

Regulations of Sexual Harassment Prevention

Announced Date 2006.01.27

- Article 1 These regulations are promulgated pursuant to Paragraph 3 of Article 7 of Sexual Harassment Prevention Act (hereinafter referred to as the Act).
- Article 2 To prevent the occurrence of sexual harassment incidents, the organizations, troops, schools, institutions or employers shall take appropriate preventative, corrective measures, punishment or other measures and protect the privacy of those directly involved.
- Article 3 The organizations, troops, schools, institutions or employers shall organize regular educational training about sexual harassment prevention or encourage their members to join the training and allow them to register as official leaves and subsidize the expense.
- Article 4 The organizations, troops, schools, institutions or employers shall set up the complaint channel for sexual harassment incidents.
If number of the aforementioned organization's staff, employees or customers reaches over ten, a dedicated line telephone, fax, mail box or e-mail address for complaint shall be set up. The handling procedures and staffs or units responsible for complaint shall be prescribed.
If number of the organization's staff, employees or customers mentioned in Paragraph 1 reaches over thirty, measures for sexual harassment prevention should be prescribed and be publicly announced. The announcement shall include the following aspects:
1. Announcements of policies prohibiting sexual harassment.
2. Complaint, investigation and handling procedures of a sexual harassment incident.
3. Regulation of punishment for offender.
4. Protection of victim's privacy.
5. Other preventative measures to sexual harassment.
- Article 5 The victim of a sexual harassment incident can propose a complaint against the offender to the organization, troop, school, institution, employer, or to the competent authority of municipality and county (city) government of the offender.
If the head of the organizations, troop, school, institution and employer mentioned in preceding paragraph is the offender, the investigation application shall be submitted to the competent authority of municipality and county (city) government of the

organizations, troop, school, institution and employer. The competent authority shall start the investigation after receiving the application.

Article 6 If the organization, troop, school, institution or employer receiving the complaint form is not the offender's organization, troop, school, institution or employer, it shall take appropriate emergency measures and transfer the complaint form and related information to its competent authority of municipality and county (city) government within seven days.

Article 7 If the victim of sexual harassment incident reports the case to police authorities, police authorities shall handle the case pursuant to their authority and make detail record. If the offender's organization, troop, school, institution, employer can be identified, the police authorities shall transfer this case to the offender's organization, troop, school, institution, or employer for subsequent inspection and also inform the competent authority of municipality and county (city) government and complaint drafter. If the offender disappears or his or her organization, troop, school, institution, or employer is unknown, the police authorities shall begin investigation immediately.

If the sexual harassment incident mentioned in the preceding paragraph violates the regulations on Paragraph 1 of Article 25 of the Act, the police authorities shall begin investigation immediately and transfer the case to the judicial organization according to the victim's decision.

Article 8 The competent authority of municipality and county (city) government mentioned in Article 6 shall transfer the complaint form and related information to the offender's organization, troop, school, institution or employer within seven days from receipt of the complaint form. If the offender disappears or his or her organization, troop, school, institution, or employer is unknown, the case shall be transferred to the police authorities in the area of the sexual harassment incident in order to have further investigation.

When the competent authority of municipality and county (city) government proceeding the transfer mentioned in preceding paragraph, it shall also inform the offender's competent authority of municipality and county (city) government of the organization, troop, school, institution, employer or police authorities if the offender's organization, troop, school, institution, employer or the police

authorities in the area of the sexual harassment incident is out of its jurisdiction.

After receiving the notice mentioned in the preceding paragraph, the offender's competent authority of municipality and county (city) government shall inform the victim's organization, troop, school, institution, employer or the police authorities in the area of the sexual harassment incident and handle the complaint within its jurisdiction and reply the result to the offender's competent authority of municipality and county (city) government.

Article 9 If the offender's organization, troop, school, institution, employer or the police authorities in the area of the sexual harassment incident doesn't accept the complaint, it shall inform those directly involved with written notice and the competent authority of municipality and county (city) government of those directly involved within twenty days from receipt of the complaint or transferred case.

The notice in the preceding paragraph shall describe the reasons and record the due date and organization for filing appeal.

If the competent authority of municipality and county (city) government doesn't accept the appeal for sexual harassment incident, it shall inform those directly involved with written notice within twenty days from receipt of appeal and describe the reasons.

Article 10 After the complaint of sexual harassment incident is transferred to the police authorities pursuant to Article 13 of the Act, the police authorities shall identify the offender within seven days from receipt of the complaint or transferred case. If the offender can not be unidentified, the police authorities shall investigate the complaint of sexual harassment incident directly and complete the investigation within two months. If necessary, the length of the investigation may be extended by another one month and those directly involved should be informed.

The result of the investigation should be given to those directly involved and the competent authority of municipality and county (city) government of them.

If the police authorities can identify the offender's organization, troop, school, institution, or employer, it shall transfer the case to the offender's organization, troop, school, institution, or employer for handling and also inform the competent authority of municipality and county (city) government of the victim's organization, troop, school,

institution, or employer.

