

Pratham's Policy Against Sexual Harassment at the Workplace



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Pratham's Policy Against Sexual Harassment at the Workplace



1. Objective

Sexual harassment at the workplace or any other place is a grave offence and is completely unacceptable. Pratham strives to provide a professional work environment free of any form of sexual harassment, exploitation, and intimidation. Pratham also believes that all its personnel have a right to be treated with dignity and respect, and a right against unfair discrimination at the workplace.

Pratham practises a zero-tolerance approach towards harassment, abuse, and exploitation of any kind. The objective of Pratham's Policy against Sexual Harassment at Workplace (hereinafter referred to as "Policy") is to create and maintain a work environment wherein everyone shall work with dignity without any fear of sexual harassment. This policy is guided by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and any subsequent amendments thereof.

2. Applicability

The policy applies to all Pratham personnel, whether permanent or contractual.

Relevant clauses of this policy shall also apply if the alleged perpetrator is a Pratham personnel and the person(s) against whom the alleged act is committed is any of the following as well as if the alleged perpetrator is any of the following and the alleged act is committed against a Pratham personnel:

- a. Employees, representatives, and any other individual/s of partner organizations, including but not limited to donors;
- b. Any individual who is associated with Pratham in the capacity of a volunteer, intern, or beneficiary;
- c. Any individual who is visiting any of Pratham's programs/offices;
- d. Any individual who is associated with Pratham and its programs in any other capacity not defined above.

For the purposes of this policy, the workplace includes not just physical office spaces but all such places wherein Pratham personnel are carrying out their duties/work-related activities i.e. work-related functions, team events, partner dinners and meetings, work-related travel, field visits, training, off-site meetings, and conferences, work from home, etc.

3. Effective date

The policy comes into effect from 1 July 2024.

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4. Definition of Sexual Harassment

The Supreme Court Guidelines in the Case of Vishaka vs State of Rajasthan (1996) has defined sexual harassment as “*unwelcome sexually determined behavior such as:*

- *Unwelcome comments or remarks: Eve teasing, unsavoury remarks, jokes causing or likely to cause awkwardness or embarrassment, gender-based insults or remarks*
- *Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings*
- *Unwelcome physical contact: Touching or bruising any part of the body and the like; forcible physical touch or molestation*
- *A demand or request for sexual favours”*

Further, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 also defined “sexual harassment” as follows:

“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 demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

The table below gives more details of acts that may constitute sexual harassment at workplace:

Verbal	Non-verbal	Physical Contact	Visual
Derogatory comments of a sexual nature or based on gender	Staring	Unwelcome hugging, sexual touching, or kissing	Intended or unintended display of sexual visual material, such as posters, cartoons, drawings, calendars, pinups, pictures, or computer programs of a sexual or provocative nature during work (including on online calls)

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Verbal	Non-verbal	Physical Contact	Visual
Sexual or gender-based jokes or teasing	Sizing up a person's body (looking up and down)	Actual or attempted sexual assault, or forced fondling	Display or distribution of written material that is sexual in nature, such as notes, WhatsApp or e-mail containing sexual comments
Comments about clothing, personal behaviour, or a person's body	Derogatory gestures of a sexual nature	Standing too close to or brushing up against another person, leaning over, invading a person's space	Displaying objects of a sexual nature
Requesting sexual favours	Sexually suggestive looks	Patting, stroking, grabbing, or pinching	
Pressure for dates; frequent unsolicited messages asking for "friendship" or "relationships"	Facial expressions of a sexual nature; winking, licking lips	Blocking someone's path with the purpose of making a sexual advance	
Graphic descriptions of pornography		Stalking	
Obscene phone calls		Rape or attempted rape	
Telling lies or spreading rumours about a person's sex life			

Cited from <http://priacash.org/sexual-harassment.shtml>

Original Source: Sexual Harassment - Explore the Issue, Minnesota Advocates for Human Rights, STOPVAW

Importantly, whether or not a particular action or behavior constitutes sexual harassment is determined by the impact on the recipient, and is not dependent upon the intention of the perpetrator.

