



BML MUNJAL UNIVERSITY POLICY AGAINST SEXUAL HARASSMENT

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Preamble

- a) *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 behaviour is an affront to dignity, gender equality, and fundamental rights.*
- b) *Sexual harassment is contrary to the fundamental rights conferred on individuals under the Constitution of India. Article 15 of the Constitution of India prohibits discrimination on the grounds of religion, race, caste, sex or place of birth and Article 19(1) (g) of the Constitution of India upholds women's right "to practice any profession, or to carry on any occupation, trade or business".*
- c) *Sexual Harassment is an offence under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the Act). Section 2(o) of the Act defines that a "workplace" includes, "any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, distribution or service.". In view of this definition educational institutions including BML Munjal University are bound by the provisions of the Act. Under Section 3(1) of the Act no woman shall be subjected to sexual harassment at workplace. Under Section 4(1) of the Act every employer of a workplace should, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee". Section 19 of the Act mandates every employer to provide a safe working environment at the workplace including safety from the persons coming into contact at the workplace. .*
- d) *The Supreme Court of India, in a landmark judgment in August 1997 (Vishaka & others vs. the State of Rajasthan & others) stated that every instance of sexual harassment is a violation of "Fundamental Rights" under Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the "Right to Freedom" under Article 19 (1)(g). The Supreme Court further reiterated that sexual harassment "is a violation of the fundamental right to gender equality and the right to life and liberty". Another Supreme Court Judgment in January 1999 (Apparel Export Promotion Council vs. Chopra) has stated that sexually harassing behaviour "needs to be eliminated as there is no compromise on such violations".*
- e) *BML Munjal University is committed to uphold the constitutional mandate of ensuring the protection and safeguard of the above mentioned human rights of all those who fall within its jurisdiction.*

CHAPTER I GENERAL

1. Name

These Rules are called the BML Munjal University Policy against Sexual Harassment.

2. Objectives and Scope of the Rules

- a) These Rules reiterate the commitment of BML Munjal University to creating and maintaining a community in which students, teachers, researchers, faculty members and non-teaching staff can work together in an environment free of all forms of sexual harassment.
- b) In framing these Rules, the spirit of the Act, and the Supreme Court judgments mentioned above have been followed. However, the Rules cover a wider spectrum of sexual harassment and deal with issues in consonance with the requirements of an educational institution and are gender neutral.
- c) These Rules apply to all students, academic staff, faculty members, and non-teaching staff of BML Munjal University, the Officers of BML Munjal University, the members of the Authorities and Committees of BML Munjal University as well as to service providers and outsiders who may be within the territory of BML Munjal University at the time of commission of the act/behaviour coming under the purview of these Rules.
- d) These Rules will not only apply inside the campus but also on off-campus official duty (workshops, field work, group holidays/excursions organized by BML Munjal University, interviews/meetings with outside people and any other activity organized by BML Munjal University outside the campus including the period of travelling for such activity).
- e) In particular, these Rules shall be applicable to all complaints of sexual harassment made:
 - i. By any student, member of the academic or non-teaching staff, Officers of BML Munjal University, member of the BML Munjal University Authorities and Committees against another student or another member of the academic or non-teaching staff, or an Officer of BML Munjal University and a member of the BML Munjal University Authorities and Committees irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
 - ii. By a student or a member of the academic or non-teaching staff or the Officers of BML Munjal University, or a member of the BML Munjal University Authorities and Committees against an outsider or a service provider and by any service provider, or an outsider against a student or a member of the academic or non-teaching staff or the Officers of BML Munjal University, or the members of the BML Munjal University Authorities and Committees if the sexual harassment is alleged to have taken place within the campus.



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- f) In order to implement these Rules, Committee Against Sexual Harassment (CASH) (Internal Committee of BML Munjal University) shall be constituted whose composition and mandate shall be as described in these Rules.
- g) These Rules are in compliance with and supplemental to the provisions of the Act and not in derogation of the provisions of the Act. In case of any conflict with the provisions of the Act, those provisions will prevail over the Rules.

