

IUCAA Policy on the Prevention, Prohibition, and Redress of Sexual Harassment in the Workplace (rules and procedure)

The IUCAA Committee against Sexual Harassment (ICASH)

1. Legal Context:

According to the Constitution of India, the right to Equality is a Fundamental Right that includes the right to equality before the law, prohibition of discrimination, and equality of opportunities in public employment. Equality between men and women, right to work, education, and public assistance in case of unemployment, old age, sickness, and disablement, and provision of just and humane conditions for work and maternity relief are important Directive Principles of State Policy.

Following the 1997 Supreme Court judgment in the case of Vishaka and others versus the State of Rajasthan, the IUCAA Women cell (*renamed as the IUCAA Committee against Sexual Harassment*) was constituted by the Director, Inter-University Centre for Astronomy and Astrophysics (as per the IUCAA Office Order number 63/2007 dated July 31, 2007).

This Committee will implement the IUCAA Policy against Sexual Harassment as per the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

2. Constitution:

The IUCAA Committee Against Sexual Harassment (ICASH) will inquire into complaints of sexual harassment. At IUCAA, we are committed to creating a work environment that is safe and professional, where everyone is treated with courtesy, respect, and mutual trust, and where diversity and inclusion are valued. To this end, we have a respectful workplace policy, which applies to everyone working at or visiting IUCAA and describes the process of making a complaint and the formal investigation procedure. We are committed to reviewing existing procedures to ensure they work as intended and developing any new measures.

ICASH shall strive to uphold the highest standards of ethics, fairness, and accountability in its functioning. The Director, being the employer to constitute the IUCAA Committee Against Sexual Harassment, shall do so by an order in writing.

ICASH shall consist of seven members, of which at least 50% must be women. The Convener must be a woman. There must be a representation of members from all the constituencies of the Institute. A socially aware non-IUCAA person has to be on the Committee. Members should have personal integrity and gender sensitivity.

The term of the members of ICASH shall be three years as a general rule. It is, however, subject to changes or otherwise at the Director's discretion.

3. Disqualification

A person shall be disqualified from being nominated to the ICASH if there is a complaint of gender discrimination/sexual harassment against him/her.

4. Jurisdiction

- a) The policy shall apply to all categories of persons described in Section 5, "Definitions," in the manner described herein.
- b) The term "**complainant**" shall refer to the person filing the complaint before ICASH, and the term "**respondent**" shall refer to the person against whom the complaint of sexual harassment has been filed.

This policy shall be applicable to all complaints of sexual harassment made by a woman, man, or transgender against another woman, man, or transgender belonging to any of the categories of persons described in the section titled "Definitions" when the sexual harassment is alleged to have taken place within the campus or the workplace.

Explanation:

1. Any complaint outside of these specifications may be examined by ICASH in terms of jurisdiction and taken up for consideration.
2. When the respondent is an employee, the ICASH shall have inherent jurisdiction under the SHWW Act 2013 and SHWW Rules 2013 [**The Sexual Harassment of Women at the Workplace- Prevention, Prohibition, and, Redressal Act, 2013**] to deal with complaints of sexual harassment at the workplace. Such inquiry shall be made as per the provisions of the service rules applicable to the respondent.
3. When the respondent is not an employee, the ICASH shall be the ex-officio body to inquire into complaints of sexual harassment at the workplace.
4. Harassment by outsiders is third-party harassment, as these persons with whom employees and students come into contact, directly or indirectly, as the Institute or people involved with the activities of the Institute have a relationship, including a business relationship with them. Where an act of sexual harassment occurs as a result of an act or an omission by the third party, the Institute shall take all steps necessary and reasonable to assist the complainant in terms of support and preventive action. Further, where the respondent is the third party, and the Institute has no control over the employment of such person, the ICASH shall forward such complaints to the respondent's employer or assist the complainant in filing an FIR with the police.

