

**PRERANA'S POLICY AGAINST SEXUAL HARASSMENT AT
WORKPLACE (2017)**



Acknowledgement

We acknowledge the contribution made by the people who have contributed to the drafting of the policy against sexual harassment at workplace, 2017 for Prerana.

With due support from the employees, we hope to effectively execute this policy.

Introduction/Rationale:

The protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which has been ratified on the 25 June 1993 by the Government of India.

The Constitution of India and the international convention, CEDAW to which India is a signatory decree. Therefore, it is a prerogative of employers/administration of workplaces/institutions to cater to and ensure justice to those victims of harassment.

A set of guidelines have been set by the Supreme Court, commonly known as the Vishakha Guidelines. According to this, every employer and other responsible people are obliged to do the following:

- Follow the judgment laid down by the Court.
- Evolve a specific policy to combat sexual harassment in the workplace.

The guidelines explicitly state the following: *“It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required”*.

THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT was passed in April 2013.

Following this, Prerana is committed to provide facilities/mechanisms by which issues of harassment can be dealt with and the organization has a safe environment free from sexual harassment.

The Policy draws from the sexual harassment of women at the workplace (Prevention, Prohibition and Redressal) Act, 2013.

OPERATIONAL DEFINITIONS

Sexual Harassment

According to The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- Physical contact and advances; or
- A demand or request for sexual favors; or
- Making sexually colored remarks; or
- Showing pornography; or
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Employee

Any person working for Prerana against salary, honorarium, remuneration, fees, contract amount, or any other financial consideration.

Intern

Any person (including non-Indians) who is studying (college/university), and has requested to extend help to Prerana, with an aim to complete an internship and achieve academic grades for the same, without any remuneration whatsoever. This person will have taken prior permission from Prerana through a written application from her/his college/university. This person will have signed an application cum undertaking to protect children's best interests at all times during the period of his/her association with Prerana.

Volunteer

Any person, who has chosen out of his/her own volition, to extend help to Prerana, without any remuneration whatsoever, and who has signed an application cum undertaking to protect children's best interests at all times during the period of his/her association with Prerana. This person will have acquired prior permission from Prerana and will have formally met a Prerana representative for a screening prior to commencement of the volunteership.

Resource Person/Consultants

Any person who has been hired by Prerana, after a formal meeting and agreement, to facilitate any educational or other activities.

Workplace

The office space out of which the employees operate,

The centers often acting as service base,

Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey,

A dwelling place or house or rented accommodation like hotel occupied during official visits.

SCOPE OF THE POLICY

This policy shall be called “Policy against sexual harassment at the workplace, Prerana”.

The policy reiterates the commitment of the organization to create and maintain a community in which students, beneficiaries, full time and part time staff, interns, consultants can work together in an environment free from all forms of sexual harassment.

In framing the rules and procedures laid down in this policy, the spirit of the Supreme Court judgments has been followed.

The policy and rules and procedures would apply to all students, beneficiaries, fulltime staff, part time staff, service providers, volunteers, interns and outsiders who may be within the premises of Prerana at the time of commission of the act under the purview of the policy.

The policy would apply inside the Prerana offices/centres, outdoor official duty (workshops, field work, residential camps, organized by Prerana), interviews/meetings with outside people and any other activity organized by Prerana outside the office/centre including the period of traveling for such activity.

In particular, the rules and procedures laid down in this policy shall be applicable to all complaints of sexual harassment made:

- a.** By a student/ beneficiary against a Prerana employee/staff or a co student/co beneficiary; or by a member of the staff against a student/beneficiary or another member of the staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

- b. By a service provider or an outsider against a student/beneficiary or a full time staff, part time staff or by a student/beneficiary or a member of the full time staff, part time staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the Prerana premises.

PREVENTION OF SEXUAL HARASSMENT

To prevent sexual harassment at the workplace, the following circumstances, among other; if they occur or are present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:

- Implied or explicit promise of preferential treatment in her/his employment; or
- Implied or explicit threat of detrimental treatment in her/his employment; or
- Implied or explicit threat about her/his present or future employment status; or
- Interference with her/his work or creating an intimidating or offensive or hostile work environment; or
- Humiliating treatment likely to affect her/his health and safety.

