

SEXUAL MISCONDUCT IN THE WORKPLACE POLICY

Effective Date Oct 22, 2018 **Version** 1.2 **Version Date** June 8, 2021

Responsible Team Ethics and Compliance Department

Supersedes Version 1

Policy Type Tier 1 **Policy Number** n/a

POLICY

1. Purpose

- 1.1. Mercy Corps is committed to a work environment in which everyone is treated with respect and dignity. We strive to maintain a culture of caring, which looks to ensure the emotional and physical safety of our teams and anyone else we work with. We strive for a diverse and inclusive working environment and expect that working relationships are based on or built around mutual respect, professionalism, and free from sexual harassment and/or sexual assault.
- 1.2. We will not tolerate sexual harassment or assault by or of team members anywhere in the world. This policy sets out Mercy Corps' prohibitions against sexual harassment and sexual assault and the required procedures to ensure Mercy Corps upholds its commitment to preventing sexual harassment and assault by and of team members. This policy is intended to ensure that all team members around the world are held to a common minimum standard and that all allegations of violations and decisions regarding disciplinary measures are handled in as consistent a manner as possible. The policy applies globally without regard to local cultural practices or social norms.

2. Scope and Application

- 2.1. This policy applies to: Mercy Corps Global, Mercy Corps Europe and Mercy Corps Netherlands, their subsidiaries and affiliate organizations (collectively "Mercy Corps"); Members of Mercy Corps' Boards of Directors, officers, management, team members, seconded employees, interns, and volunteers (collectively "Team Members"); Sub-recipients, partner organizations, contractors, outside experts, consultants, agents, representatives, and any other organization or individual that acts on Mercy Corps' behalf or at Mercy Corps' direction (collectively "Partners"); and visitors to any Mercy Corps facilities, which includes but is not limited to photographers, filmmakers, journalists, researchers, private donors and prospective donors, and anyone else hosted by Mercy Corps or visiting Mercy Corps' implemented or financially supported programs ("Visitors"). Mercy Corps also expects that its donors and their representatives will abide by this policy, particularly when engaging with Mercy Corps Team Members.

3. Policy Statements

- 3.1. Prohibited Conduct
 - 3.1.1. Mercy Corps prohibits and does not tolerate any Team Member, Partner or Visitor engaging in sexual harassment or assault, with those terms defined as follows (and hereinafter referred to as "**sexual misconduct**").
 - 3.1.2. "**Sexual harassment**" includes, but is not limited to, unwelcome romantic or sexual advances, requests for sexual favors and other verbal or physical conduct of a romantic or sexual nature, where one of the following applies:
 - a. **Quid Pro Quo:** where submission to such conduct is made either explicitly or implicitly a condition of an individual's employment/assignment or reaction to such conduct by an individual is used as the basis for employment/assignment decisions affecting such individual; or
 - b. **Working Environment:** where such conduct has the purpose or effect of interfering with an individual's work performance, violating or infringing on their dignity, or creating an intimidating, degrading, hostile or offensive work environment.
 - 3.1.3. Specific examples of conduct constituting sexual harassment include, but are not limited to:
 - a. Repeated unwelcome physical conduct, such as touching non-intimate body parts, massaging, blocking or impeding normal movement, staring or leering;
 - b. Making or displaying sexual drawings or photos, demonstrating sexually suggestive gestures;
 - c. Repeated unwelcome verbal conduct such as requests for dates or comments of a sexual or romantic nature about a person (does not have to be the person the comments are directed towards), including comments about their body, clothing, relationships or sexuality;
 - d. Repeated unwelcome comments and statements of a sexual nature, such as slurs, jokes, insults, cursing language;
 - e. Conduct falling into the above categories, which is not repeated in nature but sufficiently serious in itself to amount to sexual harassment;
 - f. Any form of a sexual proposition, where something of value is suggested in exchange for sex or dates;
 - g. Pressure for dates or sex in exchange for promotions, salary increases, keeping one's job, or other job-related benefits;
 - h. Intentionally exposing one's own intimate parts to others; and
 - i. Stalking, which is an intentional course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear and can include repeated and menacing conduct. Examples include, but are not limited to, pursuing, following, giving unwanted gifts, surveilling, interfering with the safety of another or repeated, uninvited contacts via telephone or online communication.
 - 3.1.4. Sexual harassment can occur in-person, or by phone, email, through social media or other electronic communication.
 - 3.1.5. "**Sexual assault**" is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:
 - a. The intentional touching of another person's intimate parts without that person's consent;
 - b. Other intentional sexual contact with another person without that person's consent; and;