5. Definitions

- a) "Institute" means the Inter-University Centre for Astronomy and Astrophysics, Pune.
- b) "Employer" means the Director of the Inter-University Centre for Astronomy and Astrophysics (IUCAA), Pune.
- c) "IUCAA Authorities" refers to the Director, IUCAA, and/or any person who is entrusted with any powers and functions to act on behalf of IUCAA as per the Bye-laws framed under Rule 30 of the “**Rules for the Administration and Management**” of the Inter-University Centre for Astronomy and Astrophysics (IUCAA).
- d) "Campus" includes all places of work and residence at IUCAA. It includes all places of instruction, research, and administration, as well as the hostel, guesthouse, public places, and residences allotted and administered by IUCAA.
- e) "Employee" includes all academic, administrative, scientific, and technical staff of the Institute, permanent, temporary or contractual, full-time or part-time, holding visiting, guest or honorary position, on deputation or special duty, and any person employed for any work directly, or by or through any agency (including a contractor), contract worker, teaching or research assistants, consultants, advisers and persons involved in projects, camps, field studies, and short visits, probationer, trainee, apprentice or by any other name called.
- f) "Student" means a person duly admitted, pursuing, or completed (and awaiting degree) any program of study in the Institute. It shall include an undergraduate or postgraduate student, a research scholar, a visitor, and a repeater. It also includes a student of another University or College who has been placed or has opted for placement with IUCAA or short-term courses at IUCAA.
- g) "Resident" includes any person who is a temporary or permanent resident of any accommodations or premises managed and/or allotted by the Institute. These include any residential quarters/hostels provided by the Institute or any other residences provided to any of its employees /students in the Institute or at any extension campuses.
- h) "Service Provider" includes any person who runs/manages or provides commercial enterprises/services within the campus (such as cable TV), computer, milk, food, newspaper, or any type of delivery/distribution/vendor. It includes, but is not limited to, domestic workers, persons working in the canteen, guest houses, hostels, and crèche, as well as persons working in the Bank of Baroda, IUCAA branch, IUCAA Telephone exchange, and any such service.
- i) "Outsider" includes any person visiting the campus and is not covered by the other categories defined by this policy.

6. Sexual Harassment:

Sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication), namely:

- i. Physical contact and advances; or
- ii. A demand or request for sexual favors; or
- iii. Making sexually colored remarks; or
- iv. Showing pornography; or
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

The Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and, Redressal) Act, 2013, published by the Government of India, Ministry of Women and Child Development (<https://wcd.nic.in/act/handbook-sexual-harassment-women-workplace>) explains the key elements of workplace sexual harassment. Very often, situations that start off innocently end up in inappropriate and unprofessional behaviors. It is important to remember that workplace sexual harassment is sexual and unwelcome, and the experience is subjective. **The impact and not the intent matters, and it almost always occurs in a matrix of power.** The woman may experience a single instance of sexual harassment or a series of incidents over a period of time. It is also important to remember that each case is unique and should be examined in its own context and according to the surrounding circumstances as a whole.

Examples of behaviors and scenarios that constitute sexual harassment.

1. Making sexually suggestive remarks or innuendos.
2. Serious or repeated offensive remarks, such as teasing about a person's body or appearance.
3. Offensive comments or jokes.
4. Inappropriate questions, suggestions, or remarks about a person's sex life.
5. Displaying sexist or other offensive pictures, posters, MMS, SMS, WhatsApp, or emails.
6. Intimidation, threats, and blackmail around sexual favors.
7. Threats, intimidation, or retaliation against an employee who speaks up about unwelcome behavior with sexual overtones.
8. Unwelcome social invitations with sexual overtones commonly understood as flirting.
9. Unwelcome sexual advances that may or may not be accompanied by promises or threats, explicit or implicit.
10. Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
11. Persistently asking someone out, despite being turned down.
12. Stalking an individual.
13. Abuse of authority or power to threaten a person's job or undermine her performance against sexual favors.
14. Falsely accusing and undermining a person behind closed doors for sexual favors.

15. Controlling a person's reputation by rumor-mongering about her private life.

Explanation

- a) Sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace. Sexual harassment may be part of a pattern of behavior or occur only once. It may be directed at an individual or at a group of people. It may take place during face-to-face contact but can also be inflicted by means of telephone calls, emails, or letters. There is a wide range of ambiguous behavior that might offend some people but not necessarily others; comments on dress, compliments about appearance, and unintentionally offensive jokes that many others would find acceptable. Individuals will have different views about what is offensive. However, the Institute does not allow cultural values or practices to legitimize behavior that harasses, intimidates, threatens, or humiliates others. The conduct has to be offensive to the recipient and might not be intended to be so by the perpetrator. What matters is that the sexual conduct is unwanted and unwelcome to the person against whom the conduct is directed.

