

Equal Opportunities and Discrimination



NSS Ethics and Religious Studies Curriculum
Supporting Materials

Personal and Social Issues :
Human Rights

Introduction

Ethics and Religious Studies (ERS) is one of the electives in the senior secondary curriculum. It is built on the *Religious Studies (Christianity) Curriculum for Secondary 4-5* (implemented in 1998), *Buddhist Studies* (HKCE Examination Syllabus) and the *Advanced Supplementary Level Ethics and Religious Studies Curriculum* (implemented in 2001). It also follows the general direction set out in the *Personal, Social and Humanities Education Key Learning Area Curriculum Guide (Primary 1- Secondary 3)* (CDC, 2002) and extends the prior knowledge, skills and values and attitudes students developed through the Personal, Social and Humanities Education (PSHE) curriculum in basic education.

The *NSS Ethics and Religious Studies Curriculum Supporting Materials: Personal and Social Issues-Human Rights* is part of a series of learning and teaching materials being developed by the Curriculum Development Institute for the implementation of the ERS.

Schools are encouraged to adapt the materials for educational use according to their contexts. NO part of the documents shall be duplicated for commercial purpose.

We welcome feedback and suggestions from teachers. Please send them to:

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Issue: Equal Opportunities and Discrimination

Topic: Human Rights



Teaching goals

1. To explore the different forms of expression of discrimination.
2. To understand the relationship between equal opportunities and discrimination.

INTRODUCTION

Discrimination arises owing to people's ignorance, misconceptions, prejudice, lack of understanding and their conflicts of interest. To advocate equal opportunities is to innovate an environment where opportunities are equal and discrimination absent, to ensure every individual has equal opportunities to participate in each aspect of public life, and make it as the foundation to establish social equity.

Preparation:

Divide the students into groups of 4-5 people each. Each group collects some cases about the violation of the spirit of equal opportunities before the lesson. Teaching materials can be adopted from:

- (i) Recent news articles concerning any form of discrimination;
- (ii) Broadcast one episode of TV program –‘Very Extraordinary Mission’ which is co-produced by RTHK and Equal Opportunities Commission
- (iii) Search information in the following website:
http://www.eoc.org.hk/eoc/GraphicsFolder/Complaint_Conciliations.aspx

Classroom Activities:

1. Each group reports the information on hand in five minutes, and chooses one of the cases for group discussion.
2. During group discussion section, please probe into the following:
 - Why does the case involve discrimination? What kind of discrimination is this?
 - What are the causes of this discrimination? Why is discrimination immoral?
 - What are the practical means to avoid or to eliminate such kind of discrimination?

Extension Activities:

Ask the students to read one of the cases (see Appendix of teaching plan), and submit a short essay of about 1,000 words. The essay should be about the relationship between the case and equal opportunities. (Cases are excerpt from the website of Equal Opportunities Commission)

Note: Teacher only distributes ‘The Cases’, while ‘The Action of Commission’ and ‘Legal Basis’ are left for supplementary teaching material in the conclusion section.

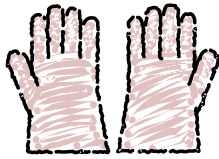
Case 1



What the complaint is about

"Our son Freddy suffered from a disorder which, after a corrective surgery, compelled him to use a wheelchair for 18 months. His primary school principal decided to suspend him from school for as long as he needed to use his wheelchair. He claimed that the wheelchair would block the corridors and cause inconvenience to other school members.

As a result, Freddy had lost one full term's attendance. After repeated requests from us, the principal finally agreed to let Freddy return to school. We drove Freddy to school every morning but we had to drop him off some 50 metres away from the school because we were not allowed to use the school car park. Freddy was not allowed to use the staff toilet which was next to his classroom. He had to struggle with the help of his classmates to the boy's toilets upstairs. Freddy never lost his spirit and worked very hard in spite of his disability."



