



NATIONAL PUBLIC SCHOOL

VIDYARANYAPURA

Prevention of Sexual Harassment of Women at the Workplace

Overview

Indian employers, akin to their global peers, are increasingly realizing the importance of a safe and amicable work-place-for all sexes. This requires a conscious policy directive aimed at preventing workplace harassment instances coupled with an institutional mechanism for redressal of complaints in a quick, transparent and just manner. This article provides an overview of the Indian law on prevention of sexual harassment at workplace and sets out to share some "best practices" towards mitigating risk of non-compliance and making the workplace environment conducive to all employees.

Objectives of the committee are:

Prevent discrimination and sexual harassment against women employees and girl students by promoting gender equity among them.

Make recommendations to the Chairperson for changes / elaborations in the Rules for students and employees to make them gender just and to lay down procedures for the prohibition resolution, settlement and prosecution of acts of discrimination and sexual harassment against women, by the students and the employees.

Deal with cases of discrimination and sexual harassment against women, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment.

Recommend appropriate punitive action against the guilty party to the Chairperson.

Organise orientation programmes for women employees and girl students to sensitize to be proactive to deal with such discrimination, if any.

Procedure for Filing Complaints:-

Complaint may be oral, by email or in writing. If the complaint is oral, it will be converted into a written form by the Sexual Harassment Committee member who received the complaint and authenticated by the complaint under his/her signature as soon as possible.

Upon receipt of complaint by any member of committee, the member should forward it to chairman@npsvrp.com

principal@npsvrp.com



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The grievied one may also lodge her complaint directly on the given e-mail. Moreover, the compliant can also be lodge telephonically to the mobile Nos of the Chairperson and members of the committee which are available on our website.

Procedure for Filing a Complaint/ Grievance without Revealing Identity:-

If the complainant does not like to reveal her name for any grievance, she can drop the grievance(s) in the drop box placed outside the counselling room. Here, it should be noted that according to the Supreme Court guideline Sexual harassment can be defined as "unwelcome" sexually determined behaviour (whether directly or by implication) as:- by the Parliament in this regards.

Physical contact and advances. Demand or request for sexual favours.

Sexually coloured remarks.

Showing pornography.

Other unwelcome physical, verbal or non-verbal conduct of a sexual nature (Vishaka judgement by Supreme Court) and the Act passed.

Following will also be treated as sexual harassment and are covered by the committee:-

- (a) Eve-teasing.
- (b) Unsavoury remarks.
- (c) Jokes causing or likely to cause awkwardness or embarrassment.
- (d) Innuendos and taunts.
- (e) Gender based insults or sexist remarks.
- (f) Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like.
- (g) Touching or brushing against any part of the body and like.
- (h) Displaying pornographic or other offensive or derogatory picture, cartoons, pamphlets of saying.
- (i) Forcible physical touch or molestation.
- G) Physical confinement against one's will and other act likely to violate one's privacy.



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Decision and Action

Once the investigation is completed; a determination will be made regarding the validity of the harassment allegation. If it is determined that harassment has occurred; prompt, remedial action will be taken. The committee members will share the investigation details and findings there of with the appropriate functional head and agree on the applicable disciplinary action. This may include some of all of the following:-

The case of academic/ administrative/technical /non-teaching staff / management, disciplinary action could be in the form of one or more of the following:-

Warning.

Written apology.

Adverse remarks in the Confidential Report. Debarring from supervisory duties.

Denial of re-employment.

Stopping of increments/promotion. Reverting, demotion.

Transfer if applicable. Dismissal.

Any other relevant mechanism.

Case of students, disciplinary action could be in the form of:- Warning.

Written apology.

Withholding result.

Debarring from exams.

Debarring from holding posts. Expulsion.

Denial of admission.

Any other relevant mechanism.



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The Law

Sexual Harassment of women at workplace (Prevention, Prohibition and redressal) Act, 2013 ("Act") and the underlying rules (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal.

Rules, 2013) from the applicable law in India to prevent and address instances of sexual harassment of women employees.

The Act was introduced with the twin intention of checking the issue of employer. IO discharge its powers effectively, the ICC is armed with the ability to summon respondent or witnesses, record statements and examine documents. ICC is within its rights to, inter alia, recommend interim measures to the employer, Viz. transfer of the aggrieved employee of the respondent, granting leave to the aggrieved employee or re- assignment of portfolios.

