v. Humiliating treatment likely to affect the health safety dignity or physical integrity of the person concerned.

5. Jurisdiction

The rules and regulations outlined in this policy shall be applicable to all complaints of sexual harassment made-



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- (a) By a member of the M.K.E.S. College of Law against any other member of the M.K.E.S. College of Law irrespective of whether the harassment is alleged to have taken place within or outside the campus.
- (b) By a resident against a member of the M.K.E.S. College of Law or made by a member against a resident irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- (c) By an outsider against a member of the M.K.E.S. College of Law or by a member of the M.K.E.S. College of Law against an outsider if the sexual harassment is alleged to have taken place within the campus.
- (d) By a member of the M.K.E.S. College of Law against an outsider if the sexual harassment is alleged to have taken place outside the campus. In such cases the Committee shall recommend that the M.K.E.S. College of Law/college authorities initiate action by making a complaint with the appropriate authority. Further the committee will actively assist and provide available resources to the complainant in pursuing the complaint.

6. Definitions

- (a) 'Members of the M.K.E.S. College of Law' includes students, teachers and non-teaching staff of the M.K.E.S. College of Law.
- (b) 'Students' means a person admitted and pursuing a programme of study, including short term training programmes under M.K.E.S. College of Law.

Provided that a student who is in the process of taking admission in the College, but not yet admitted, shall be treated for the purpose of these regulations as a student, where any incident of sexual harassment takes place against such student.

Provided that a student who is a participant in any of the activities in M.K.E.S. College of Law or its Institutes/Units other than the higher educational institute (HEI) where each student is enrolled, shall be treated for the purpose of these regulations, as a student of that HEI, where any incident of sexual harassment takes place against such student.

- (c) 'Teachers' includes any person or the staff of the M.K.E.S. College of Law or any of the constituent colleges and all other academic departments, who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation and shall include employees employed on a casual or project basis.



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- (d) 'Non-Teaching Staff' includes any person on the staff of the M.K.E.S. College of Law or any of the colleges/institutions affiliated to it, who is not included in the category of teacher. It shall also include contract workers and daily wagers.
- (e) 'Resident' includes any person who is a temporary or permanent resident of any of the accommodations or premises allotted to a student or an employee, by the M.K.E.S. College of Law or by any of its constituent colleges, academic departments, health centres or hospitals.
- (f) 'Outsider' includes any person who is not a member of the M.K.E.S. College of Law or a resident. It also includes but is not limited to any private person offering residential, food and other facilities to members of M.K.E.S. College of Law.
- (g) 'Campus' means the location or the land on which a higher educational institute and its related institutional facilities like libraries, laboratories, lecture halls, residence, halls, toilets, student centre like health centres, canteen, bank counters etc are situated with its scope places visited as a student of institute/M.K.E.S. College of Law including transportation provided for the purpose of commuting to and from the institution M.K.E.S. College of Law/ units, locations outside the institution on field trips, internships, study tours, excursion, short term placements, places used for camps, cultural festivals, sports meet and such other activities where a person is participating in the capacity of an employee or a student of M.K.E.S. College of Law.

7. Guiding principles for constitution of committee

The policy has abided by the following principles: -

- (a) In order to comply with the UGC Regulations on the said aspect, this policy has been incorporated with provisions to constitute an Internal Compliant Committee (ICC).
- (b) In order to decentralize the functions of ICC at institutional and other levels, respective Head of the Institution shall be responsible for organising and conducting awareness programme and report of the same has to be submitted to Internal Compliant committee as and when required by the said committee.
- (c) In order to create autonomous structures to look into complaints of sexual harassment, members from outside the institution with a known contribution to gender issues have been included in ICC.
- (d) To make the Committees representative, each category of M.K.E.S. College of Law members is given representation in the Committee.



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(e) As per the 1997 Supreme Court Judgment, it is mandatory for each committee to have a woman presiding officer as well as at least 50 per cent. women members.

8. Structure

The Internal Complaint Committee is empowered to carry out the mandate of this policy. Implementation of the policy will be achieved through the following structures: -

Internal Complaint Committee (ICC) of M.K.E.S. College of Law: A committee shall be set up so as to prevent incidents through preventive measures such as awareness program, seminars etc. to its students and employees. The Committee shall function as per the guidelines issued by the UGC or from Ministry of Human Resources, Govt of India from time to time. This committee will be a regulatory body for M.K.E.S. College of Law. It is also the complaints and redressal committee for the employees directly under the employment of the M.K.E.S. College of Law and its institutes, hospitals and units.

