

THE HANG SENG UNIVERSITY OF HONG KONG

Workgroup Against Sexual Harassment (Workgroup)

Policy Guidelines and Procedures for Handling Sexual Harassment Complaints

INTRODUCTION

1. The University is committed to provide a learning and work environment that is free of sexual harassment for all staff members, students, and other persons who have dealings with the University.
2. Sexual harassment violates the rights and dignity of an individual, creates negative impact on individuals' wellbeing, and undermines the environment necessary for the individual to carry out his/her work and/or learning in the normal manner. This may happen not only in the workplace or on campus, but also during business/ school trips, business-related social events organized or sponsored by the University and at other venues. Therefore, the University is committed to take all the necessary steps to ensure that the workplace and educational environment are free from sexual harassment. Sexual harassment is prohibited and will not be tolerated at all levels in the University.
3. The sexual harassment policy applies to both males and females. Persons (including students, staff and fellow employee such as a contract worker, a commission agent with business and/ or academic interactions with the University or any person who is seeking to be employed by the University) who feel sexually harassed, offended, humiliated or intimidated by unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature should make it known to the harasser that the conduct is unwelcome, offensive, intimidating and should be stopped and seek help from appropriate personnel in the University in accordance with the following policy guidelines and procedures whenever he/she feels necessary to do so.
4. All staff members/students should be aware of this Policy and are encouraged to seek advice from Human Resources Office (for staff) or Student Affairs Office (for students) on issues concerning sexual harassment.

DEFINITION OF SEXUAL HARASSMENT

5. 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 favours, 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.
- (c) The person who knowingly aids another person to do an act of sexual harassment shall be treated as he/she is doing an act of the like description.

EXAMPLES OF SEXUAL HARASSMENT

6. With reference to the Equal Opportunities Commission, 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 around the workplace/classrooms/Residential Colleges
- 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

WHAT YOU CAN DO IF YOU ARE SEXUALLY HARASSED

7. Sexual harassment is unlawful. Ignoring sexual harassment does not make it go away but may make it worse because the alleged harasser may misinterpret no response as approval of the behaviour. Here are some of the ways you can consider:

- (a) Speak up at the time and tell the harasser that his/her behaviour is unwanted and has to stop;
- (b) Keep a written record of the incidents, including dates, time, places, presence of any witnesses, nature of the harassment (what the harasser said and did) and your own responses;
- (c) Tell someone you trust;
- (d) Report it officially to one of the following Case Officers (Officer)^(Note) immediately.

| Name and Post | Phone | Email |
|---|-----------|------------------|
| Mr Jim Sze Chung Manager (Student Development and Campus Life), SAO | 3963 5579 | scjim@hsu.edu.hk |

| Name and Post | Phone | Email |
|---|-----------|--------------------------|
| Ms Amy Chu Section Head (Career Planning and Development), SAO | 3963 5559 | amychu@hsu.edu.hk |
| Mr Denny Kan Assistant Manager (Residential Colleges) | 3963 5285 | dennykan@hsu.edu.hk |
| Ms Charmaine Chau Student Affairs Officer | 3963 5654 | charmainechau@hsu.edu.hk |
| Mr Matthew Wai Associate Director of Human Resources, HRO | 3963 5487 | matthewwai@hsu.edu.hk |
| Ms Queenie Ho Human Resources Manager, HRO | 3963 5598 | queenieho@hsu.edu.hk |

Note: The Chairmen of Workgroup may appoint additionally Case Officers if needed.

8. Upon receiving the complaint, the preventive and remedial measures should be taken to address the situation as soon as possible. The Officer, in consultation with the Co-Chairman of Workgroup Against Sexual Harassment (防止性騷擾工作小組) (Workgroup), should also make every conscientious effort to protect the complainant from continued harassment and/ or victimization of the accused.

9. In case the allegation of harassment involves severe bodily harm, or may constitute a criminal offence, the complainant may report to the police. The University has the obligation to report to the police immediately.

10. All incidents of harassment should be treated with the utmost sensitivity and confidentiality.

11. If the complainant wishes to initiate an investigation into an act of sexual harassment, he/she should file a written complaint to the Co-Chairman of Workgroup. The Officer from HRO or SAO may help to record the oral complaint which has to be signed and confirmed by the complainant.

WORKGROUP AGAINST SEXUAL HARASSMENT (Workgroup)

12. Staff members and/ or students may seek help or guidance from Workgroup on issues relating to sexual harassment. The Co-Chairmen of Workgroup are Director of Human Resources and Director of Student Affairs. (Information on Workgroup is detailed at **Appendix 1**).

