



YSF Code of Conduct 2023 -28



Yog Sports Foundation



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INTRODUCTION

Sexual harassment in the workplace is a form of sex discrimination which negatively affects the working environment, undermines gender equality at work, creates unfair practices in employment, and adversely impacts the dignity and well-being of workers. It creates psychological anxiety and stress for victims and if ignored, can result in high costs for Foundations through loss of productivity, low worker morale, absenteeism, and staff turnover. To lay the legal groundwork for a safe and healthy work environment, the 2012 Labour Code stipulates that sexual harassment is prohibited in the workplace. It also includes some relevant regulations which for example give YSF Officials s who are victims of sexual harassment the right to unilaterally terminate their YSF working contract. In spite of this, the current legal framework remains too general and lacks definitions and specific indicators to determine what type of behaviour constitutes sexual harassment. In practice, it is therefore difficult to prevent and address sexual harassment and cope with violations. In order to implement the laws and combat sexual harassment, YSF Developed a Code of Conduct for YSF officers and all members of YSF.

CODE OF CONDUCT



The Code provides practical guidance to YSF Bodies, YSF Bodies' organizations, workers and trade unions on the implementation of regulations to effectively prevent and address sexual harassment in the workplace in accordance with the Labour Code. It also recommends the development, implementation and monitoring of a workplace policy on sexual harassment to promote safe and healthy workplaces, where all workers, irrespective of sex or status, are treated with fairness, dignity and respect.

OBJECTIVE

CODE OF CONDUCT



The Code applies to all Foundations, including YSFs and factories, in both the public and private sectors, regardless of size. Small Foundations may need to adapt some of the practical content identified in the Code to fit their operational structures, but adaptations should always be consistent with the general principles of the Code.

The term “workplace” in the Code refers not only to the specific location where work is being performed, such as an office or factory but also to locations where work-related business may be conducted. These could include, but are not limited to:

- Work-related social activities, such as a reception organized by the YSF for staff or clients, etc.;
 - Conferences and training sessions;
 - Official business travel;
 - Business meals;
 - Work-related telephone conversations;
- and
- Work-related communications through electronic media.

SCOPE AND COVERAGE

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1. WHAT IS SEXUAL HARASSMENT

“Sexual harassment” is defined as any behaviour of a sexual nature that affects the dignity of women and men, which is considered unwanted, unacceptable, inappropriate and offensive to the recipient, and that creates an intimidating, hostile, unstable or offensive work environment.

“Quid pro quo” (this for that) sexual harassment is committed when an YSF Bodies, YSF Post holder, President or co-worker, undertakes or attempts to influence the process of recruitment, promotion, training, discipline, dismissal, salary increment or other benefit of an existing staff member or job applicant, in exchange for sexual favours.

The worst forms of sexual harassment are criminal acts such as sexual assault or rape, which are covered under the Penal Code.

Definitions

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1. WHAT IS NOT SEXUAL HARASSMENT

Occasional compliments that are socially and culturally acceptable and appropriate are not considered sexual harassment. Any interaction of a sexual nature which is consensual (except for those prohibited by the law such as sexual intercourse with children), welcome or reciprocated is not considered sexual harassment.

Definitions

1. FORMS OF SEXUAL HARASSMENT

Sexual harassment in the workplace can be physical, verbal or non-verbal, and include the major forms as follows:

(a) Physical forms of sexual harassment such as any unwanted contact, ranging from intentional touching, caressing, pinching, hugging or kissing to sexual assault or rape.

(b) Verbal forms of sexual harassment include socially and culturally inappropriate and unwelcome comments with sexual overtones such as sexually suggestive jokes or comments about a person's dress or body, made in their presence or directed toward them. They also include persistent proposals and unwelcome requests or persistent personal invitations to go out.

(c) Non-verbal forms of sexual harassment include unwelcome gestures, suggestive body language, indecent exposure, lascivious looks, repeated winks, and gestures with fingers. It also includes the unwelcome display of pornographic materials, sexually explicit pictures and objects, screen savers or posters as well as sexually explicit e-mails, notes or SMS messages.

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1. YSF BODIES

It is the role and responsibility of every YSF Bodies, regardless of the size of his/her Foundation, to create and maintain a working environment which is free from sexual harassment.

YSF Bodies should respond promptly to any accusation of sexual harassment, ensuring that alleged victims do not have fear of reprisals or feel that their grievances are being ignored or trivialised.

