

THE KALAKSHETRA FOUNDATION

POLICY FOR PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT COMPLAINTS

WHEREAS the Kalakshetra Foundation (“**Foundation**”) is a Statutory Body / Central Government undertaking established under Section 8 of the Kalakshetra Foundation Act, 1993 and whereas Section 3 of the Act declares Kalakshetra as an institute of national importance;

WHEREAS the Foundation runs three educational institutions (a CBSE school, a State Board school and a college) namely (a) Besant Arundale Senior Secondary School (“**BASS**”), (b) Besant Theosophical Higher Secondary School (“**BTHS**”), and (c) Rukmini Devi College of Fine Arts (“**RDCFA**”);

WHEREAS the Craft Education and Research Centre (“**CERC**”) is one of the constituent units of the Foundation as per Section 3 read with First Schedule of the Kalakshetra Foundation Act, 1993;

WHEREAS the Governing Board of the Foundation, in tune with its commitment and endeavour to provide a safe, secure and vibrant learning environment and in exercise of its powers under Section 14 of the Kalakshetra Foundation Act, 1993 has considered it expedient to frame an all-encompassing policy which addresses the issue of sexual harassment in consonance with Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**POSH Act**”), the Central Civil Service (Conduct) Rules, 1964 (“**CCS Rules**”) and also drawing inspiration from the Universities Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment) Regulations 2015, Central Government and also Tamil Nadu State Government guidelines and CBSE Circular on the subject;

WHEREAS the spirit of procedure prescribed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as far as applicable has been adopted in this policy in respect of the schools - BASS, BTHS, and, CERC by reference to the concerned provisions;

WHEREAS this present Policy, framed and adopted by the Governing Board of the Foundation, in exercise of its powers under Section 14 of Kalakshetra Foundation Act shall be a guiding policy for dealing with the issue of sexual harassment.

PART I

1. Scope and Applicability –

- (1) The policies, guidelines and procedures set out herein shall apply to all instances of sexual harassment as provided herein:
 - (a) Occurring on the Kalakshetra Campus or workplace as prescribed in this policy,
 - (b) Between or among members / students of the Kalakshetra foundation including the institutes of learning, the CERC and such others,
 - (c) Where the complaint is made by a third party against a member of the Kalakshetra institute and where such member is/was involved in an activity pertaining to the institution,
 - (d) Cases of harassment where the aggrieved person is a woman, shall be governed by POSH Act, the CCS Rules and this Policy,
 - (e) Cases of harassment wherein the aggrieved person is a male or a person of any other gender, shall be governed by the CCS Rules and this policy, (Note:- the POSH Act, as on date, allows only an aggrieved woman to give complaints under the Act),
 - (f) Cases of harassment pertaining to minors shall be governed by The Protection of Children from Sexual Offences Act, 2012 and the relevant CBSE/NCPCR/State Government circulars/guidelines and the CCS Rules.
- (2) This policy and the guidelines and procedures stipulated hereunder shall be in addition to the statutory mechanism already in place for redressal of instances of sexual harassment.
- (3) This policy shall serve only to supplement and not supplant the existing statutory committee already in force.

2. Definitions –

- (a) “Aggrieved person” means in relation to the work place / educational institution, a man or a woman or a person of any gender and of any age, associated with the institution in any manner whatsoever who alleges to have been subjected to any act of sexual harassment by the respondent;
- (b) “Appropriate Authority” shall refer to the Kalakshetra Foundation;
- (c) “Besant Arundale Senior Secondary School” or “**BASS**” shall refer to the Central Board of Secondary Education or “**CBSE**” affiliated school run by the Foundation;

- (d) “Besant Theosophical Higher Secondary School” or “**BTHS**” shall refer to the Tamil Nadu State Board affiliated school run by the Foundation;
- (e) “Campus” means as per Section 2(o) of the POSH Act that defines workplace that shall include the land and location of the RDCFA, BASS, BTHS, and CERC and any attached amenities located either on campus or adjacent to the same including but not limited to facilities such as parking, residences, administrative block, lecture halls, research centres, restrooms, hostels, dining halls, amphitheatres, parks, canteens, ATMs, as well as any activity, festival, performance, function, undertaken by the Institution whereby its students are sent to represent the institution in off-campus official duty, etc, and also includes online and virtual classes / programmes;
- (f) “College Students Grievance Committee” (**CSGC**) shall mean the Committee solely comprising of student representatives of RDCFA only and dealing solely in matters of student grievances, as provided for under Chapter 12 of this policy, and the CSGC may accordingly receive complaints from students;
- (g) “Day” shall be understood as meaning a single working day, unless otherwise specified;
- (h) “Documents” shall include formal requests for inquiry, notices to parties, written submissions, statements of witnesses, replies, lists of questions, including copies of all the previously stated material, and the same may be in either digital or physical format;
- (i) “Employee” means a person employed at a workplace, as per Section 2(f) of the POSH Act, for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-employee, a contract employee, probationer, trainee, apprentice, interns, researchers, including those involved in field studies, projects, short-visits and camps;
- (j) “Expert” shall include any person with expertise in the fields relevant to the workings of POSH Act and this may include an academician, an experienced person from an NGO, an activist, or a legal expert from outside the institution;
- (k) “Facilitator” shall mean the personnel appointed as specified under Chapter 5 of this policy,

