

MICA

Internal Complaints Committee (ICC) and Prevention Of Sexual Harassment – POSH

MICA is committed to providing all its employees, students and service providers with an equal opportunity and a harassment-free workplace notwithstanding race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability, as the case may be. This entails zero tolerance for sexual harassment, which humiliates, degrades, and dehumanizes an individual.

In order to create such a safe and conducive work environment, this Policy has been framed, in line with the provisions of the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” of India (hereinafter referred to as the “Act”) and existing rules framed thereunder namely the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as the “Rules”).

The Internal Complaints Committee (ICC) at MICA functions as the body to

- 1) handle complaints about sexual harassment made by employees or students against members of the same or the opposite sex, in accordance with the rules framed by the ICC in compliance with the POSH Act.
- 2) promote gender sensitization among the campus community,
- 3) help the authority to take measures to promote gender equality and justice on campus

1. Sexual Harassment

a) The POSH Act [the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act] was enacted by the Government of India in 2013. This strengthened the guidelines provided in the Supreme Court of India's landmark 1997 judgment in Vishaka vs. State of Rajasthan, also known as the 'Vishaka judgment', which specified that "Sexual Harassment" includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- Physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature."

b) A spectrum of action and conduct falls within the ambit of sexual harassment. This may include but is not limited to

1. Unwanted sexual advances or propositions;
2. Pestering for dates or receiving unwelcome sexual suggestions or invitations;
3. Offering employment benefits in exchange for sexual favours;
4. Leering;
5. Making sexual gestures;
6. Displaying sexually suggestive objects or pictures, cartoons, calendars or posters;
7. Making or using derogatory comments, comments about a person's body or dress, slurs, epithets or sexually suggestive jokes;
8. Written communications of a sexual nature distributed in hard copy or via a computer network, suggestive or obscene letters, notes or invitations;
9. Physical conduct such as unwanted touching, assault, impeding or blocking movements;
10. Being forcibly kissed or hugged;
11. Having someone expose their private parts to you or repeatedly staring at a woman's body parts that makes her uncomfortable;
12. Making or threatening retaliation after a negative response to sexual advances or for reporting or threatening to report sexual harassment;
13. Sexually tinted remarks, whistling, staring, sexually slanted and obscene jokes, causing or likely to cause awkwardness or embarrassment;
14. Subtle innuendoes or open taunting regarding perfection, imperfection or characteristics of physical appearance of a person's body or shape;
15. Gender-based insults and/or sexist remarks
16. Unwelcome comments, gossip or innuendo about someone's sex life;
17. Forcible physical touch or physical assault or molestation;
18. Suggesting or implying that failure to accept a request for a date or sexual favours would affect the individual's performance evaluation or promotion negatively; explicitly or implicitly suggesting or demanding sexual favours in return for hiring, compensation, promotion, retention decision, relocation, or allocation of job/ responsibility/work;
19. Physical confinement against one's will.
20. Acts violating one's privacy, such as doxing, impersonating online, recording communication without consent and with malicious intent, sharing photos, emails, letters, any form of digital or online harassment or other communication/objects intended for private circulation.
21. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:
 - I) Implied or explicit promise of preferential treatment in employment; or
 - II) Implied or explicit threat of detrimental treatment in employment; or
 - III) Implied or explicit threat about the present or future employment status; or
 - IV) interference with work or creating an intimidating or offensive or hostile work environment for the person;

c) Sexual harassment is often the result of a power differential between complainant and the respondent. It can often be difficult to prove with the aid of conventional types of evidence. The subjective experience of harassment and intimidation is important: the reasonable assumption that the behaviour someone was subject to was offensive, unwelcome and unwanted, even if the perpetrator did not intend or perceive it to be so. The more power a respondent has over the complainant, the more serious and deserving of punishment is the harassment complaint.

d) Harassment can be part of a pattern and occur repeatedly over time, or it can happen one time. It may be perpetrated in person, online or over telephone calls and text messages. All behaviour that is deemed to create a hostile work environment for MICA students and employees on the basis of their gender will be deemed punishable in accordance with this policy.