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5. Internal Committee (IC)

Pratham has constituted an Internal Committee (also known as “IC”) at the state/program level which is responsible for dealing with all formal complaints and allegations of sexual harassment.

Composition of the Committee

The Internal Committee shall have at least four (4) members consisting of:

- a. A presiding officer who is a woman employed in a senior role at Pratham (the “Presiding Officer”). If a senior woman officer is not available in the respective state/program, the Presiding Officer can be nominated from other Pratham states/programs.
- b. Two (2) members from amongst the employees (together “Employee Members”). Employee members should not have been a defendant in any previous sexual harassment allegation; and
- c. One (1) external member who is committed to the cause of women's safety and advancement, and is familiar with issues relating to sexual harassment.

It is mandated that not less than half of the members of the Internal Committee shall be women. The State's/Program's working group will nominate members based on the abovementioned criteria and submit the list of names to the Pratham Apex Committee. The Apex Committee will approve the names and then the Internal Committee will be constituted. The composition of the Apex Committee is mentioned in Annexure 2.

Role and Responsibilities of the Internal Committee

Appointment letters will be issued by Pratham to all IC members, with a role description of the IC Member, which includes:

- a. Receiving complaints of sexual harassment,
- b. Conducting inquiries,
- c. And making recommendations for resolution.

The names of the members of the relevant Internal Committee along with their contact details shall be displayed on the notice boards(s) at each of Pratham's offices/premises. In case of any change in the constitution of the Internal Committee, or the contact details of the members of the Internal Committee, the relevant Internal Committee shall promptly update the displayed information.

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At the end of each calendar year, the Internal Committee shall prepare a consolidated report of all the complaints relating to Sexual Harassment received and the actions taken by Pratham thereon and the Presiding Officer shall submit the same to Apex Committee. The Apex Committee shall share the same with the concerned government department with a copy to the Chief Executive Officer and Head of human Resources.

The Internal Committee shall have the following responsibilities

- a. Conducting inquiries in accordance with the procedures set out below applying the principles of natural justice and ensuring compliance with the policy in all actions taken under, or in connection with, this policy;
- b. Organizing workshops or interactive programs to spread awareness of the issue of sexual harassment as well as this policy amongst the employees of Pratham; and
- c. Keeping a record of all complaints received and the actions taken by the Internal Committee and Pratham thereon.

The Internal Committee shall ensure quorum of at least three (3) members is met before final decision is taken. If a decision cannot be reached by consensus, even after sustained discussions, the decisions of the Internal Committee shall be made by majority vote of its members, and in cases of division of votes equally, the Presiding Officer shall have a casting vote.

Tenure and Other Terms and Conditions of Internal Committee

All members of the Internal Committee, including the Presiding Officer, shall be appointed for a period of three (3) years from the date of their nomination. A member of the Internal Committee shall cease to hold office as a member in the event such member is:

- a. Found guilty of disseminating personally identifiable information about a complaint brought before the Internal Committee, including details of the complainant or the respondent; or
- b. Found guilty in any disciplinary proceeding; or
- c. Has abused their position in any manner so to render their continuance in the Internal Committee prejudicial to the interests of the employees of Pratham.

In addition to the grounds mentioned hereinabove, an employee member shall cease to hold office as a member of the Internal Committee in the event of any of the following occurrences:

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- a. If the employee member ceases to be an employee of Pratham;
- b. If the employee member has been found guilty of committing an act of sexual harassment;
- OR
- c. Any misconduct in accordance with the rules of Pratham

If the employee member is related to the respondent and/or the complainant or is otherwise conflicted in any manner whatsoever, they must recuse themselves from the Internal Committee, for that particular matter.

In the event of any disqualification, resignation or termination of appointment by Pratham of any member, Pratham shall, with respect to an outgoing employee member, make best efforts to find a substitute member as quickly as possible.