- (l) “Faculty” shall mean and include all persons appointed to teaching positions, regardless of duration, and the same includes guest lecturers and speakers, visiting faculty, teaching assistants, and any other person involved in the organization of a programme, seminar, course, workshop, roundtable, or event conducted, organized, or participated in by the Institution;
- (m) “Institutions” shall mean the collective aggregate of the aforesaid campuses, namely the RDCFA, BASS, and BTHS;
- (n) “Internal Complaints Committee” or the “**ICC**” shall mean the Internal Complaints Committee constituted under Section 4 of the POSH Act;
- (o) “Respondent” shall mean any person or persons named as perpetrators of sexual harassment by way of a formal complaint submitted by the aggrieved person;
- (p) “Rukmini Devi College of Fine Arts” or “**RDCFA**”, shall mean the college run by the foundation;
- (q) “School Complaints Committee” (“**SCC**”) shall mean the committee as defined under Chapter 11 and shall comprise of the Principal/Vice Principal, one male teacher, one female teacher, one non-teaching staff, one male student and one female student which shall be set up by the Governing Body of the Foundation for each School, namely BASS, and BTHS;
- (r) “Sexual Harassment” will mean any unwanted conduct with sexual undertones as per Section 3(2), and 3(1) of the POSH Act, including but not limited to unwelcoming behaviours, acts, whether directly or indirectly and by implication, namely physical contact and advances, a demand or request for sexual favours in exchange for preferential treatment, making sexually coloured remarks including sexually inappropriate remarks such as slut / body shaming etc., showing pornography, or any other unwelcome physical, verbal or non-verbal conduct of a sexual nature;
- (s) “Sexual Harassment Policy Advisor” (“**SHPA**”) shall mean the person so appointed as under Chapter 7 of this policy, who shall assist in ensuring the smooth operation of this policy;
- (t) “Student” shall mean individuals, including interns, enrolled or registered for any course or programme or part thereof, for any duration, conducted or organized by the Institutions, including distance education programs;
- (u) “Third Party Harassment” refers to any situation wherein sexual harassment occurs as a result of an act or omission by any third party or outsiders, who is not part of the institutions, as either a student, or member of faculty, but is merely a visitor on the

campus in some capacity or for some other purpose or reason, provided the incident happened within the campus of the foundation.

3. Prohibition of Sexual Harassment

Sexual Harassment is prohibited and shall be dealt within the campus of the Kalakshetra Foundation under this policy. The Foundation declares that the institutes maintain a zero-tolerance policy towards sexual harassment.

4. Recourse under the Policy

- a. Any Aggrieved Person may choose to:
 - i. Resolve the matter through the mechanism laid down in the Policy, and/or;
 - ii. Take recourse to any other institutional/civil/criminal remedies available to her/him in the institutions as well as under the law.

Provided that where the Aggrieved Person requests any corrective action to be taken against any person for sexual harassment, the matter shall be referred to the Internal Complaints Committee and the Committee shall conduct the inquiry and act in accordance with this policy.

- b. If the Aggrieved Person chooses to resolve the matter through the mechanism laid down in the Policy, she/he may also first contact a facilitator of her/his own choice.

PART II – FACILITATORS & SEXUAL HARASSMENT POLICY ADVISOR

5. Facilitators

- a. The principal of each of the institutions will have the power to appoint the Facilitator for the respective educational institutions in consultation with the ICC and which appointment shall be subject to ratification by the appropriate authority. The period of such appointments shall not be for a period of more than two years subject to the discretion of the appropriate authority.
- b. At any given point, there shall be at least six (6) facilitators, two for each of the institutions. Subject to availability, an endeavour shall be made to include non-teaching staff and an endeavour shall be made to appoint both male and female members.
- c. Persons who have successfully completed a training programme on the implementation of the procedures as provided under Chapter 13 of this Policy, may be given preference to the position of a facilitator.

- d. The names and contact information of the facilitators shall be visibly published on notice boards and through other means across the campus throughout the year, both in English and Tamil.
- e. The Jurisdiction of a facilitator shall be limited to only the institute in respect of which they have been appointed as a facilitator.
- f. A facilitator shall not have any inquisitorial functions and their role will be to primarily facilitate, aid and advice the aggrieved person, as the case may be.