What the EOC did

When the parents brought their complaint to the EOC, we took immediate action. The school principal was interviewed and a visit was made to the school. The school principal claimed that it was for safety reasons that the wheelchair should not be unloaded in the school car park and that the corridors were too narrow for a wheelchair without causing obstruction to others. He also said that it might cause inconvenience to the teachers for Freddy to use the staff toilet.

EOC investigators found that the corridors in the school were wide enough for both a wheelchair and students to pass by and there was no question of obstruction. As to the use of staff toilet, the teachers had no objection at all to Freddy using it.

The school principal and the parents agreed to sit down and resolve their differences. A conciliation meeting was arranged and our conciliator helped the parties to find common grounds and reach settlement. The school now provides facilities to assist Freddy and other students who have a disability. Freddy's parents are happy with the arrangements. Conciliation gives a win-win situation to all concerned.

What the Law says



Under the Disability Discrimination Ordinance, it is unlawful to discriminate against a person on the ground of disability. An educational establishment should not discriminate against a disabled student by denying or limiting that student's access to any benefit, service or facility provided by the school, unless the provision of which would impose unjustifiable hardship on the school.

Case 2

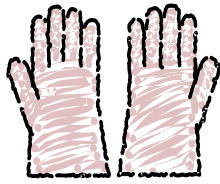


What the complaint is about

"I have worked for this company for eight years, on a twelve-month contract renewal basis, since 1989. In August 1990, I gave birth to my first child. In July 1995, I was promoted to Assistant Manager, with a higher salary reflecting increased responsibilities. My performance appraisals were very good, and at no time did my employer tell me that my performance was lacking in any way.

In April 1996, however, when I informed my employer that I was expecting my second child in December, things began to change. In the July 1996 appraisal, my ratings went down. My contract was to expire on 31 August 1996, and during an appraisal interview, my supervisors told me I should change my post to a less demanding one because I was pregnant. I was then offered a new contract in a less important post with lower salary. I rejected this, so my employer gave me the choice of either a one-year contract in the new position with a lower salary, or a six-month contract in my Assistant Manager position with full maternity benefits. I opted for the latter.

On return to work after maternity leave, I was again asked to accept a lower position with less money, but told that I would be required to continue with my former duties until my replacement gained experience. When I asked my supervisor why I was being demoted, he could give no satisfactory reply. I finally asked whether, if I accepted the demotion, I could work more flexible hours. This was refused and in view of this I quit the organization. "



What the EOC did

EOC investigators looked into the complaint and sought information from both parties. The employer denied all allegations of discrimination. She claimed that since Anita had been given maternity leave with pay, the company had not discriminated against her on the ground of pregnancy. The reason for not renewing Anita's contract was because her performance in the post of Assistant Manager was unsatisfactory. Both parties provided documents to the EOC and named witnesses to support their claim.

EOC investigators quoted case laws in other jurisdiction that a claim of pregnancy discrimination could be established even after a woman employee had given birth and returned to work. The parties were encouraged to conciliate.

Repeated attempts of conciliation were made by the EOC but without success. Both parties stood very firm and no settlement could be reached. The complainant then applied for legal assistance from the EOC. The EOC committee that considered the application believed that the case was evidentially strong and would bring out a question of principle and therefore granted legal assistance to Anita.

EOC's lawyers, acting on behalf of Anita, took over the case and started a round of negotiation with the employer's lawyers. Eventually the matter was resolved without having to go to the court. The employer agreed to pay Anita a sum of money as full and final settlement of the case.

What the Law says



Under the Sex Discrimination Ordinance (SDO), it is unlawful to discriminate against a person on the ground of pregnancy. This includes treating an applicant or an employee less favourably on the ground of pregnancy than treating a person who is not pregnant.

Case 3

A complaint against a hospital which only allowed female relatives or friends to accompany a sick child overnight revealed the presence of discrimination in a policy long adopted by most private hospitals in Hong Kong.

Can Alfred's father stay with him in hospital tonight?

