

Marymount Primary School

Policy on Prevent Sexual Harassment

Introduction & Definition

Sexual harassment is an unlawful act which is not allowed to occur. The school is committed to eliminating and preventing sexual harassment.

According to the Sex Discrimination Ordinance (SDO) (Cap. 480), sexual harassment in employment is unlawful. In accordance with the SDO Code of Practice on Employment, 3.1.3, 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 another 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.

Examples of Sexual Harassment

The following are some examples of sexual harassment acts:

- Uninvited physical contact or gestures
- Unwelcome request for sex
- Sexual comments or obscene 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

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

- Anyone using sexually suggestive cartoons/topics 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

- A classmate / teacher / colleague sends you a pornographic email, which makes you feel offended.

A series of incidents may constitute sexual harassment. However, depending on the circumstances, it is not necessary for there to be a series of incidents. One incident may be sufficient to constitute sexual harassment.

Measures to Prevent Sexual Harassment

To raise the understanding and awareness of staff and students on sexual harassment, and to strengthen promotion, training and education on preventing sexual harassment, the school has taken/will take the following measures:

- 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
- Distribute the policy statement to staff for discussion/reinforcement at staff meetings at regular intervals
- Post notices to disseminate related information
- Provide the policy statement and other relevant information on sexual harassment to new staff as a standard part of induction
- Include the procedures and guidelines for reporting/receiving and filing of complaints in the Teachers' Drive under Division 1
- Notify service providers / agents, contract staff, voluntary helpers of the school policy on preventing sexual harassment
- Promulgate the school policy, the handling procedures, and the related discipline actions on sexual harassment to students and their parents via Informal Curriculum or Class Teacher Periods and Letter to Parents respectively

Mechanism for Handling Sexual Harassment Complaints

- a. The approaches/strategies of a staff member/student may adopt if he/she is being sexually harassed
 - Speak up at the time. Tell the harasser that his/her behaviour is unwanted and has to stop
 - Tell someone he / she trusts, such as his/her teacher / parent / the school social worker / colleagues / co-workers, for emotional support and advice
 - Keep a written record of the incidents, including the dates, time, location and witnesses and own response
 - Lodge a formal written complaint to the Principal or his / her designate (in the case of staff), the Class Teacher or the discipline teachers (in the case of students)
 - All written complaints received will be submitted to the Principal
 - If a complaint is made against the Principal under these procedures, the powers of the Principal shall be exercised by the Chairperson of the School Management Committee

- b. After receiving a complaint, the Principal and Head of Critical Incident & Crisis Management (CICM) Team would take the following major procedures to handle the complaint:
- Activate internal procedures for dealing with complaints of sexual harassment
 - Keep all information and records related to the complaint of sexual harassment confidential
 - Undertake a preliminary inquiry into the complaint in order to determine whether there is prima facie evidence that any member, employee or student of the school may have engaged in harassment. The purposes of the preliminary inquiry are to ensure that there are sufficient materials which warrant a full investigation and to screen out obviously unfounded allegations
 - Inform the alleged harasser of the details of the allegation(s)
 - Tell the complainant and the alleged harasser how the investigation will be conducted and who is responsible for the investigation
 - If necessary, make arrangements to avoid contact between the complainant and the alleged harasser during the investigation
 - Provide support and counseling, where necessary, including providing parents / students / staff with information about sexual harassment and clarifying any questions or concerns they may have, e.g., what they should do when they are sexually harassed
 - Interview the complainant; if the complainant is a student, he/she is entitled to being accompanied by their parent(s) or relative(s)
 - Interview the alleged harasser; if the harasser is a student, he/she is entitled to being accompanied by their parent(s) or relative(s)
 - Interview or obtain written statements from witnesses in relation to the complaint
 - Study the evidence and make decisions
 - Prepare a written report and inform the relevant parties of the investigation results in writing
 - Seek advice from Equal Opportunities Commission (EOC) / report to the police where necessary
 - Decide whether or not disciplinary measures or other appropriate actions should be taken
- c. Principle of “confidentiality”
- All information and records related to a complaint of sexual harassment must only be disclosed to relevant parties on a need-to-know basis. Premised on the principle of natural justice and the fact that the alleged harasser is a key person in the case, it is necessary to inform him / her of the details of the complaint.
- d. According to Section 9 of the SDO, if a person is subjected to any detriment or threat of detriment because he/she:
- Has made, or intends to make, a sexual harassment complaint under the SDO
 - Has furnished, or intends to furnish, information or documents in relation to a sexual harassment complaint
 - Has appeared, or intends to appear as a witness in a sexual harassment proceeding
 - Has reasonably asserted his / her own or another person’s rights under the SDO, he/she may complain to the school again on the ground of victimization. Under the above circumstances, he / she is protected under the law

Time Limit for Sexual Harassment Complaint

There are time limits for lodging a complaint to EOC and instigating legal proceedings. If a person who has been sexually harassed wants to lodge a complaint with EOC, he/she should do it within 12 months after the incident has taken place. Any decision to take legal proceedings to the District Court should be made within 2 years after the incident has taken place.

However, staff/students should lodge a complaint with the school within a week after the incident has taken place.

Liabilities and Disciplinary actions

- 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 the 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).
- Depending on the nature of individual complaints, the school may first consider arranging conciliation. The purpose of conciliation is to help the parties involved work out a mutually acceptable resolution, eliminate misunderstanding and settle disputes with the assistance of an impartial third party. Conciliation should be voluntary.
- In the process of investigation and arranging conciliation, the school will keep an open and fair manner to ensure that the complainant and the alleged harasser are treated fairly. All information under investigation will be treated as strictly confidential during conciliation.
- The school will consult EOC or other relevant organizations (such as the Police) when they have doubt about the suspected cases.
- For cases suspected to involve criminal offences, the school will report to the Police.

The school will handle sexual harassment complaints seriously.

If any member of staff is found to have committed a sexual harassment act, he/she may be subject to receiving written warnings or dismissal by the School Management Committee depending on the nature of the case.

If any student is found to have committed a sexual harassment act, the school may:

- (a) reprimand and / or lower her conduct grade
- (b) impose suspension/expulsion

Counselling and Support Services in School

For information

The school's policy and procedures for sexual harassment can be viewed at the school website.

For counselling and support

Contact our School Guidance Personnel (SGP), or any of the guidance teachers.

Enquiries outside school

Direct enquires to the Hong Kong Equal Opportunities Commission (Tel: 2511-8211)