6. Role of Facilitators

- a. The facilitators shall be the first point of contact to the aggrieved person and shall act as counsellors;
- b. The facilitators shall report to the ICC on the performance of their functions on a periodical basis;
- c. The facilitators will co-operate with SHPA whenever needed in dealing with issues of sexual harassment;
- d. Integrity, professionalism, promptness, responsiveness, and good conduct would be the guiding factors for the eligibility criteria for appointment of personnel as facilitators. The same factors would also be the criteria for disqualification by the appropriate authority whose powers may be exercised at any point of time, in the larger interest of the institution and the foundation.
- e. In discharging any/all of the functions mentioned above, the facilitator shall:
 - i. act as a first known point of contact,
 - ii. assist in clarifying the nature of the concern,
 - iii. give information on options and possible outcomes available under this Policy,
 - iv. explore possible strategies/options available in resolving the situation, assist in drafting and filing of a formal request for inquiry,
 - v. support the aggrieved party throughout any stage of the resolution process including assisting the aggrieved person to lodge a complaint before the ICC,
 - vi. provide information on the desirability of maintaining confidentiality,
 - vii. provide information on other relevant internal/external remedies, and any limitation periods that may apply to such remedies,
 - viii. whether or not a person files a formal request for inquiry, provide supportive counselling as needed,

- ix. maintain complete confidentiality of the identities of all parties and witnesses involved in a complaint; and of all proceedings.

7. Sexual Harassment Policy Advisor (“SHPA”)

The appropriate authority shall appoint an employee committed to the cause of prevention of sexual harassment or a person familiar with the issues relating to prevention of sexual harassment, to act as a Sexual Harassment Policy Advisor (“**SHPA**”). The advisor shall preferably be a female faculty member. The term of the SHPA shall be for a period of not more than two years.

8. Duties, responsibilities and functions of SHPA

a. The duties, responsibilities and functions of the SHPA include the following:

- i. Assisting in the implementation of this Policy across the institutions and regularly review the functioning of the policy, serving as an advisory body to the ICC.
- ii. Receiving complaints, and thereafter forwarding the same to the ICC immediately.
- iii. Formulating strategies for spreading awareness of present policy among all members of the institution.
- iv. Delegating responsibilities to appropriate persons, if and when the need arises, to undertake periodic surveys among students, staff and faculty to find out the extent of the problem and prevailing attitudes to all aspects of sexual harassment, with the exception of his/her duties under Chapter 8(v).
- v. Identifying and monitoring support structures provided by the institutions.
- vi. Organizing orientation workshops for faculty, all non-teaching staff and new students enrolled to full-time courses at the beginning of the year; and regular sensitization programs as s/he deems fit.
- vii. Assisting the aggrieved person throughout the process of inquiry.
- viii. Exercising such other powers and perform such other duties as may be conferred or imposed on her by or under this policy.
- ix. May do all such acts and things as may be necessary to carry out the objects of this Policy.
- x. Preparing an annual report of all activities undertaken and submit the same to the head of the institution which shall be available to anyone on request.
- xi. Facilitating the training of the ICC, as and when it is constituted.

- xii. May be the receiver of formal requests for inquiry, which may be the first step towards approaching the inquiry mechanism under this Policy.
 - xiii. May be responsible for receiving requests for mediation in accordance with the procedure prescribed in Chapter 19 under this Policy.
 - xiv. A policy advisor shall not have any inquisitorial functions and their role will be to primarily facilitate, aid and advise, as the case may be.
- b. Integrity, professionalism, promptness, responsiveness, and good conduct would be the guiding factors for the eligibility criteria for appointment of the policy advisor. The same factors would also be the criteria for disqualification by the appropriate authority whose powers may be exercised at any point of time, in the larger interest of the institution and the foundation.

PART III – DUTIES OF INSTITUTIONS & CONSTITUTION OF ICC

9. Duties of the Institutions

The Institutions shall -

- a. provide a safe working environment at the Institutions which shall include safety from the persons coming into contact at the Institutions;
- b. display at any conspicuous place in the Institutions, the penal consequences of sexual harassment; and the order constituting, the Internal Complaints Committee under Section 4(1) of the POSH Act so far as RDCFA is concerned and the School Complaints Committee as per chapter 2 (q) herein insofar as BASS and BTHS are concerned;
- c. organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Complaints Committee in the manner as may be prescribed;
- d. provide necessary facilities to the Internal Complaints Committee for dealing with the complaint and conducting an inquiry;
- e. assist in securing the attendance of respondent and witnesses before the Internal Complaints Committee;
- f. make available such information to the Internal Complaints Committee as it may require having regard to the complaint made under Chapter 14.
- g. provide assistance to the aggrieved person if they so choose to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;

- h. cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved person so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- i. treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- j. monitor the timely submission of reports by the Internal Complaints Committee;
- k. ensure that any instance of harassment that has been brought to their notice, whether under this Policy or otherwise, has ended.

