

Rules and Procedures of the Committee Against Sexual Harassment (CASH)

UNIVERSITY OF JAMMU

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1. BACKGROUND OF THE RULES AND PROCEDURES

These are the Rules and Procedures of the Committee against Sexual Harassment, which is the body constituted by University of Jammu, Jammu (Vide Notification No. Estab/09/19492-591 dated 24.12.2009), on the recommendations of the Working Group of Sexual Harassment, headed by Prof. Neelam Saraf, appointed by the Vice-Chancellor on 26th June 2009. This body shall implement the Jammu University Policy against Sexual Harassment along the guidelines laid down by the Hon'ble Supreme Court of India, in its ruling on the Writ Petition (Criminal) Vishaka vs. State of Rajasthan on 13 August 1997, in the prevention and deterrence of Sexual Harassment at the workplace. The Hon'ble Supreme Court in a subsequent judgement titled Appared Export Promotion Council vs A. K. Chopra, on 20th January, 1999 has reiterated that incidents of sexual harassment violate fundamental rights to gender equality and right to life and liberty. It may be pointed out that although these Rules and Procedures follow that spirit of the above mentioned judgements, they cover a wider spectrum of sexual harassment in consonance with the requirements of an institution of higher education.

II. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment in this context, (as is described in the Supreme Court Judgement, and the Jammu University Policy), includes any unwelcome sexually determined behaviour, whether directly or by implication, and includes physical contact and advances, a demand or request for sexual favours, sexually colored remarks, showing pornography, and other unwelcome physical, verbal or non-verbal conduct of a sexual nature. It shall include, but will not be confined to, the following:

a. When unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature, explicitly or implicitly, are made a term or condition of instruction, employment, participation, or evaluation of a persons engagement in any academic or campus activity.

b. When unwelcome sexual advances, and verbal, non-verbal, or physical conduct such as loaded comments, slander, remarks of jokes, letters, phone calls or e-mails, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature have the purpose or effect of interfering with an individual's performance of of creating an intimidation, hostile of offensive campus environment.

III. OTHER DEFINITIONS

i. "Academic staff" includes any person on the staff of the University who is appointed to a teaching and /or research post, whether full-time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation, and shall include employees employed on a casual or project basis. It shall not, however, include any such person on the staff of an autonomous institution to which Jammu University is the authority awarding degrees.

ii. "Appeals Committee" as defined in Section X (3) herein.

iii. "Campus" includes all places of work and residence in the Jammu campus of Jammu University. It includes all places of instruction, research and administration, as well as hostels, guesthouses, public places and places of residence allotted and administered by Jammu University.

iv. "Complaints Screening committee" as defined in Section VI.3 (B) herein.

v. "Counsellor" includes any woman, empanelled by CASH and/or appointed by the University authorities, who has proven expertise in social and personal counseling on matters arising out of incidents of sexual harassment.

vi. "Eminent woman academician" includes a senior woman academician who is not a member of either the academic or the non-teaching staff of Jammu University, and who has experience in working for gender equality.

vii. "Enquiry Committee" as defined in Section VI.4 herein.

viii. "CASH" shall refer to the committee against Sexual Harassment of Jammu University.

ix. "NGO" includes any Non-Governmental Organization registered under the Societies' Registration Act or as a public charitable trust recognized under law. Such a society/charitable trust must not be affiliated to any political party, and should have been engaged in work for gender equality, particularly for the amelioration of the status of women, for a minimum of three years prior to the date of empanelment. Two-thirds of the registered membership of such

a society or charitable trust shall be outsiders with respect to Jammu University; i.e. at least two-thirds of the membership shall not include any person who is a student, resident, service provider, or a member of the academic staff or non-teaching staff of Jammu University.

x. “Non-teaching staff” includes, any person on the staff of the University who is not appointed to a teaching and/or research post, whether full-time, temporary, ad-hoc, part-time, daily wager, honorary or on special duty or deputation, and shall include employees employed on a casual or project basis, as also person employed through a contractor. It shall not include any such person on the staff of an autonomous institution to which Jammu University is the authority awarding degrees.

xi. “Outsider” includes any person who is not a student, resident, or member of the academic or non-teaching staff of Jammu University. It shall also include any person who is a student, employee, service provider, or resident of any autonomous institution that has its premises/residences in the Jammu University Campus.

xii. “The Policy” shall refer to the Jammu University Policy against Sexual Harassment.

