

# CODE OF CONDUCT FOR USFCo. EMPLOYEES

## SECTION 10 (CODE OF CONDUCT)

### 10.1 Code of Conduct

10.1 The Company expects all employees to maintain good discipline at all times in order to promote a healthy atmosphere needed for the smooth conduct of business activities. The following acts of an employee, inter-alia, are deemed to amount to indiscipline:-

- 10.2
- Disregard or disobedience of rules or orders of superiors.
  - Improper behavior, such as drunkenness.
  - Making false or misleading statements.
  - Inefficient, negligent careless or wasteful working.
  - Late attendance and absence without leave.
  - Installation of unlicensed and unauthorized software on Company's computers – network, standalone and notebooks. However, installation of evaluation copies of licensed software and freeware is permitted with approval from respective Head of Department.
  - Not wearing the Company ID card.

10.3 Warning letters are issued and other penalties imposed by the management in response to acts of indiscipline by employees. Persistent indiscipline, despite warnings, can lead to Termination.

10.4 The following acts of an employee, inter-alia, are deemed as misconduct:

- Willful insubordination or disobedience
- Breach of trust or dishonesty
- Theft or fraud with Company's business or property
- Willful damage or loss to Company's goods or property
- Taking or giving bribes or any illegal gratification
- Habitual absence without leave or un-intimated absence for more than 10 days
- Habitual late attendance
- Habitual negligence or willful neglect of duty, riotous or disorderly behavior
  - Going on strike or inciting others to go on strike in contravention of provisions of the law or rules of the company
- Engaging in racial, religious or sexual harassment and slander.
- Use of Company's systems and equipment for personal benefits.
- Attempt to intentionally write, generate, compile, copy, propagate, execute or introduce any malicious computer code, such as: virus, worm, logic bomb, or Trojan into the Company's network or computing resources.

#### 10.1.1 Responsibilities of the Management

Management will be responsible to ensure that each complaint of indiscipline and misconduct is addressed responsibly. The management will be impartial in the process and will facilitate just and fair inquiry without retaliation. The management will not victimize the complainant or the witnesses in the case.

#### Establishing an Inquiry Committee

- (i) The organization shall constitute a Standing Inquiry Committee to look in to such complaints. The Committee shall consist of three members, of whom at least one member shall be the head of HR and one member shall be the head of Administration. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson of the Committee shall be designated from amongst them.
- (ii) In case a complaint is made against one of the members of the Inquiry Committee that members shall be replaced by another for that particular case. Such a member maybe from within or outside the organization;

#### Designating Competent Authority

- (iii) The management shall designate a Competent Authority for implementation.

### 10.1.2 Informal Procedure of Complaint

An informal approach to resolve a complaint of indiscipline may be to provide advice and counseling to the accused on a strictly confidential basis

- i) A complainant may report an incident of misconduct to HR, or a member of the Inquiry Committee, in which case the relevant supervisor or the Committee member may address the issue at his/her discretion in the spirit of this Code. The request may be made orally or in writing;
- ii) If the case is taken up for investigation at an informal level, a senior member of the management will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner.
- iii) If the incident or the case reported does constitute misconduct of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, then with the consent of the complainant, the case can be taken as a formal complaint;
- iv) A complainant does not necessarily have to take a complaint of misconduct through the informal channel. She/he can launch a formal complaint at anytime;
- v) The complainant may make formal complaint through his/her supervisor or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- vi) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- vii) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- viii) Retaliation from either party should be strictly monitored. During the process of the investigation

work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;

- ix) The misconduct usually occurs when parties are alone; therefore usually it is difficult to produce evidence. It is strongly recommended that complainant should report an offensive behavior immediately to the management, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case;

### 10.1.3 Formal Inquiry Procedure

Working of the Inquiry Committee

- (i) The Inquiry Committee Setup will determine a chairperson among themselves and will fix the time and place for its meeting.
- (ii) The Inquiry Committee after the receipt of a written complaint, shall
  - a. within three days communicate in writing the charges and statement of allegations to the accused;
  - b. require the accused, within seven days from the day the charge is communicated to him/her, to submit
    - i. Written defense and on his/her failure to do so without reasonable cause, the Committee shall proceed ex-parte;
    - ii. Enquire into the charge and may examine such oral or documentary evidence in support of the charge or in, defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him/her.
- (iii) The Inquiry Committee shall have the power to:
  - c. summon and enforce attendance of any person and examine him on oath;
  - d. require the discovery and production of any document;
  - e. receive evidence on affidavits; and record evidence.
  - f. get the complaint or the accused medically examined by authorized doctor, if necessary,

