



VOLUME 01

Legal Guide Book

with tips of daily life issues

ENGLISH VERSION

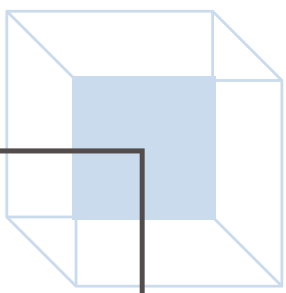


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Team WholeHearted



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Content

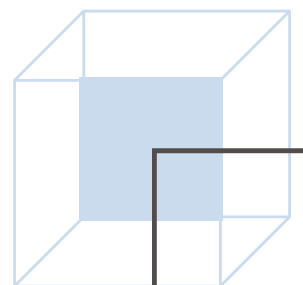
About WholeHearted ----- 1 - 2

Discoveries on Legal Issues ----- 3 - 16

- **01 Divorce - What are My Options?**
- **02 Children - Custody, Care & Control and Access**
- **03 Divorce - What is Maintenance?**
- **04 Can I Vary My Maintenance Payment?**

Discoveries on Life Issues ----- 17 - 21

- **01 Clothing: How to Remove Different Stains from Clothes?**
- **02 Food: How to Make a Nutritious Lunch Box?**





WholeHearted is a student-led pro bono initiative founded by students studying laws and social science from the University of Hong Kong (HKU) and the Chinese University of Hong Kong (CUHK). Participating in the Law for Change Student Competition 2022 organized by PILnet, we aim to provide both legal and personal service for the single father community in Hong Kong.



About Us

WholeHearted



Hi everyone!

We are a team of university students aiming to support the single father community in Hong Kong.

We acknowledge that single fathers may not have sufficient legal, know-how and homemaking information. As there are only few organizations targeting single fathers, we hope to use our knowledge and skills to fulfil the following objective:

(1) To broaden single fathers' understanding regarding their approaches in seeking help and knowing about their legal rights.

(2) To enhance their skill sets and enrich their practical knowledge by providing them with resources in a timely manner.

(3) To provide single fathers with a platform to seek advice and emotional support privately.

Best,

WholeHearted



Discoveries on

Legal Issues

- 01 Divorce - What are My Options?
- 02 Children - Custody, Care & Control and Access
- 03 Divorce - What is Maintenance?
- 04 Can I Vary My Maintenance Payment?



DISCOVERIES ON LEGAL ISSUE 01

Divorce - What are My Options?

Every divorce in Hong Kong must go through the Court. However, parties can decide whether the divorce proceedings are to be contested (disputed), or uncontested (agreed).

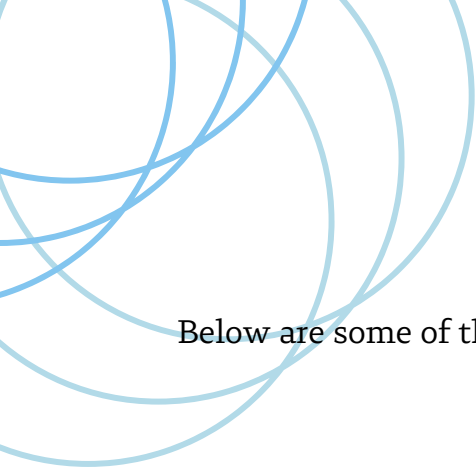
In every divorce, there are 3 matters to deal with: (1) the divorce itself; (2) children; and (3) the finances.

To save time and costs, parties should always try to agree on the above matters as far as they can.

How can I reach an agreement with my ex-spouse?

There are a number of ways to reach an agreement, with or without the help from lawyers.

Further, you can always settle before the end of the proceedings, and make more than one attempt to settle. In fact, it is not uncommon that people settle on the first day of the Trial, after prolonged litigation. It is important to keep in mind that settlement negotiations and litigation can run parallel to each other.



Below are some of the most common ways of reaching a settlement.



(1) By private negotiations

This can be done by the parties between themselves, or through the parties' lawyers. Sometimes, a party might be legally represented, whilst the other party is not.

When you are undergoing private negotiation with your ex-spouse, it is important to know what you are entitled to, and what you are trying to achieve.

For example, if you have been financially dependent on your ex-spouse throughout the marriage, you might be entitled to spousal maintenance. However, for the sake of a quick divorce, you might be minded to make an informed decision to forgo spousal maintenance and instead, ask for a lump sum payment.

