

PERSONNEL POLICIES & PROCEDURES/EQUAL OPPORTUNITIES

Procedures on Handling of Complaints on Discrimination/Harassment
(on grounds covered by Equal Opportunities Ordinances)

GENERAL STATEMENT

The University acts to ensure dignity at work and study. Discrimination and harassment on the grounds of sex, pregnancy, marital status, disability, family circumstances and race are unlawful. These acts violate the rights, dignity and reputation of the individual, undermine the environment necessary for the advancement of learning, and will not be tolerated. Complaints about discrimination or harassment will be taken seriously by the University and will be handled promptly and in strictest confidence.

I. DEFINITION & COVERAGE

In accordance with the Equal Opportunities Ordinances which have come into effect in Hong Kong : Sex Discrimination Ordinance (SDO), Disability Discrimination Ordinance (DDO), Family Status Discrimination Ordinance (FSDO) and Race Discrimination Ordinance (RDO), it is unlawful to treat someone less favourably on the grounds of sex, pregnancy, marital status, disability, family circumstances and race.

A. Sexual Harassment

A person sexually harasses another person if

- (a) the person :
 - (i) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or
 - (ii) engages in other unwelcome conduct of a sexual nature in relation to the other person (including making a statement of a sexual nature to that person, whether the statement is made orally or in writing),
in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other 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 sexually hostile or intimidating learning or work environment for the other person.

The entire record and the totality of circumstances will be considered in determining whether a case constitutes sexual harassment. Some examples of conduct/behaviour which may possibly constitute sexual harassment are set out below for reference :

- (i) Unwelcome sexual advances — e.g. leering and lewd gestures, touching, grabbing or deliberately brushing up against another person;
- (ii) Unwelcome requests for sexual favours in exchange for preferential treatment — e.g. suggestions that sexual co-operation or the toleration of sexual advances may further an employee's career or help improve a student's academic grades, etc.;
- (iii) Unwelcome verbal, non-verbal or physical conduct of a sexual nature — e.g. sexually derogatory or stereotypical remarks, emails, SMS, those made on internet forum/facebook, or visual presentation in the work place or in the classroom; persistent questioning about a person's sex life; and
- (iv) Conduct of a sexual nature that creates a hostile or intimidating environment for work or study — e.g. sexual or obscene jokes, displaying sexist or other sexually offensive pictures or posters.

B. Disability Harassment

Disability Harassment means unwelcome conduct towards a person in relation to his or her disability, or towards a person on the ground of the disability of his or her associate, in circumstances where a reasonable person would have anticipated that the harassed person would be offended, humiliated or intimidated. The following behaviour can be regarded as disability harassment :

- (i) insulting comments;
- (ii) offensive jokes;
- (iii) unnecessary gestures mimicking someone's disability; or
- (iv) intentionally disclosing or threatening to disclose information on disability or medical history in circumstances that would offend, humiliate or intimidate the employee with a disability concerned.

C. Racial Harassment

Racial Harassment means unwelcome conduct towards a person in relation to his or her race, colour, descent, national or ethnic origin. The following behaviour can be regarded as racial harassment :

- (i) racially derogatory remarks or insults; for example, name calling which people of certain racial groups may find offensive or impolite;
- (ii) display of graffiti or slogans or other objects offensive to certain racial groups;
- (iii) racist jokes, banter, ridicule or taunts;
- (iv) using a disparaging or offensive tone when communicating with people on the ground that they belong to certain racial groups;
- (v) ostracize people on the ground that they belong to certain racial groups;

- (vi) imposing excessive workloads or unrealistic performance targets on people on the ground of their race, colour, decent, national or ethnic origins;
- (vii) unnecessarily picking on individuals from particular racial groups.

II. INFORMAL RESOLUTION

- (a) The earlier any complaints of discrimination or harassment is dealt with, the better the chance that it will not lead to a confrontation that is potentially damaging for both parties concerned. When a person feels being harassed, he or she may first try to seek an informal resolution. Informal resolution procedures are designed to put a stop to the discrimination or harassment through private conciliation rather than public sanctions.
- (b) Frequently, all that is needed may be talking directly to the accused, or where necessary involving a mediator who could be one's supervisor, a counsellor, a senior staff member or one of the Equal Opportunities Advisers with whom one feels comfortable. (A list of the Equal Opportunities Advisers is attached at [Appendix 1.](#)) These persons, when approached by the complainant, should talk to the complainant and try to establish all the facts of the case. They could provide advice to the complainant on the options available. If the complaint appears to have merit, they could serve as an informal mediator between the complainant and the accused. Sometimes, all that is needed is an explanation that the behaviour is damaging or hurtful, followed by an apology. It is advisable to bring, where possible, the two parties concerned to agree on the future standards of behaviour and conduct, and to point out the consequences of any further discrimination or harassment.
- (c) Supervisory personnel have the responsibility to ensure that the workplace and educational environment are free of discrimination or harassment. Whenever behaviour that could constitute discrimination or harassment is observed, supervisors should not condone it by ignoring it. When such behaviour is known to a supervisor, he or she should counsel the offending individual in an attempt to reach an informal resolution of the situation.
- (d) All incidents of discrimination or harassment should be treated with the utmost sensitivity and confidentiality. Where matters cannot be dealt with through informal means, or if the individual concerned believes that only a formal complaint can provide relief, he/she may file a complaint in accordance with the following procedures. The complainant may, if he/she considers it appropriate, seek external assistance such as lodging a complaint with the Equal Opportunities Commission or bring legal proceedings in the District Court. In case the allegation of harassment involves severe bodily harm, or may constitute a criminal act, the complainant should be advised to report the case to the Police.

