

KWOK TAK SENG CATHOLIC SECONDARY SCHOOL POLICY FOR THE PREVENTION OF SEXUAL HARASSMENT

Kwok Tak Seng Catholic Secondary School (“the School”) is committed to providing a work environment where women and men can work together comfortably and productively, and a learning environment where girls and boys can learn and benefit from the all-round Christian/Catholic education provided by the School, free from sexual harassment. Sexual harassment pollutes the work environment and the learning environment and can have a devastating effect on the mental and physical health, confidence, morale and performance of those affected by it.

Sexual harassment in any form is unacceptable behaviour for any student, staff, parent, voluntary helper, contract worker, service provider, agent or visitor of the School. The School reaffirms the principle that sexual harassment will not be tolerated in the school community and all students, staff, parents, voluntary helpers, contract workers, service providers, agents and visitors have the right to be free from sexual harassment. Sexual harassment can give rise to civil and criminal liability. Any behaviour determined to be sexual harassment will result in appropriate disciplinary action. All staff and students have the responsibility to prevent and eliminate sexual harassment. All individual witnessing sexual harassment should report to the school.

(A) What is sexual harassment?

According to Section 2(5) of the Sex Discrimination Ordinance (Chapter 480), the legal definition of “sexual harassment” includes the following situations:

- (1) the person
 - (a) makes unwelcome sexual advances or unwelcome request for sexual favours, to that person; or
 - (b) 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
- (2) 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.

Any unwelcome sexual conduct that interferes with the performance of another person in his/her work environment or learning environment constitutes sexual harassment.

(B) Prohibited behaviour

Prohibited behaviour includes unsolicited and unwelcome contact that has sexual overtones. This includes:

- (1) written contact, such as sexually suggestive or obscene letters, faxes, e-mail messages, short message service messages, notes, invitations

- (2) verbal contact, such as sexually suggestive or obscene comments, questions, requests, threats, slurs, epithets, banter, jokes about gender-specific traits, sexual propositions; wolf whistling
- (3) physical contact, such as intentional touching, hugging, kissing, pinching, brushing against another's body, touching or fiddling with a person's clothing, impeding or blocking movement, assault, coercing sexual intercourse, and
- (4) visual contact, such as leering or staring at another's body, gesturing displaying sexually suggestive objects or pictures, cartoons, posters or magazines.

Sexual harassment also includes continuing to express sexual or social interest after being informed directly that the interest is unwelcome – and using sexual behaviour to control, influence or affect the career, salary or work environment of any person or to interfere with the performance or affect the enjoyment of a student in his/her learning environment.

A single incident can amount to harassment if sufficiently grave. Having no intention to harass is not a defence in sexual harassment cases.

(C) Prevention of sexual harassment – Informal stage

- (1) It is entirely in order for a recipient (“the recipient”) of unwanted conduct amounting to sexual harassment to try to resolve the problem, if he/she so prefers, by explaining to the individual concerned that the behaviour is not welcome, that it offends or makes the recipient uncomfortable and that it interferes with his/her work/performance.
- (2) Anyone who has been subjected to harassing or bullying behaviour may seek confidential assistance from
 - (a) The Principal
 - (b) The Vice Principals
 - (c) The Teacher representatives
- (3) An informal approach to an assisting staff member of the School will be treated as completely confidential and will not result in any report to anyone within the School unless the recipient agrees.
- (4) If the recipient prefers, where he/she finds it too difficult or embarrassing to take up the matter himself/herself, the assisting member of staff of the School (of the same sex) will participate in an informal meeting between the recipient and the individual concerned or will, at the request of the recipient, approach the individual on behalf of the recipient.
- (5) The informal stage will not result in any formal internal investigation or disciplinary action but is intended to enable the recipient to resolve the matter himself/herself without it going any further in the School.
- (6) To have a case consultation with FCPSU(保護家庭及兒童服務) of Social Welfare Department (SWD) in order to know whether it is necessary to call police or require hospitalization.
If the case is valid, then there should be a Multi-disciplinary Case Conference on Protection of Child with Suspected Abuse” (MDCC)

within 14 days after case opened. People like social workers, teachers, doctors, EP/CP, police officers and his/her family should attend in the conference.

- (7) The recipient may tell someone he/she trusts, such as his/her teacher/colleague/co-worker, for emotional support and advice.
- (8) The recipient shall keep record of the harassment incidents, including the dates, time, location and witnesses and own response.