In order to effectively prevent sexual harassment at the workplace every YSF Bodies should adopt, promote, implement and monitor a policy on sexual harassment within workplace regulations, collective agreement or other legal regulations of the Foundation.

The policy should be jointly developed with the trade union to ensure its effective implementation.

Roles & Responsibilities

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1. WORKERS

All workers, regardless of their sex, age, position, type of contract or status, have a responsibility to ensure that the workplace is free from sexual harassment, to discourage and report unacceptable behaviour and to comply with the Foundation's sexual harassment policy.

1. YOGA UNIONS

Trade unions have the responsibility to participate in the development and implementation of a Foundation's sexual harassment policy and ensure that issues related to sexual harassment in the workplace are negotiated in a fair and transparent manner. They should also provide information, advice and representation to workers who have been sexually harassed, as well as to workers against whom allegations of sexual harassment have been made, and include such information on sexual harassment in their regular education and training program.

***Roles &
Responsibilities***

CODE OF CONDUCT



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Roles & Responsibilities

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1. YSF BODIES ORGANIZATIONS

YSF Bodies' organizations should ensure that information on sexual harassment is included in their staff orientation, education and training programs.

LABOUR INSPECTORS

Labour inspectors need to carefully review Foundation records and practices with the aim of detecting and appropriately responding to allegations of sexual harassment. It is important for labour inspectors to take the lead in investigating not only allegations of physical sexual harassment, but any relevant conduct (verbal or non-verbal) which was reported as unwelcome, unwanted or offensive.

Both male and female labour inspectors should receive specialized training to enable them to detect situations and handle complaints of sexual harassment because in general female victims of sexual harassment feel more comfortable discussing their situation with female inspectors rather than male inspectors.

Roles & Responsibilities

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FOUNDATION POLICY ON SEXUAL HARASSMENT

A Foundation policy on sexual harassment should generally be stand-alone. In the case of smaller Foundations, however, it might be appropriate to link it to the Foundation's policy on equality and non-discrimination. It should be written in simple, direct language and should be easily understandable to all workplace participants, including illiterate workers. A policy should include the following key elements:

- Prohibition of sexual harassment in the workplace;
- A clear definition of sexual harassment;
- A clear and easy-to-understand complaints/grievance procedure;
- Disciplinary rules against the harasser and against anyone who makes a false accusation; and
- Protective and remedial measures for the victim.

RECOMMENDATIONS ON PROCEDURES RELEVANT TO SEXUAL HARASSMENT IN THE WORKPLACE

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The policy statement against sexual harassment in the workplace should be articulated by top management to ensure acceptance and compliance by all workers including Secretaries and Presidents. It should clearly indicate (a) the Foundation's- commitment to ensuring a workplace free from sexual harassment; (b) that sexual harassment will not be tolerated under any circumstances; (c) that swift disciplinary action will be taken against any male or female staff member found to be in breach of the policy; and (d) that Secretaries and Presidents have a duty both to implement the policy and demonstrate leadership by example.

***Commitment against
sexual harassment in the
workplace***

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A detailed definition should be included to ensure that all staff – workers, Secretaries and Presidents - understand what constitutes sexual harassment. The most important element to be emphasised is that sexual harassment is unwelcome behaviour of a sexual nature. A list (which could be non-exhaustive) of examples should be provided. It should also be made clear that any interaction which is consensual, welcome and reciprocated (except for those prohibited by the laws) is not sexual harassment.

Complaints/grievance procedures

The complaints procedure should be clearly explained using simple language. If necessary, it should be made available in suitable formats for those who are unable to read the language. The procedure should ensure that any worker wishing to make a complaint has no doubt about what to do and whom to approach. The procedure should be appropriate for the Foundation's size and structure. If necessary, an existing procedure addressing other types of work-related grievances may be used or adapted for this purpose.

It is recommended that both informal and formal grievance mechanisms be offered

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The penalties and compensation

The Foundation policy on sexual harassment should clearly indicate the disciplinary action to be expected in the case of non-compliance. Depending on the severity of the case, consequences can range from an apology to the victim or a disciplinary warning to dismissal; such disciplinary action should be included in the Foundation's regulations. It should be clear that immediate disciplinary action will be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment.

If a victim of sexual harassment has suffered damages, such as a demotion or denial of a promotion, as a consequence of the harassment, it is appropriate that this person be compensated appropriately. The victim should also be compensated for any monetary loss arising out of a denial of employment-related benefits which were rightfully due to him/her. Non-staff members, such as clients or contractors should also be informed that if a complaint against them is rightfully upheld, it could result in termination of a contract, suspension of service or business cooperation.