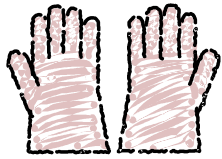


What the complaint is about

"My son Alfred suffered from influenza and had to stay in hospital for a couple of days to see if he had other infections. Since he was only 3 years old, we couldn't let him stay alone in hospital overnight. Unfortunately my wife was not feeling well as well. Although we knew it was general practice that only female relatives were allowed to stay overnight to accompany the patient, I asked if there could be an exception since we really couldn't find anybody else to help us out.

I was so upset when they rejected my request, saying that it was a practice adopted by almost every private hospital in Hong Kong. The rationale behind it was to avoid embarrassment to other women in the same ward and ultimately for the protection of other patients. Despite my repeated requests, I was unable to obtain their permission and my wife, although still under medical treatment, had to stay overnight to look after Alfred. After staying overnight consecutively for two days, my wife's situation got worse.

I just can't accept this ridiculous assumption that men pose a potential threat to patients, this is sheer discrimination on the ground of my sex."



What the EOC did

Upon receipt of the complaint, the EOC contacted the hospital and carried out investigations.

A respondent from the hospital pointed out that it was a traditional practice for a mother to accompany a sick child overnight. In order to avoid embarrassment to other women in the same ward, it is socially acceptable that only women are allowed to accompany their children overnight. However, it is different for accommodation in private wards with only one bed, where men and women are both permitted to accompany their children.

Nonetheless, the hospital realized that this may constitute a breach of law and suggested an early conciliation with the complainant.

A conciliation meeting was arranged during which both parties agreed to resolve the complaint. The hospital agreed to change its policy to allow either male or female relatives to accompany a patient overnight, except in the female ward. The hospital also sent a revised admission information booklet to the EOC after the meeting.

Since the policy in question is adopted by most private hospitals in Hong Kong, the EOC also wrote to alert the Hospital Authority and the Department of Health asking for a review.

What the Law says



Under the Sex Discrimination Ordinance, it is unlawful for a service provider to discriminate against a person who seeks to obtain or use facilities or services on the ground of his/her sex. The hospital should not adopt a discriminatory policy in which only a female relative / friend is allowed to accompany a sick child overnight.

Case 4

The EOC successfully conciliated a case where an elderly woman complained that she was rejected a place at a Home for the Elderly because of her mental illness. For reason of confidentiality, the elderly woman will be called Auntie in the following paragraphs.

Can Auntie find a place to live?



What the complaint is about

"I was so desperate when I was told that the old people's home had refused to offer me a place. I was worried that I would be rejected by everybody and I would have no place to live.

Yes, I once suffered from schizophrenia, but I am getting much better. My doctor can prove this. Recently I took medicine myself and there has not been any problem. Since I can look after myself, my psychiatrist has recommended my discharge from hospital. However, as I have no family or relatives in Hong Kong, I would have to apply for a place at the Home for the Elderly.

Ms. Wong, my social worker, has explained my situation to those at the old people's home but they rejected me outright. I know they, just like most people, are prejudiced against people with mental illness."



What the EOC did

Upon receipt of the complaint, the EOC immediately conducted an investigation. The respondent was interviewed and the hospital was contacted for details. The respondent claimed that since Auntie was subject to relapse if regular medication was not taken properly, and assuming that she was still adjusting to the drugs which would result in physical discomfort and tiredness, they concluded that Auntie needed daily nursing care. Therefore they considered her not suitable for admission to the Home for the Elderly where nursing care was not available. The respondent argued that it would be more appropriate for her to go to the Long Stay Care Home where nursing care was provided.

The EOC then asked the two sides to consider conciliation. The respondent offered as a term of settlement, a place for Auntie at the Long Stay Care Home. This allocation normally required a wait of up to several years. Auntie agreed to conciliate.

What the Law says



Under the Disability Discrimination Ordinance, it is unlawful to discriminate against a person on the ground of disability. It is unlawful for the service provider to refuse to provide goods, services and facilities to persons with a disability (including persons with a mental illness), unless the provision of which will cause unjustifiable hardship to the provider.