

(Translation)



Notification of the Thailand Institute of Justice (Public Organization)

Guideline on Responding to Sexual Abuse or Harassment in the Workplace

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The Thailand Institute of Justice is committed to maintaining a safe environment that is free from discrimination, abuse, and harassment at work for all of its personnel. The Institute does not tolerate any form of sexual harassment and commits to taking adequate and timely action if faced with incidents of possible sexual harassment, taking into account the needs and opinions of the affected person.

Building on the principles of confidentiality and fairness for every party involved, the implementation of this guideline focuses on fact-finding to determine whether the alleged sexual abuse or harassment has taken place. Assistance shall be provided for the affected person as necessary, with specific attention to his/her needs. Measures shall be taken to hold the offender accountable for his/her actions and to prevent further sexual abuse or harassment from taking place in the future. Such measures may include either disciplinary or legal action against the alleged offender, depending on the nature of the incident, behaviors, and extenuating circumstances, as well as rules and regulations of the Institute and legal provisions related thereto.

1. Definitions.

(1) "Targeted person" refers to an officer, an employee, or any personnel working in the office or in work-related activities, against whom the act which may possibly be defined as sexual abuse or harassment was targeted or directed at;

(2) "Alleged offender" refers to an officer, an employee, or any personnel working in the office or in work-related activities, who is accused of committing an act that may possibly be defined as, or an act considered sexual abuse or harassment;

(3) "Affected person" may include the targeted person, witnesses, and individuals who, upon witnessing the inappropriate conduct that may be considered sexual abuse or harassment, have intervened or tried to rectify the situation; and

(4) "Sexual abuse or harassment in the workplace" refers to any non-consensual behavior of a sexual nature; the exercising of power in an unfavorable manner related to verbal or non-verbal contact; physical contact, including inappropriate messages, gestures, voice-used, images, documents, electronic data, or any obscene materials; or other similar acts that can be expected to annoy, humiliate, or offend the targeted person. This includes stalking and any act that creates a hostile work environment, especially when such an act is made either explicitly or implicitly as a condition of recruitment, employment, promotion, hiring, or any other condition impacting the targeted person.

2. Behaviours considered as sexual abuse or harassment in the workplace.

Sexual abuse or harassment refers to a wide range of misconduct which cannot be described in a completed list. However, awareness must be raised that any sexual suggestive act that is unwelcome or causes the targeted person to feel disturbed, irritated, humiliated, or offended, can be regarded as sexual abuse or harassment. Such misconduct may be committed in the form of 1) physical harassment 2) leering or staring, 3) verbal harassment, 4) sexual favours, or 5) other acts, with details as follows:

(1) Physical harassment.

- Touching, petting, rubbing one's body with sexual implications; taking advantage, caressing, kissing, teasing by touching, groping, forcing physical contact, pulling one onto the lap;
- Repeating unsolicited advance; intentionally standing too close, cornering or blocking; winking, whistling, blowing kisses; licking lips or teeth; gesturing sexual acts using hand or body movement, etc.

(2) Leering or Staring.

- Sexually suggestive staring of other's body; looking up one's skirt; staring at one's breasts or looking down one's top; leering and staring that cause the targeted person or others in the situation to feel awkward, embarrass, or irritated.

(3) Verbal harassment.

- Commenting on one's body shape, size, figure, or outfit in a sexually suggestive way;
- Unsolicited suggestion to engage in any act privately, telling offensive risqué jokes;
- Unsolicited sexual advance; offering sexual provocative compliment; using sexually-explicit language or sexual slurs in person or over the phone; calling others with sexually-suggestive names; commenting on co-worker's sexual behaviours.

- Idle chatting of a sexual nature and graphic sexual descriptions; expressing opinions towards sexual orientation; asking about sexual fantasies, preferences, or history; making up stories or spreading rumours about one's sexual life.

(4) Sexual favours.

- Requesting for sexual favours from the targeted person, for instance, request to spend a night together, to have sexual intercourse with, or other sexual-related requests made in exchange for promised benefits such as a job title, academic results, scholarships, pay raise, promotion, contract renewal;

- Threatening with negative consequences on employment or education; threatening with physical violence; forced sexual touching; attempted sexual assaulting or sexually assaulting other.

(5) Other acts.

- Displaying sexually explicit or sexual suggestive images, objects, or messages, including showing pornography in the office, during work, or in the computer at work;

- Displaying nude calendar; revealing writing pieces or drawings of sexual related content; using symbols that represent genitals or sexual intercourse;

- Sending sexually-suggestive messages, images, symbols through online platforms, e.g. Facebook, Twitter, Instagram, LINE, e-mail, etc.

3. Options available to the targeted person when encountering an incident of sexual abuse or harassment in the workplace.

The targeted person may declare his/her intention, or choose any actions provided as samples in the attached annex, to either secure their rights or make a record of evidence for the purpose of filing a complaint later.

The targeted person may opt to notify or express objection directly to the alleged offender in order to stop or rectify the incident of sexual abuse or harassment by him/herself, if deemed appropriate, or follow the procedure set by the Institute as described hereafter.