CHAPTER II DEFINITIONS

3. General Definitions

- a) “Academic Staff” includes any person on the staff of BML Munjal 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.
- b) “Act” means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- c) “Appropriate Authority” means the Vice Chancellor or his/her delegatee, 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.
- d) “Authority of BML Munjal University” means Authority as provided under the Haryana Private Universities Act, 2006.
- e) “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 Munjal University Offices outside the Campus at Sidhrwali Village, Gurgaon.
- f) “Committee” means the Internal Compliance Committee constituted under the Act which is known as the BML Munjal University Committee against Sexual Harassment (CASH).
- g) “Complainant” means a person who has lodged a complaint of sexual harassment under Rule 12 of these Rules.
- h) “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.
- i) “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 Munjal University, including faculty, academic staff, non-teaching 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 Munjal 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.
- j) “Faculty” includes any person on the staff of BML Munjal 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 Munjal University.
- k) “Non-teaching Staff” includes any person on the staff of BML Munjal 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.

- l) “Off-campus Official Duty” would refer to any activity being undertaken outside the “campus” on behalf of BML Munjal University, this would include, but not be restricted to, workshops, field work, group holidays/excursions organized by BML Munjal University, and interviews/meetings with outside people along with the period of travelling for such activity.
- m) “Officers of BML Munjal University” means Officers as provided under the Haryana Private Universities Act, 2006.
- n) “Outsider” includes any person who is not a student, or member of the academic or non-teaching staff of BML Munjal University, an Officer of BML Munjal University, or a member of the BML Munjal University Authorities and Committees.
- o) “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 Munjal University.
- p) “Project Staff” includes any person on the staff of BML Munjal University who is appointed on a temporary or permanent basis as part of a specific project.
- q) “Student” means any person who is enrolled for any degree/diploma/certificate course at BML Munjal 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 Munjal University or is auditing/attending courses at BML Munjal University or is temporarily affiliated with BML Munjal University.
- r) “Service Provider” includes any person or entity that provides services to BML Munjal University or its “employees” and “students”.
- s) “Supreme Court Judgments” shall refer to the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India in its judgment dated 13 August 1997 in Vishaka vs. State of Rajasthan and the judgment dated 20th January 1999 in Apparel Export Promotion Council vs. A. K. Chopra. .
- r) “Visitors” include all persons who are not employees or students of BML Munjal University, including “service providers”, participants in a seminars, workshops or a training programmes in BML Munjal University, students’ relatives, alumni or students from another institution, and any other outsider who are on the “campus” of BML Munjal University to meet with any employee or student or Officer of BML Munjal University, or member of the Authorities and Committees of BML Munjal University, or to use the library and other facilities of BML Munjal University.



4. Sexual Harassment

Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- i. Physical contacts and advances; or
- ii. A demand or request for sexual favours; or
- iii. Making sexually coloured remarks; or
- iv. Showing pornography; or
- v. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
(Section 2(n) of the Act)

EXPLANATION

- 1). For the purpose of these Rules, the above definition applies equally to men and women and also includes harassment by a member of one sex to another member of the same sex.
- 2). The expression “*unwelcome*” means the unwanted and non-consensual nature of the behaviour in question.
- 3). The following behaviours, among other circumstances, if they occur or are present in relation to or connected with any act or behaviour of sexual harassment, may also amount to sexual harassment:
 - i. Implied or explicit promise of preferential treatment in employment or education; or
 - ii. Implied or explicit threat of detrimental treatment in employment or pursuit of education; or
 - iii. Implied or explicit threat about present or future employment status or pursuit of education; or
 - iv. Withholding an entitlement on the basis of gender or sexual orientation
 - v. Interference with work or creating an intimidating or offensive or hostile work environment or educational activity; or
 - vi. Humiliating treatment likely to affect health or safety; or
 - vii. Using gender or sexual orientation as a basis for denying professional advancement in the workplace
- 4). Sexual Harassment further includes:
 - i. 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 BML Munjal University.
 - ii. Unwelcome sexual advances or verbal, or non-verbal or physical conduct such as loaded comments, remarks, jokes, letters, phone calls, or e-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



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interfering with an individual's performance or of creating an intimidating, hostile or offensive campus environment.

- iii. 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.

5. Gender Sensitisation

Gender Sensitisation involves creating awareness about gender issues and working towards and creating an enabling environment of gender justice where men and women can work and learn together with a sense of personal security and dignity.