The Inquiry Committee shall have the power to inquire in to the matters of misconduct and may recommend appropriate penalty against the accused. The following provisions inter alia shall be followed by the Committee in relation to the inquiry:

- a. The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- b. The Inquiry Committee can instruct to treat the whole proceedings confidentially, if necessary.
- c. An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to both parties;
- d. Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agency representative, a friend or a colleague;
- e. Adverse action shall not be taken against the complainant or the witnesses;
- f. The Inquiry Committee shall ensure that neither the employer nor the accused shall initiate any action that would create a hostile environment for the complainants or as to pressurize him/her from freely pursuing his/her complaint; and
- g. The Inquiry Committee shall give its findings in writing by recording reasons thereof.

### 10.1.4 Findings, Recommendations and Penalties

The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within fifteen working days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

**(i) Minor penalties:**

- (a) Censure;
- (b) Withholding, for a specific period, promotion or increment;
- (c) Hold, for a specific period, at an efficiency bar in the time-scale;
- (d) Recovery of the compensation payable to the complainant from pay or any other source of the accused;

**(ii) Major penalties:**

- (a) Reduction to a lower post;
- (b) Compulsory retirement;
- (c) Dismissal from service.
- (d) Payment of a Fine. A part of the fine can be used as compensation for the complainant.

### **10.1.5 Implementation of the Decision**

- 1 The Competent Authority shall impose the penalty recommended by the Inquiry Committee within one week of the receipt of the recommendations.
- 2 The Inquiry Committee shall meet on a regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority, if applicable, have been implemented.

## **10.2 Personal Conduct Policy**

Employees are expected to conduct themselves responsibly and according to the code of conduct of the USF. Improper conduct or violation of any of the conduct regulations may be grounds for corrective action or dismissal. Some violations may also result in criminal prosecution. Following is a non-exhaustive list of improper activities that will automatically trigger an investigation:

- Bribery/Corruption
- Theft
- Damaging Property
- Physical altercation another employee
- Using threatening or abusive language
- Gambling
- Leakage of Confidential data
- Behaving indecently or immorally

Immediate formal disciplinary action may be implemented in instances of serious misconduct where there is a clear and present danger to the organization or its employees. Such misconduct may include, but not be limited to, dishonesty, including fraud in securing employment, theft, misappropriation of USF property or funds, acts endangering the health and safety of others, immoral conduct, and conviction of a crime or offense involving moral turpitude.

In such instances, an employee may be dismissed for reasons related to

- the safety of persons or property;
- the prevention of the disruption of programs and/or operations
- Investigation for formal disciplinary action.

### 10.2.1 DISMISSAL

#### Reasons for Dismissing an Employee:

Reasons for dismissal include serious misconduct. Dismissal is clearly a very serious action and it is not easy to generalize about the sort of situation which would justify it being taken. The following examples are intended to provide guidance to staff on this issue but they cannot cover every possible circumstance which would lead to dismissal being proposed as an appropriate sanction.

- 1 Theft, unauthorized use or possession of USF property; or of the property of a third party, while acting or purporting to act on behalf of USF; or theft of the property of any fellow employee whilst on USF premises or during hours of duty;
- 2 Serious negligence or deliberate misuse of USF equipment or property, whether or not resulting in damage or injury;
- 3 Any attempt to commit fraud against USF
- 4 Unauthorized absence without due cause or persistent absence for whatever cause and persistent bad time keeping;
- 5 Unauthorized disclosure of confidential information or the publication of any information damaging to USF's interests;
- 6 Discrimination or harassment particularly on grounds of race, sex or disability; indecency at work; or being incapable of work because of the influence of alcohol or drugs;
- 7 Physical assault on any staff member or volunteer; or assault whilst acting or purporting to act on behalf of USF or any other person;
- 8 A criminal offence which renders the staff member unsuitable to carry out their duties; or where the penalty imposed by a court of law for any offence makes it impossible or impracticable to continue employment.
- 9 A serious misuse or breach of policy relating to the use of email, internet and USF's Intranet.
- 10 When the situation is so serious as to constitute gross misconduct, staff may be summarily dismissed.

