

Dr. Agarwal's Group of Eye Hospitals

SEXUAL HARASSMENT PREVENTION COMMITTEE RULES

1. PREAMBLE

Dr. Agarwal's Group of Eye Hospitals have constantly sought to create a work environment which is supportive of the dignity and diversity of all its associates. In order to have a non-discriminatory and a hostility-free work environment, for all employees, especially in respect of female employees, there is a need to develop a mechanism by which sexual harassment complaints can be redressed. The Hon'ble Supreme Court of India, in the case of Vishaka vs State of Rajasthan (reported in (1997) 6 SCC 241), has given certain directions regarding the procedure to be developed in redressing such complaints. Keeping in view the aforesaid guidelines the Company/Management has been pleased to formulate these Rules.

2. These rules may be called "**Dr. Agarwal's Sexual Harassment Prevention Committee Rules**".

3. DEFINITIONS

- 3.1 "**Company**" means any of the establishments instituted under the Dr. Agarwal's Group of Eye Hospitals including Dr. Agarwal's Eye Hospital Limited & Dr. Agarwal's Healthcare Limited, **hereafter referred as "DAGEHL"**) having its Corporate Office at 3rd Floor, Buhari Towers, No.4, Moores Road, Off Greaves Road, Near: Asan Memorial School, Chennai-600 006 and any other locations in India from which it carries out its operations from time to time.
- 3.2 "**Management**" means the Chairman & Directors of Dr. Agarwal's Eye Hospital Limited and Dr. Agarwal's Healthcare Limited and/or the VPs/General Managers of DAGEHL or any other person or persons vested with authority by Management regarding the execution of these sexual harassment rules.
- 3.3 "**Employee**" shall mean and include all those employed by the Company whether on hire or reward.
- 3.4 "**Complainant**" shall mean and include an Employee who forwards a sexual harassment complaint to the chairperson of the Sexual Harassment Committee

alleging that they or another Employee were subjected to sexual harassment.

3.5 **"Defendant/Respondent"** shall mean and include an Employee accused of sexual harassment.

3.6 **"Sexual harassment"** Without being exhaustive, sexual harassment in work place/s includes such un-welcome sexually determined behaviour, whether directly, indirectly or by implication, as -

- (i) physical contact of a sexual nature or advances of a sexual nature;
- (ii) a demand or request for sexual favours;
- (iii) sexually coloured remarks;
- (iv) showing, displaying or circulating pornography;
- (v) any other un-welcome physical, verbal or non-verbal conduct of a sexual nature.

Indulging in any act of omission or commission as provided herein above, shall be deemed to be "Misconduct" under the Service Rules of the Company.

3.7 **"Sexual Harassment Prevention Committee" or "Committee"** shall mean the Committee constituted by the Management from time to time, to enquire into the allegations of sexual harassment (made by employees at the work place) and to submit a report thereof, after holding an enquiry in accordance with the procedures contained in these rules. At all times, the Sexual Harassment Prevention Committee will be chaired by a female and will be comprised of five members of which 50% or more are female.

3.9. **"Parties"** - shall mean and include Complainant and/or Defendant/Respondent.

3.10 **"Complaint Register"** means the register maintained in the office of Head – HR exclusively for the purpose of recording the complaints of sexual harassment.

3.11 **"Disciplinary Authority"** means the Management or any other person or persons vested by the Management with the authority to act on behalf of the Company as Disciplinary Authority.

3.12 **"Enquiry"** means the enquiry conducted by the Sexual Harassment Prevention Committee.

4. **SUBMISSION OF COMPLAINTS**

4.1 An Employee may submit a Complaint regarding sexual harassment in writing along with the relevant documents/records/material to the chairperson of the Committee. Immediately after submission of such a complaint the chairperson of the Committee

shall make an entry regarding submission of a written complaint in the "Complaint Register" maintained with the Head-HR. The chairperson of the Committee shall keep the contents thereof strictly confidential except as necessary to carry out the purposes of the Committee and/or these rules.

- 4.2 Following the submission of a complaint to the Committee, the Committee shall proceed to hold an enquiry in accordance with these rules and before commencement of the enquiry, a copy of the complaint shall be forwarded to the Defendant giving 7 days time to submit a reply. The Committee may consider granting an extension of time for the Defendant to submit a reply, if the Defendant requests it and provides reasonable reasons in support of such request and if the Complainant has no objection to the request. In the event that the Complainant objects to an extension, the Committee may grant an extension where the Committee determines that if an extension were not granted, the prejudice to the Defendant would outweigh the prejudice to the Complainant keeping in view the fact that an enquiry of this nature is required to be completed expeditiously.
- 4.3. If the Defendant fails to submit a reply to the complaint within seven days in spite of being given an opportunity to do so, the Committee shall proceed with the enquiry.
- 4.4 The Committee shall inform the Management upon receipt of a Complaint. Management, in its sole discretion, may transfer the Complainant or the Defendant to another team or department within the Company pending the outcome of the proceedings hereunder, provided that any such decision shall be made with the best interest of the Complainant in mind. In appropriate cases the Management may also place the Defendant under suspension pending the outcome of the proceedings and in such cases the Defendant will be entitled to receive a subsistence allowance in accordance with the Service Rules of the Company.

