

# ***Law on Prevention of Sexual Harassment at the Workplace***

## **Guidelines of the POSH Act, 2013**

### **1. Introduction:**

India's first legislation specifically addressing the issue of workplace sexual harassment; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act") was enacted by the Parliament in 2013. The POSH Act has been enacted with the objective of preventing and protecting women against workplace sexual harassment and to ensure effective redressal of complaints of sexual harassment. The objective of these guidelines is to serve as a ready reckoner and re-educate on the law relating to the POSH Act. Further, the intention of these guidelines is to create more awareness on the issue and simultaneously equip the Institution in providing women a safe and secure working environment.

### **2. Important Provisions of the POSH Act:**

a) ***Applicability:*** As per the POSH Act, an 'aggrieved woman' in relation to a workplace, is a woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment. Given that the definition does not necessitate the woman to be an employee, even a Student, Parent,

Vendor, etc who may be sexually harassed at our institution can claim protection under the POSH Act.

It may be noted that in order for a woman to claim protection under the POSH Act, the incident of sexual harassment should have taken place at the workplace. As per the POSH Act, 'workplace' includes any place visited by the employee arising out of or during the course of employment, *including transportation provided by the Management of the Institution* for the purpose of commuting to and from the place of employment.

The POSH Act protects only women and is not a gender-neutral legislation and protects only women. *Therefore, the safeguards under the POSH Act are not Applicable to 'men victims'.*

b) ***What amounts to Sexual Harassment:*** As per the POSH Act, 'sexual harassment' includes unwelcome sexually tinted behaviour, whether directly or by implication.

Examples of Conduct Amounting to Sexual Harassment Whether an act or conduct would amount to 'sexual harassment' is dependent on the specifics of the act and the circumstances.

**The following is an indicative list of conduct that could be considered as sexual harassment:**

1. Unwanted sexual advances or propositions;
2. Pestering for dates or receiving unwelcome sexual suggestions or invitations;
3. Offering employment benefits in exchange for sexual favours;
4. Leering;
5. Making sexual gestures;
6. Displaying sexually suggestive objects or pictures, cartoons, calendars or posters;
7. Making or using derogatory comments, comments about a person's body or dress, slurs, epithets or sexually suggestive jokes;
8. Written communications of a sexual nature distributed in hard copy or via a computer network, suggestive or obscene letters, notes or invitations;
9. Physical conduct such as unwanted touching, assault, impeding or blocking movements;
10. Being forcibly kissed or hugged;
11. Having someone expose their private parts to you or repeatedly staring at a woman's body parts that makes her uncomfortable;
12. Making or threatening retaliation after a negative response to sexual advances or for reporting or threatening to report sexual harassment;
13. Eve-teasing;
14. Sexually tinted remarks, whistling, staring, sexually slanted and obscene jokes, jokes causing or likely to cause awkwardness or embarrassment;
15. Subtle innuendoes or open taunting regarding perfection, imperfection or characteristics of physical appearance of a person's body or shape;
16. Gender based insults and/or sexist remarks;
17. Displaying pornographic or other sexually offensive or derogatory material;
18. Forcible invitations for dates;
19. Forcible physical touch or physical assault or molestation;
20. Suggesting or implying that failure to accept a request for a date or sexual favours would adversely affect the individual in respect to performance evaluation or promotion;
21. Explicitly or implicitly suggesting sexual favours in return for hiring, compensation, promotion, retention decision, relocation, or allocation of job/responsibility/work;
22. Any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at

the work place hostile or intimidating to a person belonging to the other sex, only on the ground of such individual providing or refusing sexual favours;

23. Physical confinement against one's will and any other act likely to violate one's privacy.

For more details- <https://msde.gov.in/index.php/en/useful-links/sexual-harassment>

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