

Guidance for CAF-GEF Financed Projects on Prevention of Gender Discrimination and Sexual Harassment

INTRODUCTION

The guide was developed to assist CAF-GEF financed project proponents in addressing non-discrimination and workplace sexual harassment in CAF-GEF financed projects and promoting gender equality. This guidance is designed to support the CAF-GEF Project Environmental and Social Safeguards which establishes the environmental and social requirements for CAF-GEF financed projects. This guidance does not establish obligatory requirements for CAF-GEF project financing. The guidance was developed based upon the CAF-GEF Project Environmental and Social Safeguards and various existing good international industry practice which are listed in the Reference section.

The CAF-GEF financed project environmental and social evaluation is the process to identify potential environmental and social impacts and risks including potential risk that project-related impacts fall disproportionately on women, risk of prejudice or discrimination toward women in providing access to development resources and project benefits and opportunities including employment (CAF-GEF Project Safeguard S01). The evaluation process must include gender considerations in a meaningful way into the design and implementation of stakeholder participation process and grievance redress mechanism.

Gender risks and discrimination is a global issue and specific projects may create negative impacts and risks and/or exacerbate existing gender risks. These risks are a function of various factors including country and local context (e.g., legal framework, institutional capacity, societal and cultural gender norms, prevalence of gender issues/risks) and project conditions (e.g., project size and characteristics, affected population, project workers). Potential examples of gender-based risks include: discrimination from project-derived benefits and economic opportunities (e.g., employment, benefits, business opportunities, etc.) of people based on gender, sexual orientation, and gender identity; project-related gender-based violence, defined as any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e. gender) differences between males and females, and includes sexual exploitation, sexual abuse and sexual harassment; and disproportionate gender-based impacts in situations of involuntary physical or economic displacement or projects associated with indigenous peoples. There are additional heightened gender-related risks for projects located in countries (areas) of conflict, such as risk due to presence of security personnel (both private and military/police), safety of women engaged in project activities (e.g. construction), and safety of female's undertaking stakeholder participation activities or community support or mitigation measures.

The CAF-GEF financed project gender analysis is another mechanism to assess and identify any major gender inequalities, relations, or norms that either can affect the achievement and sustainability of the project's results or can stand to be improved upon by the proposed intervention and the potential for gender-based risks and adverse impacts throughout the project cycle (refer to CAF-GEF Project Safeguard S09). The gender analysis serves as the basis for the development and implementation of a gender action plan comprising necessary measures to prevent, mitigate and/or compensate such impacts and risks, including measures to prevent discrimination against women or girls, or gender-based discrimination.

The project-specific Environmental and Social Management Plan (ESMP) or analogous and gender action plan defines the specific impact and risk mitigation measures and monitoring programs, including appropriate measures of protection and assistance to address the vulnerabilities of project workers and

women. These measures should include, among others, to ensure equal opportunity and fair treatment of women and men in the employment of project workers, no discrimination, and prevent harassment of project workers including sexual harassment in the workplace.

Key principles for the defining the measures in CAF-GEF financed project ESMP and gender action plans are: (i) emphasize prevention by using a risk mitigation hierarchy of avoidance, prevention, mitigation and compensation; (ii) build on existing local knowledge and utilize local and good international industry practice as resources to assess project specific risks and identify effective mechanisms for support throughout the project cycle; (iii) establish sound monitoring and evaluation systems to provide regular feedback on performance, effectiveness, gender risk assessment; and (iv) implement adaptive management to adapt and adjust mitigation measures to respond to project performance and potential changes in gender risks.

Gender considerations should be included throughout the CAF-GEF financed project cycle. The CAF-GEF Project Environmental and Social Safeguards should be consulted for specific requirements. Table 1 provides some select key gender-related considerations during CAF-GEF financed project cycle (identification, preparation, supervision, evaluation) to help provide an overview.

The guideline presents sections on Gender Discrimination, Sexual Harassment, and References. Various Annexes are included to provide supplemental guidance and information and are referenced in the sections on Gender Discrimination and Sexual Harassment.

GENDER DISCRIMINATION

Gender equality means that women and men enjoy the same conditions and opportunities to exercise their rights and reach their social, economic, political, and cultural potential. The pursuit of equality requires actions aimed at equity, which implies providing and distributing benefits and/or resources in a way that narrows the existing gaps, while recognizing that these gaps can harm both women and men. The empowerment of women is understood to mean expanding women's rights, resources, and capacity to make decisions and act independently in social, economic, and political spheres. Gender equality is a key element in project's reaching their sustainable development, poverty development, and reduction of inequality goals. The empowerment of women expands women's rights, resources, and capacity to make decisions and act independently in social, economic, and political spheres. Gender mainstreaming needs to analyze the specific needs of both women and men and establish targeted interventions to enable women and men to participate in, and benefit equally from, development projects.

Discrimination can occur in the workplace in various ways including related to recruitment, pay, promotion, training, worker occupational health and safety, termination of employment, or harassment of project workers. Discrimination may related to various factors including gender, race, ethnicity or ethnic origin, indigenous or tribal status, pregnancy or parental status, migrant or immigrant status, citizenship or nationality, religion, social background or origin, political opinion or affiliation (including trade union status, sexual orientation, HIV/AIDS status, disability or handicap, or age. There are also issues that are linked to discrimination, such as violence against women, freedom of association, child and forced labor, economic development, poverty, education, indigenous peoples, and climate change and environmental destruction.

Gender equality and non-discrimination are cross-cutting issues and when effectively addressed can be drivers in creating a sustainable economic and institutional environment, enhancing social protection

measures, and producing effective social dialogue. The concept of equality of opportunity and treatment, or “non-discrimination,” includes two central components according to the International Labor Organization: (i) ensuring that women and men receive the same remuneration for equal or equivalent work, and (ii) ensuring that all workers are provided the same hiring and job employment opportunities and treatment regardless of gender, race, ethnicity, national origin, religion, political affiliation or other status.

Gender discrimination can be defined as any action that specifically denies opportunities, privileges, or rewards to a person (or a group) because of gender. Gender discrimination in the workplace is unfair treatment of employees based on their gender. A particular form of gender discrimination is sexual harassment. Gender discrimination can take many forms beyond employment, for example, projects may not provide basic facilities such as toilets/bathrooms and medical attention suitable for women or employers may require female employees to take pregnancy tests before and during employment.

Some issues relevant to women may be common to both men and women. For example, many projects contract small contractors or service providers who have limited resources and capacity to properly manage gender-related issues, often have temporary workers or sub-contract for workers, and high poverty and low work opportunities create less incentives for workers to require employers to fulfill their regulatory requirements. There may also be discrimination to both men and women, such as lack of provision of medical benefits, paid leave and worker accident or disability insurance.

There may also be sectoral issues related to gender discrimination, such as hiring process in large infrastructure projects or construction works has a bias towards engaging more male workers and paying them more compared to female workers. Reported perceptions by contractors’ include that these differences arise because women are engaged in unskilled and entry-level jobs and hence they get paid lower wages, women are less mobile, women are unsuited for heavy work, worker camps (overnight lodging) involved cultural norms unfavorable to women’s employment in such works.

