

# PREVENTION OF SEXUAL HARASSMENT POLICY

## OBJECTIVE

The objective of this policy is to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith.

Delhi Public School Newtown strongly opposes harassment, and that such behaviour against women is prohibited by the law as laid down in the Sexual Harassment of Women at Workplace(Prevention, Prohibition and Redressal) Act, 2013 and rules framed there under(hereinafter referred to as “Act”) as well as the terms of employment.

## 1.0 POLICY

- 1.1 Delhi Public School Newtown is an equal employment opportunity workplace and is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and a harassment free work place to all employees without regard to race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability. We also believe that all employees have the right to be treated with dignity. Sexual harassment at the work place or other than work place if involving an employee or employees is a grave offence and is therefore, punishable.
- 1.2 The Hon'ble Supreme Court has also directed workplaces to lay down guidelines and a forum for redressal of grievances related to sexual harassment. The policy takes complete cognizance of “The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act 2013 and its rules as published on 9<sup>th</sup> December 2013. This Act is to provide protection against harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected herewith or incidental thereto.
- 1.3 At Delhi Public School Newtown all employees are expected to uphold the highest standard of ethical conduct at the workplace and in all their interactions with other stakeholders. This means that employees have a responsibility to
  - Treat each other with dignity and respect
  - Follow the letter and spirit of law
  
  - Refrain from unwelcome behaviour that has sexual connotations of sexual nature
  
  - Refrain from creating hostile atmosphere at workplace via sexual harassment.
  
  - Report sexual harassment experienced and/or witnessed to appropriate authorities and abide by the complaint handling procedure of the institution.

## 2.0 SCOPE

2.1 This policy extends to all employees of Delhi Public School Newtown and is deemed to be incorporated in the service conditions of all employees of the institution.

2.2 Sexual harassment would mean and include but not limited to, any of the following:

- Unwelcome sexual advances involving verbal, non-verbal, or physical conduct, implicit or explicit.
- Physical contact and advances.
- Demand or request for sexual favours
- Sexually coloured remarks, including but not limited to vulgar/indecent jokes, letters, phone calls, text message, e-mail, gestures etc.
- Showing pornography or the likes.
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- Physical contact and advances such as touching, stalking, sounds which have explicit and/or implicit sexual connotations/overtones, molestation.
- Display of pictures, signs etc. with sexual nature/connotations/overtones in the work area and work related verbal or non-verbal communication which offends the individual's sensibilities and affect her/his performances and has sexual connotations/overtones\nature.
- Teasing, voyeurism, innuendoes and taunt, physical confinement and/or touching against one's will and likely to intrude upon one's privacy.

The following circumstances among other circumstances if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

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

An alleged act of sexual harassment committed during or outside of the office hours falls under the purview of this policy.

## 2.3 DEFINITIONS

### **Aggrieved Individual**

An aggrieved individual in relation to a workplace is a person of any age whether an Employee or not, who alleges to have been subjected to any act of sexual harassment

### **Complainant:**

A complainant is any aggrieved individual (if aggrieved individual is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise) who makes a complaint alleging sexual harassment under this policy.

**Employee:**

An employee means a person employed with DPS Newtown for any work on permanent, deputation, temporary, consultants, part time, Ad-hoc or daily wage basis, either directly or through an agent including a contractor with or without the knowledge of the principal employer whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee apprentice or called by any other such name.

**Respondent:**

A respondent means the person against whom the complainant has made a complaint.

**ICC:**

Internal Complaints Committee means the Committee of members formed by DPS Newtown in compliance with the Act.

**Presiding Officer:**

Means the Presiding Officer of the Internal Complaint Committee.

**Workplace:**

Premises, locations, establishments, enterprises, institutions offices, branches or units established, owned, controlled by DPS Newtown,

Places visited by the employees arising out of or during the course of employment including official events, transportation, accommodation provided by the employer for undertaking such journey.

