

Sexual Harassment Prevention Act

Presidential Order No. Hua-Zong-Yi-Yi-Tzu-09400016851 enacting and promulgating a total of 28 Articles on February 5, 2005; to take effect one year from the date of promulgation

Presidential Order No. Hua-Zong-Yi-Yi-Tzu-09500005861 enacting amendments to and promulgating amended Articles 18 and 26 on January 18, 2006.

Presidential Order No. Hua-Zong-Yi-Yi-Tzu-09500005961 enacting amendments to and promulgating amended Article 1 on January 23, 2009

Chapter One General Principles

Article 1 The Act is formulated in order to prevent sexual harassment and protect the rights of victims.

The definition of sexual harassment and the handling and prevention of incidents of sexual harassment are stipulated under the Law. What is not regulated here is dealt with under other laws. Except for Articles 12, 24 and 25, what is applicable to the Gender Equality in Employment Act and the Gender Equality Education Act is not applicable to the regulations of the present Act.

Article 2 Excluding sexual assault crimes, the so-called sexual harassment in the Act refers to the sexual statements or sexual behavior violating another person's wishes and also to the following situations:

- A. If a person's obedience to or rejection of another's sexual advances become a condition of obtaining, losing or reducing their rights and interests in work, education, training, services, plans or activities.
- B. If texts, pictures, voices, images or other objects are used to inundate or intimidate; or if languages and behaviors of discrimination, and insults or other methods are adopted. – For such reasons, the other's person's dignity of character is impaired. Or if another person feels scared, feels disliked with hostility or feels offended ; or if another persons' work, education, training, services, plans, activities or other normal habits are improperly influenced.

Article 3 The civil servant named in the Act refers to an employee who is engaged in public affairs.

The organization named in the Act refers to a government organization.

A troop under the Law refers to an armed force, and a school is under the jurisdiction of Ministry of National Defense.

Schools referred to under the Law include both national or private schools.

The institution named under the Law refers to a corporate juridical person, a partnership, or a non-corporate body which has its own representative or manager or other institutions.

Article 4 The competent authorities referred to in this Act are the Ministry of the Interior at the central level, municipal governments at the municipal level, and county (city) governments at the county (city) level.

Article 5 The following items shall be handled by central competent authorities. However, for items related to the duties of individual competent authorities in charge of specific business, they shall be handled by the competent authorities in charge of specific business individually.

- A. Investigate, make a draft and discuss policies and regulations for sexual harassment prevention
- B. Coordinating, supervising and examining implementation of sexual harassment prevention in the government
- C. Supervising handling procedure, inquiries, medical treatment and service network for sexual harassment incidents that local competent authorities concerned have set up
- D. Advancing education and promotion of sexual harassment prevention
- E. Giving rewards to any organization, school, institution, employer, group or individual that carries out sexual harassment prevention and has excellent performance
- F. Arranging and making statistics of sexual harassment incidents
- G. Studying the trends and problems of sexual harassment prevention

H. Dealing with other matters about sexual harassment prevention

Article 6 A municipal and a county (city) government should set up a Sexual Harassment Prevention Committee which can undertake the following items. However, for items related to the duties of individual competent authorities of a municipality and a county (city) government in charge of specific business, they shall be handled by the competent authorities in charge of specific business individually.

- A. Drafting policies and regulations about sexual harassment prevention
- B. Coordinating, supervising and implementing sexual harassment prevention in government
- C. Investigating and mediating a disputed case of sexual harassment and transferring the case to a relevant organization or organizations.
- D. Extending educational training and the promotion of sexual harassment prevention
- E. Arranging and making statistics involving various data and information about sexual harassment incidents
- F. Dealing with other matters concerning sexual harassment prevention

In the Sexual Harassment Prevention Committee mentioned in above mentioned paragraph, there should be a director general who needs to be the mayor or deputy mayor of a municipal or of county (city). Its committee members should to be drawn from the organization's high-level staff, fair and honest social figures, representatives of private institutions, scholars and experts. Among all the committee members, number of fair and honest social figures, representatives of private institutions, scholars and experts should occupy one half or over and females should also occupy one half or more. The organization's high-level staff can be assigned by the local competent authorities concerned.