5. **PROCEEDINGS OF THE COMMITTEE**

- 5.1 The proceedings shall be held by the Committee on the premises of the Company or at any other suitable place after intimation to the parties. Normally the Committee may hold sittings only when all five members of the Committee are present. If any member is absent, the proceedings may be adjourned. Provided that if majority of the members are present and if both the parties have no objection to holding the proceedings in the absence of other member/s, the Committee may proceed to hold the sitting/s. Any member of the Committee who is a Complainant, Defendant or has personal knowledge as a witness of the matters that will be at issue at the proceedings, must excuse him or herself from the proceedings. In such a case, Ethics Committee may appoint a replacement member. However, the proceedings may

continue without the appointment of a replacement member if a majority of the Committee members are present and if both the parties have no objection to holding the proceedings in the absence of any additional Committee member/s.

5.2 Intimation to Parties

- (i) The Sexual Harassment Prevention Committee shall hold proceedings after intimating the parties and the proceedings shall be recorded in writing, copies of which shall be forwarded to both the Complainant and the Defendant.
- (ii) Initially the Committee may issue notices to the parties intimating the date of the enquiry. Once the proceedings of the enquiry commence, the subsequent date/s of the enquiry may be intimated by incorporating the same in the enquiry proceedings itself and no separate notice needs to be issued in this regard.

Provided that fresh notice may be issued if on the previously notified date, no sitting takes place.

- (iii) Communication in writing to the parties may be made either by personal service or by sending it through registered post acknowledgement due/courier service or through E-Mail.

5.3 Preliminaries

Initially the Committee shall explain the procedure that would be adopted in the conduct of the enquiry and provide a copy of these Rules to the parties, on request. The complaint may be read over and explained to both the parties. So also, the defence statement/reply, if any, submitted by the Defendant may be read over and explained to the parties.

- 5.4 In the absence of a defence statement/reply from the Defendant, the Defendant may be permitted to make an oral statement before the Committee itself in respect of the allegations contained in the complaint and on that basis points for determination may be formulated as provided for in rule 6, here below.

5.5 Ex parte Enquiry

If either of the parties remain absent in spite of due notice as indicated herein above or if they refuse to participate in the enquiry, then it is open to the Committee to

proceed with the enquiry on an ex-parte basis and submit a report the Ethics Committee on the basis of material available on record.

5.6 Adjournments

It is open to the Committee to grant adjournments to the parties if a party requests an adjournment and provides reasonable reasons in support of such request and if the other party has no objection to the request. In the event that the other party objects to an adjournment, the Committee may grant an extension where the Committee determines that if an adjournment were not granted, the prejudice to the requesting party would outweigh the prejudice to the objecting party keeping in view the fact that an enquiry of this nature is required to be completed expeditiously.

6. FRAMING OF CHARGES

6.1 Before commencement of recording of evidence, the Committee, on the basis of allegations of sexual harassment made in the complaint, must frame the charges and/or determine the points that must be considered. Based on the statement of defence submitted by the Defendant, the Committee may also frame additional points for determination, if necessary.

6.2 After completion of the procedure contained in rule 5.3 and 5.4, the Committee may question the Defendant as to whether he admits or denies the charges. If the Defendant voluntarily and un-equivocally admits the charges/allegations contained in the complaint, then the Committee may directly proceed to submit a report on the basis of such an admission.

7. ASSISTANCE IN THE ENQUIRY

7.1 The Complainant as well as the Defendant may take the assistance of any willing Employee of their choice, but not an individual who is not an Employee.

Provided that an Employee who is facing Disciplinary Action or a Committee member, or an Ethics Committee member or an Ethics Office employee or any member of the legal department, may not be permitted to assist either the Complainant or the Defendant in the enquiry.

7.2 No Lawyer or a legally trained person shall be permitted to represent either the Complainant or the Defendant.

Provided that the Management may permit parties to be represented by an Attorney or a legally trained person if it is of the opinion that the charges are complicated and that the parties may not be in a position to effectively conduct their case properly in the enquiry without the assistance of an expert.

- 7.3 The Management may consider granting permission as above only upon receiving a written request in that regard. Provided that if permission is granted to one of the parties, then an opportunity to engage an Attorney/legally trained person may also be provided to the other party even in the absence of a formal request.

8. **PROCEDURE**

- 8.1 Before commencement of the recording of evidence, both the parties (Complainant and Defendant) shall file their respective list of documents (together with copies of the documents) and witnesses. Copies of the same shall be forwarded to the opposite party.

Provided that for good and sufficient reasons, determined at the sole discretion of the Committee, the parties may also be permitted to produce additional documents and examine additional witnesses.

8.2 **Commencement of Evidence**

Normally the Complainant shall commence the evidence by examining witnesses. However, depending on the charges/points for determination framed by the Committee, it is open to the Committee to direct the parties otherwise.

