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**BMU/RO/2020/049**

**Date: February 12, 2020**

## **Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students, BML Munjal University Gurugram**

### **1. Short title, application and commencement:**

These regulations may be called the Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students, BML Munjal University, Gurugram.

### **2. Definitions:**

- 2.1 "University" means BML Munjal University.
- 2.2 "Aggrieved Victim" means in relation to workplace, an employee or student, who alleges to have been subjected to any act of sexual harassment by the respondent.
- 2.3 "Executive Authority" means the chief executive authority of the university; Vice Chancellor
- 2.4 "Academic Staff" includes any person on the staff of BML University who is appointed to a teaching and/or research post, whether full-time, permanent, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation, and shall include persons employed on a casual or project basis.
- 2.5 "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- 2.6 "Appropriate Authority" means the Vice Chancellor or his/her delegate, except in the case where either the Complainant or/and the Defendant is/are part of faculty in which case the appropriate authority would be the Governing Body.
- 2.7 "Authority of BML University" means Authority as provided under the Haryana Private Universities Act, 2006.
- 2.8 "Campus" includes all places of work (instruction, research and administration), as well as hostels, guesthouses, canteen and other public places on the Campus at Sidhrwali Village, Gurgaon and BML University Offices outside the Campus at Sidhrwali Village, Gurgaon.
- 2.9 "Committee" means the Internal Compliance Committee constituted under the Act which is known as the BML University Committee against Sexual Harassment (CASH).

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 1 of 13





**BML MUNJAL  
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FROM HERE TO THE WORLD

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- 2.10 “Complainant” means a person who has lodged a complaint of sexual harassment under Rule 12 of these Rules.
- 2.11 “Defendant” means a person who is accused of having committed sexual harassment against whom a complaint has been lodged under Rule 12 of these Rules.
- 2.12 “Employee” means any person on the staff, whether employed on a permanent, temporary, part-time, visiting, ad-hoc or honorary basis, by whatsoever name, of BML University, including faculty, academic staff, non-academic staff, and project staff; persons employed on a regular, casual basis, daily wages, either directly or through an agent, including a contractor, with or, without the knowledge of BML University, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied; and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other name.
- 2.13 “Faculty” includes any person on the staff of BML University who is appointed on a temporary or permanent basis, including researchers in various categories and research associates, and any outside faculty temporarily affiliated with BML University.
- 2.14 “Non-Academic Staff” includes any person on the staff of BML University who is not appointed to a teaching and/or research post, whether full-time, permanent, temporary, ad-hoc, part-time, daily wage, honorary or on special duty or deputation, and shall include persons employed on a casual or project basis, as also persons employed through a contractor.
- 2.15 “Off-campus Official Duty” would refer to any activity being undertaken outside the “campus” on behalf of BML University, this would include, but not be restricted to, workshops, field work, group holidays/excursions organized by BML University, and interviews/meetings with outside people along with the period of travelling for such activity.
- 2.16 “Officers of BML University” means Officers as provided under the Haryana Private Universities Act, 2006.
- 2.17 “Outsider” includes any person who is not a student, or member of the academic or non-academic staff of BML University, an Officer of BML University, or a member of the BML University Authorities and Committees.
- 2.18 “Outside Expert” includes any person with expertise in fields relevant to the working of CASH including an academic, an experienced person from an NGO, an activist or a legal expert from outside BML University.

