

POSH POLICY FOR INDO AMERICAN CHAMBER OF COMMERCE

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1. OBJECTIVE

We, Indo American Chamber of Commerce (“**Company**”), are committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment.

We believe that all employees of the Company have the right to be treated with dignity and respect. Sexual harassment at workplace or other than workplace involving employees is a grave offence and is, therefore, punishable.

The policy is framed keeping in view the guidelines provided by the Supreme Court of India’s guidelines in Vishaka’s case and the specific legislation enacted for the purpose of preventing sexual harassment at workplace called Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**POSH Act, 2013**”).

This policy on Prevention of Sexual Harassment (“**POSH Policy**”) is framed in accordance with the provisions of the POSH Act and the Rules framed thereunder which is aimed at providing every woman at a workplace a safe, secure, and dignified work environment.

The objective of this policy is to

1. Prevent any acts of sexual harassment at workplace.
2. Prohibit acts of sexual harassment.
3. Redress and resolve grievances pertaining to sexual harassment.

2. SCOPE AND APPLICABILITY:

This POSH Policy applies to all people engaged with the Company for any work on a regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, and includes a co-worker, a contract worker, probationer, trainee, intern and visitor at the premises of the Company. This Policy covers any and all forms of alleged acts of sexual harassment against women.

Complaints relating to Sexual Harassment against women at workplace (as defined under Section 2(o) of the Act) shall be dealt with in accordance with the relevant provisions of the Act and the Rules framed thereunder.

3. DEFINITIONS:

- I. “**Aggrieved Woman**” – Aggrieved Woman means in relation to the 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. “**Employee**” - A person employed at the workplace, for any work on regular, temporary, ad-hoc or 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 coworker, a contract worker, probationer, trainee, apprentice or by any other such name.
- III. “**Workplace**” - The place of work at the Company including but not limited to any place where the Aggrieved Woman or the Respondent visits in connection with his/her work, during the course of and/or arising out of employment/ contract/ engagement with the Company, including transportation provided by the Company for undertaking such journey.

- IV. **“Employer”** – Employer means the Company and shall include a person responsible for management, supervision and control of the Workplace.
- V. **“Complainant”** – Complainant means the Aggrieved Woman and shall include the following in case the Aggrieved Woman is unable to make a complaint due to her physical or mental incapacity or death, to whom she has given her written consent to make a complaint or in the event of her death, then her relative has given written consent and complaint to:
- Relative;
 - Friend;
 - Co-worker;
 - A special educator (a person trained in communication with people with special needs in a way that addresses their individual differences and needs);
 - A qualified psychiatrist or psychologist;
 - Guardian;
 - An officer of the National Commission for Women or State Women’s Commission;
 - An authority under whose care the aggrieved woman is receiving treatment or care;
 - Any person who has knowledge of the incident jointly with any of the persons enumerated above or with the written consent of the Aggrieved Woman or her legal heir as maybe applicable.
- VI. **“Respondent”** - Respondent means a person against whom the Complainant has made a complaint for sexual harassment at the Workplace.
- VII. **“Internal Committee”** – Internal Committee means the committee constituted at the Company to address the sexual harassment at the workplace, of the Aggrieved Woman (or the Complainant) as per the provisions of the Act.

4. MEANING OF SEXUAL HARASSMENT

Sexual harassment shall mean any unwelcome act or behavior of sexual nature, whether directly or by implication, that may offend, humiliate, or intimidate a person, including but not limited to the following:

- i. Physical contact and advances.
- ii. Demand or request for sexual favors.
- iii. Making sexually coloured remarks.
- iv. Showing pornography; or
- v. Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

Indicative examples of conduct that constitutes sexual harassment, are provided below:

4.1. Physical Conduct

- i. Eve-teasing, patting, pinching, stroking, kissing, hugging, fondling, or inappropriate/unwanted touching, impeding, or blocking movements.