- b) It is the reasonable perception of the complainant/victim that would be relevant in determining whether any conduct was sexually determined and, if so, whether such conduct was unwelcome or not or that her objection would disadvantage her in connection with her employment or education, including evaluation, grading, recruitment or promotion, or when it creates a hostile working, educational or living environment.

- c) In any instance of abuse by a person or persons whose identity is currently unknown, the identification of the alleged perpetrator may be taken up by ICASH and appropriate bodies of the Institute to the extent possible. When deemed advisable, the complainant will be helped to file a case with the police.

7. Committee Members:

Any ICASH member may be approached should there be any problem of sexual harassment faced by an employee of IUCAA to share anxiety or stress being experienced at the workplace.

The IUCAA Committee Against Sexual Harassment (ICASH) comprises the following members:

Name	Email address
Ms. Nirupama Bawdekar Chair	nub@iucaa.in
Ms. Deepa Modi Convener	deepa@iucaa.in
Ms. Savita Dalvi Member	snp@iucaa.in
Dr. Rajeshwari Dutta Member	rajeshwari.dutta@iucaa.in
Professor Aseem Paranjape Member	aseem@iucaa.in
Advocate Rama Sarode External Member	ramasarode@gmail.com

8. Functions of the ICASH

8.1 Preventive and Prohibitory

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 states:

1. No women shall be subjected to sexual harassment at any workplace.
2. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment, may amount to sexual harassment:
 - i. Implied or explicit promise of preferential treatment in her employment; or
 - ii. Implied or explicit threat of detrimental treatment in her employment;
 - iii. Implied or explicit threat about her present or future employment status; or
 - iv. Interference with her work or creating an intimidating or offensive, or hostile work environment for her; or
 - v. Humiliating treatment likely to affect her health or safety.

The ICASH shall exercise the following preventive/prohibitory functions:

- Publicize the Institute policy against sexual harassment on the Institute website and the notice boards in all locations of the campus.
- Deploy the online training module on gender sensitization for all the users in the Institute.

8.2 Remedial

The ICASH shall receive and take cognizance of complaints about sexual harassment at the workplace.

The ICASH shall inquire into the complaint, place the findings before the authority and recommend penalties according to the rules and procedures.

Upon receipt of the written complaint, the ICASH shall review the complaint in the context of the service rules of the Institute and the related laws. ICASH shall request additional information from the Complainant if the clarity is required.

The ICASH shall treat all the information received and the details of both the complainant and the respondent confidentially and maintain strict confidentiality throughout the process. The inquiry shall be conducted with respect, solidarity, and trust.

The ICASH shall maintain all records, viz., the written complaint, the notes of the meetings, the evidence, and action-taken report, etc., for future reference. It shall maintain communication with the complainant and respondent to keep them informed of the various stages of the inquiry proceedings.

The ICASH shall submit an annual report in the format prescribed under the Act to the appropriate authority stating the number of complaints received, the number of cases disposed of, the number of cases pending, and the action taken by the employer on the findings of the ICASH.

8.3 Procedure for registering complaints

A complainant may make a complaint of sexual harassment within three months from the date of the incident, and in case of a series of incidents, with a period of three months from the date of the last incident. However, the ICASH may extend the period beyond three months, but not exceeding three months thereafter, for the reasons to be recorded in writing if it is satisfied that circumstances were such that prevented the complainant from making the complaint within the said period.

All the complaints must be in writing. Where the complaint has been made orally, the ICASH shall direct the complainant to file a written complaint. The Presiding Officer or any other member of ICASH may also render reasonable assistance to the complainant; for making any such complaint in writing; if the complainant is unable to make the complaint in writing, the complainant shall authenticate it under the dated signature or thumb impression as the case may be. A complaint may be initiated by email BUT will not be considered to have been received until the complainant has authenticated it.