2. Definitions

a) **Authority/Authority**

This refers to the Director & CEO of MICA. In case of a complaint against the Director & Dean, the Board of Governors in "Ethics Committee" will function as the 'Authority.' In the absence of the Director & CEO, the administrative functionary nominated by them or by the Board, as the case may be, will be the 'Authority' in question. In certain contexts, especially with regard to matters of security and infrastructure.

b) **Employee**

This policy covers the academic, administrative and technical staff of the Institute, permanent, temporary or ad hoc, full-time or part-time, holding visiting, guest or honorary positions, on deputation or special duty, and any person employed for any work directly, or by or through any agency/contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis, whether the terms of employment are implied or clearly expressed. It further includes any person employed as a temporary, casual, daily wage or contract worker, teaching or research assistants, consultants, advisers and persons involved in projects, camps, field studies and short visits, probationers, and trainees.

c) **Student**

A 'Student' is someone duly admitted, pursuing or completed (and awaiting their degree); pursuing programs either through regular mode or other modes, including a non-degree or short-term program at MICA. It also includes students of other universities, institutes or colleges who come on placement for short-term courses, internships or training at MICA. These rules also cover students who are awaiting the completion of the admissions process but have yet to be admitted, and those who are on campus to participate in any of the activities of MICA, should an incident of sexual harassment take place against such a student.

d) **Workplace**

'Workplace' includes the MICA campus, and any place visited by an employee or student during or arising out of the course of employment or study, including transportation (whether provided by the employer or not) for undertaking such journeys, and including locations outside the MICA visited on field/industrial trips, seminars, conferences, workshops, internships, study tours, excursions, short-term placements, places used for camps, cultural festivals and competitions, sports meets and other activities as well as outside accommodation, when used for official purposes. It also includes off-site and online platforms where any of professional activities is discharged for MICA .

Note: All reference to duration in terms of 'days' should be understood as 'working days' in this policy.

3. Composition of the Internal Complaints Committee

- a) The ICC shall have at least 10 members, including the Convenor. The ICC will be constituted by the Director. The Convenor should be a woman faculty member, preferably a Senior Faculty member with the requisite experience, training and sensitivity. The composition of the ICC shall be as follows:
 - i) One senior faculty member (Convenor, Female)
 - ii) 3 faculty members: 1 Female (F); 2 Faculty Members (M&F)
 - iii) 2 non-teaching staff members (at least 1 Female), and 2 PGDM student representatives (M&F)
 - v) 1 PG student representative (F) – PGDM or FPM
 - vi) 1 External Member (from an NGO and/or someone with legal expertise, having a record of working on gender/women's issues; M/F)
- b) The term of all the members, except student members will be 3 years. The student members will serve for a minimum of 1 year and a maximum term of 2 years.
- c) All students will be selected through an insightful one-to-one interaction conducted by the Convenor and one other Faculty member of the ICC.
- d) The names and contact details of all the members of the ICC should be available on the website and suitably publicized by the MICA.
- e) ICC would be the final authority with regard to the decision of any complaints below the level of Director and Dean.

4. Meetings and Deliberation

- a) The Convenor will be responsible for calling a meeting of the ICC as and when required.
- b) A routine meeting of the ICC must include the Convenor and at least 4 out of the other 10 members. The presence of 5 out of 10 members (50%) will

constitute a quorum for deliberations.

Note 1: Effort should be made to ensure the participation of representatives of the aggrieved group: for example, at least one student if the Complainant is a student; staff if the Complainant is a member of the staff and so on; the external member should participate in all cases. Reasons for their absence should be recorded in writing.

Note 2: Virtual/ hybrid meetings may be held and their minutes duly recorded and approved over email when required.

