

THE CHINESE UNIVERSITY OF HONG KONG
Committee Against Discrimination and Sexual Harassment

Guidelines for Supervisors when advising on discrimination concerns, problems or complaints

A. Unlawful acts under the four anti-discrimination ordinances in Hong Kong

1. 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 Ordinances render unlawful acts which discriminate against persons on the ground of gender, marital status, pregnancy, breastfeeding, family status, disability or race in the prescribed areas of activities; they also render unlawful acts of sexual harassment, harassment on the ground of breastfeeding, disability/racial harassment and vilification. The following behaviours are illustrative of, but not limited to, what may be regarded as discrimination, harassment and vilification:

a. Sex/Marital Status/Pregnancy/Breastfeeding Discrimination/Harassment

(i) Sex/marital status discrimination

- Decisions on promotion and salary increase made based on the sex/marital status of the employee.

(ii) Pregnancy discrimination

- Not offering a job/admission to an applicant/a student because she is pregnant.
- An employer insists that all its employees work over time. An employee is penalized because she is not able to work overtime as she is pregnant.

(iii) Breastfeeding discrimination/harassment

- A breastfeeding woman who is the best qualified candidate but is not selected for the job because she is breastfeeding.
- Making jokes to a breastfeeding woman or in her presence.

(For complaints or incidents relating to sexual harassment, please refer to a separate set of Guidelines on sexual harassment.)

b. Disability Discrimination, Harassment and Vilification

(i) Disability discrimination

- Not offering admission to students on the ground of their disability.
- Dismissing employees who have recovered from an illness because the employer thinks that their disability will relapse in the future.
- Not allowing longer examination time for students with writing difficulties.

(ii) Disability harassment

- Offensive jokes or sarcastic comments about one's disability and abusive behavior towards one's disability.

(iii) Disability vilification

- A person speaks in an activity open to all staff members and students that persons with disability are useless and a burden to society.

c. Family Status Discrimination

- Not offering admission to qualified students because they have a new born baby.
- Not promoting qualified staff with infants fearing that they might not be able to travel.
- An employer insists that all its employees work overtime so the employer dismisses employees who cannot work overtime because they have a responsibility to take care of their young children.

d. Race Discrimination, Harassment and Vilification

(i) Race discrimination

- Refusing to admit students of ethnic minority to a student association because of their skin colour.
- Not offering a job on the ground of the applicant's race.
- A blanket ban on beard for all staff and students may discriminate against some ethnic groups (who by their custom have to keep a beard), when compared to other racial groups, if information shows that the blanket ban is not justifiable.

(ii) Race harassment

- Offensive jokes or sarcastic comments about one's racial background, accent or customs, etc.

(iii) Race vilification

- Posting some derogatory remarks/speaking openly targeting at persons of certain race on campus.

For more information, please refer to the website of the Equal Opportunities Commission at www.eoc.org.hk.

B. Understanding the University's procedures for handling discrimination/harassment cases

1. The University has established the procedures to deal with allegations or complaints of discrimination and to provide proper redress if and when discrimination, harassment and vilification occur. According to the complaint procedures, there are informal resolution and formal complaints. Conciliation and complaint investigation processes are available to staff and students through the Panel Against Discrimination and Sexual Harassment. Apart from conciliation and investigation, one of the options for resolving the complaints is to encourage staff and students to seek help from their supervisor(s).

a. Informal resolution

- (i) Staff or students who have a concern or a complaint of discrimination should approach their supervisor(s) for help in achieving an informal resolution of the matter as soon as reasonably practicable. If the resolution has not been achieved, the supervisor(s) should refer the staff or students concerned to the responsible officer at the Diversity and Inclusion Office (DIO), i.e. the Committee Secretary (CS) of the Committee Against Discrimination and Sexual Harassment (CADSH), for support and advice.

b. Conciliation

- (i) Conciliation is a voluntary process. It will only be arranged where both the complainants and the respondents are willing to be conciliated. If the parties reach a settlement, the agreement signed by the parties is legally binding. Under normal circumstances, attempts at conciliation do not require the filing of a written complaint.