The management of gender discrimination and equality in CAF-GEF financed projects may be divided into two areas: (i) measures required to mitigate project-related gender discrimination; and (ii) measures to improve gender equality for women. These measures should be documented in the project-specific ESMP, gender action plan or other instrument (e.g., human resources policy manual) and should be commensurate with the level of risk of gender discrimination and the level of potential opportunity for improving gender equality. While all projects may not require specific actions to address gender equality (e.g., gender gaps or barriers), all projects must include measures to address potential negative gender risks including discrimination. Some projects due to their nature may not have the potential to significantly contribute towards gender equality and often the causes of gender gaps are complex and often tightly woven into the culture, norms, policies and regulations and thus many issues cannot be easily addressed by an individual project.

All CAF-GEF financed projects are required to comply with national law. Most countries have laws that specifically forbid discrimination. These laws typically reflect various international agreements that recognize and protect worker rights including non-discrimination; for example, the ILO Conventions 100 and 111 related to elimination of discrimination with respect to employment and occupation and the UN Convention to Eliminate All Forms of Discrimination Against Women.

CAF-GEF financed project proponents should ensure they fully understand and must comply with all applicable national law requirements related to discrimination including gender discrimination. This

should be done, and documented, in the CAF-GEF financed project environmental and social evaluation process and gender analysis as required in CAF-GEF Project Environmental and Social Safeguards S01 and S09. The CAF-GEF financed project proponent shall also be familiar with the applicable regulatory agencies/entities and the services and support provided related to non-discrimination (e.g., mechanisms for workers to submit claims, etc.) and non-governmental entities that may provide support services. It should be noted that if a country has established regulatory required special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job, then this will not be deemed as discrimination, provided they are consistent with national law. Annex 1.a provide a table of representative questions to provide a general assessment of country regulatory and institution framework related gender discrimination. The project environmental and social evaluation should also assess the project proponent's capacity related to gender equality and discrimination. Annex 1.b provides a table of representative questions related to project company (or contractor, service or material provider) related to discrimination (equal opportunity and treatment). This could be used by a CAF-GEF financed project proponent to assess their existing policy and procedures, but also by the project proponent in assessing the policy and procedures of project contractors or service or material providers.

All CAF-GEF financed project proponents must establish written requirements related to equal employment and non-discrimination. These could such as part of their human resources policies and procedures, and specifically include a clear and written statement that equal opportunity will be provided for all job candidates and all workers (men and women) will have employment relationships that do not discriminate with respect to any aspects of the employment relationship, including with respect to race, ethnicity, gender religion, trade union affiliation, political opinion, disability, national extraction, or social origin. Annex 1.c presents a list of recommended discrimination requirements that can be included in a policy and can be used to define employees' rights related to discrimination. It is important to note that CAF-GEF financed project proponents must first ensure they fully understand and fulfil all national law requirements and use Annex 1.c to supplement these requirements; for example, the annex may provide additional details in some subject areas.

CAF-GEF financed projects need to establish and implement measures to: (i) develop a written list of worker rights related to non-discrimination (including gender discrimination); (ii) inform and train all workers of their rights; (iii) inform employees how they can present complaints/claims regarding discrimination, including both any system established under national law and the project-specific grievance mechanism (per CAF-GEF Project Environmental and Social Safeguard S01); (iv) perform ongoing monitoring of project performance including whether any discrimination complaints or claims have been presented and the non-discrimination training provided; and (v) ensure that project contractors (e.g., construction, operation and maintenance) and principal material and service providers are provided non-discriminatory procurement/contracting opportunities and that these contractors and service/material providers establish a non-discriminatory workplace for their employees.

CAF-GEF financed project proponents should consider developing a formal plan to address discrimination and gender equality should include (in addition to what is preceding paragraph): (i) written policy and procedures which make qualifications, skill and experience the basis for the recruitment, training, and advancement of employees at all and levels and well-explained procedures related to discrimination; (ii) designation of responsibility for equal employment issues at a high level; (iii) raise awareness and train staff within the company to make sure there is a clear understanding of the different types of discrimination; (iv) promote transparency and consistency; (v) link advancement of supervisory staff to performance in this area; (vi) provide access to skills development training to all employees where

relevant; (vii) avoid systematic applications of job requirements that would disadvantage certain groups; and (viii) keep up-to-date records on recruitment, training and promotion. Beyond basic non-discrimination actions, proponents should ideally implement measures to promote diversity within their company. This should include securing top management commitment, assessing organization need in the area diversity, and developing and implementing an approach (strategy) to promote diversity including objectives and diversity promotion actions.

When applicable, CAF-GEF financed projects should establish measures to promote gender equality. The appropriate measures will depend on the project specific characteristics. Annex 1.d provides a list of some potential measures that could be considered by a CAF-GEF finance project proponent, and the Reference section provides additional references for various sectors (Gender Mainstreaming in Specific Sectors).

CAF-GEF financed projects should define project-specific gender equality indicators to measure performance, including sex disaggregated information on who participates in and benefits from the project. Information may also be disaggregated according to other key variables, depending on the project, such as socioeconomic group, age, ethnicity, race, religion, or location (rural or urban). Selecting and prioritizing indicators will depend on many factors, including the project type, scale and focus. Gender equality indicators can measure: (i) differences in participation, benefits, outcomes, and impacts for women, men, boys, and girls; (ii) changes (positive or negative) in gender equality or inequality between men and women, and between girls and boys; and (iii) how these changes impact on the achievement of project development objectives, particularly economic growth, poverty reduction, and sustainable development. Annex 1.e provide a list of some potential indicators and other references which could be used by a CAG-GEF financed project proponent in selecting project specific gender indicators.

CAF-GEF financed projects may involve a range of project proponent companies, from large to small and medium enterprises (SMEs), and typically the project will involve contracting for various project activities (e.g., construction, etc.) and purchasing of goods and services (e.g., material supply, specialized maintenance, catering and basic cleaning, etc.) which can be provided by large companies, SMEs or even micro-enterprises or individuals. Appropriate measures should be established to address non-discrimination and equal opportunities with these contracted entities in relation to their activities in the CAF-GEF financed project.

Potential measures that should be included in the CAF-GEF financed project proponent gender non-discrimination policy and procedures to establish appropriate clauses in procurement bids and resultant contracts that clearly inform bidders and contracted companies of their responsibilities related to non-discrimination and equal employment and the contractual ramifications for failure to comply. The CAF-GEF financed project proponent will need to define what specific requirements, based in part on the role and activities of contracted companies. At a minimum, this should include that the contracted party/entity shall: (i) not make decisions relating to the employment or treatment of contractor's personnel on the basis of personal characteristics unrelated to inherent job requirements; (ii) base employment on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices; and (iii) provide protection and assistance as necessary to ensure non-discrimination and equal opportunity, including for specific groups such as women, people with disabilities, migrant workers and children (of working age).

For CAF-GEF financed projects that involve contracting construction companies, the CAF-GEF financed project proponent should explore opportunities for increasing women participation in the project construction workforce. This could include working with construction contractors to: (i) define plan/measures to improve the number of women among construction workforce, (ii) assess the demographics and diversity of the construction contractor, (iii) partner with construction associations and community-based organizations to bring women into the trades, engage in outreach and keep track of recruitment efforts, and (iv) consider apprenticeship opportunities for women.

SEXUAL HARRASMENT

Gender-based violence can be defined as any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e. gender) differences between males and females. Gender-based violence includes sexual exploitation, sexual abuse and sexual harassment. Sexual Exploitation can be defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual Abuse can be defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Sexual harassment is a form of sex or gender discrimination. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment is unwelcomed conduct in the sense that the employee (person) did not solicit or incite it, and in the sense that the employee regarded the conduct as undesirable or offensive. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (ii) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment can explicitly or implicitly affect an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual harassment may be verbal, non-verbal, or physical and often the sexual conduct may be private and unacknowledged, with no eyewitnesses. Consent refers to when an adult makes an informed choice to agree freely and voluntarily to do something. There is no consent when agreement is obtained through: (i) the use of threats, force or other forms of coercion, abduction, fraud, manipulation, deception, or misrepresentation, (ii) the use of a threat to withhold a benefit to which the person is already entitled, or (iii) a promise made to the person to provide a benefit.

