

Document Title : **Protecting Program Participants from Sexual Exploitation and Abuse**

Effective Date : 2019-06-26

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Approval Statement : *Electronic signatures and signature dates of those individuals who prepared and approved this document are maintained in the FHI 360 Enterprise Document Management System database.*

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		<b>Effective Date:</b>	2019-06-26
		<b>Version:</b>	1

**PURPOSE:**

To set out FHI 360's behavioral expectations and guiding principles with respect to preventing and responding to sexual exploitation and abuse (SEA) of participants in FHI 360 programs.

**SCOPE:**

This policy applies to all FHI 360 Personnel worldwide, and to Suppliers and Supplier Personnel to the extent set out below.

**DEFINITIONS:**

1. *Child* – a person under 18 years of age irrespective of age of majority in the local context.
2. *Community-Based Complaints Mechanism (CBCM)* – a mechanism by which individuals in communities where development or humanitarian programs are being implemented are able and encouraged to safely report grievances – including SEA incidents – and those reports are referred to the appropriate entities for follow-up. A CBCM usually serves beneficiaries, blends both formal and informal community structures, is built on engagement with the community, and is common to all agencies in a given a location.
3. *Complainant* – a person or party who makes a complaint.
4. *Consensual* – involving or based on mutual consent.
5. *Consent* – agreement to sexual acts, freely given without any element of force, fraud, deceit, or coercion - whether physical, emotional, economic or social in nature. The two necessary components of consent are that it be both *informed* and *voluntary*, meaning involved persons fully understand the sexual act to which the agreement of “yes” is made, without any use of influence, force, or coercion. Children are minors and can never give consent to a sexual relationship with an adult.
6. *FHI 360 Personnel* – FHI 360 employees, officers, members of the Board of Directors, interns and fellows (paid or unpaid), volunteers, agents, and other individuals authorized to act on behalf of FHI 360.
7. *Program Participant* – any adult or child who is served by FHI 360 programs, or has contact with FHI 360 Personnel, Suppliers, or Supplier Personnel in connection with or as a result of FHI 360's programs or business activities.
8. *Respondent* – a person or party against whom the complaint is made.
9. *Sexual abuse* – any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
10. *Sexual exploitation* – any actual or attempted abuse of Program Participants that takes advantage of their position of vulnerability or trust for sexual purposes.

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11. *SEA* – sexual exploitation and abuse (see above - sexual abuse; sexual exploitation).
12. *Supervisor* – an employee of FHI 360 who is in a direct supervisory role over the work of one or more employees of FHI 360.
13. *Supplier* – Any FHI 360 contractor, consultant, vendor, service provider, subcontractor, or subrecipient.
14. *Supplier Personnel* – A Supplier's employees, interns and fellows (paid or unpaid), volunteers, agents, and other individuals authorized to act on Supplier's behalf.

## **POLICY:**

### 1. General Statement of Policy:

- 1.1. FHI 360 does not tolerate any form of sexual exploitation and abuse of any person, adult or child, who is served by FHI 360 programs or who FHI 360 Personnel encounter in the implementation of those programs, including research.
  - 1.1.1. FHI 360 is committed to upholding the United Nations Secretary General's Bulletin on Special Measures for protection from sexual exploitation and abuse (ST/SGB/2003/13) and the six Core Principles of the UN Inter-Agency Standing Committee on PSEA (2002).
- 1.2. Sexual exploitation and abuse of Program Participants by humanitarian and development workers constitute acts of serious misconduct and are therefore grounds for termination of employment and potential referral to law enforcement authorities.
- 1.3. FHI 360 will take preventive measures, investigate SEA complaints, and take appropriate action to stop any SEA that may occur against any Program Participant, and will do so in a manner that is sensitive to the special needs of children and adolescents.
- 1.4. FHI 360 Personnel are prohibited from exchanging money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading, abusive, or exploitative behavior with Program Participants. This includes any exchange of assistance that is due to any Program Participant.
- 1.5. Sexual activity with children (persons under the age of 18) is always prohibited, even if they are not Program Participants, regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense.
- 1.6. Consensual sexual relationships between FHI 360 Personnel and adult Program Participants are strongly discouraged since they are subject to inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian and development aid work.
  - 1.6.1. FHI 360 Personnel who engage in consensual sex or sexual activities with an adult Program Participant must disclose this conduct to their supervisor. Failure to report such conduct may lead to disciplinary action pursuant to FHI 360's policies and procedures.
- 1.7. FHI 360 Personnel are obligated to create and maintain an environment which prevents SEA and promotes the implementation of FHI 360's Code of Ethics and Conduct. FHI 360 Personnel at all levels are responsible for supporting and developing systems which maintain this environment.