6. What can a Pratham personnel do if they think they are being/have been sexually harassed at the workplace?

It is advisable that the aggrieved personnel who feel they have been harassed, maintain records of the same, wherever possible. This may include date, time, place and any other relevant details of communication between aggrieved personnel and alleged harasser and any other relevant information. If any personnel feels that they are being/have been sexually harassed at the workplace, they can adopt any (or all) of the following measures, as they consider appropriate:

a. Talk to a trusted colleague

The aggrieved personnel can speak to a trusted colleague or any of the following as they consider appropriate:

- Immediate Supervisor
- Project/ Program Head
- State Head

The above mentioned persons shall listen to the aggrieved personnel. Once the issue is reported to the trusted colleague or other mentioned persons, the concerned person is responsible to inform the Pratham State IC/Apex Committee, within 48 working hours. This is mandatory. The IC then is part of the process and will reach out to the aggrieved personnel to take further steps.

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b. Formal Complaint

The aggrieved personnel (or the trusted colleague/immediate supervisor/program or project Head/State Head) can make a formal complaint directly without having to choose the above option. The complaint should be made to the Internal Committee which has been constituted in the state/program for dealing with complaints regarding sexual harassment. Format for the complaint is attached as **Annexure 1**.

7. Complaint making procedure

Any person who feels they have been or are being sexually harassed may make a complaint (hereafter, called as “complainant”) to one or more members of the Internal Committee through email or in writing. The complaint should be duly signed (if sent in writing). The complaint should be made as early as possible but not later than one (1) year from the date of the incident. With documented reasons, the Internal Committee may extend this time limit, if it is satisfied that the circumstances warrant it.

The complainant should clearly indicate that it is a formal complaint, so that it can be differentiated from any initial complaint made to a trusted colleague/immediate supervisor/program or project Head/State Head. An oral complaint can also be made initially. However, this must be followed up with a written complaint.

Any member of the IC who receives the complaint shall immediately forward the complaint to other members. The Presiding Officer shall send an acknowledgement of the receipt of the complaint to the complainant. Once a complaint reaches the IC, it shall take all possible measures to maintain confidentiality of the complaint and advise the concerned parties accordingly.

In case the complaint is against a Member (including Presiding Officer) of the IC, the quorum shall bar them from taking part in the proceedings of the IC.

If the complaint is against the State Head, Programme Head, or a senior person in the state, the State IC may refer the case to the Apex Committee.

Where sexual harassment occurs as a result of an act of a person (s) who is not a Pratham personnel, information about such an act should reach the IC at the earliest. The IC shall document all facts of the case as presented by the Complainant. The IC shall take all steps necessary and preventive to assist the aggrieved personnel in terms of support and preventive action. Where appropriate, one of these steps may include, sharing the information with the Head of the organisation in which the respondent is employed/associated with asking to take appropriate action at the earliest (not later than a month) and communicate the same to the IC. Given that the accusation is against an external member, the enquiry process mentioned below may not be applicable.

Upon receipt of the complaint, the IC shall proceed with the enquiry as outlined hereunder. Separation between functional matters between the respondent and the aggrieved shall be worked out. The Internal Committee, before initiating an enquiry and only at the written request of the complainant, may take steps to settle the matter between the complainant and the respondent through conciliation.

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If the IC feels that the complaint doesn't fall under the purview of Sexual Harassment, the IC shall drop the complaint and respond to the complainant about its decision with the rationale to not consider it a sexual harassment complaint, and copy the Chairperson of the Apex Committee in the email. If the complainant is not satisfied with this decision of the Internal Committee, they may appeal to the Apex Committee.

In case the complainant wishes to withdraw the complaint, at any stage, the IC must seek this request in writing and it must be recorded.

If the IC is informed of an incidence of sexual harassment or any of the members of the IC have been witness to any such incidence, it has the powers to set up an enquiry and take action against the alleged offender, even in absence of a formal complaint.

In case of an alleged sexual assault, complainant has the option to complain to the police.

8. Enquiry Process

Upon receipt of the complaint, a quorum of at least 4 (four) persons is required for the proceedings to take place. In case of the non-availability of the Presiding Officer, she must appoint one of the other members as acting Presiding Officer for the IC to be able to proceed.

