

Press Releases

LCQ6: Implementation of the Race Discrimination Ordinance

Following is a question by the Hon Abraham Shek Lai-him and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Stephen Lam, in the Legislative Council today (December 1):

Question:

It has been reported that a kindergarten pupil failed to gain entrance to a primary school because he scored zero marks in the admission test's "Chinese Activity" section in which he was not asked any question by the school interviewer. As the parents of the pupil were not satisfied with the response of the Education Bureau (EDB) when they approached it for help in last November, they later brought the case to the attention of the Equal Opportunities Commission (EOC) which found that the case might constitute a breach of the Race Discrimination Ordinance. In this connection, will the Government inform this Council:

(a) of the number of complaints received by EDB in the past three years relating to discrimination against ethnic minority students in school admission; among these cases, the number of those followed up by EDB as well as the number of those that EDB had not followed up and the complainants had turned to EOC for help;

(b) whether the Government has conducted any review of the Race Discrimination Ordinance with a view to increasing the transparency of schools' admission procedures to prevent discrimination against ethnic minority students; if so, of the details; if not, the reasons for that; and

(c) whether it has considered imposing heavier penalties against acts of race discrimination relating to education; if not, of the reasons for that?

Reply:

Mr President,

(a) In the past three years, the Education Bureau (EDB) has received two cases of complaint relating to discrimination against ethnic minority students in school admission. The EDB has followed up the two cases. It is believed that the case mentioned in this question is one of the complaints received. For the other complaint, the EDB gave a written reply to the complainant in November 2008 and the complainant has not followed up any further.

(b) Section 26 of the Race Discrimination Ordinance (Cap. 602) prohibits discrimination by responsible bodies for educational establishments. The section stipulates that it is unlawful for the responsible body for an establishment to discriminate against a person, by refusing, or deliberately omitting to accept, an application for that person's admission to the establishment as a student, or in the terms on which it offers to admit that person to the establishment as a student.

The EDB has provided guidelines to schools on admission matters which include the requirement for schools to define the criteria and scope of admission, the procedures for selection, etc. Schools are also requested to inform parents properly of these requirements. Besides, the EDB has issued circulars to schools, drawing their attention to the related ordinances, including the Race Discrimination Ordinance, in their admission procedures.

(c) At present, if an establishment or a person discriminates against another person on the ground of the person's race in providing educational services, the aggrieved person may lodge a complaint to the Equal Opportunities Commission (EOC) and undergo conciliation with the EOC's assistance. If the conciliation fails, the aggrieved person may seek assistance (including legal assistance) from the EOC to make civil claims from the court. An aggrieved person can also make civil claims for unlawful racial discrimination directly under the Race Discrimination Ordinance.

The court may provide remedies, including ordering the respondent to discontinue the unlawful discriminatory act, ordering the respondent to pay to the claimant damages by way of compensation for any loss or damage suffered by the claimant, or ordering the respondent to pay to the claimant for punitive or exemplary damages.

Therefore, the Race Discrimination Ordinance already provides for appropriate sanctions against racial discrimination in respect of educational services. The EOC will continue to promote racial equality among different sectors of society, including educational establishments. The EDB will also continue to provide guidelines to schools to remind them to follow the requirements under the Race Discrimination Ordinance in providing educational services.

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