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- (1) POLICY ON PREVENTION OF SEXUAL HARASSMENT
- (2) INFORMAL GRIEVANCE PROCEDURE

Notice to the Staff

Staff members are informed that the Director General has approved, with effect from 1 February 1994, a Policy on Prevention of Sexual Harassment in the Agency and also an Informal Grievance Procedure for dealing with complaints of alleged sexual harassment and other complaints of unfair or discriminatory treatment. The Policy and the Informal Procedure in question are set out in Annexes I and II, respectively.

With respect to the Informal Grievance Procedure, staff members will be informed in the near future of the names of the Mediators appointed by the Director General in consultation with the Staff Representatives.

The Informal Grievance Procedure will be implemented for an initial period of two years, at the end of which it will be reviewed. On the basis of the experience gained, the Director General will decide whether or not it should be continued.

POLICY ON PREVENTION OF SEXUAL HARASSMENT

1. The IAEA subscribes to the policy that within the concept of the Agency Code of Conduct (AM.II/17 - Standards of Conduct in the International Civil Service) every staff member shall have the right to be treated with dignity and respect, free from abuse or harassment.

2. Within this framework, the Agency will not tolerate any type of harassment, particularly sexual harassment, within the workplace or associated with the work performed on behalf of the organization. Conduct which is determined to constitute sexual harassment will be subject to appropriate administrative or disciplinary action.

What is Sexual Harassment?

3. Sexual harassment is any unwelcome sexual advance, request for sexual favour, or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive environment. In all cases it refers to conduct that is unwanted by the recipient.

4. When behaviour of this kind is engaged in by an official who is in a position to influence career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion) of the recipient of such attentions, it also constitutes an abuse of a position of power.

5. Three categories of conduct have been identified to be covered by this definition.

"Physical conduct of a sexual nature which is commonly regarded as meaning unwanted physical contact ranging from unnecessary touching, patting or pinching or brushing against another employee's body to assault and coercing sexual intercourse."¹

"Verbal conduct of a sexual nature which may include unwelcome sexual advances, propositions or pressure for sexual activity; continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome; offensive flirtations; suggestive remarks, innuendoes or lewd comments."²

"Non-verbal conduct of a sexual nature which refers to the display of pornographic or sexually suggestive pictures, objects or written materials; leering, whistling, or making sexually-suggestive gestures".³

6. Staff shall be free to refuse such conduct or advances without negative consequences or retaliatory action resulting therefrom.

7. Sexual harassment is distinguished from other forms of mutual contact by its unwelcome, unreciprocated and imposed nature. Mutually acceptable behaviour is not sexual harassment, regardless of the employment relationship.

¹ M. Rubenstein: Preventing and remedying sexual harassment at work: A resource manual (Industrial Relations Services, London, 2nd edition, 1992).

² Ibid.

³ Ibid.

Responsibilities

8. All staff bear responsibility for the maintenance of a harmonious working environment; this implies that, in accordance with the Standards of Conduct of the International Civil Service, as reproduced in AM.II/17, they shall conduct themselves in a way which will ensure that the workplace is free of intimidation, hostility or offense and, in this context, of any form of sexual harassment. Managers bear added responsibility in the process (a) by their example, (b) by clearly communicating to all their staff the policy outlined in this statement, (c) by enhancing a positive working environment in which sexual harassment does not occur and (d) by ensuring strict adherence to the policy.

9. All employees are equally responsible, however, for complying with this policy and for helping to create a working environment in which dignity is fully respected.

Remedies

10. Staff members who believe they are sexually harassed should immediately inform the alleged harasser of the unwelcome nature of his or her behaviour and express their expectation that it will cease. In the event that the offensive behaviour does not cease, or where the circumstances are such that it is too difficult for the staff member to approach the alleged harasser directly, the following informal and formal means of resolving the problem are available.

Informal Approach

11. In many cases the situation can be resolved informally by the complaining staff member dealing directly with the person who engaged in the unwelcome conduct. As a further alternative, a complaining staff member may seek advice and help from the Staff Counsellor or any staff member of his or her duty station who is in a position to discuss the matter discreetly with the individual and with the alleged harasser with a view to achieving an informal resolution of the problem.

12. Supervisory personnel have an obligation to assist in such informal resolutions, to handle the situations with proper regard to the wishes of the complaining staff member (particularly with respect to confidentiality) and with due fairness to all those involved, and to take action to prevent the recurrence of sexual harassment, where such has been deemed to have occurred.

Informal Complaint Procedure

13. Where the perceived sexual harassment is such that it calls for more serious measures or the intervention of a third party, a staff member may call upon any one of the "Complaints or Mediation Officers" who are responsible for individually investigating and attempting discreetly and informally to resolve such matters.

