



Policy on Prevention of Sexual Harassment of women & children

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Statement of Policy

The Dr. Anjali Morris Education & Health Foundation (AMF) believes that every employee should be provided a work environment free of sexual harassment. No employee, either male or female, should experience sexual harassment of any nature at the workplace.

Protection against sexual harassment and the right to work with dignity are universally recognized human rights. As stated in the Constitution of India as well, Sexual harassment results in violation of the fundamental rights of persons which include living with dignity and carrying on occupation in a safe environment free from sexual harassment. Specifically, protection against sexual harassment of women at the workplace is now provided in **the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** w.e.f. 09 December 2013.

In case this Policy or any part of it has any discrepancy with any laws of India, the laws of India shall prevail over this Policy notwithstanding anything herein contained.



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1. Definitions

Unless the context otherwise requires:

- "Aggrieved person" means a person of any age, whether employed or not, who claims to have been subjected to any act of sexual harassment by the respondent;
- "Respondent" means a person against whom the aggrieved person has lodged a complaint in line with this Policy and/or associated rules;
- "Employee" means any person employed at any of the offices of AMF on regular, contract, temporary, ad-hoc or daily wage basis, 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 coworker, a contract worker, probationer, trainee, apprentice, or any other such name;

- "Internal Committee" (IC) means an internal committee set up in accordance with this policy and/or associated rules;
- "Member" means a member of the IC;
- "Presiding Officer" means the presiding officer of the IC;

- Sexual Harassment includes the following unwelcome acts or behaviour (whether directly or by implications) outlined under section 2 N as
 - Physical conduct and advances;
 - A demand or request for sexual favors;
 - Making sexually colored remarks;
 - Showing pornography,
 - Any other unwelcome physical, verbal or non-verbal conduct of sexual nature,
 - The above-mentioned acts could be direct, indirect, implied or explicit

- Sexual Harassment also includes the following under section 3
 - Circumstances occurring, or present in relation to, or connected with any of the above:
 - Implied or explicit promise of preferential treatment in employment; or
 - Implied or explicit threat of detrimental harmful treatment in employment; or
 - Implied or explicit threat about her present or future employment status; or
 - Interference with her work or creating an intimidating or offensive or hostile Work environment; or
 - Humiliating treatment likely to affect health and safety.

- "Workplace" includes any place visited by an employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.
- Dr. Anjali Morris Education & Health Foundation shall be considered as employers.

2. Internal Committee

A. Internal Committee has been constituted of the following members:

- A female employee employed at a senior level amongst the employees shall act as a Presiding Officer at the Committee.

- Any other employees shall be the member of the Committee
- An external member, who shall be amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- At least 2 members from AMF associated as General Members

The IC set up by AMF consists of the members as per Annexure A

- B. The presiding officer and every member of the IC shall hold office for a maximum of three years, from their date of nomination as may be specified by the employer.
- C. The employer shall pay the prescribed fees or allowances to the members appointed from the non-Governmental organizations or associations for holding the proceedings of the IC.
- D. Where the presiding officer or any member of the IC -
 - contravenes the provisions of section 16 (Appeal); or
 - has been found guilty for an offense or an inquiry into an offence under any law for the time being in force is pending against him; or
 - has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - has so misused his position as to render his continuance in office prejudicial to the public interest, such presiding officer or member,

shall be removed from the committee. The vacancy so created or any casual vacancy shall be filled by fresh nomination as per the provisions of this section.

The names of the Members of the Internal Committee, who shall be selected by the Board of Directors of the AMF, shall be displayed in all offices of the foundation in an appropriate manner.

3. Notification of District Officer

The appropriate Government authority may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.



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4. **Authority to define procedures and rules**

The Board of Directors of AMF is authorized under this Policy to define procedure and rules to be followed in regard to this Policy.

