

Document type: <b>Policy</b>	<b>PREVENTION OF SEXUAL HARASSMENT POLICY [ INDIA SPECIFIC POLICY ]</b>	
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**I. Introduction**

Foundation for innovative new diagnostics (FIND) India believes in a positive work environment centered on its values and requires the effort of all to ensure gender equality and gender justice through all of FIND India interventions and practices. In keeping with this principle, it is important to ensure an organisational climate free from discrimination and harassment with a particular focus on sexual harassment. Sexual harassment of employees/consultants occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by the organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unacceptable and will not be tolerated. To achieve this goal, the conduct that is described as “Sexual Harassment” in this policy will not be tolerated and a procedure has been provided by which inappropriate conduct will be dealt with, if encountered among employees/consultants. This policy is meant to educate all about what conduct constitutes sexual harassment, the ways and means we are adopting to prevent occurrence of any such event, and in the unfortunate chance of such an incident, to enable a fair mechanism for dealing with such conduct.

FIND India will also take all the appropriate steps necessary to protect staff/Consultant from retaliation. Such Steps include:

- Action to stop retaliatory behavior
- Providing required security measures.
- Counseling help to Complainant and Accused

FIND India takes allegations of sexual harassment seriously and will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, prompt and appropriate corrective action as is necessary, including disciplinary action, will be taken.

While this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the authority of FIND India to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

## **II. Scope of the Policy**

The principles set forth in this policy apply;

- To all FIND India staff and Consultants whether expatriates or national, throughout the country
- At all times, i.e. during and outside of office hours and during periods of leave
- To all people or entities who have signed a contract with FIND: day labourers, suppliers, partner organisations, etc.

## **III. Definitions**

For the purposes of this Policy;

1. "Staff" shall mean any person employed by FIND India including full-time, part-time, temporary, voluntary, seconded, contracted or casual and also researchers, trainees, consultants and employees of project partners.
2. "NGOs" for the purposes of this policy means any non-governmental organisation operating on a secular non-profit basis and involved in work concerning gender justice.
3. "Sexual harassment" includes any unwelcome sexually determined behaviour (whether direct or by implication) such as
  - (i) Physical contact and advances either physical and non-physical;
  - (ii) A demand or request for sexual favours;
  - (iii) Sexually coloured remarks;
  - (iv) Showing pornography;
  - (v) Creating a "hostile work environment";
  - (vi) Any other unwelcome "sexually determined behaviour" be it physical, verbal or non-verbal conduct of a sexual nature.

**Explanation 1:** Unwelcome "sexually determined behaviour" shall include but not be limited to the following instances:

- (a) Where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) Such advances, requests or conduct (whether direct or implied) have the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

**Explanation 2:** Creating a “hostile work environment” means

(a) Creating a workplace where Sexual Harassment may go unheeded, where despite complaints no action is taken, where there is nexus between accused/aggressor & higher management, and where complainant is placed under fear, disadvantage or threat of victimization.

(b) It will also mean Retaliation, which includes:

- Marginalizing someone in the workplace with regard to his / her roles and responsibilities;
- Socially ostracizing;
- Intimidating someone physically, psychologically, emotionally or someone close to or related to the victim;
- Spreading canard.

(c) And any other behavior that may commonly be construed as retaliatory

**Explanation 3:** “Sexual Harassment “in FIND India shall also mean:

(a) Direct or implied requests by any staff for sexual favours in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

(b) Other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to staff may also constitute sexual harassment.

**Explanation 4:** In addition the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- a) Unwelcome sexual advances -- whether they involve physical touching or not;
- b) Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- c) Displaying sexually suggestive objects, pictures, cartoons, displaying body parts;
- d) Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- e) Inquiries into one's sexual experiences;
- f) Discussion of one's sexual activities;

- g) Abuse of authority (Quid Pro Quo) - demand by a person in authority, for sexual favours in exchange for work related benefits (e.g. a wage increase, a promotion, training opportunity, a transfer or the job itself);
- h) The behavior that creates an environment that is intimidating, hostile, or offensive
- i) for members of one sex, and thus interferes with a person's ability to work.