10. Constitution of Internal Complaints Committee (ICC)

- a. The Internal Complaints Committee (ICC) shall be constituted by the Appropriate authority, from time to time in consonance with the statutory scheme of POSH Act provided under Section 4. This ICC shall have the jurisdiction to deal with complaints which may be received from any aggrieved person of all institutions as defined under Chapter 2(m).
- b. In compliance with Section 4(2) of the POSH Act, it shall be ensured that the ICC consists of members to be nominated by the employer as prescribed under the Act.
- c. In terms of Section 4(2)(a) of the POSH Act, a Presiding Officer shall be a woman employed at a senior level at the workplace from amongst the employees. In addition, and provided that in case a senior level woman employee is not available, the Presiding Officer shall instead be nominated from other offices or administrative units of the workplace. Alternatively, and provided further that in case the other offices or administrative offices or administrative units of the workplace do not possess a senior level woman employee, the Presiding Officer shall be nominated from any other department of the Foundation. In addition, this shall include any member of the teaching staff or a non-teaching staff.
- d. As stipulated under Section 4(2)(b) of the POSH Act, the composition of the ICC shall be such that not less than two Members from amongst the employees, preferably committed to the cause of women, or who have had experience in social work or have legal knowledge shall be appointed to the Internal Complaints Committee.
- e. As required by Section 4(2)(c) of the Act, one member shall be drawn from amongst non-governmental organisations or associations committed to the cause of women or

a person familiar with the issues relating to sexual harassment. In addition, at least one-half of the total Members so nominated shall be women.

- f. Term limits shall be imposed in consonance with Section 4(3) and the Presiding Officer and every Member of the ICC shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the Foundation.
- g. Fees will be provided to members as prescribed by Section 4(4) of the POSH Act, specifically for those members appointed from amongst the non-governmental organisations or associations, shall be paid such fees or allowances for holding the proceedings of the Internal Complaints Committee, by the Foundation, as may be prescribed.
- h. The Foundation shall appoint a Secretariat to the Internal Complaints Committee to assist the ICC in its administrative functions.
- i. The ICC shall have the power to initiate suo motu proceedings if it comes across any instance of sexual harassment, and the rules prescribed under this Policy shall apply to those proceedings.

10A. Removal from membership to the ICC

Removal of membership from the ICC shall be in consonance with Section 4(5) of the POSH Act and all subsequent provisions in any such case wherein any member of the ICC:

- a. Has disclosed the identity of the parties and witnesses or details of the proceedings to the public, press or media in any manner in violation of Section 16 of the POSH Act; or
- b. Is convicted of an offence or disciplinary misconduct or is subject to a pending inquiry for any offence under law or disciplinary misconduct; or
- c. Has abused their position so as to render their continuance in office prejudicial to the public interest,

The concerned member shall be removed from the ICC and the vacancy shall be filled by nomination in accordance with procedure in Chapter 10.

**PART IV - MATTERS PERTAINING TO STUDENTS OF THE TWO SCHOOLS RUN
BY THE FOUNDATION**

11. School Complaints Committee

- a. As prescribed under 2(n) of this policy, the School Complaints Committee (SCC) shall consist of the Principal/Vice Principal, one male teacher, one female teacher, one non-teaching staff, one male student and one female student which shall be set up and appointed by the appropriate authority for each school namely BASS, and BTHS.
- b. There shall be two separately constituted School Complaints Committees for the two schools run by the Foundation which shall exercise their exclusive jurisdiction over the CBSE School, and the State Board School respectively.
- c. The SCC may receive complaints from aggrieved school students who are minors, wherein the cause of action in the complaint would attract the provisions of Protection of Children from Sexual Offences Act, 2012 (“**POSCO Act**”). The SCC shall forthwith forward a copy of the complaints which are directly received by them and report, to the appropriate authorities under the POCSO Act, in tune with Section 19 of POCSO Act. In addition, they shall also forward a similar copy to the office of the Kalakshetra Foundation and the ICC of the Kalakshetra Foundation.
- d. Complete secrecy and confidentiality shall be maintained by the SCC in this process, as envisioned in the principles of the POSH Act.
- e. The jurisdiction of each SCC shall be restricted solely to that respective school and shall not extend to RDCFA or such other bodies / units under the Kalakshetra Foundation.
- f. The SCC shall not entertain any anonymous complaints.

PART V - MATTERS PERTAINING TO STUDENTS OF RDCFA

12. College Students Grievance Committee

- a. The College Students Grievance Committee (CSGC) shall be constituted by the Foundation in accordance with the guidelines of the Central Government from time to time.
- b. The CSGC may receive complaints from aggrieved persons. The CSGC shall forthwith forward a copy of the complaints which are directly received by them to the ICC informing them about the receipt of such a complaint.

- c. If the grievance is submitted by any person other than a student such as a member of the administrative staff, faculty, etc., the matter will be heard directly by the ICC without the involvement of the CSGC.
- d. Any aggrieved person regardless of whether he or she is a student or not, shall have the liberty to directly approach the ICC, and the ICC shall entertain such person directly as mandated by the POSH Act, considering the seriousness and gravity of the complaint.
- e. The jurisdiction of the CSGC shall be restricted solely to the RDCFA and shall not extend to the schools or the other units / bodies of the Foundation. The schools remain under the exclusive jurisdiction of the respective SCC.
- f. The CSGC shall not receive or entertain any anonymous complaints.