Definitions

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Other measures

The Foundation policy on sexual harassment should propose measures which will ensure maximum confidentiality for all parties concerned, both at the time of reporting and while the complaint is being investigated. It should be made clear that staff members will not be victimised or subject to sanctions for (a) making a complaint in good faith; (b) giving evidence in proceedings; or (c) giving notice of intention to do so. It should also be made clear that in the course of investigating a complaint, the YSF Bodies will make no assumptions about the guilt or innocence of the alleged harasser.

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Implementation of the Foundation regulations on sexual harassment should be carefully monitored by preparing annual reports on the number and type of complaints that were raised and the manner in which they were resolved.

This information should be immediately analysed and appropriate revisions made to the policy if necessary

**RECOMMENDATIONS
ON COMMUNICATING
AND IMPLEMENTING
THE POLICY ON
SEXUAL
HARASSMENT IN THE
WORKPLACE**

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1. COMMUNICATING THE POLICY

The policy on sexual harassment and its specific contents should be effectively communicated to all staff members, including Presidents, Secretaries, workers, customers, clients, contractors, and any other business contacts, including those who supply and receive goods and services. Special efforts should be made for workers in remote areas.

Effective means of communicating the policy include through newsletters, training manuals, training courses, leaflets, websites, e-mails and displaying anti-sexual harassment posters on notice boards in shared work areas. Verbal communication of the policy is particularly important in workplaces where staff may be illiterate.

**RECOMMENDATIONS
ON COMMUNICATING
AND IMPLEMENTING
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REGULAR TRAINING

1. Regular training sessions on sexual harassment should be conducted for all staff members, including Presidents, Secretaries and workers. The purpose of this training is to: (a) raise awareness of what constitutes sexual harassment; (b) provide details of the Foundation's sexual harassment policy; and (c) provide updates on any changes which may have been made to it. Regular refresher training is recommended.
2. Presidents and Secretaries should also be specifically trained to distinguish between appropriate and inappropriate behaviour, in order to effectively carry out their role in ensuring that the workplace is free from sexual harassment.
3. Those identified in the policy as having responsibility for handling complaints should receive special in-depth training on how to prevent and address sexual harassment.
4. Depending on the type of training being conducted, and the number of staff members involved, sessions may vary from a few hours to an entire day.

Good Practices from YSF

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CONFIDENTIALITY

YSF Bodies should take every measure to ensure that sexual harassment complaints are investigated and handled in a confidential manner without exposing the identities of the parties involved. Only the persons specifically appointed by the YSF Bodies are entitled to handle such cases; the complainant, his/her representative, the alleged harasser, his/her representative, witnesses and interpreters (if required), are entitled to participate in the investigation process.

YSF Bodies should disclose any information requested in preparation for the disciplinary enquiry.

Good Practices from YSF

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EFFECTIVE MANAGEMENT MODELLING

All State President and Secretaries should demonstrate a strong commitment to the sexual harassment policy by modelling appropriate behaviour at all times and this should be regularly looked at by YSF Bodies through performance reviews.

In addition, when appointing Presidents and Secretaries, YSF Bodies should ensure that the proposed candidates have a demonstrated understanding of and ability to handle sexual harassment matters, or should provide appropriate training to them prior to or immediately following the appointment.

Good Practices from YSF

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GOOD WORKPLACE MODELLING

YSF Bodies should create and maintain a working environment which is free from sexual harassment. Effective ways of ensuring this include:

- The removal of offensive, pornography or sexually explicit materials from the workplace;
- Regular monitoring of the policy and procedures to deal with sexual harassment;
- Mixed (male/female) panels for job interviews; and
- Well-lit work areas equipped with an electronic monitoring system.

Good Practices from YSF

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Informal processes include conciliation, mediation, counselling or other forms such as discussions in order to resolve complaints. The terms “conciliation” and “mediation” are sometimes used interchangeably, though in some countries, a distinction is made in terms of process, with a mediator making recommendations, and a conciliator facilitating dialogue between the parties but not making any recommendations. Informal action is usually appropriate when:

- The parties concerned are able to sustain the working relationship;
- The allegations are of a less serious nature and the complainant wants it to stop;

Informal ways of dealing with sexual harassment include the following:

- The complainant wants to deal with the situation him/herself but wishes to seek advice on possible solutions;
- The complainant requests that the YSF Post holder speak to the alleged harasser on their behalf. The YSF Post holder privately conveys the complainant’s concerns, reiterating the Foundation’s sexual harassment policy to the alleged harasser without assessing the merits of the case;
- A complaint is made, the alleged harasser admits the behaviour, investigation is not required and the complaint is resolved through conciliation or at the request of the harasser;
- A YSF Post holder or President observes unacceptable conduct and takes independent action even though no complaint has been made.

