

新界喇沙中學

防止及處理性騷擾政策

I. 引言

經修訂的《性別歧視條例》於2008年10月3日生效後，任何人因作出任何涉及性並造成「有敵意或威嚇性的環境」的行徑而構成的性騷擾，亦適用於教育環境。人人有權受到尊重及得到平等對待。性騷擾是歧視及違法行為，不但校內會有紀律處分、並會帶來民事法律責任，更可能有刑事後果。除個別人士要對做出性騷擾的行為承擔個人責任外，校方亦同時可能要為僱員的性騷擾行為負上轉承責任。

II. 校方的目標和責任

學校管理層有消除及防止性騷擾的決心，並且會盡力確保所有人（包括全體學生、教職員、家長、義務工作者、合約員工 / 服務供應商 / 代理人）能夠在一個沒有性騷擾的安全環境下學習、進行課外活動、工作、提供及享用服務。全校教職員和學生均有義務和責任協助防止和消除性騷擾。一旦發生性騷擾事件，校內任何人都有權投訴，亦有義務舉報。校方不會容忍性騷擾的情況在校園內出現。

III. 性騷擾的定義

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、侮辱或威嚇；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嚇性的環境。

性騷擾是不分有關人等的性別，可在任何人身上發生；與性騷擾相關的法例條文及校園性騷擾政策適用於男和女，以及同性之間的性騷擾；即使沒有性騷擾的意圖，或不能證明意圖，只要行為本身符合性騷擾的定義，亦會構成性騷擾。因此，無論有心抑或無意，甚至只是嬉戲性質的行為，也有可能構成性騷擾；單一事件亦有可能構成性騷擾。

IV. 校園性騷擾的例子

A. 以下為校園性騷擾的例子：

- 主動作出的身體接觸或動作
- 不受歡迎的性要求
- 涉及性的言論或笑話
- 追問或影射別人涉及性的私生活
- 展示使人反感或色情的資料如海報、艷照、卡通、塗鴉或月曆
- 不受歡迎的邀請
- 使人反感的涉及性的通信資料（信件、電話、傳真、電郵等）
- 盯著或色迷迷的看著別人或其身體部位
- 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

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教材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。
- 有學生在課堂討論時，強行把討論內容轉為與性有關的話題，其他學生因此感到冒犯，不想參與討論。

V. 受害人的權利及可以採取的行動

遇上性騷擾，受害人可以採納以下非正式或正式的處理方法：

- 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，例如老師/同事，向他們尋求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、性質（騷擾者的說話和做過的行為），以及受害人當時的反應。
- 如員工受到性騷擾，員工可向校長或副校長作出投訴。如學生受到性騷擾，學生可向老師、輔導主任及/或社工作出投訴，再由老師、輔導主任及/或社工轉交校長或副校長處理，學生亦可直接向校長或副校長作出投訴。
- 被性騷擾者需於事件發生後的 3 個月內向學校提出投訴，否則學校可不予受理，因延遲處理投訴，可能對學校的調查工作及舉證造成困難，惟如有充分的理由引致延誤投訴，校方會酌情處理。
- 向平機會及/或教育局投訴，要求調查及/或調解。
- 找律師商量、向警方報案及/或向騷擾者提出法律訴訟。

校內的投訴程序不會影響投訴人向平機會投訴或警方報案，或向區域法院提出訴訟的權利。

VI. 處理性騷擾投訴的主要原則及步驟

在收到投訴後（包括匿名投訴），學校將迅速按以下主要原則及步驟處理：

- 啟動內部處理性騷擾投訴的步驟；
- 設有非正式及正式處理性騷擾投訴的機制：若投訴人的主要關注是希望儘快採取非正式行動來遏止騷擾行為（例如：向被指稱的騷擾者發放清晰的信息），而不要就他/她的個案展開調查時，投訴便會非正式地處理（適合用作處理輕微及單一的性騷擾事件，而非用於較嚴重和重複的性騷擾行為）；
- 公平地對待投訴人和被指稱的騷擾者，讓雙方有同樣的機會申述；
- 將所有與性騷擾投訴的相關資料和記錄保密，只按需要向有關人士披露；