The immediate response from ICASH on receiving a complaint shall be to provide initial support to the complainant, who may be referred to a doctor or a counselor if so desired.

The complaint shall have the details of the sexual harassment, including the location, date, and time of the incident cited in the complaint, along with names and identifying details of the respondent. The complainant is required to file along with the complaint, supporting documents, and names and contact details of the witnesses.

The ICASH members shall determine whether a prima facie case of sexual harassment is made out.

If the ICASH decides not to conduct an inquiry into a complaint, it shall record the reasons for the same and make them available to the complainant in writing.

If the ICASH determines that an inquiry must be instituted, it will send a true copy of the written complaint lodged by the complaint to the respondent within seven days of this determination.

Upon receipt of the copy of the complaint, the respondent shall file the reply and submit the names and contact information of witnesses within ten days. A copy of the respondent's written reply shall be provided to the complainant.

The complainant shall be informed of her right to seek interim relief and the nature of relief available to her under the policy.

No ICASH member who is a complainant, witness, or respondent in a complaint of sexual harassment shall be a part of the inquiry process of the complaint.

Any member of ICASH charged with sexual harassment in a written complaint shall step down as a member of ICASH while the inquiry is being done.

8.4 Conciliation

Before initiating an inquiry, the ICASH may, at the written request of the complainant, take steps to settle the matter through conciliation. The ICASH shall not conduct any further inquiry after it arrives at a settlement. However, no monetary settlement shall be made on the basis of conciliation. The ICASH shall ensure that the conciliation is out of the free will and consent of the complainant and not due to any fear, force, fraud, undue influence, or misrepresentation. Where the settlement is arrived at, the ICASH shall record the same, obtain the parties' signatures, forward the same to the Director, and close the case. However, if the complainant informs the ICASH that any of

the terms or conditions of the settlement have not been complied with by the respondent, the ICASH shall proceed to hear the complaint in accordance with the procedure laid down herein.

8.5 Action during the pendency of an inquiry

During the pendency of an inquiry on the basis of a written request to ICASH by the complainant, the ICASH may recommend to the Director:

To take steps to ensure the safety of the complainant and witnesses during the pendency of the inquiry and till the final determination of the complaint by advising the concerned authorities to issue warnings or any other order if the respondent harasses or intimidates the complainant or witnesses or is in a position of command wherein they are expected to report to him. In order to ensure a safe, secure, and tension-free atmosphere at the workplace and campus, the ICASH may make specific proposals to the employer. Instances of these may be as follows:

- a) If the complainant is a student and the respondent is a faculty, the respondent will not be allowed to act as an examiner to this student.
- b) If the complainant is a research scholar and the respondent is a supervisor, the supervisor may be changed.
- c) If the complainant and the respondent are employees, the reporting structure may be changed if applicable, and/or either party may be shifted to an alternate location.
- d) If the respondent is an outsider, the respondent will not be allowed to enter the Institute premises, apart from presence at ICASH meetings where required.
- e) If the complainant is a service provider or a contract/casual/project/temporary employee, their service conditions and service contract shall not be adversely affected during the period of the inquiry, and adequate steps to protect their employment and other rights while ensuring their safety shall be recommended to the employer by the ICASH.
- f) Grant such other relief as may be appropriate.

The employer shall implement the recommendations of the ICASH, and a report shall be sent to the ICASH regarding such implementation.

8.6 Procedure for inquiring into complaints

- i. The procedure elucidated here will be generally followed. However, keeping in view the nature of sexual complaints and inquiries and the fact that

determining what constitutes sexual harassment depends upon the specific facts and circumstances of each case, the ICASH is empowered to devise its own procedure for conducting inquiries to find out if the complaint against the respondent is prima facie valid. While conducting the inquiry, the ICASH shall interview the complainant, the respondent, and others related to the case, examine the relevant documents or evidence that may be referred to, and comply with the principles of natural justice and fair play and in consistency with SHWW Act of 2013.