xiii. “Resident” includes any person who is a temporary or permanent resident of any of the accommodations of premises managed and/or allotted by Jammu University, irrespective of whether he/she is the person to whom the accommodation is officially allotted. It shall not include any such person who is in temporary or permanent residence in an autonomous institution that has its premises and/or residences in the Jammu University campus.

xiv. “Service provider” includes any person who runs or manages commercial enterprises, or provides services, on the campus. It includes, but is not limited to, person working in shops, canteens, hostels and restaurants on the campus, as well as persons working in premises allotted on the campus and any other such similar services.

xv. “Student” includes any person who is enrolled for any course, whether full time or part time, with Jammu University, Jammu and includes 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 Jammu University of short-term courses at Jammu University. It shall not, however, include any student enrolled in a course in an autonomous institution to which Jammu University is the authority awarding degrees.

xvi. “Supreme Court Judgment” shall refer to the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India on 13 august 1997 in its ruling on the Writ Petition (Criminal) Vishaka vs. State of Rajasthan and the judgment titled Apparel Export promotion Council vs. A. K. Chopra, on 20th January 1999.

xvii. “Third party” shall include the NGO representative or the eminent woman academic serving on, or empanelled by, CASH.

xviii. “University authorities” shall refer to the Vice-Chancellor of Jammu University, by virtue of her/his being the head of the Institution, as well as any such person to whom such

power may be delegated such as the Rector(s), and /or any person who is entrusted with any powers and functions to act on behalf of the University under the Jammu University Act 1969, or statutes, Ordinances or Rules there under. For faculty members and group 'A' officers, the appropriate University authority is the University Council, and for students and other employees, it is the Vice-Chancellor.

xix. "University functionaries" includes any person appointed, designated or nominated by the University authorities to a position of service in Jammu University, and includes, but is not limited only to, the following: Dean of Students, Deans of Faculties, Dean Students Welfare, Directors, Provosts, Wardens, Security Personnel, Health Professionals, as well as persons discharging administrative responsibilities, such as the Registrar and the Finance Officer.

xx. "Vacations" shall refer to the periods notified from time to time.

xxi. "Vacations Committee" as defined in Section V.11 herein.

xxii. "Warden" shall refer to any person, who is nominated, appointed or designated by the Vice-Chancellor as a Warden of a hostel allotted and/or administered by the Jammu University.

IV. SHORT TITLE AND SCOPE

These Rules and Procedures of the Jammu University Committee against Sexual Harassment will be called the Rules and Procedures of CASH. The provisions of these Rules and Procedures of CASH shall apply to all students, academic staff, and non-teaching staff on active rolls of the Jammu University, Jammu, as also to residents, service providers, and outsiders who may be within the territory of Jammu University at the time of commission of the act attraction CASH Rules, on the Jammu University campus, to the extent specified in these Rules and Procedures. These rules and procedures shall be applicable to all complaints of sexual harassment made:

IV (i) By a student against a student or a member of the academic or non-teaching staff or a co-student; or by a member of the academic or non-teaching staff against a student or another member of the academic or non-teaching staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

IV (ii) By a resident against a student or a member or the academic or non-teaching staff or made by a student of a member of the academic or non-teaching staff against a resident, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

IV (iii) By a service provider or an outsider against a student or a member of the academic or non-teaching staff or made by a student or a member of the academic or non-teaching staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.

V.COMPOSITION AND PROCEDURES OF CASH

V.1. Composition.

CASH shall have a membership of fifteen persons, of which at least half the members shall be women. The composition of these members to given below while the bodies, which shall elect or nominate these members are given in the next section.

V.1 (i) Two faculty members (at least one woman) specially elected to serve on CASH.

V.1 (ii) Two students (at least one woman) specially elected to serve on CASH.

V.1 (iii) One women officer and one woman staff member specially elected to Serve on cash.

V.1 (iv) Two Wardens (at leave one woman).

V.1 (v) One representative each of the Jammu University Research Scholar Executive Association (JURSEA), Jammu University Teachers' Association (JUTA), Jammu University Officer Welfare Association (JUOWA), Jammu University Non-Teaching Employee Union (JUNTE) and Jammu University Non-Gazetted Employee Association(JUNGEA).

V.1 (vi) One eminent woman academician from outside the University.

V.1 ((vii) One woman representative of an NGO.

V.1 (viii) One woman counsellor.