9. Term of committee

The Internal Complaint Committee shall function for a period of three academic year and members and Presiding Officer shall not be considered for re-nomination to the next committee. However, the members representing from student section shall remain as a member for one academic year.

10. Meetings

- (a) The Internal Compliant Committee shall meet at least twice a year.
- (b) The meetings may be chaired by the Presiding officer and the Member-Secretary will be responsible to call the meeting and take the minutes and circulate them.
- (c) The notice of the meeting may be circulated at least a week in advance.
- (d) The quorum for the meetings will be presence of 30% members.
- (e) In emergency situations, the meetings may be called at a shorter notice and held with fewer members, after an explanation for doing so. In the absence of the Convenor, the members present shall appoint a female member to act as the Presiding Officer for the said meeting.
- (f) In the absence of the Member-Secretary, another member may be appointed by the members present to take the minutes.



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11. Procedure for registering complaints

(a) An aggrieved person is required to file online / written complaint within 3 months from the date of incident in writing and in case of series of incidents within a period of three months from the date of last incident.

Provided that where such complaint cannot be made in writing Presiding member or any member of internal compliant committee shall render all reasonable assistance to person for making complaint.

Provided further that ICC may, for reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that circumstances were such which prevented the person from filing a complaint within the said period.

(b) 'Friends', 'relatives', 'colleagues', 'co-students', 'psychologists' or any other associate of the victim may file complaints where aggrieved person is unable to make complaint on account of physical or mental incapacity.

12. Enquiry procedures

(a) Any complaint made to any committee member must be received and recorded by the member, who shall then inform the Presiding Officer about the complaint, who in turn shall call a meeting of the ICC.

(b) All meetings of the Committee will be called by the Member Secretary in consultation with the Presiding Officer and a notice of at least 3 to 5 working days must be given.

(c) 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.

(d) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complainant along with the list of documents and names and addresses of witnesses within a period of ten days.

(e) The inquiry has to be completed within a period of 90 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 enquiry to the Registrar. Copy of the findings or recommendations shall be served on both parties to the complainant.



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- (f) The Registrar shall act on recommendations of the committee within a period of 30 days from the receipt of the inquiry report unless an appeal against the findings is filed within that time by either party.
- (g) If the Registrar decides not to act as per the recommendations of the ICC, then he shall record written reasons for the same to be conveyed to ICC and both the parties to the proceeding. If on the other hand it is decided to act as per the recommendations of 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 Registrar shall proceed only after considering the reply or hearing the aggrieved person.
- (h) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The Registrar 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 where ever possible, is preferred to purely punitive intervention.
- (i) The identities of the aggrieved party or victim or the offender shall not be made public or kept in the public domain especially during the process of enquiry.
- (j) The Committee is bound to maintain confidentiality during the time of the enquiry (in order not to prejudice the proceedings).

13. Punishment

- (a) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of M.K.E.S. College of Law, if the offender is an employee.
- (b) Where the respondent is a student, depending upon the severity of the offence, M.K.E.S. College of Law may,
- i. withholds privileges of the student such as access to the library, auditorium halls of residence, transportation, scholarships, allowances and identity card;
 - ii. suspend or restrict entry into the campus for a specific period;
 - iii. expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;
 - iv. award reformative punishments like mandatory counselling and, or, performance of community services



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(c) the aggrieved person is entitled to payment of compensation. M.K.E.S. College of Law shall issue direction for the payment of compensation as recommended by the ICC and Principal.

- i. Mental trauma, pain, suffering and distress caused to the aggrieved person.
- ii. The loss of career opportunity due to the incident of sexual harassment.
- iii. The medical expenses incurred by the victim for physical and psychiatric treatment
- iv. The income and status of the alleged perpetrator and victim; and
- v. Feasibility of such payment in lump sum or in instalments.

(d) In the case of third-party harassment/outsider harassment, M.K.E.S. College of Law shall initiate action by making a complaint with the appropriate authority.

(e) Enhancement of disciplinary action, by the committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institutions as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.

(f) Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour etc.

14. Actions against frivolous complaints

(a) To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within the institute and M.K.E.S. College of Law.

(b) If the ICC concludes that the allegations made were false malicious or the complainant was made knowing it to be untrue or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per clause 17 (a) of this policy and as per clause 17 (b) of this policy if the complainant happens to be student.

(c) 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 procedures prescribed, conducted before any action is recommended.