THE UNIVERSITY OF HONG KONG

Equal Opportunity Policy

Policy Statement

1. The University is committed to creating, promoting and maintaining an environment of equality of opportunity for members of the University community, free of any discrimination/harassment. The University recognises that the broad range of experiences a diverse staff and student body brings is very important to the University's continuous pursuit of excellence in teaching and learning, research, and knowledge exchange. As a global university, we must continue to foster the culture of respect, diversity and inclusion, which enables everyone to grow and flourish. The University supports equal opportunity and strongly opposes discrimination/harassment. The University will take whatever action may be needed to prevent, and if necessary, discipline behaviour which violates the Equal Opportunity Policy ("the Policy").

Implementation

2. An employee or student of the University, or any other workplace participant[1] engaged by individual departments/units of the University, has a personal responsibility to uphold the University's commitment to equal opportunity by treating all staff, students, other workplace participants, and any other persons who have dealings with the University with respect.

3. The Policy forbids the following discrimination/harassment (as specified in the Schedule) in activities carried out in the course of employment, education, provision of goods and services, or other activities organised by the departments/units of the University. The definitions of terms in the relevant legislation and related provisions of such legislation

[1] According to the existing anti-discrimination ordinances of Hong Kong, "workplace participant" covers persons working or attending as such in a common workplace, including contract workers, interns, volunteers, etc., in addition to employees. In the University's context, a co-working space user may also be regarded as a workplace participant.

will apply unless expressly extended or modified in the Schedule, which may be amended from time to time:[2]

i. Sex discrimination
ii. Sexual harassment
iii. Marital status discrimination
iv. Pregnancy discrimination
v. Breastfeeding discrimination
vi. Breastfeeding harassment
vii. Disability discrimination
viii. Disability harassment/vilification
ix. Family status discrimination
x. Racial discrimination
xi. Racial harassment/vilification
xii. Discrimination on the ground of sexual orientation
xiii. Harassment on the ground of sexual orientation
xiv. Victimisation discrimination
xv. Other forms of discrimination or harassment/vilification.

4. The University does not tolerate behaviour amounting to discrimination or harassment as defined in the Schedule. Behaviour that would otherwise amount to discrimination may be excepted according to the relevant law. The University allows such exceptions under the Policy. For example, a female hall may refuse to accept a male student as a resident. This is sex discrimination, but allowed as an exception for safety and decency reasons. For harassment cases, however, no exceptions are allowed. Exceptions should be considered in accordance with the relevant provisions set out in the Schedule.

5. The University requires its employees who hold supervisory positions and other workplace participants with supervisory role to take all necessary steps to ensure that any employee or student of the University, any other workplace participant, or any other person who has dealings with the University is not subject to discrimination/harassment.

[2] The Schedule may be updated by the Equal Opportunity Committee as and when there are changes to the definitions and related provisions in the relevant legislation. Any addition, extension or modification of the definitions of discrimination/harassment not covered by the relevant legislation (including the application of those definitions and provisions of legislation for the purposes of the Policy, despite such provisos being not yet in operation) may be recommended by the Equal Opportunity Committee to the Council for approval.

6. The Council of the University adopts the Procedures for Handling Discrimination/Harassment Complaints ("the Procedures"), which shall apply to all full-time or part-time staff and students of the University.[3]

7. Without prejudice to the right of a person to lodge a formal complaint, the Council recognises complaints can often be speedily resolved to the satisfaction of the complainant through informal means at departmental or unit level, without the need to have recourse to formal, quasi-judicial procedures. The Council requests Faculties, Departments and other units of the University to appoint, as far as possible, at least two members of staff, of different gender, as Equal Opportunity Advisors on equal opportunity issues. The responsibilities of Equal Opportunity Advisors include, in liaison with the University's Equal Opportunity Unit, providing information and advice on issues of discrimination/harassment, receiving disclosures relating to discrimination/harassment in confidence, and, with the consent of the complainant, attempting to resolve the matter informally. Experienced Equal Opportunity Advisors may be appointed as Senior Equal Opportunity Advisors to assist in the training of Equal Opportunity Advisors.

8. The President and Vice-Chancellor may take various administrative steps, as the case might warrant, to protect any employee or student of the University, any other parties, or the proper functioning of the University.

9. Enquiries, complaints, or requests for assistance on equal opportunity issues may be directed to one or more of the following offices/staff:

   i. The Equal Opportunity Unit is responsible for informing individuals regarding the University policies and procedures relating to discrimination/harassment, outlining options available to them to address their concerns or complaints, and offering assistance to the individuals concerned in the informal resolution or complaint processes (tel: 3917 1768; email: eounit@hku.hk).

   ii. The Centre of Development and Resources for Students provides a wide range of support and resources for students to have a safe and diverse student life. Its Counselling and Person Enrichment Section provides individual counselling,

[3] Complaints made by or against persons other than those specified in paragraph 6, for example, other workplace participants, including contract workers, interns and volunteers, as defined and provided for under the anti-discrimination ordinances of Hong Kong, may be handled under the University's "Whistle-blowing" Procedures, where applicable.

consultation and support services to students in need (tel: 3917 8388; email: cedars-cope@hku.hk).

iii. Deans of Faculties, Heads of Departments/Units, Hall Wardens and College Masters, and Equal Opportunity Advisors are to support individual students, staff, and other workplace participants to resolve equal opportunity-related issues as appropriate.

10. The University recognises the importance of education and training as well as continuous awareness raising in building a respectful and inclusive culture, changing behaviours, and reinforcing positive attitudes. Deans of Faculties, Heads of Departments/Units, Hall Wardens and College Masters should encourage their students, staff, and other workplace participants engaged by them to participate in equal opportunity-related education and training programmes organised by the Equal Opportunity Unit and other support units from time to time.

