



**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY**

**NAGARBHAVI, BANGALORE-560072**

**23<sup>rd</sup> June 2022**

### **NLSIU's Response to Open Letter**

On June 22, 2022, some members of the alumni community issued an Open Letter raising concerns about the disciplinary action taken against two NLSIU students for major misconduct under the University's policies. A response and clarification follows:

NLSIU has a strict zero tolerance policy against sexual harassment. The University has a well developed and robust mechanism for dealing with complaints of sexual harassment under NLSIU's [Code to Combat Sexual Harassment](#) 2019 (hereafter "Code"). The Code is also in line with the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013. The University's Sexual Harassment Inquiry Committee (SHIC) has taken action against perpetrators of abuse on various occasions in the past including rustication.

The Open Letter misrepresents the action taken by the University against the students as a failure to take sexual harassment seriously. In fact, the action was taken against the students for their failure to adhere to the '[NLSIU's Principles of Conduct, 2002](#),' and '[NLSIU's IT Policies](#).'

#### **Background:**

The students against whom action was taken, were appointed as facilitators under the Code to assist and counsel victims of sexual harassment as well as alleged perpetrators. The students received a correspondence, in their capacity as facilitators, from a person outside the University who alleged she was sexually harassed by an NLSIU student. The correspondence does not indicate that the alleged harassment occurred on the NLSIU campus.

The facilitators then circulated an anonymous statement on behalf of the complainant, detailing the alleged abuse, naming the accused student, and disclosing sensitive personal information. The statement was circulated via broadcast email to the student body of NLSIU, and a social media handle operated by the Student Bar Association.

The NLSIU student named in the statement filed a complaint under the University's IT Policies which was referred to the DARIC (Disciplinary Matters Advisory Review and Investigation Committee).

## **DARIC Proceedings**

The DARIC conducted a thorough inquiry into the incident, and issued a report, concluding that the conduct of the facilitators was inconsistent with the principle of fairness, the right to privacy, and the duty to avoid harm to members of the NLSIU community. The student facilitators were found to have violated:

- **Part II (a) (1) of the Principles of Conduct, 2002** which states that any Conduct that causes serious physical or emotional harm to any person, whether or not a member of the University community, is considered as Major Misconduct; and
- **NLSIU IT Policies, 2020**, for violating the right to privacy of the Complainant and disclosing sensitive personal information; for causing harassment to the Complainant; and for sending an unauthorized email.

Based on this, an order was issued implementing the DARIC report. The Order and the Report were shared with students involved in the proceedings. The students had the right to appeal the decision to the Vice-Chancellor, which in this case they chose not to.

### **On Concerns Raised in the Open Letter:**

#### **Role of facilitators and confidentiality**

The student facilitators are bound to maintain confidentiality of the parties involved throughout the course of the complaint process, whether or not it results in formal proceedings before the SHIC under the Code:

- **Section 11(b) (viii) and (xi) under ‘Role of the Facilitator’**: concerns the maintenance of confidentiality of the complaint and proceedings.
- **Section 24** specifically tasks Facilitators with maintaining confidential records of proceedings or complaints initiated, except for the records of formal inquiry proceedings which are kept by the Sexual Harassment Inquiry Committee.
- **Section 27** prescribes that the Facilitators have a duty to respect and maintain the confidentiality of proceedings, documents and records under the Code, which includes information regarding the identity of the Respondent.

#### **Publication of the DARIC Report:**

As a matter of course, DARIC Reports specify that parties should maintain confidentiality of the proceedings as per **Section 3(h) of Part III of the NLSIU Principles of Conduct 2002** which states that: *“Given that these proceedings involve young people and recognizing the need for the*

*protection of their reputation, 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 not involved in the inquiry process.”*

It is unreasonable and unethical for any third party to insist access to the DARIC Report, when it has been made available to the parties themselves. The question of violation of principles of natural justice does not arise.

**Allegations of Victimization under the Code:**

The DARIC found that there was no evidence of the complainant having been prevented from pursuing any internal or external inquiry processes as a result of its inquiry. In fact, the University made available all resources under the Code to the persons concerned. Further, the Order against the student facilitators has no bearing on any pending or future inquiry into the sexual harassment allegations of the complainant. All avenues of complaint and redressal remain open.

The student facilitators have bypassed the sexual harassment mechanisms provided by the University which they were entrusted with upholding in their role as Facilitators.

The University takes matters of sexual harassment very seriously. NLSIU has never prevented its students from discussing issues of sexual harassment. However, to use NLSIU digital resources to publicly name someone in a matter that would be prejudicial to that person’s reputation is not conducive to the kind of community living that we would like to nurture at NLSIU.

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