



TWGHs Mrs Wu York Yu Memorial College
東華三院伍若瑜夫人紀念中學
Policy and Procedure Manual on Preventing Sexual Harassment
防止性騷擾政策及程序手冊

I. Introduction

Sexual harassment is an unlawful act and would entail civil liability. Some behaviours (such as indecent assault, stalking, crank calling, etc.) would also bear criminal consequences at the same time. Students and staff, voluntary helpers, contract workers/ service providers/ agents of a school are personally liable under the law for their own acts of sexual harassment. Personal liability may also be incurred if a person presses/ instructs someone to sexually harass another, or knowingly aids another in sexual harassment (e.g. joining someone in telling obscene jokes).

The school has the responsibility to ensure that the school is free from any sexually hostile or intimidating environment. We hope that with the development of this “Policy on Preventing Sexual Harassment”, we can eliminate sexual harassment by raising the understanding and awareness of both staff and students about sexual harassment, and by setting up complaint handling mechanism to resolve sexual harassment complaints.

II. Policy Statement

Our Policy aims to maintain the school as a workplace and learning environment of mutual respect and gender equality free from sexual harassment. Sexual harassment is an unlawful act which is not allowed to occur. We endeavour to eliminate and prevent sexual harassment.

I. 引言

性騷擾是違法行為，會帶來民事法律責任，有部分行為(例如非禮、跟蹤、電話騷擾等)更會同時帶來刑事後果。無論是學生、教職員、義務工作者、合約員工/服務供應商/代理人，均須對自己所作的性騷擾行為負上個人法律責任。任何人如向他人施壓去性騷擾另一人；指示他人性騷擾另一人；或明知而協助另一人作出性騷擾行為(例如和他人一起說色情笑話)，亦可能要負上個人法律責任。

學校有責任確保校內不會出現任何在性方面有敵意或威嚇性的環境，學校冀望透過制定本政策來提高教職員和學生對性騷擾的認知和意識，以及設立機制，處理有關性騷擾的投訴，以達到消除性騷擾的目的。

II. 政策聲明

本政策旨在建立一個尊重他人、兩性機會平等及沒有性騷擾的學習及工作環境。性騷擾是違法行為，不容發生。我們會致力消除及防止性騷擾。

III. Definition and Examples of Sexual Harassment

1. Legal definition of sexual harassment

According to Sex Discrimination Ordinance (SDO), the legal definition of “sexual harassment” includes the following situations:

- (a) the person
 - (i) makes unwelcome sexual advances, or unwelcome request for sexual favors, to that person; or
 - (ii) engages in other unwelcome conduct of a sexual nature in relation to that person; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that that person would be offended, humiliated or intimidated; or
- (b) the person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for that person.

2. Examples of sexual harassment in schools

- (a) The following are some examples of sexual harassment acts:
 - Uninvited physical contact or gestures
 - Unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against him/her
 - Touching or fiddling with a person’s clothing e.g. lifting up skirts or shirts, or putting hands in a person’s pocket
 - Sexual comments or jokes
 - Intrusive questions or insinuations of a sexual nature about a person’s private life
 - Staring or leering at a person or at parts of his/her body
 - Unwanted invitations
 - Unwelcome requests for sex
 - Displays of offensive or pornographic material such as posters, pinups, cartoons, graffiti or calendars
 - Offensive communications of a sexual nature (letters, phone calls, faxes, e-mail messages, etc.)