- ii. physical violence, including sexual assault; or
- iii. Inappropriate or indecent exposure of private body parts or “flashing” or continued staring at a woman’s body parts.

4.2. Verbal Conduct

- i. Repeated pestering and unwanted invitations for dates or sexual intimacy.
- ii. Sexual comments, stories or jokes about a person’s appearance, body, or clothing; or
- iii. Making or threatening retaliation on any negative response to sexual advances or reporting or threatening to report sexual harassment.

4.3. Non-Verbal Conduct

- i. Display of sexually explicit or suggestive material such as pictures, cartoons, calendars, or posters.
- ii. Sending sexually explicit text messages or e-mails; and
- iii. Whistling, leering, stalking.

The following circumstances, *inter alia*, may also constitute sexual harassment if they occur or are present in relation to or relate to any act or conduct of sexual harassment:

For the purposes of further clarity, sexual harassment also includes but is not limited to:

- a) Sexually suggestive comments about a person’s clothing, body and/or sexual activities.
- b) Sexually provocative compliments about a person’s clothes or the way their clothes fit.
- c) Comments of a sexual nature about weight, body shape, size, or figure; comments or questions about the sensuality of a person, or his or her spouse or significant other.
- d) Continuous idle chatter of a sexual nature and graphic sexual descriptions.
- e) Sexually derogatory comments or slurs.
- f) Implied or explicit promise of preferential treatment in a person’s employment.
- g) Implied or explicit threat of detrimental treatment in a person’s employment.
- h) Implied or explicit threat about a person’s present or future employment status.
- i) Interference with a person’s work or creating an intimidating, offensive or hostile work environment; or
- j) Humiliating treatment is likely to affect the health or safety of a person.
- k) Verbal abuse or threats or negative response to sexual advances, sexual jokes, suggestive or insulting sounds such as whistling, wolf-calls, or kissing sounds.
- l) Provocative sexual gestures such as provocatively licking lips or teeth.
- m) Lewd gestures such as leering and ogling with suggestive overtones.
- n) Sexual innuendos.
- o) Cornering, impeding, or blocking movement, or any physical interference in normal work or movement of the personnel.
- p) Touching that is inappropriate in the workplace such as patting, pinching, stroking, or brushing up against the body, mauling, attempted or actual kissing or fondling.
- q) Assault coerced sexual intercourse, attempted rape, or rape.
- r) Gratuitous display of sexually explicit written or audio-visual materials like pornographic posters, cartoons, drawings, books, or magazines.
- s) Transmission or display of offensive email, screen savers or pornographic computer images.
- t) Persistent unwanted attention: following or stalking behaviour; and/or

- u) Unwanted sexual advances that condition an employment benefit upon an exchange of sexual favours.

In addition to the above, determining what constitutes Sexual Harassment depends upon the facts and the context in which the conduct occurs. Sexual Harassment may take many forms - subtle and indirect, or blatant and overt. For example:

- i. It may be committed by a man or a woman.
- ii. The victim is a woman.
- iii. It may occur between peers or between individuals in a hierarchical relationship.
- iv. It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance; and
- v. It may consist of repeated action or may arise from a single incident.

4.4. Quid Pro Quo ('This for That')

- a) Implied or explicit promise of preferential/ detrimental treatment in employment.
- b) Implied or express threat about her present or future employment status.

4.5. Hostile Work Environment shall include:

- a) Creating a hostile, intimidating or offensive work environment.
- b) Humiliating treatment likely to affect health and safety.

It is to be noted that Sexual Harassment in the Workplace is a behavior that is unwelcome in the Workplace. It is a subjective experience and often occurs in a matrix of power. The impact on the Complainant (person who has complained) matters and not the intention of the Respondent (person against whom the complaint is made).

