



Gujarat National Law University

2022

GNLU HANDBOOK ON THE PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT

FOR THE INTERNAL COMPLAINTS COMMITTEE





In this handbook, the following expressions mean –

- **“2013 Act”** - Sexual Harassment of Women at Workplace (Prevention, Prohibitions and Redressal) Act, 2013
- **“Director”** – Director of Gujarat National Law University
- **“GNLU”** – Gujarat National Law University
- **“ICC”** – Internal Complaints Committee
- **“Regulation”** - Prevention of Sexual Harassment at The Gujarat National Law University, Redressal of Complaints Regulations, 2022



INTRODUCTION

The ‘Prevention of Sexual Harassment at The Gujarat National Law University, Redressal of Complaints Regulations, 2022’ aims to promote and provide a safe environment in GNLU by establishing an effective redressal mechanism against instances of sexual harassment. Following the mandate of the Sexual Harassment of Women at Workplace (Prevention, Prohibitions and Redressal) Act, 2013, allied Rules and the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015., GNLU has adopted the Regulations in order to affirm its zero-tolerance policy towards sexual harassment.

This Handbook was formulated with the aim of providing an overview of the redressal mechanism and creating a general awareness of the rights of the students, employees and third parties under the Regulations. It provides information on what constitutes sexual harassment, what procedures follow a complaint of sexual harassment, and what are the responsibilities of the University in addressing such complaints and ensuring a healthy academic and work environment.



SCOPE AND APPLICABILITY

It is important to understand that action can only be taken by the University if these acts take place within the University, including any place visited by individuals during the course of employment or study at GNLU. A detailed definition of “University” can be found in the Regulations.

The individuals on whom the Regulation is applicable covers complaints made by:

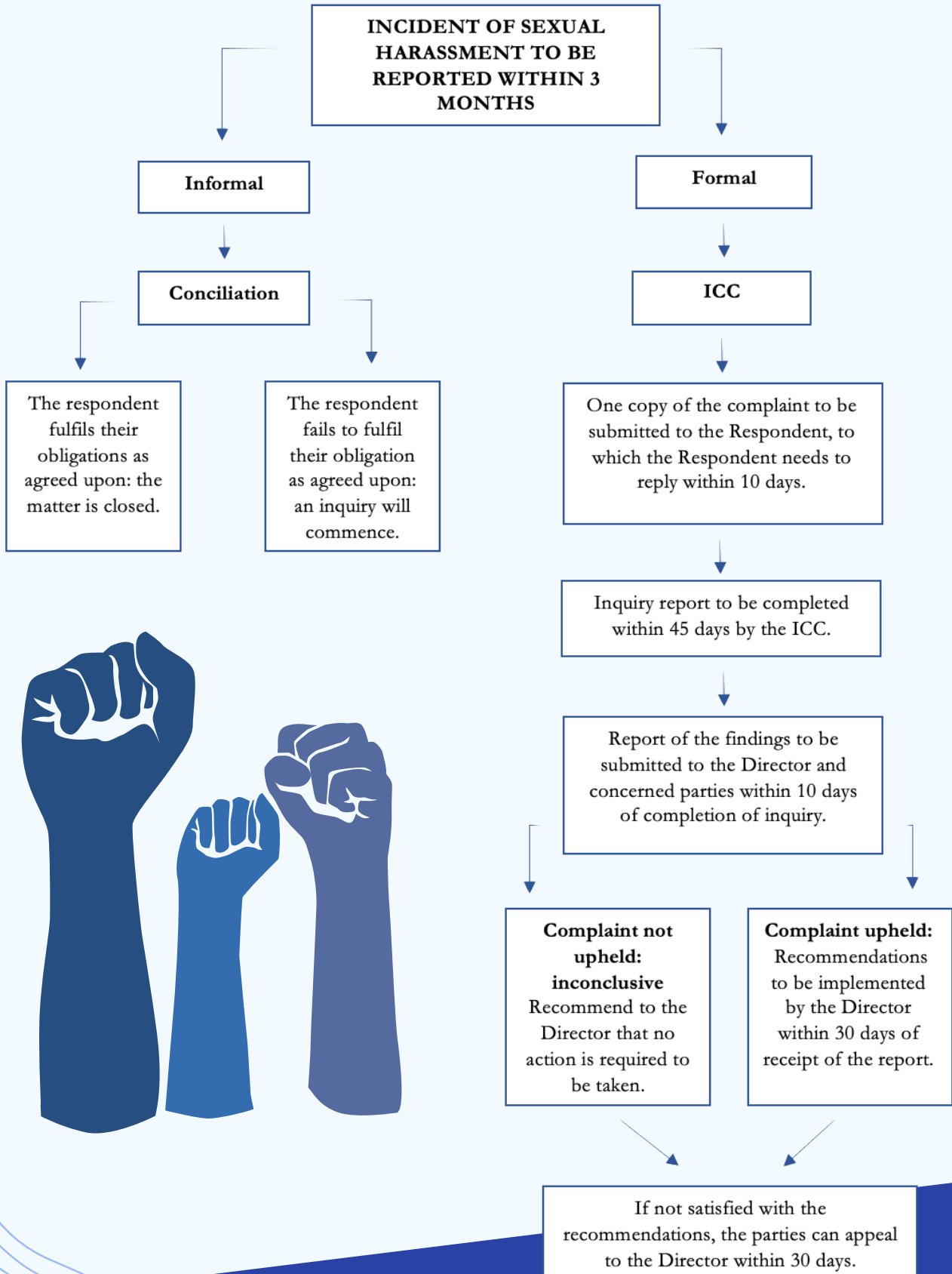
- A student against another student
- A student against an employee
- A student against a third party/outsider
- An employee against another employee
- An employee against a student
- An employee against a third party/outsider
- A third party/outsider against a student
- A third party/outsider against an employee
- A third party/outsider against another third party/outsider