V. 2. The Process for Formation of CASH.

V.2 (i) The election for the specially elected representatives of students, teachers, staff, and officers (those referred to in Sections V.1 (i) – (iii) above) shall be conducted by the bodies responsible for conducting the elections to the Executives of the respective Unions and Associations. The electoral procedure shall be completed by the month of December each year.

V.2 (ii) The representatives of the Wardens (those referred to in Section V.1 (iv) above) shall be chosen by the Wardens and will assume office by March each year.

V.2 (iii) The representative of the Jammu University Students' Union, Jammu University Teachers' Association, Jammu University Officers' association and Jammu University staff Association (referred to in Section V.1 (v) above) shall be nominated by the respective Executive Committee, and they will assume office by January each year.

V.2 (iv) CASH shall empanel a pool of counsellors, eminent women academicians, and NGOs, as defined in Section III, (v), (VI) and (ix, respectively. However, only on NGO representative, one eminent woman academician and one counsellor shall be invited by CASH to attend its meeting at one time.

V.2 (v) The panel of NGOs, eminent women academicians and counsellors, shall be updated by CASH from time to time. CASH will strive to maintain continuity in the membership of third party members and counsellors on CASH. A decision to remove from the panel a serving or empanelled third party or counsellor shall only be taken in the Special meeting defined in Section V.10 (VI).

V.3. Term of office of CASH members

Subject to Section V.5 below and barring the third parties and the counsellor, the tenure of each member of CASH shall be twelve months from the date of assumption of office.

V.4. Chairperson/Acting Chairperson of CASH.

The Chairperson of CASH shall be a woman faculty member, and shall be elected by the members of CASH from amongst themselves. In the event of the Chairperson of CASH being unable to discharge her duties for a period exceeding 21 days (barring the period when the University is on vacation), CASH shall designate from amongst its members, a woman faculty member to the post of Acting Chairperson of CASH for that period. The Acting Chairperson of CASH shall have all the powers and duties of the Chairperson of CASH outlined herein. As and when the Chairperson resumes duty, the Acting Chairperson shall cease to hold office.

V.5. Disqualification of Chairperson and Members

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as, a member of CASH if there is any complaint concerning sexual harassment pending against her/him, or if she/he has been found guilty of sexual harassment/serious misconduct.

V.6. Disqualification of an NGO

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as, an NGO representative on CASH if such appointment, nomination, designation election or continuation is inconsistent with the provisions of Section III. ix.

V.7. Vacancy of a Member Owing to Absence without Intimation

If a member elected or nominated or designated to CASH remains absent without written intimation to the CASH from three consecutive meetings, her/his office shall thereupon become vacant.

V.8. Resignation of a Member

A member of CASH may resign her/his office at any time by tendering her/his resignation in writing to the Chairman of CASH. Such a person shall be deemed to have vacated her/his office as soon as CASH has accepted the resignation.

V.9. Filling a Vacancy in CASH

If a vacancy arises in CASH, CASH shall coordinate with the relevant body to arrange for the filling up of the vacancy in the particular category, in accordance with the procedure outlined in Section V.2, within four weeks, barring the period during which the University is on vacation. If the vacancy remains unfilled after the specified period, the Vice-Chancellor may, in consultation with CASH, fill up the vacant position by appropriate nominations for the residual period. No act or proceedings of CASH shall be invalidated merely by reason of the existence of a vacancy or vacancies.

V.10. Meetings of CASH

V.10 (i) CASH shall meet at least two times a semester or at such intervals as may be necessary provided that the interval between two successive meetings shall not exceed 30 days.

V.10 (ii) Members shall be intimated of meetings in writing or by electronic communication.

V.10 (iii) Minutes of all meetings shall be recorded, confirmed and adopted.

V.10 (iv) Any member of CASH may request the Chairperson to call an Ordinary Meeting. Forty-eight hours notice shall be required for such a meeting to be called. The quorum for an

Ordinary Meeting shall be one-third of the existence members of CASH. Motions shall be carried by a simple majority of those present and voting.

V.10 (v) Any member of CASH may request the Chairperson to call an Emergency Meeting. At least twenty-four hours notice shall be required for such a meeting to be called. The quorum for an Emergency Meeting shall be one-third of the existing members of CASH. Motions shall be carried by a simple majority of those present and voting.

V.10 (vi) A special meeting shall be called by the chairperson of CASH, with at least twenty-four hours notice. It shall have a quorum of two-thirds of the existing member of CASH, and the attendance of at least one of the majority of the members present and voting.

V.10 (vii) If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. For the adjourned Ordinary or Special meeting but for an adjourned Emergency Meeting there shall be no requirement of quorum.