Where both parties agree, conciliation or mediation can be used at any time during the process. For example, should the complainant initially decide on a formal process but during the process agree to mediation instead, the formal process could be suspended pending the outcome of the informal one. The role of the conciliator or mediator is not to impose an agreement but to help the parties reach a mutually acceptable agreement. Conciliators and mediators, therefore, need to be knowledgeable about labour laws, equality and non-discrimination regulations, sexual harassment-related legislation, the terms of any collective agreement, and the Foundation’s regulation or policy on sexual harassment. The conciliator or mediator must remain impartial throughout the complaints process. In most cases, conciliators and mediators have specialized training and come from outside the Foundation. By using informal procedures, the complainant does not waive the right to go through the formal procedures or use procedures available under the law.

GRIEVANCE PROCEDURES

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If the informal approach has not provided a satisfactory outcome, if the case is of serious nature or if the behaviour continues, it may be more appropriate to embark on a formal procedure.

Formal complaints are usually managed by the human resources department or an individual specifically appointed by the YSF Bodies. If the complaint is against this department or a specific individual working in this department, an independent external person should manage it. Complaints should be investigated and dealt with promptly. In the case of formal investigations, allegations must be in writing and signed by the complainant(s). Trade unions or staff representatives should also be able to submit complaints on behalf of one or more workers. The alleged harasser should receive a copy of the allegations and be given an opportunity to respond before the investigation begins. A thorough investigation should:

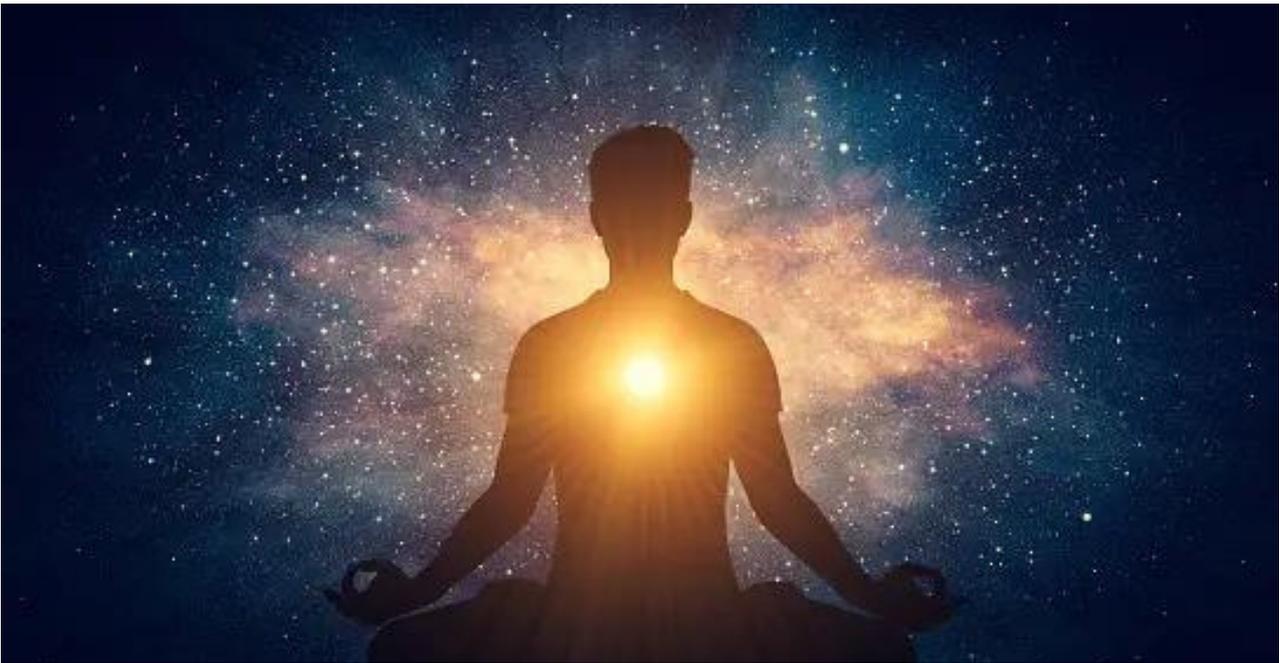
- Include interviews with complainants, their witnesses, alleged harassers and their witnesses. It is good practice that interviewees be accompanied by a trusted colleague or trade union representative.
- Examine all relevant documents, records and personnel files if necessary;
- Provide a written summary of the full investigation to the complainant and the alleged harasser;
- Both parties should be given the opportunity to provide comments on the content of this summary before the full report is finalized;
- If the report is drafted by an independent investigator, the full report should be submitted to the person and/or department responsible for handling sexual harassment complaints. This report should include who was interviewed, what questions were asked, the investigator's conclusions, and what possible remedies, sanctions or other actions may be appropriate.

