

October 25, 1999

To: Members of the Hong Kong Legislative Council
Panels on Home Affairs and Education
Fax: 2509-9055

The undersigned members of the Faculty of Law, University of Hong Kong, write to express our dismay that the Education Department still has not announced any plans to amend its system of allocating students to secondary schools, so as to eliminate sex discrimination and comply with the Sex Discrimination Ordinance.

The Equal Opportunities Commission has released its *Formal Investigation Report: Secondary School Places Allocation (SSPA) System*. The investigation revealed that the Education Department does not treat students' applications to secondary schools equally. A different "cut-off" score is applied for admission to schools, depending upon the sex of the applicant. In some cases, individual boys are discriminated against because of their sex. But in *far more* cases, girls are discriminated against because of their sex: they are regularly denied admission to a desirable school, despite the fact that they have achieved *higher scores* than boys who are admitted to that school. As a result, in 1998 alone:

2,155 more boys than girls were admitted to their first choice of school.

2,469 more boys than girls were admitted to one of their first three choices of schools (see page 22 of the EOC's Formal Investigation Report).

This discrimination constitutes a blatant violation of the Sex Discrimination Ordinance, as well as the Basic Law, the Bill of Rights Ordinance, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Discrimination Against Women. It appears that the Government has been secretly practicing "affirmative action" on behalf of boys. But affirmative action is only justified under the law when practiced on behalf of a group that has suffered discrimination. It is obviously women, not men, who have suffered discrimination in our society - in the family, in education, and in the workplace. As a result, men still earn more than women in Hong Kong and occupy a larger share of senior positions. The Government's policy of giving boys preferential treatment when they apply to secondary school helps to perpetuate women's inferior position in society, as it is well known that the band of school that a student attends significantly impacts upon his or her future opportunities.

The Hong Kong Government is not above the law. The Sex Discrimination Ordinance expressly prohibits sex discrimination in the processing of applications to educational institutions (s. 25). The Ordinance also prohibits sex discrimination by the Government "in the performance of its functions or the exercise of its powers" (s. 38). The Government has been aware for some time that it is in violation of the law. By now

the Education Department should have announced that in the next academic year it will cease all preferential treatment of boys' applications to secondary schools. The fact that it has failed to make such an announcement raises the concern that the Government may intend to seek yet another exemption from the terms of the Sex Discrimination Ordinance. We urge members of the Legislative Council to reject any such request, as it would make a mockery of the Sex Discrimination Ordinance and deny Hong Kong girls one of the most fundamental of their rights.

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