If needed, you can also make your private negotiations "without prejudice, save as to costs", which means they will be kept confidential from the Court. They will only be disclosed when the parties argue about legal costs contribution after the proceedings have ended.

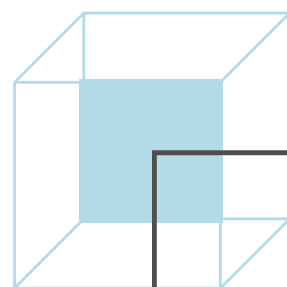


(2) By family mediation

Sometimes, it might be helpful to have an independent third party to facilitate settlement negotiations.

Family mediation is a private negotiation between the parties facilitated by a family mediator. It is voluntary and without prejudice. If needed, parties can elect to be accompanied by their lawyers during the mediation.

Mediators are usually experienced family law practitioners or retired judges. If the mediation is successful, the mediator would draw up a mediation agreement for the parties to sign. The parties then need to take the agreement to the Court and convert it into an appropriate Court Order.





(3) By collaborative practice

If the parties do not want to engage a mediator, but wish to work closely with each other towards a settlement with their respective lawyers involved, parties can elect to participate in collaborative practice.

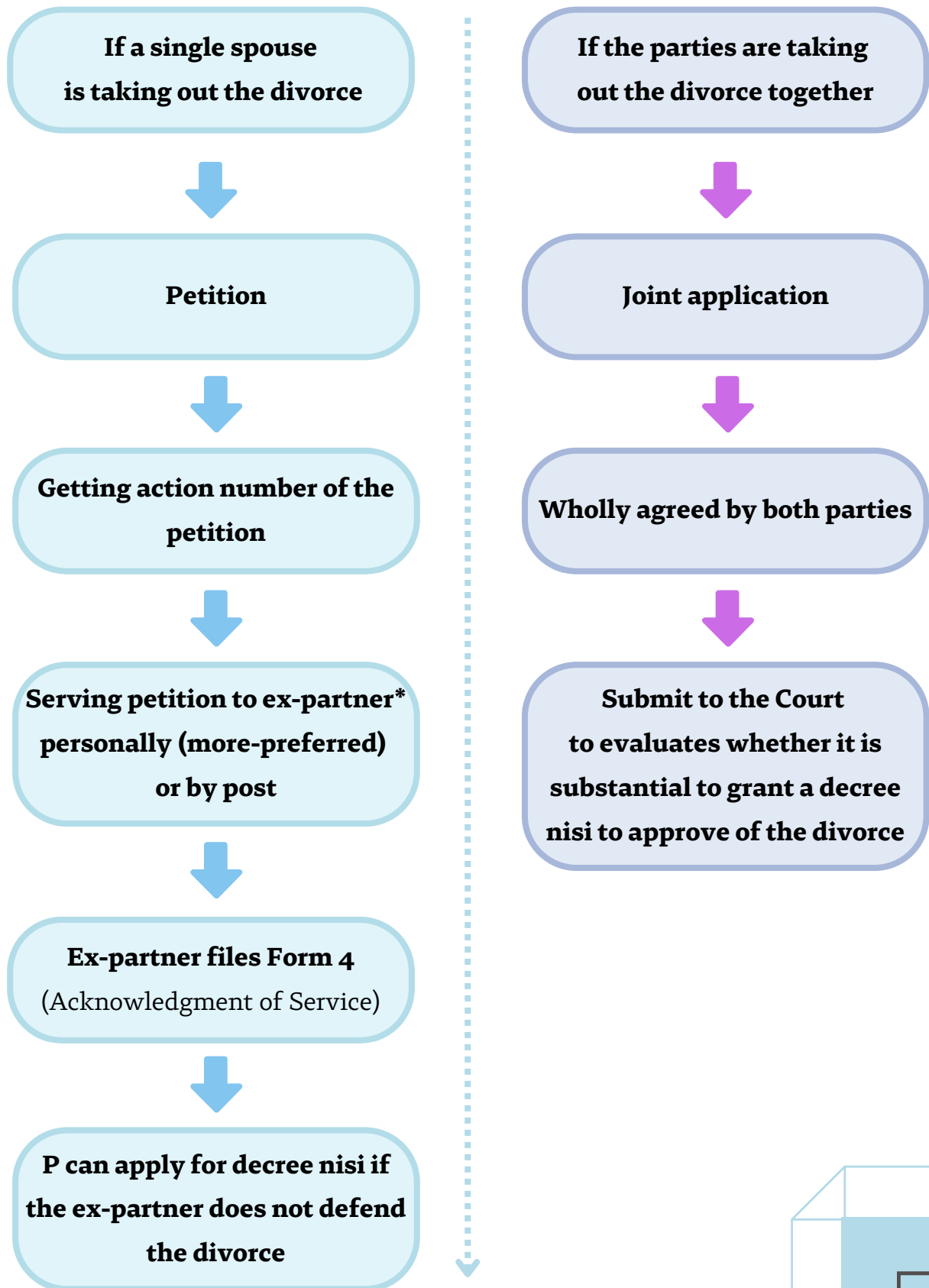
Parties will have to sign a participation agreement to enter into a collaborative practice.