- a. The IC shall proceed with the inquiry and inform the complainant and the respondent(s).
- b. The IC shall provide every reasonable opportunity for the complainant and the respondent to present their respective cases. The IC can ask the complainant to appear in person and depose before it prior to proceeding against the respondent.
- c. The IC shall ask the respondent to present before them and explain their position. The IC shall also instruct the respondent to not make direct/indirect contact with the complainant under any circumstances.
- d. The IC can ask any person(s) to depose before it who in the opinion of the IC can throw light on the case.

During the course of the inquiry, if the IC considers appropriate, it may take necessary steps like temporary suspension of the respondent or ask complainant to work from home, to minimise interaction between the complainant and the respondent.

The IC shall complete the inquiry and take the needed action within ninety (90) days of receiving the complaint. The decision shall be communicated to the complainant and the respondent verbally and in writing. The conclusions and the decisions taken shall be documented by the Presiding Officer. Possible actions against offenders could include: warning, suspension without pay, termination, police complaint.

In case the complaint is found to be false or fabricated the complainant shall be liable for disciplinary action by the grievance IC, as they consider appropriate.

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9. Post Enquiry Process

If the IC concludes that the allegations against the respondent have been proved, it shall recommend:

- Seeking written apology from the respondent
- Reprimanding, censuring or sending for a counselling session
- Withholding compensation, or increments
- Termination of services of the respondent with immediate effect or suspension of services for determined period
- Warning such that the next proven offence under the same category would result in the termination of services
- Deducting any sum from the respondent's emolument and paying the same to the aggrieved person or their legal heir.

If any one of the parties is not satisfied with the decision, they can reach out to the Apex Committee, mentioning the reason for dissatisfaction and seeking their intervention. If the Apex Committee, after examining the case, deems fit, the Apex Committee will investigate further. The first appealing authority is the Apex Committee. If any party is not satisfied, they can go to the Court of Law.

Programme Head/State Head is required to take action on the recommendation within 30 days of the receipt of the IC's recommendations. The victim of sexual harassment will be provided counselling as required. A report on the action taken, including support extended to the complainant and respondent, along with measures being put in place to prevent similar instances in the future, has to be submitted to the IC within 30 days of the receipt of IC's recommendations.

If the complainant experiences retaliation from colleagues, seniors, etc. or any other instance amounting to a hostile work environment after the completion of the inquiry process, they can reach out to the IC for support.

10. Dissemination of the Policy

Pratham management shall ensure that hard copies (and wherever possible soft copies also) of the policy are distributed to all Pratham personnel as soon as the policy is put in place.

Copies of the policy shall be sent across to in-charges of all offices from where Pratham personnel operate. The office in charge shall be instructed to either display the policy in the office for everyone's benefit or issue copies of the policy to all members working from that office. The Policy shall be uploaded on the Pratham official Website.

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11. Ancillary Important Points

If the conduct amounts to a specific offence under the Indian Penal Code or under any other law, the IC may initiate appropriate action to file a police complaint.

Pratham shall take all possible measures to ensure that victims or complainants are not discriminated or victimized against while dealing with complaints of sexual harassment.

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Annexure 1

The complaint should contain the following key points:

1. Name of complainant
2. Designation
3. State/Program/Unit
4. Date of complaint
5. Name of respondent
6. Email ID / Employee ID (if applicable and available)
7. Description of complaint (including date of incident)
8. Any evidence/material in support of the complaint, including names of witnesses (if available)

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Annexure 2

Pratham Education Foundation Apex Committee

Name	Email Id	Phone Number
Ms. Farida Lambay (Chairperson)	faridalambay@pratham.org	9820098085
Mr. Kishor Bhamre	kishor.bhamre@pcvc.org	9769761882
Ms. Renu Seth	renu.seth@pratham.org	9328943168
Mr. Balvinder Singh	balvinder.singh@pratham.org	9810893363
Ms. Manjeet Kaur	manjeet.kaur@pratham.org	9810091880
Mr. Shubhendu Chakravorty	shubhendu@pratham.org	9818310770
Ms. Sujata Mehra (External)	sujatamehra1@gmail.com	9810150677