

**For information  
on 23 April 2014**

**Legislative Council Panel on Education  
Subcommittee on Integrated Education**

**Legislation for Protecting Students with Special Educational Needs**

**Purpose**

This paper sets out the Administration's views on the proposed legislation for protecting students with special educational needs (SEN).

**Background**

2. At present, arrangements regarding legislation for students with SEN among different countries and places are diverse. Some countries and region such as the United Kingdom (UK), United States (USA) and Taiwan have legislative framework for the education of students with SEN for purposes of eliminating discrimination, early identification, ensuring necessary services and assistive equipment for students with SEN, arranging teacher training, engaging parents in the planning, implementation and evaluation of the support services for their children, and establishing clear management and assessment requirements.

**Integrated Education Policy**

3. The Hong Kong Government is currently adopting a dual-track mode in implementing special education. The Education Bureau (EDB) will, subject to the assessment and recommendation of specialists and with parents' consent, refer students with more severe or multiple disabilities to special schools for intensive support services. Other students with SEN may attend ordinary schools. In accordance with the Disability Discrimination Ordinance (DDO) and the Code of Practice (CoP) on Education, it is unlawful for educational establishments to discriminate against a person with a disability. As such, all educational establishments are obliged to provide equal educational opportunities for eligible students, including those with SEN. In other words, the existing legal framework in Hong Kong can basically serve as an effective safeguard for the rights of students with SEN.

4. On early identification and intervention for students with SEN, similar to the practice of countries and regions where legislations for students with SEN are already in place, relevant Government departments in Hong Kong collaborate to ensure orderly service

delivery within their respective professional ambit, including provision of assessment, treatment and referral services for students with SEN, as well as arrangement of rehabilitation services and family support services for them.

5. On school education, the EDB implements integrated education (IE) in accordance with five basic principles, namely early identification, early intervention, Whole School Approach (WSA), home-school co-operation and cross-sector collaboration. Under these basic principles, schools provide for their students the most suitable learning environment and teaching adaptations in the light of their learning needs, cultivate an inclusive culture in schools, and adopt the 3-Tier Invention Model to cater for students' learning needs. The WSA adopted in Hong Kong is in line with the global trend in the development of IE.

6. To facilitate schools in implementing IE, the EDB has been providing ordinary schools with additional resources, professional support and teacher training. The additional resources include the Learning Support Grant (LSG), Enhanced Speech Therapy Grant and additional teachers provided under various programmes. Schools may pool together and flexibly deploy the LSG and other school resources for employing additional teachers, teaching assistants or hiring professional support services to render appropriate support to students with SEN. Schools may apply to conduct repair/alteration works on their school facilities and install barrier free facilities such as lifts. Schools may also apply for Top-up Fund to procure special furniture and equipment or carry out minor conversion works for students with SEN. Besides, professional support is provided on an ongoing basis through assessment and consultation services of educational psychologists, speech therapists and audiologists. We also published the Operation Guide on the Whole School Approach to Integrated Education, which provides guiding principles and practicable strategies for ordinary schools to formulate policies, measures and evaluation mechanisms for achieving the objective of inclusion. Moreover, the EDB provides serving teachers with training courses pitched at basic, advanced and thematic levels with training targets, establishes school networks for sharing of good practices and develops teaching and learning resources for teachers and parents with a view to enhancing the professional capacity of teachers in catering for students with SEN. The ambit of the relevant support and services is in line with that achieved through legislation in the countries and region mentioned in paragraph 2 above.

7. Regarding co-ordination and monitoring of support services, under the existing IE education policy, schools in Hong Kong have in general put in place mechanisms for planning, implementing and evaluating support services for students with SEN. These include, for example, setting up of student support teams, promoting the inclusive culture, formulating appropriate programmes to enhance students' learning outcomes, pooling and deploying resources flexibly, monitoring the use of resources, and reviewing the quality of various support measures.

8. In addition, under the School Development and Accountability Framework, schools are required to assess the effectiveness of their policies and measures, including support services for students with SEN, through self-evaluation each year. The self-evaluation results will be verified through EDB's external school review. We also require schools to submit an annual self-evaluation report on the implementation of the WSA to IE at the end of each school year. To further enhance transparency, schools are required to set out in their annual reports how resources are deployed to provide support services for students with SEN. Moreover, EDB professional staff conduct regular visits to schools and arrange consultation as well as training and sharing sessions during these visits to ensure effective deployment of resources for supporting students with SEN.