5. **The procedures and rules**

- A. Term of appointment of Members of Internal Committee will be of three years;
- B. Disqualification of Members of Internal Committee and consequences thereof;
- C. Manner of preferring complaints – written/email complaints;
- D. Manner of inquiry into complaints and actions during pendency of inquiry;
- E. Format of inquiry report;
- F. Rules for conciliation and determination of compensations, if any;
- G. Any other matters bearing relation to sexual harassment at the workplace

6. **Making of complaints and inquiries**

Any person may make a complaint of sexual harassment to the IC and all such complaints shall be duly inquired into in the manner prescribed herein below.

Complaint of sexual harassment

A. At the office premises of AMF -

Any aggrieved individual (staff, children, parents or visitors) may make a complaint of sexual harassment on the premises of AMF to the IC 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 complaint should be given through email or in writing on a plain paper and submit to any member of IC. The written complaint needs to be addressed to the Presiding Officer.

In case such complaint cannot be made in writing by the aggrieved, the presiding officer or the member of the IC shall provide all reasonable assistance to the aggrieved for making the complaint in writing.

In case the IC is satisfied that certain circumstances prevented the aggrieved from filing a complaint within the said period, the IC on the basis of written request of the aggrieved person may extend the time limit but for not more than three months.

In other words, the period can be extended under certain circumstances.

Where the aggrieved is unable to make a complaint due to her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

B. During any official visit outside the office premises where the aggrieved is an AMF staff:

If the incident takes place outside AMF during any official visit, the aggrieved should file a complaint with the IC. The aggrieved can also file a complaint with the other respective organisation's authority along with the complaint by the AMF.

C. Outside the office premises of AMF:

When the aggrieved and respondent are both AMF staff and the incident takes place outside the office premises, the aggrieved should file a complaint with the IC.

D. When the respondent is an AMF staff and aggrieved is an outsider (child/visitor):

The IC will only act when a written complaint has been lodged by aggrieved.

7. Conciliation

A. The IC, before initiating an inquiry under Point 8, may take steps to settle the matter between the aggrieved and the respondent through conciliation at the request of the aggrieved:

- Provided that no monetary settlement shall be made on a basis of conciliation.

B. Where a settlement has been arrived at under sub-point A of Point 8, the IC shall record the settlement so arrived at and forward the same to the employer or the District Officer to take action as specified in the recommendation.

NOTE: Conciliation is not defined in this act. Only an aggrieved can make a request for conciliation.

C. The IC shall provide the copies of settlement as recorded under 7.B to the aggrieved and respondent.

D. Where a settlement is arrived at under 7.A, no further inquiry shall be conducted by the IC.

8. Inquiry into complaint

Subject to the provisions under point no 7, the IC, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint

A. Provided that where the aggrieved woman informs the Internal Committee, as the case may be, that any term or condition of the settlement arrived under point no 7, has not been complied with by the



respondent, the Internal Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police.

- B. Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

For the purpose of making an inquiry under point no 8 (A), the Internal Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely: —

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed.
- (d) The inquiry under point no 8 (A) shall be completed within a period of ninety days.

The inquiry shall be completed within a period of ninety days.

INQUIRY PROCEDURE-TIMELINESS

S. No.	Particulars	Timeline
1	Complaint to be registered	Within 3 months from the date of incident (this period can be extended under specific circumstances)
2	Send a copy of complaint to the respondent to file his/her reply	7 working days from the date of receipt of the complaint
3	Respondent's reply	10 working days from the date of receipt of notice
4	Inquiry	To be initiated after receipt of respondent's reply. To be completed within 90 days from the date of complaint
5	Report	To be submitted within 10 days after completion of inquiry

The employer has to act on the recommendations within 60 days from the date of receipt of the report.



9. Action during pendency of inquiry

- A. During the pendency of an inquiry, on a written request made by the aggrieved, the IC may ask the employer to –
- Transfer the aggrieved or the respondent to any other workplace; or
 - Refrain the aggrieved to attend office and grant paid leave to the aggrieved up to a period of three months or
 - Grant such other relief to the aggrieved as may be prescribed.
 - If the respondent is a parent of a student coming to the AMF office for help, the employer can debar the parent from coming to the office.
- B. Leave granted to the aggrieved under this section shall be in addition to the leave she/he would be otherwise entitled.
- C. On the recommendations of the IC under Point 9 A, the employer shall implement the recommendations made under 9.A and send report of such implementation to the IC.

