

16 March 2022

Education Bureau Circular No. 3/2022
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

This circular lays down the relevant basic principles and provides administrative guidelines to schools, school managers and school staff¹ on the acceptance of advantages² and donations, and other integrity requirements, and reminds schools to review from time to time their relevant policies and guidelines in accordance with the Prevention of Bribery Ordinance (POBO) (Cap. 201) and put them in place accordingly. This circular supersedes Education Bureau (EDB) Circular No. 14/2003 issued on 28 March 2003.

Details

2. Responsible for school management and being the employer of their staff, the school management authorities³ have the responsibility to formulate policies and issue clear guidelines for their schools, school managers (including the school supervisors) and staff on the acceptance of advantages and donations to ensure that the schools are being managed and operated in a fair and just manner in administration areas including procurement of goods and services, acceptance of donations and conferment of naming rights, and student admission, appointment and promotion of staff. As schools have a strong influence on students, the school management authorities should set themselves as role models. They should promote a fair and just atmosphere in schools and should also ensure that individual staff members and the schools are in every way above suspicion of improper acts or doubtful practice. School managers, teachers and other staff are expected to have a high standard of integrity by the community.

¹ School staff refer to both the teaching and non-teaching staff directly employed by schools.

² Interpretation of advantages is set out at [Appendix 1](#).

³ According to the Education Ordinance (Cap. 279), school management authorities refer to the school supervisors (applicable to schools without incorporated management committees (IMCs)) and the IMCs (applicable to schools with IMCs).

Section 9 of the POBO (Cap. 201)

3. Under Section 9 of the POBO (Cap. 201), it is an offence for any agent (employee) to accept, without the approval of his/her principal (employer), 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. As far as schools are concerned, school management authorities, as the employer, have the responsibility to decide what advantages may or may not be accepted by their managers and staff in relation to school business. School management authorities should also note that other persons (such as parents, goods/services suppliers) should also be guilty of an offence under the POBO (Cap. 201) if they offer advantages to individual staff with the intention of influencing the school business dealings. While nothing in the POBO (Cap. 201) prohibits the exchange of advantages between private individuals which is not in connection with the business dealings of schools, school management authorities should require their managers and staff to decline any offer of advantages if the acceptance affects their objectivity in performing their duties or will likely lead to the perception or allegation of impropriety or conflict of interest.

Formulation of relevant policies on acceptance of advantages and donations

5. School management authorities and principals with delegated approving authority (please see paragraph 19 below for details) should formulate clear policies for schools on acceptance of advantages and donations, including the criteria for accepting advantages and donations by schools, school managers and staff, procedures and authority for approval, relevant accountability mechanism and monitoring procedures in accordance with the contents and coverage of the POBO (Cap. 201). School management authorities should ensure that their school managers, staff and other related persons understand such policies and put them in place accordingly. In parallel, schools should adopt a sound monitoring and control system, maintain proper records and conduct periodic inspections so as to eliminate chances of corruption. For schools in receipt of government subventions, as their funding mainly comes from public money, they should make public their measures which are drawn up in accordance with the POBO to prevent favouritism, malpractice and corruption.

6. School management authorities should formulate policies to require their school managers and staff to handle internal and external school businesses in an open, fair, transparent and competitive manner, particularly those concerning nominations and selections, as well as procurement of goods/services from suppliers/contractors.

7. School management authorities should set the criteria on acceptance of advantages and donations for their school managers and staff. In principle, school management authorities should not allow their school managers and/or staff to solicit any advantages. An improper approval given to school managers or staff to accept lavish, unreasonably generous or frequent entertainment may be subject to criticism from the public. However, if school management authorities, after due consideration, decide to give blanket permission for individual school managers or staff to accept gifts from parents, colleagues, students or alumni on special occasions such as graduation ceremony, retirement, resignation, they should set maximum cash value for such gifts and make it known to all related parties. In this connection, the school management authorities should request the staff concerned to provide information on the gifts they accept, e.g. the estimated value of the gifts, the donors and special circumstances of the acceptance.