9. Communication and co-operation between parents and schools are essential for supporting students with SEN. To enhance parents' understanding of their roles, the EDB has compiled the Parent Guide on Whole School Approach to Integrated Education, providing parents with information on the procedures for identifying and assessing different types of SEN and on various support strategies. The Operation Guide on the WSA to IE reminds schools about the need to establish a systematic and regular communication mechanism with parents in order to strengthen communication and co-operation with them. Schools should involve parents in the planning, implementation and evaluation of intervention programmes by, for example, inviting parents to case conferences and reporting to them regularly the learning progress of their children, etc. To ensure equal opportunities in education for students with SEN, the EDB has established a 3-tier mediation mechanism which comprises the School-based Complaint Procedure, Mediation Mechanism of the EDB and Case Study Group to assist schools and parents in resolving disputes.

### **Overseas Experience**

10. As mentioned in paragraph 2 above, the UK, USA and Taiwan have established legislation for the education of students with SEN. However, there are views in these countries and region that while the relevant legislations have laid down the basic requirements for promoting special education, they fail to ensure the quality of special education services. For instance, the legislations cannot ensure that students with SEN are being accepted or treated equally and funding is used properly. Findings of a survey report in UK<sup>1</sup> reveal that professional training and development of teachers should be enhanced to better support students with SEN. Furthermore, some resources earmarked for support services and teaching were used for assessment and administrative purposes. Despite the fact that their children's rights were protected by law, some parents still had to fight for necessary support earnestly resulting in a lot of resource wastages in the course. In some areas in the USA,

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<sup>1</sup> Department for Education (2011). Support and aspiration: A new approach to special educational needs and disability – A consultation.

schools had to cut funding for ordinary education in order to fulfill legislative requirements on protecting students with SEN. In other places, upon the enactment of the relevant legislations, attention was diverted to the related rules, forms and clerical works. Some teachers also considered that the content and format of individual education plans were too complicated and trivial, and compilation of these plans had taken up a lot of their time. Even worse, a single individual education plan was adopted for all the students concerned in a class thus affecting the teaching effectiveness. All these reflect that effective protection of the learning of students with SEN may not necessarily be actualized through legislation.

### **Legislative Implications**

11. Overseas experiences suggest that legislation will bring about extra stress and administrative workload for both schools and teachers. Schools have to spend time to understand the legislative requirements in order to ensure their support for students complies with the law. This will definitely affect service effectiveness in comparison with the current principles adopted by the schools on the basis of providing services to the students in the light of their needs. Furthermore, schools have to earmark resources for dealing with issues arising from legislation, such as resources for explaining the law and handling legal actions. Such works are not conducive to enhancing the effectiveness of support and may generate pressure on home-school co-operation. Approaches in teaching and support for students are developmental, and experiences can only be accumulated through reflections on practices and action researches. Although different people have different interpretations on whether legal actions will arise from experimentations of new teaching and management approaches, due consideration should be given to the fact that teachers may err on the safe side for fear of possible legal action. In fact, schools can currently exercise their professional judgement and determine the tier of support required by their students under the 3-Tier Intervention Model according to the students' needs and provide them with the necessary services. Schools have also established a communication mechanism with parents to cater for the needs of their students. Regarding students in need of Tier-3 support, their parents will be invited to attend meetings with teachers and professionals to establish and review the individual education plans of the students concerned. Hence, it is clear that students with SEN have been provided with appropriate support services by their schools and the support services they have received will not be affected by whether legislation will be introduced.

### **Conclusion**

12. Following the implementation of the DDO and the CoP on Education, the existing legal framework in Hong Kong can basically serve as an effective safeguard for the rights of students with SEN. As regards the proposal for introducing legislation for students with SEN, different countries or regions have different arrangements. In view of the difference in

education systems, contexts and culture and the fact that different systems may give rise to different problems, we consider it more appropriate to focus, at this stage, on exploring how support measures for implementing IE can be further strengthened so that students are provided with more appropriate services. From an educational perspective, it will be more effective for schools to adopt WSA in implementing IE to improve their culture, policy and measures, which in turn enhances the effectiveness of support for students with SEN.

### **Views Sought**

13. Members are invited to note the contents of this paper.

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