



POLICY ON PROTECTION MEASURES AGAINST ABUSE, HARASSMENT AND SEXUAL EXPLOITATION (SEAH) OF THE BRAZILIAN FUND FOR BIODIVERSITY - FUNBIO

P-44/2022

Department Responsible: Legal Counsel

OBJECTIVE:

Establishes the institutional policy on measures to protect against abuse, harassment, and sexual exploitation in relation to projects funded by FUNBIO.

ORGANIZATIONAL SCOPE:

This policy applies to the entire organization, its partners, and suppliers.

APPROVAL

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CONTROL OF VERSIONS

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0.2	Apr. 5, 2022	Helio Hara	Revised
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1.1	May 29, 2023	Flávia Neviani	Revised
2	May 30, 2023	Rosa Maria Lemos de Sá ¹	Approved

RELATED DOCUMENTS:

- Funbio Ethics Code
- Grievance Operational Procedures
- Funbio Employee Handbook
- Environmental and Social Safeguards Policy
- Funbio's Grievances Policy
- Funbio's Call for Proposals Policy

¹ Approval of the update pursuant to the resolution of the 67th Ordinary Meeting of Funbio's Advisory Board, held on 08/25/2022: "3) The Advisory Board, unanimously, delegates to the Secretary General the competence to analyze and approve updates in the Institutional Policies and Code of Ethics that do not imply substantial modifications or scope reduction."

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Privacy:

This document is public and will always be available on Funbio's website. It must not be edited or altered without prior consent.

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I. PRESENTATION AND OBJECTIVES

1. This Policy (SEAH/FUNBIO Policy) has the objective of preventing and dealing with cases of sexual exploitation, harassment, and abuse and follows the terms of the Report of the Secretary-General of the United Nations, of October 9th, 2003 on “Special Measures for protection from sexual exploitation and abuse” (ST/SGB/2003/13), in addition to preventing occurrences of the unlawful types of crimes against sexual dignity provided for in Title VI of the Brazilian Penal Code, Decree-Law No 2,848, of December 7th, 1940.

II. DEFINITIONS

1. **Sexual Exploitation:** any actual or attempted abuse of a position of vulnerability, power differential or trust, for sexual purposes, including but not limited to profiting monetarily, socially, or politically from the sexual exploitation of another.
2. **Sexual Abuse:** actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
3. **Sexual Harassment:** modality of sexual exploitation as defined in Article 216-A of the Brazilian Penal Code, which implies embarrassing someone in order to obtain sexual advantage or favor, where the agent uses his/her condition of hierarchically superior or inherent ancestry to exercise of the job, position or function, typified as a crime subject to the penalty of detention of 1 (one) to 2 (two) years.
4. **Sexual Assault:** type of exploitation as defined in Article 215-A, which implies embarrassing someone for the act of performing a libidinous act (of a sexual nature), in the presence of someone, without their authorization and with the intention of satisfying one’s own lust (sexual pleasure) or that of another person, with physical contact between author and victim.
5. **Obscene act:** manifestation of a sexual nature practiced in a public place or space open to the public, capable of offending the average modesty of society, causing embarrassment, through behavior that is not intended or practiced against a specific person, but against people in general. The same is characterized by the display of genitals, in public and open places, with the simple intention of embarrassing without

targeting someone specific, just to outrage or shock the locals, without the presence of physical contact between author and victim.

6. **Embarrassing behavior with a sexual connotation:** behavior that, although not classified as a criminal offense, implies embarrassment with postural or verbal insinuation, such as – verbal offenses, sexual jokes, lewd and malicious or fixed and threatening looks, obscene or offensive comments and sounds about breasts, buttocks and genitals, photos and/or screen savers in which nudity/pornography are present, emails, notes and other writings or drawings of a sexual nature, malicious comparisons between the victim and other people, without physical contact or relationship of subordination or vulnerability between aggressor and victim.
7. **Victim:** A person who is, or has been, exploited, harassed, or sexually abused by FUNBIO employees or collaborators or other related employees or collaborators of a FUNBIO contractor, implementing partner, or executor.
8. **Safeguards:** a set of planned actions, generally precautionary, to prevent projects supported by FUNBIO from having negative social and environmental impacts, whose frameworks are established in P 24/2020 or in specificities established by project donors.
9. **Grievance Officer:** the person responsible for the Grievance System (GS).
10. **Grievance System (GS)** – independent and exempt mechanism that reports to the Management Committee of the FUNBIO Advisory Board. The GS contains a channel for receiving, processing, and addressing complaints, claims and conflicts related to FUNBIO's socioenvironmental safeguards in its projects, in order to ensure compliance with the safeguards.
11. **Ethics Committee:** an internal unit within FUNBIO, composed of four members, assigned to analyze the demands of grievances and queries related to the principles that guide the work of the institution and the projects it funds, and give them the necessary answers and recommendations.

