

## DISCRIMINATION & SEXUAL HARASSMENT POLICY

### 2.2.1. Statement of Philosophy

MUWCI (“**College/MUWCI**”) is committed to providing a working and learning environment that is free of discrimination, supportive of personal growth and academic achievement, and one that upholds the dignity, self-esteem and fair treatment of all members of the College community. The College seeks to create a climate that encourages and values each person’s contribution to the development and well-being of the community.

To this end, MUWCI has introduced this policy which provides its employees, students, consultants, officers, representatives, workers, etc. with a work environment that is free of discrimination on the basis of race, colour, ancestry, place of origin, religion, family status, marital status, physical disability, mental disability, sex, age, sexual orientation, gender identity, political belief or criminal or summary conviction unrelated to an individual’s association, or intended association with the College except where there is a bona fide requirement.

### 2.2.2. Definitions:

**2.2.2.1. Discrimination:** For the purpose of this policy, discrimination means any bias, distinction, exclusion, limitation or preference which has the purpose or effect of nullifying or impairing equality of treatment in education and in particular-

- (i) of depriving a person or a group of persons on the basis of caste, creed, religion, language, ethnicity, gender, disability of access to education of any type or at any level;
- (ii) of imposing conditions on any person or a group of persons which are incompatible with the dignity of human beings; and
- (iii) of subjecting to the provision of establishing or maintaining separate educational systems or institutions for person or a group of persons based on caste, creed, religion, language, ethnicity, gender and disabilities.

**2.2.2.2. Harassment:** For purposes of this policy, Harassment includes, Sexual Harassment and is defined as verbal or physical and visual conduct that denigrates or shows hostility or aversion, threats, demands, toward an individual because of his or her race, colour, gender, age, religion, national origin, disability, veteran status or any other characteristic protected by law, and that:

- (i) Creates an intimidating, hostile or offensive environment in the College; or
- (ii) Unreasonably interferes with an individual’s performance or well being at college.

Examples of such Harassment are: using epithets or slurs; mocking, ridiculing or mimicking another's culture, accent, appearance or customs; publicly disclosing another's private information; sabotaging another's work; threatening, intimidating or engaging in hostile or offensive acts displaying or circulating within or outside College, written or graphic material that denigrates or shows hostility toward a person or group because of an individual's race, colour, gender, age, religion, national origin, disability, veteran status, or any other characteristic protected by law or any other conduct or behavior deemed inappropriate by the College. This list is not intended to be all-inclusive.

**2.2.2.3. Sexual Harassment:** Sexual Harassment consists of unwelcome sexual conduct, requests for sexual favours or other verbal, visual or physical acts of a sexual or otherwise of offensive or gender-based nature when:

- (i) Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's association with the College; or
- (ii) Submission to or rejection of such conduct is used as the basis for employment or admission related decisions affecting the individual; or
- (iii) implied or explicit threat about an individual's present or future employment or educational status; or
- (iv) Such conduct unreasonably interferes with an individual's work performance, studies, or creates an intimidating, hostile, or offensive working environment; or
- (v) humiliating treatment likely to affect an individual's health or safety.

Some examples of what may constitute Sexual Harassment are: threatening or taking adverse employment action, such as discharge or demotion, suspension or detention of a student, if sexual favours are not granted; demands for sexual favours in exchange for favorable or preferential treatment; unwelcome and repeated flirtations; unwelcome physical contact; whistling and catcalls; leering; improper gestures; offensive, derogatory or degrading remark; unwelcome comments about appearance; sexual jokes or use of sexually explicit or offensive language; gender or sex based pranks; and the display of sexually suggestive objects or pictures in work areas; grabbing, groping, kissing, fondling; unwanted or offensive letters or poems; offensive e-mail or voice-mail messages; questions about one's sex life or experiences; repeated requests for dates or marriage; sexual assault or rape; any other conduct or behavior deemed inappropriate by the college. The above list of examples is not intended to be all-inclusive.

**2.2.2.4. Unfavourable treatment:** Unfavourable treatment means any adverse changes in the working environment, denial of training and denial of opportunities for advancement, unfavourable probationary reports, vexatious grievances and exclusion by peers.

### **2.2.3. Discrimination/ Harassment Prohibited:**

Discrimination and Harassment, including Sexual Harassment is unacceptable and will not be tolerated. MUWCI strictly prohibits any form of Harassment in the college premises whether committed by students, teaching or non-teaching faculty, and

other staff. All students, teaching and non-teaching faculty and staff of MUWCI are expected to avoid any behaviour that could be reasonably interpreted or perceived as a form of Discrimination and Harassment.