5. Complaints Process

- a) A complaint of sexual harassment can be filed within 3 months of an incident, or the last instance of a series of acts, occurring. The ICC may determine in certain cases that circumstances were not conducive to filing a complaint within the prescribed time period, and alter the time-frame. The reasons for this must be recorded in writing.
- b) The complaint should be written in simple language and contain as much specific detail as possible: dates and times, background, people present, names of witnesses etc. Details of the Respondent, and in what relation they stand to the Complainant professionally should be included. Evidence in the form of emails, photographs, and screenshots of calls, text, posts on social media, recordings of calls or voice messages should also be included with the complaint where possible.
- c) The ICC may also take *suo motu* cognizance of a case of harassment and encourage survivors to come forward and lodge complaints. Complaints must be submitted to the Convenor of the ICC in person, or emailed to icc@micamail.in
- d) Upon receiving a written complaint, the convenor shall form an Investigation Committee (IC) from amongst the members of the ICC.
Note: Efforts should be made to constitute the IC as soon as possible. During the period of summer/ winter vacation etc. the formation of IC and start of the inquiry may take place once the convenor and IC members are available.
This can be over email and online/hybrid meetings, as required.
- e) If the IC and ICC determine that a case is not made out, the reasons for this should be clearly set down in writing and made available to the Complainant.
- f) If a case is made out, the ICC shall conduct a full inquiry based on the IC report, place findings before the Authority and recommend penalties against the Respondent in accordance with the rules and procedures laid down.
- g) A copy of the complaint should be made available to the Respondent in 7 days.
The Respondent should supply their response, along with evidence and details of witnesses, within 10 days of receiving a copy of the complaint. Failing this, a reminder is to be sent to the Respondent, and in view of further non-compliance, the inquiry shall proceed regardless.
- h) No more than 15 days will be allowed for the response in any scenario, except a severe medical emergency or life-threatening crises, evidence for

which must be presented by the Respondent.

- i) In the case of third-party/outsider harassment, with the consent of the Complainant, the institute shall initiate action by making a complaint with the appropriate Authority having jurisdiction over the offence. Further, the Institute and the ICC will actively assist the Complainant in pursuing the complaint.
- j) A written undertaking of confidentiality should be signed by the Complainant and Respondent and submitted to the Convenor. All ICC members will also be required to sign an undertaking of confidentiality.
- k) **The ICC shall treat all the information received and the details of both the Complainant and the Respondent as confidential and maintain strict confidentiality throughout the process. Any breach of this by the Respondent/s and/or any member of the ICC will be subject to action.**

Note: The Inquiry must consider the facts presented by both parties and witnesses in the spirit of this Policy as well as the POSH Act, and exercise their judgement with care and sensitivity in each case.

a. Composition and Duties of the ICC

- i. The ICC for hearing a complaint shall have a minimum of three members, including the Convenor or the member appointed by the Convenor to represent her.
- ii. At least half of the members of this Committee shall be women.
- iii. The ICC shall conduct preliminary inquiries into the complaint and determine if *prima facie* a case of sexual harassment is made out against the Respondent.
- iv. The IC will place their findings before the ICC for further deliberations. If it finds that a case is made out, the IC shall recommend interim measures for the safety of the Complainant for the ICC to approve.
- v. This process should take no longer than 5 days from the constitution of the IC.

Note: Efforts should be made to include at least one representative from the group to which the Complainant and Respondent belong in the IC (i.e. an investigation involving students must include student members; staff representative must be included if staff are involved etc.) Reasons for departing from this practice should be recorded in writing.

b. Interim Measures

- i. Based on the nature of the complaint, the ICC may recommend interim measures to the Authority to ensure the safety and well-being of the Complainant while the inquiry proceeds. These may consist of the following:
 - 1. If the Respondent is part of the faculty and the Complainant a student,

said faculty should not be allowed to act as an examiner or teacher for the duration of the inquiry.

2. If the Respondent is the Complainant's supervisor, the supervisor should be changed.
3. If both Complainant and Respondent are students and a history of stalking and/or intimidation or use of force is involved, the Respondent may be asked to vacate the hostel and other restrictions may be placed on their movements on campus.
4. If the complaint involves employees, suitable measures may be proposed to shift the Respondent to another place or to change their duties, pending the result of the inquiry.
5. A temporary, fixed-period suspension from work and other activities of Respondents if they are students or employees. This shall not impact the payment of salaries or stipends at this stage.
6. If the complaint is made against outsiders, barring their entry into campus for a fixed period. Exception to be made only to attend the proceedings instituted by the ICC.