PART VI – SENSITIZATION PROGRAMME FOR IMPLEMENTERS

13. Sexual Harassment Sensitization Training

- a. The Institutions shall in association with persons qualified for the purpose, organize and conduct an annual workshop for the training of faculty members, facilitators, ICC members, SCC members and CSGC members as and when the ICC, SCC and CSGC are constituted from time to time.
- b. The purpose of such workshop shall be:
 - i. to impart basic counselling skills;
 - ii. To equip faculty members, facilitators, ICC, SCC and CSGC members with a comprehensive understanding of this Policy;
 - iii. To sensitise faculty members, facilitators, ICC, SCC and CSGC members to systemic discrimination of women and intersecting issues of caste, queerness, disability etc.;
 - iv. To impart any other skills or knowledge which may be considered appropriate by the organizers in order to ensure efficient implementation of this Policy.

PART VII – FILING AND INQUIRY PROCESS

14. Complaints Filing Process

The Complaint filing process shall be governed by Section 9 of the POSH Act. The Complaint filing process shall be as follows:

- a. Any student, service provider, parent, employee or a member of the academic or non-teaching staff, may lodge a complaint of sexual harassment. The person against whom a complaint is lodged, would be treated as Respondent in the proceedings.
- b. Complaints should be lodged by the aggrieved person directly with the ICC or the appropriate authority or the foundation, as mandated under the POSH Act. In addition, complaints may also be given by aggrieved persons to SCC or CSGC as the case may be, who would in turn report the same to ICC forthwith. Complaints may also be given by aggrieved persons through facilitators or SHPA, who would in turn forward and report the same forthwith to ICC.
- c. If the aggrieved person is a minor (below 18 years of age), and if the provisions of POCSO Act are prima facie attracted in such complaints, the ICC shall forthwith provide the information about receipt of such a complaint to the local police, in accordance with Section 19 of the POCSO Act, after informing the Foundation.
- d. Third party complaints and witness complaints shall not be entertained except in cases where the complainant has been forcibly prevented from making a complaint. In such cases, a complaint can be made on her/his behalf until she/he can approach ICC or SCC or CSGC as the case may be.
- e. Complaints which may be received by the foundation will be forwarded by the foundation to the ICC as mandated under the POSH Act.
- f. Complaints may be oral, by email or in writing. If the complaint is oral, it will be converted into a written form by the ICC or SCC or CSGC member receiving the complaint and authenticated by the complainant under her/his dated signature or thumb impression as the case may be as soon as possible.
- g. Details of the incident(s) of harassment, the date, time, and place must be recorded.
- h. Complaints shall be subject to limitation as prescribed by Section 9 of the Act, that being three months from the date of the incident, and if in a series of incidents, then a period of three months from the date of the last incident. However, in exceptional circumstances where the ICC is adequately satisfied, then the period of three months may be extended by no further than an additional period of three months.
- i. The history of who the complainant approached (family, friends, teachers etc.) before making a formal complaint must also be recorded.

15. Formal inquiry

Once a complaint is received by the ICC, the ICC shall meet within five working days from the date of receipt of the complaint for initiation of the inquiry process which shall be conducted in consonance with the provisions and principles of the POSH Act and the following chapter.

16. Procedure for inquiry by ICC

a. Initiation:

- i. The ICC shall carry out a preliminary review of the matter and determine whether the ICC has the jurisdiction to inquire into complaint. The ICC may request the Complainant to furnish additional details and/or offer any other clarification, as may be necessary. The ICC shall complete the preliminary review and communicate its decision with reasons to the Complainant within seven (7) days of the receipt of the formal request for inquiry.
- ii. Within two (2) days of concluding the preliminary review, the ICC shall furnish a copy of the complaint to the Respondent/s and simultaneously furnish a notice requiring them to submit their written submission and the written statements of all their respective witnesses within ten (10) days of having received the notice. At this stage, the aggrieved party shall also furnish the written statements of their respective witnesses.
- iii. Within one (1) day of the receipt of the written submissions and witness statements, the ICC shall forward a copy of the written submissions to the other party.
Explanation: The ICC shall have the power to anonymize the complaint, if it deems necessary upon due consideration of the sensitivity of the complaint.

b. Conducting Inquiry:

- i. Within one day of the completion of the procedure delineated above, the ICC shall call for an oral hearing. Each party shall be given a fair and reasonable chance to present their case before the ICC.
- ii. The ICC shall question the parties and witnesses on oral and documentary (if any) evidence relied upon by them. The ICC may call upon any additional witnesses it deems necessary.
- iii. The ICC shall give the opportunity to parties to cross-examine witnesses of the other party.

Explanation: The cross examination will not be direct and will be done by submitting questions in writing to the ICC. The ICC has the discretion to ask only those questions it deems relevant.

