

Policy on Sexual Harassment

1. Definition of Sexual Harassment
2. Policy Statement
3. Examples of Sexual Harassment

1. Definition of Sexual Harassment

Sexual advances, requests for sexual favours, and other verbal, non-verbal, or physical conduct of a sexual nature constitute sexual harassment if they are unwelcome.

In determining whether conduct constitutes sexual harassment, a totality of circumstances of the conduct will be considered.

2. Policy Statement

The College of Professional and Continuing Education is committed to equal opportunity in academic pursuit and employment and to eliminating any form of discrimination against all staff, students, and other persons who have dealings with CPCE. Since sexual harassment is a form of discrimination which makes the harassee feel degraded, all members of the CPCE community shall take necessary steps to ensure that the workplace and educational environment are free of sexual harassment.

The sexual harassment policy applies to both men and women. Sexual harassment is prohibited and is unacceptable at all levels in the CPCE community. Persons who feel sexually harassed, offended, humiliated or intimidated by unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature should make it known to the harasser that the conduct is unwelcome.

All members of the CPCE community should be acquainted with this Policy and are encouraged to report cases of sexual harassment to the relevant authorities. Any staff member or student who is found to have contravened the CPCE's Policy will be subject to disciplinary action.

3. Examples of Sexual Harassment *

Depending on the circumstances, the following may constitute sexual harassment:

- Repeated attempts to make a date, despite being told "NO" each time
- Comments with sexual innuendoes and suggestive or insulting sounds
- Relentless humour and jokes about sex or gender in general
- Sexual propositions or other pressure for sex
- Implied or overt threats for sex (e.g., demanding sexual favours in exchange for a promotion or a passing grade in examination)
- Obscene gestures or inappropriate touching (e.g., patting, touching, kissing or pinching)
- Persistent phone calls or letters asking for a personal or sexual relationship
- Displaying sexually obscene or suggestive photographs or literature

Regulations for the resolution of claims concerning sexual harassment

The following means of resolving claims of sexual harassment endeavour to strike a balance between early resolution and the need for a thorough investigation. It is understood that the earlier an accusation of sexual harassment is dealt with, the better the chance that it will not lead to confrontation that is potentially damaging for both the person who claims to have been sexually harassed (the accuser) and the accused. However, it may be that time needs to be spent gathering information and dealing with the matter more formally. Alternative procedures, informal and formal, are therefore proposed but first the accuser needs to be advised of these alternatives. As a matter of principle, all information related to claims of sexual harassment should be kept confidential by persons who handle the claims, including advisers, conciliators, and members of the Inquiry Panel, the Investigation Committee and the CPCE Ethics Committee.

1. Initial advice
2. Conciliation
3. Formal complaint
4. Appeal
5. Records
6. Discretion of Dean(PCE) or his/her delegate

1. Initial advice

- 1.1 When a person feels sexually harassed, a request for initial advice concerning the procedures which may be followed to resolve the claim may be made to an adviser.
 - 1.1.1 For the purposes of these regulations, the Officer-in-charge of the Unit in which the staff member concerned is employed or of the Unit offering the programme on which the student concerned is registered can act as an adviser.
 - 1.1.2 In addition to Officers-in-charge of Unit, a list of the persons who may, and who agree to, act as an adviser will be approved by the Dean of the College of Professional and Continuing Education. The list will comprise volunteers who should have some relevant training to serve in this capacity. The list is hereinafter referred to as the 'approved list'.
 - 1.1.3 A person who is included in the approved list of advisers may also act as a conciliator if he/she so agrees, see para. 2.1.2 below. Whether an adviser is also a conciliator must be indicated in the approved list.
- 1.2 The adviser concerned must explain to the accuser that there are two procedures for resolving such claims, conciliation and a formal complaint, and the differences between these procedures.
- 1.3 An accuser, having met with an adviser, may decide to take no further action at that point in time, request conciliation or make a formal complaint.

2. Conciliation

- 2.1 The accuser may request the appointment of a conciliator who will be expected to provide advice or support, or who would otherwise assist him/her in resolving the claim.
 - 2.1.1 The accuser's request for conciliation may be made verbally.
 - 2.1.2 The persons who may be appointed as conciliators will be indicated in the approved list, see para. 1.1.2 above.
 - 2.1.3 The accuser may request the appointment of a conciliator, even though the accuser does not reveal the identity of the accused person or persons.
- 2.2 An accuser requesting conciliation may accept the adviser's offer to conciliate, if the adviser is also a conciliator, or may request that another person from the 'approved list' be appointed as conciliator.
 - 2.2.1 In the event that the accuser requests the appointment of a person other than the adviser to act as conciliator, the accuser must be asked whether a male or female conciliator is preferred.
 - 2.2.2 The adviser must appoint a conciliator from the approved list, taking into account the accuser's gender preference, and inform the conciliator appointed accordingly.

3. Formal complaint

- 3.1 A person who feels sexually harassed and chooses to make a formal complaint must report the matter in writing to the Chairman of the CPCE Ethics Committee. The report must describe the relevant conduct and identify the accused person or persons*.