Article 11 The complaint and appeal of sexual harassment incident can be applied to competent authority of municipality and county (city) government in either a written statement or verbally. If an applicant prefers to use the verbal method, competent authority of municipality and county (city) government shall make documentation of the verbal application and read it out to the applicant or ask him or her to read it in order to confirm its accuracy. Subsequently, the documentation shall be signed or sealed by the applicant.

The complain form, appeal form or documented verbal application shall contain the following items:

1. Name, gender, date of birth, ID number or passport number of the applicant. Name of the unit and school where the applicant serves or studies and his/her title. His domicile or address and phone number.
2. Where the applicant has a guardian, the guardian's name, gender, date of birth, ID number or passport number, job, domicile or address and phone number.
3. Where the applicant has an attorney, the attorney's name, gender, date of birth, ID number or passport number, job, domicile or address and phone number, and power of attorney.
4. Facts and pertinent evidence of the complaint or appeal.
5. Application date.

If the complain form, appeal form or documented verbal application doesn't meet the requirement of the preceding paragraph, for those situations that could be remedied, the competent authority may ask the applicant to rectify with fourteen days.

Article 12 Under the following conditions, the complaint and appeal of sexual harassment incident shall not be accepted:

1. The applicant fails to rectify the complain form, appeal form or documented verbal application by the due date prescribed in Paragraph 3 of the preceding Article.
2. The investigation of the same case has been completed and the result has been sent to those directly involved.

Article 13 The investigation of the sexual harassment incident shall be based on the principle of objective, justice and professional and provide those directly involved with chance to make statements and opportunity for defense.

If the description of the victim is clear and further inquiry is not

required, the redundant inquiry shall be avoided.

Article 14 When handling the complaint of sexual harassment incident, organization, troop, school, institution, or employer with more than thirty staff or employees shall set up complaint handling and investigation unit (hereinafter referred to as the investigation unit) and start to investigate.

If the member of the investigation unit mentioned in preceding paragraph is more than two people, the percentage of the female investigators shall not be less than fifty. The investigation unit may also recruit experts or scholars to be its member if necessary.

Article 15 During the investigation, the investigators of complaint and appeal of sexual harassment incident shall recuse by himself when happen any one of the following conditions in cases:

1. Those directly involved the incident is or once was the investigator, his/her spouse, ex-spouse, relative by blood within the fourth degree, or relative by marriage within the third degree.
2. The investigator, his/her spouse or ex-spouse is connected to the pending case at issue, as a joint creditor or a joint obligator with those directly involved the incident.
3. The investigator is or once was an agent or an assistant of those directly involved the incident.
4. is or once was a witness or expert witness of the incident.

Under either of the following circumstances, those directly involved may file recusal application against the investigators of complaint and appeal of sexual harassment incident:

1. where such investigator has failed to withdraw of his/her own accord under any of the circumstances set forth preceding paragraph.
2. where it is reasonable to believe that the investigator involved may become prejudiced in performing his/her functional duties.

The application mentioned in the preceding paragraph shall describe the reason and fact and be filed with the investigation unit of the complain or appeal of the sexual harassment incident and also provide appropriate explanation. Those investigators against whom the application for recusal is made may hand in written opinion.

The investigators against whom the application for recusal is made shall stop investigation procedures before obtaining further approval of the investigation unit. In case of emergency, the investigator shall take necessary measures.

- If the mediators don't follow the regulation prescribed in Paragraph 1 and those directly involved also don't file recusal application, the investigation unit shall order the mediators to recuse.
- Article 16 The investigation of the sexual harassment incident shall not be open, and shall protect the privacy and other personality of those directly involved.
- Article 17 The investigation of the sexual harassment incident may ask those directly involved and the interested parties arrive upon the scene to give explanation and also invite people with related knowledge and experience to assist.
- Article 18 If there is power imbalance between those directly involved or witness, confrontation(s) shall be avoided.
When necessary, written information may be produced without infringing the obligation of confidentiality, and be provided to those directly involved, or be summarized and read to those directly involved.
- Article 19 The names and other information that may lead to the identification of those directly involved of a sexual assault incident shall be kept confidential, except for the necessity of investigation or public safety concerns.
Person(s) who violate the obligation of confidentiality in the preceding paragraph shall be subjected to penalties in accordance with criminal laws and other pertinent regulations.
- Article 20 About the investigation process and decision of the sexual assault incident, the organization, troop, school, institution or employer shall send the written notice to those directly involved and the competent authority of municipality and county (city) government.
The written notice mentioned in the preceding paragraph shall include the reason of the decision, the due date for appeal and appropriate authorities.
- Article 21 In its investigation of sexual assault incident, the organization, troop, school, institution, employer or the competent authority of municipality and county (city) government shall transfer those directly involved to related institutions or provide psychological counseling and legal consultation, according to his or her physical and mental condition.
- Article 22 After the sexual assault incident is established, the organization, troop, school, institution or employer of the offender shall impose

punishment to the offender according to the seriousness of the case.

In order to prevent the recurrence of sexual assault incident or revenge, tracking, evaluation, and supervision are required.

Article 23 The provisions of Article 2, Article 3, Subparagraphs 1, 3, 4 and 5 of Paragraph 3 of Article 4 are applicable to sexual assault crimes.

Article 24 The Regulations shall be implemented from February 5, 2006.