- c. Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.
 - 3.1.6. Mercy Corps does not tolerate any sexual misconduct against its Team Members, Visitors, or Partners by any non-Team Members, be they Visitors or donors, contractors, local government officials, armed groups, partner organizations local and international, Program Participants or other persons.
- 3.2. Use of Mercy Corps Resources for Sexual Content or Activities
- 3.2.1. Mercy Corps prohibits use of the Mercy Corps' offices, vehicles, and work equipment, including computers, cell phones, office walls, and internet access for any sexual activity or for the purposes of viewing, recording, displaying, or disseminating material that is sexual in nature.
- 3.3. Relationships in the Workplace
- 3.3.1. Although romantic relationships in the workplace are not strictly prohibited, such relationships must be entirely welcome, without any form of coercion, exploitation or abuse of power, voluntary and consensual, and not impact professional duties or the working environment.
 - 3.3.2. Because of the inherent power differential between persons in a supervisory or leadership position and those who report to them, romantic or sexual advances by a supervisor or leader towards any person in a subordinate position are viewed with due concern. Mercy Corps strongly encourages all Team Members to report their romantic relationships with other Team Members to the appropriate Human Resources department, HR lead, supervisor, or Country Director responsible for their employment as soon as possible. However, when a romantic relationship involves a leader, supervisor or manager and anyone in a subordinate position, both Team Members are required to report the romantic relationship to the Human Resources department responsible for their employment as soon as possible.
 - 3.3.3. This reporting is intended to be confidential and to protect the Team Members involved and can help ensure that perceptions of the potential for misconduct (for example, including conflicts of interest and perceived preferential treatment) are addressed before they arise.
 - 3.3.4. It will almost always not be appropriate for a Team Member to directly supervise a person with whom they have a romantic relationship. In rare instances where it might be unavoidable, usually involving established relationships between people who must for a time be in a reporting relationship, the reporting line must be approved by Global HR. Approval will only be granted after efforts have been made to ensure that the reporting relationship will not interfere with the work environment and all other options have been exhausted.
 - 3.3.5. Relationships that are not formally disclosed and involve a supervisor or leader may be investigated as a breach of the requirement to disclose under this policy and as potential sexual harassment with the same disciplinary consequences as sexual harassment.
- 3.4. Mercy Corps Encourages Reporting Prohibited Conduct
- 3.4.1. Everyone has the right to report sexual misconduct. Anyone who is aware of but was not the target of sexual harassment or assault is strongly encouraged to report it. Mercy Corps' Discrimination, Bullying & Harassment Policy addresses conduct, including comments, language or actions that are discriminatory or offensive but that may not meet the standard for sexual harassment.
 - 3.4.2. Anyone may report allegations per Mercy Corps Ethics Complaint and Whistleblower Policy to Mercy Corps' Integrity Hotline (mercycorps.org/integrityhotline). Team Members may report to their Human

- Resources representative, to a Safeguarding Focal Point, an Ethics team member, their Supervisor or their Supervisor's Supervisor.
- 3.4.3. Human Resources, Safeguarding Focal Points, EthicsTeam Members, Supervisors and Country Directors receiving such reports, must immediately report such allegations to the Mercy Corps Integrity Hotline.
- 3.5. Anonymous Reporting and Confidentiality
- 3.5.1. Because of the nature and sensitivity of allegations involving sexual misconduct, Mercy Corps treats all reports and allegations with the greatest respect for confidentiality of all individuals involved. Mercy Corps will seek to maintain privacy at all times during the response process, consistent with our responsibility to maintain individual and team safety. Only people with a need to know can be provided information, and limited to their role in the response and investigation process. Anyone who has a role as part of the investigation or response team is bound by confidentiality and can be disciplined, up to termination, for violating that confidentiality.
- 3.5.2. In some instances, Mercy Corps may be compelled by its donors, regulators or via legal action brought by the accused or for other legal reasons, to disclose information related to the allegations and its investigation, including the name and identifying information of the survivors and the accused. When providing personally identifiable information to donors, regulators or law enforcement, Mercy Corps will seek to limit distribution to the extent possible and allowed by law and, when possible and in accordance with laws, will seek assurances that the information remain confidential.
- 3.5.3. Anonymous reports to the Integrity Hotline are allowed. A non-anonymous reporting survivor may also request to preserve confidentiality by not allowing the Ethics and Compliance Department to disclose the content of the allegations (or parts thereof). In both cases of anonymous reporting and preservation of confidentiality, Mercy Corps' ability to conduct an investigation that can hold perpetrators accountable for substantiated allegations can be significantly restricted. To the best of its ability, Mercy Corps will work with survivors to address their concerns around confidentiality in order to allow effective investigations to go forward. Effective and fair investigations typically require confronting the accused with the allegations. In cases where Mercy Corps has concerns for the safety and well-being of its team, Mercy Corps may take appropriate actions, while still respecting, to the extent feasible, privacy and confidentiality.
- 3.6. Support for Survivors
- 3.6.1. Mercy Corps will offer to provide (and provide if they chose) survivors of sexual harassment or assault with independent medical and psychosocial support and will assist them with reporting incidents to the proper authorities should they chose to do so directly.
- 3.7. No Retaliation
- 3.7.1. Mercy Corps will not tolerate any form of retaliation against Team Members, Partners or Visitors who report suspected sexual misconduct in good faith or participate in investigations of sexual misconduct. The full protections for persons making reports can be found in Mercy Corps' Ethics Complaint and Whistleblower Policy. Anyone who has experienced retaliation for reporting or participating in a sexual misconduct investigation should immediately report to the Ethics and Compliance Department at mercykorps.org/integrityhotline.
- 3.7.2. Mercy Corps will not require its Team Members, Partners or Visitors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict Team Members, Partners, or Visitors from lawfully reporting violations to a designated investigative or law enforcement representative of a department or agency authorized to receive such information.