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 2 of 13





- 2.19 “Project Staff” includes any person on the staff of BML University who is appointed on a temporary or permanent basis as part of a specific project.
- 2.20 “Student” means any person who is enrolled for any degree/diploma/certificate course at BML University (full-time/part-time/short term/long term) including a student of another University or college or research institution who has been placed or has opted for placement with BML University or is auditing/attending courses at BML University or is temporarily affiliated with BML University.
- 2.21 “Service Provider” includes any person or entity that provides services to BML University or its “employees” and “students”.
- 2.22 “Visitors” include all persons who are not employees or students of BML University, including “service providers”, participants in a seminars, workshops or a training programmes in BML University, students’ relatives, alumni or students from another institution, and any other outsider who are on the “campus” of BML University to meet with any employee or student or Officer of BML University, or member of the Authorities and Committees of BML University, or to use the library and other facilities of BML University.
- 2.23 Sexual Harassment Gender Sensitization means:
- 2.23.1 Sexual Harassment in the given context, is described in The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013 in Paragraph 2(n) as: “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:
- 2.23.1.1 physical contacts and advances; or
- 2.23.1.2 a demand or request for sexual favours; or
- 2.23.1.3 making sexually coloured remarks; or
- 2.23.1.4 showing pornography; or
- 2.23.1.5 any other unwelcome physical, verbal or non-verbal conduct of sexual nature;”
- 2.23.2 Within BMU the definition of the above applies equally to men and women and also includes harassment by a member of one sex to a member of the same sex.
- 2.23.3 The key expression in the above definition is unwelcome which indicates the unwanted and non-consensual nature of the behaviour in question.
- 2.23.4 Making unwelcome sexual advances, or requesting sexual favours, or verbal or physical conduct of a sexual nature explicitly or implicitly made as a term or condition for instruction, employment, participation or evaluation of a person’s engagement in any activity related to BMU.
- 2.23.5 Unwelcome sexual advances or verbal, or non-verbal or physical conduct such as loaded comments, remarks, jokes, letters, phone calls, or e-

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*





**BML MUNJAL  
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mails, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, and sounds or display of a derogatory nature which have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive campus environment.

2.23.6 Committing any form of sexual assault by a person using the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against the person's will.

2.23.7 The overwhelmingly dominant form of sexual harassment is that perpetrated by men against women. However, sexual harassment could also be perpetrated by women against men or occur between persons of the same sex.

2.24 "CASH" means committee against sexual harassment, BML Munjal University, Gurugram.

2.25 "BMU" means BML Munjal University, Gurugram.

2.26 "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 University, but a visitor to the University in some other capacity or for some other purpose or reason.

### 3. Objectives:

3.1 Sexual harassment has come to be widely condemned as a form of human rights violation, an infringement on life and liberty and a grave form of gender-based discrimination. Such behavior is an affront to dignity, gender equality, and fundamental rights.

3.2 Sexual Harassment is an offence under "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 No. 14 of 2013. Section 3(1): No woman shall be subjected to sexual harassment at any workplace." Section 19 every employer shall- (a): provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace. Section 4(1): Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee or Committee against Sexual Harassment".

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 4 of 13





**BML MUNJAL  
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3.3 These regulations reiterate the commitment of BML Munjal University to creating and maintaining a community in which students, faculty members and non-academic staff can work together in an environment free of all forms of sexual harassment.

3.4 These Rules and Procedures apply to all students, academic staff, faculty members, and non-academic staff on the active rolls of BMU, the Officers of BMU, the members of the Authorities and Committees of BMU as well as to service providers and outsiders who may be within the territory of BMU at the time of commission of the act/behavior coming under the purview of these Rules.

3.5 These regulations would not only apply inside the campus but also on off-campus official duty (workshops, field work, group holidays/excursions organized by University, interviews/meetings with outside people and any other activity organized by University outside the campus including the period of traveling for such activity).

3.6 These regulations laid down shall be applicable to all complaints of sexual harassment made:

3.6.1 By a student against a member of the academic or non-academic staff or a co-student or the officers of the University, or the members of the authorities and committees of the University; or by a member of the academic or non-academic staff or the Officers of BMU, or the members of the Authorities and Committees of BMU against a student or another member of the academic or non-academic staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

3.6.2 By a service provider or an outsider against a student or a member of the academic or non-academic staff or the Officers of BMU, or the members of the Authorities and Committees of BMU or by a student or a member of the academic or non-academic staff or the Officers of BMU, or the members of the Authorities and Committees of BMU against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.

