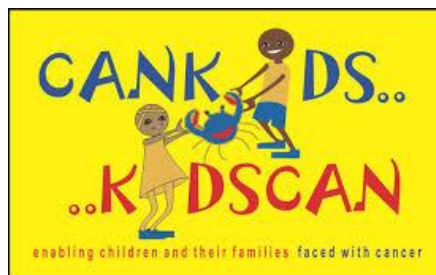


EMPLOYEE HANDBOOK ON ANTI SEXUAL HARASSMENT

***UNWELCOME
UNWANTED
UNLAWFUL
UNACCEPTABLE***

SEXUAL HARASSMENT IS PREVENTABLE



CANKIDS...KIDSCAN

D7/7, Vasant Vihar, New Delhi-110057

POLICY STATEMENT

Cankids...Kidscan (Cankids) is committed to providing an environment free from sexual harassment of women at workplace.

Sexual harassment refers to unwelcome behaviour that is personally offensive, weakens morale and therefore interferes with work effectiveness. Behaviour that amounts to sexual harassment may result in disciplinary action including dismissal from service. All complaints or allegations of sexual harassment of women at workplace shall be investigated promptly and action taken based on outcome of the investigation. Employees who violate this policy will be subject to disciplinary action, including possible termination of services.

Whereas sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 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 25th 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 government of India enacted The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013(hereinafter referred to as "the Act"). The Act is an extension of the Vishakha Guidelines issued by the Supreme Court of India in 1997. The Act provides 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.

This policy applies to any person employed at a workplace for any work on regular, temporary, ad hoc, 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.

SEXUAL HARASSMENT POLICY AS PER PROVISIONS OF THE ACT

Under the Act, an "aggrieved woman" has been defined 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 person against whom the aggrieved woman has made a complaint.

A "Respondent" has been defined a person against whom the aggrieved woman has made a complaint under the Act.

WORKPLACE INCLUDES:

- (i) any department, organization, undertaking, establishment, enterprise institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- (ii) any private sector organization or a private venture, undertaking, enterprise institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale distribution or service;
- (iii) Hospitals or nursing homes;
- (iv) Any sports institute, stadium, sports complex or games venue whether residential or not used for training, sports or other activities relating thereto;
- (v) Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer or undertaking such journey
- (vi) A dwelling place or a house
- (vii) Unorganized sector in relation to workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employees workers, the number of such workers is, less than ten.

DEFINITION OF SEXUAL HARASSMENT

No woman shall be subjected to sexual harassment at any workplace. The following circumstances, among other circumstances if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment: -

- (i) Implied or explicit promise of preferential treatment in her employment; or
- (ii) Implied or explicit threat of detrimental in her employment; or
- (iii) Implied or explicit threat about her present or future employment status; or
- (iv) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) Humiliating treatment likely to affect her health or safety

Sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- (i) Physical contact and advances; or
- (ii) A deemed or request for sexual favour; or
- (iii) Making sexually coloured remarks; or
- (iv) Showing pornography; or
- (v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Based on the above, the sexual harassment may be categorized in three kinds and the following examples are not exhaustive:

Physical

Deliberate body contact
Indecent exposure
Groping/fondling/kissing
Coerced sexual contact

Verbal

Language of a suggestive or explicit nature
Coloured remarks,
Unwanted propositions
Jokes of a sexual or explicit nature
Use of "affectionate names"
Questions or comments of a personal nature

Non-Verbal

Gestures
Staring/leering
Invading personal space
Pin-ups
Offensive publications
Offensive letters/memos
Showing of pornography
Unsolicited and unwanted gifts

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE (ICC)

An Internal Complaints Committee (ICC) shall be constituted at each office of the organization and circulated for information of all concerned separately. The constitution of the Internal Committee shall be as under:

- (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 non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;

Harsh Kumar

Adarsh

At least one-half of the total members so nominated shall be women. The Presiding Officer and every member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the management

PROCEDURE FOR MAKING COMPLAINT OF SEXUAL HARASSMENT

(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Complaints Committee (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;

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

Provided further that the Internal Committee may for the reasons to be recorded in writing extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint.

CONCILIATION

The Internal Committee may before Initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the accused person through conciliation. The settlement so arrived at shall be forwarded to the employer to take action as specified in the recommendation. However, no monetary settlement shall be made as the basis of conciliation. Copies of the settlement as recorded shall be provided by the Internal Committee to the aggrieved woman and the person against whom the complaint has been made. In case of settlement, no further inquiry shall be conducted by the Internal Committee.

