

Alliance Francaise de Jaipur
POLICY ON PREVENTION OF SEXUAL HARASSMENT

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Introduction

This policy is formulated at Alliance Francaise de Jaipur (hereafter referred to as AF Jaipur) with the objective of enabling a healthy work environment conducive to the growth of the employees, professionals, students, volunteers, consultants, interns, users of services, associates and any affiliates of the organization. Sexual harassment at work place has always been socially recognized as stigmatic and the practice inevitably results in creating a hostile and unsafe environment. AF-Jaipur strongly condemns any practice detrimental to the right to privacy, reputation, dignity, and free movement of any person, resulting in creation of a hostile environment. AF-Jaipur has a zero tolerance towards sexual harassment of all employees and students. The ‘Policy on Prevention of Sexual Harassment’ at workplace intends to provide protection against any kind of sexual harassment at workplace and redressal for complaints of sexual harassment and matters related to it. While forming the policy cognizance has been taken of the provisions of “The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and rules framed there under (hereinafter “the Act”) as well as principles of equality as enshrined under Articles 14 , 15 and 21 of the Indian Constitution

Applicability of the Policy

This policy extends to all ‘employees’ and ‘students’ (defined hereafter) of AF-Jaipur

The policy also extends to those who are not employed by AF-Jaipur, such as users of services including those who visit for cultural events, use of library, members, visitors, volunteers, vendors, contractors, partners, suppliers, professionals, consultants engaged

by the organization, on short or long term basis, but are subject to sexual harassment at 'workplace' (defined hereafter)

This policy is inherently a part and parcel of terms and condition of service rolled out by the organization and covers all spaces and premises which can be deemed to be the organization's premises.

Definitions

1. "Sexual Harassment" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication):
 - a) Any unwelcome sexually determined behavior, or pattern of conduct, that would cause discomfort and/or humiliate a person at whom the behavior or conduct was directed, namely:
 - i. Physical contact and advances;
 - ii. Demand or request for sexual favors;
 - iii. Sexually colored remarks or remarks of a sexual nature about a person's clothing or body;
 - iv. Showing pornography, making or posting sexual pranks, sexual teasing, sexual jokes, sexually demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS etc.;
 - v. Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's wishes;
 - vi. Giving gifts or leaving objects that are sexually suggestive;
 - vii. Eve teasing, innuendos and taunts, physical confinement against one's will or any such act likely to intrude upon one's privacy;
 - viii. Persistent watching, following, contacting of a person; and
 - ix. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
 - b) The following circumstances if it occurs in or is present in relation to any sexually determined act or behavior amount to sexual harassment :
 - i. Implied or explicit promise of preferential treatment in employment
 - ii. Implied or explicit threat of detrimental treatment in employment
 - iii. Implied or explicit threat about present or future employment status

- iv. Implied or explicit promise of preferential treatment for students
- v. Implied or explicit threat of detrimental treatment for students
- vi. Interference with the person's work or creating an intimidating or offensive or hostile work environment
- vii. Humiliating treatment likely to affect health or safety

Reasonable person standard should be used to determine whether or not the conduct was offensive and what a reasonable person would have done. Further, it is important to note that whether harassment has occurred or not, does not depend on the intention of the people but on the experience of the aggrieved.

2. Aggrieved person: In relation to a workplace, a person, of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.
3. Respondent: A person against whom a complaint of sexual harassment has been made by the aggrieved person
4. Employee: A person employed at the workplace, for any work on full time basis, part time basis, temporary, ad-hoc, or contractual 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 coworker, a professional, a contract worker, probationer, consultant, employee on contract, trainee, intern, apprentice or by any other such name.
5. Student: A person enrolled with AF-Jaipur for perusing any course which may be full time, part time, or through distance learning.
6. Workplace: In addition to the main AF-Jaipur premises 'workplace' shall include any other premises from where AF-Jaipur may carry out its operations. It shall also include places where the aggrieved person or the respondent visits in connection with their work or studies, during the course of and/or arising out of employment/ contract/ studies with AF-Jaipur (For example- any school where an employee of AF-Jaipur is asked to take French Classes)

7. Management: Person responsible for managing, supervising and controlling the workplace including but not restricted to the Director or officials as may be designated from time to time.
8. Appellate Authority/ Reviewing Authority: The authority next higher to the person who is the disciplinary authority which for AF-Jaipur shall be the 'Board'.

