

For discussion  
on 11 November 2013

## **Legislative Council Panel on Education Mechanism of Handling Complaints against Special Schools**

### **Purpose**

This paper informs members of the mechanism adopted by the Education Bureau (EDB) for handling complaints against special schools.

### **Complaint Handling Procedures**

2. When the EDB receives written or verbal complaints from members of the public against schools (including special schools), the cases will be recorded and filed, and the complaints will be handled by the Bureau according to the established procedures.

3. Public complaints may touch upon a wide range of matters. For complaints about the Education Ordinance (e.g. teacher registration), education policies and services directly provided by the EDB, they will be handled directly by the Bureau. If the complaints are about daily operation and internal matters of schools, the EDB will, after securing the complainant's consent, refer the case to the school concerned and require the submission of a report/response within a reasonable timeframe. In this connection, the EDB has issued the School Administration Guide to aided schools, which requires schools to establish complaint handling procedures, designate suitable persons to handle the complaints in the light of their nature<sup>1</sup> and make prompt response to the complaints.

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<sup>1</sup> If the subject of complaint is a staff member, the principal/designated officer will normally be responsible for the investigation and the report/response will be submitted by the principal. If the complaint is against the principal, either the school supervisor or the School Management Committee (SMC)/Incorporated Management Committee (IMC) will be responsible for the investigation and submission of the report/response. If the complaint is lodged against the school supervisor or the SMC/IMC, the EDB will instruct the school sponsoring body (SSB) concerned to take follow-up actions and submit the report/response.

4. Notwithstanding the aforesaid procedures, the EDB may initiate direct investigation if the complaint is of a serious nature where students' safety may be endangered or school operation severely undermined, or under special circumstances where maladministration of the School Management Committee (SMC)/Incorporated Management Committee (IMC) or grave mismanagement of the school are implicated. For instance, the EDB has recently received complaints against a school from a number of its alumni, students and their parents regarding various incidents happened in the school over the years. In view of the serious nature of some of the allegations (including assaults and bullying of students by individual teachers and unjust handling of the cases by the school), the EDB has formed a special investigation team to conduct direct investigation on the complaints.

5. In general, upon receiving the report/response from the school authority (including the School Sponsoring Body (SSB)), the EDB will examine its contents to ensure that suitable persons have been assigned by the school to handle the complaint in accordance with the established procedures. The relevant information and justifications will also be screened to ensure that the report/response is fair and comprehensive. If necessary, the EDB will seek further clarifications/information from the school. In cases where the school's report/response is found to be inadequate, the EDB will ask for relevant information direct from parties involved (such as the complainant, school, SSB, etc.), and/or interview relevant persons in order to gain a thorough understanding of the incidents. The EDB will consolidate the relevant information and the findings of the investigation report before drawing up a conclusion and making necessary recommendations. It will then provide the complainant with a written reply. If the complainant does not accept the investigation findings, he/she is entitled to lodge an appeal on condition that new justifications are raised. In response, the EDB will assign suitable officers to conduct an investigation afresh in accordance with the established procedures.

6. For complaints which involve other legislations in Hong Kong, the EDB will advise the complainant to lodge a complaint to the related department/organisation (e.g. the Hong Kong Police Force, the Independent Commission Against Corruption, the Equal Opportunities Commission, etc) direct, or the EDB may make a direct referral of the case to relevant department/organisation. If the complainant has already lodged a complaint with other government department/organisation, or the complaint issue is

already under legal proceedings, the EDB/school will not start another investigation. As regards the specific case mentioned in paragraph 4, the findings of the EDB's direct investigation revealed that the teacher concerned had made unnecessary physical contacts with students, which caused injury to them. Since this may constitute a criminal offence, the EDB has referred the case to the police for handling.

7. As mentioned above, complaints received may cover a wide scope. Schools should handle each case in a lawful, equitable and sensible manner according to the established procedures. In the light of the situations of individual schools, the EDB staff will provide schools with appropriate support on complaints handling, monitor schools' progress in handling complaints or initiate direct investigation into a complaint under special circumstances (see paragraph 4 for details).

### **Follow-up Actions on Substantiated Complaint Cases**

8. Under the Education Ordinance, schools shall be managed by their SMC/IMC. The EDB requires by law that all aided schools shall establish a governance framework comprising major stakeholders (including representatives of the SSB, the principal, teachers, parents, alumni and independent persons) to make decisions on school matters collectively, appoint suitable teaching and non-teaching staff as well as decide their terms and conditions of employment. Therefore, the SMC/IMC shall handle with prudence in the capacity as an employer, all appointment/employment matters pertaining to teaching and non-teaching staff, including arrangements on suspension of duties in accordance with the Education Ordinance, relevant Codes of Aid and Employment Ordinance.

9. The Codes of Aid have set out the relevant procedures for compliance by schools when taking disciplinary actions against their staff. Relevant legislation requirements, such as the Employment Ordinance and Education Regulations, should also be observed. As an employer, the SMC/IMC of a school should clearly convey to all staff its expectations over their conduct and performance on a regular basis through a variety of channels. In tandem, schools should formulate clear mechanism and procedures for handling teachers' misconduct and the mechanism must be fair and equitable, and made known to all teaching staff.

10. The School Administration Guide issued by the EDB also provides aided schools with guidelines on staff management issues, including the general principles for instituting disciplinary actions against staff misconduct. For established cases of unsatisfactory performance or misconduct, the SMC/IMC of aided schools may take disciplinary actions against the teachers concerned. Depending on the severity of the case, the disciplinary actions may take the form of verbal or written warnings, suspension of duties, dismissal or summary dismissal. If a school eventually decides to dismiss the teachers concerned on grounds of unsatisfactory performance, it should ensure that the decision is fully justified and adequate warnings and reasonable opportunities for improvement have been given to the teacher concerned. On the other hand, decisions of summary dismissal must be substantiated by reasonable grounds, such as established serious misconduct (e.g. convicted criminal offence or willful disobedience of instructions, etc.).

11. For complaints against teachers' misconduct, if the teacher concerned is suspected of being involved in a criminal offence or misconduct of a serious nature, an internal working group under the EDB will examine the case and review the registration status of the teacher concerned upon conclusion of the case (i.e. no further appeal has been lodged and/or completion of investigation by the school) in the light of the school's/other investigation reports and/or the court verdict where applicable. In principle, the EDB will consider cancellation of the registration status of a teacher who is found convicted of a grave offence or serious misconduct.

12. Apart from offering written recommendations to the SMC/IMC of school concerned, the EDB will, depending on the situations of individual cases, also require the school to follow up on its evaluation and improvement proposals; and submit a report to the Bureau. According to the Education Ordinance, the Permanent Secretary for Education has the authority to appoint any persons she thinks fit to be managers of a school to assist in school governance and implementing relevant improvement measures. The EDB will closely monitor the follow-up actions of the schools and if necessary, appoint suitable persons to join the SMC/IMC in accordance with the Education Ordinance to assist schools in carrying out improvement measures.

**Advice sought**

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

Education Bureau  
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