V.10 (viii) Cash shall hold at least two public meetings every year where it shall report to the University community about its activities. Of these, at least one meeting shall be called specifically for the purpose of the presentation of the Annual Report of CASH.

V.11 Vacations Committee

In the period when the University is on vacation, CASH shall strive to ensure the discharge of its duties and functions, in accordance with the procedure outlined herein:

V.11 (i) CASH shall designate from within itself a Vacations Committee (s), for the period when the University is in vacation, of not less than five members. Not less than half of the members of the said Committee shall be women.

V.11 (ii) The Vacations Committee shall elect from within itself a Convener, who shall be a woman faculty member, and shall exercise all the powers and functions of the Chairperson of CASH outlined herein.

V.11 (iii) During the vacations in each year, CASH shall intimate the University community by public notice the contact details including telephone/mobile no.'s of the members of the Vacations Committee.

V.11 (iv) The Vacations Committee shall designate from within itself a monthly Complaints Screening Committee, which shall function in accordance with the procedures outlined in Section VI.3.

V.11 (v) In the event of an enquiry proceedings being necessitated, the Vacations Committee shall call a Special Meeting for the constitution of an Enquiry Committee, in accordance with the provisions of Section VI.4.

V.11 (vi) Save for reason that the Vacations Committee considers urgent, further action on the complaint shall take place after the end of a vacation, in an Emergency Meeting, called by the

Chief Enquiry Office/Chairperson, CASH within three working days of the commencement of the semester.

V.11 (vii) In case of a need for immediate disciplinary action, the reason for which the Chief Enquiry Officer shall state in writing, the Convener of the Vacation Committee shall call a Special Meeting to discuss, take a decision on the recommendations of the Enquiry Committee, and initiate further action on the complaint, in accordance with the procedures outlined in Section VI.4.

V.12. Annual Report of CASH

As required by the Supreme Court Judgment, the University authorities shall forward to the government department concerned, the annual report of CASH together with a written report on the action taken by them on the recommendations of the CASH and the Appeals Committee.

VI. FUNCTIONS OF CASH

CASH shall be responsible for the implementation of the recommendations of the Working Group on Sexual Harassment appointed by the Vice-Chancellor on 5 September 1997 and the Supreme Court Judgment. CASH shall have four functions:

VI.1 Orientation

VI.1 (i) CASH will ensure the prominent publicity of the Policy in all Centres, Hostels, offices of administration, as well as in all public places on the campus such as the library, health centre, residential areas, canteens, shopping centres, etc.

VI.1 (ii) CASH will organize programmes for the orientation of the University community through workshops, seminars, posters, film shows, debates skits, etc. It may enlist the help of specialized NGO's and any campus body to carry out these programmes.

VI.1 (iii) Cash will conduct at least one major activity per semester involving large sections of the University community.

VI.2. Crisis Management and Mediation

V.I.2 (i) CASH will assist in the mediation of situations arising out of incidents of sexual harassment and sexual assault on the campus.

V.2 (ii) CASH will co-ordinate with the campus security services to devise ways and means by which a system of crisis management that is gender-sensitive as well as prompt and effective is put in place. It will maintain regular contact with the campus security services to ensure that in crises arising out of incidents of sexual harassment, CASH members, and / or the volunteers identified by it, shall be intimated without delay.

V.2 (iii) CASH will, through a circular at the beginning of each semester, enlist and activate an adequately representative team of volunteers. CASH shall ensure the widespread publicity of the contact details (both official and personal) of all its members and volunteers.

V.2 (iv) CASH will organize training workshops for members and volunteers to equip them to handle sexual harassment cases (including legal and medical aspects of aid). Volunteers will assist in the gender sensitization, crisis mediation and management duties of CASH, but shall not participate in the task of formerly redressal of complaints under these Rules and Procedures of CASH.

VI.2 (v) In cases in which sexually motivated conduct against a student, or a member of the academic or a non-teaching staff, or a resident and /or a service provider amounts to a specific offence under the Indian Penal Code or any other Indian law, CASH shall assist the affected party in making a complaint to the appropriate authority outside the University.

VI.3 (A) Complaints Filing Process

VI.3 (A) (i) Any student, resident, service provider, outsider, or a member of the academic or non-teaching staff may lodge a complaint of sexual harassment against a student, resident, service provider, outsider, or a member of the academic or non-teaching staff. Third party complaints and witness complaints shall be entertained. The CASH shall take due notice of grave violations of the basic principles of gender sensitivity and justice on this campus.