III. SCOPE:

12. This Policy applies to all FUNBIO employees and members of its Advisory Board, as well as to all its contractors and subcontractors within the scope of the projects it implements and/or executes.
13. FUNBIO's employees, their advisors and anyone who works in the implementation and/or execution of projects under the responsibility and/or coordination of FUNBIO are prohibited from committing acts of sexual abuse and/or exploitation.
14. FUNBIO adopts the principles and guidelines contained in the Report of the Secretary-General of the United Nations, of October 9th, 2003 on "Special Measures for protection from sexual exploitation and abuse" (ST/SGB/2003/13) and in the United Nations Protocol on Allegations of Sexual Exploitation and Abuse involving implementing partners².

III.1 PROHIBITION AGAINST SEXUAL ABUSE AND EXPLOITATION

15. Sexual exploitation, sexual abuse, and the crimes described in Title VI of the Brazilian Penal Code violate national and international legal norms and standards and are unacceptable and prohibited behavior and conduct for FUNBIO employees, their advisors, partners, and contractors.
16. In order to protect the most vulnerable populations, especially women and children, the following specific norms that reiterate the principles and values that guide FUNBIO's activities are endorsed, but not limited to:
 - (a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including immediate discharge, contractual termination, and dismissal from advisory or deliberative collegiate bodies of the institution or of projects under the responsibility of the institution;

² <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/documents>
https://www.un.org/en/pdfs/UN%20Protocol%20on%20SEA%20Allegations%20involving%20Implementing%20Partners%20-%20English_Final.pdf

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of local age or consent. Mistaken belief in a child's age is not a defense;

(c) Exchanging money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading, or exploitative behavior, is prohibited. This includes any exchange of assistance entitled to project beneficiaries;

(d) Sexual relationships between FUNBIO staff and project beneficiaries, as they are based on inherently unequal power dynamics, undermine the credibility and integrity of FUNBIO's work and are strongly discouraged;

(e) When a FUNBIO employee becomes aware of sexual exploitation, harassment, or abuse by a co-worker, he or she must report such concerns through the established reporting mechanisms;

(f) FUNBIO employees have an obligation to create and maintain an environment that prevents sexual exploitation, harassment, and abuse. Managers at all levels have a particular responsibility to support and develop systems that ensure this environment.

III.2 RESPONSIBILITIES OF FUNBIO'S EXECUTIVE SECRETARIAT:

17. FUNBIO's Executive Secretariat is responsible for creating and maintaining an environment that prevents sexual exploitation, harassment, and abuse, and will adopt appropriate measures to that effect, including the establishment of an Internal Commission for the Prevention of Accidents and Harassment (CIPA, the acronym in Portuguese), observing Article 23 of Law no. 14,457 of September 21, 2022.³ In particular, the General Secretary and the Planning and

³ Art. 23. In order to promote a healthy and safe work environment that favors the inclusion and maintenance of women in the workforce, companies with an Internal Commission for the Prevention of Accidents and Harassment (CIPA) shall adopt the following measures, in addition to others they deem necessary, in order to prevent and combat sexual harassment and other forms of violence in the workplace: I - inclusion of rules of conduct regarding sexual harassment and other forms of violence in the company's internal rules, with wide dissemination of their content to male and female employees; II - establishment of procedures for receiving and monitoring grievances, for ascertaining the facts and, where appropriate, for applying administrative sanctions to those directly and indirectly responsible for acts of sexual harassment and violence, guaranteeing the anonymity of the person reporting, without prejudice to the appropriate legal procedures; III - inclusion of topics related to the prevention of and fight against sexual harassment and other forms of violence in the activities and practices of the CIPA; and IV - carrying out, at least every 12 (twelve) months, training, orientation and awareness-raising efforts for employees at all hierarchical levels of the company on topics related to violence, harassment, equality and diversity in the workplace, in accessible, appropriate formats that present maximum effectiveness of such actions.

Paragraph 1 Receiving complaints referred to in item II of the main section of this article does not replace the corresponding criminal procedure, if the conduct reported by the victim is classified as sexual harassment according to art. 216-A of Decree-Law No. 2,848, of December 7, 1940 (Penal Code), or in other crimes of violence described in Brazilian legislation. Paragraph 2 The deadline for the

Management, Programs and Procurement, and Logistics Superintendents, as well as the Portfolio Coordinators and all managers within FUNBIO will inform their teams about the content of this Policy, and it will be made available on the institutional website.