III. FORMAL COMPLAINT PROCEDURES

(a) Filing a Complaint

Any individual complaining of discrimination/harassment may initiate a formal complaint by writing to the Equal Opportunities Panel (EOP) via the Office of the Vice-President (Administration) and Secretary. With a view to ensuring impartiality and objectivity in handling a formal complaint, Equal Opportunities Advisers who have been approached in the informal resolution stage will not be invited to be a member of the EOP formed to handle the same complaint. All complaints will be taken seriously and processed quickly with appropriate confidentiality, sensitivity and discretion. The EOP is expected to be set up within two weeks of the receipt of a formal complaint. The membership and terms of reference of the EOP are detailed in [Appendix 2](#).

(b) Investigation and Fact-finding

As soon as the EOP is set up, an investigation team made up of two members of the EOP shall conduct a preliminary investigation of the case, which shall include confidential interviews with all persons identified by the complainant as witnesses to the alleged discrimination/harassment.

(c) Resolution by Mediation

- (i) The investigation team shall offer to facilitate mediation of the dispute in the first instance. It will meet with the person or persons whose behaviour is alleged to constitute discrimination/harassment to discuss the accusation, the evidence supporting it, and the procedures being followed to address the complaint.
- (ii) If grounds for the complaint are found to exist, the team will propose a settlement with a view to providing a remedy for the complainant. The emphasis in constructing a remedy should be on eliminating the behaviour that is the basis for the complaint, and restoring to the complainant any benefits that were withheld as a result of rejection of this behaviour.
- (iii) If the accused refuses to agree to the proposed remedy; or denies the accusation of discrimination/harassment, or if the complainant is not satisfied with the outcome of the investigation, the investigation team will refer the case to the EOP and a formal hearing of the case will be conducted.
- (iv) The mediation process should normally take no more than 30 calendar days from the date of set up of the EOP.

(d) Formal Hearing by the EOP

- (i) The EOP should conduct a formal hearing within one month after mediation fails to resolve the complaint. The hearing process is intended to provide a reasonable degree of confidentiality for both the accused and the complainant without the formality of a legal proceeding. The emphasis is on reaching an early resolution in a fair and even-handed manner. Depending on the complexity of each case, it is expected that the formal hearing will normally be completed in two months' time.
- (ii) Both the complainant and the accused shall have the right of:
 - appearing before the Panel;
 - presenting evidence to the Panel;
 - calling witnesses (or requesting the Panel to do so on his/her behalf); and
 - bringing with him/her a colleague/fellow student, who may provide personal support to him/her but shall not speak on his/her behalf, when appearing before the Panel. Each party, and any accompanying colleague/student, shall be reminded of the confidential nature of the proceedings, and the obligation to maintain confidentiality. As the formal hearing procedures are not legal proceedings, legal representation on behalf of either party shall not be allowed.
- (iii) The EOP shall hear testimony from the complainant and the accused, and any witnesses proposed by either of them. In addition, it may call such other witnesses and examine such other evidence as it may deem appropriate.
- (iv) The complainant and the accused shall be given an opportunity to respond to any information or evidence which is brought to the attention of the Panel by either party, or by any third party, during the course of the hearing, and which appears to call for response, clarification or confirmation.

(e) The Panel's Report

On the basis of the hearing, the EOP will submit a report to the Vice-President (Administration) and Secretary within two months of the start of the formal hearing. If the Panel concludes that discrimination/harassment has occurred, it shall recommend an appropriate remedial action, which could be either one or more of the following actions:

- (i) the accused shall cease the behaviour that is the basis for the complaint;
- (ii) the accused shall refrain from further contact with the complainant, to which end the Panel may recommend that the accused or the complainant be reassigned;
- (iii) the accused shall undergo counselling or treatment; and/or
- (iv) the University shall initiate disciplinary proceedings (which may result in sanctions including termination of appointment) against the accused.

The complainant and the accused will be informed in writing of the recommendations of the EOP and the decisions of the Vice-President (Administration) and Secretary within two weeks of the making of a recommendation by the EOP.

(f) Appeal

(i) The complainant and the accused, after being informed of the findings and recommendation of the EOP, may within 30 days lodge an appeal against the decision of the Panel to the President and Vice-Chancellor, who may :

- confirm the decision and remedy ordered by the EOP;
- confirm the decision, but modify the remedy ordered by the EOP;
- ask the same Panel to be re-convened to consider the appeal; or
- ask another Panel to be formed from amongst the list of potential members to re-consider the case.