8.3 **Defence Evidence**

The Defendant may be permitted to lead evidence in defence after conclusion of the evidence of the Complainant.

8.4 **Recording of Evidence**

- (i) The evidence shall be recorded either in the form of a summary or in a "question" and "answer" form. After examination of each witness, the said witness shall be tendered for cross-examination by the other party and after conclusion of the cross-examination, further witnesses may be permitted to be examined.

- (ii) The witnesses examined on behalf of the Complainant may be recorded as

CW-1, CW-2, etc and those examined on behalf of the defence be recorded as DW-1, DW-2, etc.

- (iii) Documents produced and marked by the Complainant can be recorded as Exhibits C1, C-2, C-3, etc whereas those produced and marked on behalf of the Defendants can be recorded as Exhibits D1, D2, D3, etc.
- (iv) Copies of the records of the day-to-day proceedings shall be provided to both the parties at the end of the sitting and each party shall endorse a copy of such records.
- (v) As far as possible, the evidence shall be recorded in the presence of both the parties.

Provided that in case one of the parties remains absent and the Committee is of the opinion that the absence is not justified, then it is open to the Committee to record evidence in the absence of the other party. In such an event, an opportunity to cross-examine the said witness may be provided to the other party on the next/subsequent date/s of hearing.

Provided further that if the party fails to cross-examine the witness in spite of being given an opportunity to do so, it is open to the committee to discharge the said witness.

- (vi) During the course of recording the evidence, the Committee may disallow any question that the Committee determines are not relevant to the matters in issue. The Committee may also put questions to the witnesses, however such questions may only be asked in order to clarify testimony that has been given by a witness.

8.5 Interpretation of these Rules

The Committee shall be entitled to interpret these Rules as part of any proceeding hereunder. However, in the event that the Committee feels that it is unable to understand any portion of these Rules, the Committee may seek a clarification from the Management.

9. ARGUMENTS

Upon conclusion of the evidence, the Committee may provide an opportunity to the parties to file written arguments and/or hear oral arguments, provided that if this opportunity is provided to one party it must also be provided to the other party, whether or not formally requested by the other party.

10. ENQUIRY FINDINGS

- 10.1 The Committee shall consider and analyze the evidence/material, both oral and documentary, placed before it and submit the findings keeping in view the following principles.
- (i) that the object is to determine whether the allegations contained in the complaint are true or false.
 - (ii) that the Committee shall rely only upon the evidence -oral and documentary, produced by the parties in the enquiry. Any other material which is not a part of the enquiry proceedings shall not be taken into consideration in determining whether the charges are established and whether the Defendant is guilty or otherwise.
 - (iii) that the report should contain a brief description of the charges/allegations made in the complaint, the points for determination, the procedure followed in the enquiry, the details regarding witnesses examined on behalf of the Complainant and the Defendant, documents produced on either side, contentions urged in the arguments submitted by both the parties, summary of the evidence tendered by the parties/witnesses. The Committee shall carefully analyze and consider the evidence on record in order to find out whether the allegations are established or otherwise. The Committee shall record a specific finding in respect of each allegation/charge as to whether it is proved or otherwise.
 - (iv) that the findings shall be supported by reasons. The Committee shall forward its report-cum-findings to the Ethics Committee for further action.
 - (v) that in the event of a disagreement among the Sexual Harassment Committee members regarding any determination for which the Sexual Harassment Committee is herein responsible, the majority view shall prevail and in the event that there is no majority, the chairperson of the Sexual Harassment Committee shall have the deciding vote.

11. The Committee shall endeavour to complete the enquiry expeditiously, within three months from the date of commencement. The Ethics Office shall periodically follow-up with the Committee to ensure timely completion of the enquiry. Provided that if there be any delay beyond three months, the Committee may intimate the Ethics Committee about the same and thereafter proceed to complete the enquiry as soon as possible. The proceedings are confidential in nature and hence only the Complainant, Defendant, witnesses and Committee members shall be permitted to attend the enquiry, provided that witnesses may only attend for the portion of the proceedings during which they are giving evidence. Only the Complainant, Defendant and the Ethics Committee will be provided with the copies of the proceedings/depositions /report-cum-findings.

12. **MEETINGS OF THE COMMITTEE**

The Committee shall meet at least once a month and submit a report to the Ethics Committee regarding the number of complaints of sexual harassments received/enquired into by it and the result of each such enquiry. The Committee shall also forward a copy of the said report to the i) Secretary, Tamil Nadu State Commission for Women, Chennai.

13. **ACTION ON THE ENQUIRY REPORT**

After receipt of the report of the enquiry, the Disciplinary Committee shall forward a copy of the same to the parties allowing them an opportunity to show cause as to why the said report -cum-findings should not be accepted. After receipt of the reply or in the event of either of the parties failing to submit a reply within seven days, the Disciplinary Committee may proceed to examine the report-cum-findings taking into consideration the reply sent by the parties, if any. If the Disciplinary Committee determines that the charges have been proven then the Disciplinary Committee may proceed to impose punishment as provided for in the Company's Service Rules.