11. To support the Policy, the University has established the "Guidelines Governing Relationships Between and Among University Staff and Students", other specific policies on admission and employment of persons with a disability, and other equal opportunity-related guidelines, such as web accessibility, and use of inclusive language in student work, etc. All individuals concerned are required to comply with such policies and guidelines. The University may from time to time develop other guidelines and codes of practice as appropriate to support the Policy. For the avoidance of doubt, all guidelines and codes of practice relating to equal opportunity should be strictly complied with by all individuals concerned.

Review

12. The Equal Opportunity Committee shall review the Policy, the Procedures, and the related guidelines and codes of practice periodically and at any time as necessary, and recommend or make changes as appropriate.

October 2003
July 2009 (amended)
March 2021 (re-amended)

Schedule

Definitions

The definitions of the following terms in the relevant legislation and related provisions of such legislation will apply unless expressly extended or modified below:

1. Sex discrimination

The definitions of sex discrimination and the exceptions in the Sex Discrimination Ordinance will apply.

2. Sexual harassment

The definitions of sexual harassment in the Sex Discrimination Ordinance will apply.

3. Marital status discrimination

The definitions of marital status discrimination and the exceptions in the Sex Discrimination Ordinance will apply.

4. Pregnancy discrimination

The definitions of pregnancy discrimination and the exceptions in the Sex Discrimination Ordinance will apply.

5. Breastfeeding discrimination

The definitions of breastfeeding discrimination and the exceptions in the Sex Discrimination Ordinance will apply.

6. Breastfeeding harassment

The definitions of breastfeeding harassment in the Sex Discrimination Ordinance will apply.

7. Disability discrimination

The definitions of disability discrimination and the exceptions in the Disability Discrimination Ordinance will apply.

8. Disability harassment/vilification

The definitions of disability harassment and vilification in the Disability Discrimination Ordinance will apply.

9. Family status discrimination

The definitions of family status discrimination and the exceptions in the Family Status Discrimination Ordinance will apply.

10. Racial discrimination

The definitions of racial discrimination and the exceptions in the Race Discrimination Ordinance will apply.

11. Racial harassment/vilification

The definitions of racial harassment and vilification in the Race Discrimination Ordinance will apply.

12. Discrimination on the ground of sexual orientation

For the purposes of the Equal Opportunity Policy ("the Policy"), "sexual orientation" means heterosexuality (sexual inclination towards persons of the opposite sex), homosexuality (sexual inclination towards persons of the same sex), and bisexuality (sexual inclination towards persons of both sexes).[1] Discrimination/harassment on the ground of sexual orientation are prohibited by the Policy in activities carried out in the course of employment, education, provision of goods and services, or other activities organised by the departments/units of the University, with reference made to the applicable fields in the existing anti-discrimination legislation where appropriate.

For the purposes of the Policy, a person ("the discriminator") discriminates against another person if:

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[1] "Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation" issued by The Government of the Hong Kong Special Administrative Region.

i. on the ground of the sexual orientation of that other person, the discriminator treats that other person less favourably than the discriminator treats or would treat other persons; or

ii. the discriminator applies to that other person a requirement or condition which the discriminator applies or would apply equally to persons not of the same sexual orientation as that other person but

(a) which is such that the proportion of persons of the same sexual orientation as that other person who can comply with it is considerably smaller than the proportion of persons not of that sexual orientation who can comply with it;

(b) which the discriminator cannot show to be justifiable irrespective of the sexual orientation of the person to whom it is applied; and

(c) which is to the detriment of the other person because that person cannot comply with it.

13. Harassment on the ground of sexual orientation

A person harasses another person on the ground of the latter's sexual orientation if that first-mentioned person engages in unwelcome conduct (which may include an oral or written statement) on account of that second-mentioned person's sexual orientation, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the second-mentioned person would be offended, humiliated or intimidated by that conduct.

14. Victimisation discrimination

Victimisation discrimination occurs when a person ("the discriminator"), alone or together with other persons, treats another person ("the victimised person") less favourably than in those circumstances he or she treats or would treat other persons, and does so by reason that the victimised person or any other person ("the third person") has

i. brought proceedings against the discriminator or any other person under the Procedures for Handling Discrimination/Harassment Complaints ("the Procedures");

ii. given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under the Procedures;

iii. otherwise done anything under or by reference to the Procedures in relation to the discriminator or any other person; or

iv. alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of the Policy;

or by reason that the discriminator knows the victimised person or the third person, as the case may be, intends to do any of those things; or suspects the victimised person or the third person, as the case may be, has done, or intends to do, any of them.

The above definitions for victimisation discrimination shall not apply to treatment of a person by reason of any allegation made by him or her if the allegation was false and not made in good faith.

For the avoidance of doubt, discrimination may still take place if discriminatory conduct has stopped because it was rejected by a person and that person is later treated unfavourably because of that rejection.

15. Other forms of discrimination or harassment/vilification

Any other form of discrimination or harassment/vilification not already covered above but prohibited by an anti-discrimination law in force in Hong Kong at the material time.

16. Exceptions

An act or omission shall not constitute discrimination if:

i. in the case of discrimination on the ground of any protected characteristic under the existing anti-discrimination legislation, there is any statutory exception that permits the act or omission; or

ii. in the case of discrimination on any other ground covered by the Policy, the following justification test is satisfied:

(a) the relevant treatment pursues a legitimate aim;

(b) the relevant treatment is rationally connected to that legitimate aim;

(c) the relevant treatment is no more than necessary to accomplish the legitimate aim; and

(d) a reasonable balance has been struck between the societal benefits arising from the application of the relevant treatment and the interference with the individual's equality rights.