

POLICY ON HARASSMENT

Approved at Board Meeting

April 2015

Review Date: April 2020

Internal and external circulation

1. RATIONALE

- a. The College is committed to taking reasonable steps to provide a healthy learning and work environment for its students, employees and other community members, and will apply a zero tolerance policy for sexual harassment, harassment or violence of any kind.
- b. In order that appropriate relationships in the College can be encouraged and celebrated, every member of the College community must demonstrate respect for all other members of the community. It follows from this that no member of the College community should ever be threatened or harassed by any other member of the College community. This applies in all areas – including physically, sexually and emotionally. Consequently, this policy should be read in conjunction with the College’s Student Protection Policy.
- c. The College has a legal obligation to comply with Hong Kong law and develop a sexual harassment policy.
- d. The College has a legal obligation to provide an environment that is free from sexual harassment.

2. OBJECTIVES and DEFINITIONS

- a. **Harassment** includes unwelcome or unwanted behaviour of a sexual or violent nature, communication (verbal and otherwise), physical contact, demands, or actions which are unwelcome or which interfere with an individual’s well being, mental health or ability to work, learn, or participate in the College’s organised activities and programs or which create a hostile or offensive working, academic or living environment.
- b. **Sexual harassment** is defined by Hong Kong law as follows:
 - ♦ If any person:
 - makes an unwelcome advance or an unwelcome request for sexual favors, to another; or
 - 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 circumstances would have anticipated that other person would be offended, humiliated or intimidated; or
 - ♦ 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 (eg: sexual activity in a student’s shared residential room regardless of whether permission has been sought or granted, and regardless of whether others are present at the time or not.
- c. The College regards any sexual relations, consensual or otherwise, between employees and students as a form of sexual harassment, and as such will not be tolerated.

- d. The definitions above apply
 - Regardless of gender
 - Whether evidence of intention of harassment is present or not
 - After a single incident
 - Regardless of power relationship.
- e. Malicious false allegations will be regarded as harassment and will be dealt with accordingly.

3. PROCEDURES AND PROCESSES

- a. In situations where a complaint of harassment/sexual harassment have been lodged , the College is obliged to act firmly, following the below principles:
 - Fairness: both parties have a chance to present their case.
 - Confidentiality: Information should only be shared on a need to know basis
 - Promptness: Avoiding delay while taking all getting all information needed to get to a conclusion.
 - Transparency: Procedures are known to all members of the community.
 - Protection of complainants and witnesses
 - Avoiding conflict of interest: if the person in charge of handling the complaint is closely related to the complainant or the alleged harasser or the alleged harasser is the person in charge, the College should ask another person to handle the case.
- b.
 - i. students who believe they are victims of harassment have an obligation to inform a trusted person such as their tutor, their Head of House, DoSW, the Principal or the Police, depending on the situation.
 - ii staff who believe they are -victims of harassment have an obligation to inform a trusted person such as their line manager, the Principal and/or the Police, depending on the situation.
- c. Students and staff who observe or become aware of harassment, but are not victims themselves, have an ethical and moral obligation to bring the matter to the attention of the Principal (in the case of staff), or their tutor, their Head of House or the Director of Student Welfare (DoSW)(in the case of students). In addition, staff have a legal obligation to report harassment that they have become aware of or have observed, and this report should be made to the DoSW in cases involving students, and/or to the Principal cases involving members of staff.
- d. At some point in the complaint process, the complaint may have to be put in writing.
- e. To the greatest extent possible, for the protection of everyone involved, information will be kept confidential.