Roles & Responsibilities

1. Responsibilities of Individual: It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by:
 - a. Refusing to participate in any activity which constitutes harassment
 - b. Supporting the person to reject unwelcome behavior
 - c. Acting as a witness if the person being harassed decides to lodge a complaint
2. Responsibilities of Teachers and Staff: All Teachers and staff must ensure that nobody is subject to harassment and there is equal treatment. They must also ensure that all students and employees understand that harassment will not be tolerated; that complaints will be taken seriously; and that the complainant, respondent/s, or witnesses are not victimized in any way.

Preventive Measures

AF-Jaipur endeavors to ensure safe, respectful and a positive environment for all its staff, students, clients and associates of all genders. We have a zero-tolerance policy for harassment, violence and discrimination in any form for any gender.

AF-Jaipur shall circulate the POSH policy to all the employees and students, including new joiners, and maintain the policy in such a fashion that it is easily accessible to all employees and students.

AF-Jaipur shall organize programs like workshops, talks, seminars, film shows, debates, theater etc at regular intervals for all the employees, students, members, outsourced staff and any other persons. Since the organization interacts with the parents and guardians of

students who come for taking courses in French, the parents / guardians will be encouraged to participate in these events.

AF-Jaipur shall float articles and common information mailers to increase the awareness about prevention of sexual harassment. All gender justice shall also be encouraged through these article and mailers.

AF-Jaipur, to increase the awareness about prevention of sexual harassment, shall display material at prominent places like notice boards, library, canteen etc

AF-Jaipur shall translate the rules in Hindi and French so as to be accessible to all staff and students.

AF-Jaipur may upload abstracts of the policy on its website.

AF-Jaipur may empanel counsellors, to facilitate gender sensitization and to extend support in specific instances of sexual harassment

AF-Jaipur may print abstracts of rules on prospectus and admission forms of students.

Trainings shall be held once a year for the staff and students to sensitize them on the applicable policy, procedures, rules and regulations

The organization shall strive to cultivate a sensitive environment where all discriminatory and sexual harassment practices are called out and redressed.

Redressal Mechanism – Formal Intervention

In compliance with the Act, if the complainant warrants formal intervention, the complainant needs to lodge a written complaint, which shall be followed by a formal redressal mechanism as described in this Policy. In case of a verbal complaint, the complaint will be reproduced in writing by the receiver of the complaint and signatures of the complainant will be obtained.

Internal Complaints Committee (Henceforth known as ‘committee’)

To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an "Internal Complaints Committee" should be constituted at each location of operations (as may exist from time to time) by the Board of AF-Jaipur. The detail of the committee should be notified to all covered persons at the location (workplace).

The committee at each location should comprise of:

1. Presiding Officer: A woman employed at a senior level in the organization or workplace.
2. At least 2 members from amongst employees, committed to the cause of women and/ or having legal knowledge.
3. One external member familiar with the issues relating to sexual harassment
4. At least one half of the total members should be women

The committee will be responsible for:

1. Receiving complaints of sexual harassment at workplace
2. Initiating and conducting inquiry as per established procedure
3. Submitting findings and recommendations of inquiry
4. Coordinating with Management in implementing appropriate action
5. Maintaining strict confidentiality throughout the process as per established guidelines.
6. Submitting the annual report

a. Lodging a Complaint

The complainant needs to submit a detailed complaint, along with any documentary evidence available or names of witnesses, to any of the committee members at the workplace.

The complaint must be lodged within 3 months from the date of incident/ last incident. The Committee can extend the timeline by another 3 months for reasons recorded in

writing, if satisfied that these reasons prevented the lodging of the complaint.

Provided that where such a complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaint Committee shall render all reasonable assistance to the aggrieved person for making the complaint in writing.

If the aggrieved person is unable to lodge the complaint in account of physical incapacity, the following may do so on their behalf, with their written consent.

