

**EDUCATION BUREAU CIRCULAR NO 33/2003**

(Formerly referred as EMB Circular No. 33/2003)

**The Principle of Equal Opportunities**

(Note : This circular should be read by –

(a) Supervisors and Heads of All Schools – for action,

(b) Heads of Divisions/Sections – for information

All school staff should read this Circular)

**Summary**

This circular serves to remind all schools that, in formulating and revising their school policies, they should observe the principle of equal opportunities and avoid any form of discrimination apart from compliance with the three anti-discrimination ordinances.

**Details**

2. At present, there are three anti-discrimination ordinances in force in Hong Kong. They are the Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status Discrimination Ordinance. In July 2001, the Code of Practice on Education issued by the Equal Opportunities Commission (EOC) in accordance with the Disability Discrimination Ordinance (DDO) came into effect. The Code assists the educational establishments in developing policies that prevent and eliminate disability discrimination. It also provides schools and other people in the field with practical guidance so that their arrangements for serving students with disabilities will be consistent with the provisions of the DDO. Schools may browse through the EOC website (<http://www.eoc.org.hk>) for further details regarding the above legislation. Therefore, schools should not subject their staff members and students to discrimination or unfair treatment due to their race, nationality, colour, language, religion, political or other opinions, ethnical origin or social class, property, birth or other status, sex, disability and family status.

3. Moreover, the Government of the Hong Kong Special Administrative

Region is committed to promoting the principle of equal opportunities and eliminating all forms of discrimination. It also undertakes to observe a number of international treaties related to elimination of discrimination, including the International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. In selecting teaching materials and textbooks, schools should avoid using materials with any form of stereotyped concepts or prejudices. For example, materials that stress the traditional concept of “a woman’s place is in the home” should not be used.

4. Basically, schools should provide equal opportunities in the access to information, education, services, facilities, job opportunities, fair treatment and personal development. In formulating their school policies on areas such as staff recruitment, student admission, curriculum design, teaching arrangements, internal assessments and handling of students and staff affairs, schools should observe the principle of equal opportunities.

5. The Education and Manpower Bureau (EMB) has uploaded some common examples and reference materials on adopting the principle of equal opportunities in school administration onto the [EMB Homepage](#) for ease of reference. Details are provided in the Appendix. As these materials will be updated regularly, please browse through the EMB Homepage for the latest version of these materials. In addition, schools may browse through the EOC website to have a better understanding of the frequently asked questions and important cases.

6. The EMB Circular No. 165/96 on Commencement of the Sex Discrimination Ordinance dated 30 September 1996 and the EMB Circular No. 18/99 on Elimination of All Forms of Discrimination dated 6 May 1999 are hereby superseded.

7. If you have any enquiries, please contact the Senior School Development Officer of the respective Regional Education Offices.

Mrs Betty IP  
for Secretary for Education and Manpower

**Some common examples and reference materials on adopting the principle of equal opportunities in school administration**

(A) Unjustifiable Hardship

(1) Admission of Students

Students are usually admitted to Primary 1, Secondary 1 and Secondary 4 through the school places allocation systems in accordance with the prescribed criteria. If a student applies for a school place other than those arranged by the allocation systems, the school should follow the usual procedure to process his/her application. It should not contravene the principle of equal opportunities and the related ordinances. For example:

- (a) A co-educational school should not have any predetermined quota of boys and girls.
- (b) A school should not refuse a student's application for admission or persuade him/her in any way to apply to another school because of the student's special educational needs.
- (c) If a school has admitted a student with a disability, the school should not exempt him/her from studying certain subjects or restrict him/her from using certain facilities on the assumption that the student is handicapped by his/her disability, or coerce the students to study a subject in which the student is incompetent because of his/her disability. The school should discuss the student's actual needs with his/her parents and make reasonable arrangements accordingly.

The Equal Opportunities Commission has issued the Code of Practice on Education in accordance with the Disability Discrimination Ordinance (DDO). Section 6.1.3.1 of the Code provides that it may not be unlawful for an educational establishment to discriminate against a person with a disability with respect to admission if the educational establishment is established wholly or primarily for students with a particular disability, and the applicant does not have that particular type of disability. For example, a child who has a visual impairment but has normal hearing is refused admission to a school for the hearing-impaired.

Section 12.3.1 of the Code provides that the DDO makes it unlawful for educational establishments to discriminate against a person with a disability. However, the DDO exempts educational establishments from liability in cases where there would otherwise be an unjustifiable hardship.