CHAPTER III

COMMITTEE AGAINST SEXUAL HARASSMENT (CASH)

6. Composition of CASH

- a) BML Munjal University shall constitute a Committee Against Sexual Harassment (CASH)
- b) CASH shall have 13 members among whom more than half shall be women. Members of all constituencies at BML Munjal University are sought to be included in CASH.
- c) The composition of the members is as follows.
 - i. Two faculty members specially elected/nominated by their respective Schools/Departments to serve on CASH. Members to be elected or nominated shall be from different schools/departments and the schools/departments will be represented by rotation. One of these members shall be an SC/ST representative
 - ii. Two other Faculty/Non Faculty Member
 - iii. Two students, one Research Scholar and one Masters Student, specially elected to serve on CASH.
 - One of these students shall be woman
 - iv. One woman non-teaching staff member specially nominated by the Vice Chancellor to serve on CASH.
 - v. Chief Warden/Warden
 - vi. Dean Students Welfare
 - vii. Representative, BML Munjal University Students' Union
 - viii. Representative, BML Munjal University Teachers' Association
 - ix. One woman representative of an NGO
 - x. One woman counsellor (legal or psychological expertise)
- d) The names of members appointed are mentioned in annexure A of this policy.

7. Selection procedure

- a) First members of the CASH shall be nominated by the Vice Chancellor of BML Munjal University in consultation with the Registrar.
- b) Once all internal membership of the new CASH has been filled up, the internal members by way of voting will choose a woman faculty member from amongst them as the Presiding Officer. They will nominate an Outside Expert and a Member Secretary.
- c) Subsequent filling up of any membership in CASH shall be made by way of nomination by the Registrar with the approval of the Vice-Chancellor of BML Munjal University.

8. Time frame for constituting CASH

- a) The first CASH shall be constituted within 30 days of the coming into force of these rules.
- b) The new CASH (including the nomination of Outside Expert) shall be fully constituted at least one month before the end of the tenure of the existing CASH.

9. Tenure

- a) The Presiding Officer and every member of the CASH shall hold office for a period of one year, from the date of their nomination.
- b) 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 in Rule 7 (c) above.

EXPLANATION:

A person shall not participate in proceeding as a member of CASH if there is any complaint concerning sexual harassment pending against him/her. The person shall be disqualified as member of CASH if complaint against him/her is proved.

10. Powers, Functions and Meetings of CASH

- a) Powers:
 - i. CASH shall create awareness against sexual harassment and deal with and punish acts of sexual harassment.
 - ii. 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) affect their functioning as members.

- b) Functions:

CASH shall have the following two functions:

- i. Gender sensitisation and generation of awareness.
- ii. Dealing with complaints about sexual harassment, including receipt of complaints, screening, informal mediation, conducting formal inquiry and redressal.

c) Meetings:

In order to carry out the above functions, CASH shall follow the rules mentioned below:

- i. CASH shall meet twice a year in addition to a public meeting for reporting/audit purposes as provided in clause (vii) below. Additional meetings will be held as necessary to deal with issues or complaints that may arise.
- ii. 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 mentioned in clause (iii) below.
- iii. 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.
- iv. The quorum for all meetings shall be more than half of the existing members of CASH. Motions shall be carried by a simple majority of those present and voting.
- v. The procedure for voting will be secret ballot conducted by the President.
- vi. If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. For an adjourned meeting, the required quorum shall be the same as in a regular meeting except in the case of an adjourned Emergency Meeting where there shall be no requirement of quorum.
- vii. Minutes of all meetings shall be recorded, confirmed and adopted.
- viii. CASH shall hold at least one public meeting every year where it shall report to the BML Munjal University community about its activities and present its Annual Report.

11. Gender Sensitisation and Awareness Generation

For the purpose of creating gender sensitisation and awareness generation BML Munjal University and CASH shall perform the following functions:

- i. These Rules in its entirety shall be made available at the library counter, the Registrar's Office and the BML Munjal University website. These Rules must be publicized widely.
- ii. CASH shall ensure the prominent publicity of these Rules in BML Munjal University by displaying it (in a summary form) on the main notice board and the employees' notice board (at the entrance), the library notice board and at the canteen/dining halls and student housing.
- iii. The names of the members of CASH and the Committee's email address (cash@bml.edu.in) shall be displayed in the main notice board and the library notice board.
- iv. These Rules shall be briefly mentioned in the prospectus and orientation brochures of all academic programmes offered at BML Munjal University along with information about where it would be available.