If collaborative practice fails, the parties cannot engage the same lawyers to continue with the divorce proceedings.



Starting a Divorce

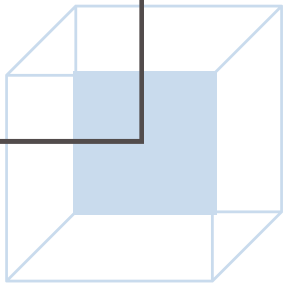
Settlement Negotiations (optional but highly recommended)



All forms can be found in the Family Court Registry.

(https://www.judiciary.hk/en/court_services_facilities/fcf.html)

*Matrimonial Causes Rules r.14(1)



DISCOVERIES ON LEGAL ISSUE 02

Children - Custody, Care & Control and Access



What is “custody”?

Custody refers to the right of a parent to make **the major decisions** in a child’s life, e.g. their education, healthcare, religion, relocation, etc. Custody orders terminate when the child reaches the age of 18 years.

What are the main forms to be filled in?

Single fathers should fill in a **Statement as to Arrangement for Children** [i.e. **Form 2B (for a petition)** and **Form 2D (for joint application)**] and file it together with the Petition or Joint Application. If children’s matters are not resolved by settlement prior to the proceedings, then each party will also have to fill in a **Form J (Children’s Form)**.

All forms can be found in the Family Court Registry.

(https://www.judiciary.hk/en/court_services_facilities/fcf.html)

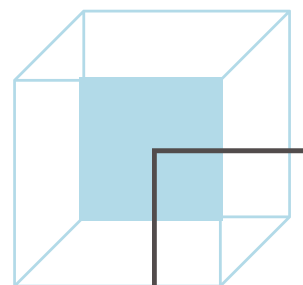
Children - Custody, Care & Control and Access



Guiding principle: The best interest of the children

Major Factors Influencing Custody Decisions:

- the preservation of the status quo
- the strong bond that the child has developed with her/his “main caregiver”
- child’s wishes (The courts sometimes rely on reports from Social Welfare Officers or psychologists.)
- sibling unity
- the age of the parents and the child
- the capability and personality of the parent



Sole Custody and Joint Custody

In contested proceedings, the vast majority of the custody orders in HK right now is **joint custody**.

Question 1

What is the major difference between sole custody and joint custody?

With both joint custody and sole custody orders, both parents have to discuss and consult with each other regarding the major decisions for the child.

The only difference between joint custody and sole custody is that, the parent with the sole custody order has the right to make the final decision in case there is a disagreement.

Question 2

Who can apply to court if children's matters can not be resolved in joint custody or sole custody situations?

In joint custody situations, if agreement cannot be reached, either party will have to apply to court.

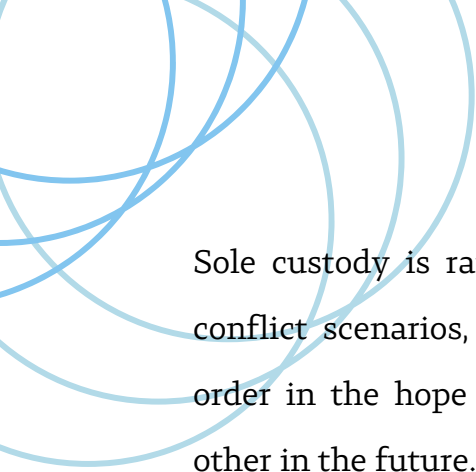
In sole custody situations, if the custodial parent makes a decision without informing the other parent or which the other parent does not agree is in the best interest of the children, the non-custodial parent can apply to court.