GRIEVANCE MECHANISM:

Procedure to Register Complaints: A complaint shall be submitted in writing to the Chairperson or to any member of the Internal Complaints Committee (ICC) mentioned herein within 3 months of occurrence of an act of Sexual Harassment. If the respondent is direct supervisor of the complainant, or person influencing the career growth of the complainant, the complaint can be registered with the

director/executive officer and the reporting structure will be changed till the time the enquiry is completed.

INTERNAL COMMITTEE

a. Each complaint of Sexual Harassment shall be dealt with utmost confidentiality and urgency by an Internal committee consisting of:

1 Presiding Officer (senior level woman employee)

2 Members (from amongst employees)

1 External Member (from NGOs or associations committed to the case of women)

Provided one half of the total above members are women.

b. Conciliation (section 10)

The ICC before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation. Provided that monetary settlement shall not be made the basis of such conciliation.

c. Within 3 working days, the Internal Complaint Committee (ICC) shall commence Official Internal Inquiry

- i. By informing the said complaint to the respondent.
- ii. By instructing to stop the alleged act of Sexual Harassment immediately.
- iii. By informing not to reach out to the complainant directly or indirectly.
- iv. By asking an immediate explanation from the respondent
 - Within 5 working days from the receipt of original complaint, the designated person from the ICC, shall respond in writing to the

complainant informing her about the initial steps taken by Prerana in order to stop the alleged act(s).

Within the first 30 days from receipt of the original complaint, the ICC shall record and accordingly communicate in writing to the complainant and the Respondent, its prima facie findings, upon giving the concerned parties a fair and due opportunity to represent themselves and upon conducting fact finding, with persons involved in alleged act(s).

A complaint will be closed no later than three months (90 days) from receipt of original complaint by recording the decisions of the internal committee, accordingly informing to the complainant and the Respondent of the same.

Employees are duty bound to assist in investigative steps, employees' wholehearted participation shall be mandatory in this regard.

Whistleblowers shall be protected from exposure, retaliation or hostility.

Within 2 working days from receipt of prima facie findings or the charges, if the complainant or the Respondent is dissatisfied with the decision of ICC, she or he may appeal specifying the reasons in writing to the Directory/Chief Functionary/Governing Board.

Within 20 working days from the receipt of such appeal, it shall be finally disposed of by written communication to the said party. The decision of the Directory/Chief Functionary/Governing Board shall be final and cannot be appealed.

REDRESSAL

An amicable resolution of the complaint is possible only with the written consent of the complainant.

Within 24 hours of closing the case file, the internal committee shall present the same to and inform its decision to the Directory/Chief Functionary/Governing Board.

In case of decision establishing the offence of Sexual Harassment of the complainant, within 3 working days, the ICC shall recommend Disciplinary action against the offender considering the nature and extent of injury caused to the complainant, prior complaints or repetition of offence, etc. and the impact of the offence on the organization.

The position of the offender and the criticality of the position occupied by the offender shall not be any hindrance to the disciplinary action taken against the offender.

Annual report summarizing complaints and Redressal of Sexual harassment shall be prepared by designated person. The said report as well as all documents regarding Sexual Harassment complaints shall be in the custody of designated person and will be termed as 'Strictly Confidential'.

Harassment Investigation Guide

Getting the employee to describe the claim:

- Listen to the charge. Don't make comments like, "You're overreacting."
- Acknowledge that bringing a harassment complaint is a difficult thing to do.
- Maintain a professional attitude.
- Gather the facts; don't be judgmental.
- Ask who, what, when, where, why, and how. Find out if the

employee is afraid of retaliation. How does the employee want the problem resolved?