- 3.8. Investigating Reports of Prohibited Conduct
 - 3.8.1. Mercy Corps is committed to a serious, swift, and fair response and investigation for all allegations. Investigations will be conducted in accordance with Mercy Corps Ethics Complaint and Whistleblower Policy and related guidance on reporting and investigating sexual misconduct. 3.8.2. Mercy Corps will, first and foremost, take into account the safety, security and well-being of the survivors during any investigation or follow-up action, but will also take into account the safety and well-being of the accused and any witnesses.
- 3.9. Disciplinary Consequences for Prohibited Conduct
 - 3.9.1. For sexual assault, Mercy Corps will suspend any individual who is the subject of specific allegations of sexual assault while Mercy Corps and/or law enforcement investigate the matter. All substantiated violations will result in termination and ineligibility for rehire or future receipt of contracts, grants, or other resources from Mercy Corps. Sexual assault is a crime in virtually all jurisdictions where Mercy Corps operates. Mercy Corps will support survivors in reporting sexual assault to law enforcement should they choose to do so.
 - 3.9.2. For sexual harassment, Mercy Corps will assess the nature of the alleged conduct, the risk of continued conduct, and the well-being of any survivors when deciding how to mitigate the risk of continued conduct or harm while an investigation is pending. Mercy Corps will suspend the accused while the investigation is ongoing if the risks of continued conduct or harm cannot be adequately mitigated.
 - 3.9.3. All substantiated findings of sexual harassment will result in meaningful and proportional discipline that will depend on the nature and severity of the conduct and whether it can be effectively addressed. Discipline may include one or more of the following (this list is not exhaustive): warning letters for misconduct, mandatory training on gender and sexual harassment, demotion, ineligibility for promotions, suspension without pay, performance improvement plans, opportunities for people who have experienced sexual harassment to share impact statements with their harassers and receive apologies from their harasser, or termination. Team Members, Partners and Visitors who have their employment or assignment terminated for sexual harassment will be declared ineligible for rehire or future receipt of contracts, grants or other resources from Mercy Corps.

4. Required Procedures

- 4.1. Mercy Corps ensures compliance with this policy through appropriate processes and procedures designed to ensure to the extent possible that:
 - 4.1.1. All potential new Team Members undergo screening designed to ensure that they have not previously engaged in sexual exploitation, assault, or harassment;
 - 4.1.2. All Team Members are informed and trained on this policy via code of conduct training and all Team Members certify that they have understood this policy and agree to abide by it;
 - 4.1.3. Where appropriate and when in direct contact with Team Members, consultants, experts, contractors, agents, donor and government representatives, Partners and Visitors (including journalists and researchers) are informed of the requirements under this Policy;
 - 4.1.4. All Mercy Corps offices display awareness posters on this policy, including all available reporting mechanisms, translated into the primary language of the office and in conspicuous locations where all Team Members and visitors will see them;
 - 4.1.5. Security plans and measures take into account the risk of sexual misconduct by and against Team Members and Visitors and put into place reasonable mitigation measures to fit the circumstances;