- Relative or friend or
- Co-worker or
- Any person having the knowledge of the incident

If the aggrieved person is unable to lodge the complaint in account of mental incapacity, the following may do so on their behalf

- Relative or friend or
- Co-worker or
- A qualified Special Educator or
- A qualified Psychiatrist or Psychologist or
- Guardian or authority under whose care they are receiving treatment or
- Any person having knowledge of the incident , jointly the relatives or friends of the aggrieved or a special educator or qualified psychiatrist/ psychologist or guardian/ authority under whose care they are receiving treatment

If the aggrieved person is unable to lodge the complaint because of any other reason a person who has the knowledge of the incident may do so on their behalf, with their written consent.

If the aggrieved person is deceased a complaint may be filed by their legal heir or any person who has the knowledge of the incident and has obtained the written consent of the legal heir of the aggrieved person

If the initial complaint is made to a person other than a committee member, upon receiving such a complaint, it will be the responsibility of the complaint receiver to report the same to the committee immediately.

Wherever possible the complaints of harassment should be dealt with speedily, discreetly and as close as possible to the point of origin.

b. Receiving a Complaint (Guidelines)

The following points are to be kept in mind by the receiver of the complaint:

- Complaint should be listened to and the complainant informed that AF-Jaipur takes the concerns seriously. Complainant should be informed that these concerns will be reported to the appropriate committee and follow up will be done speedily
- Situations should not be pre-judged. Written notes should be taken while listening to the person. Complainant should be allowed to bring another person to the meeting if they wish. When taking accurate notes, complainants own words, where possible, should be used. Clear description of the incident in simple and direct terms should be prepared and details confirmed with the complainant.
- All notes should be kept strictly confidential. Complainant's agreement should be taken to allow proceeding with the matter, which involves a formal investigation.
- The complainant should be advised that although the process is confidential, the respondent needs to be informed and any witnesses and persons directly involved in the complaint process will also learn of the complainant's identity

Care should be taken to prevent any disadvantage to or victimization of either the complainant or the respondent

c. Resolution procedure through conciliation

Once the complaint is received, before initiating the inquiry the committee may take steps to reconcile the complaint between the complainant and the respondent. This is only if requested by the aggrieved.

It should be made clear to all parties that conciliation in itself doesn't necessarily mean acceptance of complaint by the respondent. It is a practical mechanism through which issues are resolved or misunderstandings cleared.

In case a settlement is arrived at, the committee should record & report the same to the Management for taking appropriate action. Resolution through conciliation should happen within 2 weeks of receipt of complaint.

The committee should provide copies of the settlement to complainant & respondent. Once the action is implemented, no further inquiry should be conducted

d. Resolution procedure through formal inquiry

Conducting Inquiry

The committee should initiate inquiry in the following cases:

1. No conciliation is requested by aggrieved person
2. Conciliation has not resulted in any settlement
3. Complainant informs the committee that any term or condition of the settlement arrived through conciliation, has not been complied with by respondent.

The Committee should proceed to make an inquiry into the complaint within a period of one week of its receipt of the original complaint/closure of conciliation/repeat complaint.

Manner of inquiry into complaint:

1. Complainant should submit the complaint along with the supporting documents and the names of the witnesses.
2. Upon receipt of the complaint, the committee should send one copy of the complaint to the respondent within 7 working days
3. Respondent should reply with all supporting documents within 10 working days of receiving the complaint.
4. No legal practitioner can represent any party at any stage of the inquiry procedure
5. The complaints committee should make inquiry into the complaint in accordance

with the principles of natural justice

6. In conducting the inquiry a minimum of three committee members including the Presiding Officer should be present

e. Interim relief

During pendency of the inquiry, on a written request made by the complainant, the committee may recommend to the Management to –

1. Transfer the complainant or the respondent to any other workplace /asked to operate from any other part of workplace/ be allowed to work from home/ grant of leave in case of employees and allowed to attend classes online/ relaxation of attendance, in case of students
2. Prevent the respondent from assessing complainants work performance
3. Grant such other relief as may be appropriate

Once the recommendations of interim relief are implemented, the Management will inform the committee regarding the same

f. Termination of Inquiry

Committee may terminate the inquiry or give ex-parte decision, if complainant or respondent respectively is absent for 3 consecutive hearings, without reason. 15 day written notice to be given to the party, before termination or ex-parte order

g. Inquiry procedure

All proceedings of the inquiry should be documented. The Committee should interview the respondent separately and impartially. Committee should state what exactly the allegation is and who has made the allegation. The respondent should be given full opportunity to respond and provide any evidence etc. Detailed notes of the meetings should be prepared which may be shared with the respondent and complainant upon request. Any witnesses produced by the respondent should also be interviewed & statements taken.