#### **4. Composition of CASH (Committee Against Sexual Harassment) and Selection Procedures:**

In order to implement these Rules, a Committee Against Sexual Harassment (CASH) shall be appointed whose composition and mandate will be as described below.

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 5 of 13





**BML MUNJAL  
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FROM HERE TO THE WORLD

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The CASH shall have seven or more members. More than half of the members of CASH shall be women. Members of all constituencies at University are sought to be included in CASH.

The composition of the members is given below:

- i) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below the rank of Professor in the University) at the educational institution, nominated by the Executive Authority;
- ii) Two faculty members and two non-academic employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority;
- iii) Three students, if the matter involves students, who shall be enrolled at the undergraduate, master's and researcher scholar levels respectively, elected through transparent democratic procedure.
- iv) One member from amongst non-government organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.
- v) At least one-half of the total members of the CASH shall be women.

## 5. Selection procedure

5.1 The Members of the CASH shall be nominated by the Vice Chancellor of the University

5.2 Amendments to the Committee will then be made via a recommendation and vote system managed by the Member Secretary and Presiding Officer of the Committee with approval from the Vice-Chancellor of the University.

## 6. Time frame of selection

For all CASH subsequent to the first CASH, first the internal members of the new CASH would be selected according to the procedures outlined above at least two months before the end of the tenure of the existing CASH. These members would then meet to

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students, BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 6 of 13





**BML MUNJAL  
UNIVERSITY™**

FROM HERE TO THE WORLD

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nominate the outside expert. The new CASH (including the outside expert) has to be fully constituted at least one month before the end of the tenure of the existing CASH.

## 7. Tenure

7.1 As per The Act 2013 Section 4(3) "The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer."

7.2 However, if a vacancy arises in CASH owing to absence of a member without intimation for three consecutive meetings, resignation of a member, or disqualification of a member, the vacancy will be filled up for the residual period by the selection procedure outlined above. A person shall be disqualified for being a member of CASH if there is any complaint concerning sexual harassment (either pending or proven) against him/her.

## 8. Powers, Functions and Meetings of CASH

### 8.1 Powers:

8.1.1 The CASH committee shall create awareness about sexual harassment and deal with and punish acts of sexual harassment.

8.1.2 Members of CASH shall be sensitive to the issue of sexual harassment and shall not let personal biases and prejudices (whether based on gender, caste, class, sexuality) and stereotypes (e.g., pre-determined notions of how a "victim" or "accused" should dress or behave) to affect their functioning as members.

### 8.1.3 Gender sensitization and awareness generation:

For the purpose of creating gender sensitization and awareness generation, CASH shall perform the following functions:

8.1.3.1 These regulations in its entirety shall be made available at the Registrar's Office and the University's website. This information must be publicized widely.

8.1.3.2 The CASH shall ensure the prominent publicity of these Rules in the University by displaying it (in a summary form) on the main notice board and the employees'

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students, BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 7 of 13





**BML MUNJAL  
UNIVERSITY™**

FROM HERE TO THE WORLD

Founded by:  
**HERO GROUP**

notice board (at the entrance), the library notice board and at the canteen/dining halls and student housing.

8.1.3.3 The names of the members of CASH and the Committee's email address (cash@bmu.edu.in) shall be displayed in the main notice board.

8.1.3.4 These Rules shall be briefly mentioned in the prospectus and orientation brochures of all academic programmes offered at BMU along with information about where it would be available.

8.1.3.5 Each recruitment announcement of BMU shall include the following line: "BMU is an equal opportunity employer and is committed to providing an environment free from sexual harassment".

8.1.3.6 The CASH shall organize programmes for the gender sensitization through workshops, seminars, posters, film shows, debates, skits, etc.