VI.3 (A) (ii) Complaints can be lodged directly with any member of CASH, or through existing channels for lodging grievances, such as the University authorities, wardens, teachers, students, union/association representatives, administrative superior, etc. If the complaint is made through any such channel, the person to whom the complaint is made should bring it to the notice of CASH.

VI.3 (A) (iii) The complaint should be in writing under his/her dated signature or thumb impression as the case may be.

VI.3 (B) Complaints Screening Committee

VI.3 (B) (i) Composition

CASH shall designate by rotation three persons from amongst its members for a period of one month to receive and screen complaints, henceforth called the Complaints Screening Committee. The names and contact details of these members shall be given widespread publicity by CASH.

VI.3 (B) (ii) Functions

a. The complaints Screening Committee shall receive and record complaints of sexual harassment. It shall carefully study the complaint and may hear the complainant and the defendant as well as other involved parties to determine whether an enquiry by CASH is to be instituted.

b. At no time in the complaints received and recording procedure shall the defendant (s) and the complainant be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and be made to wait in the same place), keeping strictly in accordance with the guidelines in the Supreme Court Judgment.

c. At no time in the complaints receiving and recording procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.

d. CASH may issue an order of restraint to the defendant (s) in accordance with the procedure outlined below in Section VI.3(C).

e. The Complaints Screening Committee shall communicate its recommendations, along with the reasons and documentary evidence, if any, thereof, in writing to the Chairperson of CASH as soon as possible.

f. The Complaints Screening Committee shall be responsible for making counseling services available to a person requesting for it.

g. In a special provision for physically challenged complainants, or complainants in a serious medical condition, the Complaints Screening Committee may, on determining the complaint to be a prima facie complaint of sexual harassment, recommend the institution of enquiry proceedings.

VI.3 (B) (iii)

a. The complainant may withdraw his/her complaint in writing at any time during the complaints receiving and/or enquiry procedure.

b. The complaints screening/enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening/Enquiry Committee is informed, know, or has reason to be believed, that the reasons for such withdrawal are the consequences or effect of 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/enquiry proceedings shall continue in accordance with the procedure outlined in Sections VI.3 (C) and 4(C).

VI.3 (C) Restraint Order

VI.3 (C) (i) A restraint order in terms of CASH Rules 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 his/her 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.

VI.3 (C) (ii) The complainant or any other person should intimate in writing the Complaints Screening Committee, the Chairperson of CASH and /or the Enquiry Committee of any violation of the order of restraint by the defendant (s), or any person acting on her/his behalf.

VI.3 (C) (iii) Should the Complaint Screening Committee, the Chairperson of CASH, or the Enquiry Committee be convinced of the truth of such allegations, the Chairperson of CASH and /or the Chief Enquiry Officer may summon the defendant (s) in person and issue a verbal and written warning that such behavior may lead to an adverse inference being drawn against her/him. The Enquiry Committee or CASH shall retain to close the enquiry proceedings, and to give an exparte decision on the complaint.

VI.3 (C) (iv) The Enquiry Committee and CASH shall consider all violations of the restraint order when determining the nature of offence of a defendant found guilty of sexual harassment.

VI.4 Formal Enquiry

Once the Complaints Screening Committee has decided that the complaint merits further investigation, it shall inform the CASH. The CASH shall conduct formal enquiry and provide its resources to ensure the complainant's safety on the campus. For this purpose, the Chairperson of CASH shall convene an Emergency meeting to constitute the Enquiry Officer who shall designate from within the members of such committee the Chief Enquiry Officer who shall be a woman.

VI.4 (A) Composition of the Enquiry Committee

The composition of the Enquiry Committee shall conform to the guidelines below:

- a. The Enquiry Committee shall consist of not less than three persons and not more than five persons.
- b. It shall have at least 50% women.
- c. It shall include at least one third-party, i.e., the NGO representative or an eminent woman academician.
- d. In cases involving students, /academic staff/non-teaching staff, it shall include a representative of the constituency of the complainant and the defendant (i.e., if the complaint is filed by a student against an academic staff member, then the Enquiry Committee shall include one student and one academic staff member).
- e. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of a CASH Enquiry Committee.
- f. The membership of an Enquiry Committee shall not be changed or in any other way modified during its proceedings, save for the provisions in Sections V.5 – 8.
- g. Members of CASH who are representatives of unions/associations of which the complainant and/or the defendant are also members, shall not be eligible to serve on an Enquiry Committee.
- h. CASH may, at its own discretion, co-opt any person (s) with demonstrable sensitivity to gender issues to be a part of an Enquiry Committee, provided that the majority of members are the members of CASH. Such a person shall not serve as the Chief Enquiry Officer.