If the complainant or respondent desires to cross examine any witnesses, the Committee

should facilitate the same and records the statements.

In case complainant or respondent seeks to ask questions to the other party, they may give them to the Committee which may ask them and record the statement of the other party.

Any such inquiry should be completed, including the submission of the Inquiry Report, within 90 days from the date on which the inquiry is commenced. The inquiry procedure should ensure absolute fairness to all parties.

h. Considerations while preparing inquiry report

While preparing the findings/recommendations, following should be considered:

- Whether the language used (written or spoken), visual material or physical behavior was of sexual or derogatory nature
- Whether the allegations or events follow logically and reasonably from the evidence
- Credibility of complainant, respondent, witnesses and evidence
- Other similar facts, evidence, for eg. if there have been any previous accounts of harassment pertaining to the respondent
- Both parties have been given an opportunity of being heard
- A copy of the proceedings were made available to both parties enabling them to make representation against the findings

A copy of the final findings should be shared with the complainant and the respondent to give them an opportunity to make a representation on the findings to the committee

i. Action to be taken after inquiry

Post the inquiry the committee should submit its report containing the findings and recommendations to the Management. If the situation so requires, or upon request of the complainant, respondent or witness, Management may decide to take interim measures such as grant of leave etc to protect against victimization or distress during or subsequent to the course of inquiry, pending final outcome.

j. Complaint unsubstantiated

Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it should recommend to the Management that no action is required to be taken in this matter.

Further, the committee should ensure that both parties understand that the matter has been fully investigated, that the matter is now concluded and neither will be disadvantaged.

k. Complaint substantiated

Where the committee arrives at the conclusion that the allegation against the respondent has been proved, it should recommend to the Management to take necessary action which could include, but not be limited to, some or all of the following:

1. Disciplinary action such as warning, censure, rendering of apology, withholding of increments/promotions, withholding of non-statutory benefit/s , suspension, removal from position of authority, discharge, termination, no increase in wage, non renewal of contract, non employment in future, not be given a character certificate ,or any other action as may be deemed fit in case of employees and professionals, as applicable.
2. Disciplinary action such as warning/ reprimand, not being allowed to attend classes for some duration of the term, , shift to other section/class ,not being allowed to attend classes for the entire term , not being allowed to appear in exams for the term, rustication, cancellation of admission, not permitted to seek admission in any other course even in future, not be given a character certificate, withholding a diploma/ degree conducted by AF-Jaipur, or any other action as may be deemed fit ,in case of students
3. In case of outsiders/ service providers /members etc , disciplinary action such as warning/ reprimand, letter communicating misconduct to their place of education, employment, residence, declaring the campus as out of bonds for them, bar on appearing in any interview, undertaking any academic course, withdrawal of right to provider any services to AF-Jaipur, withdrawal of right to manage and enterprise in the premises of AF-Jaipur , withdrawal of membership or any other action as may be deemed fit, will be taken
4. Disciplinary action for sexual harassment as per service rules that may be in place

from time to time.

5. Deduction from salary/ wages of the employees the monetary compensation to be paid to aggrieved person or facilitate direct payment by the employee/ student the monetary compensation, from which so ever source they may arrange.

For the purpose of determining the monetary compensation to be paid to the aggrieved person, the committee shall have to regard the following

1. The mental trauma, pain, suffering and emotional distress caused to the aggrieved person
2. The loss in career opportunity/ academic progress due to the incident of sexual harassment , medical expenses incurred by the victim for physical or psychiatric treatment
3. The income and financial status of the respondent
4. Feasibility of such payments in lump sum or installments

The Management should act upon the recommendations within 60 days and confirm to the committee

If the aggrieved happens to be non female staff member, the code of conduct policy, as is in place from time to time, shall be referred to. In such cases the Management may authorize the disciplinary committee to exercise relevant powers amongst the ones vested to the internal complaints committee. The Management may decide to use the similar mechanism for receiving and redressal of complaint as is followed in this policy. If the aggrieved happens to be a non female student , the Management may decide to initiate similar action as is applicable for female students.

