Tak Oi Secondary School

Policy for the Prevention and Handling of Sexual Harassment Cases

September, 2015
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I. Introduction

The school will ensure a safe environment for all students, staff\(^1\) and other persons who provide services to the school\(^2\) to be able to study and to work with equal opportunities. Sexual harassment is discriminatory and unlawful. Once an act of sexual harassment occurs, harmful effects will be brought about to both students and staff at school.

In order to raise the awareness of sexual harassment and to nurture the right and proper value of respecting others, the school has formulated the “Policy for Prevention and Handling Sexual Harassment Cases” to adopt preventive measures for sexual harassment and to provide guidelines for handling complaints related to sexual harassment.

The school will handle complaints on the principles of fairness, impartiality and confidentiality, and in a serious and discreet manner. We will ensure that nobody will be punished because of lodging a complaint in good faith.

II. Definition and Examples of Sexual Harassment

According to the Sex Discrimination Ordinance (SDO), the legal definition of sexual harassment is:

2.1 If any person

(a) makes an unwelcome sexual advance, or an unwelcome request for sexual favors, to another person; or

(b) engages in other unwelcome conduct of a sexual nature in relation to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that that other person would be offended, humiliated or intimidated; or

2.2 any person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for another person.

2.3 Notes concerning the definition of sexual Harassment:

2.3.1 Regardless of gender: sexual harassment may occur to any persons, regardless of their gender; all provisions in the SDO and the school policy related to sexual harassment are applicable to both men and women as well as sexual harassment to persons of the same sex.

2.3.2 Intention is irrelevant: even if the act of sexual harassment is not intentional or there is no evidence to prove the intention, it amounts to sexual harassment once the act meets the definition of sexual

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\(^1\) All students and staff members (including prospective students and staff members)

\(^2\) Other persons who provide services to the school (including voluntary helpers, contract workers / service providers / agents)
harassment. Hence, no matter whether the act is intentional or not, or even if the act is of a playful nature, it may amount to sexual harassment.

2.3.3 Single incident: a single incident may also amount to sexual harassment.

2.3.4 Power relationship: Although sexual harassment incidents are always related to a power relationship, i.e. the powerful harass the weak, the power relationship may not be the most important factor taken into account in determining whether an act of sexual harassment has occurred on campus. In school, a student may harass a fellow student, or even harass a teacher. If such incidents happen, they are also acts of sexual harassment which the school should face up to and handle in an appropriate manner.

2.4 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 materials 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

III. Obligation and Responsibility

3.1 All staff members and students have the obligation and responsibility to prevent and eliminate sexual harassment, including respecting the will and feelings of others, refusing to tolerate any sexual harassment behavior, and supporting co-workers/students to take reasonable steps to stop sexual harassment.

3.2 Any student / staff member can lodge a complaint with the Handling Sexual Harassment Complaints Panel (Table 1 on P.4) if that student / staff member witnesses any other student / staff member committing any sexual harassment act or being sexually harassed.
Table 1 Handling Sexual Harassment Complaints Panel

<table>
<thead>
<tr>
<th>Alleged Person/ group</th>
<th>Investigation Stage - Case will be handled by</th>
<th>Appeal Stage - Case will be handled by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student &amp; Staff Other persons who provide services to the school</td>
<td>Handling Sexual Harassment Complaints Panel 1 Persons-in-charge assigned by the Principal</td>
<td>Vice-principal (Ms Janet Chan), Vice-principal (Ms Debbi Tsang) / Principal (Ms Kitty Wong)</td>
</tr>
<tr>
<td>Principal</td>
<td>Supervisor (Sr Rossetti Lau)</td>
<td>SMC Investigation Task Force Panel 2</td>
</tr>
<tr>
<td></td>
<td>IMC Investigation Task Force Panel 2</td>
<td>Supervisor / IMC Appeal Task Force Panel</td>
</tr>
<tr>
<td>Supervisor/ Manager</td>
<td>Investigation Task Force Panel of designated staff of the school’s sponsoring body</td>
<td>Appeal Task Force Panel of designated staff of the school’s sponsoring body</td>
</tr>
</tbody>
</table>