VI.4 (B) Functions of the Enquiry Committee

- a.** The Enquiry Committee shall enquire into the complaint of sexual harassment using procedures in conformity with the principles of natural justice and gender sensitivity.
- b.** The Enquiry Committee shall submit a detailed report to CASH in which it shall communicate its findings based on its investigations and its recommendations regarding the nature of disciplinary action, if any.
- c.** The Enquiry Committee shall submit a detailed report to CASH in which it shall communicate its findings based on its investigations and its recommendations regarding the nature of disciplinary action, if any.

VI.4 (C) Procedure to be followed by the Enquiry Committee

- a.** The Enquiry Committee shall not, at any time in the enquiry proceedings, cause the defendant and the complainant and/or their witnesses to be placed face to face, or put in a situation where they may be face to face (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 Judgment.
- b.** The Enquiry Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date that a complaint is referred to it, except for reasons that the Enquiry Committee shall provide in writing to CASH.
- c.** The Enquiry Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.
- d.** The Enquiry Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- e.** The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complainant as well as the defendant.
- f.** The Enquiry Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
- g.** The Enquiry Committee shall have the right to summon, as many times as required, the defendant, complainant and /or any witnesses for the purpose of supplementary testimony and/or clarifications.
- h.** The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present herself/himself for three consecutive hearings convened by the Chief Enquiry Officer.

- i.** The Chief Enquiry Officer shall be responsible for making the defendant and the complainant aware that counseling services can be made available if so desired.
- j.** Within two days of the institution of enquiry proceedings by CASH, the Enquiry Committee shall prepare a summons containing details of the complaints such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant as intimate the defendant and the complainant the contact details of all members of the Enquiry Committee. The Enquiry Committee shall also make available to the defendant a true copy of the original complaint (s) lodged by the complainant(s).
- k.** Within not more than two working days on the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit to the Chief Enquiry Officer, in writing, a list of witnesses, together with their contact details, that she/he desires the Enquiry Committee to examine.
- l.** On receipt of the first intimation of the enquiry and not more than two working days after such date the complainant and/or the defendant shall inform the Chief Enquiry Officer whether they shall wish to exercise the rights afforded in Sections (p) – (r) below.
- m.** The Chief Enquiry Officer shall convene the first hearing of the enquiry. The defendant, the complainant, and witnesses shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings.
- n.** If the complainant, defendant, or witness desire to appear before the Enquiry Committee accompanied by on companion of their choice, they shall communicate to the Chief Enquiry Officer the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying.
- o.** The identities of all witnesses shall throughout be protected by the Enquiry Committee by the use of a coding system for this purpose.
- p.** The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/ or the defendant on her/his behalf shall be (only) either a student, or a member of the academic or non-teaching staff of Jammu University. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The complainant(s)/defendant should inform the Chief Enquiry Officer specifically if they wish to exercise this right. The Chief Enquiry Officer may allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. At no point in time, however, can the concerned parties take these documents outside the office of the CASH.
- q.** The complainant and the defendant shall have the right of cross-examining of all witnesses. Such cross-examination shall be conducted in the form of written questions and responses via the Enquiry Committee.

r. The defendant/complainant shall submit to the Chief Enquiry Officer, a written list of questions that she/he desires to pose to the witness. The Enquiry Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive. Any behavior, verbal or otherwise, on the part of the defendant or her/his nominee, that is designed to intimidate or subject the complainant to mental and physical trauma, shall be consulted as a violation of the order of restraint issued by CASH as defined in Section VI.3 (C) herein.

s. The complainant and the defendant shall be responsible for presenting their witnesses before the Enquiry Committee. However, if the Enquiry Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Enquiry Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

t. All proceedings of the Enquiry Committee shall be recorded in writing and the same together with the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.

u. All persons heard by the Enquiry Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings. Any violation of the oath of secrecy may invite the full range of penalties outlined in Section IX.

v. If the complainant desires to tender any document by way of evidence, the Enquiry Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Enquiry Committee shall supply true copies of such documents to the complainant.

w. In the event that the Enquiry Committee thinks that supplementary testimony is required, the Chief Enquiry Officer shall forward to the person concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Enquiry Committee.

