



UPAY

Underprivileged's Advancement by Youth

UPAY PREVENTION & REDRESSAL OF SEXUAL HARASSMENT POLICY

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Proposed by Director (Disciplinary Action committee):

Approved by Chairman:

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POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

I. COMMITMENT:

As an NGO, we are committed to conducting and governing ourselves with ethics, transparency and accountability and to this, we have developed governance structures, practices and procedures that ensure that ethical conduct at all levels is promoted across our organization.

We are dedicated to ensuring that the work environment at all our locations is conducive to fair, safe and harmonious relations. Discrimination and harassment of any type is strictly prohibited.

The NGO aims to provide a safe working environment and prohibits any form of sexual harassment. Hence any act of sexual harassment or related retaliation against or by any associate is unacceptable.

Making a false complaint of sexual harassment or providing false information regarding a complaint will also be treated as a violation of policy.

Organization will promptly investigate all complaints and take appropriate action, up to and including termination of the aggrieved party.

II. SCOPE:

This policy applies to all volunteers and students of the NGO, including founder members, executive members and advisory board members, trainees, fellows and coordinators those who get honorarium at their respective workplaces.

The workplace includes:

- All offices or other premises where the NGO's activities (Training Sessions, Events, Conferences) are conducted.
- All NGO-related activities performed at any other site away from the NGO's premises.

- Any mode of transport provided by the NGO for undertaking a journey to and from the aforementioned locations.
- Any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace ethics.

III. DEFINITION OF SEXUAL HARASSMENT:

Sexual harassment" includes any unwelcome sexually determined behavior (direct or implied) such as physical contact and advances, unwelcome communications or invitations, demand or request for sexual favors, sexually cultured remarks, showing pornography, creating a hostile work environment and any other unwelcome —sexually determined behaviorll (physical, verbal or non-verbal conduct) of a sexual nature.

Hostile work environment includes* -

- Hostile environment sexual harassment occurs when either speech or conduct of a sexual nature takes place, and is seen or perceived as offensive and interferes with the work performance of the recipient, or any one or more Associates
- Hostile environment sexual harassment may also include intimidating or harassing conduct that is directed at an individual, or a group of individuals
- It will also mean related retaliation which includes marginalizing someone in the workplace with regard to his / her roles and responsibilities, socially ostracizing, intimidating someone physically, psychologically, and emotionally or someone close to or related to the victim, to the extend the humiliation or intimidation affects the health or safety.

*This is only an indicative list of the possible acts which could be treated as sexual harassment and is in no way intended to be construed as an exhaustive list.

Sexual Harassment at the workplace includes:

- **Physical Conduct** (Physical violence including Sexual assault, use of job-related threats or rewards to solicit sexual favors)
- **Verbal Conduct** (sending msg, comments, comments on social media, unwanted invitation for dates/physical intimacy, jokes, comments on appearance, age, private life)
- **Non-verbal Conduct** (whistling, leering, gestures, display of sexually explicit content)

Type of cases which can fall under sexual harassment

- Making sexually suggestive remarks or innuendos.
- Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
- Offensive comments or jokes.
- Inappropriate questions, suggestions or remarks about a person's sex life.
- Displaying or forwarding sexist or other offensive pictures, posters, MMS, SMS, WhatsApp, or E-Mails.
- Intimidation, threats, blackmail around sexual favors.
- Threats, intimidation or retaliation against an employee who speaks up about unwelcome behavior with sexual overtones.
- Unwelcome social invitations, with sexual overtones commonly understood as flirting.
- Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit
- Physical contact such as touching or pinching.

- Caressing, kissing or fondling someone against her/his will (could be considered assault).
- Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
- Persistently asking someone out, despite being turned down.
- Stalking an individual.
- Abuse of authority or power to threaten a person's job or undermine her performance against sexual favors.
- Falsely accusing and undermining a person behind closed doors for sexual favors.
- Controlling a person's reputation by rumormongering about his/her private life.
- Even outside UPAY premises, engaging in any kind of eve teasing.
- Putting derogatory remarks on social media

IV. RESPONSIBILITIES REGARDING SEXUAL HARASSMENT:

All volunteers of the NGO have personal responsibility to ensure that their behavior is not contrary to this policy.