Note:
1. Handling Sexual Harassment Complaints Panel is composed of Discipline Mistress (Ms Rose Leung), Guidance Mistress (Ms Jeannie Ho), Member of School Steering Group (Mr Billy Hui), Vice Principal (Ms Janet Chan), Vice Principal (Ms Debbi Tsang) and Principal (Ms Kitty Wong).
2. If a complaint involves the Principal, the IMC Investigation / Appeal Task Force Panel may include independent persons/managers.
3. If the staff member who handles the complaint case is closely related to the complainant or the alleged harasser (for instance, relatives), or the alleged harasser is the person-in-charge of handling sexual harassment complaints, the case will be handled by another person.

VI. Preventive Measures for Sexual Harassment

The school will raise the awareness of students, parents, staff and other persons who provide services to the school (including voluntary helpers, contract workers/service providers/agents) on sexual harassment through propaganda, talk and training.

4.1 To raise the awareness and understanding of the teaching and non-teaching staff, the school will:

4.1.1 promulgate the policy to all new staff members (including the supply teachers)
4.1.2 promulgate the policy to all staff members on a regular basis for discussion and emphasis on the policy
4.1.3 upload the policy to the school intranet and school website and post notices of the policy on campus to provide information of the policy
4.1.4 encourage members of the Handling Sexual Harassment Complaints Panel to attend training and education programmes on gender equality and implementing preventive measures for sexual harassment in order to facilitate school-based training programmes

4.2 To raise the awareness and understanding of the students and parents, the school will:

4.2.1 Inform the students and parents of all the related regulations and disciplinary measures through assembly, circulars and intranet, etc
4.2.2 Inculcate students with positive values and attitudes such as respecting and concerning others as well as interpersonal skills, which will enhance awareness on the prevention of sexual harassment.

4.2.3 Remind students the actions they may take when being sexually harassed:
- Speak up at the time. Tell the harasser that his/her act is unwelcome and should be stopped immediately.
- Keep a written record of the incidents, including the dates, time, location, witnesses and nature (what the harasser has said or done) and his/her own response.
- Tell someone he/she trusts or a counselor, and ask for emotional support and advice.
- Lodge a formal or informal complaint to the school principal or the teacher-in-charge.

4.2.4 Arrange different counseling activities and mass programmes according to the stage of development of students to nurture students the right and proper values of respecting others and sexual equality.

4.2.5 Eliminate offensive articles or information which may possibly lead to sexual harassment and prevent any improper use of computer technology in order to prevent sexual harassment.

V. Handling Complaints and Cases of Sexual Harassment Cases

5.1 Mechanism for handling sexual harassment complaints

If being sexually harassed or suspected of being sexually harassed, the victim should lodge a complaint as soon as possible. The school will handle the sexual harassment complaint promptly regardless of whether it is formal or informal.

5.1.1 Informal Complaint (Verbal Complaint)
Any student / staff member can lodge a complaint informally/verbally with the Supervisor, Principal, Vice Principal or the Handling Sexual Harassment Complaints Panel if that student / staff member witnesses any other student / staff member committing any sexual harassment act, suspects being sexually harassed or was sexually harassed. The school will adopt the procedures of handling an informal complaint and Form A (P.10) will be completed.

5.1.2 Formal Complaint (Written Complaint)
Any student / staff member can lodge a written / formal complaint with the Handling Sexual Harassment Complaints Panel if that student / staff member witnesses any other student / staff member committing any sexual harassment act, suspects being sexually harassed or was sexually harassed. The school will adopt the procedures of handling a formal complaint and Forms B-1, B-2, B-3 (P.11-13) will be completed.
5.1.3 Anonymous Complaint
The anonymous complaint will be handled by the Handling Sexual Harassment Complaints Panel. The panel will conduct investigation depending on the nature of the case. Investigation will be conducted discreetly, in particular, into suspected sexual harassment made against students.

5.1.4 The complainant can lodge a complaint with the Equal Opportunities Commission, EOC and request investigation or conciliation. He / She can report to the police or file a civil law suit against the harasser.