8. Schools are required to give prudent consideration with regard to the acceptance of advantages and donations. In principle, schools should seek approval from their school management authorities for accepting any advantages and donations. In making approval decisions, school management authorities must take into account the implication of accepting advantages and donations on schools in various aspects, including whether the acceptance will put the schools in a position of obligation to the donors, or make the schools ultimately transfer part/all the cost of donations to parents, or even bring the schools into disrepute. Schools should not accept any advantages or donations if the acceptance will jeopardise the interests of students or tarnish the school reputation.

Points to note on procurement of goods/services and acceptance of donations and conferment of naming rights

9. Schools should procure goods/services from suppliers/contractors through open, fair and competitive quotation/tender and ensure that the quality, price, safety and other specifications of the selected goods/services have complied with the publicised criteria.

10. Schools should include bribery clauses in their official documents such as invitations to tender/quotation and contracts of procurement of goods/services, specifying that suppliers/contractors are prohibited from offering advantages to school staff who are involved in the dealings. To prevent favouritism and malpractice or impropriety of individual staff, school management authorities should not allow the following:

- (a) discount, commissions or gifts offered by suppliers/contractors 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, teaching or non-teaching staff by suppliers/contractors (such as vacation packages and other entertainments).

11. In particular, school management authorities should give careful consideration when deciding whether to accept advantages/donations from suppliers/contractors and should watch out for the following:

- (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 students to obtain the best goods/services at the lowest possible price.
- (b) they are NOT ALLOWED to accept any donations or any form of benefits from textbook publishers or textbook retailers (such as teaching aids or supplementary teaching resources, floral baskets, scholarships and prizes) to avoid increasing the cost of textbooks or having any influence on the choice of textbooks. For details about handling the donations/provision of free learning and teaching resources from textbook publishers, please refer to the prevailing EDB Circular Memorandum.

In principle, schools should not accept donations from suppliers/contractors. Schools may consider accepting donations from suppliers/contractors only under very exceptional circumstances with compelling reasons. Any advantages offered by suppliers/contractors must be used for purposes directly benefiting students (such as offering a greater discount on prices). Special approval should also be obtained from the school management authorities in advance, which should be recorded on file with reasons for acceptance stated for inspection.

12. In addition, if schools accept donations for naming their specified “assets” (such as school facilities, funds, trees) after the donors, the school management authorities should also comply with the principles for acceptance of donations aforementioned.

Points to note on handling personnel matters and school businesses

13. School management authorities should not permit schools or their staff to solicit or accept advantages in the following school business dealings:

- (a) the admission or promotion of students (registration fees approved by the EDB 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 of teachers or students for courses of training, overseas study trips, scholarships or other academic awards.

14. School management authorities should require their school managers and school staff to declare to school the details of interests involved in any situations where they or their connections (including their family members and other relatives, personal friends, associations, clubs and societies to which they belong, any other groups of people with whom they have personal or social ties, and any person to whom they owe a favour or to whom they may be obligated in any way) have an interest, financial or otherwise, in any matter under consideration by the school or in any company or organisation which has or likely to have business dealings with the school. On receipt of any disclosure of interests, school management authorities should consider whether the school managers or school staff concerned should be withdrawn from participating in further consideration of the matter for which the conflict arises. School management authorities are also required to properly record any declarations or disclosures made and necessary measures taken to avoid any actual or perceived conflict of interest. The “Guidelines on Handling Conflict of Interest” are set out at Appendix 2.

15. School management authorities should prohibit unauthorised disclosure of any classified information (e.g. students’ personal data, questions for admission tests, questions for internal examinations, tender/quotation information) by school staff, and prohibit retired/resigned staff from using or taking advantage of any classified information obtained in the course of their official duties.