Sexual harassment is a global problem and is normally severely underreported. Projects can create and/or exacerbate risks of sexual harassment, and sexual exploitation and abuse. These risks really cannot be eliminated completely by a project, but project-induced risks can be managed. The degree of risk depends on various factors including the project area gender norms and beliefs, prevalence of sexual violence and national capacity to respond to gender violence, including national referral system for gender-based violence.

Most countries have laws and legal requirements that make employers responsible for providing their employees with a work environment that does not discriminate and is free of harassment. Hence, the burden of preventing sexual harassment rests on the employer. In these countries, employers are typically required by law to take steps to prevent and deal with harassment in the workplace. If the employer has

not taken all reasonable steps to prevent and deal with harassment in the workplace, the employer may be liable for any harassment which does occur, even if unaware that the harassment was taking place.

CAF-GEF financed projects are required to comply with national law. CAF-GEF financed project proponents should ensure they fully understand and must comply with all applicable national law requirements related to sexual harassment. This should be done, and documented, in the CAF-GEF financed project environmental and social evaluation process and gender analysis as required in CAF-GEF Project Environmental and Social Safeguards S01 and S09.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers (i.e., CAF-GEF financed project proponents) must take steps to prevent sexual harassment. An effective preventive program should include an explicit policy against sexual harassment that is clearly and regularly communicated to employees and effectively implemented. The employer should: (i) affirmatively raise the subject with all supervisory and non-supervisory employees, (ii) express strong disapproval of any sexual harassment and clearly communicate to employees that sexual harassment will not be tolerated, and (iii) explain the employer developed sanctions for harassment (which should reflect the severity of the conduct); and inform employees of their right to raise and how to raise the issue of harassment under applicable law and company sexual harassment policy.

The policy should be clear and written statement defining what sexual harassment, stating that sexual harassment will not be tolerated, describe how employers and employees should respond to incidents of harassment, and describe a detailed mechanism by which employees can make complaints related to sexual harassment occurs. However, it is important to acknowledge that just having an anti-harassment policy does not mean that there will be no harassment complaints or harassment.

The employer should have a written procedure for investigating sexual harassment complaints and to deal appropriately with the offending personnel. The procedure should be designed to "encourage victims of harassment to come forward" and should not require a victim to complain first to the offending supervisor. It should ensure confidentiality as much as possible and provide effective remedies, including protection of victims and witnesses against retaliation. More specifically, there shall be no retaliation against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation. When an employer receives a complaint or otherwise learns of alleged sexual harassment in the workplace, the employer should investigate promptly and thoroughly. The employer should take immediate and appropriate corrective action by doing whatever is necessary to end the harassment, make the victim whole by restoring lost employment benefits or opportunities, and prevent the misconduct from recurring. Disciplinary action against the offending supervisor or employee, ranging from reprimand to discharge, may be necessary. Any disciplinary action must be determined and carried out in a manner that is consistent with local labor legislation and any applicable union agreements. These may also prohibit certain types of disciplinary measures.

When an employer investigates a sexual harassment, serious consideration is required regarding who will do the investigation. The investigation must be fair, unbiased and done in a manner reflecting the type of accusation and specific gender and cultural inherent issues. The investigator should be trained on empathetic, non-judgmental and confidence collection of information. If an internal company staff is the investigator, they must be fully independent of employee in terms of company organization and defined lines of responsibilities. In some cases, for example, small companies, use of an external third party may be warranted.

The employer shall provide sexual harassment training to their employees which includes the sexual harassment policy, procedure for investigating sexual harassment complaints, and the applicable employer and employee responsibilities. Codes of conduct can be used to define employer and employee responsibilities related to sexual harassment.

Confidentiality and sensitivity must be respected by all persons (staff, managers, etc.) who are aware of a harassment complaint, or are involved in its resolution. They must refrain from discussing the complaint amongst themselves or with anyone who does not have a need to know. Efforts should be made to preserve the dignity and self-respect of the parties to the complaint.

The following guidance is provided to assist CAF-GEF financed projects properly address sexual harassment related to CAF-GEF financed projects:

- Annex 2.a presents key principles for effectively preventing and addressing sexual harassment in the workplace, including committed and engaged leadership, consistent and demonstrated accountability, strong and comprehensive harassment policies, trusted and accessible complaint procedures, and regular, interactive training tailored to the audience and the organization. This can be used to help CAF-GEF project proponents in developing their project-specific measures related to sexual harassment. This annex presents an example of good international industry practice, but it does not attempt to address or ensure compliance with specific national laws. Thus, CAF-GEF financed project proponents should first ensure they fully understand and fulfil all national law requirements and use this annex to supplement these requirements, for example given the annex may provide additional details in some subject areas. The project proponent should also consider and, as applicable, use guidance presented in other parts of Annex 2 and the practical considerations that are presented below, including adding measures in the sexual harassment policy and procedures to deal with project contractors and principal material and service providers and sexual harassment complaints by local community member(s) related to project workforce.
- Annex 2.b presents suggested Employer and Employee measures (responsibilities) to create a harassment-free workplace. These could be used in a CAF-GEF finance project sexual harassment policy, including for inclusion in Codes of Conduct for employees and adapted for use with project contractors and material/service providers, and as part of sexual harassment training and awareness sessions.
- Annex 2.c presents an example process for investigation of sexual harassment complaint. Additional examples on investigation process are listed in References section. This information could help CAF-GEF financed project proponents develop a specific process for their project, which should reflect any specific national law requirements and relevant culturally aspects.
- Annex 2.d presents some guidance on practices to prevent and respond to sexual harassment specifically in the workplace associated with low-paid jobs. This information could be used to adapt sexual harassment policy and procedures in CAF-GEF financed projects may involve direct employment of use of contracted companies that involve relatively lower paid jobs.

CAF-GEF financed projects can be considered of a general range/type of projects (i.e., projects eligible for GEF financing), which is a subset of broader range of infrastructure and other sectoral projects. Presented below is guidance related to some practical considerations that may occur in CAF—GEF financed projects.

CAF-GEF financed projects may involve a range of project proponent companies, from large to small and medium enterprises (SMEs), and the project typically involves contracting for various project activities (e.g., construction, etc.) and purchasing of goods and services (e.g., material supply, specialized maintenance, catering and basic cleaning, etc.) which can be provided by large companies, SMEs or even micro-enterprises or individuals. Appropriate measures should be established to address potential sexual harassment related to employees of these contracted entities in relation to their activities in the CAF-GEF financed project.