III. 性騷擾的定義及例子

1. 性騷擾的法律定義

根據《性別歧視條例》，「性騷擾」的法律定義包括以下情況：

- (a) 任何人如 —
 - (i) 對另一人提出不受歡迎的性要求，或提出不受歡迎的獲取性方面的好處的要求；或
 - (ii) 就另一人作出其他不受歡迎並涉及性的行徑，
而在有關情況下，一名合理的人在顧及所有情況後，應會預期該另一人會感到受冒犯、侮辱或威脅；或
- (b) 任何人如自行或聯同其他人作出涉及性的行徑，而該行徑對另一人造成有敵意或具威脅性的環境。

2 校園內性騷擾的例子

- (a) 以下是性騷擾的行徑的一些例子：
 - 主動作出的身體接觸或動作
 - 不受歡迎的身體接觸，例如未經邀請為某人按摩或故意摩擦其身體
 - 觸摸或撥弄別人的衣服，例如掀起裙子或襯衫或把手放進其口袋
 - 涉及性的言論或笑話
 - 追問或影射別人涉及性的私生活
 - 盯著或色迷迷的看著別人或其身體部位
 - 不受歡迎的邀請
 - 不受歡迎的性要求
 - 展示使人反感或色情的資料如海報、艷照、卡通、塗鴉或月曆
 - 使人反感的涉及性的通信資料（信件、電話、傳真、電郵等）

- (b) The following are some scenarios of creating a hostile or intimidating environment in schools:
- Anyone uses sexually suggestive cartoons in teaching a subject not related to sex.
 - In the staff room where there are both female and male colleagues, some colleagues display nude pictures as screen savers on the computer; or some like to exchange obscene jokes with each other in the presence of other colleagues of the opposite sex.
 - Staff members make sexual jokes or discuss their sex lives within earshot of other staff/students on the school premises.
 - A group of students hijack classroom discussion and turn it to sexual topics. Students of the opposite sex feel offended and do not want to join the discussion.
 - During recess and/or lunchtime, a group of students hanging out in the playground and rate female students who are playing/chatting/ staying there. As a result, some of the female students avoid staying in the playground.

IV. Measures to Prevent Sexual Harassment

The school will prevent sexual harassment by raising the understanding and awareness of staff and students on sexual harassment through promotion, training and education.

1. The school will raise the understanding and awareness of staff on sexual harassment through:
 - providing the policy statement and other relevant information on sexual harassment to new staff as a standard part of induction;
 - distributing the policy statement to staff for discussion/ reinforcement at staff meetings at regular intervals;
 - including the procedures and guidelines for reporting/ receiving and filing of complaints in the staff handbooks and contracts with service providers;
 - posting notices to disseminate related information;
 - conducting awareness raising sessions for general staff on sexual harassment issues and encourage the persons/ teachers appointed for handling sexual harassment complaints to receive appropriate training to enable sensitive treatment of such cases.

- (b) 以下是一些在學校造成「有敵意或具威嚇性的環境」的情景：
- 任何人用帶有性含意的漫畫教授與性無關的課題。
 - 在男女同事共處一個教員室的情況下，有些同事將裸體照片用作螢幕保護程式，或喜歡當異性同事在場時講色情笑話。
 - 教職員在校舍內其他教職員/學生聽到的範圍內講色情笑話或討論自己的性生活。
 - 一班學生在課堂討論時，強行把討論內容轉為與性有關的話題。不同性別的學生因此感到冒犯，不想參與討論。
 - 一群學生在小息及/或午膳期間在操場聚集，並對在場正在玩耍、聊天或逗留的女同學評頭品足，部分女生因此不敢在操場逗留。

IV. 防止性騷擾的措施

學校會透過宣傳、培訓及教育工作等來加強教職員及學生對性騷擾的認知和意識，以預防性騷擾。

1. 學校會透過下列措施提高員工對性騷擾行為的認知和意識：
 - 向新入職員工提供有關防止性騷擾的政策聲明及其他相關資料，作為入職簡介的標準項目；
 - 定期在員工會議上向員工分發政策聲明，以作討論/向員工強調有關政策；
 - 有關舉報/接受和提出投訴的程序及指引應載列於員工手冊及服務供應商的合約內；
 - 張貼通告以發放有關資料；
 - 為一般員工提供對性騷擾課題認知的培訓，及鼓勵獲委任處理性騷擾投訴的人員/教師接受適當訓練，以便能敏銳地處理有關性騷擾的個案。