All volunteers are encouraged to maintain the decorum of the organization to ensure NO SEXUAL HARRASSMENT activities are encouraged/promoted inside/outside the organization.

V. COMPLAINT MECHANISM:

The NGO shall have an Internal Complaints Committee at all UPAY locations, to specifically address any complaints of sexual harassment. The Committee will be constituted by the chairman in consultation with governing body. The committee will

have a fixed tenure of 2 years, which can be extended for another 1 year by governing body. Internal Complaints Committee would be headed by Director (Disciplinary Action Committee) and members of the committee shall be all the zonal Presiding Officers, who shall be the woman Associate, ensuring time bound redressal of the complaints.

1. A volunteer with a harassment concern, who is not comfortable with the informal resolution options or has exhausted such options, may make a formal complaint to the Zonal Presiding Officers of the Internal Complaints Committee constituted by the competent authority.
2. The complaint shall be made in writing in the form of a letter, in a sealed envelope, preferably **within a period of three months from the date of incident** and in case of a series of incidents, **within a period of 3 months from the date of last incident**:
3. Alternatively, the volunteer can send complaint through an email (complaint.upay@gmail.com).
4. In cases where complaints cannot be made in writing by the victim, the Presiding Officer or any Member of the complaint Committee shall render all reasonable assistance to the person concerned for making the complaint in writing.
5. Provided further that the complaint Committee or, as the case may be, for the reasons to be recorded in writing, extend the time limit beyond three months, if it is satisfied that the circumstances were such which prevented the victim from filing a complaint within the aforementioned period.
6. For the cases, where the victim is unable to make a complaint on account of her physical or mental capacity or death or otherwise, her legal heir or any such person as prescribed under law may make a complaint under this section.
7. In case of children/minors below 14 years, complaint can be made by the guardians /parents. For orphan children, children who needs care and protection and the children who are not comfortable to share incident with their parents because of fear, children where parents are not supportive to file complaint, in these extreme cases complaint can be made by any UPAY member on the basis of verbal complaint made by the minor. but it is advisable to take in writing by the minor/child about the circumstances why a written complaint cannot be filed and why parents cannot be involved.

8. The aggrieved party is required to disclose their name, center name, zone and location they are based in, to enable the Presiding Officer to contact them and take the matter forward. In case, the party is not comfortable in disclosing their personal details to the P.O., he/she may consider a third party, in which they can confide to help them take the process further.
9. The internal Complaint Committee shall, where the respondent is an employee, proceed to make Inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Internal complaint Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable only after taking the written consent from victim:
10. Provided that where the victim informs the Internal Complaint Committee as the case may be, that any term or condition of the settlement arrived has not been complied with by the respondent, the Internal Complaint Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police: Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
11. Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the victim by the respondent. For the purpose of making an inquiry the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—(a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; and (c) any other matter which may be prescribed.

VI. INTERNAL COMPLAINTS COMMITTEE:

The NGO shall constitute an Internal Complaints Committee (Zonal presiding officer + Director (DAC)) for redressal of sexual harassment complaint (made by the victim) and for ensuring time, bound treatment of such complaints.

- Chairman shall appoint the zonal presiding officers headed by Director (Disciplinary Action Committee) to form the complaint committee with the tenure of 2 years.
- Governing Body will have all the power to dissolve and form the new complain committee.
- Complaint committee will work as a nodal point for receiving the complaint and coordinating the further investigations with the help of zonal Presiding officers.
- Zonal Presiding officers will inform the Director (DAC) and Director (DAC) will take the process further with the chairman.
- In consultation with Chairman, Director (DAC) will decide whether there is a need of investigation Committee to be formed or not depending upon the gravity of the case.
- For less complicated and straight forward complaints where accused accept his/her role or there is no need for the investigation, Director (DAC) in consultation with chairman will instruct concerned Presiding officer to take corrective actions as per the policy.
- If required Director (DAC) will appoint an Investigation Committee in consultation with Chairman and will proceed to investigate the allegation with the assistance of the Investigation Committee.
- If Chairman is accused, then he/she will be kept out of the process and Presiding officer/ Director (DAC) shall directly report to Governing Body through vice chairman.
- Governing Body to appoint an observer on their behalf who will lead the investigation.
- If victim or accused is executive body member then executive body member of that home zone will not be part of the investigation committee
- if any zonal member is involved as accused or victim then Zonal Director of that

zone will not be part of this committee

- If the victim or accused is governing or advisory board member then the investigation committee will be formed by chairman with the consent of governing body member.
- If the victim or accused are not satisfied with the investigation committee members, they can request investigation committee appointing authority for change of committee .

