



香港浸會大學
HONG KONG BAPTIST UNIVERSITY

Equal Opportunities

**Procedures on Handling of Complaints on
Discrimination/Harassment**

(on grounds covered by Anti-discrimination Legislation)

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General Statement

The University acts to ensure dignity at work and study. The University updated the Policy Statement on Equal Opportunities that applies to both staff members and students in 2019. Under the Equal Opportunities Framework, discrimination and harassment 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 are taken seriously by the University and they will be handled promptly and in the strictest confidence.

I. Law and Coverage

Currently, there are four anti-discrimination ordinances in Hong Kong, namely the Sex Discrimination Ordinance (SDO), Disability Discrimination Ordinance (DDO), Family Status Discrimination Ordinance (FSDO), and Race Discrimination Ordinance (RDO). The grounds protected under these laws are sex, marital status, pregnancy, breastfeeding, disability, family status and race.

The Equal Opportunities Commission (EOC) is Hong Kong's statutory body with responsibility for promoting equality and eliminating discrimination. It was established in May 1996 and is empowered to implement the SDO, the DDO, the FSDO, and the RDO in Hong Kong.

For any act of discrimination to be unlawful, it must be based on a certain characteristic, a trait that a person has, or is attributed to her/him. Discrimination means giving a person less favourable treatment because of who they are (such as gender or race) or because they possess certain characteristics (such as disability) without justifiable reasons or circumstances.

The protection to staff/workplace participants (including employers, employees, contract workers, principals, commission agents, partners, interns and volunteers), and to students covers direct and indirect discrimination, discrimination by association and imputation, harassment, victimisation, and vilification.

Direct discrimination occurs when a person with a protected characteristic is treated less favourably on the ground of that characteristic, and is unlawful in areas of public life regulated by the law, such as employment; the provision of goods, services and facilities; education; and management and disposal of premises.

Indirect discrimination occurs when a requirement or condition is applied to everyone, but in practice adversely affects people sharing a protected characteristic because it is less likely for them to be able to comply with that requirement or condition. Indirect discrimination is unlawful when the requirement or condition is not justifiable.

Sexual harassment, disability harassment and racial harassment are unlawful.

Sexual harassment includes any unwelcome sexual advance or request for sexual favours, or any unwelcome conduct of a sexual nature, in circumstances where a reasonable person would

have anticipated that the other person would be offended, humiliated or intimidated. It also includes creation of a sexually hostile or intimidating environment. Conduct of a sexual nature, as long as it is uninvited and unwelcome, can constitute sexual harassment. Unwelcome conduct of a sexual nature, such as conversations on issues of a sexual nature, even not directly or consciously targeted at a particular person, may cause that person to feel offended, humiliated or intimidated, and may create a sexually hostile environment for him/her.

The entire record and the totality of circumstances will be considered in determining whether a case constitutes sexual harassment. It is important to note that these circumstances will be evaluated objectively. The question is whether the harasser ought reasonably to know his/her acts would have an offensive, humiliating or intimidating effect. The law does not require deliberate intention and even recklessness as to whether the victim would suffer from such effect is sufficient.

Disability harassment refers to unwelcome conduct on account of a person's disability or that of an "associate" in circumstances where a reasonable person would have anticipated that the harassed person would be offended, humiliated or intimidated.

Racial harassment refers to unwelcome conduct or conduct which creates a hostile environment on account of a person's race, or on account of the race of that person's near relative.

A non-exhaustive list of some examples of conduct or behaviour which may possibly constitute the above three types of harassment are set out in the Annex for reference.

II. Filing A Complaint

1. Bring the matter to the attention of the University

When a person believes he/she has been subject to discrimination or harassment, he/she may make a complaint to the following parties, his/her teacher or department/programme head, counselor, supervisor/head of office, or an Equal Opportunities Adviser (EOA) (Appendix 1) as appropriate. If a person has knowledge of or witnessed discrimination or harassment incidents involving others, he/she may report these incidents to the same parties. These parties who receive the complaints or reports are obliged to inform the relevant department of the matter (using the appropriate email addresses below) in **all cases** even though certain cases are able to be resolved at the departmental or office level. If the complaint/incident involves students, the Office of Student Affairs (SA) should be informed. In case a member of staff is a complainant or a complaine (i.e. the alleged perpetrator of the act being complained), the Human Resources Office (HRO) should be informed of the complaint/incident.

Students shall file their complaint/incident report to eop-sa@hkbu.edu.hk which will be directed to the responsible SA officers. Staff members shall file their complaint/incident

reports to eop-hro@hkbu.edu.hk which will be directed to the responsible HRO officers for handling. Members of the community outside the University can send in their complaint/incident reports to eopunit@hkbu.edu.hk. On receipt of the information, handling officers of SA/HRO will conduct preliminary fact-finding and attempt mediation as appropriate. The University has the responsibility of keeping a central log of all related enquiries and complaints for future reviews and reporting as needed.

