

14 November 2008

Education Bureau Circular No. 25/2008

Race Discrimination Ordinance

(Note: This circular should be read by

- (a) Supervisors and Heads of All Schools for necessary action
- (b) Heads of Divisions/Sections for necessary action

All school staff should read this Circular)

Summary

This circular draws your attention to the Race Discrimination Ordinance gazetted on 18 July 2008 and its application to the field of education.

Objectives and contents

2. The Ordinance marks a major step forward for the community of Hong Kong in safeguarding human rights and eliminating race discrimination. Among other things, it aims to make unlawful racial discrimination and harassment in prescribed areas, including employment, education and provision of goods and services.

3. The Ordinance applies not only to you in your capacity as a citizen; it applies also to your school management as an employer and as the responsible body for an “educational establishment” covered under the Ordinance. I therefore urge you to study the Ordinance, the full text of which is available at http://www.gld.gov.hk/cgi-bin/gld/egazette/gazettefiles.cgi?lang=e&year=2008&month=7&day=18&vol=12&no=29&gn=29&header=1&part=1&df=1&nt=s1&newfile=1&acurrentpage=12&agree=1&gaz_type=ls1. While you are advised to go through the full text, as the management for an educational establishment you may wish to note, in particular –

- a) Section 2, on the definitions of “education” and “educational establishment”;
- b) Section 4, on direct and indirect racial discrimination;
- c) Section 7 on racial harassment;
- d) Section 8 on the definition of “race” etc;
- e) Section 10 on discrimination against applicants and employees;
- f) Section 15 on discrimination against contract workers;
- g) Section 24 on harassment of employees and other persons;

- h) Section 26 on discrimination by responsible bodies for educational establishments;
- i) Section 27 on discrimination in the provision of goods, facilities or services;
- j) Section 38 on harassment in educational establishments;
- k) Section 39(1) on harassment in the provision of goods, facilities or services;
- l) Section 43 on instructions to discriminate;
- m) Section 44 on pressure to discriminate;
- n) Section 47 on liability of employers and principals;
- o) Section 48 on aiding unlawful acts; and
- p) Section 49 which ensures that special measures which are reasonably intended for bestowing benefits on ethnic minorities to meet their special needs and promoting equal opportunities for them would not become unlawful.

Implications for use of languages in educational establishments

4. There have been concerns in the school sector that the Ordinance might create extra obligations for schools on matters related to languages. In this regard, please note that Section 26(2) provides an exemption for medium of instruction, stating specifically that an educational establishment is not required to modify or make different arrangements on the medium of instruction for individual ethnic groups. In other words, under the Ordinance, it is not unlawful for a school to decline a request for teaching individual ethnic minority students in their own ethnic languages, or to decline a request for teaching these students in English when the school is using Chinese as the medium of instruction, or vice versa.

5. You may also wish to note that the Ordinance does not carry any provision which requires that a particular language is to be used or interpretation service is to be provided in all circumstances when a person or establishment offers its services to individual ethnic groups. The extent to which special arrangements should be made for languages (other than medium of instruction, which is exempted) would depend on the circumstances. A simple rule of thumb is that the need for such arrangement should be objective and reasonable.

Effective date of the Ordinance

6. The Government expects that the relevant sections in the Ordinance will come into effect progressively from an early date within one year. The Equal Opportunities Commission is preparing for the implementation of the Ordinance and, in this context, is organising programmes to promote public understanding of the law.

Good practices in educational establishments

7. Irrespective of provisions in the Ordinance, all educational

establishments have the responsibilities to make their best endeavours in supporting the teaching and learning of all their students irrespective of race, in accommodating ethnic diversity in schools, in respecting cultural and religious differences and in communicating with parents. Indeed, as promoter of good values and virtues, educational establishments should set a good example in these areas.

Enquiries

8. For general enquiries on the Ordinance, please call the hotline of the Equal Opportunities Commission at 2511 8211.

Ms Mable Chan
for Secretary for Education