

教 育 統 籌 局



EDUCATION AND MANPOWER BUREAU

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10 February 2003

Clerk, Public Accounts Committee
(Attn: Miss Sandy CHU)
Legislative Council
Legislative Council Building
8 Jackson Road
Hong Kong

Dear Miss Chu,

**Director of Audit's Report on
Results of Value for Money Audits (Report No. 39)
Chapter 10 : Primary Education – Administration of Primary Schools**

I refer to your letter dated 30 January 2003 on the caption and would like to provide the following additional information for the consideration of the Public Accounts Committee –

- (a) A summary of the various requirements relating to the appointment of teaching staff specified in the Education Ordinance, the Education Regulations, the Code of Aid and standing circulars referred to in Section III of the prescribed form for appointment of teaching staff in aided schools together with a copy each of the relevant provisions/requirements is at the Annex.

(b) It is laid down

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- _____ (b) It is laid down in Appendix A to Administration Circular No. 2/98 (copied at Attachment 4(b) to the Annex) that school management committees should require their members and school staff to report any situations where they or their immediate family members have an interest in any matter under consideration by the school (including staff appointment), and should, on receipt of any disclosure of interests, consider whether or not the member or school staff concerned should be directed to withdraw from participating in the further consideration of the matter in respect of which the conflict arises. The *Points to Note in Handling Appointment Matters* attached to Administration Circular No. 32/2000 (copied at Attachment 4(c)) repeats the need for the selection panel members to declare any conflict of interest that may arise in staff appointment situations. It further states that any person who and whose family member has an interest in the appointment must be excluded from the selection panel. It also includes other specific circumstances that may constitute a conflict of interest.
- _____ (c) In addition to the confirmation made by the Supervisor currently included in Section III of the prescribed appointment form, we shall insert a clause that requires the Supervisor to declare that the appointment has been approved by the majority of the SMC, and that his/her school has followed our guidelines for staff appointment, including adopting an open, fair and competitive appointment system. A warning clause will be included to alert supervisors that making false declaration is maladministration. According to the Education Ordinance, if a school is found not being managed satisfactorily, the Director of Education may serve a notice to the supervisor and every other manager of the school concerned. Any person failing to comply with any notice served shall be guilty of an offence and shall be liable on conviction to a fine of \$250,000 and to imprisonment for 2 years. We plan to have the revised appointment form ready for use by aided schools in April/May 2003 when appointment of new teachers for the coming school year is expected to commence. Our proposed insertion serves to forewarn schools that they should ensure strict observance of the relevant provisions/requirements before making any offer of appointment.

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It is not our priority area to conduct management audit to schools. However, we will continue to conduct investigation into reported cases of irregularity and take appropriate follow-up action. As schools are now operating under a more open, accountable and participatory management structure, they should be held accountable for any malpractices.

Yours sincerely,



(M. Y. CHENG)

for Permanent Secretary for Education and Manpower

c.c. Secretary for Education and Manpower
Director of Audit

**Summary of Provisions/Requirements Relating to
Teacher Appointment in Education Ordinance, Education Regulations,
Codes of Aid and Standing Circulars**

<i>Reference of provision(s) and requirement(s)</i>	<i>Summary of provision(s)/requirement(s)</i>	<i>Attachment</i>
(I) Education Ordinance		1
(i) section 39(2)(d) and (e)	The supervisor shall within 1 month after the happening of such event give notice to the Director if – <ul style="list-style-type: none"> any teacher commences to teach or is employed to teach at the school; and any teacher ceases to teach or ceases to be employed to teach in the school. 	
(ii) section 42(1) and (2)	No person shall teach in a school unless he is a registered teacher or a permitted teacher. No permitted teacher shall teach in a school otherwise than in accordance with the conditions or limitations specified in the permit to teach issued in respect of such teacher.	
(iii) section 48	An application to employ a permitted teacher may only be made if there is no suitable registered teacher available for employment as a teacher in the school.	
(iv) section 58A	Employment of persons who would be aged 60 years or more at the commencement of employment as a permanent teacher within the teaching staff establishment of an aided school is prohibited.	
(II) Education Regulations		2
(i) regulation 68	The qualifications for a registered teacher shall be the qualifications specified in Part I of the Second Schedule.	
(ii) regulation 69	The qualifications for a permitted teacher, other than a permitted teacher to whom regulation 70 ... applies, shall be qualifications specified in Part II of the Second Schedule.	
(iii) regulation 70	The qualifications for a permitted teacher teaching English shall be the qualifications specified in Part III of the Second Schedule.	