- 3.2 On receipt of a formal complaint, the Chairman of the CPCE Ethics Committee must appoint an Inquiry Panel to determine whether there is merit in the complaint.
- 3.2.1 The Panel will comprise a chairman, two other members and a secretary. In the event that the accused is a student, a student counsellor must be appointed as one of the two members of the Panel.
- 3.2.2 When appointing the Inquiry Panel, the Chairman of the CPCE Ethics Committee will take into account the gender and language preferences of both the accuser and the accused, i.e., ascertain from them whether a male or female Inquiry Panel member is preferred and whether the meetings are preferred to be conducted in Chinese or English.
- 3.2.3 The Chairman and the Secretary of the Inquiry Panel must be staff members of CPCE.
- 3.2.4 Members of the Inquiry Panel must be members of the CPCE community and may be either staff or students. Where necessary, the Chairman of the CPCE Ethics Committee may invite University members to sit on the Inquiry Panel.
- 3.3 Complaint(s) lodged by person(s) from outside CPCE should also be referred to the Chairman of the CPCE Ethics Committee for consideration and if deemed necessary, the Committee may set up and decide on the membership of an Inquiry Panel to investigate the complaint.
- 3.4 The Inquiry Panel must proceed to investigate the complaint and should convene at least a meeting with the accuser and a separate meeting with the accused.
- 3.4.1 The Panel will arrange for meetings to be held forthwith.
- 3.4.2 If the accuser and the accused so choose, they may each invite a 'friend' to attend the meetings. These friends may answer questions on their behalf, or otherwise give them support.
- 3.4.3 The accuser and the accused may request any person to act as his/her 'friend' except that a person with legal qualifications may not act as such a 'friend'.
- 3.4.4 Both the accuser and the accused may invite persons who witnessed the alleged act of sexual harassment to attend a meeting of the Inquiry Panel.
- 3.4.5 The Inquiry Panel may interview witnesses, request access to and review relevant documents which have not been supplied by either the accuser or the accused.
- 3.4.6 If the accused is invited but fails to attend the meeting(s) arranged by the Inquiry Panel without acceptable reasons, the Panel may nevertheless form an opinion as to whether the accused sexually harassed the accuser and determine the appropriate action.
- 3.4.7 A written record of the major points discussed at the meetings must be compiled and signed by all the persons present in each meeting as representing a true and accurate record of what was said. The record must be sent under confidential cover to the Chairman of the CPCE Ethics Committee and kept by the CPCE Ethics Committee secretariat.
- 3.4.8 The Inquiry Panel must endeavour to determine whether sexual harassment has occurred and the seriousness of the sexual harassment.
- 3.5 If at any stage of the investigation it is found that the accuser's claim is malicious, the accuser will be subject to disciplinary action, regardless of whether the claim has been withdrawn.
- 3.6 The Inquiry Panel may, at any stage of its investigation, form the opinion that the accusation is especially serious and that Dean(PCE) should appoint an Investigation Committee. It should then inform the Chairman of the CPCE Ethics Committee and advise Dean(PCE) accordingly, see paras. 3.8 and 3.9 below.
- 3.7 If the Inquiry Panel forms the opinion that the accused sexually harassed the accuser, it must proceed to determine the appropriate action and inform the accuser, the accused, the Chairman of the CPCE Ethics Committee and Dean(PCE) accordingly.
- 3.8 In the event that the Inquiry Panel advises Dean(PCE) to appoint an Investigation Committee, Dean(PCE) will determine the membership of the Committee.

- 3.8.1 The Committee must proceed to investigate the complaint in accordance with the provisions stated in para. 3.4 above, substituting Committee for Panel, wherever it occurs.
- 3.9 If the Investigation Committee forms the opinion that the accused sexually harassed the accuser, the Committee must recommend the appropriate action and inform Dean(PCE). Dean(PCE) will then decide on the action to be taken and inform the accuser and the accused accordingly.
- 3.10 If at any stage of the investigation it appears to the Inquiry Panel or the Investigation Committee that the accused may have committed a criminal offence, the Panel or the Committee (as the case may be) must immediately inform the Chairman of the CPCE Ethics Committee as appropriate and Dean(PCE), and advise the accuser to make a report to the Police.
- 3.11 If the Inquiry Panel or the Investigation Committee forms the opinion that the allegation of sexual harassment as stated in the accuser's report is malicious, the Panel or the Committee (as the case may be) must recommend disciplinary action and inform the Chairman of the CPCE Ethics Committee as appropriate and Dean(PCE). Dean(PCE) will then decide on the action to be taken and inform the accuser and the accused accordingly.

4. Appeal

- 4.1 Both the accuser and the accused should be advised that they may appeal against a decision of the Inquiry Panel.
 - 4.1.1 In the case where both the accuser and the accused are students, the appeal will be considered by the Student Discipline Sub-committee.
 - 4.1.2 In the case where both the accuser and the accused are staff members, the appeal will be considered by the Appeals and Grievance Committee.
 - 4.1.3 For all other cases where the accuser is a student and the accused is a staff member (or vice versa), or the accusers and the accused are a group of students and staff members, the appeal will be considered either by Dean(PCE) or by a committee to be appointed by Dean(PCE).
- 4.2 An appeal must be lodged within 30 calendar days of receiving the Inquiry Panel's decision setting out the reasons/substance of the appeal, e.g., on the basis of the facts found or additional information, the inquiry process and/or the decision. Evidence in support of the appeal must also be provided.
- 4.3 The record compiled in the process of the Inquiry Panel's meetings as described in para. 3.4.7 above must be submitted to the appropriate appeal body as stated in para. 4.1 above.
- 4.4 A decision of Dean(PCE), the Investigation Committee, the Student Discipline Sub-committee, or the Appeals and Grievance Committee is final within CPCE.

5. Records

- 5.1 All records compiled in the process of the investigation and reports of the Inquiry Panel and of the Investigation Committee will be treated in strict confidence and kept by the CPCE Ethics Committee secretariat.
- 5.2 A statement of the outcome of any complaint which after investigation is upheld, will be recorded in the confidential files of the accused.
- 5.3 A statement of the outcome of any complaint which is found to be malicious will be recorded in the confidential file of the accuser.

6. Discretion of Dean(PCE) or his/her delegate

- 6.1 In case of doubt or dispute in the application or interpretation of the Regulations, the decision of Dean(PCE) or his/her delegate shall be final.