Support from outside the Foundation may be used if the complainant is not satisfied with the outcome of internal processes, or has grounds to lack confidence in them.

Committees handling sexual harassment cases should include an equal representation of men and women to ensure that the perspectives of both women and men are taken into consideration. They also need to include representatives of both management and workers. Victims should be represented or accompanied by a representative of their choice to participate in the handling process

GRIEVANCE PROCEDURES

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Yog Sports Foundation is committed to providing a healthy, effective work environment where sexual harassment is not accepted because it is against the law, and against social ethics and will not be tolerated. Yog Sports Foundation will implement this policy in accordance with the Code of Conduct on Sexual Harassment in the Workplace. When Yog Sports Foundation determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action.

“Sexual harassment” is defined as any behaviour of a sexual nature that affects the dignity of women and men, which is considered unwanted, unacceptable, inappropriate and offensive to the recipient, and that creates an intimidating, hostile, unstable or offensive work environment.

Sexual harassment in the workplace can be physical, verbal or non-verbal, and include the major forms as follows:

(a) Physical forms of sexual harassment such as any unwanted contact, ranging from intentional touching, caressing, pinching, hugging or kissing to sexual assault or rape.

(b) Verbal forms of sexual harassment include socially and culturally inappropriate and unwelcome comments with sexual overtones such as sexually suggestive jokes or comments about a person’s dress or body, made in their presence or directed toward them. They also include persistent proposals and unwelcome requests or persistent personal invitations to go out.

(c) Non-verbal forms of sexual harassment include unwelcome gestures, suggestive body language, indecent exposure, lascivious looks, repeated winks, and gestures with fingers. It also includes the unwelcome display of pornographic materials, sexually explicit pictures and objects, screen savers or posters as well as sexually explicit e-mails, notes or SMS messages.

“Quid pro quo” (this for that) sexual harassment is committed when an YSF Bodies, YSF Post holder, President or co-worker, undertakes or attempts to influence the process of recruitment, promotion, training, discipline, dismissal, salary increment or other benefit of an existing staff member or job applicant, in exchange for sexual favours.

“Workplace” refers not only to the specific location where work is being performed, such as an office or factory but also to locations where work-related business may be conducted.

This could include:

- Work-related social activities, Yoga championships, or Yoga workshops organized by the YSF for staff or students, etc.;
- Conferences and training sessions;

GRIEVANCE PROCEDURES

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The Foundation's responsibilities in preventing and addressing sexual harassment

Any YSF Officials or those working for the Foundation who believe that he or she is a victim of sexual harassment must immediately report any incident to Secretary in General YOG SPORTS FOUNDATION.

Yog Sports Foundation will not tolerate retaliation against any person who makes a complaint of sexual harassment. It will take the necessary steps to ensure that the matter is thoroughly investigated and promptly addressed. If the allegation is determined to be credible, Yog Sports Foundation will take immediate and effective measures to end the unwelcome behaviour. Yog Sports Foundation is committed to taking action if it learns of possible sexual harassment, even without a formal complaint.

Dr Shivam Mishra Founder of YSF is the main contact point for questions or concerns about sexual harassment. Dr Shivam Mishra is responsible for investigating or overseeing investigations of alleged sexual harassment. Yog Sports Foundation is committed to ensuring that all investigations of sexual harassment are conducted in a prompt, thorough, and impartial manner.

Secretaries and other responsible officials who observe, are informed of, or reasonably suspect incidents of possible sexual harassment must immediately report such incidents to Dr Shivam Mishra who will either initiate or oversee a prompt investigation. Failure to report such incidents to Dr Shivam Mishra will be considered a violation of this policy and may result in disciplinary action. Dr Shivam Mishra will provide guidance as needed on investigating and handling the alleged harassment. Secretaries should take effective measures to ensure that no further apparent alleged harassment occurs pending the completion of an investigation.