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2. Conduct Constituting Sexual Exploitation and Abuse:

2.1. Examples of sexual exploitation and abuse of a Program Participant include:

2.1.1. Touching, kissing, or bodily contact in a sexual way by force or by coercion

2.1.2. Taking photographs that are sexual in nature (including degrading or nude photographs)

2.1.3. Physical assault of a sexual nature, including oral sex or attempted or completed rape defined as "penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim"

2.1.4. Offering preferential treatment or promises of preferential treatment or goods to a Program Participant for submitting to sexual conduct, including soliciting or attempting to solicit any Program Participant to engage in sexual activity for compensation or reward, or promise of a relationship or marriage

2.1.5. Threats or demands that a person submit to sexual requests as a condition of continued program participation or to avoid loss of program-related benefits

2.2. Even in instances when sexual contact was initiated by a Program Participant, FHI 360 Personnel are bound by all the provisions of this policy.

2.3. The list of prohibited actions set out above is not intended to be exhaustive. Other types of sexually exploitive or sexually abusive behavior - and other forms of humiliating, degrading, or exploitative behavior induced by force, fraud, or coercion - may be grounds for administrative and disciplinary action. See sections 9 and 11.

3. Reporting

3.1. FHI 360 Personnel who observe, suspect, or receive allegations of SEA, or any other conduct prohibited by this policy, are required to report the conduct immediately, either orally or in writing, by contacting one of the following:

3.1.1. Their immediate supervisor, or, if the conduct involves the immediate supervisor, any other supervisor within their department;

3.1.2. Their local Human Resources (HR) representative or regional or departmental HR Partner;

3.1.3. The Director of HR Partnering Useetha Rhodes [URhodes@fhi360.org](mailto:URhodes@fhi360.org) or Chief Human Resources Officer Pam Myers [PMyers@fhi360.org](mailto:PMyers@fhi360.org); or

3.1.4. The Office of Compliance and Internal Audit (OCIA) via email at [Compliance@fhi360.org](mailto:Compliance@fhi360.org).

3.1.5. OCIA's Ethics and Compliance Hotline (1-800-461-9330 in the US, and +1-720-514-4400 outside the US)

3.1.6. OCIA's reporting website either with your name or anonymously (<http://www.fhi360.org/anonreportregistry>).

3.1.6.1. Anonymous reports are generally more difficult to investigate due to limited information. FHI 360 Personnel are urged to provide as much detailed information as possible about the conduct, including, if possible, identifying people who were involved or who witnessed the conduct, so long as this will not put the persons identified at risk of immediate harm.

3.2. FHI 360 Personnel who are supervisors or hold a position at director level or above are required to promptly, within 24 hours, notify HR or OCIA (as per section 3.1) of any actual or suspected sexual exploitation or abuse, retaliation, or other violation of this policy that is reported to them, or that they observe or otherwise become aware of. Failure to do so is a violation of this policy and could lead to disciplinary action, up to and including immediate separation of employment.

4. Complaints Mechanisms:

4.1. FHI 360 is committed to ensuring that Program Participants – in both humanitarian and development settings – have culturally appropriate, safe, confidential and accessible ways to report SEA claims.