#### Reporting Serious Misconduct:

- Where the deficient behavior is believed to be illegal or serious misconduct as outlined above, appropriate manager shall immediately notify the Human Resources Department.
- A Human Resource officer shall review the request for the formal disciplinary action, and shall forward a recommendation with all supporting documentation and employee notification to the CEO for signature.

### 10.2.2 Investigation Process

- Upon signature, the Human Resource Officer shall either forward the notice to the appropriate manager to be served to the employee in person, arrange for personal service, or send the notice of formal disciplinary action to the employee by certified mail at the employee's last known address.
- A worker is supposed to be given a reasonable time for explanation to the show cause notice of the management. Law although has not provided time, however, in view of various judgments on the subject, three days is considered to be reasonable time for explanation. After getting explanation on the show cause notice, the management will decide whether the explanation is satisfactory or not. In case the explanation is found to be unsatisfactory the Management will have to appoint an Enquiry

Officer for the purpose of holding an independent enquiry into the allegations motioned in the show cause notice and the Employee shall be granted an Investigatory leave.

- It is important that a person who is witness to the allegation or are directly involved in the incident cannot be considered to be an independent enquiry officer.
- After appointment of enquiry officer the accused worker/employee will be informed the time, date and venue of the enquiry. In case the accused worker/employee is absent in spite of service, the enquiry officer is fully justified to proceed ahead.

**However, if employee is present in the enquiry the enquiry officer has to proceed in the following manner.**

- The allegations in the show cause notice will be read to the accused. The accused employee will be asked whether he admits the allegation or denies the same. This should be in question and answer manner. In case the employee denies and refuses to admit the allegation then enquiry officer will ask the representative of the management to provide the list of witnesses/evidence if any, available to prove the allegation.
- It is important to note that the before the start of enquiry the enquiry officer will also give option to the accused employee whether he requires an assistance of any co-worker in the enquiry. In case somebody from the organization is nominated by the worker then enquiry officer will ensure the presence of that coworker in the enquiry proceedings.
- In the enquiry, the enquiry officer will ask the representative of the management to produce his evidences by examining the witnesses. After examination of witnesses by the Management, accused employee will be given an opportunity to cross examine. The witness and this cross examination will have to be recorded.
- After the management evidence the employee will be asked in writing whether he will produce his defense or not. In case the employee is not interested to provide his defense his statement duly signed by him should be record to that effect. However, if accused employee is interested to produce his defense he may be allowed accordingly.
- After conclusion the enquiry officer shall ensure with a signature of the accused that he will not ask more questions in cross examination and the witness will also sign his statement which should be countersigned by enquiry officer also. In the similar manner all the witness from the management side shall be examined and cross examined and duly signed by all the parties in the proceeding.
- After the enquiry is concluded the enquiry officer will give his findings by discussing the statement of allegations and evidences produced in support of a show cause notice to the effect whether the allegations mentioned in the show cause notice are proved or not and accordingly accused is found guilty or innocent.
- The enquiry officer will discuss the evidence produced by management and will also discuss the defense evidences if available. However, the enquiry office has no authority or mandate to recommend the punishment because it the discretion and domain of the management to award any punishment in case the employee is found to be guilty.
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### **10.2.3 Investigation Report**

- Upon completion of the investigation, the employee shall be informed by the HR Department in writing of the result of the investigation and of the corrective action, if any, to be taken. If no

corrective action is taken, the employee shall be paid his/her usual salary for the period of investigatory leave.

- Within five (5) days of receiving the notice of formal disciplinary action, the employee may provide a written statement and/or, by appointment, an oral statement, requesting a review by a Reviewing Officer appointed by the CEO or designee. The Reviewing Officer shall review all pertinent documentation and is empowered to affirm, modify or withdraw the notice.
- Following the employee's response or five calendar days, whichever comes first, the employee shall be informed in writing by the Human Resources Manager as to the final decision which will be one of the following four options:
  - ✓ Dismissal is inappropriate and no further action shall be taken.
  - ✓ Corrective action such as punishment or fines as decided by the management will be taken instead of dismissal.
  - ✓ Dismissal is appropriate.
  - ✓ Dismissal is appropriate and the case shall be handed over to the appropriate Law Enforcement Agencies for further action keeping in view the criminal nature of misconduct.

### 10.3 The Unacceptable Behavior (Sexual Harassment)

“any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment, is unacceptable behavior in the workplace, including any interaction or situation that is linked to official work or official activity outside the office. It constitutes a violation of this Code.

#### 10.3.1 Responsibilities of the Management

Management will be responsible to ensure that each complaint of sexual harassment is addressed responsibly. The management will be impartial in the process and will facilitate a just and fair inquiry without retaliation. The management will not victimize the complainant or the witnesses in the case.

Establishing an Inquiry Committee

- (i) The organization shall constitute a standing Inquiry Committee to look into complaints. The Committee shall consist of three members, of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson of the Committee shall be designated from amongst them.
- (ii) In case a complaint is made against one of the members of the Inquiry Committee that member shall be replaced by another for that particular case. Such a member may be from within or outside the organization;

Designating Competent Authority

- (iii) The management should designate a Competent Authority for implementation.

#### 10.3.2 Informal Procedure of Complaint

An informal approach to resolve a complaint of harassment may be through mediation between the

parties involved and by providing advice and counseling on a strictly confidential basis;

- i) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to his/her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at his/her discretion in the spirit of this Code. The request may be made orally or in writing;
- ii) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- iii) If the incident or the case reported does constitute sexual harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- iv) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She/he can launch a formal complaint at any time;
- v) The complainant may make formal complaint through her supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- vi) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- vii) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- viii) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- ix) The harassment usually occurs between colleagues when they are alone; therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case;

### 10.3.3 Formal Inquiry Procedure

Working of the Inquiry Committee

- (i) The Inquiry Committee Setup will determine a chairperson among themselves and will fix the time and place for its meeting.
- (ii) The Inquiry Committee after the receipt of a written complaint, shall
  - a. within three days communicate in writing the charges and statement of allegations to the accused;
  - b. require the accused, within seven days from the day the charge is communicated to him/her, to submit



- c. written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte;
- d. enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him/her.

(iii) The Inquiry Committee shall have the power to:

- a. summon and enforce attendance of any person and examine him on oath;
- b. require the discovery and production of any document;
- c. receive evidence on affidavits; and
- d. record evidence.
- e. get the complaint or the accused medically examined by authorized doctor, if necessary,

The Inquiry Committee shall have the power to inquire into the matters of harassment, and may recommend appropriate penalty against the accused. The following provisions inter alia shall be followed by the Committee in relation to the inquiry :

- a. The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- b. The Inquiry Committee can instruct to treat the whole proceedings confidentially, if necessary.
- c. An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to both parties;
- d. Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agency representative, a friend or a colleague;
- e. Adverse action shall not be taken against the complainant or the witnesses;
- f. The Inquiry Committee shall ensure that neither the employer nor the accused shall initiate any action that would create a hostile environment for the complainant so as to pressurize him/her from freely pursuing his/her complaint; and
- g. The Inquiry Committee shall give its findings in writing by recording reasons thereof.

#### **10.3.4 Findings, Recommendations and Penalties**

The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

##### **(i) Minor penalties:**

- (a) Censure;
- (b) Withholding, for a specific period, promotion or increment;
- (c) Hold, for a specific period, at an efficiency bar in the time-scale;
- (d) Recovery of the compensation payable to the complainant from pay or any other source of the accused;

##### **(ii) Major penalties:**

- (a) Reduction to a lower post;
- (b) Compulsory retirement;
- (c) Dismissal from service.
- (d) Payment of a Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

#### **10.3.5 Implementation of the Decision**

1. The Competent Authority shall impose the penalty recommended by the Inquiry Committee within one week of the receipt of the recommendations.
2. The Inquiry Committee shall meet on a regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority, if applicable, have been implemented.
3. In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.
4. The organization may also offer compensation to the complainant in case of loss of salary or other damages