FILING A COMPLAINT

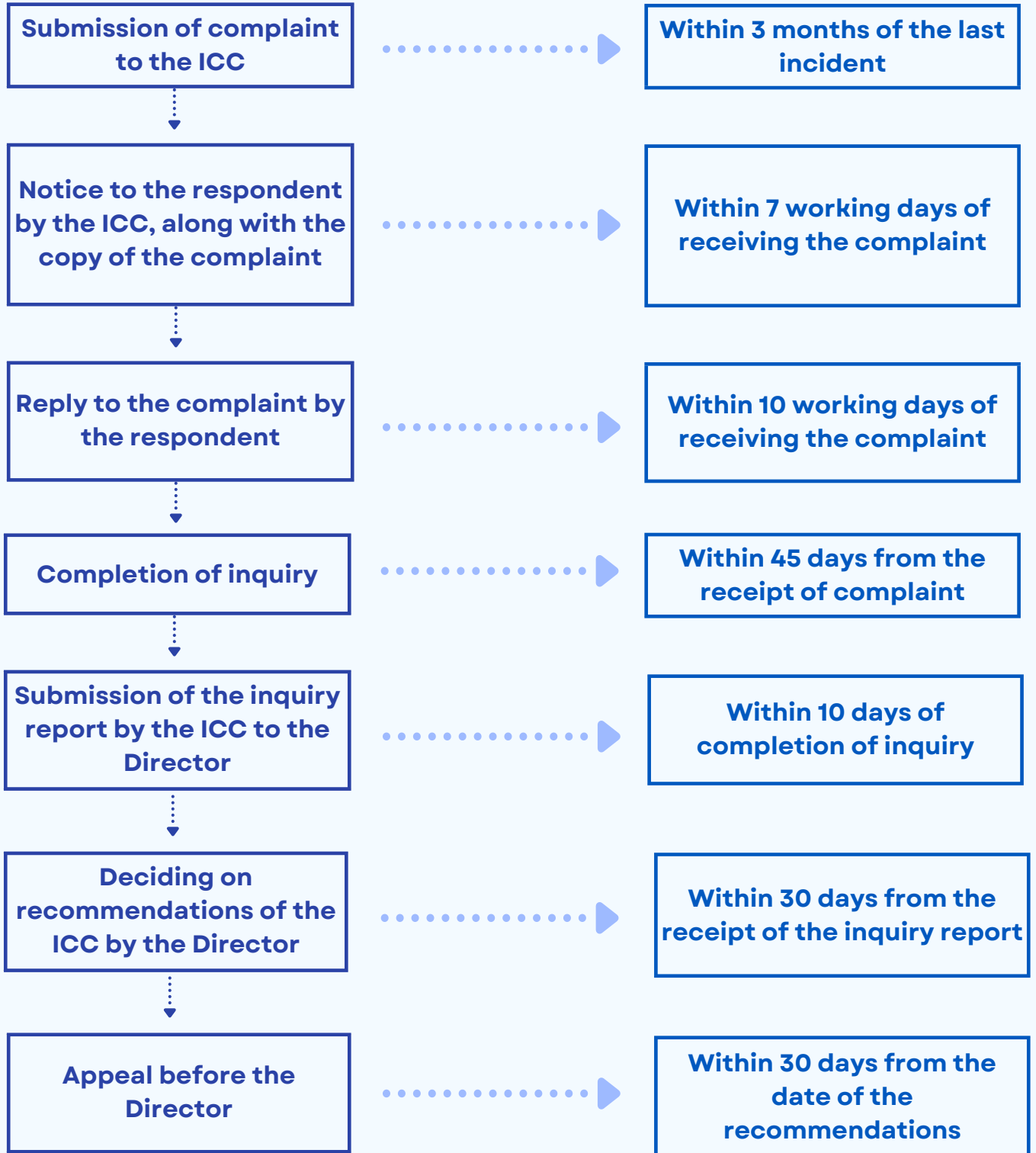
A complaint has to be made in writing to the ICC within 3 months from the date of the incident. This period of limitation may be condoned for justifiable reasons. The complaint is required to be made in the format provided in Annexure A of the Regulations. Relevant details of the parties along with a description of the sequence of events are to be provided. If there is any difficulty in the process of making the complaint or filling the form, assistance may be sought from the ICC members, who shall extend their full co-operation for the same. There are other broad elements to be fulfilled when one is filing a complaint, such as:

- **The Respondent displayed potentially improper and/or offensive conduct, constituting sexual harassment,**
- **The behaviour was directed at the complainant or other such aggrieved person,**
- **The complainant or an aggrieved person experienced harm,**
- **The behaviour occurred within the University.**

OVERVIEW OF PROCEEDINGS UNDER THE REGULATION



TIMELINES



ADDRESSING SEXUAL HARASSMENT COMPLAINTS

The members of the ICC are required to analyse complex and sensitive situations and arrive at a conclusion. The experience of sexual harassment is subjective and therefore, greater focus must be placed on the impact rather than the intent. Each case is unique and should be examined in its own context and according to the surrounding circumstances as a whole.

Key points:

1. Create an enabling meeting environment.
2. Use body language that communicates complete attention to the parties.
3. Discard pre-determined ideas.
4. Determine the harm.
5. Be sensitive and respectful to the parties and to the complaint.

Avoid:

1. Getting aggressive.
2. Insisting on a graphic description of the incident(s) of sexual harassment.
3. Interrupting.
4. Discussing the complaint in the presence of the complainant or the respondent.
5. Taking past sexual history of the parties into account while establishing and/or deciding whether this incident constitutes sexual harassment.
6. Bringing the parties to a complaint face to face.

Here's a step-wise procedure for conducting an inquiry:

Stage One: Receipt of the Complaint

- Step 1: Receive and acknowledge receipt of the complaint.
- Step 2: Meet and talk to the complainant to explore options for formal and informal resolution.
- Step 3: Informal mechanism
- Step 4: Formal mechanism
- Step 5: Respondent and response.

Stage Two: Planning carefully

- Step 6: Prepare the file
- Step 7: Consideration

Stage Three: Interviews

- Step 8: Prepare an interview plan for the hearing: complainant, witnesses and respondent.
- Step 9: Assess the completeness of the information collected.

Stage Four: Reasoning

- Step 10: Analyse and assess the information gathered during the inquiry.
- Step 11: Create a timeline to help establish the sequence of events related to the complaints.
- Step 12: Compare similarities and differences within each of the statements made by the interviewees.