(ii) The decision of the President and Vice-Chancellor shall be final within the University.

(g) Record

Any activity within the formal complaint procedures will be documented and put on record. The reason for this is to keep track in case a complaint comes up against the same person, or if the same victim complains against somebody else.

IV. CONFIDENTIALITY

All parties involved shall ensure confidentiality of the matter. Unauthorized disclosure of any information, details, documents pertaining to the complaints and/or handling of the complaints shall be subject to appropriate disciplinary actions.

V. PROTECTION OF VICTIMS/COMPLAINANTS OF DISCRIMINATION/HARASSMENT

(a) All complaints of discrimination/harassment will be received with the utmost confidentiality. The University will not tolerate any act or threatened act of intimidation of any kind, whether physical or verbal, being made to the victims/complainants, the accused, the witnesses, or other parties related to the complaints.

(b) In case of any reported act or threatened act of intimidation made to the victims/complainants, the accused, the witnesses, or other parties related to the complaints, the EOP will carry out a full investigation into the reported act or threatened act of intimidation and, if such act was found to be substantiated, will deal with the matter of intimidation in an appropriate manner including, as and when necessary, the possibility of reporting the matter to the Police.

VI. CASES OF FALSE REPORTING OF DISCRIMINATION/HARASSMENT

- (a) If the EOP, after due enquiry into a complaint of discrimination/harassment, decides that the complaint has been made in bad faith or that it is found to be groundless, the EOP would refer the case of false reporting to the Personnel Office (if the complainant is a staff member) or to the Office of Student Affairs (if the complainant is a student), for consideration of the taking of disciplinary action against the complainant.

- (b) Apart from the possibility of taking disciplinary action against the complainant of a false report, the EOP will recommend a full written apology to be made by the complainant to the person wrongfully accused of discrimination/harassment.

VII. REVIEW

The University will keep the above policy and procedures under constant review and staff and students will be consulted during such reviews. A flow chart showing the procedures for handling a complaint on discrimination/harassment is at [Appendix 3](#).

Personnel Office
October 2009
(Revised 12/02, 03/09, 10/09)

List of Equal Opportunities Advisers
(Effective from 17 September 2018)

Fac/Sch/Offices	Male Advisers	Female Advisers
ARTS	Dr. COLEMAN Christopher Braunlin, MUS	Dr. TSE Hiu Hung Dorothy, HMW
AVA	Dr. YU Wai Luen	Dr. CHING Sze Yin
BUS	Prof. CHIU Ki Kwan Randy, MGNT	Dr. LEUNG Shuk Mei Alicia, MGNT
COMM	Mr. WAN Man Kit Derek, AF	Dr. FUNG Siu Kuen Maggie
SCM		Ms. KWOK Fung Kam, CLNC
SCE	Dr. TSANG Sui Keung Lawrence	Dr. YAU Pui Lam Josephine, CIE
SCI		Dr. LI Yuanxi, COMP
SOSC		Prof. CHUNG Po Yin, HIST Dr. LADDS Catherine Frances, HIST
Admin Offices	Mr. CHAN Fan Leong, AR	Ms. CHAN Kit Yan, AAO Dr. LEE Wai Yi Melanie, AAO
	Mr. YUEN Fu Kuen, CHTL	Ms. YEUNG Tsz Shan Sandy, AR
	Mr. LAM Chi Ming, EO	Ms. TANG Lai Har Fannie, EO
	Mr. CHONG Ho Yin, GS	Ms. WU Wai Ching Tracy, FO
	Dr. TAN Keng Tiong, KTO	Ms. CHOW Yeuk Yee Daisy, GS
	Dr. MANN Ka Fai, SA	Ms. Chan Shan Miu Sammy, LIB
		Miss CHAN Lai Fong, SA
		Ms. CHUNG Ching Man Annie, UAO

Equal Opportunities Panel

Membership

To be made up of an odd number of members (normally not less than 5) appointed by the Vice-President(Administration) and Secretary from amongst the Equal Opportunities Advisers, and one of them will be appointed as the Convenor. Other than the Convenor, the other members should comprise an equal number of both sexes. Equal Opportunities Advisers who have been involved in handling a particular case on an informal basis shall not be appointed to be a member of the EOP set up for handling the same case on a formal basis.

Terms of Reference

1. To receive a formal written complaint on a matter relating to discrimination or harassment under the Sex Discrimination Ordinance, Disability Discrimination, Family Status Discrimination Ordinance or Race Discrimination Ordinance.
2. To conduct investigation and mediation on receipt of the complaint through an investigation team made up of two members.
3. To conduct formal hearing on the complaint in the event that it cannot be resolved through mediation.
4. To report and make recommendations on the complaint case to the Vice-President (Administration) and Secretary.
5. To maintain a record of the complaint received and handled.

Formal Procedures for Handling Complaint on Discrimination or Harassment
(on grounds covered under the Equal Opportunities Ordinances)

