

Education Bureau Circular No. 14/2003
(Formerly referred as EMB Circular No. 14/2003)

Acceptance of Advantages and Donations by Schools and their Staff

- (Note : This circular should be read by:
(a) Supervisors/Principals of all schools for necessary action; and
(b) Heads of Sections - for information)

Summary

The purpose of this circular is to remind the school management of the general principles on the acceptance of advantages* and donations by school and its staff. To ensure that the policies are properly implemented, the school management is advised to formulate their own policies and guidelines by making reference to the Prevention of Bribery Ordinance, Cap 201.

Details

2. The School Management Committees (SMCs) as the managers and employers of their teaching and non-teaching staff, have the responsibility to formulate policies and issue clear guidelines for their schools and staff on the acceptance of advantages and donations. SMCs should ensure that their schools are being managed and operated in a fair and just way by implementing proper policies in administration areas including student admission, appointment and promotion of staff, purchase of goods/services, and selection of suppliers/contractors. As schools have a strong influence on young people, the SMCs should set themselves as role models. They should promote a fair and just atmosphere in schools and should also ensure that their schools and staff are in every way above suspicion of doubtful practice. School managers, teachers and staff are expected to have a high standard of integrity by members of public.

Section 9 of the Prevention of Bribery Ordinance

3. Under Section 9 of the Prevention of Bribery Ordinance (POBO), it is an offence for an employee to accept, without his/her employer's permission, an advantage as an inducement to or reward for doing or not doing an act in relation to the employer's business. The person who offers the advantage shall also be guilty of an offence.

4. Being the employers of school staff, the SMCs have the responsibility to decide what advantages may or may not be accepted by school staff in relation to the school business. SMCs should note that under the POBO, other persons (such as parents, goods/services suppliers, etc.) shall also be guilty of an offence when they offer advantages to individual staff with the intention of influencing the official/business dealings. However, nothing in the POBO prohibits the exchange of gifts between private individuals so long as it is not in connection with the official dealings of the schools.

* The definition of advantages is given at Appendix.

General Principles on Acceptance of Advantages and Donations

5. SMCs and school principals with delegated authority should formulate clear policies for schools on acceptance of advantages and donations, accountability and responsibility, and monitoring procedures in accordance with the contents and coverage of the POBO. SMCs should ensure their staff and related persons understand such policies and make certain the implementation. Schools need to adopt a sound control system and eliminate chances of corruption by maintaining proper records and conducting periodic inspections. For subvented schools whose funding mainly comes from public money, SMCs should take steps to ensure that there are adequate checks and balance to prevent favouritism, malpractice and corruption and their policies are known to the public.

6. SMCs should formulate policies to require schools and their staff to handle internal and external businesses of the school in an open, fair, transparent and competitive manner, particularly those concerning nominations and selections and choice of goods/services provided by suppliers/contractors.

7. SMCs should set out the criteria on acceptance of advantages and donations for schools and their staff. In principle, SMCs may allow their schools to accept advantages but should never permit the SMC members and individual staff to solicit advantages. The approval for their members or staff to accept lavish or frequent entertainment would be the subject of criticism from public. However, SMCs may allow individual school staff to accept gifts from parents, colleagues, pupils or former pupils on special occasions (such as graduation ceremony, retirement, resignation, etc.). SMCs should therefore set maximum cash value for these gifts and make it known to related parties.

8. The acceptance of donations by school should not jeopardize the interests of students and should be approved by SMCs. When deciding whether donations (in cash or gifts) should be accepted or not, SMCs must take into consideration the impact of donations on school. The benefits of acceptance like effectively generating improvement of the teaching environment and adverse factors such as causing danger of being obliged to the donors or bringing schools into disrepute should also be carefully considered. Schools should note that donations giving rise to actual or perceived conflict of interest would be the subject of criticism from parties having interest (such as unsuccessful bidders or suppliers) or members of the public.

Points to Note in Personnel Matters

9. SMCs should never permit schools or their staff to solicit or accept advantages in the following official dealings:

- (a) the admission or promotion of pupils (registration fees approved by the Education and Manpower Bureau (EMB) are not regarded as advantages);
- (b) the conduct of any test or examination (approved official payments are not regarded as advantages);
- (c) the appointment or promotion of school staff; and
- (d) nominations for courses of training, study-trips, scholarships or other academic awards, involving either teachers or pupils.

10. SMCs should require their members and school staff to report any situations where they or their immediate family members or personal friends have an interest, financial or otherwise, in any matter under consideration by the school or in any company or organization

which has or likely to have business dealings with the school. On receipt of any disclosure of interests, SMCs should consider whether the school staff concerned should be withdrawn from participating in further consideration of the matter of which the conflict arises.

11. SMCs of aided schools are required to pay attention to the following points when considering the delegation of approving authority:

- (a) To facilitate simple and effective control, SMCs may delegate the approving authority to the supervisor or principal over requests from staff for the acceptance of advantages. However, approval to principals or any member of the SMCs over the acceptance of advantages could only be granted by the SMCs.
- (b) SMCs are held accountable for all permissions or refusals given under delegated authority.
- (c) SMCs should make the delegation of authority in writing and limit the delegation to specific types of advantages. They should also require the delegated authorities to submit regular reports on how the authority has been exercised.
- (d) SMCs should decide on the acceptance of donations made by schools and this responsibility should not be delegated to the school principal. If for any reason the SMC should feel it necessary to delegate this authority, clear guidelines and criteria should be established and the school principal should be required to report at regular intervals any donations accepted and the reasons for accepting them.
- (e) SMCs are required to issue guidelines or code of conduct setting out the school's policy on the types of advantages and the circumstances under which staff may or may not accept them.