8.1.3.7 The CASH shall empanel a list of counsellors to extend support in specific instances of sexual harassment as well as to facilitate gender sensitization in general. In specific instances, CASH shall inform the complainant, the defendant and other interested parties about the contact details of the panel and encourage them to use the same.

8.1.3.8 These regulations, in summary form, shall be printed on the admission, application and registration forms of BMU for the students each year/semester, and signed by them before they submit their forms.

8.1.3.9 Dealing with complaints about sexual harassment, including receipt of complaints, screening, informal mediation, conducting formal inquiry and redressal.

## **8.2 Functions & Meeting:**

8.2.1 The CASH shall meet twice a year in addition to a public meeting for reporting/audit purposes. Additional meetings could be held as necessary to deal with issues or complaints that may arise.

8.2.2 Members shall be intimated of meetings in writing or by electronic communication at least five working days in advance except in the case of an Emergency Meeting.

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*



Page 8 of 13





**BML MUNJAL  
UNIVERSITY™**

FROM HERE TO THE WORLD

Founded by:  
**HERO GROUP**

8.2.3 Any member of CASH may request the Presiding Officer to call an Emergency Meeting. A notice of at least one working day shall be required for such a meeting to be called.

8.2.4 The quorum for all meetings shall be more than half of the existing members of CASH.

8.2.5 Minutes of all meetings shall be recorded, confirmed and adopted.

## **9. Complaints Mechanism:**

### **9.1 Complaints Filing Process**

9.1.1 Any student, service provider, outsider, or a member of the academic or non-academic staff may lodge a complaint of sexual harassment against a student, service provider, outsider, or a member of the academic or non-academic staff or an officer of the University, or a member of the authorities or a committee of the University.

9.1.2 The complaints should be lodged by the concerned person directly with any member of CASH. Third party complaints and witness complaints shall not be entertained except in cases where the complainant has been forcibly prevented from making a complaint; in such cases a complaint can, be made on her/his behalf until she/he can approach CASH.

9.1.3 The Complaints may be oral or in writing. If the complaint is oral, it would be converted into a written form by the CASH member receiving the complaint and authenticated by the complainant under her/his dated signature or thumb impression as the case may be as soon as possible. Complaints may also be received by email via the official cash@bmu.edu.in email address.

9.1.4 The details of the incident(s) of harassment, date, time, and place must be recorded. Complaints must be filed within three months of the incident or of the most recent incident.

9.1.5 The history of who the complainant approached (family, friends, teachers etc.) before making a formal complaint must also be recorded.

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 9 of 13





**BML MUNJAL  
UNIVERSITY™**

FROM HERE TO THE WORLD

Founded by:  
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9.1.6 Upon receipt of the complaint, the member secretary of CASH shall forward the same to the Presiding Officer for scrutinize and meeting.

## 9.2 Manner in which complaints can be made:

9.2.1 The complaints should be lodged by the concerned person directly with any member of CASH. Complaints may be received orally, by email or in writing. See above for further details.

9.2.2 If the complainant is unable to file a complaint them self the following will apply:

9.2.2.1 First is where the victim is physically incapacitated from making a complaint, it can be made by someone on her/his behalf, which includes a friend or any person who knows of the incident and has the written authorization of the victim to make a complaint.

9.2.2.2 Second, where the victim is mentally incapacitated from making a complaint someone can make the complaint on her/his behalf.

9.2.2.3 Third, if the victim is unable to file a formal complaint, someone who knows of the incident can do so provided they have the written authorization of the victim to make the complaint.

9.2.2.4 Fourth is when the victim has passed away, a person who knows of the incident may file a complaint if they have received the written authorization of the victim's heirs.

## 9.3 Procedure for conducting inquiry:

9.3.1 One written copy of the complaint must be received (either in writing, by email or a transcript by a Committee member of an oral complaint). A copy of the complaint must be submitted with the details of witnesses.

9.3.2 One copy must be given to the respondent (person against whom a complaint has been filed) within 7 days from when the complaint was received.