Chapter Two

Sexual Harassment Prevention and Responsibility

Article 7 The organizations, troops, schools, institutions or employers should prevent incidents of sexual harassment as well as immediately take effective corrective measures when becoming aware of the occurrence of sexual harassment.

If number of the organization's staff, employees or customers reaches over ten, an appeal channel for mediation and handling should be set up. If the number of people reaches over thirty, measures for sexual harassment prevention should be formulated and be publicly announced.

In order to prevent and deal with sexual harassment, the central competent authorities concerned should specify standards of sexual harassment prevention. These should include principles of sexual harassment prevention, appeal channels, rewards and punishments, educational training projects and other relevant measures.

Article 8 The organizations, troops, schools, institutions or employers mentioned in the previous Article should organize regular educational training about sexual harassment prevention or encourage their members to join the training.

Article 9 A person who has sexually harassed another person should take the responsibility of offering compensation for damage.

Although the damage is not related to money or property, a certain amount of money should be paid. If a reputation is harmed, a proper punishment of restoring reputation should be required.

Article 10 When proceeding with appeal, investigation or examination of sexual harassment incidents, the organizations, troops, schools, institutions or employers should propose lawsuit, act as witness and provide help for appeals and legal complaints and accusations and also need to have a fair mind without discrimination.

Those who violate the regulations should take the responsibility of offering compensation for damage.

Article 11 If an employee or a head of institution sexually harass another person by taking advantages of his or her official position, according to the paragraph 2 of Article 9, his or her employer or the institution should provide a proper help when a proper punishment of restoring the victim's reputation back is required.

When receiving education or training in a school, or educational or training institution, a students or trainee sexually harasses another person. According to the paragraph 2 of Article 9, the school, college or training institution should provide proper help when a proper punishment of restoring the victim's reputation is required

The regulations for the above two paragraphs are not suitable for other organizations.

Article 12 Advertisements, publications, broadcasts, television, electronic messages, computer, internet or other kinds of media report or record neither the victim's name nor other information which can lead discovery of his or her identity. However, there will be no such limitation if an agreement is given by a competent or if the investigation on sexual harassment incident in accordance with the law thinks revealing the victim's identity is necessary.

Chapter Three

Complaint and Investigation Procedure

Article 13 The victim of a sexual harassment incident can not only ask for help by following relevant laws, but can also propose a complaint against the defendant to the defendant's organization, troop, school, institution, employer, or to the municipal and county (city) competent authorities where the defendant who sets his or her domicile.

When receiving the complaint against defendant, the municipal and county (city) competent authorities where the defendant who sets his or her domicile should immediately transfer this case to the defendant's organization, troop, school, institution, or employer and also the related files of the case for inspection. If the defendant's whereabouts or his or her organization, troop, school, institution, or employer is unknown, the case should be transferred to police authorities in the area of the sexual harassment incident in order to have further investigation.

The organization, troop, school, institution, or employer should start making investigation within seven days of receiving the complaint or arrival of the transferred case and also 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 municipal and county (city) competent authorities where above mentioned parties who set their domiciles. If the organization, troop, school, institution, or employer does not complete the investigation within the required period or those directly involved do not feel satisfied with the result of the investigation, those directly involved may once more propose an appeal to the municipal and county (city) competent authorities where above mentioned parties who set their domiciles after the required period or within thirty days of the arrival of the result of investigation.

If those directly involved propose an appeal or another appeal after the required period, the case will not be accepted by the municipal and county (city) competent authorities where above mentioned parties who set their domiciles.