- ii. The ICASH shall provide a reasonable opportunity for the complainant and the respondent to present their case. At the commencement of the inquiry, the ICASH shall explain to both the complainant and the respondent the procedure which will be followed in the inquiry, and they shall be apprised of their rights therein.
- iii. The ICASH may also call on any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- iv. The members of ICASH shall maintain confidentiality about the proceedings conducted by them. They shall keep confidential the identities of the complainant, respondent, and all witnesses before, during, and after the inquiry.
- v. All those heard by ICASH, including witnesses, shall take and observe an oath of secrecy about the proceedings and protect the dignity of the complainant and the respondent. Any violation of the oath of secrecy may invite penalties.
- vi. All proceedings of the ICASH shall be recorded in writing. They may be audio-recorded wherever possible. The written/transcribed record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned and the Presiding Officer in token of authenticity thereof.
- vii. The inquiry shall be completed as far as possible within a period of ninety days from the date of receipt of the complaint. Provided that if for reasons beyond control, the inquiry cannot be completed within ninety days as aforesaid, the ICASH may proceed to complete the same expeditiously and submit its report to the employer.

9. Report on findings and recommendations and action taken.

- i. Where the ICASH arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the Director to impose either significant or minor punishment in accordance with the gravity of the misconduct and in terms of the service rules of the Institute if the respondent is an employee.

- ii. The recommendation shall be guided by provisions of section 15 of the SHWW Act of 2013, namely:
 - a) The mental trauma, pain, suffering, and emotional distress caused to the complainant.
 - b) The loss of a career opportunity due to the incident of sexual harassment.
 - c) Medical expenses incurred by the complainant for physical or psychiatric treatment.
- iii. The respondent should give a written apology, and further, as per their category, viz. Employee, Student, Resident, Service Provider, or Outsider, be considered for one or more of the following penalties:
 - a) Warning
 - b) Undergoing counseling sessions and or gender sensitization training programs.
 - c) Debarring from holding any position of responsibility.
 - d) Fixed-time suspension during which the student may not enroll for any course, stay in the hostel or enter the campus.
 - e) Payment of fine.
 - f) Withholding award of the degree for a fixed period.
 - g) Expulsion.
 - h) Other similar or appropriate punishment.
 - i) Warning to employing company; if any.
 - j) Informing the Internal Complaints Committee (ICC) of the employing Institute/ organization where the respondent works.
 - k) Declaring the campus out of bounds for the respondent.
 - l) Withdrawal of the right to run/manage/ work in any commercial enterprise or provide services on its campus.
 - m) Helping the complainant to file FIR.
 - n) Other similar or appropriate punishment.
- iv. Where the ICASH arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made such complaint knowing it to be false or any evidence produced by the complainant is forged, fabricated, and/or misleading, it may recommend to the employer to take

action including disciplinary action against the complainant in a manner as may be prescribed.

- Provided that a mere inability to substantiate a complaint or provide adequate proof or investigation being rendered inconclusive due to any circumstance, which may make it difficult to prove such allegation, need not attract such attention.
 - Provided further that the malicious intent on the part of the complainant shall be established only after an inquiry in accordance with the procedure prescribed before any action is recommended.
- v. Where the ICASH arrives at a conclusion that during an inquiry, any witness has given false evidence or has produced any forged or misleading document, it may recommend to the employer to take action against such a witness in accordance with the service rules applicable to such witness or such other manner as may be prescribed.
- vi. Subject to the consideration of an appeal, if any, against a proposed penalty, the Employer shall take disciplinary action within sixty days of receipt of the final report from the ICASH and shall inform the ICASH and the complainant about the action taken. It is clarified that the report of the ICASH shall be treated as the inquiry report on the basis of which a penalty can be proposed/ imposed against the respondent. An appeal not filed within one month of receipt of notice will be liable to be rejected.
- vii. Post-implementation of the actions, the employer shall follow up with the complainant to ascertain whether the behavior has, in fact, stopped. The solution is working satisfactorily, and no victimization is occurring.

10. Appeal

The complainant and the respondent shall have the right to appeal if they are dissatisfied with the decision of the ICASH as per the provisions contained in the CCA rules or other relevant rules of the Institute.

11. Amendments to the policy.

Amendments to improve or alter this policy may be formulated and recommended by ICASH and forwarded to the Director for consideration and approval by the Director.