

**EDB Circular No. 14/2001**  
**(Formerly referred as EMB Circular No. 14/2001)**  
**(Formerly referred as Administration Circular No.14/2001)**

Commencement of the Code of Practice on Education

[Note: This circular should be read by –

- (a) Supervisors and Heads of all schools  
- for action; and
- (b) Heads of all Sections – for information.]

**Summary**

The purposes of this circular are to remind schools that the Code of Practice on Education (the Code) pursuant to the Disability Discrimination Ordinance (DDO) has come into effect on 6 July 2001, and to introduce the mediation mechanism of the Education Department (ED) for alleged cases of disability discrimination in education.

2. It should be read in conjunction with [EMBC No. 165/1996](#) dated 30 September 1996 on “Commencement of the Sex Discrimination Ordinance” and [EMBC No. 18/1999](#) dated 6 May 1999 on “Elimination of All Forms of Discrimination” to ensure equal education opportunities for all students.

**Background**

3. The DDO came into force on 20 December 1996. The Code, pursuant to the DDO and formulated by the Equal Opportunities Commission (EOC), took effect on 6 July 2001.

4. The Code issued by the EOC aims at: (1) assisting educational establishments to develop policies and procedures that prevent and eliminate disability discrimination; (2) providing educators with practical guidance on making provisions for students with disabilities that are consistent with the provisions set out in the DDO; and (3) enabling persons with disabilities, their parents and associates (such as family members, carers and business associates) to understand their rights and responsibilities under the provisions of the DDO.

5. The EOC has uploaded the Code to its home page on the internet (web-site: <http://www.eoc.org.hk>) for public reference, and will send the Code to schools for information in due course. To facilitate general understanding and implementation of the DDO, the EOC will provide frequently asked questions and answers on disability discrimination in its home page.

6. Attention is particularly drawn to the following sections of the Code:
- (i) Practical Guidelines for Educational Establishments (Sections 11 to 20); and
  - (i) Roles and Responsibilities (Sections 23 to 25).

### **School-based Complaint Procedure**

7. Parents and schools may have diverse views on the educational arrangements for children with special educational needs (SEN). We hope that both parties can communicate directly and work out a mutually agreed solution for the benefits of the students.

8. Section 23.2.8 of the Code states: “education establishments should develop grievance procedures to handle grievances or complaints from their students/prospective students with disabilities, and/or their parents, concerning matters relating to the DDO. Such procedures should be communicated to all students of the educational establishment and their parents in order that they understand the function and operation of the procedures.” In the spirit of school-based management, every school should have put in place a school-based mechanism to handle complaints from parents or students. This mechanism can also be used to deal with complaints of disability discrimination. However, schools should ensure that the mechanism meets the requirements of the Code. Schools are also advised to make reference to the salient points suggested by ED as listed in Appendix I.

### **Mediation Mechanism of the Education Department**

9. The Department holds the view that schools and parents should discuss problems through the established channel within schools. However, if both parties fail to reach a settlement, the Regional Education Offices of ED will render assistance by putting forward options for resolution in the interests of the students (please refer to Appendix II for details of the mediation mechanism).

10. It is important to note that the establishment of a mediation mechanism to deal with alleged cases of disability discrimination in education will not, in any way, infringe upon anybody’s right of complaint. Parents can lodge complaints of disability discrimination to either the school-based complaint procedure or the mediation mechanism of ED, or refer cases to the EOC whenever necessary.

11. We hope that through mutual trust and joint efforts of schools, parents and the ED, cases of disability discrimination in education can be settled so that students can learn in a happy environment that meets their individual needs and develops their potentials to the full.

### **Enquiry**

12. For enquiries, please contact the respective Senior School Development Officer or School Development Officer of your Regional Education Office.

Mrs Betty IP  
for Director of Education

**Salient Points on School-based Complaint Procedure**

1. Parents and schools are strongly advised to communicate directly and work out a mutually agreed solution in the interests of students when they encounter different views on students' education.
2. During interviews with parents of new students and at the beginning of an academic year, schools should remind parents to discuss their children's special educational needs (SEN) as early as possible so that the school can make reasonable accommodation in a practical manner. Schools should advise parents to discuss with teachers or principals direct if they have different views on the educational arrangements for children with SEN and reflect their views to the school management committee if necessary.
3. Since every school should have its own school-based procedure to deal with complaints from parents or students, the same procedure can be applied to handle complaints of disability discrimination. However, schools are advised to make reference to the roles and responsibilities of "educational establishments" and "teachers, other professionals and support staff" as stated in Sections 23 and 24 of the Code regarding the following points, so as to ensure that the school-based complaint procedure complies with the requirements of the Code and each complaint case is handled in an impartial manner:
  - (1) The school should make clear to parents the school-based procedure for handling complaints;
  - (2) Upon receiving complaints, the school should carry out an investigation in a fair and equitable manner;
  - (3) The school should ensure that parents will not be treated unfairly for lodging a complaint;
  - (4) Apart from its own teachers, the school may invite any suitable persons (e.g. parents, alumni, relevant professionals or laymen) to participate in the investigation;
  - (5) The school should avoid appointing staff members who are involved in the complaint case to participate in the investigation. If the school head is involved in the case, the investigation and mediation work should be carried out by the school management committee;
  - (6) The persons carrying out the investigation should be fair, equitable and independent and strictly observe the principle of confidentiality;
  - (7) The school should carry out and complete the investigation work within a reasonable time;
  - (8) The school should protect the rights of the parents and staff concerned to meet the persons responsible for the investigation, so that all the parties involved can have a chance to express their own situation, the difficulties encountered and needs;
  - (9) The school should explain to the parents the investigation results and work jointly with the parents for ways to reach a settlement.

**Mediation Mechanism of the Education Department**

1. The parent or the school can seek assistance from the respective Regional Education Office (REO) in handling disability discrimination cases verbally or in writing as and when required.
2. On receipt of a disability discrimination case referred by the parent or the school, REO officers will study the details from relevant parties as soon as possible, and will arrange a mediation meeting for the parent and the school representative within two weeks to work out a solution and reach a settlement. The aim of the mediation meeting is to resolve the dispute between the parent and the school in a direct and efficient manner.
3. We believe that as partners of schools, REO officers are familiar with the school's situation and can facilitate the parent and the school to reach a settlement objectively. If necessary, REO officers will visit the school, collect information, and consult other professionals of the Department, such as educational psychologists, curriculum development officers and student guidance officers. Through the concerted efforts of the school, the parent and the ED, it is hoped that most of the cases can be resolved through mediation meetings.
4. If the dispute between the parent and the school cannot be resolved in mediation meetings, the Department would consult outsiders in the form of a Case Study Group. The Group would comprise mainly non-ED personnel. Its terms of reference are to review the case, explore solutions and put forward mediation proposals to ED.
5. Members of the Case Study Group are appointed by the Director of Education. Except the Chairperson, all members are non-ED members, including parents, representatives from the education sector and professionals from other sectors, for example, representatives from the medical or legal sector, educational psychologists, representatives from the field of social work or lay members. The Department will invite members from relevant sectors to join the Group according to the nature of the case.
6. Having considered the proposals made by the Case Study Group, its practicability, the resources available and other related factors, the Department will work out a mediation plan, arrange further mediation with the parent and the school to resolve the issue, and implement the agreed resolution measures.