- f. All reports of harassment involving students should be referred to the DoSW. The Head of House and DoSW will investigate all such complaints and recommend resolution strategies. Matters involving possible breaches of the law must be referred to the Principal, who may be obliged to refer the matter to the Police. When the alleged harassment arises from an academic situation, the Director of Studies and/or the Head of Department would normally be involved in the investigation. At times during an investigation, the person conducting the investigation may choose to hear testimony from the complainant, the accused, and witnesses identified by each party.
- g. At the conclusion of the investigation, the person conducting the investigation will prepare (as appropriate) a written report or file note, which will include the allegations, the investigation and resolution process already completed, and the recommendations. As needed, the DoSW in consultation with the Principal will determine any policy violations, the severity of the offence and the appropriate consequences.
- h. If it is determined that harassment has occurred, measures will be implemented to address the problem. These might include counselling, training, disciplinary measures (i.e., written warning, suspension, probation, termination or expulsion), or in cases where sexual assault or sexual abuse has occurred, the matter should be reported to the Police for appropriate action.
- i. No individual will be retaliated against for reporting in good faith any allegations of harassment. Any such retaliation in and of itself may result in disciplinary action, up to and including expulsion.
- j. As stated in 2(e) above, malicious false allegations will be regarded as harassment and will be dealt with accordingly.
- k. Without compromising an individual's legal rights, all members of the College community are required to co-operate with any investigation undertaken by the College in response to allegations of harassment. Refusal to co-operate in an investigation may result in disciplinary action, up to and including termination or expulsion.
- l. Any student who desires counselling or advice regarding issues of harassment is encouraged to contact their tutor, Head of House or the DoSW, or they may approach the Counsellor directly.
- m. Any affected student who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the Principal. Any such appeal should be in writing, and should include the nature of the dissatisfaction with the conclusions or results of the investigation.
- n. Any affected employee who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the Principal or to the Board through the Staffing Committee through the designated complaints procedure. Any such appeal should be in writing, and should include the nature of the dissatisfaction with the conclusions or results of the investigation.

3. EFFECTIVE DATE

- a. This policy will be posted in a public place, such as on the College's website and the Network.
- b. This policy was approved by the Board on April 2015 replacing the previous policy dated 17 December 2009, and is effective immediately.
- c. This policy will be reviewed before the end April 2020, or beforehand if necessary.

防止騷擾政策

2015年4月

經校董會通過

下次審閱日期: 2020 年 4 月

內部及對外發行文件

1. 本政策的理念

- a. 本書院承諾採取合理措施，為學生、職員及任何校內社群及個體提供健康的學習和工作環境，對任何形式的性騷擾，騷擾與暴力都以「零容忍政策」處理。
- b. 為使本書院內各種合適的人際關係得到發展和肯定，本書院各成員必須使其他成員感到受尊重。由此引申，本書院任何成員該不應受任何其他成員任何形式的威脅或騷擾，不論為身體、性或情感。因此，本政策應與本書院的保護學生政策一併閱讀。
- c. 本書院有法律責任遵守香港法律及制定性騷擾政策。
- d. 本書院有法律責任提供一個免受性騷擾的環境。

2. 目標和定義

- a. 騷擾包括任何「不受歡迎」或「不被要求」，並帶性或暴力性質、溝通（包括言語上或其他形式）、身體接觸、請求或行動的行為。該些行為不受他人歡迎，或會影響個人福利、精神健康、工作或學習能力，或參與本書院所辦活動及項目的表現，或會帶來具敵意或侵擾性的工作，學習或生活環境。
- b. 根據《性別歧視條例》，「性騷擾」是指：
任何人如
 - 對另一人提出不受歡迎的性要求，或提出不受歡迎以獲取性方面的好處的要求；或
 - 就另一人作出其他不受歡迎並涉及性的行徑，而在有關情況下，一名合理的人在顧及所有情況後，應會預期該另一人會感到受冒犯、侮辱或威嚇；或
 - 任何人如自行或聯同其他人作出涉及性的行徑，而該行徑對另一人造成有敵意或具威嚇性的環境。（例如性的行徑發生於共用之學生宿舍房間內，不論有否要求或獲得批准或不不論有沒有其他人在場。）
- c. 本書院認為任何涉及職員及學生之性行為及關係，無論在雙方同意之下與否，均不能容忍。
- d. 以上定義涵蓋以下範圍：
 - 不論性別
 - 不論有沒有意圖騷擾的證據
 - 發生單一事件後
 - 不論權限關係
- e. 惡意虛構之控訴亦視作騷擾，並會相應地處理。