2. Form of the Complaint and Anonymity

A complaint may be filed verbally or in writing.

A complainant may disclose or choose not to disclose the identity of the victim(s) and/or himself/herself if the victim is a third party. It is recommended that such identities be disclosed so that it may facilitate the investigation. Disclosure of the identity of the victim even though on a limited basis (e.g. only to the complaint handler(s)), will enhance considerably the effectiveness of the inquiry. Our experiences show that the resolutions that may ultimately be reached for cases being handled on an identity-disclosed basis, will often be more satisfactory for all the parties concerned.

3. Lodging the Complaint

The SA and HRO will inform a Task Force led by the Provost, Vice-President (Teaching and Learning), and Vice-President (Administration) and Secretary.

4. Handling the Complaint

All complaints will be taken seriously and processed quickly with the utmost sensitivity and confidentiality. If mediation is not preferred or becomes unsuccessful, an Equal Opportunities Panel (EOP) made up of an odd number of members from amongst the Equal Opportunities Advisers (EOA) will be set up soon after the receipt of a complaint. While the convenor of EOP can be of any gender, the rest of the EOP will have an equal mix of genders.

5. Other Channels for Complaint

It is important to note that nothing here affects the rights of a complainant under the applicable law. A complaint can be dealt with internally in accordance with the current procedures prescribed by the University on matters relating to discrimination, and/or lodged with the EOC. The complainant may seek external assistance such as lodging a complaint with the EOC or bringing legal proceedings in the District Court or to both at the same time. In case the allegation of harassment involves bodily harm, or may constitute a criminal act, the complainant is advised to report the matter to the Police.

A flow chart showing the procedures for handling a complaint is in Appendix 2.

III. Inquiry by Equal Opportunities Panel

The EOP will conduct an inquiry. This will include confidential interviews with the complainant(s)/victim(s), the complaine(s) and all other persons identified as witnesses or resource persons to the alleged discrimination/harassment. In order to protect the privacy of the parties involved and enforce the obligation of confidentiality that covers the entire EOP process including the handling of meeting information, an undertaking of confidentiality shall be signed by all the relevant persons.

If the case is taken up by the Police or legal proceedings are brought against the complaine(s), the internal process of the University for resolving the matter will be suspended. Any inquiry/mediation that has already commenced will be put on hold until the outcome of these external processes. The University's internal process will resume if no criminal proceedings are initiated after conclusion of the Police's investigation or the legal proceedings have come to an end unless in either case, the complainant and/or victim decides to withdraw the complaint in view of such outcomes.

Each of the complainant and the complaine shall have the right to:

1. request the EOP to hold a hearing to hear the complaint;
2. appear before any hearing set up by the EOP;
3. present evidence and other relevant information to the EOP;
4. call witnesses (through the EOP and on his/her behalf); and
5. bring 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 EOP. Each party, and any accompanying colleague/student, is bound by the obligation to maintain confidentiality and shall be reminded of such obligation and the confidential nature of the proceedings. As the inquiry procedures are not legal proceedings, legal representation on behalf of either party shall not be allowed.

The complainant and the complaine shall be given an opportunity to respond to any information or evidence which is brought to the attention of the EOP by either party, or by any third party, during the course of the hearing, and which appears to call for response, clarification or confirmation.

IV. Resolution and Restoration by Mediation

If mediation is considered a possible resolution, the EOP shall offer to facilitate mediation. It will meet with the complaine to discuss the allegations made, the evidence supporting it, and the procedures being followed to address the complaint.

If grounds for the complaint are found to exist, the EOP can propose a settlement with a view to providing a remedy for the complainant. The key purposes of a remedy are to eliminate the behaviour that forms the basis of the complaint, and restore the complainant the benefits (if any) that were withheld as a result of rejection of the behaviour being complained.

It is possible that a complainee may

1. deny the accusation of discrimination/harassment and refuses to participate in the inquiry,
2. reject the EOP's finding that discrimination/harassment is substantiated, or
3. refuse to agree to the proposed remedy,

or the complainant may

1. not be satisfied with the outcome of the EOP's inquiry or mediation, or
2. consider the negative impact of the complaint is of such severity that makes mediation not a suitable remedy to resolve the matter.

Irrespective of any of the above situation or outcome, and after taking into account the severity of the complaint, the strength and the merits of the evidence submitted to substantiate the complaint, and the harm/impact involved, and being satisfied that the complaint has been substantiated, the EOP may recommend disciplinary actions against the complainee based on HRO's /SA's current policy and guidelines relating to disciplinary actions.