5.1.5 A sexual harassment complaint should be lodged within 12 months after the harassment or suspected incident occurred. Nevertheless, the school will handle delayed complaints with justifiable reasons.

5.2 Procedures of Handling Complaints (Chart 1 on P.9)
• Complainant can make an informal/ verbal complaint or a formal/ written complaint according to the nature and seriousness of the case.
• If the complainant or alleged harasser is a student, she is entitled to be accompanied by her parent/ guardian/ family member to attend the relevant interview so as to safeguard her rights.
• If necessary, the complainant and the alleged harasser should avoid contact, in particular, private contact, during the period of investigation.
• If necessary, support and counseling will be offered to the complainant (if the complainant is a student, support and counseling will also be offered to the student and her parents)
• Empathy will be paid to the feelings of the complainants, for instance, through avoiding asking the complainant to repeat his/her painful story, appointing investigators of the same sex to interview the complainant, etc. in order to ensure that the complainant would not be unnecessarily further distressed or humiliated. Complaint cases will be handled discreetly so that the other related parties would not be unnecessarily distressed.
• If the sexual harassment case is under the investigation of the police or is filed as a civil law suit against the harasser, the school will stop the investigation or appeal processes of the case.

5.2.1 Informal Complaint (Verbal Complaint) Handling procedures
• Handling informal Complaints will involve mediation and mitigation, the person(s)-in-charge\(^3\) will communicate with the complainant with an open manner in order to understand the incident from different perspectives. The complaint will be handled promptly, flexibly and efficiently in respect of the confidentiality of the complainant and his/her right of lodging complaint.
• The primary concern of the informal complainant is to stop the acts of sexual harassment as soon as possible by way of taking informal action e.g. sending a clear message to the alleged harasser instead of conducting an

\(^3\) Teacher(s)/ Staff who is (are) in-charge of the areas related to the incidents / assigned by the Principal / member(s) of the Handling Sexual Harassment Complaints Panel.
investigation into his/her case. Generally speaking, the informal complaint handling mechanism is appropriate for handling minor and single incidents rather than serious and repeated acts of sexual harassment.

The steps of handling informal complaints are:
(a) The complainant describes the incident to the person-in-charge of the case.
(b) The person-in-charge appropriately responds to the request or emotions of the complainant.
(c) The person-in-charge communicates with the complainant in order to understand the incident.
(d) The person-in-charge offers possible ways to resolve the problem.
(e) After the resolution is made, person-in-charge of the case will keep a written record (Form A) of it.

5.2.2 Formal Complaint (Written Complaint) Handling procedures
The steps of handling formal complaints are:
(a) The complainant lodges a written complaint (Form B-1) to the Handling Sexual Harassment Complaints Panel to describe the occurrence and details of the incidents.
(b) The panel launches an investigation of the incident accordingly.
(c) The alleged harasser will be informed about the details of the allegation and will be given opportunities for written responses to the incident (Form B-2).
(d) The complainant and the alleged harasser will be fairly treated, and both parties have chances to present their case. During interviews, the confidentiality and privacy of the complainant and the alleged harasser are highly respected.
(e) The interviews and the statements of both the complainant and the alleged will be documented (Forms B-1 and B-2). A written report (Form B-3) will be prepared and the investigation result, the punishment and the considerations will be made known to both the complainant and the alleged harasser.

5.2.3 Appeal Procedures
If one party (the complainant or the alleged harasser) does not accept the investigation result, as a principle of natural justice, he / she can make an appeal to the senior level of school management (refer to Table 1 on P.4). If he / she does not accept the final appeal result from school, he / she can refer the case to EOC or the police for investigation.

5.2.4 Confidentiality
All information and records related to a sexual harassment complaint will be confidential and only be disclosed to relevant staff on a need-to-know basis. When handling the sexual harassment cases, the panel may need to seek advice from other parties such as the social worker and the EOC. Nevertheless, the identify of the complainant or the alleged harasser and the information details will be kept confidential during consultation.
VI. Punishment

6.1 If any teachers / staff are proved to have committed an offence of Sex Discrimination Ordinance, the case will be reported to the SMC and disciplinary actions will be taken according to the decision made by the school managers.