Potential measures that should be included in the CAF-GEF project proponent sexual harassment policy and procedures to establish appropriate clauses in procurement bids and resultant contracts that clearly inform bidders and contracted companies of their responsibilities related to sexual harassment and the contractual ramifications for failure to comply. The CAF-GEF project proponent will need to define what specific requirements, based in part on the role and activities of contracted companies. At a minimum, this should include: (i) clear statement requiring compliance with national law related to sexual harassment; (ii) requirement for all contractor or service provider workers to comply with a project Code of Conduct; (iii) informing and possible training contractors of the project proponents sexual harassment policy and procedures, that sexual harassment will not be tolerated, that cases of sexual harassment involving contractor employees will be investigated; and (iv) what measures could be taken applicable if sexual harassment does occur (e.g., contractual remedies). For contracted companies that provide a major or significant role in meeting the CAF-GEF finance project development (e.g., significant/major construction, operation and maintenance, or significant primary material supplier), it would be recommendable to require (i) the contractor to present in their bid on measures to deal with non-discrimination and sexual harassment and information related to non-discrimination or sexual harassment claims, and (ii) include as bid and contract requirements for the contractor to implement an acceptable sexual harassment policy that meets national law and relevant measures presented in this guidance and report to CAF sexual harassment and non-discrimination claims.

Sexual harassment claims may occur by members of local communities against the project workforce. These claims would likely be presented to the CAF-GEF financed project specific grievance mechanism required by CAF-GEF Project Environmental and Social Safeguard S01. Given the nature of this complaint, the project proponent should discuss with the claimant if they desire to proceed with an investigation under the project proponent's sexual harassment policy/system or the project grievance mechanism. If the decision is the grievance redress mechanism, then the project proponent shall ensure that appropriate measures are used as in the investigation of claims of gender-based violence or sexual exploitation and abuse.

Sexual harassment is more often more prevalent in some sectors, such as construction. For example, a study by the U.S. Department of Labor reported that 88 percent of U.S. women construction workers experience sexual harassment at work, compared to 25 percent of women in the general U.S. workforce. The following are some suggested measures to strengthen the gender equality for women in construction projects and increase the oversight and monitoring of contractors:

- Set targets to increase women employment.
- Increase a project owner and/or main contractor in the oversight and monitoring of sub-contractors related to gender equality, sexual harassment and sexual exploitation and abuse.
- Require contractors to take appropriate measures, such as (i) establishing a written sexual harassment policy, (ii) keeping track of recruitment sources for women and minorities, (iii) engaging in outreach and recruitment of women and minorities, (iv) provide a written plan

indicating how they plan to improve their numbers of women and minorities, (v) clearly document and report on their recruitment efforts, worksite conditions, and employment data.

- Develop and implement a set of criteria that to apply for contractor (and primary suppliers and service companies) for the procurement bidding and contracts to (i) assess prospective contractors' policies and practices for complying with the non-discrimination and sexual harassment as part of the selection process, (ii) establish non-discrimination and sexual harassment contractual requirements, including inclusion of related information and data in construction (or operation and maintenance) contractor routine reports.

Some CAF-GEF financed projects may involve direct employment or use contracted companies that involve relatively lower paid jobs. These types of jobs and the associated persons hired can have specific issues related to sexual harassment. Annex 2.d provides some guidance on promising practices to prevent and respond to sexual harassment in low-paid jobs, which could also be adapted to some degree to apply to measures to prevent non-discrimination.

CAF should require that CAF-GEF financed projects promptly notify CAF in any claim of non-discrimination or sexual harassment and provide information on the status and performance of project specific non-discrimination and sexual harassment activities in the routine project performance reports submitted by the project proponent to CAF during the Administration phase. Potential sexual harassment indicators include: number of cases open, and the average time they have been open; number of cases closed, and the average time they were open; number of training courses related to sexual harassment delivered; percentage of workers that have signed a Code of Conduct, and percentage of workers that have attended the Code of Conduct training

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<https://www.ny.gov/sites/ny.gov/files/atoms/files/SexualHarassmentPreventionModelPolicySpanish.pdf>

Examples of Sexual Harassment Investigations
http://www.aspenrmg.com/Heffernan_Resources/Investigation%20Checklist_13.pdf
<https://www.probonopartner.org/wp-content/uploads/2016/01/internalinvestigationschecklist.pdf>
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Sexual Exploitation and Abuse

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Table 1. Select key gender-related considerations during CAF-GEF financed project cycle (origination, evaluation, formalization, administration (supervision), evaluation).

- Early screening of projects, both by CAF-GEF project financed proponent and CAF, to identify potential opportunities for supporting gender equality, projects that offer higher potential for gender mainstreaming, or projects with significant project gender-based risks
- CAF-GEF financed project proponent undertakes project environmental and social analysis and gender analysis (per CAF-GEF Environmental and Social Safeguards S01 and S09) and includes gender equality measures in final project design and components
- As appropriate, projects should use specialists with gender expertise to perform the gender analysis and develop quality measures from a gender perspective
- Ensure a safe and equitable participation in project-related stakeholder engagement processes, including consideration of gender
- Develop and include gender-specific measures in project environmental and social instruments (e.g., ESMP, gender action plan, etc.) and other relevant project operations manuals (e.g., human resources policy and manual, etc.). Include as appropriate gender equality measures in project and plans
- Ensure measures are established to avoid, prevent or mitigate gender-based negative impacts and risks including related to gender discrimination and workplace sexual harassment
- Ensure grievance mechanism will be accessible to all direct and contracted workers, considering their different characteristics including gender
- Ensure that measures are established within the project to collect data and report to CAF on project-specific disaggregated gender indicators to track gender-related project benefits (beneficiaries) and gender-based impacts and risks.
- Explore potential cooperation with country-based governmental agencies and non-governmental organizations working to support project-specific actions to improve gender equality, prevent gender discrimination and prevent workplace sexual harassment
- Ensure that project budgets have designated adequate resources for all gender-based risk mitigation and if applicable gender equality measures
- Establish the project-specific gender related requirements in the CAF-GEF project financing documents
- Ensure ongoing gender equality and gender-based risk mitigation capacity building and training activities during project implementation
- Include gender-specific clauses, actions and criteria in project procurement processes (terms of reference, bidding documents, contracts) in project contracts (construction, operation and maintenance, service providers, primary suppliers)
- Ensure systematic monitoring and reporting on gender in project monitoring reports to CAF, including implementation of gender-specific actions and disaggregated beneficiary data
- Ensure specific consideration of gender aspects during CAF supervision of projects
- If gender-related activities (risk mitigation or gender equality) are not going according to plan or monitoring identifies specific issues, then define and implement corrective or adaptive actions to address the problem/issue.
- Include gender-related aspects in project evaluation including performance and lessons learned

Annex 1.a. Representative questions related to country regulatory and institution framework related gender discrimination.

Adapted from International Labor Organization (ILO) Discussion Guide about Gender Equality and Non-Discrimination

https://www.ilo.org/global/topics/dw4sd/themes/gender-equality/WCMS_559762/lang--en/index.htm

1. Has the country ratified the international labor standards most relevant to gender equality and non-discrimination (e.g., ILO Conventions C.100, C.111, C.156, C.169, C.183, C189), and does it apply them in practice?
2. Does the national legal and policy framework address direct and indirect discrimination at all stages, including discrimination based on sex, race, ethnicity, religion, national extraction, social origin, age, political opinion, disability or HIV status, indigenous identity, sexual orientation and sexual identity?
3. Are there laws and policies on equal remuneration for work of equal value between men and women, and accessible dispute resolution mechanisms?
4. Does the labor inspectorate have a mandate to investigate on issues of discrimination and unequal pay?
5. Does the government regularly collect and analyze relevant statistics disaggregated by sex or by any other variable considered as a source of discrimination in the world of work?
6. Does the government impose directives or guidelines for mainstreaming gender and non-discrimination concerns into all activities, including in contractual agreements with counterparts at the national or local levels?
7. Does government systematically conduct gender analysis to identify, monitor and evaluate the differential impact of policies, programs and activities on women and men and to guide implementation towards achieving gender equality?
8. Does government systematically analyze other factors of discrimination (based on race, ethnicity, religion, social status, disability, national origin, language, age, etc.) to assess the impact of policies, programs and activities in combating discrimination at work?
9. Has the country taken measures to protect the livelihoods, assets and dignity of indigenous peoples and ethnic minorities (where they exist)?
10. Are the country's workers' and employers' organizations actively involved in the promotion of gender equality and non-discrimination?