- 通知被指稱的騷擾者有關指控的詳情；
- 立刻處理投訴，因性騷擾事件對投訴人及被指稱的騷擾者均會帶來壓力；
- 告知投訴人和被指稱的騷擾者會如何進行調查，以及誰人負責處理有關調查；如投訴涉及學生，學校應讓學生和家長清楚知道有關規則及處分措施；
- 保護投訴人及證人，以免因投訴事件而遭報復(根據《性別歧視條例》，報復是違法的歧視行為)；
- 負責處理性騷擾投訴的人避免與投訴人或被指稱的騷擾者有任何利益衝突；
- 無論投訴是否匿名，學校都會就有關投訴進行調查，尤其對任何懷疑向學生作出性騷擾的個案，會謹慎處理；
- 小心謹慎處理投訴，不讓投訴人不必要地承受更多困擾和蒙受更大的羞辱，例如委派同一性別的調查人員接見投訴人；
- 如有需要，可安排投訴人和被指稱的騷擾者在調查期間避免接觸；
- 如有需要向投訴人提供支援及輔導(如投訴人為學生，可同時向家長提供支援及輔導)；
- 接見投訴人，如投訴人是學生，可由家長或親友陪同會面；
- 接見被指稱的騷擾者，如被指稱的騷擾者是學生，可由家長或親友陪同會面；
- 若學校組成小組委員會處理涉及性騷擾的投訴，委員會將由大致等量的不同性別成員組成；
- 考慮到受害人的年齡及教育程度，以及遇到性騷擾事件後所承受心理壓力，學校容許受害人提出正式或非正式投訴；
- 接見投訴人、被指稱的騷擾者和證人，並向他們錄取書面陳述；
- 評估證據，並作出決定；
- 擬備書面報告，以書面告知涉及事件的雙方調查結果、處分內容及其考慮因素；若涉及性騷擾事件的任何一方不接受調查結果，可向法團校董會上訴，以符合自然公義的原則；
- 如有需要，諮詢教育局、平機會或其他相關機構(例如警方)的意見；

- 決定是否需要採取處分措施或其他適當的行動。

VII. 學校處分措施

- 涉及確實性騷擾事件的員工將受到由法團校董會決定的紀律處分。按性騷擾的性質，可導致的紀律處分有道歉、接受輔導、給予賠償、停職、解僱等。
- 涉及確實性騷擾事件的學生將受到由訓輔組專責小組決定的紀律處分。按性騷擾的性質，可導致的紀律處分有道歉、接受輔導、給予賠償、停學等。
- 如校方認為投訴的事項可能構成刑事罪行，會盡快交向警方報案。
- 如有需要，學校亦會考慮向教育局及/或平等機會委員會報告。

VIII. 防止性騷擾的措施

(a) 為提高教職員對性騷擾行為的認知和意識，學校會：

- 向新入教職員工提供有關防止性騷擾的政策聲明及其他相關資料；
- 定期在教職員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載列於教師手冊；
- 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。

(b) 學校會為學生提供防止性騷擾方面的教育及訓輔工作。

(c) 學校透過家長教師會及其他途徑，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。

(d) 學校保留定期和在有需要時，檢討和修改有關政策及措施的權利。

IX. 處理性騷擾投訴的專責小組委員會

校長： 曹紹民 電郵： simonsmtso@gmail.com

副校長： 麥大沛 電郵： aemiliuseca@hotmail.com

副校長： 潘文耀 電郵： pmyparadiso@gmail.com

訓導主任：梁浩然 電郵： lhy2033@yahoo. com. hk

輔導主任：馮業琦 電郵： ikfung@yahoo. com. hk

校董： 程文亮 電郵： chingsir@email. com

(學校校務處電話： 26700443)

欲知更多有關資料，請參考下列網頁：

1. 教育局—防止校園性騷擾的問與答

http://www.edb.gov.hk/attachment/tc/sch-admin/admin/about-sch/sch-sexual-harassment-prevention/edbc22009_qa_c.pdf

2. 平等機會委員會—防止校園性騷擾參考資料：制定校園性騷擾政策

<http://www.eoc.org.hk/eoc/upload/2013116155027594586.pdf>

School Policy on Preventing and Handling Sexual Harassment

I. Introduction

Consequent to the amendment to the Sex Discrimination Ordinance that came into effect on 3 October 2008, a sexual harassment act committed by any person that creates a hostile or intimidating environment also applies to educational settings. Everyone has the right to be respected and be equally treated. Sexual harassment is discriminatory and is an unlawful act which may lead to disciplinary measures of the School, and may also result in civil liability and even criminal consequences. Apart from the personal liability to be borne by individuals for unlawful acts of sexual harassment, the School being employer of the staff concerned, may also be vicariously liable.