10. Inquiry report

- A. On completion of an inquiry under this Act, the IC shall provide a report of its findings to the employer, within a period of ten days and from the date of completion of an inquiry. The report shall be made available to the concerned parties.
- B. Where the IC arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in that matter.
- C. Where the IC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend the employer –
- To take an action for sexual harassment as a misconduct as per the provisions of the service rules applicable to the respondent (termination from the service as per the separation policy of AMF) or where no such rules have been made, in such manner as may be prescribed (example – counselling, written apology, suspension/termination, withholding increment/promotion, issuing warning, etc.)
 - To deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved or to his/he legal heirs, as it may determine, as per the provisions of Section 13, inspite of anything in the service rules applicable to the respondent.

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his/her being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved person.

Provided further that in case the respondent fails to pay the sum as mentioned in 10.C.ii, the IC may forward the order for recovery of the sum to the concerned District Officer as an arrear of land revenue.

To tender written apology to the complainant, issue warning, withholding of promotions / increments of the Respondent, suspension, corrective measures, counselling terminating the Respondent.

- D. The employer shall act upon the recommendation within sixty days of its receipt by them.
- E. If the verdict given by the IC is challenged then a case could be filed with the Industrial Employment (Standing Orders) Act, 1946. The appeal shall be preferred within a period of ninety (90) days of the recommendations.

11. Punishment for false or malicious complaint and false evidence

- A. Where the IC arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved or any other person making the complaint has known it to be false or the aggrieved or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the person who has made the complaint under Point 6, in accordance with the provision of the service rules applicable to her or him or, where no such service rules exist, in such manner as may be prescribed.
 - Provided that a mere inability to support a complaint or provide adequate proof need not attract action against the complainant under the section;
 - Provided further that the malicious intent on part of the complainant shall be established after an inquiry, in accordance with the procedure prescribed, before any action is recommended.
- B. Where the IC arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer to take action in accordance with the provisions of the

service rules applicable to said witness or, where no such service rule exists, in such manner as may be prescribed.

12. **Determination of compensation**

For the purpose of determination, the sums to be paid to the aggrieved under 10.C.ii, the IC shall have to consider the following –

- The mental trauma, pain, suffering and emotional distress caused to the aggrieved;
- The loss in career opportunity due to the incident of sexual harassment;
- Medical expenses incurred by the victim for physical or psychiatric treatment;
- The income and financial status of the respondent;

All complaints shall be dealt with in the strictest of confidence and shall not be published, communicated or made known to the public, press and media in any manner.

13. **Prohibition of publication or making the known contents of complaint and inquiry proceedings**

Regardless of anything contained in the Right to Information Act, 2005 (22 of 20015), the contents of the complaint made under Section 1, the identity and address of the aggrieved, respondent and witness, any information related to the conciliation and inquiry proceedings, recommendation of the IC and the action taken by the employer under the provisions of this Act shall not be published, communicated or made know to the public, press and media in any manner.

Provided that information may be spread regarding the justice secured to any victim of sexual harassment under the act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved and witnesses.

14. **Penalty for publication or making known the contents of complaint and inquiry proceedings**

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of Section 8, he/she shall be liable for penalty in accordance with the provisions of the service rules



applicable to the said person or, where no such service rule exists, in such manner as may be prescribed.

The AMF will permit no employment-based retaliation against any person who brings a complaint of sexual harassment or who acts as a witness in the inquiry of a complaint of sexual harassment.

15. Appeal

- A. Any person aggrieved by the recommendations made under 10.B (i) or 10.B (ii) or 11.A or 11.B or Point 14 or non-implementation of such recommendations may prefer an appeal to the Court or Tribunal as per the provisions of the service rules applicable to the said person. Where no such service rule exists then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal under the Industrial Employment (Standing Orders) Act, 1946.
- B. The appeal under 15.A shall be preferred within a period of ninety days of the recommendations.