18. The Secretary General will be responsible for taking appropriate action in the event of a violation of this Policy in accordance with the rules and procedures for dealing with cases of staff misconduct.
19. The Secretary General appoints the FUNBIO Ethics Committee as the SEAH focal point (officer) to receive reports on cases of sexual exploitation and sexual abuse, even if the report came through a different grievance channel.
20. Within the scope of project execution, local officers must be appointed for appropriate action. The local population must be properly informed of the existence and role of the officer and how to contact him/her.
21. All reports of sexual exploitation, harassment, and abuse must be treated confidentially in order to protect the rights of all involved. However, such reports may be used, when necessary, for action taken according to items 16(a) and 18 above.
22. Cases of grievances and/or identification of possible violations of this Policy will be investigated by the Ethics Committee, under the terms of FUNBIO's Grievances Policy and the principles relating to safeguarding human rights and avoiding damages, to confidentiality, to non-retaliation, and to non-discrimination in the course of investigating and evaluating and responding to allegations of sexual exploitation, harassment, and abuse.

III.3 GUIDING PRINCIPLES

23. FUNBIO is committed to demanding that partner entities and contractors address sexual exploitation, harassment, and abuse through appropriate preventive measures, investigation, and corrective action, and failure to adopt such measures shall constitute reason for the termination of any agreement or contract with FUNBIO.

adoption of the measures provided for in items I, II, III and IV of the main section of this article is 180 (one hundred and eighty) days after the implementation date of this Law.

24. FUNBIO places the human rights, interests, and needs of all victims at the center of its efforts and adheres to the principles of “do no harm”, confidentiality, security, non-retaliation, and non-discrimination when responding to allegations of exploitation, harassment, and sexual abuse.
25. The victim-centered approach guides FUNBIO's SEAH prevention and response, whereby the victim is informed, participates in the decision-making process, and provides consent on the possible use and disclosure of their information.
26. In cases involving children and/or adolescents, all decisions made in relation to the prevention and response to allegations of abuse, harassment, and/or sexual exploitation involving partners implementing and/or executing FUNBIO's projects are guided by the best interests of the child and/or adolescent and for the right of the child and/or adolescent to participate and be heard.

III.4 PROTOCOL

27. When signing contracts with service providers or partner entities executing projects, FUNBIO will inform the contractors of the standards of conduct listed in section III.1 and will require a commitment from these entities or individuals regarding the acceptance of these norms.
28. A breach of these entities or individuals in taking pro-active action against sexual exploitation, harassment, or abuse, to investigate allegations, or to take corrective action when there is sexual exploitation, harassment, or abuse, will constitute grounds for termination.
29. For the purposes of this Policy, projects that take place in high-risk environments, such as camps and shelters, have implementing partners in direct contact with children and/or adolescents, or that take place in environments where abuse, harassment and/or sexual exploitation has occurred in the past and/or where sexual and gender-based violence is prevalent are considered ‘high risk’.
30. FUNBIO will assess the ability of potential partners implementing and/or executing high-risk projects for the purposes of this Policy, to prevent or mitigate the risks of sexual abuse, harassment, and/or exploitation, regarding their reporting and monitoring mechanisms in place, the background checks of the partner's personnel (if they were carried out and completed), reporting procedures, the understanding of the

principles and policies adopted by the United Nations and applicable to FUNBIO, its employees, collaborators, partners and projects, through this Policy, the implementation and completion of a training course in SEAH-UN or equivalent, and will request the presentation of previous allegations and results.

31. FUNBIO must notify SEAH-UN of allegations of abuse, harassment and/or sexual exploitation to all personnel related to projects funded by United Nations partners and ensure that communication mechanisms are in place at the field level.
32. FUNBIO will inform its United Nations funding partners in case of an allegation or complaint of abuse, harassment, and/or sexual exploitation, and SEAH-UN is allowed to carry out its investigative activities regarding the case, regardless of the conduct by FUNBIO pursuant to this Policy or national authorities.

III.5 REPORTING TO NATIONAL AUTHORITIES

33. If, after adequate investigation, there is evidence to support allegations of sexual abuse, harassment, and/or exploitation, these cases may, after legal consultation, be direct to national authorities for criminal prosecution. In the case of child or adolescent victims they will be informed to the Guardianship Council pursuant to article 13 of the Brazilian Child and Adolescent Statute (Law 8069/1990).

IV. EFFECTIVE DATE

34. This Policy enters into force on the date of its approval by Funbio's Advisory Board, April 20th, 2022.