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- 4.1.1. In humanitarian settings, projects are required to participate in a Community-Based Complaint Mechanism (CBCM).
  - 4.1.2. In development settings, each country/project office must determine if a community reporting mechanism is necessary based on project activities, noting that the following require one: any direct service provision to or activities distributing items to Program Participants, and projects interacting with vulnerable populations at high risk of SEA (women, girls, children and marginalized groups).
  - 4.2. Best practice requires complaints mechanisms be developed, implemented, and monitored and reviewed for effectiveness, including raising awareness with program participants, communities where programs are implemented, employees and related personnel about how to use the complaints mechanism.
  - 4.3. Once received by FHI 360, SEA complaints filed by Program Participants via a CBCM or any other mechanism must be routed and handled in the same fashion as complaints filed via the avenues in Section 3.
5. Non-Retaliation:
- 5.1. FHI 360 has a separate policy prohibiting retaliation (Open Door and Non-Retaliation Policy 03004). FHI 360 strictly prohibits any retaliation against FHI 360 Personnel who complain about SEA or other violations of this policy or related procedures, or who participate in a SEA investigation.
  - 5.2. Retaliation occurs when someone penalizes or threatens to penalize another person for reporting or expressing an intent to report what they believe in good faith to be SEA or any other violation of this policy, assisting others in reporting SEA or policy violations, or participating in investigations under this policy.
  - 5.3. Non-retaliation protection includes all Program Participants. No Program Participant or community member will be denied participation in a program or access to aid for reporting suspected or known sexual exploitation and abuse or participating in a SEA investigation.
  - 5.4. Suspected retaliation should be promptly reported via the reporting mechanisms set out in Section 3.
  - 5.5. FHI 360 Personnel who engage in retaliation will be subject to disciplinary action up to and including separation of employment or other relationship with FHI 360.
6. Support to Victims/Survivors of SEA
- 6.1. The safety of all those involved is paramount. FHI 360 Personnel involved in implementing this policy ***must ensure that responding to sexual exploitation and abuse does not jeopardize the safety of a victim of SEA or an accused Respondent.*** Upon receipt of a complaint, FHI 360 will make a swift assessment concerning the health and safety of the individuals involved and implement temporary remedies necessary for safety. During investigation (see Section 7), FHI 360 will take measures to protect any victims/survivors or potential victims of SEA.
  - 6.2. FHI 360 will provide referrals for support and assistance to Complainants of SEA. This may include medical treatment, legal assistance and psychosocial support as appropriate and according to the wants and needs of the victim/survivor whilst also considering confidentiality, cultural sensitivities and victim/survivor safety.
7. Investigation and Corrective Action
- 7.1. Upon receipt of a report of a violation of this policy, FHI 360 will act to prevent further SEA and implement temporary remedies, which may include placing the Respondent of the complaint on administrative leave (if he or she is an FHI 360 employee), or other measures at FHI 360's discretion to ensure safety, confidentiality, and allow for a thorough and uninterrupted investigation.

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- 7.2. When the subject of SEA is a child, FHI 360 persons/parties responsible for safeguarding coordination will, under OCIA’s guidance, take swift and appropriate action to notify local law-enforcement, social services or child protection authorities in compliance with local mandatory reporting laws and take such other action deemed necessary to protect the child, so long as this will not put the persons at risk of immediate harm.
  - 7.3. FHI 360 – or independent investigators acting on FHI 360’s behalf – will conduct a sensitive, timely, and thorough investigation in an impartial manner that provides all parties with appropriate due process and maintains confidentiality to the extent possible (see Section 8 for detailed information about confidentiality).
  - 7.4. Investigations will generally be conducted by FHI 360 persons/parties responsible for safeguarding and may be guided by HR or OCIA. FHI 360 may hire outside investigators when deemed appropriate.
  - 7.5. FHI 360 Personnel must cooperate fully with investigations and provide truthful information to investigators.
  - 7.6. Investigations typically involve interviews of the Complainant and Respondent and others who may have witnessed or otherwise have knowledge of the complaint. A review of relevant records, e-mails, communications and other facts will be completed. Specific investigation steps will vary based upon the unique circumstances of each complaint.
  - 7.7. Upon completion of the investigation, FHI 360 will review the evidence collected and determine whether sexual exploitation and/or abuse, retaliation, or other violations of this or other FHI 360 policies have occurred.
  - 7.8. Where a policy violation has occurred, FHI 360 will take prompt corrective action reasonably calculated to end the SEA and to deter future violations, up to and including immediate separation of employment (See Section 11).
  - 7.9. FHI 360 will cooperate with regulatory investigations and may be required to report credible allegations to law enforcement and FHI 360 funders. Such cooperation and reporting will be under the guidance of OCIA and FHI 360 persons/parties responsible for safeguarding coordination and shall include consultation with the Office of the General Counsel.
8. Confidentiality
- 8.1. FHI 360 will keep SEA reports confidential to the extent possible to ensure the privacy of the individuals involved and to maintain integrity and fairness of the investigation, while still fulfilling its obligations to investigate and end any sexually exploitative or abusive conduct.
  - 8.2. Information learned through the investigation process will be disclosed only to those FHI 360 Personnel or other persons who “need to know” in order for FHI 360 to fulfill its obligations to investigate and take prompt action.
  - 8.3. As required by local law, FHI 360 will provide necessary and appropriate disclosure to local enforcement agencies and will participate in investigations.
  - 8.4. Nothing in this policy is intended as a guarantee of absolute confidentiality, nor is intended to curtail employee rights under any applicable laws to discuss work-related matters.
9. Other Conduct That Violates This Policy
- 9.1. In addition to SEA, retaliation, and other prohibited conduct outlined above, it is also a violation of this policy for FHI 360 Personnel to:
    - 9.1.1. attempt to discourage, interfere, or impede any individual from reporting SEA
    - 9.1.2. discourage or impede any individual’s participation in any investigation under this policy
    - 9.1.3. knowingly provide false information or make false claims to investigators

