

Sexual Harassment

Staff should follow the Sex Discrimination Ordinance (EDB Circular No. 2/2009) to avoid “sexual harassment” by which conduct of a sexual nature creates a hostile or intimidating environment. It is the responsibility of school to ensure all individuals (including all students, staff members, voluntary helpers, contract workers / service providers / agents) are able to study, to conduct extra-curricular activities, work, and provide services in a safe and sexually hostile-free environment. The following may allow you to know more about this issue or you can visit this website for more detailed information:

<http://www.edb.gov.hk/index.aspx?nodeID=7094&langno=1>

1. 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.

Section 2(5) of the SDO defines sexual harassment while sections 2(7), 2(8), 9, 23 and 39 are the related legislations.

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

- a) Uninvited physical contact or gestures
- b) Unwelcome requests for sex
- c) Sexual comments or jokes
- d) Intrusive questions or insinuations of a sexual nature about a person’s private life
- e) Displays of offensive or pornographic material such as posters, pinups, cartoons, graffiti or calendars
- f) Unwanted invitations
- g) Offensive communications of a sexual nature (letters, phone calls, faxes, e-mail messages, etc.)

- h) Staring or leering at a person or at parts of his/her body
 - i) Unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against him/her
 - j) Touching or fiddling with a person's clothing e.g. lifting up skirts or shirts, or putting hands in a person's pocket
3. The following are some scenarios of creating a hostile or intimidating environment in schools:
- a) Anyone using sexually suggestive cartoons in teaching a subject not related to sex.
 - b) During recess and/or lunch time, 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.
 - c) In the staff room where there are both female and male colleagues, some colleagues display nude pictures as screen savers on the computer, or exchange obscene jokes with each other in the presence of other colleagues of the opposite sex.
 - d) Staff members make sexual jokes or discuss their sex lives within earshot of other staff / students on the school premises.
 - e) A group of students hijack a classroom discussion and turn it towards sexual topics. Students of the opposite sex feel offended and do not want to join the discussion.
4. Sexual harassment, which is an unlawful act, would entail civil liability. Some behaviour (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).

If you come across any sexual harassment case, please use our Complaint Procedure in this handbook to follow up the case.