

CUST Harasment Policy



Capital University of Science and Technology

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CUST Harassment Policy

1 Principles and Purpose of the Policy

- 1.1. Capital University of Science and Technology (CUST) is a seat of higher learning and members of the CUST community have several important rights and privileges, central among which is the right to pursue inquiry and search for knowledge without hinderance from unlawful or otherwise unacceptable constraints.
- 1.2. Protection against harassment is important because it threatens the freedom and conduciveness of the environment of an institution. At a more fundamental level, harassment is unacceptable because it violates personal dignity and thus cannot be tolerated under any circumstances.
- 1.3. In accordance with the terms of this policy, harassment shall be prohibited at CUST, and shall constitute a punishable offense under the policy. The CUST affirms the right of every member of the community to live, study and work in an environment that is free from gender sexual harassment. The goal of this policy is to have zero tolerance for any kind of harassment, and where necessary to act upon complaints of sexual harassment promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned.
- 1.4. All administrators, Deans, Managers, Faculty, Department Chairs, Director and others in supervisory authority or leadership positions have an obligation to be familiar with this policy and its procedures along with informing members of their staff about its existence.

- 1.5. This policy has been made pursuant to the powers granted to the CUST under the CUST Act-2015, and is binding on all faculty, staff members and students.

2 Prohibited Conduct

- 2.1. “Sexual harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, where:
 - a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual participation in any activity;
 - b) Submission to or rejection of such conduct by an individual is used as a basis for academic or employment decision affecting that individual; or
 - c) Such conduct has the purpose or effect of unreasonably interfering with an individual’s academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.
- 2.2. Sexual harassment may be overt or subtle, and can range from visual signals or gestures to verbal abuse to physical contact along with hand or sign language to denote sexual activity.
- 2.3. The following behaviors are specifically prohibited under this policy.
 - a) **Especially Egregious Non-Consensual Acts:** Acts that would be included in the category of rape. While such situations will be covered under the laws of the country, and law enforcement institutions and the courts will investigate and adjudicate accordingly, the CUST administration has a special obligation to take preventative measures, offer immediate assistance and take necessary measures when required.
 - b) **Non-Consensual Sexual Contact:** Includes sexual contact with another person without consent.

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- c) **Sexual Exploitation:** Taking of actions that violate the sexual privacy of others or taking sexual advantage of another without their consent. For example, taking pictures, video/audio taping, viewing or distributing explicit images or sexual information of another person without their consent.
 - d) **Other Pervasive or Severe Behaviors:** It is not necessary that there be actual sexual contact for a behavior to be categorized as sexual harassment. Other unwelcome behaviors are also prohibited if:
 - i) they are based on an individual's sex or gender
 - ii) create an atmosphere which is intimidating or hostile.

These include but are not limited to lewd remarks or gestures, highly offensive jokes of a sexual nature, commenting inappropriately about another's physique, and stalking.

- e) **Sex Discrimination:** Adverse treatment of individuals based on their sex or gender rather than on merit. This would include instances such as the singling out (for such adverse treatment as lower salary or grades, or more severe punishment) of person(s) on the basis of sex or gender.

2.4. All the actions categorized as sexual harassment when done physically or verbally would also be considered as sexual harassment when done electronically such as through the internet, emails, social media, texting, telephone, voicemail etc.

2.5. All actions of harassment or discrimination may be taken by a person of any gender against a person of the same or another gender, and would need to be considered if the act qualifies as a prohibited act under the policy. Sexual harassment is especially offensive when perpetrated by persons in authority, and when submission is made a condition toward CUST activity or benefit (for example, when submission is made the basis of the evaluation of an individual).

2.6. Sexual harassment will be considered especially egregious when the accused knew or reasonably should have known that the victim was in an impaired or incapacitated state. However, impairment of the accused, such as a result of the use of any illegal substances, shall not diminish their responsibility for harassment under this policy.