Stage Six: Report

- Step 15: Writing the report

Stage Five: Finding and Recommendations

- Step 13: Finding
- Step 14: Recommendations



STAGE ONE: RECEIPT OF THE COMPLAINT

To ensure a fair, prompt, and impartial inquiry process, the ICC must be capable of creating an environment of trust and confidence throughout the inquiry.

Step 1: Receive and acknowledge receipt of the complaint

The complainant submits a sexual harassment complaint in writing within three months of the last alleged incident to the ICC.

Training and Skill Building: An Institutional Responsibility: It is important that the ICC has acquired competency and skill-building training for managing a complaint and/or any concern related to sexual harassment.

Upon receipt, the complaint should be reviewed for compliance with relevant provisions, clarity of information, and if any additional information is needed from the complaint.

The complainant will be notified in writing to acknowledge receipt.

Step 2: Meet and talk to the complainant to explore options for formal or informal resolution

The complainant needs to be informed about the ensuing process and the informal or formal options available for the redressal.





Step 3: Informal mechanism

If the complainant chooses to adopt the informal process to resolve and address his/her complaint/experience of sexual harassment, then it is the responsibility of the ICC to explore enabling ways to address the complaint. This can include counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour, or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation. However, before recommending conciliation, the ICC must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. At no point shall the ICC advise the complainant to resolve the matter directly with the respondent.

Where such an informal redressal process is successful, the Resolution is to be recorded by the conciliator and forwarded to the ICC, who in turn will forward the same to the Director for further action based on the Resolution. The Director is responsible for taking steps to ensure that the complainant is not subject to any backlash. The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes that it can be resolved through an informal process.

Step 4: Formal mechanism

- 1.If the complainant opts for formal redress, or the nature of the complaint is serious and calls for formal redress, then the ICC responds to the complaint.
- 2.ICC members must be free of any conflict of interest with either the concerned parties or with the outcome.
- 3.Ensure that the independent third-party ICC member has sound knowledge, skill, and experience in dealing with workplace sexual harassment complaints.



STAGE TWO: PLANNING CAREFULLY

Step 6: Prepare the file

A sound inquiry relies on sound preparation. This includes taking into account the following steps:

1. Documentation

Create an independent confidential file of the complaint and all subsequent related documentation.

2. Review Law & Policy

Have a clear knowledge and understanding of the Act/Rules as well as the relevant Service Rules, GNLU Regulations, Vishaka Guidelines, existing practices, and related laws.

3. Make a List

Make a list of all the dates and events relating to the written complaint as well as the names of witnesses, if applicable.

Relevant Witnesses

The complaint may include the names of people believed to have witnessed the alleged incidents or those who may have been aware of other information directly related to the complaint. The respondent may also include the names of witnesses. In addition, the ICC also has the discretion to call any person as a witness, who it believes, may contribute to the inquiry process.

4. Supporting Documents

Obtain and review all supporting documents relevant to the complaint, including those presented by the complainant and the respondent.

5. Act Quickly

Create a plan. This can be used as an initial checklist to ensure that all of the critical elements are covered. It includes:

- The names of the parties and witnesses to be interviewed
- Any documentary support that needs to be examined
- Timeline

Preparing the Plan – Key Elements to Consider

1. Defining the issues

What is the complaint?

Questions or points that require clarification

2. Determining a violation of the Policy/Act

What information is needed to determine that there has been a violation?

3. Logistics

Venue for conducting the interviews.

Are special logistics required?

Creating timelines for the incident(s) of alleged sexual harassment

4. Critical information

What documents need to be looked at?

What witnesses are to be questioned and in what order?

5. Areas of questioning

Questions for each specific incident and party/witness

Questions for each particular issue

Issues likely to require follow-up



Step 7: Consideration

1. Interim Measures

While a complaint is pending inquiry, the complainant can make a written request for his/her transfer or the transfer of the respondent, or for leave (up to 3 months). They can also request the ICC to restrain the respondent from reporting on the complainant's performance, writing their confidential report or supervising their academic activities.

Even in the absence of such a request, the ICC must take corrective action. It is essential to take these actions in order to prevent potential ongoing sexual harassment.

2. Support

Maintain clear, timely communication with the parties throughout the process.

Provide

complainants with any specific assistance they may require, such as counseling, addressing health-related concerns, or sanctioning of leave.