16. To properly manage conflict of interest arising from outside duties of school staff, school management authorities should devise a school-based personnel management policy governing outside work of school staff, including criteria of granting approval and disciplinary actions for misconduct, provided that the policy does not violate any regulations and rules of the EDB (e.g. the Education Ordinance (Cap. 279), Education Regulations (Cap.279 sub. leg. A) and Codes of Aid (if applicable)), and should also keep all approval records of outside work in a register. Approval should not be granted if the outside employment is likely to give rise to conflict of interests or adversely affect the normal duties of staff.

17. Additionally, school management authorities should not permit their staff to charge private tuition fees from students of the same school or pay substitute teachers

for replacing them when they are on sick leave, and should remind their teaching staff (for secondary schools) that the Hong Kong Examinations and Assessment Authority prohibits serving members of its subject or moderation committees to work in tutorial schools. The teaching staff who have previously served on the moderation committees should not publicise such experience if they are allowed to take up appointments in tutorial schools.

18. Separately, school management authorities should also remind their staff to avoid any potential or perceived conflict of interest in performing their daily duties or when dealing with students/parents. For example, even if school staff intend to recommend fee-charging courses, activities or services provided by individual private organisations to students in light of their genuine need, they should first declare to their school and state the reasons for such recommendation before doing so notwithstanding that they do not have any private interests involved with the organisation. Relevant records should also be properly kept. Staff should make it clear to students/parents that participation in any course, activity or service is entirely voluntary. However, school staff, in principle, should not refer students to fee-charging courses, activities or services provided by private profit-making organisations such as tutorial schools.

Delegation of approving authority

19. The School Management Committees (SMCs)/Incorporated Management Committees (IMCs) of aided schools, caput schools and schools under Direct Subsidy Scheme (DSS) are required to take note of the following when considering the delegation of approving authority:

- (a) To streamline monitoring procedures and enhance efficiency, SMCs/IMCs may delegate the approving authority to the supervisor or principal over requests from staff for the acceptance of advantages and actions to be taken upon any declared conflict of interest. However, approval to principals over the acceptance of advantages and the resolution of declared conflict of interest can only be granted by the SMCs/IMCs.
- (b) SMCs/IMCs are held accountable for all decisions made under delegated authority, whether the application is approved or not.
- (c) SMCs/IMCs 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) It rests with SMCs/IMCs to decide on the acceptance of donations by schools and this responsibility should not be delegated to the school principal. If for any reason the SMC/IMC considers that it is necessary to delegate this authority, clear guidelines and criteria should be set and the school principal should be required to report at regular intervals any donations accepted and the reasons for the acceptance.
- (e) SMCs/IMCs are required to, in case of delegating approving authority, lay down guidelines or code of conduct setting out the school's policy on acceptance of advantages and explaining, with the types of advantages illustrated, the circumstances under which staff may or may not accept these advantages, as well as other integrity requirements for their staff. A sample code of conduct for school staff is available for download on the [EDB's thematic webpage](#) with the path set out in paragraph 25 below.

Points to note on administrative and accounting arrangements for schools in receipt of government subventions⁴

20. All donations to schools should only be used for school and educational purposes. Donations with intended purposes should only be used for those designated purposes unless with prior consent from the donors.

21. Schools in receipt of government subventions should appropriately reflect the donation income and expenditure in accordance with the EDB's requirements. Government schools should observe the financial guidelines issued by the EDB. For aided/caput schools, they are required to record the donations in the subscription/general funds account. DSS schools, kindergartens under the Kindergarten Education Scheme as well as private schools under which they are required to prepare audited accounts in the formats prescribed by the EDB and schools under the English Schools Foundation that have signed a Service Agreement with the EDB should disclose the donations in the relevant Statement/Note of the audited accounts. Remaining schools should reflect the relevant income and expenditure in the audited accounts/financial statements according to their prevailing accounting standards.

22. Aided/caput schools should seek permission of the Permanent Secretary for Education before accepting donations if such acceptance results in additional recurrent expenditure. Normally, the EDB will not agree to schools' acceptance of donations that will incur additional recurrent government expenditure.

⁴ Including aided, government, caput schools, DSS schools and kindergartens under the Kindergarten Education Scheme.