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- v. Each recruitment announcement of BML Munjal University shall include the following line:
“BML Munjal University is an equal opportunity employer and is committed to providing an environment free from sexual harassment”.
- vi. CASH shall organize programmes for the gender sensitisation of the BML Munjal University community through workshops, seminars, posters, film shows, debates, skits, etc.
- vii. CASH shall empanel a list of counsellors to extend support in specific instances of sexual harassment as well as to facilitate gender sensitisation 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 numbers should the need arise.
- viii. These Rules, in summary form, shall be printed on the admission, application and registration forms of BML Munjal University for the students each year/semester, and signed by them before they submit their forms.
- ix. All new service contracts for employees on BML Munjal University at all levels must include acceptance of these Rules as a part of the service contract.

CHAPTER IV COMPLAINTS MECHANISM

12. Complaints Filing Process:

- a) Any student, service provider, outsider, or a member of the academic or non-teaching staff or an Officer of BML Munjal University, or a member of the BML Munjal University Authorities or a Committee may lodge a complaint of sexual harassment against a student, service provider, outsider, or a member of the academic or non-teaching staff or an Officer of BML Munjal University, or a member of the BML Munjal University Authorities or a Committee.
- b) Complaints should be lodged by the victim in the following manner:
 - a. Complaints may be made orally (to any member of the CASH), by email (to cash@bml.edu.in) or in writing (to the Presiding Officer of CASH).
 - b. If the complaint is oral, it will 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.
- c) 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 which cases, a complaint can be made on her/his behalf until she/he can approach CASH.
- d) Details of the incident(s) of sexual harassment, the date, time, and place must be recorded. Complaints must be filed within three months from the date of the incident or from the date of the last incident.

It is, however, provided that CASH, for reasons to be recorded in writing, can extend the time limit beyond three months, if satisfied that the circumstances were such that prevented the Complainant from filing a complaint within the initial period of three months.

- e) The history of the persons whom the Complainant approached (family, friends, teachers etc) before making a formal complaint must also be recorded.
- f) Where the aggrieved person is unable to make a complaint on account of her or his physical or mental capacity or death or otherwise, the person's legal heir or such other person as may be prescribed may make a complaint under this Rule.
- g) Upon receipt of the complaint, the CASH member to whom the complaint is made shall forward it to the Complaint Screening Committee.



13. Complaint Screening Process:

- a) CASH shall designate by rotation five persons from amongst its members for a period of six months to screen complaints. These five persons will constitute the Complaint Screening Committee. One of the members shall be named the Chair of the Committee by CASH. The CASH will select Chair by way of voting.
- b) The main function of the Complaint Screening Committee is to carefully study the complaint and determine whether a formal inquiry by CASH is to be instituted. For this purpose, it may hear the Complainant and the Defendant as well as other involved parties and examine any written documents produced (letters, copies of sms, e-mails, photographs etc.).
- c) The Complaint Screening Committee shall meet within three-working days of the lodging of the complaint. Any action necessary to facilitate the screening process (such as talking to the parties involved) should be initiated within three working days after the first meeting of the Complaint Screening Committee.
- d) The entire screening process shall not take more than two weeks from the date of the initial complaint. On completion of the screening process, the Complaint Screening Committee shall make a formal recommendation to CASH about whether or not a Formal Inquiry Process should be put in place, along with the reasons and documentary evidence, if any, thereof, in writing. A Formal Inquiry is to be recommended if the Complaint Screening Committee feels that the complaint needs further investigation, i.e., the complaint is not *prima facie* baseless. However, the recommendation of the Complaint Screening Committee is not binding on CASH.
- e) During both the complaints screening process as well as the Formal Inquiry process (detailed in the subsequent section), the following principles and procedures shall be followed:
 - i. At no time during the receiving and screening procedure of the complaint shall the Defendant(s) and the Complainant be placed face to face, or put in a situation where they may face each other (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 Judgments.
 - ii. At no time during the complaint receiving and screening procedure shall the past sexual history of the Complainant be probed, as such information shall be deemed irrelevant to a complaint of sexual harassment.
 - iii. At all points during the complaints receiving and screening procedure, confidentiality of both parties shall be maintained. If any member of the Complaints Screening Committee, the formal Inquiry Committee or CASH violates this norm, s/he will automatically be disqualified.
- f) CASH may issue an order of restraint to the Defendant(s) in accordance with the procedure outlined below:



A restraint order shall provide a 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 her /his 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.