**3.0 COMPLAINT REDRESSAL COMMITTEE/INTERNAL COMPLAINTS COMMITTEE**

The ICC shall consist of the following members to be nominated by the employer, namely

- a. A presiding officer who shall be a woman employed at a senior level at workplace from amongst the employees.
- b. Not less than two members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
- c. One member from amongst NGO or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

**4.0 REDRESSAL PROCESS**

4.1 A complainant shall make in writing a complaint of sexual harassment to the ICC within a period of three months from the date of incident and in case of a series of incidents within a period of three months from the date of last incident. The ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding 3 months, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the said period.

4.2 If the aggrieved individual is unable to make a complaint on account of his /her physical incapacity, a complaint may be filled by:

- His/her relative or friend; or
- His/her co-worker; or
- An officer of the National Commission for Women or State Women's Commissioner or
- Any person who has knowledge of the incident, with the written consent of the aggrieved individual.

- i) If the aggrieved individual is unable to make complaint on account of his/her mental incapacity, a complaint may be filed by:
  - 1..1 His/her relative/friend; or
  - 1..2 A special educator; or
  - 1..3 A qualified psychiatrist or psychologist; or
  - 1..4 The guardian or authority under whose care he/she is receiving treatment or care; or
  - 1..5 Any person who has knowledge of the incident jointly with the aggrieved individual relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care he/she is receiving treatment or care

If the aggrieved individual for any reason is unable to make a complaint may be filed by any person who has knowledge of the incident, with his/her written consent.

- ii) If the aggrieved individual is deceased, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his/her legal heir.

4.3 Any aggrieved person can compose a complaint of sexual harassment at workplace giving details of the sexual harassment meted out to her/him and can physically submit it to ICC member. The presiding officer or any Member of the ICC can render reasonable assistance to the person for making complaint in writing.

4.4. The complainant shall submit six copies of the complaint along with supporting documents and relevant details concerning the alleged incident(s), the name, and details of the respondent and names and addresses of the witnesses.

4.5 The committees will maintain a record of the complaints received by it and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.

4.6 The committee will hold a meeting with the complainant within 5 days of receipt of the complaint, but no later than a week in any case.

4.7 At the first meeting, the committee members shall hear complainant and record his/her allegations. The complainant can also submit any corroborative materials with a documentary proof, oral or written materials etc., to substantiate his/ her complaint. If the complainant does not wish to depose personally due to embarrassment of narration of the event, a lady officer involved and a male officer for male employees, involved shall meet and record the statement.

4.6 Thereafter, the person against whom complaint is made may be called for a testimony before the committee and an opportunity will be given him/her to give an explanation, where, after an "Enquiry" shall be conducted and concluded.

4.9 In the event, the complaint does not fall under the purview of sexual harassment or the complaint does not mean an offence of sexual harassment, the same would be dropped after recording the reason thereof.

4.10 In case the complaint is found to be false, the complainant shall if deemed fit, be liable for appropriate disciplinary action by the management.