Question 3

Should I apply for a sole custody order? Is it common to do so?

Scenarios for sole custody:

- a. Where the parents cannot effectively communicate;
- b. When one parent wants to relocate with the children, and the country to which they are moving may need the order;
- c. When there are special concerns about a child's welfare, e.g. when it is suspected that a child would be, or has already been, removed from Hong Kong



Sole custody is rarely granted in contested child proceedings. Even in high-conflict scenarios, the Court might still make an “aspirational” joint custody order in the hope that the parties can work towards co-operating with each other in the future.

What is “care and control”?

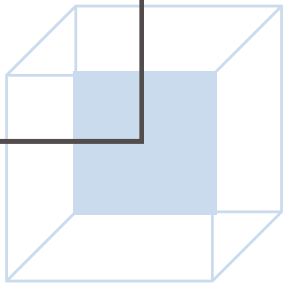
Care and control generally refers to the **more mundane, day-to-day care** of the child, e.g. what they eat, what they wear, when they go to bed for sleep etc. The child will live with the parent to whom care and control is granted.

Sole Custody: The court tends to make orders for “care and control” to the party having “sole custody”.

Joint Custody: While a “joint custody” can be granted to both parties, the order for “control and care” can vary. Traditionally, it is common to give care and control to one party, and for the other party to have access. Nowadays, shared care and control becomes increasingly popular – this is where the parents share their time with the children on more or less a 50/50 basis. In such circumstances, the children will usually be living in 2 households, spending 50% of their time in each household.

What is “access”?

Access refers to the right of the children to see the parent without care and control. If the parties are able to arrange access arrangements between themselves, they can ask for the Court to order “reasonable access” for the non-custodial parent. Otherwise access can also be specifically defined, and in some circumstances it can be supervised.



DISCOVERIES ON LEGAL ISSUE 03

Divorce - What is Maintenance?



The court can make an order for maintenance payment to either party to the marriage. The aim of the maintenance is to enable the other party to pay for the living expenses of himself or herself or any child of the family.

Maintenance orders can be divided into **(1) spousal maintenance** and **(2) child maintenance**.

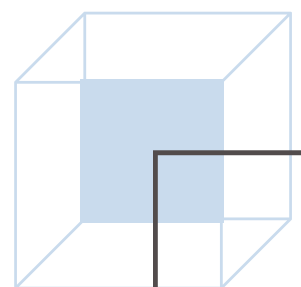
Maintenance for the benefit of the husband or the wife is called **(1) spousal maintenance**. When assessing which party to receive maintenance fees, the court will consider various **factors** listed on **s7(1) of the Matrimonial Proceedings and Property Ordinance**:

- Income, earning capacity and other financial resources in the foreseeable future
- Financial needs, obligations and responsibilities in the foreseeable future
- Standard of living enjoyed by the family before the breakdown of the marriage
- Age of the parties
- Duration of the marriage
- Physical or mental disability
- Contributions made to the welfare of the family
- Any benefits which the party would lose by reason of divorce (pension, housing and medical benefits provided by other party's employer)

Maintenance for the benefit of the child of the family is called **(2) child maintenance**. When assessing whether such order to be granted, the court will take into account the **factors** listed on **s7(2) of the Matrimonial Proceedings and Property Ordinance**:

- Financial needs of the child
- Income, earning capacity, property and other financial resources of both parties of the marriage
- Physical or mental disability of the child
- Standard of living enjoyed by the family before the breakdown of the marriage
- Expectation of how the child to be educated from both parties

Both parties has a continuing duty of **full and frank disclosure** on their finances. Failure to comply is very damaging and might result in adverse consequences. In **CCY v. TJ [2022] HKFC 102**, the applicant failed to disclose and explain some of his other financial (potential assets) and monthly expenses. The court gave a judgment against the applicant and he had to pay the costs of the other party.





DISCOVERIES ON LEGAL ISSUE 04

Can I Vary My Maintenance Payment?

Since 2019, the pandemic has crushed the economy and society of the world. A lot of people may be forced to take unpaid leave, accept a reduction in salary or even be laid off. What should we do if we can not afford paying the maintenance, or if we do not receive enough maintenance?