4. Procedures to be taken in the incident of sexual abuse or harassment.

The targeted person, upon perceiving that he/she is being sexually abused or harassed, and deciding to seek the Institute's action against the alleged offender, should report the incident at the earliest possible. Reporting of such incidents can be done either as a semi-formal complaint or a formal complaint.

4.1 Semi-formal complaints.

In the event where the targeted person decides the matter should be handled in a semi-formal manner, he/she can report the incident and provide relevant information verbally to the Manager of Human Resources, who will then perform the following:

- Inquiring the targeted person of the needs, opinions, and preferred remedial actions, taking into account the targeted person's mental wellbeing and prioritizing confidentiality at every step of the procedure;
- Notifying the alleged offender of the complaint and explaining the Institute's procedures for dealing with such complaints;
- Ensuring the alleged offender is allowed the opportunity to respond to the complaint;
- Choosing an appropriate method to obtain sufficient factual evidence and information in order to settle the complaint in a way that is acceptable to both parties as well as to provide a basis for mutual agreement, assuring that apologies or remedies are made if reasonably necessary and that such sexual abuse or harassment will not be repeated;
- Following up to ensure that the terms of the agreement made between the targeted person and the alleged offender have been adhered to and fulfilled in its entirety;
- In case where it is not possible to determine whether the incident of sexual abuse or harassment had occurred as reported, bringing the matter to the attention of the Director of Office of Strategy and Planning to resolve the complaint as deemed appropriate;
- Setting steps of handling semi-formal complaints promptly, with the goal of completing them within 5 working days from the date the complaint was filed;
- Setting a strict confidentiality policy to regulate every step in which all semi-official complaints are handled.

4.2 Formal complaints.

In the event where the targeted person decides the matter should be handled in a formal manner, or where the targeted person had previously filed a semi-formal complaint but was not satisfied with the outcome, he/she has the right to report the incident and provide relevant information in writing to the Director of the Office of Strategy and Planning Office by sending a sealed letter directly or an e-mail to kamonrat.c@tijthailand.org.

In order to facilitate the fact-finding of sexual abuse or harassment in the workplace, the targeted person should provide the following information clearly and completely:

- 1) Name, department, and position of the alleged offender;
- 2) Details of the incident, including date, place, and witness(es);
- 3) Impact that the incident has/or may have on the targeted person's working capacity, or on the conditions of performing his/her duty;
- 4) Name(s) of other individual(s) who may have been subjected to the same or similar sexual abuse or harassment;
- 5) Details regarding the steps or measures taken by the targeted person in the attempt to stop the alleged sexual abuse or harassment;
- 6) Other information relevant to the complaint of the incident.

Upon receiving the formal complaint, the Director of the Office of Strategy and Planning may conduct an initial review of the details before reporting to the Executive Director, or proceed to report to the Executive Director immediately if deemed necessary. The Executive Director shall consider appointing a working committee to investigate the complaint as appropriate.

Should the Executive Director decides to appoint a working committee, it must consist of at least three, but not exceeding five, personnel of the Institute, taking into account that they are able to perform the committee's duties with impartiality and fairness.

5. Procedure to be taken by the working committee in investigating the complaint.

The appointed working committee as described in Item 4.2 shall perform the following:

- Inquiring the targeted person of the needs, opinions, and preferred remedial actions, taking into account the targeted person's mental wellbeing and prioritizing confidentiality at every step of the procedure;
- Notifying the alleged offender of the complaint and explaining the Institute's procedures for dealing with such complaints;
- Ensuring the alleged offender is allowed the opportunity to respond to the complaint;
- Choosing an appropriate method to obtain sufficient factual evidence and information in order to settle the complaint in a way that is acceptable to both parties as well as to provide a basis for mutual agreement, assuring that apologies or remedies are made if reasonably necessary and that such sexual abuse or harassment will not be repeated;

- Performing its duties and authority promptly with the goal to complete the process within 10 working days from the date the committee is appointed;

- Setting a strict confidentiality policy to regulate every step in which all semi-official complaints are handled.

In the event that the targeted person and the alleged offender successfully reach a mutual agreement, the working committee shall report the outcome to the Executive Director to order the implementation of such an agreement and assign the Human Resources Department to follow up and ensure that the terms of the agreement have been adhered to and fulfilled in its entirety.

In the event that the targeted person and the alleged offender cannot reach a mutual agreement, the working committee shall report the outcome, together with its opinions and suggestions, to the Executive Director for further consideration. The Executive Director can dismiss the complaint for insufficient grounds, issue a warning to the alleged offender, or order disciplinary action, as the case may be.

6. Protection for the affected person(s).

The Institute shall provide protection for the affected person to make sure that his/her work or daily life will not be put in an undesirable condition as a result of the complaint of sexual abuse or harassment being made. Where any arrangement is required, for example, that parties be separated to prevent confrontation, the affected person must consent to such an arrangement.

The affected person may request that the Institute take further actions or provide certain arrangements, for example, relocating to other units, etc., to prevent or resolve the issue.

The Institute shall protect the affected person from any work-related abuse, or any damage to his/her position and professional advancement.

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(Phiset Sa-ardyen)

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