- g) The Complainant or any other person shall intimate in writing the Complaint Screening Committee, the Presiding Officer of CASH and/or the Inquiry Committee of any violation of the order of restraint by the Defendant(s), or any persons acting on her /his behalf.
- h) If the Complaint Screening Committee, the Presiding Officer of CASH, or the Inquiry Committee is convinced of the truth of such allegations, the Presiding Officer of CASH and/or the Chief Inquiry Officer may summon the Defendant(s) in person and issue a verbal and written warning that such behaviour may lead to an adverse inference being drawn against her/him. The Inquiry Committee or CASH shall retain the right to close the Inquiry proceedings, and to give an *ex parte* decision on the complaint.
- i) The Inquiry Committee and CASH shall consider all violations of the restraint order when determining the nature of offence committed by a Defendant.
- j) The Complaint Screening Committee shall also be responsible for taking the necessary steps to ensure that both the Complainant as well as the Defendant are informed about and provided access to counselling services at least three times; further follow-up will be left to the discretion of the concerned party. CASH may recommend suitable NGOs for this purpose as and when required.
- k) CASH may also during the pendency of the inquiry grant such relief as provided under Section 12 of the Act to the Complainant. (As per clause 25(b) of this policy).

14. Withdrawal of Complaints

- a) The Complainant may withdraw his/her complaint in writing at any time during the complaints receiving and/or Inquiry procedure. However, CASH must ascertain the reasons for withdrawal of the complaint, record them in writing and get it counter-signed by the Complainant.
- b) The complaint screening/inquiry shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening/Inquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are due to 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/Inquiry proceedings shall continue in accordance with the procedure outlined in the Rules.

15. Complaint-related procedures:

- a) A Complainant has the right to go public if s/he so desires. Going public before giving the complaint to CASH by the Complainant should not prejudice the CASH members. Once a



complaint has been given to CASH, the Complainant should preferably not go public until the inquiry is completed.

- b) Notwithstanding its commitment to confidentiality requirements, CASH retains its right to collectively issue a public statement or publicly respond to allegations made against CASH or any of its members. However, members of CASH cannot go public in their individual capacity.
- c) Filing of a grievance/complaint shall not adversely affect the Complainant's status/job, salary/promotion, grades etc.
- d) CASH should make efforts to ensure that the Complainants and the witnesses are not further victimised or discriminated against while it is dealing with the complaint. CASH shall take action against anyone who intimidates the Complainant or members of CASH, during or after the screening and inquiry.
- e) Any member of CASH charged with sexual harassment in a complaint must step down as member during the screening and inquiry into that complaint.

16. Formal Inquiry and Period of Completion

- a). Once the Complaints Screening Committee communicates its decision to CASH, CASH shall meet within five working days from the date of such communication to
 - (i) decide whether the complaint merits further scrutiny and
 - (ii) in case the complaint merits further scrutiny, to constitute the Inquiry Committee.
- b). CASH shall complete the inquiry on the Complaint within a period of ninety days.

17. Conciliation

- a) CASH may, before initiating an enquiry and at the request of the Complainant take steps to settle the matter between the Complainant and the Defendant through conciliation.

Provided that no monetary settlement shall be made as a basis of conciliation.
- b) Where a settlement has been arrived at under the above sub-rule, CASH shall record the settlement so arrived and forward it to the appropriate authority to take action as specified in the recommendation.
- c) CASH shall provide the copies of the settlement as recorded under sub-rule above to the Complainant and the Defendant.
- d) Where settlement is arrived at under sub-rule above, no further inquiry shall be conducted by CASH.



Provided the Complainant informs CASH that any term or condition of the settlement arrived at under sub-rule above has not been complied with by the Defendant, CASH shall proceed to make an inquiry into the complaint.

18. Composition of the Inquiry Committee

- a) The Inquiry Committee shall consist of five persons, at least 50% women, led by the Chief Inquiry Officer who shall be a woman, chosen from within the members of CASH. As a third-party voice, it shall include the Outside Expert. To the extent possible, it shall include a representative each from the constituency of the Complainant and the Defendant.
- b) If a student is lodging a complaint he/she may request that a Student Representative is also part of the Inquiry Committee. This suggestion will be considered and approved by the Chief Inquiry Officer so long as there is not seen to be any breach of interest or impartiality.
- c) No person who is a Complainant, Witness, or Defendant in the complaint of sexual harassment shall be a member of the Inquiry Committee.
- d) CASH may, at its own discretion, co-opt any person with gender sensitivity to be a part of the Inquiry Committee, provided that the majority of members are members of CASH. Such a person shall not serve as the Chief Inquiry officer.