Under these circumstances, you may seek to vary your maintenance payment.

What do I need to prove?

To ask for a variation, you need to show that there has been a "material change in circumstances", such that it is fair and reasonable for the maintenance to be increased or reduced.

The court will look at all the circumstances of the case, including but not limited to the following:

RELEVANT FACTORS

- **Continuing inflation**
- **Cost of raising a growing child**
- **Adverse effect due to increase cost of living of the parties**
- **Potential income of the parties**
- **Accumulated wealth of the parties**
- **Obligation to new family**
- **Duty and rights of the parties in their mediation agreement**

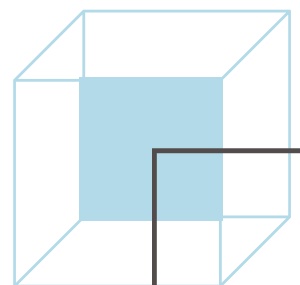




Again, parties should always try to agree on the variation before they go to Court. There is also a continuing duty to give full and frank disclosure on their financial positions.

We recommend that single fathers should keep good records of their financial information (e.g. tax return, salary payroll slips, bank statements, credit card statements e.t.c.) as they may be used as evidence in court.

Single fathers may obtain legal advice from lawyers to evaluate whether they have a strong case for variation of maintenance. If you require more assistance, please feel free to contact us, or you may seek help from lawyers with expertise in Family Law.

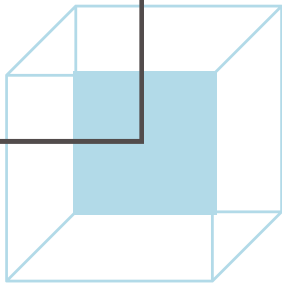




Discoveries on

Life Issues

- 01 Clothing: How to Remove Different Stains from Clothes?
- 02 Food: How to Make a Nutritious Lunch Box?












DISCOVERIES ON LIFE ISSUE 01

-- CLOTHING --

How to Remove Different Stains from Clothes?

Don't leave the stain until tomorrow! Please handle it as soon as possible!

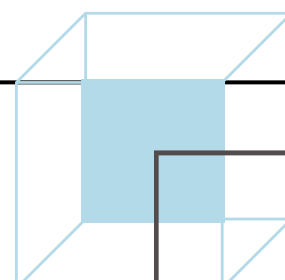
Types of Common Stains	Ways to remove
<p>Food Stains</p> 	<ul style="list-style-type: none"> • For Coffee, Tea, Juice, Red Wine Stains → White Vinegar • For Oil Stains → Dishwashing Detergents + Water • For Soy Sauce Stains → Baking Soda + Water • For Curry Stains → Toothpaste
<p>Sweat Stains</p> 	<p>(1) White Vinegar + Crude Salt + Water</p> <ul style="list-style-type: none"> • Mix vinegar and water • Drench stain in vinegar and water mixture • Rub the stain with crude salt • Rinse and wash with water thoroughly  <p>(2) Baking Soda + Water</p> <ul style="list-style-type: none"> • Mix baking soda with water → a paste (with the ratio of 2:1) • Scrub it into the stain with a toothbrush • Rinse and wash with water thoroughly  <p>(3) Shaving Cream</p> <ul style="list-style-type: none"> • Dab some shaving cream onto the stain • Gently scrub it for 1-2 minutes • Rinse and wash with water thoroughly 

Types of Common Stains	Ways to remove
<p>Makeup Stains</p> 	<p>When you get a fresh spill that hasn't had time to dry, please try:</p> <ul style="list-style-type: none"> • Makeup Wipe (available in pharmacies and cosmetic stores) • Makeup Remover Solution • Detergent, Soap <p>Big Tips: Applying cleansing oil to makeup stains on clothes is a big no-no as the oil will remain on the stained area making the previous stain more difficult to be removed.</p>
<p>Period Blood Stains</p> 	<p>When you have stains on clothes, please try:</p> <p>(1) Baking Soda + Water</p> <ul style="list-style-type: none"> • Mix baking soda with water (with the ratio of 2:1) • Apply the poultice directly to the stain • After removing the paste, carefully blot the area with a dry tissue paper/paper towel • Rinse and wash with water thoroughly  <p>When you have stains on furniture (e.g. sofa, couch)</p> <p>(2) Toothpaste</p> <ul style="list-style-type: none"> • Apply toothpaste to the stains • Scrub it with a toothbrush • Allow the area to sit for 3-5 minutes • Rinse and wash with cold water thoroughly  <p>Big Tips: Using hot water on fresh blood stains is a big no-no as it will encourage the proteins to set the stain into the fabric even more.</p>

For **lighter colored clothes**,

hydrogen peroxide and **lemon juice** are great options to remove old, dried blood stains.