Other such measures can be proposed as required.

- ii. In the case of a complaint from a temporary or contract employee/service provider, the conditions of their employment or contract shall not be adversely affected because of their complaint.
- iii. Interim measures should be approved by the ICC. Exceptions can be made in emergencies, and during times when the institution's regular calendar is not in operation (Summer/Winter break; when a quarantine is in force etc.) In such times, email approval of interim measures by 4 out of 6 non-student ICC members shall be deemed sufficient.
- iv. Violation of the injunctions of the ICC will invite suitable penalties and adversely affect the case of the Respondent. Threats or attempts to influence or intimidate the Complainant, their family, friends or members of the ICC will invite serious punishment.
- v. The Authority should take measures to ensure the safety, security and well-being of the Complainant during the inquiry. This may also require measures like temporary leave for a fixed duration or other measures on the direct request of the Complainant.

6. Inquiry

a. Informal Process (Conciliation)

- i. The informal process may proceed only on the written request of the Complainant, and provided that the ICC has good reason to believe that the request is not a result of overt or covert pressure or coercion of any kind.
- ii. The Convenor may proceed with conciliation between the parties by consulting with the Complainant and other members of the ICC. No inquiry will be conducted in this case. Written statements signed by both parties, undertaking to hold to the conditions of conciliation, will be submitted to

the ICC. The ICC may initiate an inquiry if these conditions are violated by the Respondent.

- iii. Monetary compensation or exchange should not be the basis of conciliation.

b. Formal Process

- i. Once the Complainant has demanded or consented to formal proceedings, the Complainant and Respondent will both have a chance to meet with the ICC to present their case verbally.
- ii. The ICC will examine the evidence presented by both sides, summon the witnesses and any other persons they find relevant to the inquiry, and collate the results of these proceedings.
- iii. Both the Complainant and Respondent will have the opportunity to look at the evidence and suitably anonymized witness statements. They may pose questions to the opposite party (through the ICC) after examining the statements and evidence.
- iv. These questions will be submitted to the ICC and posed to the other party by the ICC. All these meetings will be video-recorded where possible.
- v. If either party fails to appear for three consecutive meetings without communicating sufficient cause, the ICC will record this, send a 'Show Cause' notice to them, and failing to get a response within 7 days, proceed without them. All these matters are to be placed on the record.
- vi. The Internal Complaints Committee will consider the results of the entire process and document their findings.
- vii. The final report recommending action-or no further action, as the case may be-will be submitted to the requisite Authority after all members of the ICC have weighed in on the report and its findings.
- viii. The Findings will record the majority opinion. Dissent notes, if any, shall be separately included in the Report.
- ix. In certain cases, the ICC may find that no further action is required in the case. Bearing in mind the highly complex nature of sexual harassment, the inability to prove an allegation satisfactorily will not go against the Complainant. However, the ICC may determine that the complaint was deliberately false and malicious, and in such cases, recommend action against the Complainant. The reasons for each recommendation should be recorded in the final Report.
- x. The investigation should be completed within 90 days of receiving the written complaint. The Report should be submitted no longer than 10 days after the completion of the inquiry. A copy of the findings and recommendations should be made available to the Complainant and Respondent.

7. Role of Authority

a) General

- i) Provide a safe working environment for all. Display the

consequences of sexual harassment and penalties in obvious places and in a special POSH policy booklet. It should also include details of the redressal mechanism and the names and contact information of members of the ICC.