5. PROCEDURE FOR FILING OF COMPLAINT

5.1. Who can make a Complaint?

- a) Any Aggrieved Woman can make a complaint of sexual harassment at the workplace to the Internal Committee, within three months from the date of happening of the alleged incident and/or within three months from the date of the last incident in case of series of incidents.
- b) The Internal Committee may accept a complaint of the Aggrieved Woman beyond three months from the date of the alleged incident, if it is satisfied with the reasons that have prevented the Aggrieved Woman from making such complaint within the time, by recording the same in writing.
- c) In case 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 mentioned under the definition of 'Complainant' can make a complaint against the Respondent on behalf of the Aggrieved Woman so long as she/legal heir as the situation demands has given their written consent to the said person who will take forth the Complaint.

5.2. How To Make A Complaint?

- a) The complaint against the sexual harassment at the Workplace shall be made in writing and 6 (six) copies of the same along with the supporting documents, with clear details of the

alleged incident and the particulars of the Respondent and the witnesses such as name, designation, and address, etc., shall be submitted to the Internal Committee.

6. COMPLAINTS FORUM

6.1. Internal Committee:

Any Aggrieved Woman or the Complainant can make a complaint regarding sexual harassment at the Workplace to the Presiding Officer of the Internal Committee or any member of the Internal Committee at the Company which is specifically constituted to address the grievances/issues relating to sexual harassments at the Workplace. Internal Committee is constituted per the Company's administrative set-up at local levels.

The Internal Committee shall consist of:

- a) A Presiding Officer, who shall be a female senior executive or of such other higher position in the Company.
- b) Two members from amongst the employees of the Company, preferably committed to the cause of women or having experience in social work or have legal knowledge.
- c) One external member who shall be an independent party from a non-governmental organizations or associations, familiar with the handling of issues of sexual harassment. It can be a lawyer, or a social worker who is committed to the cause of women.
- d) At least 50% of the members of the Internal Committee shall be women.
- e) A quorum of 3 members is required to be present for the proceedings to take place. The quorum shall include the Presiding Officer at all times and at least two members, one of whom shall be a woman.
- f) The names of the Internal Committee members along with their contact details shall be displayed, from time to time, on the notice board of the Company, and/or its intranet. The Company shall also regularly and promptly notify any changes in the constitution of the Internal Committee, or to the contact details of the members of the Internal Committee.

7. REDRESSAL MECHANISM

7.1. Complaint Initiation

- a) Any woman employee who feels is being sexually harassed directly or indirectly can submit a written complaint of the alleged incident against any other employee or an outsider (visitor, client or vendor of the Company who has inflicted such unwelcoming sexual act/behaviour towards the Aggrieved Woman at the Workplace) to any member of the Internal Committee through e-mail, registered or ordinary post, courier or by hand delivery within 3 (three) months of occurrence of the incident and in case of a series of incidents, within a period of 3 (three) months from the date of last incident.
- b) The Complaint may be oral or in writing. If the Complaint is oral, the Presiding Officer or any member of the Internal Committee to whom the Complaint is made shall record the same in writing, in detail, in the presence of the Complainant.
- c) A written complaint shall include all necessary details in 6 copies with supporting documents.

- d) If the complaint is against any of the committee member, or any person in a managerial capacity with the power to directly or indirectly influence the employment or compliant of the victim, such complaint shall be referred to the District officer of the jurisdictional Local Committee constituted under the POSH Act.