V. The EOP Report

The EOP will submit a report to a Task Force led by the Provost, Vice-President (Teaching and Learning), and Vice-President (Administration) and Secretary on completion of the inquiry. The report should state whether the allegations are substantiated. If the EOP concludes that discrimination/harassment has occurred, it shall recommend cessation of the behaviour that is the basis of the complaint. In addition, it may propose other appropriate actions, which can be any one or more of the following:

1. the complainee shall refrain from further contact with the complainant/victim;
2. the complainee shall undergo counselling or treatment; and/or
3. the University shall initiate disciplinary proceedings (which may result in sanctions including suspension/termination of studies/appointment) against the complainee.

Both the complainant (as well as the victim) and the complainee will be informed in writing of the outcome of the inquiry.

VI. Appeal

The complainant and the complainee, after being informed of the findings and recommendation of the EOP, may lodge an appeal against these findings and/or recommendation within 30 calendar days with the President and Vice-Chancellor, who may:

1. confirm the findings and/or recommendations by the EOP;
2. confirm the findings, but modify the recommendations by the EOP; or
3. form another EOP from amongst the list of EOAs to re-consider the case.

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

VII. Record

All activities within the inquiry (including the EOP hearing) will be documented and recorded, and kept indefinitely notwithstanding the cessation of the relationship between the University and the complainant, victim or complaine. The reason is that investigation by the authorities or legal action may arise in future involving such parties for conduct covered by or alleged conduct similar to the complaint.

VIII. Confidentiality

To the extent permitted by law, all parties involved are bound by an obligation of confidentiality of indefinite duration. Unauthorised disclosure of any information, details, and documents pertaining to the complaints and/or handling of the complaints are subject to appropriate disciplinary actions.

IX. Protection of the Involved Parties

1. The University will not tolerate any actual or threatened act of intimidation (including any act of retaliation) of any kind, whether physical or verbal, being made to the victims/complainants, the complaine, the witnesses, members of the EOP or other parties related to the complaint and its handling by the University.
2. In case of any reported act or threatened act of intimidation made to any of the parties named in (a) above, the EOP will carry out a full investigation into the report and, if such act is found to be substantiated, it will deal with the alleged act of intimidation in an appropriate manner including filing a report to the Police.

X. Review

The University will keep these procedures under regular review taking into consideration amongst other developments or relevant factors or circumstances, any changes to the applicable law and best practices (including awareness program and education to the community) either adopted by similar organisations or advocated by EOC.

Annex: Examples of Harassment Conduct or Behaviour

Sexual Harassment

- Unwelcome sexual advances such as leering and lewd gestures, touching, grabbing or deliberately brushing up against another person
- Unwelcome requests for sexual favours in exchange for preferential treatment which may include 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
- Unwelcome verbal, non-verbal or physical conduct of a sexual nature and can cover sexually derogatory or stereotypical remarks, emails, phone messages, made on internet forum and social media, or visual presentation in the work place or in the classroom; persistent questioning about a person's sex life
- Conduct of a sexual nature that creates a hostile or intimidating environment for work or study such as sexual or obscene jokes, displaying sexist or other sexually offensive pictures or posters

Disability Harassment

- insulting comments
- offensive jokes
- unnecessary gestures mimicking someone's disability
- intentionally disclosing or threatening to disclose information on disability or medical history in circumstances that would offend, humiliate or intimidate a person with a disability concerned

Racial Harassment

- racially derogatory remarks or insults, for example, name calling which people of certain racial groups may find offensive or impolite
- display of graffiti or slogans or other objects offensive to certain racial groups
- racist jokes, banter, ridicule or taunts
- using a disparaging or offensive tone when communicating with people on the ground that they belong to certain racial groups
- ostracise people on the ground that they belong to certain racial groups
- imposing excessive workloads or unrealistic performance targets on people on the ground of their race, colour, decent, national or ethnic origins
- unnecessarily picking on individuals from particular racial groups