Prevention of sexual harassment – Formal stage

- (1) Where informal resolution is not appropriate, or not requested or where the outcome has been unsatisfactory, then the recipient may bring a formal complaint to the Principal. If the complaint is about the Principal, the recipient may bring the complaint directly to the Supervisor or CEO.
- (2) If so desired, the assisting member of staff of the School will help the recipient to prepare his/her complaint as well as to accompany him/her to any meetings. All complaints will be thoroughly and expeditiously investigated. They will be conducted in an independent and objective manner by an investigation team, which consists of at most 6 members, (but kept minimum whenever possible) with roughly the same number of members of opposite sex appointed by the the Principal or Supervisor comprising someone unconnected with the allegations and (in cases concerning employees of the School) at least of the equal grade/status with the alleged harasser. Wherever possible investigations will be completed within four weeks of the complaint being made.
- (3) Investigations will be carried out with sensitivity and with due respect for the rights of both the complainant and the alleged harasser.
- (4) The importance of confidentiality will be stressed to all those interviewed, and everyone will be strictly required not to discuss the complaint with colleagues, friends or peers. Breach of confidentiality may give rise to disciplinary action.
- (5) If the complainant or the alleged harasser is a student, he/she is entitled to be accompanied by their parents or relatives in an interview.
- (6) The investigation will focus on the facts of the complaint. Notes will be kept of all stages of the investigation. Parties will not be required to repeat distressing or embarrassing details any more than is necessary.
- (7) Wherever possible, consideration will be given to ensuring that the complainant and the alleged harasser are not required to work together or attend the same class whilst the complaint is under investigation.
- (8) The complainant and alleged harasser will be kept informed of the general process of investigation and will be informed whether the complaint has been upheld and is to result in disciplinary action.
- (9) The School will seek to ensure that the complainant and any person assisting in investigating such a complaint are not in any way penalized whether directly or indirectly for bringing a complaint and the situation will be monitored to ensure that the harassment has stopped. Any complaint of retaliation will be promptly investigated and punished if established.

- (10) Even where a complaint is not upheld, for example where the evidence is inconclusive, consideration will be given to effecting arrangements which will enable the parties not to continue to work together or to attend the same class against the wishes of either party.
- (11) Any complaint that is unfounded and not made in good faith, for example a malicious complaint, will be treated as an offence liable to disciplinary action.
- (12) Cases of suspected sexual harassment involving students or young children shall be handled discreetly. Whether the complaints are anonymous or not, investigation may need to be conducted.
- (13) For complaints involving students, both the students and parents shall be properly apprised of the rules and disciplinary measures.
- (14) A complainant or an alleged harasser may appeal to the IMC of the School in writing within 2 weeks in case he/she is not satisfied with the findings of the complaint investigation.

(D) Prevention of sexual harassment – Monitoring

The School shall take all reasonable steps to see that this policy prohibiting sexual harassment is followed by all students, staff, parents, voluntary helpers, contract workers, service providers, agents and visitors. Details of all formal complaints of sexual harassment will be collated by the Principal of the School. These will be annually reviewed by the IMC of the School with a view to ensuring that every effective step has been taken to prevent sexual harassment and to monitor the effectiveness of the complaint's procedure. The prevention plan will also include provision of training sessions to the students and staff and circulation of this policy to the students and staff on an annual basis. This policy should be uploaded to the school homepage and disseminated to the students, parents and staff at the beginning of the school term. The Pastoral Care Committee and the Crisis Management Team are responsible for the sex harassment prevention. The PC and RMC are responsible in promoting sex education to all students every year.

(E) Discipline

Any employee or student found to have violated this policy shall be subject to appropriate disciplinary action, including warnings, demerits, reprimand, suspension or discharge, according to the findings of the complaint investigation. If any investigation reveals that sexual harassment has occurred, the harasser may also be held legally liable for his or her actions under the anti-discrimination laws or in separate legal actions.

(F) Complaint period

The period of complaint of sexual harassment is 12 months from the incident. Delayed complaints may also be handled if appropriate reasons can be provided by the complainant. The procedure of handling sexual harassment in school does not affect the right of the complainant to report to the police or the Equal Opportunities Commission. In case needed, the complainant should report to the Equal Opportunities Commission within 12 months. Prosecution should be raised court within 24 months.

(G) Improvements

The School pledges to cultivate a sexual-harassment-free work and learning environment. The School shall take reasonably practicable steps to prevent unlawful acts as well as handle sexual harassment complaints properly to safeguard the interest of staff and students. The School welcomes all suggestions for improvements to this policy. This policy will normally be revealed bi-annually.

(H) Reference

<https://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=preventing%20sexual%20harassment>