PROCEDURES FOR HANDLING SEXUAL HARASSMENT COMPLAINTS

13. Upon receipt of the written complaint and if the case is considered warranting an investigation, the Co-Chairman of Workgroup shall set up an Investigation Panel (the Panel) within 10 working days to investigate the case and make recommendation.

14. Depending on the identity of the alleged harasser (student or staff), the Co-Chairman shall appoint an appropriate person to be the Panel Convenor of the case and at least two panellists of different genders from Workgroup. Depending on the nature of the complaint, the Panel Convenor may co-opt suitable personnel (student representative as well) to be members of the Panel.

15. In the course of the investigation:

- (a) The respondent will be given a copy of the complaint by the Panel and will be provided with an opportunity to respond to the allegation.
- (b) The complainant, respondent, witnesses and any other parties concerned will be interviewed individually, separately and in private by the Panel. Neither the parties nor witnesses will be subject to questioning except by members of the Panel.

16. Under normal circumstances, both the complainant and respondent may be accompanied by another person who is a member (staff or student) of the University throughout the interview process. The Panel is not a court of law and its proceedings are the internal matters of the University and staff and students shall not be accompanied by a legal representative.

17. The Panel may decline to inquire into a complaint or may suspend or discontinue its inquiry into a complaint if:

- (a) it considers that the complaint does not allege facts which, if proved, would amount to discrimination;
- (b) the substance of the complaint of discrimination has been examined or is being examined by a law enforcement agency or is the subject of criminal or civil proceedings in court and;
- (c) the complainant does not desire the investigation to be conducted or continued; or
- (d) the complainant and the respondent have agreed to resolve the matter and the Panel considers that the terms of the agreement are consistent with respect for the principles of equal opportunity.

18. The Panel shall determine and conclude whether the complaint is established and make recommendation to the Co-Chairman within 30 working days. The Co-Chairman, upon receipt of the recommendation from the Panel, shall decide whether to adopt the recommendation. In the event that the complaint is established and the Co-Chairman accepts the recommendation by the Panel which institutes disciplinary action against the respondent, the Co-Chairman should write to the relevant disciplinary authority in accordance with the University's regulations governing staff and student conduct and discipline.

19. Both the complainant and/or respondent will be informed whether the complaint has been established and the action to be taken. If the complainant and/or respondent wants to appeal the decision, the complainant and/or respondent may lodge an appeal with the relevant authority in accordance with the University's policies and procedures.

20. If a complaint is made against any Vice-Presidents, the Provost or the President, the complaint shall be dealt with by the Chairman of the Human Resources Committee and any decisions shall be presented to the Chairman of Council for approval.

REPORT OF THE WORKGROUP

21. The Workgroup reports to VP(OD) and shall submit an annual report to Student Affairs Committee to keep University members updated on the related issues.

CONFIDENTIALITY

22. All parties involved must comply with the Personal Data (Privacy) Ordinance and observe a strict code of confidentiality. Any violation of the confidentiality requirement will be regarded as a serious breach of professional ethics and be subject to disciplinary action.

CONFLICT OF INTEREST

23. Any person who finds himself/herself may have the potential conflict of interest in the complaint shall declare his/her interest and shall not take part as the Panel Convenor or a Panel member or in any other capacity as a decision maker.

FALSE REPORTING OF SEXUAL HARASSMENT

24. If the Co-Chairman considers that the complaint does not have merits and/or the complaint is ill, he/she may refer the case to be dealt with through disciplinary procedures.

FURTHER REVIEW

25. The University may review and amend the "Policy Guidelines and Procedures for Handling Sexual Harassment Complaints" from time to time as deemed appropriate.

Workgroup Against Sexual Harassment (Workgroup)

Reporting to Vice-President (Organizational Development) (VP(OD)), the Workgroup comprises staff members of both genders from academic, administrative and academic support offices who are familiar with the University's policy guidelines and procedures for handling sexual harassment complaints.

Membership Composition

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|-------------|---|
| Co-Chairmen | Director of Human Resources |
| | Director of Student Affairs |
| Members | 1-2 academic representative(s) from each School nominated by Deans of Schools |
| | Director of Campus Development and Management Office or representative |
| | Director of Information Technology or representative |
| | Registrar or representative |
| Secretary | Staff from Presidential Office |

*The Chairmen can co-opt member(s) to the Workgroup if necessary

Terms of Reference

1. To design and oversee the implementation of policies, guidelines, and practices relating to sexual harassment;
2. To review and make recommendations on the mechanism and procedures in handling complaints;
3. To enhance the education on promoting the awareness of Sexual Harassment Policy and Procedures in the University; and
4. To serve in the investigation panels as the convenor or a member if necessary.

Procedures in Handling Sexual Harassment Complaints

