

Policy Against Sexual Harassment – University ABC

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SAMPLE

Preamble

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 as accorded by the Constitution of India.

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 court also reiterated that sexual harassment “is a violation of the fundamental right to gender equality and the right to life and liberty.”

Another judgement by the Supreme Court of India 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”.

Sexual harassment is a criminal offence in the Indian Penal Code and a civil offence under the Sexual harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

University ABC is committed to fostering an environment that is free from gender-based discrimination and harassment, including sexual assault and all other forms of gender-based misconduct. University ABC recognises its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate reports of misconduct, support students and others who experience gender-based misconduct, and respond fairly and firmly when students violate policy.

University ABC is also committed to supporting students accused of gender-based misconduct as they go through the disciplinary process. This policy defines sexual harassment and the mechanisms of redressal by looking at the specific structures, needs and imperatives at University ABC. The policy aims to create an enabling environment for larger processes of gender equality to emerge and to ensure the right to a safe education and work environment for all.

Chapter I: General

1. Name

This Policy is called Policy against Sexual Harassment – University ABC.

2. Objectives and Scope of the Policy

- a) This policy reiterates the commitment of University ABC to creating and maintaining a community in which students, alumni, faculty members, teaching staff and non-teaching staff can work together in an environment free of all forms of sexual harassment.
- b) In framing this policy, the spirit of the Act, and the Supreme Court judgments mentioned above have been followed. However, the policy covers a wider spectrum of sexual harassment and deals with issues in consonance with the requirements of an educational institution and is gender neutral.
- c) This policy applies to all students, alumni, faculty members, teaching staff and non-teaching staff of University ABC, the members of the authorities and committees of University ABC as well as to service providers and outsiders who may be within the territory of University ABC at the time of commission of the actions and behaviour coming under the purview of this policy.
- d) The spirit of this policy will not only be exercised in offline experiences but also online educational and workspaces of University ABC. The policy will apply in all formal and informal educational and work associated spaces—workshops, field work, group holidays/excursions organised by University ABC, interviews and meetings with outside people and any other activity organised by University ABC outside the campus including the period of travelling for such activity.
- e) This policy shall be applicable to all complaints of sexual harassment made:
 - a. By any student or member of the alumni association, faculty, teaching staff, non-teaching staff or University ABC authorities and committees, **against another student or another member** of alumni association, faculty, teaching staff, non-teaching staff or University ABC authorities and committees irrespective of whether sexual harassment is alleged to have taken place in offline or online educational and workspaces of University ABC.
 - b. By any student or member of the alumni association, faculty, teaching staff, non-teaching staff or University ABC authorities and committees **against a service provider or an outsider** irrespective of whether sexual harassment is alleged to have taken place in offline or online educational and workspaces of University ABC.

And

- c. By any service provider, or an outsider **against a student or member** of the alumni association, faculty, teaching staff, non-teaching staff or University ABC authorities and committees if the sexual harassment is alleged to have taken place in offline or online educational and workspaces of University ABC.

- f) The policy applies regardless of a person's gender, gender identity, gender expression, sex, sexual orientation, age, caste, nationality, class status, religion, ethnicity, disability, legal convictions, familial status, and history of sexual harassment.
- g) The policy is not aimed at converting University ABC into a space of control and surveillance. The policy is not intended to sanitize or flatten the space of interaction among students, alumni, faculty, and staff. The policy is also not an instrument for disciplining, restraining, and punishing offenders/transgressors. Rather, it is an attempt to prevent any coercion in the domain of relationships and the expressions of desire.
- h) To implement this policy, an internal complaints committee, called the Committee Against Sexual Harassment (CASH), shall be constituted whose composition and mandate shall be as described in this policy.
- i) This policy is 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 policy.

SAMPLE

Chapter II: DEFINITIONS

1. General Definitions
 - a. “Act” means the Sexual Harassment of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013.
 - b. “Alumni Association” includes any person who was once a “student” and has then successfully completed their course at University ABC.
 - c. “Committee” means the internal complaints committee constituted under the Act which is known as the University ABC Committee Against Sexual Harassment (CASH).
 - d. “Complainant” means a person who has lodged a complaint of sexual harassment under Chapter IV of this policy.
 - e. “Covered individuals” are persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or fellow student or guardian of the offended person.
 - f. “Defendant” means a person who is accused of having committed sexual harassment against whom a complaint has been lodged under Chapter IV of this policy.
 - g. “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 University ABC, including faculty, teaching staff, non-teaching staff, and project staff; persons employed on a regular or casual basis, daily wages, either directly or through an agent, including a contractor, with or, without the knowledge of University ABC, 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 such person called by any other name.
 - h. “Faculty” includes any person on the staff of University ABC who is appointed on a temporary or permanent basis, including researchers in various categories and research associates, and any outside faculty temporarily affiliated with University ABC.
 - i. “Gender Sensitisation” involves creating awareness about gender issues and working towards and creating an enabling environment of gender justice where people of all genders can work and learn together with a sense of personal security and dignity.
 - j. “Non-teaching staff” includes any person on the staff of University ABC 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, and persons employed through a contractor.
 - k. “Offline” includes all places assigned for academics, extra-curriculars and work (instruction, research, and administration), as well as living accommodations for formal and informal educational and work associated spaces, other public places on University ABC’s campus, and University ABC offices outside its campus.
 - l. “Online” includes (but is not limited to) all social platforms assigned for academics, extra-curriculars and work.
 - m. “Outing” refers to disclosing, and possibly publicising, an LGBTQ+ person's sexual orientation or gender identity without that person's explicit consent.
 - n. “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 University ABC.
 - o. “Outsider” includes any person who is not a student or member of the alumni association, faculty, the teaching or non-teaching staff or the University ABC authorities and committees.