2. The school will raise the understanding and awareness of students on sexual harassment through:
 - promulgating the school policy, the handling procedures and the related discipline actions on sexual harassment to students and their parents;
 - incorporating the topic of sexual harassment into the school curriculum and/or student support programmes so as to help students develop positive values and attitudes, teach them proper behaviour for coping with interpersonal relationships, arouse their awareness on sexual harassment and remind them to seek help when necessary

V. Mechanism for Handling Sexual Harassment Complaints

1. **Approaches/ strategies a staff member/ student may adopt if he/she is being sexually harassed:**
 - (a) If a person feels being harassed in school, he/she can complain to the school or make a written complaint to the Equal Opportunities Commission (EOC).
 - (b) If a person feels being sexually harassed, he/she may adopt the following informal or formal approaches/ strategies:
 - Speak up at the time. Tell the harasser that his/her behaviour is unwanted and has to stop.
 - Tell someone he/she trusts, such as his/her family member, or teacher/ colleague, for emotional support and advice.
 - Keep a written record of the incidents, including the dates, time, location and witnesses and own response.
 - Lodge a formal complaint to the school principal/ IMC/ TWGHs.
 - Lodge a written complaint with EOC and request investigation and conciliation.
 - Report to the police and/or file a civil law suit against the harasser.
2. **Channels for making a complaint to the school**
 - (a) **Students**

A student feels being harassed in school may make a complaint to the Principal directly or via his/her parents or school social worker or teacher he/she trusts.
 - (b) **Staff**

A staff member feels being harassed in school can make a complaint in accordance with the staff complaint procedures set up by TWGHs.

2. 學校會透過下列措施提高學生對性騷擾行為的認知和意識：
 - 讓家長和學生知悉學校對性騷擾的政策和相關的處理程序及處分措施；
 - 在學校課程及/或學生支援計劃內加入「性騷擾」課題，以培養學生正面的價值觀及態度，教導學生恰當的人際相處技巧，提高他們對性騷擾行為的意識，以及提醒他們在有需要時向別人尋求協助。

V. 處理性騷擾投訴的機制

1. **受到性騷擾的員工/學生可採取的處理方法：**
 - (a) 如學校內任何人士感到受性騷擾，可向學校投訴，或向平等機會委員會(平機會)作出書面投訴。
 - (b) 如感覺受到性騷擾，可採納以下非正式或正式處理方法：
 - 即時表明立場，告訴騷擾者他/她的行為是不受歡迎的，必須停止。
 - 告訴信任的人，例如家人或老師/學校社工/同事，讓他們給予情緒上的安慰和建議。
 - 以書面記錄有關事件的詳情，包括日期、時間、地點、證人，以及投訴人的反應。
 - 向校長/法團校董會/東華三院作出正式投訴。
 - 向平機會投訴作出書面投訴，要求調查及調解。
 - 報案及/或向個別騷擾者提出法律訴訟。
2. **向學校投訴的途徑**
 - (a) **學生**

如學生在學校感到受性騷擾，可直接或透過家長或學校社工或他/她信任的教師向校長投訴。
 - (b) **教職員**

如教職員在學校感到受性騷擾，可按東華三院設定的員工投訴程序向學校投訴。

3. Investigation Procedures

(a) Principles of Investigation

The school will observe the following basic principles during the investigation procedures:

- The school will make every reasonable effort to ensure confidentiality of all information and records related to a complaint of sexual harassment and will circulate the information and records only to relevant staff on a need-to-know basis.
- Complainants will be protected against victimization (which in itself is an unlawful act of discrimination under section 9 of the SDO) and any further unnecessary distress and humiliations.
- All parties involved should be treated fairly and other people involved should be kept from unnecessary distress.