7.2. Complaint Processing

- a) Upon receipt of the Complaint by the Presiding Officer/ any member of the Internal Committee, such individual shall forward the Complaint to all the other members of the Internal Committee.
- b) The Committee will maintain a register to endorse the complaint received by it and keep the contents confidential, except to use the same for discreet investigation.
- c) All complaints will be treated with high confidentiality & will not be disclosed to any third party except for the parties involved in the matter.
- d) The committee will hold a meeting with the complainant at the earliest possible instance from the date of the complaint. At the first meeting, the Committee members shall hear the Complainant and record her allegations. If the Complainant does not wish to depose personally due to embarrassment of narration of event, a lady officer for lady Complainant involved and a male officer for male Complainant involved shall meet and record the statement. Needless to mention that the Complainant will have the right to proceed against the Respondent for any other misconduct or criminal or civil law in his/her personal capacity.
- e) If the nature of the complaint is not in the preview of sexual harassment or the complaint does not mean an offence of Sexual Harassment, the complaint will be dropped by the Internal Committee and the Complainant may be advised to approach appropriate committee of the Company for redressal of the grievances addressed in the complaint.
- f) Complaint should not be given with a malicious intention or for any personal gain or vengeance. If the committee finds the complaint to be false or filed with malicious intention, the Complainant would be subject to disciplinary action by the Management including termination of employment.
- g) The Internal Committee members should ensure that neither the Complainant nor the Respondent (including the witnesses to the complaint) is subject to discrimination or any sort of retaliation for being involved in the said sexual harassment complaint.

8. INQUIRY PROCESS BY THE INTERNAL COMMITTEE

8.1. Conciliation:

- a) Upon request by the Aggrieved Woman (or the Complainant), the Internal Committee may take appropriate steps to settle the matter between the Aggrieved Woman and the Respondent through Conciliation. If any settlement arrives at the Conciliation, the Internal Committee shall record the same and forward it to the Company for taking necessary action.

Please note that no monetary settlement shall be offered during Conciliation.

- b) Resolution through Conciliation has to be decided within 2 (Two) weeks from the date of receipt of the complaint by the Internal Committee and no further action against the Respondent shall be taken once the settlement terms are implemented unless the Complainant proves that there is a new act of Sexual Harassment that has occurred after such conciliation or settlement. Copies of the settlement arrived at the Conciliation shall be provided to the Complainant and the Respondent.

8.2. Formal Inquiry:

- a) If no Conciliation is requested by the Aggrieved Woman or if no settlement is arrived at the Conciliation or if the settlement arrived at the Conciliation is not complied with by the Respondent, then the Internal Committee may proceed to initiate formal inquiry against the Respondent in accordance with the principles of natural justice.
- b) Though the complaint made under the POSH Policy is kept confidential, a copy of the complaint received by the Internal Committee is required to be forwarded to the Respondent within 7 (seven) business days, providing him an opportunity to present his case as per the provisions of the Act. However, necessary care and caution shall be taken to prevent any sort of disadvantage or victimization of the Complainant and all contents and the Proceedings shall be kept confidential by the various parties involved including the Complainant and the Respondent.
- c) Pursuant to the above, the Respondent is required to file his reply along with the details of the supporting documents and his witnesses within 10 (ten) business days, failing which the complaint shall be heard and disposed off on merits, in his absence.
- d) During the inquiry proceedings, minimum three members (including the Presiding Officer/ the Chairman at all time) of the Internal Committee shall be present and no legal practitioner can represent any party at any stage of the inquiry proceedings.
- e) The Internal Committee shall record all the proceedings of the inquiry in writing including the statements made by the Complainant, the Respondent and their respective witnesses and any other evidence submitted in support of the allegations/ defenses and minutes (or) notes of each sitting till the final disposal of the complaint.
- f) The Formal Inquiry shall be completed within 90 days from the date of receipt of a complaint including preparation of Inquiry Report in which the findings/ recommendations shall be recorded and forwarded to the Company as the case may be.
- g) The Inquiry Report prepared by the Internal Committee shall be submitted to the Company within 10 days from the date of completion of the Formal Inquiry.
- h) In the event the Complainant opts to make a complaint to the Police, all possible support and assistance shall be extended from the Company.

8.3. Termination of Formal Inquiry:

Subject to 15 (Fifteen) days prior notice, the Internal Committee reserves its right to terminate the formal inquiry or give ex-parte decision, if the Complainant or the Respondent respectively is absent for 3 consecutive hearings, without any valid reason.

