

**SEXUAL  
HARASSMENT  
AT WORK PLACE**

**H.P. STATE COMMISSION FOR WOMEN  
SHIMLA-171001**

## **CODE OF CONDUCT FOR WORK PLACE**

Sexual harassment is a serious criminal offence which can destroy human dignity and freedom. In an effort to promote the well being of all women employees at the work place, the following code of conduct has been prescribed:-

1. It shall be the duty of the employer to prevent or deter the commission of any act of sexual harassment at the work place.
  
2. Sexual harassment will include such unwelcome sexually determined behavior by any person either individually or in association with other persons or by any person in authority whether directly or by implication such as:-
  - (i) Eve-teasing
  
  - (ii) Unsavory remarks
  
  - (iii) Jokes causing or likely to cause awkwardness or embarrassment.
  
  - (iv) Innuendos and taunts
  
  - (v) Gender based insults or sexist remarks.
  
  - (vi) Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like.
  
  - (vii) Touching & brushing against any part of the body and the like.

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***The sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2003.***

- (viii) Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings.
- (ix) Forcible physical touch or molestation.
- (x) Physical confinement against one's will and any other act likely to violate one's privacy

and includes any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the work place hostile or intimidating to a person belonging to the other sex, only on the ground of sex.

**Explanation.-** Where any comment, act or conduct is committed against any person and such person has reasonable apprehension that,

1. It can be humiliating and may constitute a health and safety problem, or
2. It is discriminatory, as for instance, when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or study, including recruitment or promotion or advancement or when it creates a hostile environment, or
3. It would result in adverse consequences if she does not consent to the conduct or raise any objection, it shall be deemed to be sexual harassment.

#### **4. Eve-Teasing:-**

Eve-Teasing will include any person willfully and indecently exposing his person in such a manner as to be seen by other employees or use indecent language or behave indecently or in a disorderly manner in the work place. It will also include any word, gesture or act intended to insult the modesty of a woman by making any sound or gesture or exhibit any object intending that such word or sound shall be heard or that

such gesture or object shall be seen by such women or intrudes upon the privacy of a woman employee.

5. Sexual harassment of an employee means use of authority by any person in charge of the management or any person employed by it to exploit the sexuality or sexual identity of a subordinate employee or harass her in a manner which prevents or impairs the employee's full utilization of employment benefits or opportunities. It also includes behavior that covertly or used the power inherent in the status of the employer or head of the institution or management to effect negatively an employee's work experience or career opportunities and/or to threaten, coerce or intimidate an employee to accept sexual advances or making employment decision effecting the individual or create an intimidating, hostile or offensive working environment.
6. It shall be the duty of the employer to prevent or deter the committing of any act of sexual harassment at the work place.
7. All employers should take appropriate steps to prevent sexual harassment of any nature. Express prohibition of sexual harassment should be notified at the work place and also published for the general information of the employees and evaluated in an appropriate manner periodically.
8. Appropriate working conditions should be provided in respect of work, leisure, health and Hygiene to ensure that there is no hostile environment towards women at the work place and no women employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment in that organization.
9. Women employees should not be treated as sex objects.
10. No male employee shall outrage or insult the modesty of a female employee at the work place.

11. No male employees shall make any type of sexual advances to woman colleagues or woman subordinates.
  12. The head of the organization shall constitute a Complaints Committee as specified in the judgment of the Supreme Court, i.e., the Committee should be headed by a woman and not less than half of its members should be women. Further to prevent the possibility of any undue pressure or influence from senior levels such Complaints Committee should involve a third party either a non-governmental organization or other body who is familiar with the issue of sexual harassment.
- 12. Conducting enquiry by the Complaints Committee:-**
- a) Any person aggrieved shall prefer a complaint before the Complaints Committee at the earliest point of time and in any case within 15 days from the date of occurrence of the alleged incident.
  - b) The complaint shall contain all the material and relevant details concerning the alleged sexual harassment including the names of the contravener and the complaint shall be addressed to the Complaint Committee.
  - c) If the complainant feels that she cannot disclose her identity for any particular reason, the complainant shall address the complaint to the head of the organization and hand over the same in person or in sealed cover. Upon receipt of such complaint the head of the organization shall retain the original complaint with him/her and send to the Complaints Committee a gist of the complaint containing all material and relevant details other than the name of the complainant and other details which might disclose the identity of the complainant.
13. The Complaints Committee shall take immediate necessary action to cause an enquiry to be made discreetly or hold an enquiry, if necessary.

14. The Complaints Committee shall after examination of the complaint submit its recommendations to the head of the organization recommending the penalty to be imposed.
15. The head of the organization, upon receipt of the report from the Complaints Committee shall after giving an opportunity of being heard to the person complained against submit the case with the Committee's recommendations to the management.
16. The Management of the Organization shall confirm with or without modification the penalty recommended after duly following the prescribed procedure.
17. **Disciplinary Action.-** Where the conduct of an employee amounts to misconduct in employment as defined in the relevant service rules, the employer should initiate appropriate disciplinary action in accordance with the relevant rules.
18. **Worker's Initiative.-** Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate forum and it should be affirmatively discussed in periodical employer – employee meetings.
19. **Third Party harassment.-** Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and the persons in-charge shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
20. **Annual Report.-** The Complaints Committee shall prepare an Annual Report giving a full account of its activities during the previous year and forward a copy thereof to the Head of the Organization concerned who shall forward the same to the Government Department concerned with its comments.

**Savings.-** Nothing contained in this code shall prejudice any right available to the employee or prevent any person from seeking any legal remedy under the National Commission for Women Act, 1990 Protection of Human Rights Commission Act, 1993 or under any other law for the time being in force.

Where such conduct amount to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In Particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

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

(No.14 of 2013)

[22<sup>nd</sup> April, 2013]

An Act 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 or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 & 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the elimination of all Forms of Discrimination against Women, which has been ratified on the 25<sup>th</sup> June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

THE GAZETTE OF INDIA EXTRAORDINARY

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:-

CHAPTER-i

PRELIMINARY

- (a) "aggrieved woman" means-
- (i) In relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
  - (ii) In relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

- (b) "appropriate Government" means.-  
(i) In relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly.-

- (A) By the Central Government or the Union Territory administration, the Central Government;  
(B) by the State Govt., the State Government.

- (ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

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