- ii) Regularly organise workshops and training sessions to sensitize students and employees about sexual harassment issues.
- iii) Provide the ICC with the requisite resources, infrastructure and an adequate budget to conduct the inquiry proceedings.
- iv) Ensure that the institute has well-trained and sufficient security staff (including adequate female staff). They must undergo regular training sessions on gender sensitivity.
- v) The institute should provide the ICC with the current contact numbers and names of the security officers (Men and Women).

b) Inquiry and Action

- i. List sexual harassment as a grave misconduct under service rules and initiate appropriate action for it.
- ii. Provide all necessary facilities to the ICC for dealing with complaints and conducting inquiries; make available any information to the ICC as and when required with regard to any complaint under inquiry.
- iii. Help in securing the attendance of the Respondent and witnesses before the ICC.
- iv. Ensure that filing a complaint must not adversely affect the Complainant's status, reputation, grades, education, job, increment, and promotion (as applicable).
- v. Help the Complainant to file a police case if they want to file a formal case.
- vi. Facilitate the ICC's use of the services available at the institutional level, like counselling, legal advice, medical doctor, should the need arise.

8. Penalties

The prevention of sexual harassment through redressal of complaints to ensure an equitable and safe workplace for all, needs a range of punitive measures to be specified and put into place by the institution. The ICC shall deliberate on the circumstances of each case and recommend a suitable set of actions to be taken in their Report to the Director, MICA. This range shall include, but not be limited to, the following:

a) When the Respondent is a student:

- Warning
 - Counselling and Community service
 - Written apology to Complainant and/or a Public apology
 - Debarring from exams
 - Payment of Fine
- i) Debarring from the membership or holding any positions in clubs or in the students committees

- ii) Fixed time suspension from non-academic activities/academic program/access to the MICA campus, ranging from a minimum of one semester to four semesters
- iii) Withholding award of degree for a fixed period
- iv) Expulsion
- v) Expulsion with lifetime ban on access to/affiliation with MICA

c) When the Respondent is an Employee:

- Warning
- Written Apology to Complainant and/or Public Apology
- Salary cut in a fixed proportion over a fixed period of time, not exceeding 12 months
- Fixed-time suspension without pay, ranging from 2-6 months
- Adverse entry in employment record
- Payment of fine
- Termination of service

d) When the Respondent is a Service Provider/Outsider

- Warning
- Permanent debarring of entry on campus
- Complaint to ICC or equivalent in their organization
- Termination of contract or any other arrangement with MICA

e) Any combination of the above or other appropriate punishment in keeping with the gravity of the matter may be deliberated on by the ICC and recommended. As noted, the conduct of Respondents will be deemed more serious in proportion to the power they hold over Complainants': a senior faculty member or senior member of staff is in a position to do more damage to junior faculty, students and other employees than, for instance, a student to a senior worker.

i) In extreme cases, the ICC may recommend that the Institution assist the Complainant in filing a criminal complaint under Bharatiya Nyaya Sanhita 2023

a. Appeals Process by the Respondent

- i. All appeals should be directed to the Authority and not to the ICC directly. The Authority, in this case – The Director of MICA will coordinate the responses with the ICC
- ii. The Complainant will have 30 days from the date of receiving a copy, to appeal the recommendations of the ICC contained in the Report.
- iii. The Authority will issue a show-cause notice to the Respondents no more than 10 days after the submission of the Report.
- iv. The Respondent shall have 30 days to reply to the notice and appeal the recommendations of the Report.
- v. The Authority should make a decision on the recommendations and

appeals, if any, no more than 30 days after the deadline for the Respondent's reply to the show-cause notice. If appeal leads to a change in the decision (i.e. deviates

from recommendation by ICC), and then the reasoning must be recorded in writing in the final decision. The Authority will communicate its final decision in writing to the Complainant and the Respondent with a copy to the ICC.

- vi. The decision of the Authority in these cases will be final.

9. Amendments to Policy

Future amendments to this policy may be deliberated and decided upon by the ICC, recorded in writing and sent to the Authority for approval as and when required.

10. Members of the Internal Complaints Committee (Representatives from Students would change annually)

- Prof. Mini Mathur – Presiding Officer (9898598594)
- Prof. Rajneesh Krishna (9909942542)
- Prof. Shubhra P. Gaur (9824004066)
- Prof. Harmony Sigantoria (9824016061)
- Mr. Vinit Shah (9898580102)
- Ms. Arjita Srivastava
- Ms. Poornima Savargaonkar
- Student Representatives