The ICC proceedings are required to be conducted in a time-bound and confidential manner. Recent judicial pronouncements (as in Maersk Line India Private v RP Television (India) Private Limited (CS No 183 of 2016)) cast an obligation of maintaining confidentiality on all parties - including the aggrieved employee.

Where the allegations against the respondent are established, the ICC may recommend proportionately severe actions to the employer, including, amongst other, requiring respondent to issue written apology; withholding promotion/increment, issue censure of terminate employment of the respondent; or deduct wages of the respondent to compensate the aggrieved employee. The Act has also laid down adequate mechanisms for punishment of false/malicious complaints and false evidence.

If an employer fails to constitute an ICC or does not comply with the requirements prescribed under the Act, a monetary penalty of up to INR 50,000 (approx. USD 900) may be imposed. A repetition of the same offence could result in imposition of twice the punishment and/or cancellation/revocation of any statutory business licenses or registrations.

Best Practices for Employers

The Act is relatively nascent, and the jurisprudence around this legislation is at a developing stage. Nevertheless, there have been instances in the part of governmental crackdown owing to non-compliances with the provisions of the Act, and we suggest that employers must be alert with respect to their duties under the Act. On sexual harassment of women against women and creating a conducive and safe environment at workplace. The Act provides that no women shall be subjected to sexual harassment at "workplace" - regardless of the nature of business being conducted or size of workforce. It is noteworthy that the Act covers actions of employees not just within the "workplace", but also extends to any place visited by an employee in course of her employment. The Act provides protection to all women employees, who may be employed by the organization (whether directly or indirectly) or may be visiting the "workplace".



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Prevention through Policy -Redressal through Committee

To achieve the aforementioned objectives of prevention and redressal of sexual harassment complaints, the Act mandates employers to, inter-alia, formulate a policy against harassment ("Policy") and constitute a body to administer the policy. All employers, irrespective of the number of employees, are mandated to adopt a policy against sexual harassment at workplace. It is worthwhile to note here that although the Act extends protection only to women employees, employers are at liberty to keep it gender neutral (i.e. by extending protection to all employees.) Under the Act, an employer of a "workplace" which employs 10(ten) or more than 10(ten) employees is required to constitute an 'internal complaints committee' ("ICC") Complaints in "work places" with less than 10 (en) employees are required to be taken up at a local complaint committees ('LCC') that are set up the local area administration. The Policy document sets out the organization's intent in discouraging harassment and disseminates the rights of employees.

Any aggrieved women may approach the ICC with her complaint either directly or through her relative/co-worker/friend, etc. The employer, albeit through the ICC, will be mandated to conduct an impartial and independent inquiry and provide its findings to the basis of our experience in assisting organizations in effectively implementing the Act, we have collated a list of some the best practices in complying with the Act:

All complaints, irrespective of complainants, are equally important:

The Act does not distinguish between employees whether employed directly or indirectly, and neither should the employer.

Complaints from complainants who are hired through contractors should be treated at par with any other complaint. Similarly, complaints against senior management should be kept devoid of undue influence.

Keep it approachable: Take measures to ensure that aggrieved employees do not face emotional or logistical impediment in approaching the ICC. Build confidence, increase awareness, sensitise employees the workplace is no longer be an all boy's club.

Act swiftly and impartially: Avoid delays. Initiate action promptly. The employer must ensure complete transparency and impartiality while appointing members to the ICC. In turn, the ICC should maintain impartiality in their functioning.

Confidentiality: Privacy has recently been recognized as a fundamental right of Indian citizens, Ergo, employers must also act in a manner to uphold the individual right. Employers (and the ICC) should ensure that information related to a complaint (including the identity of complainant/details of the complaint) is not disclosed to the public, press or media in any manner. Of course, the relevant carveouts regarding disclosures pursuant to judicial requirements apply.



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Conclusion

Recent instances at both international as well as domestic level, have brought the systemic problem of sexual harassment at workplace to the forefront. Stakeholders, at all levels, from the shop-floor to boardroom and up to the investors, should be sensitised of the importance of an equitable workplace. In our view, the Act will be instrumental in providing a safe working environment for women employees and is equipped to ensure that Indian employers lead the way, globally, in a safe work environment. The positive correlation between lower levels of harassment and higher job satisfaction amongst employees is axiomatic, and a definite win-win for stakeholders.

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