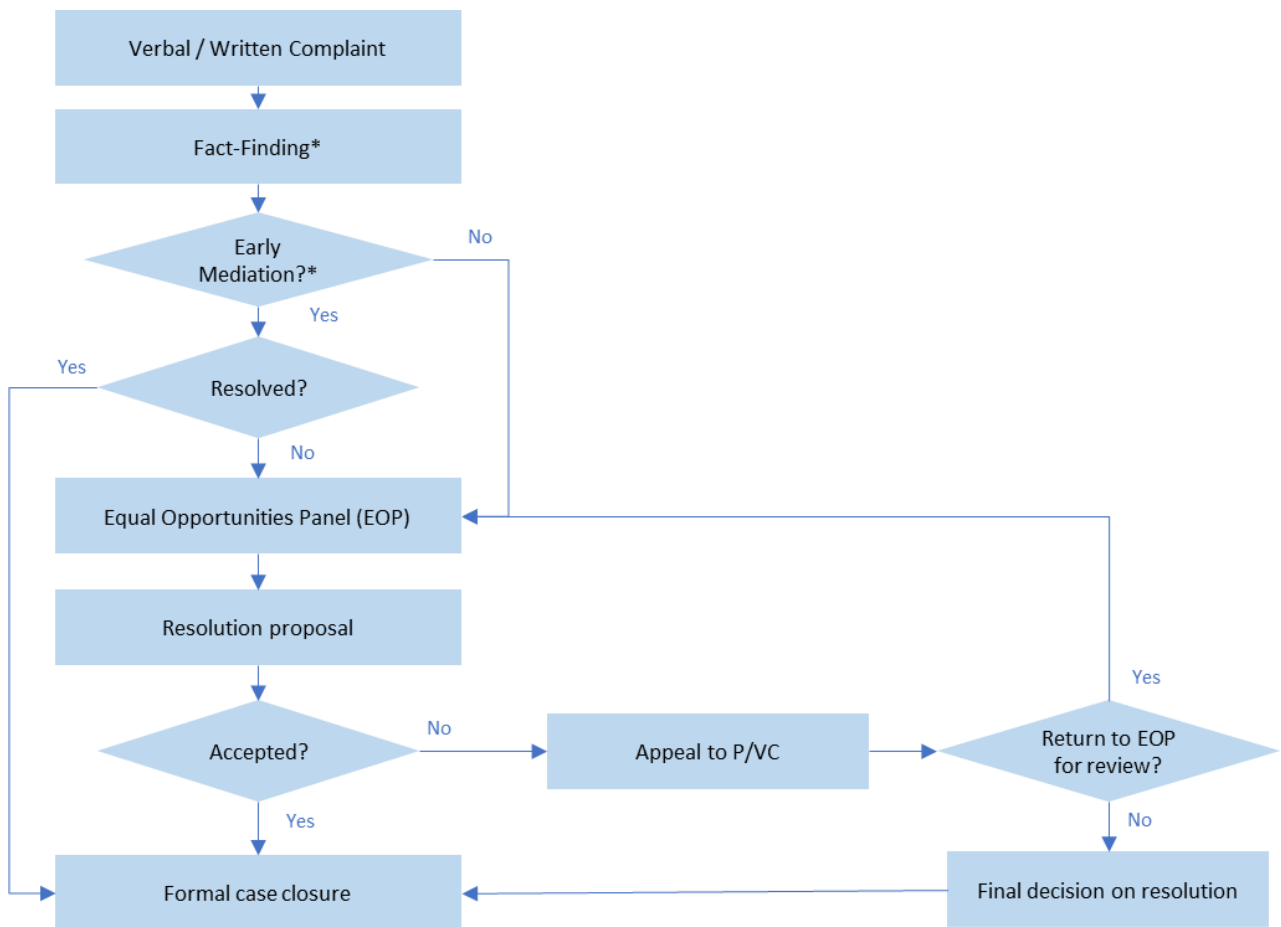
Appendix 1: List of Equal Opportunities Advisers

(up to 31 August 2023)

Units	Male Advisers	Female Advisers
ARTS	Prof. WEE Lian Hee 黃良喜, ENG	Dr. PAN Jun 潘琿, TIIS
BUS	Dr. NG Brandon 吳凱文, MMIS	Dr. CHEUNG Jamie Y H 張雨夏, MMIS
COMM	Dr. FUNG Timothy K F 馮繼峯, COMS	Dr. LUQIU Rose L M 閻丘露薇, JOUR
SCM	Dr. KO Joshua 高加信, CMTR	Ms. KWOK Janice F K 郭鳳琴, CLNC
SCE	Dr. TSANG Lawrence S K 曾瑞強	Dr. YAU Josephine P L 游貝琳, CIE
SCA	Mr. LEE Wing Ki 李泳麒, VA	Ms. WANG Sunny 王鈴蓁, VA
SCI		
SOSC		Dr. LIU Oi Yan 廖藹欣, HIST
Offices	Mr. LO Howard 羅灝榮, AR	Ms. TANG Lai Har 鄧麗霞, EO
	Mr. LAI Danny 黎家傑, CPRO	Miss SHUM Winnie 岑詠欣, CPRO
	Mr. WUN Anson 溫雅迅, OIRP	Dr. LAM Yuen Man 林婉雯, CISL
	Mr. CHAN Terry K W 陳嘉榮, SHC, SA	Miss LEUNG Kelly 梁善綾, CHTL
		Ms. IU Yuet Mei 姚月媚, FO
		Ms. LAW Yan Ki 羅欣祈, GEO
		Ms. CHAN Sammy S M 陳姍妙, LIB

(Updated on 2023/03/03)

Appendix 2: Flow Chart for Complaint Handling



* Conducted by HRO if staff is involved and / or SA if student is involved