Conducting an investigation of the claim—general rules to follow:

- Investigate immediately. Delaying or extending an investigation can make witness testimony increasingly unreliable.
- Remember that the manner in which the investigation is handled can itself furnish grounds for a hostile environment claim, so carefully document every step.
- Treat all claims seriously—even those that seem frivolous—until you have reason to do otherwise.
- Keep the investigation confidential. Emphasize to those involved that your discussions are not to be shared with unconcerned parties. Warn of possible disciplinary action, if necessary.
- Limit the number of persons who have access to the information. Communicate strictly on a “need to know” basis.
- Ask questions so that information is not unnecessarily disclosed. For example, instead of asking, “Did you see Paul touch Joan?” ask “Have you seen anyone touch Joan at work in a way that made her uncomfortable?” Remember—the purpose of the investigation is to gather facts, not disseminate allegations.
- If there is more than one allegation, treat each separately.
- To avoid defamation liability, never broadcast the facts of a given situation or the results as an example to others or as a training tool.

Interviewing the complainant (Can be done when employee first reports charge):

- Get specific details.

- Find out whether there was a pattern of previous episodes or similar behavior toward another employee.
- Get the specific context in which the conduct occurred. Where? What time?
- Determine the effect of the conduct on the complainant. Was it economic, non-economic and/or psychological?
- Determine the time relationship between the occurrence of the conduct, its effect on the complainant, and the time when the complainant made the report.
- Prepare a detailed chronology.
- Analyze whether there might have been certain events that triggered the complaint, *i.e.*, promotion, pay or transfer denial.
- Determine whether there were any possible motives on the part of the complainant.
- Find out what the complainant wants.
- Explain to the complainant that the charges are serious, that you will conduct a thorough investigation before reaching any conclusion, and that he or she will not be retaliated against for making the complaint.
- Don't make any statements about the accused employee's character, job performance, or family life.

Interviewing the accused:

- Obtain a statement from the accused.
- Identify the relationship of the accused to the complainant.
- Was there any prior consensual relationship between the parties? How long have they known each other? Is there a history of group

or individual socializing?

- If the individual was a supervisor, indicate the individual's job title, obtain a copy of the individual's job description, and determine the individual's specific duties at the time of the alleged harassment.
- Determine whether the accused directed, or had responsibility for the work of other employees or the complainant, had authority to recommend employment decisions affecting others or was responsible for the maintenance or administration of the records of others.
- You can expect the accused to deny the charges. Observe the reaction. Note whether there is surprise, anger, or disbelief. Describe the details of the allegation and note the areas of disagreement between the testimony of both parties. If the accused denies the allegations, probe further to determine with the accused the background, reasons, and motivation that could possibly trigger the complaint.

Interviewing witnesses:

- Obtain statements from any witnesses who support or deny any of the complainant's allegations. Be aware that witnesses are often reluctant to come forward out of fear of reprisal.
- Assure all witnesses that their cooperation is important, that their testimony is confidential and that they will not be retaliated against for testifying.

Resolving the complaint:

- Apologize for the incident occurring, *if that is appropriate*.
- When attempting to remedy the conduct, avoid requiring the claimant to work less desirable hours or in a less desirable location.

If you offer to transfer the complainant, try to get the complainant's consent and make sure the transfer position is substantially similar to the complainant's prior position. This helps ensure that the complainant is not being illegally punished for reporting discrimination or harassment.

- ❑ Consider the severity, frequency and pervasiveness of the conduct when imposing discipline on the harasser. There are several disciplinary options available, including:
 - oral and written warning
 - reprimand
 - suspension
 - probation
 - transfer
 - demotion
 - discharge
 - ❑ When imposing discipline on the accused, any forms of discipline short of discharge should be accompanied by a warning that similar misconduct in the future may result in immediate discharge. If no discipline is imposed, document the reasons why.
 - ❑ Provide remedial counseling and training on sexual harassment, if appropriate. Also take the opportunity to re-communicate your policy.
 - ❑ Carefully and fully document the investigation, the discipline imposed, and any remedial steps taken.
 - ❑ Conduct follow-up interviews with the parties to inform them of the company's actions.
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Next to be reviewed in January 2020