8.4. Decisions:

The decisions of the Internal Committee shall be decided by the majority vote and in cases of division of votes equally, the Presiding Officer shall have a casting vote.

9. INTERIM RELIEFS:

During the pendency of the inquiry proceedings, the Complainant may make a written request to the Internal Committee for grant of certain interim reliefs. Upon receipt of such request, the Internal Committee may recommend to the Company to

- Transfer the Complainant or the Respondent to any other Workplace.
- Grant leave to the Aggrieved Woman for a maximum period of 3 (three) months, in addition to the leave she would be otherwise entitled under any law in force.
- Prevent the Respondent from assessing Complainant's work performance or changing the reporting channel of either Parties' employment in the Company.
- Grant such other relief as may be appropriate.

10. ACTIONS THAT MAY BE TAKEN AGAINST THE RESPONDENT:

Once the Internal Committee submits its Inquiry Report to the Company, the Company shall do any of the following and confirm the same to the Internal Committee within 60 days of receipt of the Inquiry Report:

- a) If the allegation against the Respondent has not been proved, the Company along with the Internal Committee shall ensure that the Complaint has been fully investigated and both the Complainant and the Respondent resolves the differences between them without being subjected to any disadvantage or victimization within the Workplace.
- b) If the allegation against the Respondent has been proved, the Company shall take appropriate action in accordance with the recommendations of the Internal Committee which may include any of the following:
 - i. Counseling.
 - ii. Censure or reprimand.
 - iii. Written apology to be tendered by the Respondent.
 - iv. Written warning
 - v. Withholding of promotion and/or increments
 - vi. Suspension
 - vii. Termination
 - viii. Carrying out community service

- ix. Or any other action that the Internal Committee in consultation with the Management of the Company, may deem fit.
- x. Deduction of compensation from the wages/ salary of the Respondent and the same be payable to the Aggrieved Woman.

11. CONFIDENTIALITY AND NON-RETALIATION:

Every person who is a part of the complaint process shall always keep the contents of the complaint, the identity of the complainant, respondent and witnesses, and any information relating to conciliation, inquiry proceedings and recommendations of the Committee confidential.

The Company does not tolerate any sort of retaliation or victimization against anybody who identifies and raises issues relating to any form of harassment/ discrimination, including sexual harassment, or who lodges complaints and/ or participates in any related proceedings either directly with the management or through the grievance procedures in place.

Any person contravening the confidentiality clauses or acts in retaliation for the sexual harassment complaint, is subject to disciplinary action as per the Company's disciplinary policy along with penalty of Rupees Five Thousand as prescribed under the POSH Rules.

12. FALSE COMPLAINTS:

Where the Internal Committee arrives at the conclusion that the allegation against the Respondent is malicious or the Aggrieved Woman 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 Company to take appropriate action against the Aggrieved Woman or the person making the complaint in accordance with the Clause 10 of this Policy.

It is clarified that mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant under this Clause.

13. APPEAL:

Any party not satisfied with the recommendations made by the Internal Committee in its Inquiry Report or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the appellate authority in accordance with the POSH Act and Rules, within 90 days of the recommendations being communicated to them.

14. PROCEEDINGS UNDER INDIAN PENAL CODE

Under Section 509 of the Indian Penal Code, 1860 (the "IPC"), any word, gesture or act intended to insult the modesty of a woman is an offence. Where the conduct of an Employee amounts to a specific offence under the Section 509 or any other provision of the IPC, or under any other law, the Company shall initiate appropriate action in accordance with such law by making a complaint with the appropriate authority. The Company shall also provide assistance to a woman Complainant if she chooses to file a complaint in relation to the offence under the Indian Penal Code or any other extant law.