<i>Reference of provision(s) and requirement(s)</i>	<i>Summary of provision(s)/requirement(s)</i>	<i>Attachment</i>
(iv) regulation 76	The appointment ... of any member of the teaching staff of any school shall be determined by a majority vote of all the members of the management committee of that school.	
(v) regulation 77	The supervisor shall be responsible for issuing to all teachers letters of appointment, which shall set out the conditions of service, salary scale and conditions of termination of appointment.	
(vi) regulation 78	The supervisor shall be responsible for ensuring that the salaries of all teachers are paid in full when due.	
(III) Code of Aid for Primary Schools		3
(i) section 49	Staff appointment shall be in accordance with regulations 76, 77 and 78 of the Education Regulations, in conformity with the Code of Aid and in accordance with such instructions and the Director may from time to time issue.	
(ii) section 50	The approval of the Director is required for the appointment of a Head.	
(iii) section 51(a) and (b)	All teachers (other than supply teachers) shall, before appointment, undergo a medical examination and a chest X-ray examination. Serving registered teachers on transfer from one aided school to another without break of service will not be required to attend an X-ray examination or present a medical certificate on appointment.	
(iv) section 53	The Head shall inquire into, examine and verify the qualifications and previous experience of an applicant for appointment as a teacher. He shall also verify the date of birth of any person employed as a teacher.	
(v) section 54	This section sets out the qualifications required for eligibility for employment as a teacher.	
(IV) Standing Circulars		
(i) Administration Circular	Schools are advised to require each staff member, before appointment, to undergo a medical examination, including	4(a)

<i>Reference of provision(s) and requirement(s)</i>	<i>Summary of provision(s)/requirement(s)</i>	<i>Attachment</i>
No. 48/97	a chest X-ray examination. X-ray examination may, however, be exempted under certain circumstances.	
(ii) Administration Circular No. 2/98	Appendix A to this Administration Circular provides general guidelines on the acceptance of advantages and related matters. It includes that the SMC of a school should never accept or permit an advantage connected with the appointment of school staff. Also, the SMC should require their members and school staff to report any situations where they or their immediate family have an interest, financial or otherwise, in any matter under consideration by the school. On receipt of any disclosure of interests, the SMC should consider whether or not the member of school staff concerned should be directed to withdraw from participating in the further consideration of the matter in respect of which the conflict arises.	4(b)
(iii) Administration Circular No. 32/2000	The authority to approve appointments and salaries of staff on the Salaries Grant payroll (except for certain categories of teachers) in accordance with the conditions of the Code of Aid and standing circulars has been devolved to the School Management Committees (SMCs) of aided schools. The circular further provides a <i>Points to Note in Handling Appointment Matters</i> so as to enable aided schools to formulate a set of open, fair and formal procedures, including handling of applications received, short-listing of candidates, setting up of selection panels and assessment of candidates, etc.	4(c)
(iv) Administration Circular No. 36/2002	This circular announces the revised procedures for registration of teachers, whereby teachers of aided schools, etc are no longer required to attend interview with the Registration Section during the vetting process if their teacher registration applications are accompanied by photocopies of specific documents endorsed "Original seen" by school supervisors/heads. In this connection, schools are reminded to check that the qualifications and experience claimed by an applicant for appointment or registration as a teacher are genuine. Further, no medical/X-ray report needs to be attached to the application forms though schools should check the validity of such.	4(d)

***Note by Clerk, PAC:** Attachments to Annex not attached.