Section 12.3.2 of the Code further sets out that, for the purposes of the DDO, relevant circumstances in determining what constitutes unjustifiable hardship include:

- (a) the reasonableness of any accommodation to be made available to a person with a disability;
- (b) the nature of the benefit or detriment likely to accrue or be suffered by any person concerned. This means that, apart from the benefits to the person with a disability seeking the adjustments, benefits to others should also be considered. For example, a ramp installed to allow wheelchair access for a particular student might benefit other students or visitors with similar needs, and those moving goods around the site;
- (c) the actual effect of the disability of a person concerned. Only those adjustments that the student with a disability actually needs should be considered and adjustments which would not be effective to assist that person are not relevant; and
- (d) the financial circumstances and the estimated amount of expenditure (including recurrent expenditure) required to be made by the educational establishment claiming unjustifiable hardship. The DDO allows differences in the financial capacity of various educational establishments when determining what constitutes unjustifiable hardship in each case.

Moreover, Section 12.3.3 of the Code stipulates that in each case of proving unjustifiable hardship, the responsibility always rests with the educational establishment. Before claiming unjustifiable hardship as a defense in discriminating against a student or prospective student with a disability, the educational establishment must consult the student or prospective student and his/her parents with a view to identifying what the special needs of the student are and the accommodations required. It is only after the required accommodations are identified, and the educational establishment cannot, after careful consideration, provide the accommodations due to unjustifiable hardship, that the educational establishment may claim this exemption under the DDO. The fact that the consultation is made and the reasons justifying the hardship claimed should be documented for future reference.

## (2) Curriculum and Teaching Arrangements

Schools should identify students with special learning needs at an early stage and

make reasonable adjustments, which include setting reasonable learning objectives, designing effective teaching methods to reinforce students' learning abilities and skills, and enhancing their interest and confidence in learning. Moreover, schools should understand the physical conditions of those students with chronic illness, and the effects of such illness on their learning. Where necessary, schools should adjust the learning activities in class to ensure that students with or without disabilities will have equal opportunities in the domain of education, and that they will receive, and participate meaningfully in, local education.

Schools should ensure that students with special educational needs will be able to receive the same guidance and study the same curriculum as other students. However, when these students encounter difficulty in learning because of their disability, schools should make adjustments and accommodation in the curriculum to cope with their individual needs. Schools should not deprive a student of the opportunity to take part in classroom or extra-curricular activities because of his/her academic results or behaviour. Likewise, schools should also ensure that students of either sex will have the same opportunities to access and study all subjects offered in school. For example:

- (a) Music teachers should adjust the curriculum to enable students with hearing impairment to learn and enjoy music with their residual hearing.
- (b) Students with visual impairment should be allowed to use reading aids such as magnifier or table lamp at class.
- (c) When students with speech problems attend oral tests, the teacher should adjust the mode and criteria of the assessment according to their actual language ability.
- (d) The family of students with physical disabilities may also accompany their children to attend outdoor activities, and assist the teachers in taking care of them.
- (e) Schools should understand and accept some of the obsessive behaviour of students with autism. Teachers can make good use of such behaviour in designing related activities to enhance students' motivation in learning. They should, where appropriate and after obtaining the prior consent of their parents, explain to the classmates on how to help these students adjust to the school life.

- (f) Based on the specific learning difficulties of the students, teachers should make appropriate arrangements in teaching and assessment to facilitate their learning.
- (g) In arranging for the election of subjects, schools should avoid disallowing the students from electing a certain subject on the ground of sex.
- (h) There should be better understanding between the school and the parents on the curriculum and teaching arrangements. The learning objectives and programmes including the form of tests/examinations and expectation on the academic results of the students concerned should be made known to the parents.

### (3) Teaching Resources

Resources on how to teach and take care of students with special learning needs are available at the Special Education Resource Centre at the Perth Street Special Education Services Centre of the Education and Manpower Bureau (EMB) at 6 Perth Street, Ho Man Tin, Kowloon. Schools may encourage the teachers and parents to make use of the resources of this Centre or browse through [“Special Education Resource Centre”](#) on the EMB Homepage to widen their knowledge on students with special educational needs.

### (4) Homework and Internal Assessments

Make the best use of homework as a tool for assessment and feedback. The form and content of homework should be diversified so as to encourage and promote learning. The amount and form of homework should be adjusted to suit the special educational needs of individual students.

Diversified mode of assessment and learning activities such as project learning, class discussion, learning portfolios and written examinations should be adopted. Assessment of the learning outcomes in different learning activities should be based on the students’ performance in answering questions, discussion, presentation, reporting, self-appraisal and peer evaluation, so as to cater for their diverse potential, ability and learning needs.

When conducting internal assessments, schools should understand the special educational needs of students and, based on the medical /assessment reports on the students and relevant professional advice, discuss with the students and the parents concerned the assessments or special arrangements, including the design of examination papers, the mode of assessment, the time allowed for answering the questions, and the use of supporting equipment etc, so that appropriate

arrangements can be made. Moreover, schools should maintain close contact with the parents. In reviewing the homework policy and special test and examination arrangements, due consideration should be given to the parents' views.