Annex 1.b. Representative questions related to project company (or contractor, service or material provider) related to discrimination (equal opportunity and treatment).

Adapted From: Managing Labor Issues in Infrastructure Projects. Inter-American Development Bank. 2006. <https://publications.iadb.org/publications/english/document/Managing-labor-issues-in-infrastructure-projects.pdf>

1. Does the Project have established policies and procedures to ensure equal remuneration for males and females?
2. How are these policies and procedures conveyed to management and workers to ensure that everyone understands them?
3. Have there ever been complaints or reports by workers or management concerning unequal remuneration based on gender? If so, how were these matters handled?
4. What salaries do female workers receive compared with male workers engaged in the same or equivalent work?
5. Does the Project have established policies and procedures to prohibit distinction, exclusion, or preference in hiring, job terms and conditions, promotion, or retirement based on race, ethnicity, religion, social background, political affiliation, parental condition, gender, disability, sexual orientation, HIV/AIDS status, or age?
6. Does the company have a worker code of conduct that defines employee responsibilities related to gender discrimination (among other issues)?
7. How are these policies and procedures conveyed to management and workers to ensure that everyone understands them?
8. Does the project have Codes of Conduct for workers (including contractors and service providers) that include specific provisions related to discrimination and sexual harassment? Are workers required to sign the code of conduct?
9. Have any complaints or reports been made by workers or management at the Project, by local authorities, or by civil society groups about discrimination or harassment based on any of the above factors? If so, how were these matters resolved?
10. Are job applicants or current employees ever asked to take an HIV test or pregnancy test? What action does management take if a worker or candidate tests “positive” for HIV or pregnancy?
11. Does the Project keep a record of the citizenship of all its workers?
12. Do all workers possess proper documentation permitting them to work legally in the country? How does the Project ensure this?
13. Is there any certified documentation from judicial and labor ministerial authorities confirming the existence or absence of any registered complaints or reports concerning racial, ethnic, social, gender, citizenship, disability, trade union or political affiliation, religion, or other discriminatory hiring or employment practices at the Project.
14. What mechanisms are in place to ensure that all contractors and subcontractors comply with the Project’s requirements concerning nondiscrimination in employment opportunity and treatment? Does this include specific requirements in procurement bids and contracts?
15. Does Project management monitor contractor/subcontractor hiring and employment practices to ensure such compliance? If so, how?

Annex 1.c. Recommended requirements related to equal employment and non-discrimination.

Note: CAF-GEF financed project proponents should first ensure they fully comply with all national law requirements related to discrimination, and use this annex to supplement these requirements.

Adapted from:

Convention on the Elimination of All Forms of Discrimination against Women.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

ILO Convention 100 on Equal Remuneration and ILO Convention 111 on Elimination of Discrimination with Respect to Employment and Occupation.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111

- The Project must ensure a policy of equal opportunity for all job candidates and all workers.
- All workers (men and women) shall have employment relationships that do not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices on the basis of race, ethnicity, gender, religion, trade union affiliation, political opinion, disability, national extraction, or social origin.
- All workers (men and women) shall have the right to: (a) same employment opportunities, including the application of the same criteria for selection in matters of employment; (b) equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; (c) promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training; (d) regulatory required and company established benefits of social security, retirement, termination of employment, sickness, disability, leave; and (e) protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
- There shall be no discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, in particular to: (a) prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status; (b) comply with all regulatory requirements for maternity leave, and promote maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances; (c) provide information on, and to extent financially and technically feasible, supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life (e.g., child-care facilities); (d) provide special protection to women during pregnancy in types of work proved to be harmful to them.
- All workers will have written contracts describing terms and conditions of work and will have the contents explained to them. Workers will sign the employment contract; In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulty understanding the documentation.
- The principles and requirements of non-discrimination shall apply to all project workers, including full-time, part-time, temporary, contractual, and migrant workers.
- No employment or contracting decisions shall be made on the basis of personal characteristics unrelated to inherent job or contract requirements.

- Procurement and contracting will be transparent and non-discriminatory, and open with respect to ethnicity, religion, sexuality, disability or gender.

Annex 1.d. Examples of potential measures to promote gender equality (for additional measures/ideas refer to Reference section - Gender Mainstreaming in Specific Sectors).

Gender Discrimination

- Adequate measures to avoid, prevent and mitigate potential sexual exploitation or sexual abuse in recruitment or retention of skilled or unskilled female workers
- Measures and incentives to have equal pay for women and men for the same work
- Incentives to promote diversity and increase employment of women
- Include a balanced representation of women on OHS (occupational, health and safety) committees and specific measures (design, policies and practices) to address risks and needs of female project workers.
- Include women in grievance redress committees to help female stakeholders raise and address grievances.
- Provide maternity leave and nursing breaks
- Encourage flexible working conditions to address women workers with children
- Provide day care facilities or day care support
- Measures to increase women participation in company committees. leadership and senior management position
- Measures to strengthen legal and institutional framework to promote gender equality, and addressing gender discrimination and sexual harassment

Gender Equality

- Gendered adaptation of services and products provided by the project, such as more effective and safer for women (for additional details, see references under Gender Mainstreaming in Specific Sectors in Reference section)
- Promote women's participation in project-related benefits and opportunities (including setting targets), especially in sectors where they have been traditionally excluded
- Implement policies that seek to address gendered biases in beneficiary selection criteria
- Provide recruitment events to promote women applicants and/or training to increase women skills and capacity for employment
- Strengthen women's capabilities and opportunities to access project-related non-traditional jobs for women such as in low carbon and climate resilient economy, construction, infrastructure, energy and other sectors
- Measures to improve women or women-owned companies' accessibility to project opportunities associated with project contracts
- Include in project procurement opportunities measures to promote the inclusion women-led businesses as sub-contractors
- Support for the development and growth of women-led businesses that could benefit from the project
- Training and/or incentives for companies (contractors, suppliers, etc.) for hiring women and designing/implementing gender-sensitive policies

Annex 1.e. Examples of potential gender discrimination and equality indicators

Adapted from:

Tool Kit on Gender Equality Results and Indicators. Asian Development Bank.