9.3.3 Within 10 days of receiving a copy of the complaint and other accompanying documents, the respondent must respond with documents and details of witnesses.

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students, BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*



Page 10 of 13



**BML MUNJAL  
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FROM HERE TO THE WORLD

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9.3.4 The inquiry must 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 Executive Authority of the University. The copy of findings or recommendations shall also be served on both parties to the complaint.

9.3.5 The Executive Authority of the University 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.

9.3.6 An appeal against the findings or /recommendations of the committee may be filed by either party before the Executive Authority of the University within a period of thirty days from the date of the recommendations.

9.3.7 If the Executive Authority of the University decides not to act as per the recommendations of the committee, then it shall record written reasons for the same to be conveyed to committee and both the parties to the proceedings. If on the other hand it is decided to act as per the recommendations of the committee, then a show cause notice, answerable within ten days, shall be served on the party against whom action is decided to be taken. The Executive Authority of the University shall proceed only after considering the reply or hearing the aggrieved person.

9.3.8 The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The University shall facilitate a conciliation process through CASH, as the case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punitive intervention.

9.3.9 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.

9.3.10 The inquiry can be terminated or proceeded with ex parte (when the respondent does not cooperate) if the party (either the complainant or respondent) does not present themselves for three consecutive hearings and no reasonable cause has been offered. The termination of the inquiry or proceeding with the inquiry ex parte, as the

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 11 of 13





**BML MUNJAL  
UNIVERSITY™**

FROM HERE TO THE WORLD

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**HERO GROUP**

case may be, may not be done without serving a written notice to the party in question. Such notice must be served at least 15 days before the relevant decision is to be made.

9.3.11 No lawyer is allowed to represent either party.

**10. Interim Redressal:** The University may,

10.1 Transfer the complainant or the respondent to another section or department to minimize the risks involved in contact or interaction, if such a recommendation is made by the CASH;

10.2 Grant leave to the aggrieved with full protection of status and benefits for a period up to three months;

10.3 Restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;

10.4 Ensure that offenders are warned to keep a distance from the aggrieved, and wherever necessary, if there is a definite threat, restrain their entry into the campus;

10.5 Take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimization as a consequence of making a complaint of sexual harassment.

**11. Penalties/Punishment and Compensation:**

11.1 Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the University, if the offender is an employee.

11.2 Where the respondent is a student, depending upon the severity of the offence, the University may,-

11.2.1 withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;

11.2.2 suspend or restrict entry into the campus for a specific period;

11.2.3 expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;

11.2.4 award reformative punishments like mandatory counselling and, or, performance of community services.

11.3 The aggrieved person is entitled to the payment of compensation. The University shall issue direction for payment of the compensation

*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 12 of 13





**BML MUNJAL  
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FROM HERE TO THE WORLD

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**HERO GROUP**

recommended by the CASH and accepted by the Executive Authority of the University which shall be recovered from the offender. The compensation payable shall be determined on the basis of-

- 11.3.1 mental trauma, pain, suffering and distress caused to the aggrieved person;
- 11.3.2 the loss of career opportunity due to the incident of sexual harassment;
- 11.3.3 the medical expenses incurred by the victim for physical, psychiatric treatment;
- 11.3.4 the income and status of the alleged perpetrator and victim; and
- 11.3.5 the feasibility of such payment in lump sum or in instalments.

**12. Action against frivolous complaint**

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 publicized within the University. If the CASH concludes that the allegations made were false, malicious or the complaint 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 the provisions of sub-section (1) of section (11), if the complainant happens to be an employee and as per sub-section (2) of section (11), if the complainant happens to be a student. 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.



Registrar  
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*Prevention, Prohibition and Redressal of Sexual Harassment of Employees and Students,  
BML Munjal University, Gurugram as amended on February 12, 2020 (Revised as per UGC Guidelines)*

Page 13 of 13