14. In accordance with the Informal Grievance Procedure which was introduced in the Agency with effect from 1 February 1994, as announced in SEC/NOT/1524, Complaints or Mediation Officers shall be appointed by the Director General, in consultation with the Staff Council, to deal with complaints by staff members concerning alleged sexual harassment and other complaints of unfair or discriminatory treatment, based for example, on grounds of religion or race. Details of the informal grievance procedure as well as the duties of the Complaints or Mediation Officers are set forth in the SEC/NOT in question.

Formal Complaint Procedures

15. Where informal complaint resolution is not appropriate or has been unsuccessful, the complaining staff member may request in writing that the issue in question be reviewed in accordance with the procedures set out in AM.II/17, page 25. More detailed guidance on the use of formal procedures to deal with sexual harassment complaints is available and may be obtained from any of the Complaints or Mediation Officers and from the Director, Division of Personnel.

Administrative and Disciplinary Actions

16. Sexual harassment is subject to any one of the sanctions provided for in the Staff Regulations and Rules. Sanctions such as warning, reprimand, censure, suspension and summary dismissal will be applied as appropriate in accordance with the gravity of the case.

17. Any reported instance of retaliation or threat of retaliation against individuals making formal or informal sexual harassment complaints or assisting in the investigation of complaints will be considered as a violation of standards of conduct and will be reviewed by the Joint Disciplinary Board. Subject to the findings of the Board, such a violation can result in severe disciplinary action.

INFORMAL GRIEVANCE PROCEDURE

Introduction - Guiding Principles

A staff member who complains of unfair, unjust or discriminatory treatment may seek formal redress by initiating action in accordance with the provisions of Staff Regulations 12.01 and 12.02 and Staff Rules 12.01.1 and 12.02.1 (appeals against administrative decisions), as well as the conciliation procedure for settling Performance Appraisal disputes, as set forth in AM II/3, paragraphs 113-114. Informal advice, usually on personal problems, may be received through consultation with the Staff Counsellor.

In order to remedy the absence of an informal mechanism for addressing grievances, the Director General has approved the introduction of a mediation or complaints procedure in the Agency with effect from 1 February 1994. The objective is to offer staff members an opportunity to find a solution in case of alleged unfair or discriminatory treatment based on grounds of religion, race or sexual harassment, as well as to prevent or clarify misunderstandings which may otherwise lead to formal complaint procedures. Mediation shall result in mutually agreed solutions achieved through informal means rather than through a formal procedure.

Mediation is intended to supplement rather than to replace the existing formal mechanisms. While mediation will be available for all complaints, it is expected that it will be most suitable for complaints based on workplace interpersonal differences. Mediation will not be compulsory, and staff members need not utilize this mechanism before initiating action under the formal procedures.

Mediator

The Director General, in consultation with the Staff Representatives, shall nominate staff members to fulfil the function of a mediator. A total of five individual mediators, both women and men, representing a range of employment ranks within the General Service, Professional and Director categories shall be appointed. The mediators shall serve for 2 years. They shall function as individual mediators, not as a panel, and shall carry out their duties in addition to their functions within the Agency.

Scope of Mediation

The mediator shall be competent to hear any complaint brought by a staff member against another staff member, regardless of the rank and function of either party. Mediation procedures would be appropriate for cases based on workplace related personal conflicts, notably for grievances concerning alleged sexual harassment, or religious, racial or political discrimination. Mediation shall be available for all complaints, but in order to avoid encroachment upon other procedures the mediator may advise, in consultation with the staff member, that a case is unsuited to mediation and that it should be presented to a formal panel for consideration.

Procedure

A staff member wishing to submit a grievance to a mediator may consult the list of such persons and contact the mediator of his/her choice. Mediators shall examine all pertinent aspects of the situation, and advise staff members in such a way as to solve problems informally. Following an initial meeting between the staff member and the mediator, the mediator may find it useful to speak with other parties. The mediator shall have the right

to meet with other appropriate staff members, including supervisors at all levels, in an effort to clarify facts or foster an amicable settlement of a dispute. The mediator shall attempt to arrive at an agreement between the parties through discussion. The mediator shall not have independent access to staff members' personnel files.

The mediation process does not suspend formal procedures applicable to the grievances (or complaints) made. In order to avoid the need for parallel procedures, however, prescribed time limits for submission of formal appeals shall be suspended pending completion of the mediation process.

All attempts will be made to come to an early positive solution. Mediation should be completed within 25 days. If, therefore, a solution satisfactory to the complaining staff member has not been found within 25 days following the beginning of mediation, the staff member may be advised on possibilities as to a formal review procedure.

The work of the mediator shall be strictly confidential. A brief record of mediations and their results shall be maintained by the mediator for the duration of his/her mandate.

Mediators will be fully briefed before they assume their functions. Guidelines on the scope of their responsibilities will also be developed.

The above mentioned procedure will be implemented for an initial period of two years, at the end of which it will be reviewed in the light of the experience gained.