6.2 If any student(s) are proved to have committed an offence of Sex Discrimination Ordinance, disciplinary measures will be taken by the school. The penalty will be stated in the report clearly.

6.3 If the case involves criminal offence, the school will report it to the police.

VII. Related Resources


7.2 Free talks and consultancy services are provided by EOC (Details are available at http://www.eoc.org.hk/EOC/GraphicsFolder/showcontent.aspx?content=Our%20service#1).

* All students and staff members (including prospective students and staff members) and other persons who provide services to the school (including voluntary helpers, contract workers/service providers/agents)

# If the complainant or alleged harasser is a student, she may be accompanied by her parent / guardian / relative to attend the interviews, so as to safeguard the interest of the student concerned.
Tak Oi Secondary School
Informal Sexual Harassment Complaint Record

Date: ____________________     Case no.:____________________

Information of complainant:

Name: ________________   Sex: ____________________   Age: ________
Position / Class*:____________________   (*Please delete whichever inappropriate)

Accompanying parent / guardian / relative* □ (*Please delete whichever inappropriate)
Name: ____________________   Relationship with student (if applicable): _________________

Type of incident:

□ Verbal offence   □ Physical offence
□ Behavioural offence   □ Others: ______________________________
□ Discrimination act

Information of alleged harasser:

Name: ________________   Sex: ____________________   Age: ________
Position / Class*:____________________   (*Please delete whichever inappropriate)

Date of incident: ____________________

Brief description of the incident:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

Resolution:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

Signature of complainant: ______________________   Date: ____________________

Signature of teacher-in-charge: __________________ (     ) Date: ____________________
Tak Oi Secondary School
Formal Sexual Harassment Complaint Record
(Academic year 20____-____)

Date: ____________________     Case no.:____________________

Information of complainant:
  Name: ____________________   Sex: ____________________   Age: ________
  Position / Class*:____________________   (*Please delete whichever inappropriate)

Accompanying parent / guardian / relative* □ (*Please delete whichever inappropriate)
  Name: ____________________   Relationship with student (if applicable): ________________

Type of incident:
  □ Verbal offence
  □ Physical offence
  □ Behavioural offence
  □ Others: ______________________________
  □ Discrimination act

Information of alleged harasser:
  Name: ____________________   Sex: ____________________   Age: ________
  Position / Class*:____________________   (*Please delete whichever inappropriate)

Date of incident: ____________________

Description of the incident:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

I hereby declare the above information is correct.

Signature of complainant: ______________________   Date: ___________________
Tak Oi Secondary School
Sexual Harassment Alleged Harasser Response Form

Date: ____________________

My information:

Name: ____________________  Age: ________
Position / Class*:____________________   (*Please delete whichever inappropriate)

Accompanying parent / guardian / relative* □ (Please delete whichever inappropriate)
Name: ____________________  Relationship with student (if applicable): ________________

My response in regard to the complaint ( ) is as follows:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

I hereby declare the above information is correct.

Signature of alleged sexual harasser: ____________________  Date: ________________
Tak Oi Secondary School

Formal Sexual Harassment Complaint Case Closure Form

(Academic year 20____-____)

Case no.: ____________________    Date: ____________________

<table>
<thead>
<tr>
<th>Complainant:</th>
<th>Alleged harasser:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex: Male / Female</td>
<td>Age:</td>
</tr>
<tr>
<td>Position / Class:</td>
<td>Sex: Male / Female</td>
</tr>
<tr>
<td>Position / Class:</td>
<td></td>
</tr>
</tbody>
</table>

1st interview: □ Complainant □ Alleged harasser Date: ____________________
Resolution:

2nd interview: □ Complainant □ Alleged harasser Date: ____________________
Resolution:

3rd interview: □ Complainant □ Alleged harasser Date: ____________________
Resolution:

4th interview: □ Complainant □ Alleged harasser Date: ____________________
Resolution:

Final resolution: (to be completed when case closed)

_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

Signature of complainant or representative: ___________________________

Signature of alleged harasser or representative: _______________________

Signature of teacher-in-charge: ______________________ (     )
Date: ____________________