Investigation Committee

Investigation committee will comprise of the following five members out of which at least three members will be of the same gender as that of the complainant:

- Head- Governing body member
- Executive Body member.
- Zonal Director from where the complaint has been originated,
- Presiding officer of same zone, where the complaint has been originated.
- External member.

The Complaints Committee is responsible for:

- Investigating every formal written complaint of sexual harassment
- Taking appropriate remedial measures to respond to any substantiated allegations of sexual harassment
- Discouraging and preventing employment-related sexual harassment

VII. PROCEDURES FOR RESOLUTION, SETTLEMENT OR PROSECUTION OF ACTS OF SEXUAL HARASSMENT:

Anyone who is subject to sexual harassment should, if possible, inform the alleged harasser that the conduct is unwanted and unwelcome. UPAY recognizes that sexual harassment may occur in unequal relationships and that it may not be possible for the victim to inform the alleged harasser. If a victim cannot directly approach an alleged harasser, he/she can approach one of the designated Committee members responsible for receiving complaints of sexual harassment. This person could be another immediate higher authority, a member of the complaints committee.

When a designated person receives a complaint of sexual harassment, he/she will:

- Immediately record the dates, times and facts of the incident(s)
- Ascertain the views of the victim as to what outcome he/she wants
- Ensure that the victim understands the organization's procedures for dealing with the complaint
- Discuss and agree the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if he/she is not satisfied with the outcome
- Keep a confidential record of all discussions
- Respect the choice of the victim
- Ensure that the victim knows that they can lodge the complaint outside of the organization through the relevant legal framework

Throughout the procedure, a victim is entitled to be helped by a counsellor within the organizations. UPAY will nominate several counsellors and provide them with special training to enable them to assist victims of sexual harassment. UPAY recognizes that because sexual harassment often occurs in unequal relationships within the

workplace, victims often feel that they cannot come forward. UPAY understands the need to support victims in making complaints.

The NGO is committed to providing a supportive environment to resolve concerns of sexual harassment as under:

A. Informal Resolution Options

If the victim wishes to deal with the matter informally, the designated person will:

- Give an opportunity to the alleged harasser to respond to the complaint
- Ensure that the alleged harasser understands the complaints mechanism
- Facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant, or refer the matter to a designated mediator within the Organization to resolve the matter
- Ensure that a confidential record is kept of what happens
- Follow up after the outcome of the complaints mechanism to ensure that the behavior has stopped
- Ensure that the above is done speedily and within [...] days of the complaint being made

B. Formal Resolution Options

- If the victim wants to make a formal complaint or if the informal complaint mechanism has not led to a satisfactory outcome for the victim, the formal complaint mechanism should be used to resolve the matter.
- The designated person who initially received the complaint will refer the matter to immediate next higher complaint committee member to instigate a formal investigation. The immediate next higher complaint committee member may deal with the matter him/herself, refer the matter to an internal or external investigator or refer it to a committee of three others in accordance with this policy.
- The person carrying out the investigation will:
 - A. Interview the victim and the alleged harasser separately

- B. Interview other relevant third parties separately
- C. Decide whether the incident(s) of sexual harassment took place or not
- D. Produce a report detailing the investigations, findings and any recommendations
- E. If the harassment took place, decide what the appropriate remedy for the victim is, in consultation with the victim (i.e.- an apology, a change to working arrangements, training for the harasser, disciplinary action, dismissal)
- F. Follow up to ensure that the recommendations are implemented, that the behavior has stopped, and that the victim is satisfied with the outcome
- G. If it cannot determine that the harassment took place, he/she may still make recommendations to ensure proper functioning of the workplace
- H. Keep a record of all actions taken
- I. Ensure that the all records concerning the matter are kept confidential
- J. Ensure that the process is done as quickly as possible and in any event within 60 days of the complaint being made.