<https://www.adb.org/documents/tool-kit-gender-equality-results-and-indicators>

- Number and percentage of project direct beneficiaries for women and men
- Number and percentage of enterprises established or expanded by the project by women and men, by type of enterprise
- Number, monetary amount and percentage of contractors and service providers contracted by the project by women-owned and men-owned, by type of enterprise
- Number of awareness activities providing targeted information to women on project opportunities, including project beneficiary, employment and contracts
- Number and percentage of jobs (person-days) generated by the project for women and men
- Number and percentage of women and men employed, by type of job and pay rates; and proportion of women employed in unskilled, technical, management, and supervisory roles
- Evidence of the type of incentives designed to recruit women, increase their capacity, and provide career development
- Number and percentage of women and men attending gender training (including gender discrimination, sexual harassment) by type of employee
- Number and percentage of women and men who receive training, by type of training
- Number and percentage of women and men who participate in project/company committees or working groups
- Number and percentage of male and female staff working on environmental, social or worker health and safety
- Number and percentage of jobs (person-days) generated for women and men in the community
- Evidence that equal employment opportunity policy and practices are implemented for staff and contractors (core labor standards, equal pay for work of equal value, occupational health and safety, and separate sanitation facilities)
- Evidence of the type of incentives designed to recruit women, increase their capacity, and provide career development
- Targets met for women's employment
- Number of gender discrimination claims filed including resolution and results
- Evidence that procedures for responding to worker complaints are publicly available and accessible to women; standards for responding to complaints are implemented and monitored
- Evidence that procedures for responding to community complaints are publicly available and accessible to women; standards for responding to complaints are implemented and monitored
- Number, amount and percentage of women and men owned-companies who receive project contracts, by contract type
- Evidence of strengthened capacity of contractors or service providers to ensure women and men benefit equitably from project contracts
- Number of training and awareness sessions with contractors and service providers on gender discrimination and gender equality, and number and percentage of women and men attending
- Evidence that project contracts with contractors and service providers include gender non-discrimination measures
- Number of project contracted contractors and service providers that have gender equality policies and staff with specialist expertise on gender issues

- Evidence of increased capacity of contractors and service providers to consult with women and men, respond to women's needs and priorities, and provide training on discrimination and sexual harassment
- Number of training sessions held with regulatory governmental agencies and other entities related to gender discrimination
- Number and percentage of women and men who participate in the development of project environmental and social evaluation assessments and impact/risk management plans
- Number and percentage of women and men who attend project stakeholder participation events
- Changes in mitigation plans due to consultation with women
- Number and type of updates to company non-discrimination policies, including code of conduct, to reflect lessons learned
- Changes in mitigation plans due to results from project monitoring and supervision

Annex 2.a. Principles for Effective Preventing and Addressing Harassment

NOTE: This annex presents an example of good international industry practice related to workplace sexual harassment. It does not attempt to address or ensure compliance with specific national laws.

From: Report of the Co-Chairs of EEOC's Select Task Force on the Study of Harassment in the Workplace
<https://www.eeoc.gov/select-task-force-study-harassment-workplace>

A. Leadership and Accountability

The cornerstone of a successful harassment prevention strategy is the consistent and demonstrated commitment of senior leaders to create and maintain a culture in which harassment is not tolerated. This commitment may be demonstrated by, among other things:

- Clearly, frequently, and unequivocally stating that harassment is prohibited;
- Incorporating enforcement of, and compliance with, the organization's harassment and other discrimination policies and procedures into the organization's operational framework;
- Allocating sufficient resources for effective harassment prevention strategies;
- Providing appropriate authority to individuals responsible for creating, implementing, and managing harassment prevention strategies;
- Allocating sufficient staff time for harassment prevention efforts;
- Assessing harassment risk factors and taking steps to minimize or eliminate those risks; and
- Engaging organizational leadership in harassment prevention and correction efforts.

Senior leaders ensure that their organizations:

- Have a harassment policy that is comprehensive, easy to understand, and regularly communicated to all employees;
- Have a harassment complaint system that is fully resourced, is accessible to all employees, has multiple avenues for making a complaint, if possible, and is regularly communicated to all employees;
- Regularly and effectively train all employees about the harassment policy and complaint system;
- Regularly and effectively train supervisors and managers about how to prevent, recognize, and respond to objectionable conduct that, if left unchecked, may rise to the level of prohibited harassment;
- Acknowledge employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving harassment complaints; and
- Impose discipline that is prompt, consistent, and proportionate to the severity of the harassment and/or related conduct, such as retaliation, when it determines that such conduct has occurred.

In addition, senior leaders should exercise appropriate oversight of the harassment policy, complaint system, training, and any related preventive and corrective efforts, which may include:

- Periodically evaluating the effectiveness of the organization's strategies to prevent and address harassment, including reviewing and discussing preventative measures, complaint data, and corrective action with appropriate personnel;
- Ensuring that concerns or complaints regarding the policy, complaint system, and/or training are addressed appropriately;

- Directing staff to periodically, and in different ways, test the complaint system to determine if complaints are received and addressed promptly and appropriately; and
- Ensuring that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures are implemented and communicated to employees.

To maximize effectiveness, senior leaders could seek feedback about their anti-harassment efforts. For example, senior leaders could consider:

- Conducting anonymous employee surveys on a regular basis to assess whether harassment is occurring, or is perceived to be tolerated; and
- Partnering with researchers to evaluate the organization's harassment prevention strategies.

B. Comprehensive and Effective Harassment Policy

A comprehensive, clear harassment policy that is regularly communicated to all employees is an essential element of an effective harassment prevention strategy. A comprehensive harassment policy includes, for example:

- A statement that the policy applies to employees at every level of the organization, as well as to applicants, clients, customers, and other relevant individuals;
- An unequivocal statement that harassment based on, at a minimum, any legally protected characteristic is prohibited;
- An easy to understand description of prohibited conduct, including examples;
- A description of any processes for employees to informally share or obtain information about harassment without filing a complaint;
- A description of the organization's harassment complaint system, including multiple (if possible), easily accessible reporting avenues;
- A statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy;
- A statement that the employer will provide a prompt, impartial, and thorough investigation;
- A statement that the identity of individuals who report harassment, alleged victims, witnesses, and alleged harassers will be kept confidential to the extent possible and permitted by law, consistent with a thorough and impartial investigation;
- A statement that employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment;
- A statement that information obtained during an investigation will be kept confidential to the extent consistent with a thorough and impartial investigation and permitted by law;
- An assurance that the organization will take immediate and proportionate corrective action if it determines that harassment has occurred; and
- An unequivocal statement that retaliation is prohibited, and that individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal employment discrimination laws will not be subjected to retaliation.

In addition, effective written harassment policies are, for example:

- Written and communicated in a clear, easy to understand style and format;
- Translated into all languages commonly used by employees;
- Provided to employees upon hire and during harassment trainings, and posted centrally, such as on the company's internal website, in the company handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations; and

- Periodically reviewed and updated as needed, and re-translated, disseminated to staff, and posted in central locations.

C. Effective and Accessible Harassment Complaint System

An effective harassment complaint system welcomes questions, concerns, and complaints; encourages employees to report potentially problematic conduct early; treats alleged victims, complainants, witnesses, alleged harassers, and others with respect; operates promptly, thoroughly, and impartially; and imposes appropriate consequences for harassment or related misconduct, such as retaliation.

For example, an effective harassment complaint system:

- Is fully resourced, enabling the organization to respond promptly, thoroughly, and effectively to complaints;
- Is translated into all languages commonly used by employees;
- Provides multiple avenues of complaint, if possible, including an avenue to report complaints regarding senior leaders;
- Is responsive to complaints by employees and by other individuals on their behalf;
- May describe the information the organization requests from complainants, even if complainants cannot provide it all, including: the alleged harasser(s), alleged victim(s), and any witnesses; the date(s) of the alleged harassment; the location(s) of the alleged harassment; and a description of the alleged harassment;
- May include voluntary alternative dispute resolution processes to facilitate communication and assist in preventing and addressing prohibited conduct, or conduct that could eventually rise to the level of prohibited conduct, early;
- Provides prompt, thorough, and neutral investigations;
- Protects the privacy of alleged victims, individuals who report harassment, witnesses, alleged harassers, and other relevant individuals to the greatest extent possible, consistent with a thorough and impartial investigation and with relevant legal requirements;
- Includes processes to determine whether alleged victims, individuals who report harassment, witnesses, and other relevant individuals are subjected to retaliation, and imposes sanctions on individuals responsible for retaliation;
- Includes processes to ensure that alleged harassers are not prematurely presumed guilty or prematurely disciplined for harassment; and
- Includes processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, the preventative and corrective action taken.