MUWCI takes utmost care and caution in safeguarding the interests of the students and other members who are a part of the College, without any prejudice to their caste, creed, religion, language, ethnicity, gender and disability. It attempts to eliminate Discrimination against or Harassment including Sexual Harassment of any student or other member in all forms by prohibiting it and by providing for preventive and protective measures to facilitate its eradication and punishments for those who indulge in any form of Discrimination or Harassment. It promotes equality among students from all sections of the society.

MUWCI prohibits any form of Harassment in the workplace whether committed by male or female, supervisory or non-supervisory personnel. All employees of MUWCI are expected to avoid any behaviour that could be reasonably interpreted or perceived as a form of Sexual Harassment. This policy applies to all acts of Sexual Harassment occurring in the work environment whether at the premises, or in other work-related settings, and applies regardless of the gender of the individuals involved. This policy covers all employees of MUWCI and applicants for employment. This policy also covers Sexual Harassment by a non-employee (e.g., student, parents etc.) to the extent that it affects the work environment or interferes with the performance of work.

#### **2.2.4. Reporting Harassment**

1. Anyone who believes that he or she has been subjected to such Harassment is encouraged to report the problem using the procedures set forth in this policy. MUWCI will investigate a reported incident to the extent required by applicable law and will take remedial action where necessary.
2. MUWCI strongly encourages the prompt reporting of all incidents of Harassment to the Internal Complaints Committee (ICC), preferably, within a period of 3 (three) months from the date of such incident. In the event that the complainant is unable to make a complaint in writing, the Presiding Officer ("**Presiding Officer**") or a member of the committee may render such assistance, as may be required, for the complainant to make such complaint in writing.
3. Where the complainant is unable to make a complaint on account of physical incapacity, his/ her relative or friend, a co-worker, an office of the National or State Commission of Women, any person who has knowledge of the incident (with written consent of the complainant) may make a complaint under this policy. Where the complainant is unable to make a complaint on account of mental incapacity: his/ her relative or friend; a special educator; a qualified psychiatrist or psychologist; the guardian or authority under whose care he/ she is receiving treatment; any person who has knowledge of the incident with her relative or friend a co-worker or a special educator, a qualified psychiatrist or psychologist or guardian or authority under whose care he/ she is receiving treatment; may make a complaint under this policy. Further, where the aggrieved individual is, for any other reason, unable to make a complaint, a complaint may be filed on his/ her behalf by a person who has knowledge of the incident, with a written consent

from the complainant. In the event the complainant is dead, a complaint may be filed on his/ her behalf by a person who has knowledge of the incident, with a written consent from the legal heir of the complainant.

### 2.2.5. Internal Complaints Committee<sup>1</sup>

By this policy, UWC Mahindra has established an Internal Complaints Committee (“ICC”) to deal with issues of Harassment as provided for under this policy.

The Composition of the Committee is as under:-

Designation	Name
Presiding Officer	Faculty (Ujwala Samarth)
Member	Faculty (Alpana Kelkar)
Member	Staff (Sanjay Phatak)
External Member	Heena Thapar

### 2.2.6. Role, Power and Duties of the Presiding Officer/ Committee:

1. The Presiding Officer is the first contact for an aggrieved person and shall advise the complainant of the mechanisms available for resolution of a Harassment matter in accordance with the mechanism available under this policy.
2. The Presiding Officer shall ensure implementation of this policy and regularly review the functioning and effectiveness of this policy.
3. The Presiding Officer shall exercise such other powers and perform such other duties as may be conferred or imposed on her/ him by or under this policy.
4. Upon receipt of a complaint, the ICC may forward 1 (one) copy of the complaint to the alleged accused within a period of 7 (seven) working days. The alleged accused shall be required to file the response, along with supporting documents, preferably within a period of 10 (ten) days. On a case-to-case basis, in the event the ICC determines that a different procedure should be adopted to resolve the