STAGE THREE: INTERVIEWS

Step 8: Prepare an interview plan for the hearing: complainant, witnesses, respondent

1. Based on the results of the previous steps and before conducting interviews, the ICC should decide which issues need to be pursued for questioning.
2. Interviews are meant to obtain information from individuals that is relevant to the complaint.
3. Interviews should be conducted with each person separately and in confidence. The complainant and the respondent should not be brought face to face with each other.



1. Introduction

Questioning the parties and witnesses in a situation of sexual harassment is a sensitive task. The ICC must therefore, proceed with empathy, while appreciating at times, a different version of the facts.



2. Questioning

Determine beforehand the following:

- Date, time, place and order of interviews
- Questions and their order
- Time for each interview

Generally, rely on questions related to what, who, where, when and how. Remember:

- Questions ought to be clear and focussed.
- Obtain as much information as possible through the interview.
- Do not share information gathered from other sources.



3. Choose an appropriate location

To create trust, comfort and openness.



4. Explain the Interview Process

Explain how the interview will be conducted and what is expected.



5. Records of the Interview

Take notes and explain the need for a proper record.



6. Manage the Interview

The Presiding Officer of the ICC is responsible for ensuring that the interviews are correctly carried out and due process is followed.



7. Sign Statements

At the conclusion of the interview, have those interviewed, signed and date statements made and recorded before the ICC.



Step 9: Assess the completeness of the information collected

At this stage, the ICC should review the information gathered and their factual relevance to each aspect of the complaint. This will help determine whether there is enough information to make a finding on the complaint.

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STAGE FOUR: REASONING

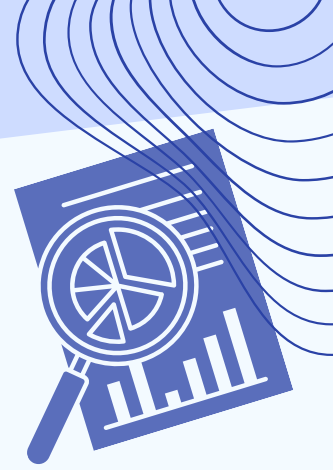
Step 10: Once the information and review is complete, the ICC will make its reasoned finding(s)

This involves having to:

- Identify the substance of each aspect of the complaint.
- Determine on a balance of probability, whether or not, the unwelcome sexual harassment took place.
- Check that such behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules, or any other law.
- Comment on any underlying factor(s) that may have contributed to the incident.

Step 11: Create a timeline to help establish the sequence of events related to the complaint.

Step 12: Compare similarities and differences within each of the statements made by the interviewees.



STAGE FIVE: FINDING AND RECOMMENDATION

Step 13: Finding

Based on the above, the ICC must arrive at a finding of whether the complaint is upheld, not upheld, or inconclusive.

Provided, where both the parties are employees, the ICC shall share its finding with both the parties and provide them an opportunity to make representation against it before the ICC before finalizing the findings.

Step 14: Recommendations

Based on its findings, the ICC shall then make appropriate recommendations which may include:

1. Where the ICC is unable to uphold the complaint, it shall recommend no action.
2. Where the ICC upholds the complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include a warning to terminate.
3. The ICC can also give additional recommendations to address the underlying factors contributing to sexual harassment.

STAGE SIX: REPORT

Step 15: Writing the report

The ICC will prepare a final report that contains the following elements:

- A description of the different aspects of the complaint;
- A description of the process followed;



- A description of the background information and documents that support or refute each
- Aspect of the complaint;
- An analysis of the information obtained;
- Findings as stated above;
- Recommendations.

ICC CHECKLIST

- ✓ Review the written complaints and respond to complaints
- ✓ Review the GNLU Regulations, the Act/Rules, Vishaka Guidelines, and other relevant laws
- ✓ Develop a plan
- ✓ Meet with the complainant
- ✓ Meet with the respondent
- ✓ Meet with the witnesses
- ✓ Record statements and have them dated and signed
- ✓ Review and adapt the plan, as needed
- ✓ Analyze all the facts to develop reasoning
- ✓ Arrive at the findings
- ✓ Give recommendations
- ✓ Prepare the report
- ✓ Submit the file to the organization for implementation of the recommendations and for safe keeping