II. Objectives and responsibilities of the School

The School administration is determined to eliminate and prevent sexual harassment, and will do its best to ensure that all individuals (including all students, staff members, parents, voluntary helpers, contract workers/service providers/agents) are able to study, to conduct extra-curricular activities or work or provide/have access to services in a safe and sexually hostile-free environment. All staff members and students have the obligation and responsibility to prevent and eliminate sexual harassment. If sexual harassment occurs, any person in the School can lodge complaints and is encouraged to report the case. Sexual harassment will not be tolerated in the School.

III. Definition of sexual harassment

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

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

Sexual harassment may occur to any persons, regardless of their gender, and the Sex Discrimination Ordinance and this Policy are applicable to both men and women as well as sexual harassment to persons of the same sex; and intention is irrelevant, so no matter whether the act is intentional or not, or event of a playful nature, it may amount to sexual harassment; and single incident may be sufficient.

IV. Examples of sexual harassment in schools

A. The following are some examples of sexual harassment acts:

- Uninvited physical contact or gestures
- Unwelcome requests for sex
- Sexual comments or jokes
- Intrusive questions or insinuations of a sexual nature about a person's private life
- Displays of offensive or pornographic material such as posters, pinups, cartoons, graffiti or calendars
- Unwanted invitations
- Offensive communications of a sexual nature (letters, phone calls, faxes, e-mail messages, etc.)
- Staring or leering at a person or at parts of his/her body
- 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

B. The following are some scenarios of creating a hostile or intimidating environment in schools:

- Anyone uses sexually suggestive materials 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.
- One student / a group of students hijack(s) classroom discussion and turn it to sexual topics. Other students feel offended and do not want to join the discussion.

V. Rights of victim and actions to be taken

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 immediately.
- tell someone he / she trusts, such as his / her teacher/ colleagues/ co-workers, and ask for emotional support and advice.
- keep a written record of the incidents, including the dates, time, location, witnesses, nature (what the harasser has said or done) and his / her own response.
- if a staff member is sexually harassed, he / she can lodge a complaint to the School Principal or Vice Principal(s); if a student is sexually harassed, he should lodge a complaint to the teacher(s), student guidance teacher and/or the School social worker. Then the teacher(s), student guidance teacher and/or the School social worker should refer the case to the School Principal or Vice Principal(s) for follow-up actions. The student can also lodge the complaint directly to the School Principal or Vice Principal(s).
- complaints of sexual harassment must be lodged to the School within 3 months from the time of the incident, otherwise the School has the right to refuse to handle the complaint since any delay could cause difficulty to the investigation and the collection of evidence. Delayed complaints with justifiable reasons would be handled at the School's own discretion.
- lodge a complaint with Equal Opportunity Commission (EOC) and/or the EDB, and request investigation and/or conciliation.
- consult a lawyer, report to the police and/or file a law suit against the harasser.

The School complaint handling procedure will not affect the complainant's lodging complaints with the EOC, reporting to the police or filing a law suit in Court.

VI. Major principles and procedures for handling sexual harassment complaints

After receiving a complaint (including anonymous complaints), the School will handle it promptly according to the following major principles and procedures:

- Activate internal procedures for dealing with complaints of sexual harassment;
- Both informal and formal complaint handling mechanisms are in place: if the primary concern of the complainant is to stop the acts of sexual harassment as soon as possible by way of taking informal action (e.g. sending a clear message to the alleged harasser) instead of conducting an investigation into his/ her case, the complaint will be handled informally (which is appropriate for handling minor and single incidents rather than serious and repeated acts of sexual harassment);