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<sup>1</sup> K Law Comment: The ICC shall comprise: (i) 1 (one) Presiding Officer (“**Presiding officer**”), who shall be the senior most faculty member, if such a member is a lady or the senior most lady member of the faculty. In the absence of a senior lady faculty, then any senior lady from any other department (e.g., administration, finance) may be appointed as presiding officer; (ii) atleast 2 (two) members who shall be chosen from the employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge; (iii) 1 (one) member from a non-governmental organisation or association committed to the cause of harassment and such member from the non-governmental organisation shall be entitled to an allowance of Rs.200/- (Rupees Two Hundred only) per day for holding a proceeding and travel expenses thereof. A person familiar with the issues relating to Sexual Harassment, as referred to in point (iii) above, may include either: (a) a social worker with at least 5 (five) years’ experience in the field of social work which leads to creation of empowerment of women and in particular addressing workplace sexual harassment, or (b) a person familiar with labour, services, civil criminal law. Further, at least one-half of the total members so nominated shall be women. The Presiding officer and any member of the Committee shall be appointed for a term of 3 (three) years from the date of their appointment.

complaint, the ICC shall be free to do so, within the ambit of applicable law, and without prejudicing the rights of the complainant or the accused.

5. The ICC will complete the inquiry within a period of 60 (sixty) days and prepare a report of the inquiry conducted under this policy and submit the same to the management of MUWCI within 10 (ten) days of completion of the inquiry proceedings.
6. The Presiding Officer shall prepare an annual report of all activities undertaken in each calendar year and submit the same to the management of MUWCI and the concerned statutory authority formed under any statute. Such report shall contain: (a) the number of harassment complaints received in a year, (b) number of complaints disposed of in a year, (c) number of cases pending more than 90 (ninety) days, (d) number of workshops conducted against harassment, (e) nature of action taken by MUWCI.
7. The Presiding Officer shall circulate this policy to ensure that all employees, students, and other members etc., of MUWCI have access to the same.
8. MUWCI shall carry out orientation programmes, seminars, skill building programmes for the members of the ICC. Further, MUWCI shall also, whether by using modules developed by the state government or otherwise, carry out employee awareness programmes and create forums of dialogue with respect to the anti-Harassment.
9. The ICC would meet and review on a quarterly basis the complaints and the proposed recommendations based on the investigations.
10. In the event of conflict of interest with regard to any matter with any member of the ICC, then such member will immediately bring such conflict to the notice of the ICC so that the member may be asked to abstain from any meeting dealing with the subject matter in question.

### **2.2.7. Resolving the Matter:**

The Presiding Officer to whom the complaint is made shall advise the complainant of the mechanisms available for resolution of the matter which are as follows:

1. If the complainant merely suspects Harassment but wishes to pre-empt the perceived Harassment from progressing any further, it is advisable that the complainant talks to the offending individual at a personal level and share her/his apprehensions. However, MUWCI recognizes that disparity of power and status between the alleged accused and a target may at times make such a warning difficult, if not impossible. In the event such direct communication between individuals is either ineffective or extremely difficult, the individual so harassed may contact the Presiding Officer.
2. If the suspicions are beginning to be confirmed and the Harassment appears to persist, the Complainant may bring the matter before the Presiding Officer. The Presiding Officer concerned may confidentially talk to the offending person to stop such conduct forthright.
3. If the Presiding Officer is unable to stop the offending behaviour or if the employee considers the Harassment serious enough, the complainant may submit his/ her request for enquiry either in writing or may submit his/ her request orally to any of the members of the ICC.