1. Malicious Allegations

Where the committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved or any other person making the complaint has made the complaint knowing it to be false or the aggrieved or any other person making the complaint has produced any forged or misleading document, the committee may recommend to the Management to take action against such complainant which could

include, but not be limited to, some or all of the following:

1. Disciplinary action such as warning, censure, rendering of apology, withholding of increments/promotions, withholding of non-statutory benefit/s , suspension, removal from position of authority, discharge, termination, no increase in wage, non renewal of contract, non employment in future, not be given a character certificate ,or any other action as may be deemed fit in case of employees and professionals, as applicable.
2. Disciplinary action such as warning/ reprimand, not being allowed to attend classes for some duration of the term, , shift to other section/class ,not being allowed to attend classes for the entire term , not being allowed to appear in exams for the term, rustication, cancellation of admission, not permitted to seek admission in any other course even in future, not be given a character certificate, withholding a diploma/ degree conducted by AF-Jaipur, or any other action as may be deemed fit ,in case of students
3. In case of outsiders/ service providers /members etc , disciplinary action such as warning/ reprimand, letter communicating misconduct to their place of education, employment, residence, declaring the campus as out of bonds for them, bar on appearing in any interview, undertaking any academic course, withdrawal of right to provider any services to AF-Jaipur, withdrawal of right to manage and enterprise in the premises of AF-Jaipur , withdrawal of membership or any other action as may be deemed fit, will be taken
4. Disciplinary action for sexual harassment as per service rules that may be in place from time to time.

While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent must be clearly established.

m. Confidentiality

The identity of the complainant, respondent, witnesses, statements and other evidence obtained in the course of inquiry process, recommendations of the committees, action taken by the Management should be considered as confidential materials, and not published or made known to public or media.

Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the act.

n. Removal of members of Internal Complaints Committee

Any member of the Internal Complaints Committee shall not hold office for a period of more than 3 years from their date of nomination. Selection of new member, as a result of term of existing members ending, should take place at least 2 months before the end of the term of the existing member.

The Presiding Officer or the Committee members of Internal Complaints Committee can be removed on any of the following grounds, provided it is approved by the Board of AF-Jaipur

1. Acting in contravention to the policy or legal provisions of the act
2. Has been convicted for an offense or enquiry into an offence, under any law which is in force, is pending against them
3. Has been found guilty in disciplinary proceedings or disciplinary proceedings are pending against them
4. Has so abused their position as to render their continuance in office prejudicial to public interest

o. Appeal

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the Board within 90 days of the recommendations being communicated. The decision of the Board shall be upheld.

p. Involvement of Management

If person responsible for managing, supervising and controlling the workplace including but not restricted to the Director or officials as may be designated from time to time is an aggrieved person or a respondent, then they shall be treated as any other employee. A 'respondent' in such a scenario shall not be eligible to exercise their authorities / initiate action/ take decisions. In such a situation all authorities, decision making powers and

powers to initiate action/ lead operations shall lie with the President of the Board and its decision shall be upheld. It is expected that the President of the Board shall consult other members of the Board on such matters

If a diplomat or an expat senior official working on an embassy linked contract for AF-Jaipur (may include but not be limited to Director) is an aggrieved person or a respondent, the matter will be referred to the concerned Embassy. Course of action as decided by the Embassy whether or not in consultation with Ministry of External Affairs shall be followed, while having the concurrence of the Board. This clause over rides the clause mentioned above with respect to the treatment meted to Director or officials as may be designated from time to time, being an aggrieved or a respondent.

If a member of the Board is an aggrieved person or a respondent, then a majority vote of the Board shall decide the course of action while adhering to the principles of POSH and the Act

The Management shall be within its rights to amend, moderate, abrogate, rescind/ reinstate the entire policy or any part of it any time. In case of disputes, the 'Act' and/or rules of IPC shall prevail.