## 5.0 ENQUIRY PROCESS

- 5.1 The committee shall immediately proceed with the enquiry and communicate the same to the complainant and person against whom complaint is made.
- 5.2 The committee shall prepare and hand over the statement of allegation to the person against whom complaint is made and give him/her an opportunity to submit a written explanation if she/he desired within 7 days of receipt of the same.
- 5.3 The complainant shall be provided with a copy of the written explanation submitted by the person against whom complaint is made.
- 5.4 If the complainant or the person against whom complaint is made desires any witness/es to be called they shall communicate in writing to the committee the names of witness/es that they propose to call.
- 5.5. if the Complainant desires to tender any documents by way of evidence before the committee, she/he shall supply original copies of such documents. Similarly, if the person against whom complaint is made desires to tender any documents in evidence before the committee he/she shall supply original copies of such documents. Both shall affix his/her signature on the respective documents to certify these to be original.
- 5.6 The committee shall call upon all witness mentioned by both the parties.
- 5.7 The committee shall provide every reasonable opportunity to the complainant and to the person against whom complaint is made, for putting forward and defending their respective case.
- 5.8 The committee shall complete the “Enquiry” within reasonable period but not beyond 3 months and communicate its findings and its recommendations to the Management for action within a periods of 10 days from the date of completion of the enquiry and such report should be made available to the concerned parties. The report of the committee shall be treated as an enquiry report on the basis of which an erring employee can be awarded appropriate punishment straightway.
- 5.9 The Management will direct appropriate action in accordance with the recommendation proposed by the committee.
- 5.10 Appropriate action in terms of the Act is as follows:
  - a. The committee shall on completion of the enquiry provide a report of its findings within 10 days from the date of completion of the enquiry and such report shall be made available to the concerned parties.
  - b. if the allegation against the respondent has not been proved, the committee may recommend that no action needs to be taken in this matter.
  - c. If the ICC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to :
    - i) Take action for sexual harassment as a misconduct
    - ii) To tender written apology to the complainant, issue warning, withholding of promotions/increments of the respondent, terminating the respondent.
    - iii) To deduct from salary/wages of the respondent or issue direction for payment; such sum as it may consider appropriate to be paid to the aggrieved person or to the ir legal heir, as it may determine.
  - d. If the ICC arrives at a conclusion that the complaint was malafide and filed with a malicious intent then it can recommend the Management to take such action against the complainant as may be prescribed under the Service rule/Terms of employment.

5.11 The committee shall be governed by such rules as may be framed by the Supreme Court orders or any other legislation enacted later on.

5.12 The ICC may upon a request pass interim orders in terms of the Act.

## **6.0 SETTLEMENT**

The ICC may therefore 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 no monetary settlement shall be made as a basis of conciliation.

Where a settlement has been arrived at the ICC shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation.

The ICC shall provide the copies of the settlement to the aggrieved person and the res[p]endent.

Where a settlement us arrived at, no further inquiry shall be conducted by the ICC.

## **7.0 OTHER POINTS TO BE CONSIDERED**

7.1 The committee may recommend action which may include transfer or any of the other appropriate disciplinary action.

7.2 The Management shall provide all necessary assistance for the purpose of ensuring full effective and speedy implementation of this policy.

7.3 Where sexual harassment occurs as a result of an act or omission by any third party or outsider, Management shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

7.4 7.4 The Committee shall analyse and put up report on all complaints of this nature at the end of the year for submission to the Management.

7.5 7.5 In case the committee finds the degree of offence coverable under the Indian Penal Code, then this fact shall be mentioned in its report and appropriate action shall be initiated by the Management, for making a Police Complaint.

7.6 Penal Consequences of sexual harassment

In addition to action which the Management may initiate under the sexual harassment of woman at work place(Prevention, Prohibition & Redressal) Act 2013, the following liability may arise under the Indian Penal Code.

Under the IPC the newly introduced Section(354A) which deals with sexual harassment has made this a “cognisable offense” i.e. a person charged with sexual harassment may be arrested without a warrant.

a. A man committing any of the following acts:

- i) Physical contact and advances involving unwelcome and explicit sexual overtone or;
- ii) A demand or request for sexual favours or;
- iii) Showing pornography against the will of a woman or;
- iv) Making sexually coloured remarks;

Shall be guilty of the offence of sexual harassment.

- b. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) above, shall be punished with rigorous imprisonment for a term which may extend up to 3 years or fine or both,
- c. Any man who commits the offense specified in clause (iv) above shall be punished with imprisonment of either description for a term which may extend up to one year, or fine, or both.
- d. In addition, acts of sexual harassment may also constitute other offences under IPC including section 354 (assault or criminal force to woman with intent to outrage her modesty), section 354C (Voyeurism), section 354D (Stalking), section 375 and 376 (Rape) and section 509 (word, gesture or act intended to insult the modesty of a woman) of the IPC