Article 14 After the competent authorities concerned accept the case of an appeal, the Sexual Harassment Prevention Committee should assign three to five committee members as an investigation team and select a team leader to proceed with an investigation. The regulations of the paragraph 3 and 4 of the previous Article should be followed.

Article 15 When a case of a sexual harassment incident is under investigation or a trial, the Sexual Harassment Prevention Committee of a municipal or county (city) needs to pass a resolution and stop the process before the procedure is concluded if they think it is necessary.

Chapter Four

Conciliation Procedure

Article 16 Two parties directly involved in a sexual harassment incident can apply to the municipal and county (city) competent authorities where the two parties who set their domiciles for conciliation in either a written statement or verbally. If an applicant prefers to use the verbal method, a written record of statements should be made.

In the previous paragraph, an applicant should convey the cause to be conciliated and the situation of the argument .

When dealing with a conciliation case mentioned in the first paragraph, the regulations concerning its jurisdiction, its confidentiality, its efficacy when person involved does not come, asking relevant organization for help, etc. shall be determined by the central competent authorities concerned.

Article 17 All expenses spent in a conciliation, except the examining fee, should be fully paid by those directly involved. The authorities should not receive any extra sum of money or reward.

Article 18 Upon a conciliation is reached, a conciliation statement should be made.

Regulations of Articles 25 to 29 of the Town and City Conciliation Statute can be applied in the making and implementation of the conciliation statement mentioned in the previous paragraph.

Article 19 When conciliation fails, those directly involved need to apply to Sexual Harassment Prevention Committee of a local government for transfer of conciliation to judicial organs. There is no need to levy any fee for the verdict from the first trial.

Chapter Five Penalty

Article 20 A person who sexually harasses another person shall be fined not less than NT\$ 10,000 but not more than NT\$ 100,000 by the municipal and county (city) competent authorities where the person who sets his or her domicile.

Article 21 A person who is in charge of education, training, medical treatment, public affairs, business affairs, employment, or other relevant fields, and uses his or her power, influence or opportunity to make sexually harass to another person: a heavier fine, up to 50% extra should be imposed on the person.

Article 22 A person who violates the regulations of the later part of the paragraph 1 and the paragraph 2 of Article 7 shall be fined not less than NT\$ 10,000 but not more than NT\$ 100,000 by the municipal and county (city) competent authorities where the person who sets his or her domicile. If behavior is not corrected within a required period specified in the verdict given, a fine shall be imposed for each violation.

Article 23 When not obeying the paragraph 1 of Article 10, the organization, troop, school, institution, or employer shall be fined not less than NT\$ 10,000 but not more than NT\$ 100,000 by the municipal and county (city) competent authorities where the organization, troop, school, institution locates or the employer who set his or her domicile. If behavior is not corrected within a required period specified in the written verdict, a fine shall be imposed for each violation.

Article 24 A person who violates Article 12 shall be fined not less than NT\$ 60,000 but not more than NT\$ 300,000 by the competent authorities in charge of specific business individually. Objects mentioned in Article 12 should be confiscated or dealt with in other necessary arrangements. If behavior is not corrected within a required period written in informed information, a fine shall be imposed for each violation.

Article 25 When a person kisses, hugs or touches the bottom, breast, or other physical private parts of the other person when the latter one cannot quickly respond or resist: this person shall be imprisoned for a definite term of less than two years, do forced labor service under detention, or separately or jointly fined not more than NT\$ 100,000.

About the crime mentioned in the previous paragraph, a prosecution for such crime may be instituted only upon a complaint.

Chapter Six

Bylaws

Article 26 The regulations written in Articles 7 to 11, 22 and 23 can be applied to crimes of sexual assault.

The punishment by administrative fine mentioned in the previous paragraph is imposed by the competent authorities concerned with sexual assault crime prevention.

Article 27 The Enforcement Rules for this Act shall be determined by the central competent authorities in charge of sexual assault crime prevention.

Article 28 The Act shall come into force one year after its announcement.