4. During the pendency of the inquiry, on a written request made by the complainant or the aggrieved person, the ICC may recommend: (a) a transfer of the complainant or the alleged accused to any other department or office MUWCI, (b) restraining the alleged accused from reporting on the work performance of the complainant or writing her confidential report and assign the same to another office, (c) grant of leave to the complainant up to a period of 3 (three) months; or (d) grant of such other relief, as may be prescribed under applicable law. However, any leave granted herein shall be in addition to the leave that such individual would be otherwise entitled to.
5. The ICC shall conduct the inquiry in accordance with the principles of natural justice.
6. The ICC will treat the matter, discussions and communications in respect of any complaints with utmost confidentiality at all times. The complainant and alleged accused or any person who becomes aware of the matter in the course of grievance handling process shall also maintain such matter, discussions and communications in strict confidence. Where any person entrusted with the duty to handle the complaint and inquiry in confidence breaches such duty, he or she will be punishable with a penalty of Rs. 5,000/- (Rupees Five Thousand only).
7. The ICC would be the authority for fact finding and assessment of the incidents and would finally report the same to the management of MUWCI. The ICC will seek the Human Resources Department's help for fact-finding and assessment of the case, wherever required.
8. The hearing of the complaint could be a one to one discussion between the complainant and the members of the ICC. The complainant and the alleged accused shall not be allowed to bring a legal practitioner to represent them at any stage of the inquiry. The complainant and the alleged accused will have the right to present their cases in writing or verbally, and the ICC may use recording or written record in order to prevent any misreporting or misunderstanding. The ICC shall seek the confirmation of the complainant and the alleged accused on the contents of their submissions. The ICC shall also have similar powers as vested with a civil court to (a) summon the attendance of any person and examine him/ her under oath; and (b) requiring the discovery and production of documents; and (c) to use such legal methods to successfully complete the enquiry.
9. At least 3 (three) members of the ICC, including the Presiding Officer, should be present for drawing the fact-finding report, if necessary and the assessment for issue of sanction against the alleged accused.
10. The ICC shall have the right to terminate the inquiry or pass an ex-parte decision on the complaint, in the event the complainant or the alleged accused fail, without reasonable cause, to present themselves for 3 (three) consecutive hearings. However, an ex-parte order will not be passed by the ICC without giving a written notice of 15 (fifteen) days to the relevant party.
11. Using the procedure will not prejudice any aspect of the complainant's future employment with MUWCI in any way whatsoever. The records of written evidence of the complaint will not be filed in the complainant's personal file.
12. Upon completion of the investigation, corrective action will be taken, if appropriate and supported by the facts. Corrective action may include, but is not limited to, oral or written reprimand, referral to formal counseling, disciplinary suspension or probation, or discharge from MUWCI. If necessary, MUWCI may initiate appropriate action in accordance with applicable law by making a

complaint with an appropriate authority where such conduct amounts to a specific offence under the Indian Penal Code (as per applicable Indian law) or a specific offence including but not limited, to an offence of Child Sexual Harassment<sup>2</sup>, under any other applicable law or jurisdiction.

13. The ICC shall also act as an Equal Opportunity Cell and a Professor or an Associate Professor of the College shall be appointed as an **Anti-Discrimination officer**. Please refer to **APPENDIX II**.
14. The Equal Opportunity Cell and the Anti-Discrimination Officer shall prohibit any conduct by any person or group of persons in the College, whether by words spoken or written or by any act which has the effect of Discrimination. On receipt of a written complaint, the Anti-Discrimination officer shall initiate follow-up action including preliminary fact finding inquiry, if he considers necessary, based on consultation with the ICC.
15. The complaint on Discrimination and Harassment may be made in writing by a student or a parent of a student irrespective of whether the Discrimination or Harassment is alleged to have taken place within or outside the College premises. A person aggrieved by such order within a period of 90 (ninety) days from the date of the order may appeal to the Head of the MUWCI. The Head of the college may entertain the appeal beyond a period of 90 (ninety) days if he or she is satisfied that there was a sufficient and reasonable excuse for not appealing within 90 (ninety) days.

#### **2.2.8. Sanctions:**

Where the ICC arrives at the conclusion that the allegation has been proved, it shall recommend to the management of MUWCI:

1. To obtain a written apology from the accused or reprimand, censure, withhold promotion or pay rise or increment,
2. Dismissal/ rustication from the College;
3. Termination of the accused from employment or suspension of the accused or compel the accused to undertake counseling sessions or carry out community service,
4. To take action for Harassment as a misconduct in accordance with the provisions of the employment terms applicable to the accused;
5. To deduct, notwithstanding anything in the employment terms, from the salary of the accused such sum as it may consider appropriate to be paid to the complainant or to the legal heirs, as it may determine. Such sums may be determined by the ICC keeping in mind the following: the mental trauma suffered by the Complainant, loss of career opportunity, medical expenses for any physical/ psychological treatment, income/ financial status of the alleged accused, feasibility of payments in instalments.
6. Further, the management of MUWCI shall act upon such recommendation of the ICC within a period of 60 (sixty) days from receipt thereof.
7. In addition to the above prescribed, an indicative list of sanctions may be recommended to the management of MUWCI by the committee based on the gravity of the Harassment on the person found guilty.

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<sup>2</sup> K Law Comment: We have included the offences under POCSO Act in this section. Please note, an internal investigation is not permitted for an offence under POCSO. It has to be reported to the Special Juvenile Police Unit.

8. In case it is determined that an incident of sexual harassment/ or any sexual activity involving a person below 18 years of age has occurred, The MUWCI will not investigate the matter and will report the case to the relevant authorities as required by law.
9. A copy of this policy along with the procedure for filing and dealing with such complaint is available in the website of MUWCI.