Enquiries and complaints in relation to corruption prevention

23. The Corruption Prevention Department (CPD) of the Independent Commission Against Corruption (ICAC) provides tailor-made corruption prevention services for individual schools upon request. Supervisors and principals of schools may contact CPD (telephone number: 2526 6363) direct for any enquiries or service requests on corruption prevention.

24. Any allegation or suspicion of corruption in schools should be referred immediately to the Operations Department of the ICAC (telephone number: 2526 6366).

Reference materials

25. Schools can access or download the following relevant reference materials on the EDB webpage via this path: EDB webpage (www.edb.gov.hk) > School Administration and Management > Financial Management > Notes to School Finance > References on Acceptance of Advantages and Donations by Schools and Their Staff.

- (a) The Prevention of Bribery Ordinance (Cap. 201);
- (b) Best Practice Checklist – Governance and Internal Control in Schools;
- (c) Sample Code of Conduct for School Staff;
- (d) Sample Code of Conduct for School Managers;
- (e) Declaration of Conflict of Interest for School Staff;
- (f) Declaration of Conflict of Interest for School Managers;
- (g) Report on Advantages Received for School Staff;
- (h) Report on Advantages Received for School Managers;
- (i) Sample Notice to Parents regarding Policy on Acceptance of Advantages by School Managers or Staff;
- (j) Sample Letter to Suppliers or Contractors regarding Policy on Acceptance of Advantages by School Managers or Staff;
- (k) Examples of Conflict of Interest Situations for School Staff;
- (l) Examples of Conflict of Interest Situations for School Managers;
- (m) Sample Register of Donations Received by Schools;
- (n) Application of Outside Employment for School Staff;
- (o) Best Practice Checklist – Management of Donations for Naming Rights;
- (p) Corruption Prevention Toolkit on Kindergartens' Operations; and
- (q) Sample Code of Conduct for Managers and Staff of Kindergartens.

Circulation in school

26. Since the prevention of bribery is very important in school administration, schools should annually circulate this circular to all their staff 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 their management authority. Regarding government schools, their civil service staff are required to comply with sections 3 and 4 of the POBO (Cap. 201) 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

27. Schools may contact the CPD of ICAC on telephone number 2526 6363 direct for enquiries on prevention of bribery. For enquiries on school administration, please contact the respective Senior School Development Officer/Senior Service Officer.

Dr Verena LAU
for Secretary for Education

Interpretation of Advantages

According to section 2 of the Prevention of Bribery Ordinance (Cap.201), “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 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.

Guidelines on Handling Conflict of Interest

1. School management authorities should put in place proper procedures to require all school personnel, including school managers and staff, to declare any conflict of interest that might influence, or appear to influence, his/her judgement in discharging his/her duties.
2. When fulfilling their respective roles and functions in the school, school staff should be advised to:
 - refrain from handling school matters or making a decision or taking part in making a decision in matters which may have conflict with their private interest;
 - refrain from acquiring any investment or financial interests which may lead to conflict of interest with their roles and functions in the school;
 - decline to provide assistance, advice or information on school matters to their relatives, friends, or any associations/club/societies of which they are members, any other groups of people with whom they have personal or social ties, and any person to whom they owe a favour or to whom they may be obligated in any way, when this may result in the recipients having an unfair advantage over other persons/organisations; and
 - familiarise themselves with the rules and guidelines on conflict of interest.
3. A declaration of conflict or perceived conflict of interest should be made in writing, preferably on a standard form (sample of standard form is on EDB webpage), or recorded in the notes of meeting as appropriate. Records of such declarations should be duly kept.
4. In daily operation, as circumstances or events warrant, the persons concerned should draw other members' attention to their perceived conflict of interest. When such a situation arises, the school management authority, or the school head as appropriate, should decide whether the person disclosing an interest shall be required to abstain from the duty assigned, or to abstain from the deliberation and decision on the subject. If it is decided the person concerned should continue to discharge the duties, the considerations should be properly documented and, as and when necessary, there should be sufficient monitoring by senior staff or a second party to ensure impartiality.