



IMPACT PARAMEDICAL & HEALTH INSTITUTE COLLEGE OF NURSING

SEXUAL HARASSMENT POLICY

What is POSH?

POSH or the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the Act) is a ground-breaking law on a much-needed and burning issue. It is India's first codified legislation that categorically deals with the prevention, prohibition, and Redressal of sexual harassment of women in the workplace.

The Act came into force on December 9, 2013, and is binding on every organization, public or private, having more than 10 employees.

POSH Policy

The POSH Act has laid down detailed guidelines for the entities and they are free to formulate their policy to prevent, prohibit, and redress sexual harassment of women in their companies.

The "Policy" has to be formulated following the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the "Rules" must be framed keeping in mind the provisions in "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

Internal Complaints Committee (IC)

As per the POSH Act, an employer has 10 workers or more is required to set up an Internal Complaints Committee for the Redressal of 'sexual harassment complaints at such entity and to regulate and administer complaints on sexual harassment. An Internal Complaints Committee is required to be constituted which shall submit an annual report to its employer and District Officer.

Every company needs to have in place an effective IC, or else the company can be penalized for non-constitution of IC.

Initially when the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 was passed Internal Committee was called ICC (Internal Complaints Committee) but on 9th May 2016, the amendment was made and ICC was substituted by Internal Committee (IC) wherever it existed. This was done to expand the role of the sexual harassment Committees so that they are not restricted to complaint resolution only.

IC Training

As per Section 4 of the Act, every employer must adhere to the obligation of constituting an Internal Complaints Committee if the workplace has more than ten employees. This initial

in-house body gains great significance if a woman faces sexual harassment at the workplace as the Internal Complaints Committee must be approached for filing a complaint by the aggrieved women.

As the entire effectiveness of the POSH Act depends on the Internal Complaints Committee Policy, therefore, the members of the IC need complete clarity and competency. This POSH training will give them much-needed insight into the formation, functioning, powers, responsibilities, and mechanism of IC's functionality.

By attending this training the IC members will understand the A-Z of the POSH Act and also the nitty-gritty of the sexual harassment Redressal system.

The Internal Complaints Committee members and their role:

i) Presiding Officer: The presiding officer must be a woman employed at a senior level in the organization or workplace to work according to the Internal Complaints Committee Policy.

ii) Internal Members: At least 2 Internal Complaints Committee members must be selected from among the employees who are committed to the cause of women or who have had experience in social work or have legal knowledge.

iii) External Member: The external member of the IC has to be selected from non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

iv) 50% Women: At Least one-half of the total members nominated to the IC must be women.

- 1. Chairperson/Director -1**
- 2. Principal/Vice Principal- 1**
- 3. Human Resource Manager -1**
- 4. NGO Woman -1**
- 5. Faculty Member -2**

Powers of the Internal Complaints Committee

The Internal Complaints Committee plays an important role in the functioning of the provisions of the Act and to ensure the fulfillment of its objectives of the Internal Complaints Committee Policy.

Thus, the main function of the Internal Complaints Committee is:

Implementation of the Internal Complaints Committee Policy relating to the prevention of sexual harassment.

Resolving complaints by the aggrieved based on the guidelines of the Internal Complaints Committee Policy.

Recommending actions to be taken by the Employer.

As per Section 11(3) the Internal Complaints Committee enjoys the powers same as that of a Civil Court and therefore:

It is empowered to initiate an inquiry into a complaint of sexual harassment at the workplace according to the Internal Complaints Committee Policy. IC has the power to summon witnesses and parties to state the committee. It enjoys the discretion of summoning evidence to be examined if it may be deemed necessary to do so by the members of the Committee.

Responsibilities of the Internal Complaints Committee

Every organization is bound by POSH law to publish the names and details of the current IC members on the premises at prominent places as well as on their official websites.

The main responsibility that lies with the IC is:

- Receive complaints of sexual harassment at the workplace
- Initiate and conduct an inquiry as per the company's procedure
- Submit findings and recommendations for all such inquiries
- Coordinate with the Employer in implementing appropriate action
- Maintain strict confidentiality throughout the process as per established guidelines of the Internal Complaints Committee Policy
- Submit annual reports in the prescribed format as prescribed
- The Internal Complaints Committee is required to be vigilant to redress the sexual harassment complaints and resolve the same ASAP.

Redressal Process

1.) Conciliation

Procedure for Conciliation:

Before initiating an inquiry, the Internal Complaints Committee may, at the written request of the Complainant, take steps to settle the matter between the Complainant and the Respondent through conciliation.

Monetary settlement cannot be made the basis of such conciliation. In case a settlement has been arrived at, the IC shall record it and forward it to the Company to take action as specified in the recommendation of the IC.

The Internal Complaints Committee will also provide copies of the settlement as recorded to the Complainant and the Respondent.

If conciliation has been reached, the IC will not be required to conduct any further inquiry.

If Complainant feels that the terms of Settlement are not being complied with by the Respondent or action has not been taken by the Company, Complainant can make a written complaint to the IC to conduct an inquiry into the complaint.

2.) Inquiry

The procedure of inquiry begins when a settlement is not feasible or could not be arrived at through conciliation and the Internal Complaints Committee is then bound to conduct an inquiry into the complaint.

An inquiry may also be initiated if the aggrieved person informs the IC that any terms of the settlement have not been complied with by the respondent.

The Internal Complaints Committee within 7 working days of receiving the complaint shall forward one copy to the respondent and seek a response.

The respondent shall file his/her reply to the complaint along with a list of supporting documents, names, and addresses of witnesses, within 10 working days of receiving the complaint.

The complainant or the respondent to the complaint shall not be allowed to bring any legal practitioner to represent them.

At any stage of the proceedings before the IC, neither the complainant nor the respondent shall be allowed to bring any legal practitioner to represent them.

The Internal Complaints Committee shall hear both the complainant and the respondent on the date(s) intimated to them in advance and the principles of natural justice will be followed accordingly.

If the complainant or the respondent fails to attend a personal hearing before the IC on three consecutive dates without sufficient cause, the IC shall have the right to terminate the inquiry proceedings or give an ex-parte decision.

However, before such termination or the ex-parte order, the IC shall serve a notice in writing to the party/parties, 15 days in advance.

The process of inquiry shall be completed by the Internal Complaints Committee within 90 days from the date of receipt of the complaint.

From the date of completion of the inquiry, the IC shall provide a report of its findings and recommendation(s) within 10 days to the concerned authorities as well as complainant(s) and respondent(s).

3.) Interim Relief

As per the Internal Complaints Committee Policy, during the period of pendency of the inquiry, if a written request is made by the complainant, the Internal Complaints Committee may recommend to the employer:

To transfer either the aggrieved or the respondent to some other workplace.

To grant leave to the aggrieved individual for a period of a maximum of 3 months, but this should be in addition to the leave she would be otherwise entitled to.

To accord any other relief to the aggrieved as may be found to be appropriate.

To restrain the respondent from reporting on the performance of the complainant.

4.) Compensation

Internal Complaints Committee Policy mandates that the compensation by IC shall be determined based on:

The mental trauma, pain, suffering, and emotional distress caused to the aggrieved employee;

The loss of career opportunities due to the incident of sexual harassment;

Medical expenses incurred by the victim for physical/ psychiatric treatment;

The income and status of the alleged perpetrator; and

Feasibility of such payment in a lump sum or instalments.