However, they can cause colours to bleach if not monitored closely, so best to use them for lights only.



DISCOVERIES ON LIFE ISSUE 02

-- FOOD --

How to Make a Nutritious Lunch Box?






Lunch boxes are crucial for students and workers to achieve a balanced diet during the daytime. We have prepared some tips here to let adults and children have nutritious meals at ease.

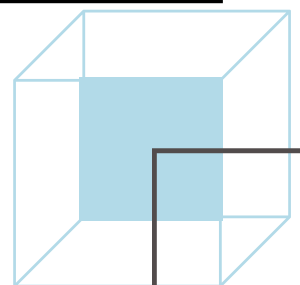
First of all, children of different ages need to acquire different proportions of nutrients for each meal. Generally, primary school pupils need 600 to 650 calories, while secondary school students need 700 to 900 calories.

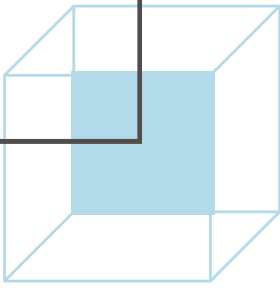
Lunch boxes are recommended to be prepared in the morning if possible. For cooked or leftover food readied one night before, utilizing public chopsticks to put the needed amount of meal into the meal box before dining can avoid the risk of bacterial breeding due to saliva.

For the selection of food materials, we can refer to the principles of the food pyramid. The proportion of staple food (such as rice and noodles), vegetables, and meat should be in 3:2:1. The following table lists out some of the suggestions for healthy food materials for your reference:

Categories	Recommended Choices of Food
<p data-bbox="279 387 403 421">Protein</p> 	<p data-bbox="544 331 1410 696">The primary choices here are bean products. Then, we can have decorticated chicken meat, chicken fillet, lean meat, fish, fish fillet, shrimp, tofu and other high-quality proteins, with both rich nutritional value and low fat. It is suggested to avoid consuming processed and canned meat which contain high fats and sodium, such as sausages, bacon, lunch meat, tempeh dace, etc.</p>
<p data-bbox="228 831 453 864">Carbohydrate</p> 	<p data-bbox="544 775 1410 1081">Red rice, brown rice, quinoa, corn, sweet potato, spaghetti and other staple foods are high in fiber content and satiety, providing sufficient energy for brain and muscles to exercise. Serving as alternatives which can be easily prepared, wheat bread, corn, and rice noodles are also preferable.</p>
<p data-bbox="248 1301 432 1335">Vegetables</p> 	<p data-bbox="544 1164 1410 1686">As the reheating process of green leaf vegetables produces high nitrate content, green jade melon, palm melon, balsam pear and other melon vegetables with low nitrate content can be selected for making lunch boxes. These vegetables contain high fiber content, while their taste will not change easily even after reheating. Besides, root vegetables such as carrots, pumpkins and sweet potatoes contain lipid-soluble vitamins, which make it less possible to lose nutrients during heating. They, therefore, are good choices for meals.</p>

In addition, students who love doing exercise or participating in physical activities should be supplemented with more iron. This can be achieved by eating more beef, egg yolk, dark green vegetables, etc. If you want to maintain a clear vision along with strengthened memory, it is recommended to eat high-fat fishes, walnuts, soybeans and other foods containing Omega-3. Parents can also tailor dishes for children according to their tastes and actual needs.





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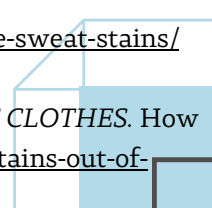
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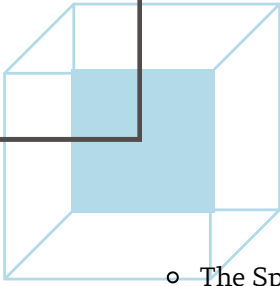
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Law for Change Student Competition 2022



Presented by

Team WholeHearted

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