x. After concluding its investigation, the Enquiry Committee shall submit a detailed reasoned report of its findings to the Chairperson of CASH. In the event that it finds the defendant guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken on the complaint as referred in Section IX. It shall also recommend whether CASH and the University authorities should, after disciplinary action has been taken, publicize the identity of the offender, the act and the disciplinary action taken. If the Enquiry Committee finds no merit in the complaint, it shall write to the Chairperson of CASH, giving reasons for its conclusions.

y. Nothing precludes CASH from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings and even after the communication of the findings to appropriate University authorities, provided that in the latter

case, the composition of the reconvened Enquiry Committee shall be at least half of the members of the Enquiry Committee that originally enquired into the said complaint.

VII. COMMUNICATION OF FINDINGS

VII (i) Within three working days of the receipt of the report and recommendations of the Enquiry Committee, the Chairperson of CASH shall convene an Emergency meeting. Each member of CASH shall have the right to access the entire enquiry proceedings, or any part thereof, and to participate in CASH deliberations on the complaint. Within two working days of the adoption of the report of the Enquiry Committee, the Chairperson of CASH shall forward the report of the Enquiry Committee, together with a summary of the opinions of the members of CASH (including dissenting opinions) to the Vice-Chancellor for consideration of appropriate University authorities – the faculty members and group ‘A’ officers, and the Vice-Chancellor, for students and other employees.

VII(ii) Within a reasonable period of time, and not in any case exceeding 30 days from the date of communication of its findings by CASH, the appropriate University authority shall convene a meeting with CASH, in which at least two-thirds of the Enquiry Committee shall be present, to discuss the findings and recommendations of the Enquiry Committee.

VIII. OBLIGATIONS OF UNIVERSITY AUTHORITIES AND FUNCTIONARIES

i. The University authorities shall, through a notification each academic year, notify the names and contact details of the members of CASH, and the fact that CASH is the University body responsible for gender sensitization and enquiries into complaints of sexual harassment.

ii. The University authorities will ensure that the policy is included in the Admission Brochure and circulated at the time of registration. The University authorities will ensure that recruitment announcements to all academic and non-teaching positions include the following statement, as notification of the Policy: Jammu University has a Policy against sexual harassment and is committed to providing an environment free from gender discrimination and harassment.

iii. In order to ensure the permanent placement of the Policy, the University authorities and functionaries shall arrange for several copies to be placed on boards for display in prominent places, such as the entrances to the campus, academic and administration buildings, hostels, etc.

iv. The University authorities and functionaries shall provide legal, medical and counseling assistance to those complainants who have to take recourse to the law.

v. The University authorities and functionaries shall forward all complaints of sexual harassment to CASH, save in cases in which the complainant has expressly prohibited such forwarding.

vi. The University authorities shall maintain full confidentiality with respect to matters pertaining to CASH enquiries into complaints of sexual harassment. The University authorities shall extend all necessary assistance for ensuring full, effective and speedy implantation of these Rules and Procedures of CASH.

vii. As is required by the Supreme Court Judgment, the University authorities and functionaries shall strive to create a workplace in which the functioning of CASH and/or the interests of justice are not subjected to undue “pressure from senior levels”.

viii. As required by the Supreme Court Judgment, the University 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/recommendations of the CASH and/or the Appeals Committee.

IX. PENALTIES

Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff 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 University authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at time.

IX (1) Penalties in Case of Academic Staff

- a.** Warning, reprimand, or censure.
- b.** Withholding of one or more increments for a period not exceeding one year.
- c.** Removal from an administrative position at the Centre, School and/or University levels.
- d.** Disbarment from holding an administrative position at the Centre, School and/or University levels.
- e.** Suspension from service from a limited period.
- f.** Compulsory retirement.
- g.** Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

IX (2) Penalties in Case of Non-Teaching Staff

- a.** Warning, reprimand, or censure.
- b.** Transfer
- c.** Withholding of one or more increments for a period not exceeding one year.

- d. Suspension from service for a limited period.
- e. Compulsory retirement.
- f. Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

IX (3) Penalties in Case of Jammu University Students

- a. Warning or reprimand.
- b. Transfer to another hostel.
- c. Withdrawal of hostel accommodation for a period up to one semester.
- d. Withdrawal of the right to an official character certificate from Jammu University.
- e. Withdrawal of hostel accommodation for the entire period of study.
- f. Rustication from the University for a period up to two semesters.'
- g. Expulsion from the University, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Jammu University.
- h. Withholding of a degree awarded by Jammu University.