Part B - POCSO ACT (Protection of Children from Sexual Offences Act of 2012)

1. Definition

Sexual offences against children include:-

- a. Penetrative sexual assaults as explained in Section 3 of the POCSO Act
- b. Aggravated Penetrative Sexual Assault as explained in Section 5
- c. Sexual Assault as explained in Section 7.
- d. Aggravated Sexual Assault as explained in Section 9
- e. “Sexual Harassment “ upon a child / student will be deemed to be committed by any person when such a person with a sexual intent:-
 - i. utters any word or makes any sound, or makes any gesture or exhibits any object or part of body shall be seen by the child ; or
 - ii. makes a child exhibit his body or any part of his body so as it is seen by such person or any person ; or
 - iii. shows any object to a child in any form or media for pornographic purposes; or
 - iv. repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

- v. threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, or any part of the body of the child or the involvement of the child in a sexual act; or
- vi. entices a child for pornographic purposes or gives gratification therefor.

2. Procedure for reporting of cases under POCSO act

As per Sec 19 of the Act any person who has the fear that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to: -

- a. Special Juvenile Police Unit or
- b. Local police

The above will report the matter to the Child Welfare Committee and the Special Court within 24 hours.

The Police will take the statement of the child in the presence of parents or any other person the child feels comfortable. The police must use civil dress while recording the statement.

The child must be taken for medical examination as per the law. The child can be accompanied by parents or any other person with whom the child feels comfortable.

AMF will take steps and encourage the parents to inform AMF in case they notice any change in behavior of the child so that the parents and AMF together are able to help the child in case the change in behavior is because of incidence of child sexual abuse.

Irrespective of whether the parents are willing to report case of child sexual abuse to the police, AMF believes that it is their duty to help the child and report such cases.



Part C – Important information

1. Employer to include information in annual report

The employer shall include the number of cases filed, if any, and their disposal under this Act in the annual report of organization.

2. Duties of the AMF

AMF shall:

- a. Provide a safe working environment at the workplace;
- b. Display at any noticeable place in all of the offices of AMF, the details of IC and what is sexual harassment (including penal consequences);
- c. Organize workshops and awareness programs at regular intervals for sensitizing the employees and parents/guardians with the policy and applicable regulatory and statutory provisions;
- d. Orientation programs for Members of the IC;
- e. Provide necessary facilities to the IC for dealing with complaints and conducting inquiries;
- f. Assist in securing the attendance of respondent and witnesses before the IC;
- g. Make available such information to the IC as it may require having regard to the complaint;
- h. Provide assistance to the aggrieved person if he/she so chooses to file a complaint in relation to the offence under the Indian Penal Code, 1860 (45 of 1860) and/or related laws of India;
- i. Cause to initiate action under the Indian Penal Code, 1860 (45 of 1860) and/ or related laws of India against the perpetrator at the appropriate place;
- j. Treat sexual harassment as a misconduct under the Service Rules and/or Standing Orders and initiate action for such misconduct;
- k. Monitor submission of annual reports as prescribed under law by the Internal Complaint Committee. The reports shall be submitted once a year to the designated District Officer.
- l. In general, perform all acts and do all such things as may be necessary for or incidental to the implementation of this Policy.

3. Responsibility for implementation

Responsibility for implementation of this policy lies on every employee of the AMF. Responsibility for administration of this Policy shall vest in the Human Resources department.



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4. **Date of coming into force, withdrawal and/or modification of this policy**

This Policy comes into force with effect from 23 July 2015. Only the Board of Directors is authorized to withdraw or modify this Policy.

For Dr. Anjali Morris Education and Health Foundation

Date:

Place: Pune

Annexure A

Internal Committee members -

- Presiding Officer – Ms. Mugdha Dhavalikar, Senior Program Officer, AMF
- Ms. Archana Vora, General Member, AMF
- Mr. Puneet Bhat, General Member, AMF
- Ms. Swapna Damerla, Chief Operating Officer, AMF
- Mrs. Rama Sarode, External Member

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