It is recommended that organizations ensure that the employees responsible for receiving, investigating, and resolving complaints or otherwise implementing the harassment complaint system, among other things:

- Are well-trained, objective, and neutral;
- Have the authority, independence, and resources required to receive, investigate, and resolve complaints appropriately;
- Take all questions, concerns, and complaints seriously, and respond promptly and appropriately;
- Create and maintain an environment in which employees feel comfortable reporting harassment to management;
- Understand and maintain the confidentiality associated with the complaint process; and
- Appropriately document every complaint, from initial intake to investigation to resolution, use guidelines to weigh the credibility of all relevant parties, and prepare a written report

documenting the investigation, findings, recommendations, and disciplinary action imposed (if any), and corrective and preventative action taken (if any).

D. Effective Harassment Training

Leadership, accountability, and strong harassment policies and complaint systems are essential components of a successful harassment prevention strategy, but only if employees are aware of them. Regular, interactive, comprehensive training of all employees may help ensure that the workforce understands organizational rules, policies, procedures, and expectations, as well as the consequences of misconduct.

Harassment training may be most effective if it is, among other things:

- Championed by senior leaders;
- Repeated and reinforced regularly;
- Provided to employees at every level and location of the organization;
- Provided in a clear, easy to understand style and format;
- Provided in all languages commonly used by employees;
- Tailored to the specific workplace and workforce;
- Conducted by qualified, live, interactive trainers, or, if live training is not feasible, designed to include active engagement by participants; and
- Routinely evaluated by participants and revised as necessary.

In addition, harassment training may be most effective when it is tailored to the organization and audience. Accordingly, when developing training, the daily experiences and unique characteristics of the work, workforce, and workplace are important considerations.

Effective harassment training for all employees includes, for example:

- Descriptions of prohibited harassment, as well as conduct that if left unchecked, might rise to the level of prohibited harassment;
- Examples that are tailored to the specific workplace and workforce;
- Information about employees' rights and responsibilities if they experience, observe, or become aware of conduct that they believe may be prohibited;
- Encouragement for employees to report harassing conduct;
- Explanations of the complaint process, as well as any voluntary alternative dispute resolution processes;
- Explanations of the information that may be requested during an investigation, including: the name or a description of the alleged harasser(s), alleged victim(s), and any witnesses; the date(s) of the alleged harassment; the location(s) of the alleged harassment; and a description of the alleged harassment;
- Assurance that employees who report harassing conduct, participate in investigations, or take any other actions protected under federal employment discrimination laws will not be subjected to retaliation;
- Explanations of the range of possible consequences for engaging in prohibited conduct;
- Opportunities to ask questions about the training, harassment policy, complaint system, and related rules and expectations; and
- Identification and provision of contact information for the individual(s) and/or office(s) responsible for addressing harassment questions, concerns, and complaints.

Because supervisors and managers have additional responsibilities, they may benefit from additional training. Employers may also find it helpful to include non-managerial and non-supervisory employees who exercise authority, such as team leaders.

Effective harassment training for supervisors and managers includes, for example:

- Information about how to prevent, identify, stop, report, and correct harassment, such as:
 - Identification of potential risk factors for harassment and specific actions that may minimize or eliminate the risk of harassment;
 - Easy to understand, realistic methods for addressing harassment that they observe, that is reported to them, or that they otherwise learn of;
 - Clear instructions about how to report harassment up the chain of command; and
 - Explanations of the confidentiality rules associated with harassment complaints;
- An unequivocal statement that retaliation is prohibited, along with an explanation of the types of conduct that are protected from retaliation under federal employment discrimination laws, such as:
 - Complaining or expressing an intent to complain about harassing conduct;
 - Resisting sexual advances or intervening to protect others from such conduct; and
 - Participating in an investigation about harassing conduct or other alleged discrimination; and
- Explanations of the consequences of failing to fulfill their responsibilities related to harassment, retaliation, and other prohibited conduct.

To help prevent conduct from rising to the level of unlawful workplace harassment, employers also may find it helpful to consider and implement new forms of training, such as workplace civility or respectful workplace training and/or bystander intervention training. In addition, employers may find it helpful to meet with employees as needed to discuss issues related to current or upcoming events and to share relevant resources.

Annex 2.b. Some Employer and Employee measures (responsibilities) to create a harassment-free workplace

From: British Columbia Human Rights Commission manual [Preventing Harassment in the Workplace](#).

Employers

- Make it clear that this is a workplace where harassment will not be tolerated.
- Provide education and information about harassment to all staff on a regular basis. The circulation of information, open communication and guidance is of particular importance. Information sessions, personnel meetings, office meetings, group discussion and problem-solving groups can prove effective in this respect. Staff should also be informed of the best way of coping with aggression by means of guidelines and staff development programs on sexual harassment at work.
- Develop an anti-harassment policy together with employees, managers, and union representatives.
- Communicate the policy to all employees
- Make sure that all managers and supervisors understand their responsibility to provide a harassment-free work environment.
- Ensure that all employees understand the policy and procedures for dealing with harassment - new and long-term employees alike - this involves training, information and education.
- Show you mean it - make sure the policy applies to everyone, including managers and supervisors.
- Establish a mechanism for addressing sexual harassment in a confidential and sensitive manner after a grievance has been filed.
- Promptly investigate and deal with all complaints of harassment.
- Appropriately discipline employees who harass other employees.
- Provide protection and support for the employees who feel they are being harassed.
- Take action to eliminate discriminatory jokes, posters, graffiti, e-mails and photos at the work site.
- Monitor and revise the policy and education/information programs on a regular basis to ensure that it is still effective for your workplace.

Employee Responsibilities

Employees must also assume an active role in the prevention of sexual harassment. Employees should commit to do the following:

- Understand. Employees should (i) obtain and become familiar with the company policy on sexual harassment; (ii) examine one's feelings, attitudes, and behaviors in relation to sexual harassment; and (iii) see that behavior corresponds with the expectations and behavioral requirements of the company's sexual harassment policy.
- Observe. Employees should (i) be aware and conscious of engaging in potential sexual-harassment behaviors or incidents at work; (ii) be sensitive to individuals who may be offended by the verbal and non-verbal behavior of others; (iii) be aware of subtle forms of sexual harassment; and (iv) watch for and discourage sexual behaviors that negatively affect work.
- Examine. Employees should (i) pay attention to the response of others in order to avoid unintentional offense; (ii) do not assume that employees or co-workers enjoy or want to hear risqué jokes or sexually oriented comments about their appearance, or be touched, stared at, flirted with, or propositioned for dates or sexual favors; (iii) ask yourself if your verbal or non-verbal behaviors might have a negative impact on other co-workers attitudes toward work; (iv) examine your

behaviors, gestures, and comments. Ask yourself, "Could I unknowingly be encouraging sexual interplay by the way I interact or communicate?" (v) do not take sexual harassment lightly. If you think you are being sexually harassed by an individual or a group, do not accept it as a joke. Do not encourage the harasser by smiling, laughing at his/her jokes, or flirting back. Let the harasser know that you do not enjoy and do not want this type of attention.