Yog Sports Foundation will seek to protect the identities of the alleged victim and harasser, as reasonably necessary (for example, to complete an investigation successfully). Yog Sports Foundation will also take the necessary steps to protect from retaliation those YSF Officials who in good faith report incidents. It is a violation of this policy and of the law to retaliate against someone who has reported possible sexual harassment, and violators may be subject to discipline.

**GRIEVANCE
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YSF Officials who have been found by Yog Sports Foundation to have subjected another YSF Official to unwelcome conduct of a sexual nature, and such behaviour meets the definition of sexual harassment, including “quid pro quo” sexual harassment identified in the Code of Conduct on Sexual Harassment in the Workplace, will be subject to discipline or other appropriate management measures. Discipline will be appropriate to the nature and the extent of the behaviour, and penalties ranging from a letter of reprimand to dismissal are allowed to be applied.

YSF Officials' Rights and Responsibilities Under This Policy

Any YSF official who believes he or she has been the target of sexual harassment is encouraged to inform the alleged harasser orally or in writing that such conduct is unwelcome and offensive and must stop.

If the YSF Official does not wish to communicate directly with the alleged harasser, or if such communication has been ineffective, the YSF Official is encouraged to report the unwelcome conduct as soon as possible to Dr Shivam Mishra

In addition to reporting sexual harassment concerns to Dr Shivam Mishra, YSF Officials who believe they have been subjected to sexual harassment may elect to pursue resolution either through informal channels including conciliation, mediation, counselling or informal discussions or through a formal investigation.

All Yog Sports Foundation YSF Officials, including but not limited to staff, Secretaries, and senior officials, are required to comply with this policy. YSF Officials are also expected to behave professionally and exercise good judgment in work-related relationships, whether with fellow YSF Officials, business colleagues, or members of the public with whom they come into contact in the course of official professional duties.

Further, all YSF Officials are expected to take appropriate measures to prevent sexual harassment. Unwelcome behaviour of a sexual nature will not be tolerated.

GRIEVANCE PROCEDURES

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Q. Should all Foundations have a sexualharassment policy?

A. Yes. All Foundations, regardless of size, need to establish a sexual harassment policy. The Code of Conduct on Sexual Harassment in the Workplace applies to both the public and private sectors.

Q. What should I do if my YSF State Bodies does not have a policy or any regulation on sexual harassment?

A. If your YSF State Bodies does not have a policy or any regulation on sexual harassment, you should contact your YSF Post holder, the grassroots or upper-level trade union, or staff representative, or a representative of the Vietnam General Confederation of Labour, suggesting the development of a policy. The Ministry of Labour, Invalids and Social Affairs, Vietnam Chamber of Commerce and Industry or Vietnam General Confederation of Labour are available to assist YSF Bodies in developing an appropriate policy on sexual harassment.

Q. How do you determine if certain conduct is unwelcome?

A. When confronting conflicting evidence as to whether the conduct was welcome or unwelcome, YSF Bodies should examine all circumstances, evaluating each situation on a case-by-case basis. The investigation should determine whether the alleged harasser's behaviour could be reasonably seen as offensive, humiliating or unwelcome by the victim and consider whether the victim's conduct was consistent or inconsistent with his/her assertion that the sexualconduct was unwelcome.

In the case of quid pro quo sexual harassment, the victim's behaviour is not relevant to the determination of whether sexual harassment has occurred or not.

Q. What factors determine whether an environment is 'hostile'?

A. The following factors can help determine whether an intimidating, hostile or offensive working environment was created as a result of certain conduct/ behaviour:

- whether the conduct was verbal or physical or both;
- how frequently it was repeated;
- whether the conduct was hostile or offensive;

FAQ

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- whether the alleged harasser was a co-worker, YSF Post holder, higher level President, client or a third party (e.g. contractor or service provider);
- whether others joined in perpetrating the conduct; and
- whether the conduct was directed at more than one individual.

Q. Can a sexual harassment claim be made by a YSF Official who consented to the sexual activity?

A. Yes. The individual may have consented to the sexual activity due to perceived or actual pressure from the harasser.

Q. What is the difference between sexual harassment and criminal acts of a sexual nature?

A. In general, all forms of sexual harassment violate the laws and need to be prevented and addressed. They need to be investigated in a timely manner and dealt with appropriately.

If the act of sexual harassment is not serious enough to be considered a criminal offence, punishment could be of a financial nature and/or any other measures in accordance with labour laws and laws on administrative sanctions.

FAQ



Miss YOGA 