C. Complaint Flow:

12. A volunteer with a harassment concern, who is not comfortable with the informal resolution options or has exhausted such options, may make a formal complaint to the Presiding Officers of the Complaints Committee constituted by the competent authority. The complaint shall have to be in writing and can be in form of a letter in a sealed envelope., preferably **within a period of three months from the date of incident** and in case of a series of incidents, **within**

a period of 3 months from the date of last incident: Alternatively, the volunteer can send complaint through an email (complaint.upay@gmail.com).

13. The Presiding Officer of the Complaints Committee will proceed to determine whether the allegations (assuming them true only for the purpose of this determination) made in the complaint fall under the purview of Sexual Harassment, preferably within 30 days from receipt of the complaint.
14. In the event, the allegation does not fall under the purview of Sexual Harassment or the allegation does not constitute an offence of Sexual Harassment, Also it doesn't fall under the disciplinary action the Presiding Officer will record this finding with reasons and communicate the same to the complainant and will submit a closure report to Director (DAC) and chairman.
15. If the complaint falls not under the Sexual harassment but under the Disciplinary action, then the presiding officer will submit the report along with the recommendations and action will be taken as per disciplinary action policy of UPAY by Director(DAC)
16. If the Presiding Officer of the Complaints Committee determines that the allegations constitute an act of sexual harassment, he/ she will immediately inform the Director (DAC) and chairman for the same along with her recommendations .
17. Based on the gravity of complain, if required Director (DAC) will form an Investigation Committee in consultation with Chairman and will proceed to investigate the allegation with the assistance of the Investigation Committee.
18. For less complicated and straight forward complains where accused accept his/her role or need of investigation is not there, Director (DAC) in consultation with chairman will instruct concerned Presiding officer to take corrective actions as per the policy.
19. Where such conduct, on the part of the accused, amounts to a specific offence under the law, the NGO shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.
20. The Investigation Committee shall conduct such investigations in a timely

manner and shall submit a written report containing the findings and recommendations to the Chairmen of UPAY and governing body as soon as practically possible and in any case, not later than 90 days from the date of receipt of the complaint. Chairman of UPAY will ensure corrective action on the recommendations of the Investigation Committee & Governing body and keep the complainant informed of the same.

21. Chairman (UPAY) in consultation with Governing Body has all rights to re-open the old cases and ask for fresh enquiry if needed.
22. If the harasser or accused is outsider and not related to UPAY. Director(DAC) may or may not take the matter further through Internal Complaint committee. In consultation with chairman, Director(DAC) may explore the legal options and counsel/guide/extend all the support to the victim to file complaint to external agencies like child line, CWC, police, women help line etc. in case of child parents shall be counselled to take action. On recommendation of chairman, presiding officer may counsel and confront the accused.

Corrective Actions:

Corrective action may include any of the following:

- a. Formal apology
- b. Counselling
- c. Written warning to the perpetrator and a copy of it maintained in the record.
- d. Change of work assignment / transfer for either the perpetrator or the victim.
- e. Suspension or termination of services of the volunteer found guilty of the offence
- f. In case the complaint is found to be false, the Complainant shall, if deemed fit, be liable for appropriate disciplinary action by the

Management.

[\(For more details, refer to the pictorial representation of the process flow given in Annexure A\)](#)

Sanctions and disciplinary measures

Anyone who has been found to have sexually harassed another person under the terms of this policy is liable to any of the following sanctions:

- Verbal or written warning
- Adverse performance evaluation
- Suspension
- Disciplinary Action
- Dismissal

The nature of the sanctions will depend on the gravity and extent of the harassment. Suitable deterrent sanctions will be applied to ensure that incidents of sexual harassment are not treated as trivial. Certain serious cases, including physical violence, will result in the immediate dismissal of the harasser.