19. Functions, powers and responsibilities of the Inquiry Committee

- a) The Inquiry Committee shall enquire into the complaint of sexual harassment and shall submit a detailed report to CASH, in which it shall communicate its findings based on its investigations.
- b) The Inquiry Committee shall conduct the proceedings in a fair manner and shall follow the principles of natural justice by providing reasonable opportunity to the Complainant and the Defendant for presenting and defending their case.
- c) The Inquiry Committee shall have to complete the inquiry within a reasonable time not exceeding three months from the date the complaint is referred to it.
- d) At any time during the inquiry proceedings, the Inquiry Committee shall not put the Complainant and the Defendant in a situation where they may be face to face.
- e) The Inquiry Committee may call any person to appear as a witness, if it is of the opinion that it shall be in the interest of just decision-making.
- f) The Inquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the Complainant as well as the Defendant.
- g) Records of all evidence gathered in the course of the inquiry shall be maintained.



- h) The Inquiry Committee may consider as relevant any earlier complaints against the Defendant. However, the past sexual history of the Complainant shall be deemed irrelevant to a complaint of sexual harassment.
- i) If the Defendant fails, without valid ground, to present himself/herself for three hearings convened by the Chief Inquiry Officer the Inquiry Committee shall have the right to take a decision on the complaint based upon the available evidence.
- j) The identities of all witnesses shall be protected by the Inquiry Committee. A coding system may be used for this purpose.
- k) All persons heard by the Inquiry Committee shall take and observe an oath of secrecy about the proceedings. Any violations of the oath of secrecy would invite action by the Appropriate Authority as per the recommendation of CASH.
- l) After completing the investigation, the Inquiry Committee shall submit a detailed report of its findings to the Presiding Officer of CASH, including an indication of whether it finds the defendant guilty or not guilty along with reasons for its decision.
- m) For the purpose of making an inquiry under these Rules, CASH and the Inquiry Committee shall have the powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:-
 - (i) Summoning and enforcing the attendance of any persons and examining him or her on oath;
 - (ii) Requiring the discovery and production of documents; and
 - (iii) Any other matter which may be prescribed.

20. Communication of findings of the Inquiry Committee and follow-up procedures

- a) Within three working days of the receipt of the report of the Inquiry Committee, copies of the report shall be made available to all members of CASH.
- b) As soon as the report is received by CASH, all members of CASH shall have access to records of evidence collected by the Inquiry Committee.
- c) Within three working days of the receipt of the report of the Inquiry Committee, the Presiding Officer of CASH shall convene a meeting to deliberate upon the findings of the Inquiry Committee. CASH may adopt the findings of the Inquiry Committee in *toto* with regard to the culpability or otherwise of the Defendant and recommend suitable action. If CASH does not agree with the findings of the Inquiry Committee, it shall refer the case back to the Inquiry Committee for consideration of the concerns expressed by CASH. The Inquiry Committee shall have to resubmit its findings within five working days from the date the case is referred back to it. Within three working days of the resubmitted findings, a meeting of CASH shall be convened. If CASH does not agree with the resubmitted



findings, any modifications of the same can be made by it only with a 2/3rd majority of the total members of CASH.

- d) In the event that a decision on the culpability of the Defendant as well as the action to be taken is not reached by CASH in a single meeting, at least one more meeting may be called within two working days to arrive at the final decision.
- e) CASH before arriving at a final decision shall make available a copy of the findings to both parties to enable them to make representation against findings before CASH.
- f) Within two working days of the decision of CASH, the Presiding Officer of CASH shall communicate the decision of the CASH to the appropriate authority, along with the report of the Inquiry Committee, and a summary of opinions of its members (including dissenting opinions).
- g) Within three working days from the date of communication of the findings by CASH, the Appropriate Authority shall convene a meeting with CASH to discuss the decision of CASH and the report of the Inquiry Committee for follow-up action.
- h) In the event that no action has been taken within one week after the meeting between the appropriate authority and CASH, the Presiding Officer of CASH shall convene a meeting of CASH with the appropriate authority to take stock of the situation.
- i) In the event that the action taken is different from the one recommended by CASH, the Presiding Officer of CASH shall convene a meeting of CASH with the appropriate authority and enquire about the reasons for the divergence.
- j) In the event that fair follow-up action has not been taken by the appropriate authority one week after the meeting described in clauses (i) and (ii) above, CASH shall communicate its discontent in writing to the Appropriate Authority.
- k) In the event that any new fact or evidence arises or is brought before CASH at any stage of the inquiry proceedings or even after the communication of the findings to the Appropriate Authority, CASH can take cognizance of this and take appropriate action; this may include reconstitution of the Inquiry Committee, in which case the new Inquiry Committee shall include at least half of the members of the Inquiry Committee that originally enquired into the said complaint.