- Confront. Employees should (i) if possible, confront the sexual harasser immediately. Tell him/her that you find that type of attention offensive; (ii) if possible, tell the harasser that the behavior affects you negatively and has the potential of negatively affecting your job; (iii) if possible, tell the harasser what behaviors (gestures, physical or verbal) behaviors you find offensive.
- Resolve. Employees should (i) seek confidential advice to develop your personal resolution strategy; (ii) consider writing a letter to the harasser and keep a copy for yourself; (iii) document all the incidents of sexual harassment. Be detailed, precise about date, time, location, and person/persons involved.
- Support. Employees should (i) if you know someone who is being harassed, give him or her your support. Encourage the recipient to talk about it and to take immediate action to stop it; (ii) if you actually see or hear an incident of sexual harassment or are subjected to an offensive environment, you can also take the appropriate steps to resolve the harassment or co-file with the complainant; (iii) when a recipient files a complaint, if possible, support him or her throughout the complaint process.

Annex 2.c. An example process for investigation of sexual harassment complaint

Note: other examples are included in Reference section

From: <https://sbshrs.adpinfo.com/harassment-investigations-an-employers-guide>

Investigation of complaint

When employers learn about allegations of sexual or other harassment, they have a duty to launch a prompt, impartial, and thorough investigation. Effective investigations can promote a safe, fair, and productive work environment and can help prevent harassment from reoccurring. Here are some guidelines for conducting a comprehensive investigation:

Take all complaints seriously

Whether you receive a formal or informal complaint, take all complaints seriously, regardless of who is involved. Encourage employees to report issues before they become severe or pervasive and without fear of retaliation. Provide employees with multiple avenues to raise complaints, including their own or other supervisors and HR.

Launch a prompt investigation

Start an investigation as soon as possible, remain impartial, and be thorough. Depending on the circumstances, consider whether you need to hire an outside third party to conduct an impartial investigation. When possible, more than one individual should be involved, including acting as a witness during interviews. Investigators should be trained on the process and instructed to remain objective.

Protect confidentiality to the extent possible

Protect the confidentiality of the investigation to the best of your ability. However, avoid promising confidentiality, since it may not be possible to keep all information completely confidential. Explain that the company will keep information confidential to the extent possible for a thorough investigation and as permitted by law. Report information learned from the investigation only to those who have a legitimate business need to know.

Create an investigation file

Create a confidential file to document the complaint as well as the steps you take throughout the investigation process. In the file, retain: (1) all interview notes; (2) all communications with witnesses, the complainant and the accused; (3) all written witness statements; (4) all documents that relate to the allegation; (5) the investigator's report; and (6) all documentation notifying appropriate parties of the investigation results and any remedial action taken. Keep the investigation file in a secure location separate from personnel files.

Take steps to prevent retaliation

Make sure employees understand that they will not be retaliated against for raising complaints or participating in an investigation. Include anti-retaliation provisions in equal employment opportunity, anti-harassment, and other applicable policies. Remind all parties of these provisions at the outset of the investigation.

Prepare to interview appropriate parties

Identify who you will interview (the complainant, each witness, the accused) and prepare a list of questions. Interview each party separately, in private, ideally with another individual to serve as a

witness to the investigation. Many investigators choose to speak with witnesses before interviewing the accused. During interviews, never offer any opinion or say anything to interviewees that would indicate you have already reached a conclusion (such as, "I believe you," "this is a meritless complaint," etc.). Take detailed notes and look for inconsistencies, opportunities for clarification, additional evidence, and the names of other potential witnesses.

Interview the complainant

Explain the investigation process and ask the complainant questions related to what happened, who was involved, when it happened, and how it has affected them. Other questions should address whether there were any witnesses or whether any other co-workers may have been subjected to the same or similar behavior. Repeat your notes back to the complainant to ensure you understood the allegations and captured the complaint accurately.

Interview witnesses

Interview witnesses separately and remind them that your company encourages employees to participate in investigations without fear of retaliation. Inform witnesses that you are conducting an investigation into allegations of harassment and ask if they have witnessed or have been subjected to any inappropriate conduct. If they have information pertaining to the harassment, ask for the specifics of what they observed before, during, and after the alleged incident.

Interview the accused

Explain the accusations that have been made against the individual. Describe the investigation process and assure them that no decision has yet been made with regards to the merits of the complaint. Ask the individual for their version of events and whether there are any witnesses or evidence that may corroborate their story. Ensure that the individual provides a response to each of the complainant's allegations.

Gather evidence

If there is any evidence of the alleged misconduct beyond witness statements, such as emails, instant messages, or video surveillance, take all necessary steps to protect and preserve it. It is a best practice to preserve all business records, whether in paper or electronic form, as soon as you learn about a dispute. This is especially important if you reasonably anticipate a legal claim. Consult legal counsel to ensure appropriate holds are placed on all relevant documents and information.

Evaluate credibility

The resolution of harassment complaints often depends on the credibility of those involved in the investigation. Establish and use guidelines for weighing the credibility of the parties in an investigation, such as the consistency of the each individual's statements, any corroborative or contradictory evidence, and other relevant factors.

Prepare the report

When preparing the investigation report, include a chronology of events, a list of witnesses, the facts of the case, and any evidence you may have been able to obtain. You may also be asked to include conclusions you have made regarding the incident(s) in question as well as recommendations for preventing this type of behavior in the future.

Take corrective action

If the investigation reveals that harassment occurred, take immediate and appropriate corrective action. The corrective measure should help prevent future incidents and be proportionate to the severity of the misconduct.

Follow-up

Notify both parties of your findings and the corrective action you plan to take, if applicable. When sharing results with the complainant, confirm that he or she has been properly heard and understood, even if he or she disagrees with the results. Additionally, set a timeframe to follow up with the complainant to ensure the conduct is no longer occurring.

Annex 2.d. Practices to prevent and respond to sexual harassment in low-paid jobs

From: What Works at Work: Promising practices to prevent and respond to sexual harassment in low-paid jobs. National Women’s Law Center.

https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/05/Convening-report_English-Final.pdf

https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/05/Convening-report_Spanish.pdf

1. Worker involvement is essential to stop harassment. For all steps in stopping harassment—diagnosing the problem, planning and executing the training, setting up the complaint procedures and disciplinary policies, determining what types of alternative polices to offer and how—workers must be involved in and leading the change. Worker involvement increases the buy-in among workers and creates polices that workers will use.
2. Employer accountability must include concrete steps. Employers must show institutional courage, stop retaliation, and invest in stopping harassment. Statements and policies alone are not enough.
3. Training must be frequent, in-person, and cover civility and workplace behavior. The minimum training required by law is very likely not sufficient. Use interactive methods for training. Use a trusted messenger. Make training accessible. Train bystanders to disrupt harassment.
4. Complaint and investigation procedures must be accessible, transparent, and keep the survivor informed of progress. Develop procedures to encourage participation. Use external investigators.
5. Discipline must be clear, transparent, and consistent. Workers should be involved in determining the levels of discipline and should know what types of infractions will lead to different levels of discipline.
6. Voluntary alternative dispute resolution should be used. There are often local/national non-governmental organizations or other entities that can provide this service.
7. Employers should monitor the supervisors’ responses to harassment because monitoring increases compliance and decreases harassment. Assign responsibility for monitoring. Review managers’ actions. Do third-party audits.
8. Employers should take steps to increase diversity and inclusion in the workplace to decrease workplace sexual harassment.