- (ii) The CS of CADSH will offer to facilitate conciliation of the complaint upon request of the complainants or the respondents. The complainants may elect to bypass conciliation and proceed directly with formal investigation.

c. Investigation

- (i) If the complainants wish the University to initiate an investigation into an act of discrimination, they should make a formal complaint by completing a complaint form with the Panel Against Discrimination and Sexual Harassment.
- (ii) The full text of the University's Procedures for Handling Discrimination Complaints is available on the website of DIO at <https://www.dio.cuhk.edu.hk/> or the website of CADSH at <https://cadsh.cuhk.edu.hk/>

C. Roles and responsibilities of supervisors in the prevention of discrimination in the workplace and/or the learning environment

1. Staff, who have leadership/management roles in the University, are empowered to act to prevent and address issues related to discrimination and harassment. These include:
 - To be a role model
 - To nurture a discrimination-free workplace and/or learning environment
 - To communicate the University's relevant policies and procedures clearly
 - To take each complaint seriously and respond promptly
 - To enhance awareness of colleagues and students
 - To receive regular training on equal opportunities and prevention of discrimination
2. Supervisors at all levels play an important role in encouraging a positive workplace and learning environment. If something observed that is in breach of the University's policies and procedures, you should act to stop it. You may:
 - a. Discuss the issue with the staff/students whose behaviour is of concern;
 - b. Advise staff/students that the behaviour could be offensive and that it is not appropriate behaviour in the workplace and/or learning environment; and
 - c. Seek advice from the responsible officer at DIO through the CADSH hotline at 3943 8716 or email to padsh@cuhk.edu.hk.

D. Suggestions to supervisors when advising on discrimination concerns, problems and complaints

1. Supervisors should offer assistance in case you are approached by staff or students who have a concern, problem or complaint in relation to discrimination for help or advice. Whenever necessary, you may seek confidential advice from the CS of CADSH about how to handle the case at 3943 8716 or email to padsh@cuhk.edu.hk.
2. It is important for supervisors and managers to maintain strict confidentiality with regard to any complaints about discrimination in accordance with the existing University policies and applicable laws.
3. However, staff and students who have a concern or a complaint of discrimination should be encouraged to self-manage the situation, if deemed appropriate. They may direct approach the discriminators with a view to stopping the unwanted behaviour. Correcting the situation immediately is in everyone's interest. Ignoring the concerns may make the situation worse.
4. To do so, staff and students can tell the discriminators to stop the behaviour immediately and/or ask them to apologise. If this could not stop the inappropriate behaviour, staff and students should consider taking further actions under the Procedures for Handling Discrimination Complaints, including approaching their immediate supervisor for help in achieving an informal resolution of the matter as soon as reasonably practicable.
5. Staff and students should be advised to make records of the details of the incidents in case further actions may be taken against the discriminators.
6. Also, the staff/students concerned may contact the CS of CADSH for advice and support. The CS will address their concerns with a view to clarifying the situation and discussing options available to resolve the matter.

E. Best practices in the prevention of discrimination in the workplace and/or the learning environment

1. To promote equal opportunities in Colleges, Faculties and Departments/Units, the following measures are suggested:
 - a. Alert staff and students of your College/Faculty/Department/Unit to the University's relevant policies and procedures in a regular manner;

- b. Circulate copies of the University's policies, procedures and guidelines from time to time;
- c. Make it clear to staff and students that discrimination is not tolerated;
- d. Display and distribute relevant educational and promotional materials including information leaflets and posters;
- e. Encourage staff and/or students, especially newly appointed staff, to attend programmes/talks about prevention of discrimination;
- f. Arrange information sessions or talks about the anti-discrimination ordinances for staff or students in the workplace or learning area through DIO if necessary.