CHAPTER V REDRESSAL

21. Guiding Principles

- a) The guiding principle of the redressal mechanism is to use retributive measures along with measures that go beyond retribution. There will be provisions for punishment for the offender once the offence is proved. There will also be measures at every step of the Inquiry and the punishment to treat the offender as a human being susceptible to changing one's behaviour on positive suggestions and social pressures.
- b) Redressal shall involve supportive measures for the Complainant and protection against victimization. Filing of a grievance or complaint will not reflect upon/adversely affect the Complainant's status, future evaluation of grades, assignments, employment, promotion etc.
- c) As a general principle, everyone who is associated with redressal of sexual harassment needs to be sensitive towards both the Offender and the Complainant. To this end, it is advisable that they undergo periodic orientation and training.

22. Penalties

- a) Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff or an Officer of BML Munjal University, or a member of the Authorities or Committee of BML MUNJAL UNIVERSITY 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 BML Munjal University authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time.
- b) **Penalties in Case of Faculty**
 - i. Warning, reprimand, or censure.
 - ii. Withholding of one or more increments for a period not exceeding one year.
 - iii. Removal from a position of authority at BML Munjal University.
 - iv. Disbarment from holding an administrative position at BML Munjal University.
 - v. Suspension from service for a limited period.
 - vi. Compulsory retirement.
 - vii. Dismissal from service.
 - viii. The penalty awarded shall be recorded in his/her Confidential Record. The right to an official character certificate may also be withdrawn where applicable.
 - ix. Any other action as may be necessary.

c) Penalties in Case of Non-Teaching Staff and Project Staff

- i. Warning, reprimands, or censure.
- ii. Transfer.
- iii. Withholding of one or more increments for a period not exceeding one year.
- iv. Suspension from service for a limited period.
- v. Compulsory retirement.
- vi. Dismissal from service.
- vii. Further, the penalty awarded shall be recorded in his/her Confidential Record. The right to an official character certificate may also be withdrawn where applicable.
- viii. Any other action as may be necessary.

d) Penalties in Case of BML Munjal University Students

- i. Warning or reprimand.
- ii. Withdrawal of the right to an official character certificate from BML Munjal University.
- iii. Withdrawal of hostel accommodation for the entire period of study.
- iv. Rustication from BML Munjal University for a period up to two semesters.
- v. Expulsion from BML Munjal University, and/or a bar on appearing for the examination/interview offered by BML Munjal University.
- vi. Withholding of a degree conducted by BML Munjal University. Further the penalty awarded shall be recorded in his/her Personal File.
- vii. Any other action as may be necessary.

e) Penalties in Case of Outsiders

- i. Warning, reprimands, or censure.
- ii. A letter communicating her/his misconduct to her/his place of education, employment or residence.
- iii. 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 or employment offered by BML Munjal University.
- iv. Any other action as may be necessary.

f). Penalties in Case of Service Providers

- i. Warning, reprimands, or censure.
- ii. A letter communicating her/his misconduct to her/his place of employment.
- iii. Declaration of the campus as out of bounds for her/him.
- iv. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
- v. Any other action as may be necessary.

g). Penalties in case of Officer of BML Munjal University, or a member of the Authorities or Committee of BML Munjal University

- i. Warning, reprimands or censure.
- ii. Any other action as may be necessary.
- iii. In addition to the penalties specified under (a)-(f) above, the person may be advised to undergo counselling and gender sensitisation, and to give a written and/or public apology to the complainant.

h). Penalty in Case of a Second Offence

A second or repeated offence, may, on the recommendation of CASH, attract a higher penalty.