(b) Handling Procedures

- The officer-in-charge (Principal/ teacher appointed by the Principal/ representative from TWGHs) will investigate the complaint by collecting information/ evidence from the persons involved by interviews or obtaining written statements.
- The officer-in-charge may consult the EOC for advice, if necessary.
- If the case is complicated, school should report the case to TWGHs to form an Investigation Panel to undertake the investigation.
- The officer-in-charge or the Investigation Panel should study the evidence and make a decisions on whether or not disciplinary measures or other appropriate actions should be taken, and should prepare a written report and inform the relevant parties of the investigation results in writing.
- School will endeavour to settle it by conciliation with the consent of the persons involved.
- If conciliation is not successful, the complainant can apply to EOC for legal assistance.

3. 調查方法

(a) 調查原則

學校會根據以下的基本原則處理有關性騷擾的投訴：

- 學校會盡一切合理的努力，確保所有與性騷擾投訴相關的資料和記錄保密，只會按需要向有關職員披露。
- 投訴人會受保護，以免因投訴事件而受害(根據有關條例第9條，使人受害已是違法的歧視行為)及不必要地承受更多困擾和蒙受更大的羞辱。
- 各當事人亦會得到公平對待，而其他有關人士亦不應受到不必要的困擾。

(b) 處理步驟

- 負責人員(校長/校長委任的教師/東華三院代表)會透過面談或收取書面聲明向有關人士收集資料/證據。
- 如有需要，負責人員會諮詢平機會的意見。
- 如事件較為複雜，學校會向東華三院匯報，並成立調查小組跟進有關調查。
- 負責人員或調查小組在評估證據後須決定是否需要採取處分措施或其他適當的行動，並擬備書面報告，以書面把調查結果告知有關人士；
- 學校在有關人士同意下，會盡力透過調解方式解決問題。
- 若調解不成功，投訴人可向平機會申請要求給予法律協助。

(c) Time Limits for lodging a complaint

- If a person who has been sexually harassed wants to lodge a complaint with EOC, he/she should do it within 12 months after the incident has taken place. Any decision to take legal proceedings to the District Court should be made within 2 years after the incident has taken place.
- Having taken into consideration the difficulty in conducting investigation and collecting evidence that may be caused by a delay in handling complaints, the school will handle only those complaints made within 3 months after the incident has taken place

4. School's Disciplinary Measures

If it is determined that an act of sexual harassment has been committed and the conduct of a staff member or student of the School warrants possible disciplinary action, the School is entitled to invoke the relevant disciplinary procedures and take appropriate disciplinary action against the staff member or student concerned. If the School considers that it is appropriate to do so, it may on its own initiative or upon the complainant's written request bypass the mediation or investigation processes and proceed with disciplinary procedures directly.

Reference: Education Bureau Circular No. 2/2009
<http://www.edb.gov.hk/index.aspx?nodeID=7094&langno=1>
TWGHs Personnel Circular No. 30/97-98
TWGHs Personnel Circular No. 10/2007-2008

參考：教育局通告第2/2009號
<http://www.edb.gov.hk/index.aspx?nodeID=7094&langno=2>
東華三院人事通告三十號(97-98)
東華三院人事通告十號(2007-08)

(c) 性騷擾投訴時間限制

- 向平機會提出投訴及提出法律訴訟均有時間限制。若被性騷擾者想向平機會提出投訴，需於事件發生後的12個月內提出。若決定在區域法院提出法律訴訟，需於事件發生後的2年內提出。
- 本校考慮到延遲處理投訴會對調查工作及舉證可能做成困難，故只接受事件發生後的3個月內提出的投訴。

4. 校內處分措施

如確定本校某教職員或學生確實作出性騷擾行為，而其行為應受到可能予以的紀律處分，學校有權展開有關的紀律程序，向該名教職員或學生採取適當的紀律處分。如學校認為恰當，亦可主動或按投訴人書面的要求，不經由調停或調查程序，直接進行紀律程序。