3 Jurisdiction

- 3.1. This policy applies to actions by students, faculty, staff, other members of the CUST community such as interns, residents etc., or third parties such as service providers, visitors etc., when the misconduct occurs:
- a) on CUST property (i.e. on campus) or in its immediate vicinity;
 - b) off CUST property, provided that
 - i) the conduct occurs in connection with CUST recognized program or activity
or
 - ii) the conduct may create a hostile environment or pose a safety risk on campus;
and
 - c) using the University's computing or network resources accessed from an off-campus location, which shall be deemed to have occurred on campus.

4 Designated Resources

- 4.1. CUST shall designate at least two members of CUST (the "Focal Persons"), at least one of whom shall be a woman, to offer support and immediate assistance to those who have experienced sexual harassment.
- 4.2. CUST shall also constitute an Inquiry Committee to investigate and adjudicate any allegations of prohibited conduct (the "Inquiry Committee") in accordance with the provisions of Section 7 below. Those who have experienced sexual harassment may also contact members of the Inquiry Committee for support and advice.

5 Complaints and Reporting

- 5.1. A complaint may be lodged by any person who has experienced sexual harassment as defined in Section 2 (Prohibited Conduct) read with Section 3 (Jurisdiction) of this policy, with either the Focal Person or Vice Chancellor (VC) Secretariat.
- 5.2. Complainants shall be encouraged to submit complaints promptly, preferably within one week but not later than four weeks from the last date of the alleged harassment.
- 5.3. All members of CUST community are encouraged to report any instances of sexual harassment that they may have observed to the Focal Persons or VC Secretariat. For the purposes of safeguarding the campus community, CUST has obligation to investigate material violations of this policy even in the event that a formal complaint has not been filed.
- 5.4. As soon as a complaint or report is received by one of the designated resources, it shall be shared by him or her (within a period of 24 hours) with all Focal Persons or VC Secretariat for further action.
- 5.5. For minor violations, complainants may opt to make an informal complaint to either the Focal Person or VC Secretariat. The primary objective of informal resolution mechanism is to take preventative action, so that minor violations are detected early and appropriate warning is given to the accused to stop the offending behavior before it reaches a higher degree of seriousness. If the incident reported through this mechanism constitutes prohibited conduct under Section 2 of this policy, the Inquiry Committee shall deal with the complaint accordingly.

6 Interim Measures and Special Arrangements

- 6.1. As soon as a complaint or report is received by designated resources or any member of the CUST administration, depending on the nature and seriousness of the offence, the VC Secretariat may take appropriate steps to provide interim measures that may be requested by the affected persons or as otherwise may be deemed appropriate. Interim measures include but are not limited to:

- a) adjustment in academic schedules, including for the purposes of attending hearings;
- b) access to counselling services or other appropriate medical assistance;
- c) change in the work assignments;
- d) arrangement for any assessments or evaluations to be made by a neutral person;
- e) adjustment to class schedule, including withdrawal from course or changing the section;
- f) notifying the campus security officials (or law enforcement in case of serious violations) regarding the violation;
- g) impositions of CUST wide order designed to prohibit contact or communication between certain persons; or
- h) any other measures that may be deemed appropriate.

7 Inquiry Committee

7.1. The Inquiry Committee shall be responsible for the investigation and adjudication of any complaint received in connection with the violation of this policy.

7.2. The Inquiry Committee shall be constituted in the following manner:

- a) The committee shall consist of three members, at least one of whom shall be a woman and one of the members shall be a member of the senior management of CUST.
- b) All members of the committee shall be employees of CUST and shall be appointed by the Vice Chancellor.
- c) Members of the Committee shall be individuals who are known for being principled, credible, fair, gender sensitive and have a strong character. They shall have no conflict of interest in particular cases, and shall be impartial and unbiased.

- d) Members of the Committee shall be appointed for a term of two year (shorter terms may be required occasionally to fill vacancies). No member shall serve for more than two consecutive terms. Former members will be eligible for reappointment after a lapse of two years.
- e) One of the members of the committee shall be appointed as the Chair by the VC, whose duties shall include, but not limited to: maintaining order during hearings, answering procedural questions, granting or denying adjournments, maintaining proper documentation of the proceedings, which shall constitute the official record and reporting recommendations of the Committee to the VC. All these duties shall be undertaken in consultation with the Committee members.
- f) In case a complaint is made against one of the members of the committee, that member shall be replaced by another (impartial member) for that particular case.