Implementation of this policy

- UPAY will ensure that this policy is widely disseminated to all relevant persons.
- All Volunteers, Members must be trained on the content of this policy as part of their induction into the organization.
- Every year, organization will require all volunteers, members to attend a refresher training course on the content of this policy.

- It is the responsibility of every zonal director to ensure that all his/her volunteers are aware of the policy.

Monitoring and evaluation

UPAY recognizes the importance of monitoring this sexual harassment policy and will ensure that it anonymously collects statistics and data as to how it is used and whether it is effective. Complaint Committee members are responsible for dealing with sexual harassment cases will report on compliance with this policy, including the number of incidents, how they were dealt with, and any recommendations made. This will be done on a yearly basis. As a result of this report, the organization will evaluate the effectiveness of this policy and make any changes needed.

VIII. CONFIDENTIALITY:

The NGO understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognizes the victim's interest in keeping the matter confidential. To protect the interests of the victim, the accused person and others who may report incidents of sexual harassment, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.

IX. ACCESS TO REPORTS AND DOCUMENTS:

All records of complaints, including contents of meetings, results of investigations and other relevant material will be kept confidential by the NGO except where disclosure is required under disciplinary or other remedial processes.

X. PROTECTION TO COMPLAINANT / VICTIM:

The NGO is committed to ensuring that no volunteer who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action.

The NGO will ensure that the victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action. Prohibition of publication or making

known contents of complaint and inquiry proceedings. —Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made, the identity and addresses of the Victim, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the complaint Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act 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 under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses. Penalty for publication or making known contents of complaint and inquiry proceedings.

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, , he shall be liable for penalty in accordance with the provisions of the service rules applicable.

XI. FALSE ALLEGATIONS:

Where the complaint Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the complainant or any other person making the complaint has made the complaint knowing 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 or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed: Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that 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. Where the complaint Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

XII. APPEAL:

If victim feels that the action taken by the employer is not in line with the natural law of justice. He or she reserve the right to appeal the matter again to the chairman of UPAY.

XIII. CONCLUSION:

In conclusion, the NGO reiterates its commitment to providing its volunteer, a workplace free from harassment/ discrimination and where every volunteer is treated with dignity and respect.

Format of Written Complaint

Date of complaint:
Name of Complainant:
Date of Incident:

Zone:
Name & address of accused:
Place of Incident:

Details about complain

Any witnesses

Any supporting documents

Signature of Complainant

Signature of Presiding officer

Incident Report (under UPAY Sexual Harassment Prevention Policy)

Zone	Name of presiding officer		
Incident report number		Date of Incidence	
Date on which presiding officer received the complaint		Place of Incidence	
Medium of communication of complaint	Written	Verbal	
Complaint received from	Victim	Others(mention name, post)	
Nature of complaint (whether it falls under the purview of Sexual Harassment)	Yes NO	Nature of complaint (whether it falls under the purview of Disciplinary action)	Yes/No
Name of complainant		Address of Complainant	
Name of Accused		Address of Accused	
Description of the whole complaint (exact details of Place, Date and witness etc)			
Recommendation by Presiding officer for action /Closure Report			

UPAY Prevention & Redressal of Sexual Harassment Policy 31.12.2014, Rev

05_18.01.20

	Signature of Presiding Officer
For Office Use - to be filled by Director(DAC)	
Need of investigation committee with reason	Yes/No
Direction by Director(DAC)	
Name of the Investigation committee if appointed	
Actions recommended by DAC/Chairman	<p>Clauses of corrective actions under UPAY Sexual Harassment Prevention Policy-</p> <p>5(a). Formal apology</p> <p>5(b). Counseling</p> <p>5(c). Written warning to the perpetrator and a copy of it maintained in the record.</p> <p>5(d). Change of work assignment / transfer for either the perpetrator or the victim.</p> <p>5(e). Suspension or termination of services of the volunteer found guilty of the offence</p>

Further follow ups ,which are needed	
Report submitted to :	<ol style="list-style-type: none">1) Chairman, UPAY2) Governing body, UPAY3) Executive body, UPAY4) Zonal Director, UPAY5) Any other
(Sign) (Presiding officer)	(Sign) Director(DAC)

Annexure A

PROCESS FLOW

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