- 4.1.6. Each country office has a designated focal point who can act as a local resource for team members or visitors who wish to report or discuss sexual misconduct;
- 4.1.7. Focal points, supervisors, and senior leadership receive appropriate training on how to identify and appropriately respond to potential sexual misconduct;
- 4.1.8. Anyone can anonymously (if they choose) report all forms of sexual assault and harassment to focal points or Mercy Corps' integrity hotline;
- 4.1.9. Human Resources representatives, supervisors, focal points, and leaders who receive allegations or complaints of violation of this policy must immediately report them to the Ethics Team via the integrity hotline [mercykorps.org/integrityhotline](http://mercycorps.org/integrityhotline) (see the [Ethics Complaint and Whistleblower Policy](#) and [related guidance](#));
- 4.1.10. All reports are confidentially, independently, fairly, timely and thoroughly investigated in a manner that ensures, to the extent possible, protection of the survivor (see the [Ethics Complaint and Whistleblower Policy](#));
- 4.1.11. Team Members, Partners and/or Visitors declared ineligible for rehire due to sexual misconduct will be prevented from any further opportunity with Mercy Corps, whether as an employee, consultant or contractor and, when asked for a reference, Mercy Corps will indicate that the individual is ineligible for rehire;
- 4.1.12. All reports are disclosed to donors and regulators as and when the donor or regulator requires. If reports include allegations of criminal misconduct, they are also disclosed to law enforcement (subject to the need to ensure the safety, wishes and well-being of survivors) (see the [Ethics Complaint and Whistleblower Policy](#) and [related guidance](#)); and
- 4.1.13. Mercy Corps' Board Joint Ethics and Safeguarding Committee is informed (in a manner consistent with Mercy Corps' commitment to confidentiality) of all reports and investigations of sexual harassment or assault at or around its regularly scheduled meetings and provided with whatever additional information necessary to allow it to conduct its oversight duties (see the [Ethics Complaint and Whistleblower Policy](#) and [related guidance](#)).

5. Roles and Responsibilities

- 5.1. Mercy Corps' Ethics and Compliance Department is responsible for:
 - 5.1.1. Ensuring this policy remains up-to-date via bi-annual reviews;
 - 5.1.2. Ensuring global reporting and investigations are overseen in accordance with this Policy and the Ethics Complaint and Whistleblower Policy and related guidance;
 - 5.1.3. Working closely with senior management in all countries to ensure that focal points are properly identified and trained and policies and trainings are appropriately adapted to the local context;
 - 5.1.4. Ensuring that all allegations of violations of this policy are investigated in accordance with this policy and the Ethics Complaint and Whistleblower Policy; and
 - 5.1.5. Reporting to Mercy Corps' Joint Ethics and Safeguarding Committee regarding allegations.
- 5.2. The Chief People Officer and Human Resources Team are responsible for:
 - 5.2.1. Ensuring that safe recruiting processes are in place and adhered to;
 - 5.2.2. Ensuring that all Team Members undergo the code of conduct training and acknowledge their understanding of it and willingness to abide by it;
 - 5.2.3. Ensuring that team members declared ineligible for rehire are not rehired by Mercy Corps and that this status is included in responses to employment verification checks by other organizations.
- 5.3. All Mercy Corps executives, country directors and senior management in all countries and areas where Mercy Corps operates are responsible for:

- 5.3.1. Creating and maintaining an environment and culture that fosters respect and inclusion and does not tolerate sexual harassment, exploitation, or assault;
- 5.3.2. Overseeing the full implementation of this Policy in their area of operations;
- 5.3.3. Ensuring that all allegations of sexual misconduct are taken seriously and immediately reported to the Ethics and Compliance Department; and
- 5.3.4. Ensuring that Team Members, Partners or Visitors who report allegations or participate in investigations are not retaliated against.

5.4. Relation to Local Laws

- 5.4.1. Mercy Corps will comply with laws and regulations prohibiting misconduct, but where this policy exceeds any legal requirements, Mercy Corps will adhere to the standards in this policy to the extent allowed by applicable law. This policy may be amended or adapted to comply with local laws only with the approval of Mercy Corps Ethics Team and Global Human Resources Team.

6. Policy Governance

- 6.1. This policy was approved by the Mercy Corps Board of Directors on October 22, 2018, Mercy Corps Europe Board of Directors on October 22, 2018, and Mercy Corps Netherlands on October 22, 2018. This policy may only be amended or changed with the approval of the Board(s).

Responsible Team	Ethics and Compliance Department
Policy Owner	General Counsel
Policy Approver	Mercy Corps Board
Executive Sponsor	Chief Ethics and Compliance Officer
Last Reviewed	June 8, 2021
Next Review Date	June 7, 2022