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9.1.3.1. This policy recognizes that the fact a claim cannot be substantiated does not necessarily make it a false claim.

#### 10. Expectations of Suppliers and Supplier Personnel

- 10.1. Suppliers and Supplier Personnel must refrain from any conduct that violates this policy for Protecting Program Participants from Sexual Exploitation and Abuse.
- 10.2. FHI 360 requires that Suppliers similarly uphold the principles of this policy to prevent SEA by Supplier Personnel. Failure to do so may result in termination of Supplier's contractual relationship with FHI 360.
- 10.3. Suppliers or Supplier Personnel who witness conduct prohibited by this policy or who identify that supplier personnel have engaged in any such conduct should promptly report the conduct, either orally or in writing, to the FHI 360 OCIA by one of the following means:
  - 10.3.1. Via email at [Compliance@fhi360.org](mailto:Compliance@fhi360.org).
  - 10.3.2. OCIA's Ethics and Compliance Hotline (1-800-461-9330 in the U.S., and +1-720- 514-4400 outside the U.S.).
  - 10.3.3. OCIA's reporting website either with your name or anonymously (<http://www.fhi360.org/anonreportregistry>).
- 10.4. FHI 360 requires that suppliers cooperate fully with investigations and provide truthful information to investigators.

#### 11. Consequences of Policy Violations

- 11.1. FHI 360 Personnel who violate this policy are subject to disciplinary action up to and including immediate termination of employment or other relationship with FHI 360.
  - 11.1.1. FHI 360 may take legal action when required, against FHI 360 Personnel who have been found to commit SEA, including referral to the relevant authorities for appropriate action, including criminal prosecution, in all relevant jurisdictions.
- 11.2. Program Participants who violate this policy may be removed from FHI 360 programs and barred from participation in other FHI 360 programs.
- 11.3. Violations of this policy by Suppliers or Supplier's Personnel may result in FHI 360 terminating the Supplier's contract with FHI 360. Further, FHI 360 may pursue any contractual or other legal or equitable remedies that may be available.

#### 12. Recruiting and references.

- 12.1. FHI 360, in compliance with applicable laws, will take all reasonable steps to prevent perpetrators of SEA and child abuse from being hired, re-hired or re-deployed by FHI 360.
- 12.2. As allowed by applicable labor law, FHI 360 Personnel must immediately disclose convictions or guilty pleas of any offense that relates to sexual exploitation and abuse.

*For policy interpretation or questions, please contact the Assistant General Counsel Kristen Lingo [KLingo@fhi360.org](mailto:KLingo@fhi360.org) or the Director of HR Partnering Useetha Rhodes [URhodes@fhi360.org](mailto:URhodes@fhi360.org)*

### **RELATED DOCUMENTS:**

#### **1. Policies**

- Code of Ethics & Conduct
- POL 01029: Combating Trafficking in Persons
- POL 01030: Safeguarding of Children

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- POL 03003: Professional Standard of Conduct
- POL 03004: Open Door and No Retaliation
- POL 03011: Employee Discipline
- POL 03029: Harassment-Free Work Environment
- POL 03041: Violence-Free Work Environment
- POL 03051: Administrative Leave

**2. Standard Operating Procedures**

- N/A

**3. Appendices**

- N/A

**REFERENCES:**

1. N/A

**POLICY REVISION HISTORY:**

<b>POL#</b>	<b>Date Reviewed (DD MMM YYYY)</b>	<b>Summary of Changes</b>
POL 01032	Jan 2019	New
POL 01032	05 JUN 2019	Clarified language in 4.1.1 regarding Community Based Complaints Mechanisms in humanitarian settings. Changed definitions for FHI 360 Employees and Personnel New definitions and language regarding Suppliers and Supplier Personnel.