- iv. Upon conclusion of the oral hearings, the ICC shall, within ten (10) days, submit a report to the appropriate authority containing its factual findings and a determination of whether any commission of an offence of sexual harassment as defined under this policy read with other applicable laws such as the POSH Act, has taken place.
- v. The inquiry, including the applicable standard of proof, shall be guided by the consideration that it is not a criminal proceeding or a proceeding of any court of law.
- vi. The ICC shall also have the liberty to take the evidence of parents and students while deciding complaints as it deems necessary.
- vii. If any adverse findings are about to be given by the ICC against any person, the same will be done by the ICC after following the principles of natural justice and affording an opportunity of personal hearing to such person.
- viii. Under Section 19 of the POCSO Act, the institution is supposed to report the commission of an offence as defined under the said Act. In the event the ICC finds that the provisions of POCSO Act have been attracted and forms a prima facie opinion to that effect, then in terms of Section 19 of the POCSO Act, it shall report the commission of such an offence forthwith. In this regard, the ICC shall keep in mind the gravity of Section 19 of POCSO Act.
- ix. The ICC is further vested with the power to initiate any other action under any other applicable laws including but not limited to initiating action under CCS Rules.

c. Time Frame:

The total time frame for the inquiry process from the date of the receipt of the complaint and the implementation of the final decision by the Appropriate authority shall not exceed three months.

17. Withdrawal of Complaints

- a. The complainant may request for withdrawal of his/her complaint in writing at any time during the complaints receiving and/or inquiry procedure. However, the ICC must ascertain the reasons for withdrawal of the complaint and record the same in writing and get it counter-signed by the complainant. The Inquiry process shall, on such withdrawal, be terminated.

- b. However, the ICC may reject the request for withdrawal of complaint and proceed with the matter for reasons to be recorded in writing.

18. Complaint-related procedures

- a. Once a complaint has been given, no party should go public until the inquiry is completed.
- b. The confidentiality requirements of the POSH Act must be adhered to by all concerned. Subject to the confidentiality requirements, the ICC or the Foundation may issue a public statement or publicly respond in the event allegations are made in public domain against ICC or any of its members or the Foundation itself.
- c. Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.
- d. The ICC shall take action against anyone who intimidates the complainant / witnesses or members of ICC, during the inquiry.
- e. Any member of ICC charged with sexual harassment in a complaint must step down as member when that complaint is being inquired into.

19. Mediation

- a. In the event the Aggrieved Person, after consultation with the facilitator, requests mediation, the facilitator shall escalate the request to the SHPA, who shall in turn intimate the same to the ICC.
- b. The SHPA shall, inform in confidence, the person/s against whom the concern has been raised about the nature of the concern.
- c. The ICC shall initiate mediation proceedings only on obtaining consent of the parties concerned, and on the basis of the request forwarded by the SHPA.
- d. The ICC shall have the power to appoint a mediator, if the case so demands, with the consent of all parties concerned.
- e. If the parties are unable to agree on whether to have mediation or on the proceeding/result of the mediation, they may, at any point, prefer a request for inquiry.
- f. The mediator shall endeavour to conclude the mediation proceedings no later than six weeks from the date of receiving the reference for mediation.
Explanation: Nothing in this Chapter shall preclude the right of the aggrieved person to initiate mediation during the inquiry process or vice versa.
- g. No monetary settlement shall be made as a basis for mediation.

20. Filing of formal request for inquiry

- a. Any person aggrieved of sexual harassment who considers the mediation process to have been unsatisfactory, or does not wish to initiate a mediation, may make a request for inquiry to the Chairperson of the Internal Complaints Committee for an inquiry to be conducted within three months of the date of the incident of alleged sexual harassment.

Provided, where mediation has taken place and failed, the period of mediation from the date of reference to mediation up to the date on which the process was concluded shall be excluded from calculation of the limitation period of three months. *Provided further that* where there is a delay in filing of the complaint, the complainant shall explain the circumstances for delay in the complaint, and the ICC may, upon consideration of such explanation, condone a delay in the filing of the complaint and provide its reasons in writing.

Provided further that a friend, relative, colleague, co-student, psychologist or other associate of the aggrieved person may file the complaint in cases where the aggrieved person is unable to do so themselves as a result of physical or mental incapacity, or death, however, the same may be done only with the written consent of the aggrieved person.

- b. The formal request for inquiry shall normally be made in the manner prescribed in Form A, or through a verbal statement made to and transcribed by any faculty member or facilitator and signed (or thumb impression) by the complainant.

21. Interim Relief

- a. The ICC may provide interim reliefs, in consonance with Section 12 of POSH Act, which include the following-
 - i. Grant leave to the aggrieved person with full protection of status and benefits for a period up to one month;
 - ii. transfer the aggrieved person or the respondent to another section or department to minimise the risks involved in contact or interaction;
 - iii. Restrain the Respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
 - iv. Warning the Respondent to keep a distance from the aggrieved person or the witnesses, and wherever necessary, if there is a definite threat, restrain their

entry into the campus;

v. Restrain either party or anyone acting on their behalf from contacting or attempting to contact the other party / the witnesses against their wishes.