INQUIRY PROCESS INCLUDING INQUIRY REPORT

In case the dispute resolution process has not been requested by the aggrieved woman, or if requested and proceeded with, has not been successful or where the aggrieved woman informs the Internal committee that any term or condition of the settlement amount has not been complied with by the respondent , the Internal Committee shall proceed to conduct a full inquiry into the allegation of sexual harassment, in accordance with the provisions of the applicable service rules and laws of natural justice in the following manner:

Harsh Kumar

Adarsh

- Internal Committee shall communicate about holding of inquiry to the aggrieved woman and person against whom complaint has been made.
- Internal Committee shall prepare and hand over the Statement of Allegations to the person against whom complaint has been made and give the aggrieved woman an opportunity to submit a written explanation if the aggrieved woman so desires within 7 days of receipt of the same.
- The aggrieved woman shall be provided with a copy of the written explanation submitted by the person against whom complaint has been made.
- If the aggrieved woman or the person against whom complaint has been made desires any witness (es) to be called, they shall communicate in writing to the Internal Committee the names of witness/es that they propose to call.
- If the aggrieved woman desires to tender any documents by way of evidence before the Internal Committee, the aggrieved woman shall supply original copies of such documents. Similarly, if the person against whom complaint has been made desires to tender any documents in evidence before the Committee, the aggrieved woman shall supply original copies of such documents. Both shall affix the signature on respective documents to certify these to be original copies.
- The Internal Committee shall call upon all witnesses mentioned by both the parties.
- The Internal Committee shall provide every reasonable opportunity to the aggrieved woman and to the person against whom complaint has been made, for putting forward and defending their respective case.
- Where both the parties are employees, they shall be given an opportunity of being heard during the course of inquiry and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Internal Committee.
- The Internal Committee shall complete the inquiry within a reasonable period but not beyond three months. On completion of the inquiry, the Internal Committee shall provide a report of its findings to the employer within a period of ten days from the date of completing the inquiry and make available such report to the concerned parties.
- On the recommendation of the Internal Committee, the employer shall implement the recommendation and send a report of such implementation to the Internal Committee.
- The Internal Committee, if arrives at conclusion that the allegations against the respondent has not been proved, it shall recommend to the management that no action is required to be taken in the matter.

Harsh Kumar

Adarsh

- In case, the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the management (i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules or in such a manner as may be prescribed, (ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine in accordance with the provisions of the Act, taking into account:
 - (a) The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
 - (b) The loss in the career opportunity due to the incident of sexual harassment;
 - (c) Medical expenses incurred by the victim for physical or psychiatric treatment;
 - (d) The income and financial status of the respondent;
 - (e) Feasibility of such payment in lump sum or in instalments.
- In case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment, it may direct to the respondent to pay such sum to the aggrieved woman. In case, the respondent fails to pay the sum, the Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer, appointed under the Act.
- The Employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him

INQUIRY TO BE COMPLETED WITHIN 90 DAYS

The entire inquiry process including the submission of the Inquiry Report shall be completed within 90 days from the date on which the inquiry is commenced.

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

During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee may recommend to the management:

- (a) Transfer the aggrieved woman or the person against whom complaint has been made to any other workplace; or
- (b) grant leave to the aggrieved woman up to a period of three months which shall be in addition to the leave she would be otherwise entitled; or
- (c) grant such other relief to the aggrieved woman as may be prescribed

Harsh Kumar

Adarsh

CONFIDENTIALITY OF COMPLAINTS AND INQUIRY PROCESS

It shall be responsibility of all concerned persons and designated authorities to ensure that all complaints lodged under this Act shall be strictly confidential.

Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint, the identity and address of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and the action taken by the employer shall not be published, communicated or made known to the public, press and media in any manner.

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

Any contravention to the above provision shall attract penalty as per the Act.

PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE

- In case, the Internal Committee based on an inquiry arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint known it to be false or the aggrieved woman 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 woman or the person who has made the complaint in accordance with the provisions of the service rules or in such a manner as may be prescribed. However, mere inability to substantiate a complaint or provide adequate proof need not attract action against the aggrieved woman or other complainant. 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.
- In case, the Internal Committee arrives at a conclusion that during the course of the inquiry, any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules or in such a manner as may be prescribed.

OBLIGATIONS OF CANKIDS

1. The management of Cankids shall provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
2. Display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting the Internal Committee;

Harsh Kumar

Adarsh

3. Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee;
4. Provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry;
5. Assist in securing the attendance of the accused employee and witnesses before the Internal Committee;
6. Make available such information to the Internal Committee as it may require having regard to the complaint;
7. Provide assistance to the aggrieved woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;
8. Cause to initiate action, under the Indian Penal Code or any other law for the time being in force against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
9. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct
10. Monitor the timely submission of reports by the Internal Committee.

The Employee Handbook on Anti Sexual Harassment has been designed as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Hon'ble Supreme Court of India Guidelines in Vishakha & Others versus State of Rajasthan case.