#### (5) Students' Particulars

Schools should seek parents' consent, and collect and maintain properly the basic information on the students with special educational needs, including their medical and assessment reports and intervention plans, so as to facilitate the teachers to adjust the curriculum and teaching arrangement for these students, and the transfer of the students' record to other schools for reference and arrangement of support programme in future. For example:

- (a) When students with special educational needs are promoted from Primary Six to Secondary One of another school, schools should, after seeking prior consent of the parents concerned, transfer the relevant information and reports on the students to the new schools for reference. This will enable the new schools to have an early understanding of the conditions of the students and arrange for appropriate supporting services.
- (b) Schools should maintain regular contact with the parents of students with special educational needs to ascertain the genuine needs of individual students and make timely adjustments.
- (c) Schools should pay attention to the guidelines on application for special arrangements in Secondary School Places Allocation or public examinations and submit the applications for students where appropriate.

#### (6) Teacher Training

Schools should formulate a policy of "whole-school approach" to provide support for students with special educational needs, and remind all teachers and staff to be aware of the ordinances relating to equal opportunities. Schools should be responsible for providing staff training and arranging teachers' enrolment in relevant training courses. Schools should also invite professionals to provide school-based training and support based on their actual needs. For example:

- (a) Principals and teachers are encouraged to attend the workshops and seminars organized by the EMB on how to teach students with special educational needs.
- (b) Where necessary, schools may seek professional advice from special schools to acquire the techniques of teaching students with certain disabilities.

The employers and principals may, depending on the individual circumstances, be responsible for the illegal act of their employees, contract workers and agents. Therefore, the educational establishments should take every reasonable and practicable measure to ensure that the employees, contract workers and agents will not engage in any act in contravention of the Disability Discrimination Ordinance, Sex Discrimination Ordinance and Family Status Discrimination Ordinance.

(7) Staff Recruitment and Promotion of Teaching and Non-teaching Staff

Schools must ensure that the selection process in any staff recruitment or promotion exercise is open, fair and transparent. For example:

- (a) Schools should openly invite interested persons to apply for a job through advertisement and internal circular.
- (b) Schools should strictly follow the “meritocratic” principle in the selection of candidates, and should not reject appointment of a candidate on the ground of sex, religion, disability or family status (e.g. being a single parent).
- (c) Schools should not terminate the contract of a contract staff prematurely simply because she is pregnant, and then employ someone else to fill her post.

(8) School Ethos and Student Discipline

It is the right of all students (including students with disabilities) to be able to learn in a safe, orderly and accommodating environment regardless of sex, family status, race, nationality, colour, language, religion, political or other opinions, ethnical origin or social class, property, birth or other status. In formulating a discipline policy, schools should follow the principle of equality and equity, yet the needs of the students with disabilities or chronic illness should also be considered. In maintaining discipline, teachers should avoid any discriminatory attitude or act which violates the Disability Discrimination Ordinance, Sex Discrimination Ordinance and Family Status Discrimination Ordinance. Examples of such acts include discrimination, harassment, vilification or serious vilification. Staff may consider seeking legal advice if they have any doubts in this respect.

Students should not be excused for their misconduct on the ground of sex,



disability or family status. But when considering punishment, schools should consider prudently the special conditions of the students with disabilities and avoid giving an inappropriate penalty that may impose an unnecessary burden on them.

(9) Promotional Work

Schools have the responsibility to formulate a policy of equal opportunities and to promote the principle of equal opportunities to their staff, students and parents to raise their awareness on this front. Schools should work with them to promote integrated education, avoid any direct or indirect discrimination, and create a harmonious and inclusive school environment.

(B) Reference Materials on Discrimination and Special Educational Needs

The following materials on discrimination and special educational needs have been issued to schools:

- (1) Information Guide to Support Services for Students with Special Educational Needs in Ordinary Schools (Chinese and English versions)
- (2) Understanding and Helping Students with Special Educational Needs – A Guide to Teaching (Chinese and English versions)
- (3) Leaflet on Elimination of Disability Discrimination – Parent-School Co-ordination and Mediation Mechanism (Chinese and English versions)
- (4) Teaching Kit on Integrated Education
- (5) CD Package on Integrated Education – Helping Students with Autistic Disorders
- (6) CD Package on Integrated Education – Helping Students with Hearing Impairment
- (7) Resource Package on Integrated Education
- (8) Specific Learning Difficulties Behaviour Checklist (Revised Edition, 2002) and “Fun with Reading and Writing: A Resource Pack for Primary School

Pupils”

- (C) For information on local legislation and some frequently asked questions on discrimination, please browse through the EOC Homepage (<http://www.eoc.org.hk>).
- (D) The e-learning programme on “Equal Opportunities in Education” which is jointly developed by the EMB and EOC is to be uploaded onto the HKedCity website (<http://equaled.hkedcity.net/>) in the 2003/04 school year.

Please note that the examples quoted are by no means exhaustive. Schools are requested to consider cases on their own merits having regard to the broad principles on equal opportunities and the provisions of relevant Ordinances.

Education and Manpower Bureau  
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