12. In handling the outside employment of school staff, SMCs of aided schools should establish relevant policies to require all teachers (including the principal) to seek appropriate written approval if they wish to take up paid outside work including part-time teaching posts at tutorial schools. Please refer to the relevant circulars on outside employment currently in force for details. Approval should not be given if the outside employment may give rise to conflict of interests or adversely affect the teachers' normal duties.

13. Additionally, SMCs of aided schools should not permit their staff to accept fees for private tuition from pupils of the same school or make direct payments to teachers replacing them on sick leave. SMCs should record all permissions in a register. SMCs should remind their teaching staff that the Hong Kong Examinations and Assessment Authority does not allow serving members of its subject or moderation committees to work in tutorial schools. Those who have previously served on these committees should not publicise their experience if they are allowed to take up appointments at tutorial schools.

Points to Note in the Purchase of Goods/Services

14. Schools should select goods/services provided by the suppliers/contractors in a fair and open way and ensure that the quality, price, safety and other factors of the selected goods/services have complied with the open criteria.

15. Schools should include warning of not to offer advantages to school staff in documents of their official dealings such as invitations to tender/quotation and contracts of goods/services provision. To prevent favouritism and malpractice of individual staff, SMCs should not agree to the following:

- (a) discount, commissions or gifts offered by a supplier or contractor to an individual rather than to the school;
- (b) payments for the use of school premises or facilities to an individual rather than to the school; and
- (c) privileges for school managers, principals, teaching or non-teaching staff by suppliers/contractors (such as vacation packages and other entertainments).

16. When considering the acceptance of donations from supplier/contractors, SMCs should exercise particular care that:

- (a) they should imply no commitment to continue to use the goods/services of that supplier/contractor or in any way to restrict the freedom of the school or the pupils to obtain the most effective goods/services at the best possible price.
- (b) in no circumstances may the supervisors or principals suggest to a publisher or supplier that in return for an advantage (e.g. a donation in form of cash grant or discount), the school will choose a particular textbook or series of textbooks in preference to others. For details about handling the donation by publishers, please refer to Education and Manpower Bureau Circular currently in force. Similarly, in no circumstances may the supervisors or principals suggest to a supplier of student uniforms or other items that in return for an advantage, the school will choose a particular supplier in preference to others.
- (c) in exceptional circumstances, where there are compelling reasons to accept such donations from suppliers/contractors, the acceptance should be fully justified, documented and approved by the SMC in advance.
- (d) the textbook publishers may sometimes offer cash grants to schools for the purchase of equipment or teaching aids to be used jointly with particular textbooks or series of textbooks. Such grants are advantages and should not be accepted by school without the special permission of SMCs.

Points to Note for Aided Schools in the Acceptance of Donations

17. SMCs of aided schools are required to pay attention to the following points in accepting donations :

- (a) As laid down in the relevant Codes of Aid, all donations to the school should be expended on school and for educational purposes only.
- (b) Schools are required to record any money donated to school in the subscription/general funds account for audit purpose.

- (c) Before accepting donations, schools should consider whether the donations would result in additional recurrent expenditure. Normally, the EMB will not agree to schools' acceptance of donations that will incur additional recurrent government expenditure.
- (d) Schools should register details of all donations (including cash grant in form of discount or commission fee) received by schools and record the value and purpose of such donations in the school annual report.
- (e) If after careful consideration schools decide to accept donations from suppliers or contractors of goods/services, they should state in the donations record the compelling reasons for acceptance.
- (f) Proper donation records should be made available at all times for public inquiry and for the regular inspections of EMB to ensure compliance of related stipulations.

Suggestions and Complaints

18. Supervisors and principals of schools may make their suggestions or any matter requiring attention on prevention of bribery in writing to the Corruption Prevention Group of EMB. Representatives of the EMB and the Corruption Prevention Department of the ICAC are included as members of the Group.

19. Any allegation or suspicion of corruption in a school should be referred immediately to the Operations Department of the ICAC (Telephone No. 2526 6366). Complaints about inefficiency or poor management of schools, however, should be referred to the EMB, and not to the ICAC.

Reference Materials

20. Schools can access or download the following reference materials at the [EMB Homepage](#):

- (a) Examples of Conflict of Interest Situations
- (b) Conflict of Interest Declaration
- (c) Sample Code of Conduct for Schools
- (d) Sample Register of Donations Received by Schools
- (e) Report Form on Acceptance of Advantages
- (f) Application of Outside Employment for School Staff
- (g) Sample Letter to Parents regarding Offering Gifts to School Staff
- (h) Sample Letter to Suppliers/Contractors regarding Offering Gifts to School Staff
- (i) The Prevention of Bribery Ordinance, Cap 201
- (j) Frequently Asked Questions and Answers
- (k) Other information

Circulation in School

21. Since the prevention of bribery is very important in school administration, schools should circulate this circular to their staff annually who are required to sign to indicate that they have read and understand it. Schools are also required to circulate this circular to all members of SMCs. Regarding government schools, their civil service staff are required to comply with

sections 3 and 4 of the POBO as well as relevant guidelines and stipulations for civil servants, in addition to taking actions with reference to those stated in the above paragraphs.

Enquiry

22. Schools may contact the Corruption Prevention Department of ICAC on telephone number 2526 6363 direct for enquiry on prevention of bribery. For enquiries on school administration, please contact your Senior School Development Officer.

23. This circular supersedes the Education Department Administration Circular No. 2/98 dated 21 January 1998.

Mrs Betty Ip
for Secretary for Education and Manpower

Definition of Advantages

Advantage means :

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),

but advantage does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), particulars of which are included in an election return in accordance with that Ordinance.