

Who would be held liable for sexual harassment in schools?

Personal Liability

Students, school staff and service providers are personally liable for their own acts of sexual harassment under the SDO.

Aiding Sexual Harassment

Personal liability may also be incurred if a student/member of staff / service provider:

- Pressures someone to sexually harass another person;
- Instructs someone to sexually harass another person;
- or
- Knowingly helps someone in harassing another person (e.g. joining someone in telling obscene jokes)

Vicarious Liability

Schools and service providers must take **"reasonably practicable steps"** to ensure that the school is free from sexual harassment; otherwise, they might be held vicariously liable for the unlawful acts committed by their staff in the course of their employment or by their agents, even if the school or service provider (as the case may be) is not aware of or does not authorise the sexual harassment incidents.

What should a student do if he/she is sexually harassed?

1. Speak up. Say "No". Under safe conditions, tell the harasser that his/her behaviour is unwanted and has to stop.
2. Run away from the harasser and go to a safe place or an area with more people.
3. Tell someone he/she trusts, such as his/her teacher/parents/social workers/NGO staff, and seek support and advice. Don't keep it to themselves.

What should you, as a parent, do when your child tells you he/she was sexually harassed?

1. Listen attentively and show trust in him/her. Assure the child that you will take necessary steps to stop it.
2. Keep calm and ask your child to give details of the incident including the date, time, location and witness(es).
3. Lodge a formal complaint to the school principal, the teacher-in-charge or the person-in-charge of the relevant service provider. Seek help from community leaders/NGOs/social workers, if necessary.
4. Lodge a complaint with the Equal Opportunities Commission on your child's behalf. You can call us at 2511 8211.
5. Report the case to the Police if you suspect any criminal element (e.g. indecent assault) in the incident.

If you need further information on sexual harassment and your rights under the anti-discrimination ordinances, please contact:

Equal Opportunities Commission

Address: 16/F, 41 Heung Yip Road, Wong Chuk Hang, Hong Kong

Hotline: 2511 8211

Email: eoc@eoc.org.hk

Website: www.eoc.org.hk

SMS Enquiry Service: 6972566616538

(For people with hearing/speech difficulties)

Office hours: Monday to Friday from 8:45am to 5:45pm

Speak up against Sexual Harassment

Create a Safe Environment for Our Kids



Sexual harassment can have serious consequences for anyone. For children especially, the impact can be severe. It can impair their normal growth and development, and social behaviour, not to mention, effective learning and school performance. It can cause long-lasting harm to a person's physical and psychological health.

Under the Sex Discrimination Ordinance (SDO), it is unlawful to sexually harass any person of the opposite sex, as well as of the same sex. The law on the protection of children from sexual harassment is applicable to schools, tutorial centres, kindergartens, other educational institutions and nurseries. It is also applicable to other ancillary service providers related to school operation such as school buses, student canteens or cafeterias, sports coaching, etc. Child care centres may be considered as a service provider and the relevant protections against sexual harassment under the SDO would be applicable.

Note: If a child is sexually harassed in scenarios not covered by the SDO, such as at a friend's home or on public transport, please approach the Police for help.

What is sexual harassment according to the Sex Discrimination Ordinance (SDO)?

Sexual Harassment

Hostile/Intimidating Environment

- Any unwelcome conduct of a sexual nature, either engaged by a person alone or together with other persons, which creates a hostile/ intimidating environment

Examples



- Display:** Include but not limited to the display of explicit or pornographic materials, sexual banter, crude conversation, and sexually offensive jokes or activities.

Person-to-Person Harassment

- Any uninvited/unwelcome sexual advance, request for sexual favours, or other conduct of a sexual nature directed at a person
- If, having regard to all the circumstances, a reasonable person would have anticipated that the other person would feel offended, humiliated or intimidated by the above action(s)

Examples



- Unwelcome Physical Contact:** uninvited and unwelcome hugging, kissing, touching, grabbing or deliberately brushing up against another person



- Sexual Remarks:** sexual jokes, comments on someone's body or shape with sexual overtones



- Offensive Communications:** written communications of a sexual nature including messages transmitted electronically



- Other Inappropriate Behaviours:** staring, leering or making gestures of a sexual nature