7.3. CUST shall endeavor to provide training to members of the Inquiry Committee in investigation and adjudication of conduct prohibited under this policy.

7.4. A staff member shall be appointed to assist the Inquiry Committee as a Secretary of the Committee.

8 Investigation and Adjudication

8.1. All complaints alleging Sexual Harassment shall be forwarded to the Inquiry Committee within 24 hours of being received by the Focal Persons or VC Secretariat.

8.2. As soon as is reasonably practicable after receiving a complaint, the Inquiry Committee shall determine whether the alleged conduct in the complaint meets the criteria set forth in Sections 2 (Prohibited Conduct) and Section 3 (jurisdiction) of this policy. If it is determined by a majority of the members of the Inquiry Committee that the alleged conduct meets the aforementioned criteria, a formal investigation shall be initiated.

- 8.3. In the absence of a formal complaint, if a serious violation of this policy is reported to the VC Secretariat, or a series of allegations against the same person are received, the procedure may be initiated with the approval of the VC.
- 8.4. After initiating the investigation, and not later than three days of the receipt of a written complaint, the Inquiry Committee shall:
- a) communicate to the accused the charges and statement of allegations leveled against him/her, the formal written receipt of which will be given;
 - b) require the accused within seven days from the day the charge is communicated to him/her to submit a written defense and on his/her failure to do so without reasonable cause, the Committee shall proceed ex-parte; and
 - c) enquire into the charge and may acquire and examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary (including by summoning potential witnesses) and each party shall be entitled to cross-examine the witnesses against him/her.
- 8.5. The following rules shall be applicable to the hearings conducted by the Inquiry Committee:
- a) All hearings shall be closed hearings;
 - b) The Inquiry Committee will hear statements from the complainant(s) and respondent(s), the witnesses if any (as required) and study any other documents and/or evidence as presented by the relevant parties or collected in the process of conducting inquiry;
 - c) The Inquiry Committee shall have discretion to limit testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case;
 - d) The Chair of the Inquiry Committee shall have the power to compel a witness to attend, and the complainant(s) and/or respondent(s) may request the Chair's aid in this regard;

- e) The complainant and the respondent may at any stage of any of the procedures outlined in this policy be represented and/or accompanied by another person of her/his choice from CUST Community.
- f) The Committee shall have the right to acquire any relevant piece of evidence to further their understanding of the case and the relevant parties, witnesses and administration are required to provide them with this documentation and/or evidence to facilitate the investigation;
- g) Objective documentation of the proceedings of the Inquiry Committee shall be maintained where high confidentiality of the records and other such material shall be upheld at all times;
- h) The respondent shall be allowed to cross question the complainant and witnesses unless the committee decides otherwise;
- i) Where any procedural matter is not dealt with in this policy, the Inquiry Committee may, guided by the principles of fairness, establish any appropriate procedure.

8.6. Members of CUST community have an obligation to cooperate in an investigation, and refusal to cooperate may result in disciplinary action. There may be circumstances in which the complainant may wish to limit their participation in the proceedings. The complainant shall not be subject to discipline, but the CUST may be obligated to proceed with the investigation.

8.7. Following the formal hearing, the members of the Inquiry Committee shall deliberate and determine the validity of the complaint based on the totality of the circumstances. The presence or absence of evidence cannot always be the sole criteria on which a judgment can be made. The credibility of statements and context must be kept in mind during the deliberations. The committee members will reach a decision unanimously or by a majority after the deliberations. Where the complaint is found to be valid, the Committee will recommend an appropriate penalty.

8.8. The Inquiry Committee shall complete the inquiry and submit its final decision within a period of 15 days. It shall then send its decision to the VC giving its

findings in writing by recording reasons thereof (which shall include any note of dissent) for endorsement and action. Recommendation of the Inquiry Committee shall be implemented within seven days.