IX (4) Penalties in Case of Outsiders

- a. Warning or reprimand, or censure.
- b. A letter communicating her/his misconduct to her/his place of education, employment or residence.
- c. 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 offered by Jammu University.
- d. Any other legal action as may be necessary.

IX (5) Penalties in Case of Service Providers

- a. Warning or reprimand, or censure.
- b. A letter communicating her/his misconduct to her/his place of employment.
- c. Declaration of the campus as out of bounds for her/him.
- d. Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
- e. Any other action as may be necessary.

In addition to the penalties specified under (1)-(5) above, the person may be advised to undergo counseling and gender sensitization, and to give a written and/or public apology to the complainant.

IX (6) Penalty in Case of a Second Offence

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

X. OTHER FUNCTIONS

X (1) False Complaint/Deposition

i. If the Complaints Screening Committee or the Enquiry Committee finds no merit in any complaint/deposition, it shall write to the Chairperson of CASH giving reasons for its conclusions.

ii. Within four working days of the receipt of this communication, the Chairperson of CASH shall call a Special Meeting to discuss the recommendations of the Complaints Screening Committee or Enquiry Committee, and to decide whether a show-cause notice shall be issued to the Complainant/witness (es).

iii. Upon the decision to issue a show-cause notice, the Chairperson of CASH shall issue it to the complainant/witness (es). The show-cause notice shall cite the bases of the committee's conclusions and require the complainant/witness (es) to explain, within seven days (in writing and/or in person), as to why disciplinary action shall not be taken against her/him.

iv. Within four working days of receipt of any explanation from the complainant/witness(es) to this show-cause notice, or after the expiry of the time specified for such explanation, the Chairperson of CASH shall convene a Special Meeting to consider the explanation or any lack thereof.

v. In event of no, insufficient or unconvincing explanation, CASH shall forward its findings to the appropriate University Authority for further action.

X (2) Protection against Victimization

i. If the complainant is a student and the defendant(s) is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.

ii. If a witness named by the complainant is a student and the defendant(s) is a teacher, during the duration of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.

iii. If both the complainant and the defendant (s) are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even

after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.

iv. If witnesses named by the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.

v. If the defendant(s) is an outsider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.

vi. If the defendant(s) is a resident/service provider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the order of restraint issued in accordance with the procedures in Section VI.3 (C) shall be in force at all times.

X (3) Provision for Appeal

i. 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 University authorities, she/he shall have the right to appeal to an Appeals Committee. Appeals may be lodged with the University authorities.

ii. An Appeals Committee shall consist of:

a. One member of the University Council of Jammu University from amongst its members,

b. Any former senior woman member of CASH nominated by the Vice-Chancellor. The nominee shall chair the Appeals Committee, and

c. One woman faculty member of the Centre for Women Studies, School of Social Sciences, Jammu University, or any other senior woman faculty member nominated by the Vice-Chancellor.

iii. 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 records 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 enquiry in accordance with the guidelines in the Supreme Court Judgment.

iv. The Appeals Committee shall report to the University Council of Jammu University its findings and recommendations on the nature of the action to be taken on the appeal.

X (4) Amendment to the Rules & Procedures of CASH

i. Amendments to the Rules and Procedures of CASH shall have effect only if they are in consonance with the letter and spirit of the Supreme Court Judgment, the Report of the Working Group on Sexual Harassment headed by Neelam Saraf, the Policy, and the Rules and Procedures.

ii. Amendments shall be effected by a decision taken in a Special Meeting of CASH called for the purpose.

iii. The proposed amendment (s), together with the objectives and reasons thereof, shall be recorded in writing and circulated by the proposer of the amendment (s) at least fifteen working days prior to the Special Meeting called for the purpose.

iv. An amendment motion shall be earned by two-third of the members present and voting. In the event of a tie on an amendment motion, it shall be put to vote one more time. If a tie recurs, the amendment motion shall be reconsidered by another Special Meeting to be called after at least fifteen working days.

X (5) Miscellaneous

i. The provisions of these Rules and Procedures of CASH shall be duly incorporated within any other Statute, Circular or Ordinance of the University as may be relevant, in keeping with the Supreme Court Judgment.

ii. The proceedings under these Rules and Procedures of CASH shall not, in any way, be affected by any other proceedings against the defendant preferred by the complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.

iii. The provisions of these Rules and Procedures of CASH shall not restricted the powers of the University or the complainant to proceed against the defendant for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.