23. Appeals

- a) In the event of the CASH not taking action on a complaint, or if the Complainant or Defendant is dissatisfied with the disciplinary action taken by the BML Munjal University authorities, she/he shall have the right to appeal to an Appeal Committee. Appeals may also be lodged with the BML Munjal University authorities.
- b) An Appeal Committee shall consist of:
 - i. One person nominated by the Governing Board of BML Munjal University from amongst its members,
 - ii. One former senior woman member of CASH nominated by the Vice Chancellor. If there is no former senior woman member of CASH, the Vice Chancellor could appoint a senior woman Faculty member who is not a member of the currently functioning CASH. This nominee shall chair the Appeals Committee, and
 - iii. One woman faculty member of BML Munjal University nominated by the Vice Chancellor.
- c) The Appeals Committee shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the Appellant deposing in person. It shall have the power to summon any person as witness as well as any official record. On the basis of all the evidence before it, including the deposition of the Appellant, if it is satisfied that the matter needs to be further enquired into, it shall conduct an inquiry in accordance with the guidelines in the Supreme Court Judgment.
- d) The Appeals Committee shall report to the Governing Board of BML Munjal University its findings and recommendations on the nature of the action to be taken on the appeal.



24. False Complaints/Depositions

- a) If the Complaint Screening Committee or the Inquiry Committee finds no merit in any particular complaint/deposition, it shall write to the Presiding Officer of the CASH, giving reasons for its decision.
- b) Within three working days of the receipt of this communication from the Complaints Screening Committee (three working days in the case of the Inquiry Committee), the Presiding Officer of CASH shall convene a meeting to discuss the recommendations of the Complaint Screening Committee or the Inquiry Committee and to decide whether a show-cause notice shall be issued to the Complainant/Witness(es). Upon the decision to issue a show-cause notice, the Presiding Officer of CASH shall issue it to the Complainant/Witness(es) and require the Complainant/Witness(es) to explain within five working days as to why disciplinary actions shall not be taken against him/her. Within three working days of the receipt of any explanation from the Complainant/Witness(es), the Presiding Officer shall convene a meeting to consider the explanation. In the event of an unconvincing explanation, the CASH shall forward its findings to the Appropriate Authority for follow-up action including disciplinary proceedings.

25. Protection against Victimization

- a) If found guilty, the Defendant shall not
 - (i) supervise any academic activity (such as evaluation, examination or supervision of research) of the Complainant/Witness and/or,
 - (ii) write the confidential report of the complainant/witness.
- b) During an inquiry voluntary interim measures may be put in place to ensure the aggrieved victim/ Complainant and the Defendant do not come in to contact with each other. These may include but are not limited to: transferring desk/usual working space to another department; additional security/vigilance whilst on campus; voluntary leave (up to three months); relaxation of attendance for students which will not affect their opportunity to sit exams/assessment.

CHAPTER VI ROLE OF UNIVERSITY

26. Obligations of BML Munjal University Authorities

In addition to the duties provided under Section 19 of the Act

- a) The BML Munjal University authorities shall notify each academic year the names and contact details of the members of CASH and the fact that CASH is the Internal Committee responsible for gender sensitisation and action against sexual harassment.
- b) The authorities shall maintain full confidentiality with respect to matters pertaining to CASH enquiries into complaints of sexual harassment.
- c) The authorities shall act promptly on the recommendations of the CASH pertaining to the various issues outlined above.
- d) As required by the Act, the authorities shall forward to the government department concerned the Annual Report of CASH together with a written report on the action taken by them upon the decisions/recommendation of CASH.

CHAPTER VII AMENDMENT TO THE RULES

27. Amendment to the Rules and Procedures of CASH

- a) Amendments to the Rules and procedures of CASH shall have effect only if these are compatible with the letter and spirit of the Act, the Supreme Court judgements as deemed applicable.
- b) Amendments shall be effected by decisions taken in a special meeting of CASH called for this purpose. Proposed amendments shall be circulated at least five working days prior to the special meeting called for this purpose.
- c) An amendment shall be passed by two-thirds of the total members of CASH.

ANNEXURE A

Members of the Committee of Sexual Harassment

1. Dr. Mukta Datta - Presiding Officer
2. Prof. Jaskiran Arora
3. Prof. R. Narasimhan
4. Prof. Ritu Chhikara
5. Prof. Nisha Dawra
6. Mrs. Ritu Bajaj
7. Mrs. Nisha Narwal
8. Mrs. Vidya Sridhar
9. Mr. Sonu Kumar
10. Mr. Ashok Chandel
11. Mr. Gurbir Singh
12. Ms. Aashna Aggarwal
13. Mr. Sanket Tantia
14. Mr. Akshay Chutani - Member Secretary