9 Confidentiality

- 9.1. Confidentiality shall be enjoined on the Focal Persons, the Inquiry Committee and all others involved in the process. This does not preclude the reasonable and discreet disclosure of information in order to elicit the facts of the case, or to implement and monitor properly the terms of any decision.
- 9.2. The Focal Persons, members of the Inquiry Committee and their support staff shall be subject to administrative disciplinary action for inappropriate breach of confidentiality on their part.
- 9.3. All notes and records arising in connection with an investigation shall be maintained in a confidential file at CUST.

10 Penalties

- 10.1. In cases in which the respondent is a student, the following sanctions may be imposed:
 - a) In case of minor violations, the student may be issued a warning or reprimand. These shall be considered when adjudicating future violations.
 - b) In case of more serious violations, the following formal sanctions may be imposed: disciplinary probation, withholding of degree for a period of time, suspension or expulsion.
 - c) The following may be added to any of the penalties listed above: campus service; relocation from campus housing; exclusion of the respondent from a designated portion(s) of CUST buildings or grounds, or from one or more

CUST designated activities, (provided such penalty is appropriate to the offence and where the penalty does not prevent the respondent from pursuing her/his studies); attending educational program; inclusion of decision in the student's record, except in the case of the first instance of a minor violation (for up to seven years).

10.2. In cases in which the respondent is a member of the faculty, researcher or employee/staff of the CUST, the following sanctions may be imposed (individually or in combination), keeping in view the terms of the applicable employment policies:

- a) oral or written reprimand;
- b) counselling or training;
- c) inclusion of the decision in a specified personnel file(s) of the respondent;
- d) exclusion of the respondent from a designated portion(s) of CUST buildings or grounds, or from one or more designated CUST activities, where such penalty is appropriate to the offence and where the penalty does not prevent the respondent from carrying out her/his professional duties;
- e) the imposition of a fine;
- f) recommendation for suspension of the respondent without pay;
- g) recommendation that dismissal proceedings be commenced; or
- h) other sanctions, as deemed appropriate, in accordance with the terms of the employment policies.

11 Right of Appeal

11.1. Both the complainant and the respondent shall have a right to appeal the decision of the Inquiry Committee within a period of 15 days from the date of notification of the decision.

11.2. There shall be at least a three member appellate body appointed by the VC that shall include at least one senior member of CUST administration (at the level of

Dean or equivalent) and at least one of the members of which shall be a woman. No member of the Inquiry Committee shall concurrently be a member of the Appellate Body. In case the complaint had been made against one of the members of the committee, that member shall be replaced by another (impartial member) for that particular case.

11.3. Appeal to the Appellate Body against the decision of the Inquiry Committee can be filed on the following grounds:

- a) the alleged conduct does or does not fall within the scope of this policy;
- b) the Inquiry Committee reached a decision without consideration of material information;
- c) the imposed penalty is unfair because it is disproportionate or materially different from that imposed for similar misconduct; or
- d) the adjudication process followed by the Inquiry Committee was procedurally unfair.

11.4. In order to reach its decision, the Appellate Body may communicate with the parties, the members of the Inquiry Committee or other members of CUST community as it deems fit.

11.5. The Appellate Body may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within 30 days in respect of which such appeal is made, and shall communicate the decision to both the parties and the VC.

12 Mala Fide or Spurious Allegations

12.1. False allegations of sexual harassment made out of malice or intent to hurt the reputation of the person(s) against whom the complaint is filed are to be dealt with as serious offences. Making mala fide allegation of sexual harassment knowing it to be false, whether in a formal or informal context, is a serious offense under this policy.

- 12.2. In the event that the Inquiry Committee determines that a false allegation made in the complaint with mala fide intent, it may recommend appropriate action against the complainant by sending its findings to the VC (by recording reasons thereof and including any note of dissent) for approval and action.

13 Protection Against Reprisal

- 13.1. CUST shall not allow reprisal or threats of reprisal against any member of CUST community who makes use of this policy (formally or informally). CUST shall also prohibit such threats or actions against anyone who participates (e.g. testifies, assists, etc.) in proceedings held under its jurisdiction.
- 13.2. Retaliation or any other action against complainant of sexual harassment is to be taken seriously under the provisions of this policy. All allegations of retaliation would be investigated formally under the purview of this policy, and if substantiated, would result in appropriate disciplinary action.