Explanation: The ICC shall not consider any order passed under this sub chapter to be a mitigating circumstance when determining the penalty to be imposed.

vi. In the event that the person/s against whom the concern has been raised has been found guilty under this Policy previously, the ICC may bar them from representing the Institutions in any event.

vii. Take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation as a consequence of making a complaint of sexual harassment.

viii. If necessary, F.I.R, and police complaints shall be filed against the person/s against whom serious allegations have been made.

- b. The Complainant shall have the right to request the ICC for interim measures at any stage of the proceedings.
- c. Violation of the provisions of this Chapter will attract Corrective Action under Chapter 28.

22. Support Person

- a. The aggrieved party may request the ICC for the appointment of a support person of the party's choice from the Institution's community at any stage in the proceedings.
- b. The ICC shall determine the role of the support person in consultation with the party who has made the request for the same. The support person may be allowed to attend all proceedings along with the aggrieved party at the discretion of the ICC.

23. Relevant Factors

- a. The past sexual history of the Respondent shall be taken into account while establishing and/or deciding on the incident/s of sexual harassment.
- b. In determining the punishment, the ICC shall consider the previous record of the perpetrator under the Policy (if any), and the extent of victimization (if any).

24. **Adverse Inference**

An adverse inference shall be drawn against an alleged perpetrator of unwelcome sexual conduct or sexual harassment where:

- a. the alleged perpetrator is in an official position of authority, supervisory, evaluatory, or otherwise and
- b. the person making the complaint of sexual harassment is a person over whom such authority is exercised and
- c. the harassment is of a nature where submission to or rejection of sexual advances or overtures, or requests for sexual favours are made a ground for any decision relating to employment, academic pursuit, extra or co-curricular activities or entitlement to services/opportunities at the Institution.

Explanation (i): Student office bearers and student representatives shall not be considered as persons in positions of such authority solely by virtue of holding these positions.

Explanation (ii): Although there is a prima facie presumption against alleged perpetrators/respondents, such a presumption would be a rebuttable presumption, subject to the principles of natural justice being adhered to.

25. **Action on the Inquiry**

- a. The Disciplinary Authority of the Foundation shall act on the recommendation submitted by the ICC whose report shall be treated as an Inquiry Report and the Disciplinary Authority shall act upon the recommendations made in the inquiry report in accordance with the applicable rules.
- b. Final orders made by the Disciplinary Authority of the Foundation shall be made within thirty (30) days of the receipt of the ICC's recommendations and report and the same shall be communicated in writing to the concerned parties who shall also be supplied with a copy of the report of the inquiry, the findings and the proposed Corrective Action. Copies of depositions of witnesses shall be made available for perusal to a party concerned with such deposition on request.
- c. The proceedings under these procedures shall be treated as strictly confidential and shall not be divulged by any faculty or staff member or any of the parties to anyone.

26. **Appeal**

Any party to the proceeding who feels aggrieved by the recommendation of the ICC in its inquiry report or the decision of the Disciplinary Authority may, exercise their right of appeal in accordance with Section 18 of the POSH Act read with Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

27. **Mala Fide or frivolous Complaints**

In the event the formal request for inquiry is proved to be *mala fide* or false during any stage of the proceedings, then, in terms of Section 14 of the POSH Act, the ICC shall recommend to the Foundation that the person found guilty of such mala fide be required to issue a written public apology which is to be displayed prominently on all notice boards in the Institutions.

If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished.

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section.

Provided further that malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

PART VIII – CORRECTIVE ACTIONS & ASSISTANCE IN CRIMINAL PROCEEDINGS

28. **Corrective Actions**

a. Corrective Action for students

The Internal Complaints Committee may recommend any or a combination of the following penalties for sexual harassment or unwelcome sexual conduct – (the following list is not exhaustive):

- i. Warning, reprimand or censure.
- ii. Public written apology by the perpetrator which shall be displayed prominently on all notice boards in the Institutions.
- iii. Community service such as assisting the librarian, cleaning litter on campus, etc.

- iv. Curtailment of privileges such as access to the library, auditoria, etc.
- v. Bar on representing the Institutions in any co-curricular/extra-curricular activities whether at the intra or inter-Institutions level.
- vi. Removal and/or bar on holding any positions of responsibility in any capacity.
- vii. Suspension from the Institutions for a period up to three weeks.
- viii. Suspension from the Institutions for a maximum period of one year.
- ix. Rustication from the Institutions.
- x. Fine up to Rs. 10,000/- which amount shall be paid into a separate account to be maintained by the Sexual Harassment Policy Advisor and which amount shall be used to achieve the objectives of this Policy.
- xi. In addition to any other corrective action, the respondent shall have to mandatorily attend sexual harassment workshops for at least one week.

b. Corrective Action for Faculty/Staff/other Employees

- i. Warning, reprimand or censure.
- ii. Public written apology by the perpetrator which shall be displayed prominently on all notice boards in the Institutions.
- iii. Termination.
- iv. Suspension.
- v. Withholding increments and promotions.
- vi. Demotion.
- vii. Fine up to Rs 20,000/- which amount shall be paid into a separate account to be maintained by the Sexual Harassment Policy Advisor and which amount shall be used to achieve the objectives of this Policy.
- viii. Transfers.
- ix. In addition to any other corrective action, the respondent shall have to mandatorily attend sexual harassment workshops for at least one week.
- x. In case the complainant is a student of the harasser, alternate arrangements are to be made to ensure that academic evaluations of all kinds are not conducted by the respondent.