15. PREVENTIVE MEASURES

The Company shall undertake the following preventive measures to ensure that Sexual Harassment does not occur:

- Provide a safe working environment at the Workplace which shall include safety from the persons coming into contact at the Workplace whereby establishing a friendly and transparent reporting and redressal mechanism under the POSH Act;
- Placing a copy of this Policy on the intranet of the Company and / or such prominent places as a continual reminder to the Employees (including the visitors, vendors, clients, etc.,) of the Company's Policy on prevention, prohibition and redressal of Sexual Harassment against women;
- Sensitizing the Employees and provide training related to Sexual Harassment issues on regular basis at periodic intervals.

16. SCOPE, POWERS, FUNCTIONS & TERM OF THE INTERNAL COMMITTEE MEMBERS

16.1. Disqualification of Membership

An Employee Member shall cease to hold office as a member of the Internal Committee if she/he ceases to be an Employee of the Company. Further, any member including the Presiding Officer shall be disqualified by the Company, at its own sole discretion, from acting as a member of the Internal Committee if she/he:

- is found guilty of committing an act of Sexual Harassment or any other act of moral turpitude;
- contravenes Clause 11 of this Policy and/or Section 16 of the POSH Act relating to Confidentiality;
- has been convicted for an offence or if an inquiry into an offence under any extant law is pending against her/him;
- is found guilty in any disciplinary proceedings of the Company or if a disciplinary proceeding is pending against her/him for any alleged misconduct;
- has so abused her/his position as a member of the Internal Committee so as to render her/his continuance in office prejudicial to the interest of the Company and its employees.

In the event of any disqualification, resignation, or termination of appointment (by the Company) of any member, the Company shall, with respect to an outgoing Employee Member, forthwith notify a substitute Employee Member and shall, with respect to the external member, make best efforts to find an external member as quickly as possible.

Notwithstanding the aforesaid, the Company shall be entitled, at its sole discretion and at any time, to terminate the appointment (as member of the Complaints Committee) of any member and appoint a substitute thereof.

Any Internal Committee member who believes that his/her objectivity may be compromised for any reason may apply to the Internal Committee to recuse him/herself from an investigation. The Internal Committee will consider whether (or not) to accept such requests and if accepted, shall appoint a replacement member for the particular investigation in accordance with the law and/or this Policy and notify all concerned parties.

16.2. Term

The term of membership to the Internal Committee shall be for three years from the date of appointment of the relevant member. However, the Company may temporarily extend the term of any member of the Internal Committee in order to dispose of any pending complaint. The foregoing shall not be taken to limit the authority of the Company to re-appoint a member upon the completion of the aforesaid three-year period.

16.3. Powers of the complaints Redressal Committee

The Internal Committee shall have the powers of civil court under the Code of Civil Procedure, 1908 when trying a suit in respect on the following matters

- Summoning and enforcing the attendance of any person and examining him on oath;
- Requiring the discovery and production of documents; and
- Any other matter which may be prescribed.

16.4. Functions of the Internal Committee

The Internal Committee shall have the following responsibilities:

1. Implementation of this Policy;
2. Conducting inquiries in accordance with the procedures set out as per this Policy, and ensuring compliance with the same in all actions taken under, or in connection with, this Policy and applicable law;
3. Organizing workshops or interactive programs/ training programs to spread awareness of the issue of Sexual Harassment as well as this Policy amongst the employees of the Company; and
4. Keeping a record of all Complaints received and the actions taken by the Internal Committee and the Company thereon.
5. Preparation and submission of Annual Report as contemplated under the POSH Act.

16.5. Annual Report

The Internal Committee shall, at the end of each calendar year, prepare a consolidated report (“**Annual Report**”) to be submitted to the concerned District Officer, State Commission for Women/other applicable Government authority in accordance with Section 21 of the POSH Act, with a copy to the Company.

The Annual Report shall contain the following details:

- a. Number of Sexual Harassment complaints received in the year.
- b. Number of complaints disposed off.
- c. Nature of action taken by the employer.
- d. Number of pending cases more than 90 days
- e. Number of workshops and awareness programs carried out