#### **IV. Preventive Action**

Consistent with the existing law under *Vishaka*, FIND India shall take all reasonable steps to ensure prevention of sexual harassment at work. Such steps shall include:

1. Circulation of FIND India's policy in English on sexual harassment to all persons employed by or in any way acting in connection with the work and/or functioning of FIND India;
2. Ensuring that sexual harassment as an issue is raised and discussed at FIND India meetings from time to time
3. Conduct or cause to carry out in-house gender training on sexual harassment and addressing complaints to *staff* FIPS as well as members of the ASH Cell.
4. Widely publicize that the sexual harassment is a crime & will not be tolerated. [Incase when they get appointed by other employer(s)].

#### **V. Complaint mechanism**

1. Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism in the form of "Internal Complaint Committee" (ICC) has been created in FIND India for time-bound redressal of the complaint made by the aggrieved employee.
2. No meeting of the ICC can be held without at least 3/5 members present including the external member.
3. No member shall be part of ICC for more than a period of 3 years. The only exception of extension in any member's tenure would be in case of an ongoing investigation

#### **VI. Internal complaints committee(s) at national level**

As per the law "The Sexual Harassment at The Workplace (Prevention, Prohibition and Redressal) Act and Rules, 2013" and in accordance with Supreme Court Guidelines, FIND India has formed an Internal Complaints Committee (ICC) which will manage the process of enquiry and redressal of sexual harassment complaints.

**a). Constitution of the Committee-** The Committee shall consist of 6 members in total, which is explained as below:

- i. Presiding Officer- Shall be a woman employed at a senior level at the FIND India
- ii. Internal Members- 4 Internal members
- iii. External Member- 1 external member who is a person committed to the cause of women.

No meeting of the ICC can be held without at least 3/5 members present including the external member.

**b). Management** – For the implementation of this policy, the ICC would report all matters to the Director and the Director shall act as Management for the purpose of this policy and the Act. In case of an allegation against Director is being investigated by the ICC, the Management would mean the Board Chair of FIND India.

## **VII. Process to complaint of sexual harrasment**

1. Any aggrieved employee may make, in writing, a complaint of sexual harassment at workplace 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 at [POSHICC-IN@finddx.org](mailto:POSHICC-IN@finddx.org) / letter to member of Internal Complaints Committee (ICC)/ contact via phone to any member of ICC;
2. Provided that where such complaint cannot be made in writing, member of ICC shall render all reasonable assistance to the aggrieved employee for making the complaint in writing;
3. Provided further that the ICC, as the case may be, may, for the reasons to be recorded in writing, extend the time limit, to not exceeding three months, if it is satisfied that the circumstance was such which prevented the aggrieved employee from filing a complaint within the said period.
4. Where the aggrieved employee is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise, his/her legal heir or any other person, with consent of aggrieved employee, may make a complaint.

## **VIII. Conciliation**

1. At the request of the aggrieved employee, the ICC before initiating enquiry, take steps to settle the matter between the aggrieved employee and the respondent through conciliation provided that no monetary settlement shall be made as basis of conciliation;
2. Where a settlement is arrived the ICC shall record the settlement and recommend to the Director FIND India to take necessary action;
3. ICC shall provide the copies of settlement as recorded to the aggrieved employee and respondent;
4. Where a settlement is arrived, no further inquiry shall be conducted by the ICC.

## **IX. Inquiry into complaint**

The ICC after acknowledging receipt of the complaint to the aggrieved employee within 7 days of receipt of the complaint shall proceed with the inquiry as per the following:

1. The ICC shall prepare and hand over the Statement of Allegation to the respondent against whom complaint is made and give him/her an opportunity to submit a written explanation;
2. The aggrieved employee shall be provided with a copy of the written explanation submitted by the person against whom complaint is made;
3. If the aggrieved employee or respondent against whom complaint is made desires any witness/es to be called, they shall communicate in writing to ICC the names of witness/es whom they propose to call;
4. If the aggrieved employee desires to tender any documents by way of evidence before ICC, she/he shall share original copies of the same. Similarly, if the respondent against whom complaint is made desires to tender any documents in evidence before the ICC s/he shall share original copies of the same. Both shall affix his/her signatures on the respective documents to certify these to be original copies;
5. ICC shall call upon all witnesses mentioned by both the parties;
6. ICC shall provide every reasonable opportunity to the aggrieved employee and to the respondent against whom complaint is made, for putting forward and defending their respective case;
7. ICC shall complete the "Inquiry" within reasonable period but not beyond ninety days and communicate its findings and recommendations for action to the Managing Director.
8. The Director FIND India will direct appropriate action in accordance with the recommendation proposed by the ICC, which could even lead to termination of services

## **X. Action during pendency of inquiry**

During the pendency of an inquiry, on a written request made by the aggrieved employee, ICC, as the case may be, may recommend to the Director FIND India to:

1. Transfer the aggrieved employee or the respondent to any other office; or
2. Grant special leave to the aggrieved employee up to a period of three months; or
3. Grant such other relief to the aggrieved employee as may be prescribed.

## **XI. Malicious complaint**

If the ICC comes to a conclusion that the allegation made against the respondent are malicious or have been made even after the knowledge of it being false or has produced forged or misleading documents, it shall report the same to the Organisation and the Organisation is bound to take action against the person involved in such malice.

Every complaint that is not successful is not malicious.

### **Prohibition of publication or making known contents of complaint and inquiry proceedings**

1. The contents of the complaint made, the identity and addresses of the aggrieved employee, respondent and witnesses, any information in relation to conciliation and inquiry proceedings, recommendations of ICC as the case may be, and the action taken by the Managing Director shall not be published, communicated or made known to public, press or media in any manner.
2. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this policy without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved employee and witnesses.

### **XII. Sexual Harassment and FIND India's Partners**

FIND is responsible for ensuring that its partners have a commitment to a Sexual harassment free working atmosphere within their organizations i.e. the partner organizations. While respecting the autonomy of the partner organization, FIND India will have to play a facilitating role within the partner organization, by

- Creating a Sexual Harassment free climate
- Helping in the Anti – Sexual Harassment actions.
- Ensuring that complaints of Sexual Harassment are heard and investigated

It is necessary when complainant and accused are from 2 or more different organizations there should be an EQC with at least representatives from at least one such other organization.

### **XIII. Third Party Harassment**

Where Sexual Harassment occurs as a result of an act or omission by any third party or outsider, FIND India will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

### **XV. Management Obligations**

1. Management of FIND India shall provide all necessary assistance for the purpose of ensuring full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ICC and shall implement the same expeditiously.
3. The responsibility for preventive activities (regarding Sexual Harassment) rests with the Management of FIND India.
4. The responsibility of taking prompt action on FIPs recommendations lies with the Head of FIND India.

5. FIND India is expected to provide adequate protection to ICC members in case of threats and any retaliation. Support and protection must also be provided (by Management) if matters go to Court. Management should in all cases defend the ICC & the complainant.
6. In the event the conduct complained of amounts to a specific offence under the Indian Penal Code or under any other law in existence, the ICC, subject to the wishes of the complainant, shall take appropriate action in making a complaint with the appropriate authority. The FIND will have to provide all manner of support required in such instances.
7. The FIND India will actively assist and do all that is necessary to ensure the safety of a complainant in the office premises or otherwise in respect to any duties/activities performed in connection with her work, which take place outside office premises.
8. The FIND India has to ensure that the ICC retain their autonomy and may work unhindered.
9. The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of law.
10. The provisions of this policy shall not restrict the powers of the Management or the complainant to proceed against the alleged offender for any other misconduct or other legal remedies.

**Note:**

- **The employee harassing another employee can be an individual of the same sex. Sexual harassment does not imply that the perpetrator is of the opposite sex.**
- **This policy is subject to the provisions of The Sexual Harassment at The Workplace (Prevention, Prohibition and Redressal) Act and Rules, 2013.**

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