- Treat the complainant and the alleged harasser fairly and give them chances to present their case;
- Keep all information and records related to the complaint of sexual harassment confidential, and only circulate information to relevant parties on a need-to-know basis;
- Inform the alleged harasser of the details of the allegation(s);
- Handle the complaints promptly because both the complainants and the alleged harasser are under pressure;
- Tell the complainant and the alleged harasser how the investigation will be conducted and who is responsible for the investigation; for complaints involving students, the School will ensure that both the students and their parents understand the rules and disciplinary measures;
- Protect the complainants and witnesses against victimization (which in itself is an unlawful act of discrimination under the Sex Discrimination Ordinance) because of the complaint;
- Avoid any conflict of interest of the person handling the complaint with the complainant or the alleged harasser;
- Conduct investigation whether the complaints are anonymous or not, and in particular investigation should be conducted discreetly into any suspected sexual harassment made against students;
- Handle the complaints discreetly so that the complainant would not be unnecessarily further distressed or humiliated, for example, appoint investigators of the same sex to interview the complainants;
- If necessary, make arrangements to avoid contact between the complainant and the alleged harasser during the investigation;
- Provide support and counselling to complainants (and if the complainant is a student, including his parents) where necessary;
- Interview the complainant; if the complainant is a student, he is entitled to be accompanied by his parents or relatives;
- Interview the alleged harasser; if the alleged harasser is a student, he is entitled to be accompanied by his parents or relatives;
- If a panel is formed in the School to handle the complaint, it should be composed of almost equal number of members of both sexes;
- Taking into account the age, the education level of and the distress suffered by the complainant after the sexual harassment incident, the School should allow the complainant to lodge a formal or informal complaint;
- Interview and obtain written statements from the complainant, the alleged harasser and the witnesses in relation to the complaint;
- Study the evidence and make decisions;

- Prepare a written report and inform the complainant and the alleged harasser of the investigation results, the punishment and the considerations; and inform the complainant and the alleged harasser that if any of them is not satisfied with the investigation result, as a principle of natural justice, he/ she may consider to lodge an appeal to the IMC for further consideration of the complaint;
- Seek advice from EDB, EOC or other relevant organizations (such as the Police) where necessary;
- Decide whether or not disciplinary measures or other appropriate actions should be taken.

VII. Measures of punishment by the School

- Confirmed sexual harassment acts by school staff members will be subject to disciplinary action to be decided by the IMC. Depending on the nature of the sexual harassment acts, disciplinary action such as making apologies, attending counselling sessions, paying compensation, suspension, dismissal, etc. may be imposed.
- Confirmed sexual harassment acts by students will be subject to disciplinary action to be decided by the ad hoc group of the Discipline and Guidance Team of the School. Depending on the nature of the sexual harassment acts, disciplinary action such as making apologies, attending counselling sessions, paying compensation, suspension, etc. may be imposed.
- If the School considers that the complaint may involve criminal offences, the School will report to the Police as soon as possible.
- The School may also consider to report any complaints to the EDB and/or the EOC where necessary.

VIII. Measures for Prevention of Sexual Harassment

- (a) To raise the understanding and awareness of staff on sexual harassment, the School will:
- provide the policy statement and other relevant information on sexual harassment to new staff as a standard part of induction;
 - distribute / restate the policy statement to staff for discussion / reinforcement at staff meetings at regular intervals;
 - include the procedures and guidelines for reporting / receiving and filing of complaints in the staff handbook;
 - post notices to disseminate related information;
 - conduct 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) The School will provide students with education and counselling in prevention of sexual harassment.
- (c) The School will promulgate the school policy, the handling procedures and the related discipline actions on sexual harassment to students and their parents via Parent-teacher Association and other means.
- (d) The School reserves the right to review and amend this Policy from time to time as it shall deem necessary.

IX. Handling Sexual Harassment Complaints Panel

Principal: Ku Wing Hong Eric Email: erickudls@yahoo.com.hk
Vice- Principal: Mak Tai Pui Email: aemiliuseca@hotmail.com
Vice- Principal: Poon Man Yiu Email: pmyparadiso@gmail.com
Discipline Master: Leung Ho Yin Email: lhy2033@yahoo.com.hk
Guidance Master: Fung Ip Ki Email: ikfung@yahoo.com.hk
School Manager: Ching Man Leung Email: chingsir@email.com
(School Office : Tel: 26700443)

For more information, please refer to the following webpages:

1. Education Bureau

Questions & Answers on Preventing Sexual Harassment in Schools

http://www.edb.gov.hk/attachment/en/sch-admin/admin/about-sch/sch-sexual-harassment-prevention/Q%20and%20A_E%2013-11-2013.pdf

2. Equal Opportunities Commission

Preventing Sexual Harassment on Campus – Formulating Sexual Harassment Policies in Schools

<http://www.eoc.org.hk/eoc/upload/2013116155023361433.pdf>