3. 處理程序及步驟

- a. 當接獲有關騷擾/性騷擾的投訴時，校方是有責任根據下列原則嚴謹地處理。
 - 公平：雙方都有機會展示他們的情況；
 - 保密：信息應該只在需要了解的基础上共享；
 - 及時：獲得所有信息後應得到一個結論，避免延誤；
 - 透明：校方所有成員都應得知處理程序；
 - 保護申訴人及證人；
 - 避免利益衝突：如果某人在處理投訴過程中與投訴人或被指稱的騷擾者有密切關係，或被指稱的騷擾者是負責人，校方應該安排另一人來處理此案。
- b. 1) 學生如相信自己遭騷擾，學生本身是有責任把有關事件，視乎情況，通知可可靠之人士如導師、學校總舍監、該學生宿舍之舍監、校長或警方。
2) 任何職員如相信自己遭騷擾，職員本身是有責任把有關事件，視乎情況，通知可可靠之人士如直屬上司、校長及 / 或警方。
- c. 學生及職員如得知或留意到有騷擾事件，但並非受害人，在道德和道義責任上應將事件通知校長（如屬職員），或其導師、學校總舍監或宿舍舍監（如屬學生）。加上職員則有法律責任報告他們留意或得知的騷擾事件，而有關報告如提及涉及學生的騷擾事件，則應向學校總舍監提出，如同時提及或涉及職員的騷擾事件，則應向校長提出。
- d. 當處理投訴步驟至某個階段，投訴可能須以書面記錄。
- e. 於在最大可行範圍下，為保障每位涉及之人士，投訴的資料將會保密。
- f. 所有關於騷擾而涉及學生的報告須交予學校總舍監。總舍監及 / 或個別宿舍舍監會調查所有有關報告，並建議解決方式。如事件有可能涉及違反法律，則必須通知校長，而校長亦可能有責任把事件轉介警方。當騷擾之指控涉及學術上事宜，教務主任及 / 或部門主管在正常之情況下將參與調查。於調查期間，進行調查者可選擇聽取投訴人、被指控者，以及事件各方指明的證人的證詞。
- g. 於調查的最後階段，進行調查者（如適當）將會擬備一份書面報告或檔案筆記，內容包括有關指控、調查過程及已完成的調解步驟，以及建議。如有需要，總舍監會徵詢校長意見以決定事件是否有任何違反任何政策之處，犯規的嚴重程度，以及適當的處理方式。
- h. 如確認曾發生騷擾，應採取措施，以處理該問題，包括進行輔導、訓練或紀律處分（即書面警告、停職或停學、感化、革職或開除學籍），或如發生性侵犯或性虐待，須將事件交予警方處理。
- i. 任何人若真誠作出任何騷擾的指控，將不會因此被報復。任何因指控而起的報復可受紀律處分，最嚴重包括開除學籍。
- j. 根據 2e 節所述，惡意虛構之指控亦視作騷擾，並會相應地處理。

- k. 為保障每位人士之法律權利，本書院要求全體成員須對本書院就騷擾指控作出的任何調查持合作態度。任何成員如於有關調查進行時拒絕合作，可能會受紀律處分，最嚴重包括革職或開除學籍。
- l. 任何學生如有意就騷擾有關的事宜得到輔導或忠告，本書院鼓勵他們與其導師、總舍監或個別宿舍舍監接觸，他們或可直接向輔導主任提出。
- m. 任何受事件影響的學生，如對調查結論或結果，或糾正措施感到不滿，可就此向校長上訴。任何此類上訴須為書面，並須包括對調查結論或結果不滿的性質。
- n. 任何受事件影響的職員，如對調查結論或結果，或糾正措施感到不滿，可就此向校長或經指定的投訴程序，經人事委員會向校董會上訴。任何此類上訴須為書面，並須包括對調查結論或結果不滿的性質。

4. 本政策生效日期

- a. 本政策將展示於校內公眾範圍，並上載本書院之網站及校內之互聯網。
- b. 本政策於 2015 年 4 月為校董會通過，以取締於 2009 年 12 月 17 日編印之防止騷擾政策，並即時生效。
- c. 本政策將於 2020 年 4 月份或之前有需要時，予以檢討。
- d. 此文乃中文譯本，一切以英文原文為準則。