29. **Criminal Proceedings**

The Institutions shall provide assistance to the aggrieved person if they so choose to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.

PART IX – MISCELLANEOUS

30. **The records of inquiry proceedings under this Policy shall be kept in the custody of the ICC.**

- a. All the authorities acting under this policy shall maintain confidentiality with regard to the following:
 - i. the identity and profile of the complainant and the respondent.
 - ii. the nature of the concern,
 - iii. a brief account of the steps taken to address the concern and,
 - iv. the result of any process undertaken under this Policy, except inquiry proceedings
- b. The ICC shall maintain confidential records of all proceedings that take place before it, which will include copies of all documents submitted at each proceeding.

31. **Recusal**

Any person conducting any proceedings under this Policy shall recuse herself/himself if s/he feels that her/his objectivity may be compromised due to any reason or conflict of interest, and an *ad hoc* member of the same rank shall be appointed as a replacement within a period of ten working days.

32. **In camera proceedings**

All proceedings under this Policy shall be strictly in camera and the privacy of all parties shall be maintained.

33. **Confidentiality**

- a. All proceedings, documents and records maintained under this Policy shall be confidential.

Explanation I: 'Confidentiality' means that notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under chapter 14, the identity and addresses of the Aggrieved person, Respondent(s) and witnesses, any information relating to mediation and inquiry proceedings and the recommendations of

the ICC shall not be published, communicated or made known to the public, press and media in any manner.

Explanation II: This chapter shall not apply to any information divulged prior to the commencement of the proceedings, or to information divulged for the purpose of criminal proceedings.

- b. All persons involved in the proceedings under this Policy including the parties, faculty, witnesses, facilitators, mediators, members of the ICC, the Appropriate authority and Foundation shall be under a duty to respect and maintain confidentiality.
- c. No decision taken under this Policy, except the final decision of the Foundation or Appropriate authority shall be published, communicated or made known to the public. Provided that, information about the final decision, if disseminated, shall be without disclosing the name, address, identity or any other particulars which may lead to the identification of the aggrieved person and the witnesses.
- d. Any person who violates this provision will be liable for corrective action under Chapter 28 of the Policy, taking into account the nature and gravity of the violation.

34. **Minor infringement not to invalidate proceedings**

No minor infringement of procedure shall invalidate any proceeding under this chapter unless it is shown to cause prejudice to any of the parties.

35. **Support Structures**

The Institutions shall endeavour to provide support structures in the form of:

- a. A well published list of phone numbers and addresses which may be contacted in emergencies;
- b. An orientation programme for new students in order to familiarize them with the Policy;
- c. Distribution of pamphlets, brochures, posters on issues pertaining to prevention of sexual harassment and child sexual abuse;
- d. Acquainting new students to the Policy;
- e. Counselling the members of the Institution's community on ways of preventing and coping with sexual harassment;
- f. Counselling for the complainant;
- g. Providing support to initiatives in addressing issues of gender and sexuality;

36. **Review of Policy**

This Policy shall be reviewed at least once in two years. In addition, if the provisions of the POSH Act are amended, then the policy shall also be so amended in accordance with the amended law.

FORM A – Request for Formal Inquiry

The Presiding Officer,
Internal Complaints Committee, Kalakshetra Foundation. Dear

Madam,

I/We, _____ request you to constitute an inquiry under the Policy to Combat Sexual Harassment on the basis of the complaint below.

1. Name and details of Aggrieved Person:

[Please include the relationship of the aggrieved person with Institution – are you/they a student, faculty member, researcher, employee, visitor or do you/they have any other association with the Institution(s)? If this request is being filed on behalf of the aggrieved person, please explain the circumstances why the aggrieved person is unable to initiate the complaint directly, your association with the aggrieved person, and your contact details.]

2. Name and details of the perpetrator/Respondent:

[Please clarify whether the perpetrator is a student, faculty member, researcher, employee, visitor of Institution or if they have any other association with the Institution(s)]

3. Description of the incident/s of sexual harassment:

[Please include a detailed account of the incident or incidents which you believe constitute sexual harassment. As far as possible, provide the relevant dates and the places where the incident/s occurred.]

4. Preferred relief or protection:

[Please state what, in your opinion, would offer the aggrieved person relief or protection as a victim of sexual harassment]

5. Witnesses:

[Please provide a list of persons (Name; Contact details) who would be willing to provide written and oral testimony as a witness on behalf of the aggrieved person in the proceedings.]

6. Records or evidence in support:

[Please provide a list of record/documents/other materials upon which you wish to rely on in support of the complaint and annex the materials or copies thereof.]

Sincerely,

(Signature/Thumbprint)

(Name of complainant)

Email:

Date:

Place:

Phone:
