[[to be published in the official gazette]

The Gilgit-Baltistan Protection against Harassment of Women at the workplace Rules, 2021

Notification

Gilgit, ____January, 2021

In exercise of the powers conferred by Section 13 the Gilgit-Baltistan Protection against Harassment of Women at the Workplace, Act 2013 (No: I of 2013), The Government of Gilgit-Baltistan is pleased to make the following rules, as under:

1	***Preliminary***	i. These rules may be called -the Gilgit-Baltistan Protection Against Harassment of Women at the Workplace Rules of Business", 2021; ii. They shall come into force once notified in the official gazette. iii. They shall extend to the whole of the Gilgit-Baltistan.
2	***Definitions***	(1) In these rules, unless there is anything repugnant in the subject or context, - 1.1 "**Accused**" means an employee or employer of an organization against whom complaint has been made under this Act. 1.2 **"CBA"** means collective bargaining agent as provided in Industrial Relations Act, (IV of 2008) or any other law for the time being in force. 1.3 **"Code"** means the code of conduct as mentioned in the schedule to the Act. 1.4 **"Competent Authority"** means the authority as may designated by the management for the purpose of this Act. 1.5 **"Complainant"** means a women or man, who has made a complaint to the ombudsman or to the inquiry committee on being aggrieved by an act of harassment. 1.6 **"Employee"** means a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an intern or an apprentice. 1.7 **"Employer"** in relation to an organization , means any person or body of persons whether incorporated or not who or which employees workers in an organization under a contract of employment or in any other manner whosoever and includes- (i) an heir ,successor or assign ,as the case may be ,of such person or, body aforesaid; (ii) any person responsible for direction, administration, management and control of management (iii) the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial Government, appointed in this behalf or, where

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			no authority is appointed, the head of the Ministry or department as the case maybe; (iv) the office bearer, in relation to an organization or a group of organization run by or on behalf of the local authority , appointed in this behalf , or where no officer is such appointed , the chief executive or office bearer of that authority. (v) the proprietor, in relation to any other organization , of such organization and every director, manager, secretary , agent, or office bearer or person concerned with the management of the affairs thereof. (vi) a contractor or an organization of the contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and (vii) office bearers of a department of a Division of a Federal or a Provincial or a local authority who belong to the managerial , secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette; 1.8 **"Harassment"** means any unwelcomed sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causes 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. 1.9 **"Inquiry Committee"** means the inquiry committee established under sub section (1) of the section 3 1.10 **"Management"** means a person or body of persons responsible for the management of the affairs of an organization and includes an employer. 1.11 **"Ombudsman"** means the ombudsman appointed under section 7. 1.12 **" Organization"** means or federal or provincial government ministry, Division or department, a corporation or any autonomous or semi autonomous body, educational institutes, medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Act, 2017 and includes any other registered private sector organization or institutions. 1.13 **"Civil Society"** means any individual, organization or an institute including the organizations registered under Social Welfare, Population Welfare, Women Development, Human and Child Rights and Youth Affair Department or under The Gilgit-Baltistan Charities (Registration, Regulation and Facilitation) Act 2019, working in the interest of citizens and operating outside of the Governmental and for-profit sector. **1.14** **"Confidentiality"** means the duty to respect the privacy of information shared by and about a complainant and her family in the course of a case

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		and for the lifetime of the complainant. 1.15 **"Gender"** refers to the social relationships between women, men, girls, and boys that vary from one society to another and at different points in history. 1.16 **"Gender Equality"** means a transformational development goal. It is understood to mean that women and men enjoy the same status on political, social, economic, and cultural levels. It exists when women and men have equal rights, opportunities, and status. 1.17 **"Gender Equity"** means the process of being fair to both women and men in distribution of resources and benefits. This involves recognition of inequality and requires measures to work towards equality of women and men. Gender equity is the process that leads to gender equality. 1.18 **"Gender Gap"** means the difference between women and men as reflected in social, political, intellectual, cultural, or economic attainments or attitudes. 1.19 **"NGO"** means non-Governmental and not-for-profit organizations including national and international organizations registered under law. 1.20 **"Non-Official Member"** means members of the Commission not holding any post/position in public sector organization/department in Pakistan. 1.21 **"Protection"** means an act(s) of prevention and response to women who has been subjected to, is subject to or is under serious threat of being subjected to harassment. 1.22 **"Psychosocial Support"** means efforts to help individuals and communities to heal the psychological wounds and rebuild social structures after an emergency or a critical event. It can help change people into active survivors rather than passive victims. Material and social needs, along with safety and security are key factors in ensuring psychosocial wellbeing. 1.23 **"Rules"** means the Gilgit-Baltistan Protection against Harassment of Women at the Workplace Rules, 2021. 1.24 **"Trauma"** means the psychological or emotional response to an event or experience that is deeply disturbing and may have long term negative impact on the mental health of the victim. 1.25 **"Sex"** the term "sex" is defined to mean the biological differences between women and men.
3	***Significant Manifestations of Sexual Harassment in the Work Environment***	**2.** There are three significant manifestations of sexual harassment in the work environment **2.1 Abuse of authority:** A demand by a person in authority, such as supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer a job itself. **2.2 Creating hostile environment:** Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with individual's work performance or creates an intimidating, hostile, abusive or offensive work environment. **2.3 Retaliation:**(i) The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's option for future promotions or training,

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		distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to her rights. Such behavior is also a part of harassment. **(ii)** passing on pornographic material in print or electronic form or passing on written offensive messages of a sexual nature would also be considered sexual harassment. **(iii)** Any expression that suggests superiority of one gender over other should be avoided. Such expression may include jokes that demean one gender, and unwelcome references to a person's appearance or body, where they cause they cause psychological harassment and serve to deny colleagues their dignity and respect and contribute to an atmosphere in which inequality is emphasized. Such expression if persistent, may contribute sexual harassment.
4	***Responsibilities of the Management***	**3**. Management will be responsible to follow these rules in letter and spirit 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 or pressurize the complainant or the witness during the case and provide her full opportunity to contest the case.
5	***Establishing inquiry committee***	**3.1.** Each organization whether the provincial government department, Division or department, a corporation or any autonomous or semi autonomous body, educational institutes, medical facilities established or controlled by Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company and a civil society including any individual, organization or an institute and organizations registered under Social Welfare, Population Welfare, Women Development, Human and Child Rights and Youth Affair Department or under The Gilgit-Baltistan Charities (Registration, Regulation and Facilitation) Act 2019, working in the interest of citizens and operating outside of the Governmental institutions and for-profit sector running under established setup consist of employer(s) and employees shall constitute an inquiry committee within thirty days of the enactment of this Act to inquire into complaints under this Act. **3.2** The committee shall consist of three members from within the organization of whom one member shall be a woman working at senior level and if not available then nominated from other office/units/ department/ workplace of the same employer and she shall be the chairperson of the said committee. The other members shall be from amongst senior employee committed to cause of women or having legal knowledge or experience in social work and a senior member from the management having working experience of more than 7 years in the same organization. Incase if the organization is unable to designate three members from within organization, one or more members can be co-opted from NGO or Civil Society committed to the cause of women or a person familiar with the issue of sexual harassment. **3.3** If the compliant is made against one of the member of the inquiry committee, whether the member is from within or outside the organization, that member is replaced by other member of the same position for that particular case.

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6	***Tenure of the inquiry committee***	The chairperson and every other member of the inquiry committee shall hold office for up to 3 years from the date of their nomination. The chairperson or any other members can be removed by the committee before 03 years time period is up, if: (a) publishing ,communicating or making known to the public, press and media the information related to harassment cases against legal provisions (b) convicted for an offence under any law or undergoing an inquiry into an offence under any law (c) found guilty in any disciplinary proceedings against him/her (d) abuse his/her position as a member of the committee
7	***Working of the Inquiry Committee***	**4.** The chairperson of the inquiry committee setup under section 3 of the Act will fix the time and place for its meeting to inquire into the case of the harassment. **4.1**.1 The inquiry committee after receipt of a written complaint, shall (a) within three (03) days communicate in writing the charges and statement of allegations to the accused. (b) require the accused within seven (07) days from the day the charge is communicated to him, to submit a written defense and on his failure to do so without reasonable cause, the committee shall proceed ex-parte proceeding and (c) inquire 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 examined the witness against him/her. (d) the inquiry committee members should make the environment of the inquiry process conducive and unintimidating. The members should not reflect any bias in their attitude or their questioning. It is acknowledged that the society mostly blames women for whatever happens to her and usually makes an assumption that sexual harassment happens to women who are immoral or have encouraged an innocent man to provoke this behavior. The Committee members need to be careful not to exhibit such biases and should remain neutral. (e) “Abuse of authority” cases are complex because of power imbalance between complainant and accused, and may require severe disciplinary actions. Such cases could be linked with hiring and firing of employee, promotion, work duties, relocation, leave, training and other aspects affecting employment. In such cases the Committee members need to be aware that a reaction from the victim is not easy at the time when the offensive behavior takes place because of fear or power of a senior person over a junior employee. Therefore, strict measures of why the victim let it happen or why s/he didn’t scream etc. might not be relevant. (f) to constitute sexual harassment, the conduct must be ’unwelcome’. Exploration of a case must consider whether the person indicated to the other that the advances were unwelcomed or not. It is possible that initially the victim might have considered the behavior permissible, but later, due to personal reasons, personal choices or due to escalating advances, may want the person to stop that behavior. In such situations, it is helpful to keep in mind that the initial permission should not

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		be taken as a license for life. Or a welcomed response for a friendly advance should not be taken as an assumed door opener for physical links. Whenever a person feels that her/his personal limits are being crossed and chooses not to go any further, s/he has the right to convey this to the other person, and if that person does not stop that behavior, it should be considered sexual harassment. (g) Supervisory employees and co-workers should be asked about their knowledge of alleged harassment. When witnesses are not identified, testimony may be obtained from persons who observed change in demeanor of the charging party after alleged incident. Other persons who the charging party discussed the incident with should be interviewed. (h) it is acknowledged that sexual 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 launch a formal complaint at the time; Although not reporting immediately should not affect the merits of the case. **4. 1.2** relevant evidences during inquiry process includes: (a)detailed account of the complainant and accused form a part of the evidence (b) witnesses statements (c) statements of person(s) with whom the complainant might have discussed the incident, statements of person(s) from whom advice may have informally sought, should considered as evidence. (d) any other documentary, audio or video records can be submitted. Expert technical advice can be sought for such submissions. (e) the complainant should inform the accused about conduct constituting sexual harassment. t is advisable that records should be maintained in writing, all incidents noting dates, places, descriptions of acts, notifications to the accused and names of those to whom the incident may have been mentioned. (f) In some cases, sexual harassment determination can be based solely on the credibility of complainant's allegation, if the account is sufficiently detailed and internally consistent. (g) lack of corroborative evidence where such evidence should exist could undermine the allegations. By the same token, a general denial by the accused will carry little weight when contradicted by other evidence. (h) When dealing with harassment through a series of incidents, the investigator should not consider the series of incidents as separate specific incidents, but should consider the pattern. The cumulative impact of such incidents on the victim can make the work environment hostile. (i) Any person who aids or abets and covers the commission of any such act perpetrated by another, without which it could not have been committed might also, be considered liable under this Code. (j) While probing the matter of sexual harassment, if the investigation results in the involvement of any close relative or any associated person to the owner or management in committing that act of sexual harassment, the Committee could

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		recommend commencing legal proceedings against them at the cost of the management. (k) If other matters surface during the inquiry, they may be reported in an inquiry report if relevant; otherwise these should be reported to separate authorities. (l) In case the complainant is in trauma, the organization will arrange for counseling and for additional medical leave. This may be suggested as a part of the decision. (m) The organization can also offer compensation to the complainant in the case of loss of salary or other damages resulting from the harassment. The complainant can also be offered compensation if the employer has failed in the duty to prevent the sexual harassment of the complainant.
8	***Competent Authority***	(a) Each organization shall by order nominate the competent authority for implementation of this Act. The organization shall within seven days of the nomination of the competent authority circulate the copy of nomination to the employees of the organization. An organization shall not discriminate against any gender while nominating a competent authority. The competent authority shall have responsibility to impose the penalty recommend by inquiry committee within one week of the receipt of the recommendations. (b) In case of absence of competent authority the organization itself designates a competent authority within thirty days of enactment of this Act. The competent Body designated by the organization shall be head of the organization having the authority to announce the punishment for the accused based on the facts and findings and suggestions of the inquiry committee. (c) The competent authority shall monitor the situation regularly until he/she is satisfied that their recommendations or decision have been implemented. (d) The inquiry committee may recommend to competent authority for appropriate action against the complainant, if allegation leveled against the accused are found to false and made with mala fide intentions
9	***Complaint /Grievance Settling Process***	**4.2 In formal procedure:** 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; (a) 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; (b) 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; (c) 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; (d) 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

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		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; (e) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case; (f) 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; (g) 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; **4.2 Formal Procedure:** The inquiry committee set up under clause 3 of the said act will determine the time and place of meeting with the consent of the chairperson of the committee; The inquiry committee after receipt of the written complaint, shall ; (a) within three days communicate the charges and statement of allegation in writing to the accused (b) require the accused to submit a written defense within seven days from the day the charge is communicated to him and on his failure to do so without any reasonable cause ,the committee shall proceed ex parte proceeding (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge as the committee may consider necessary and each party shall entitled to cross examine the witness against him/her
10	***Meetings of the Inquiry Committee and inquiry process***	**4.3** (a) The inquiry committee shall meet within 24 hours of complaint filed by the complainant or her representative; (b) the time and place of sitting is decided by the chairperson of the inquiry committee, whether the sitting is in the office of the chairperson or the any such place suitable; (c) the inquiry committee shall meet on regular basis and monitor the situation regularly until they reached into the final report ; (d) based on the facts and evidence ,if it is proved that harassment has been occurred at the workplace with the complainant, the inquiry committee recommend appropriate penalty against the accused ; (e) the statements and other evidence acquired in the inquiry process shall be confidential and the inquiry committee can conduct the whole proceeding confidentially, if necessary ; (f) both parties, the complainant and the accused ,shall have the right to be represented or accompanied by the collective bargaining agency representative, a

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		friend or a colleague ; (g) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to both of the parties. Officer shall be a neutral person and he/she shall not be in close contact or in relation with either of the party; (h) the officer shall not give such advice that distract the proceeding of the inquiry committee; (i) if the assistance provided by the officer create any hurdles in the process of inquiry committee, he/she may be stop to have contact with either of the parties; (j) adverse action shall not be taken against the complainant or the witnesses; (k) 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 from freely pursuing her compliant and (l)the inquiry committee shall give its findings in writing by recording reason thereof;
11	***Findings, Recommend actions and Penalties***	**4.4** The inquiry committee shall submit its findings and recommendations to the competent authority within thirty days of 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 or time-scale, or to a lower stage in a time-scale; (b) compulsory retirement; (c) removal from service; and (d) dismissal from service. (e) 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. **4.5 Writing the report:** (a) the inquiry committee will prepare a final report that contain the following elements (b) a description of different aspects of the compliant ; (c) a description of process followed ; (d) a description of the background information and documents that support or refute each aspect of the complaint ; (e) an analysis of the information obtained; (f) findings as stated above;

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		(g) recommendations
12	***Implementation of the decision***	4.3 (a) The inquiry committee only recommends disciplinary action, and the ultimate decision lies with the disciplinary authority /competent body of the organization that can either choose to accept the suggested action or change them. Penalties shall be imposed based on recommendations of the inquiry committee and in keeping with the disciplinary norms of the institution. (b) The inquiry committee meet on regular basis and monitor the situation regularly until they are satisfied that their recommendation subject to decisions, if any of competent authority and appellate authority, if applicable, have been implemented. (c) incase the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave (d) the organization may also offer financial compensation to the complainant while deciding the amount, they shall take into consideration: (i) Mental trauma, pain, suffering and emotional distress caused; (ii) medical expenses incurred (iii) loss of career opportunity (iv) income and financial status of respondent If the amount is not paid it can be recovered as an arrear of land revenue
13	***Powers of the Inquiry Committee***	5.1 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 affidavit d. record evidence e. get the complaint or the accused medically examined by authorized doctor , if required,
14	**Appeal Against the Decision of the Competent Authority**	6. Any party whether complainant or accused on whom minor or major penalty is imposed and he/she is dissatisfied by the decision of the competent authority may within thirty days of written communication of the decision file an appeal to the District courts/ombudsman of the respective territorial jurisdiction of the district, which has the authority to hear appeal against competent authority. 6.1 The Appellate authority may on consideration of appeal and any other relevant material Confirm, set aside vary or modify the decision within thirty days in respect of which such appeal is made. The decision shall communicate to both the parties and the employer of the respective organization.
15	**Ombudsman**	It is acknowledge that not every organization might have a sturdy mechanism to address sexual harassment cases. When the perpetrator is too senior member of the organization or is the owner of the organization, in such cases it is not possible for the inquiry committee to hold the person accountable. Similarly if the committee is not made of credible people and an employee not made trust for

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		them, there is a provision in law for directly approaching the office of ombudsman. Under section 7 of the act the office of ombudsman will be setup at Gilgit headquarter to deal with the complaints of harassment. The office of ombudsman is headed by the person with the same qualification as the judge of chief court appointed by the governor of Gilgit Baltistan. The ombudsman may recruit such staff as required to achieve the purpose of this act and the finance will be provided by the government of Gilgit Baltistan.
16	**Functions of the Ombudsman person**	The office of ombudsman will deal with: Appeal from persons who are aggrieved by the decision of the inquiry committee Complaints made directly for cases of sexual harassment at the workplace of formal organizations Complaints from management of the organization, in case it is believed that a complaint has made a malafide attempt to intentionally defame someone
17	**Powers of the ombudspers on**	The ombudsperson shall for the purpose of the " the protection of women against harassment at the workplace act 2013" have the same powers as are vested in civil court under the code of civil procedure code, 1908 (Act V 1908) in respect of following
18	**Inquiry procedures of the ombudsman**	1. The ombudsperson shall within 3 days of receiving complaint issue a written show cause notice to the accused. The accused after receipt of the written notice shall submit a written defense to the ombudsman within 5 days and his failure to do so without reasonable cause would allow the ombudsman to proceed with ex parte. Both the parties will represent themselves before the ombudsman. 2. The ombudsperson shall conduct an inquiry into the matter and conduct proceedings as he/she deems fit. 3. for the purpose of an investigation under the act, the ombudsman may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the ombudsperson is relevant and helpful in the conduct of investigation.
19	**Decision of the ombudspers on**	1. when making the decision on the complaint, the ombudsperson may impose any of the minor or major penalties specified by the inquiry committee within the organization. 2. the ombudsperson shall record his /her decision and inform both the parties and the management of the organization for the implementation of the order. The management of the organization is bound to abide by the decision of the ombudsman. If the decision is not implemented, the management shall be charged with the contempt of high court.
20	**Provision for Appeal**	When a case is directly taken by ombudsman instead of inquiry committee and the complainant or the accused is aggrieved by a decision of ombudsperson, within thirty days of decision could make a complaint to governor , who may pass such order thereon as he/she may deem fit.
21	**Filing complaint of**	The protection against harassment of women at workplace act, 2013 was passed with the intention that self regulatory mechanism within organization could provide

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	sexual harassment through police	culturally sensitive platform for raising complaints of sexual harassment. Through the operation of internal inquiry committee within each organization, an employee could easily communicate her grievance and find a resolution. However the employee should know that Pakistan penal code amendments 509 which makes sexual harassment at any place including workplace, a crime. It is punishable by a fine upto rupees 500,000 or imprisonment up to 3 years or both. If there is a case of sexual harassment of an employee, the management of the organization prefers that the complaint may file within organization, but it is obligated to educate its employees that they do have an option to go to the police and file a police report against the perpetrator under section 509.

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