

LCQ15: Administration Guides and the relevant regulations applicable to aided schools and kindergartens

Following is a question by the Hon Ip Kin-yuen and a written reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (January 9):

Question:

Regarding the School Administration Guide for aided schools and the Kindergarten Administration Guide for kindergartens joining the Free Quality Kindergarten Education Scheme promulgated by the Education Bureau (EDB), as well as the relevant regulations, will the Government inform this Council:

- (1) whether the contents of the School Administration Guide were cited in the judgments handed down by courts in the past five years; if so, set out the case numbers of such cases;
- (2) whether, in the past five years, EDB received any reports about schools breaching the requirements in the School Administration Guide, or uncovered breaches of this type after investigation; if EDB did, of the details and effectiveness of the follow-up actions taken, and whether there were school authorities ignoring such follow-up actions; if so, how EDB handled the situation;
- (3) as some members of the sector have relayed that the guideline for handling staff complaints provided in paragraph 5.5 of the Kindergarten Administration Guide is vague and general (e.g. not providing a detailed approach for handling staff complaints), whether EDB will formulate more specific guidelines (including a recommended procedure);
- (4) whether it has assessed if the chapters and sections in the two guides, other than those parts specifying that compliance with the relevant regulations is required, are legally binding; if it has assessed and the outcome is in the affirmative, of the details, and whether the two guides have the same legal binding effect; if they do not, of the differences;
- (5) given that Regulation 76(2)(a) of the Education Regulations (Cap. 279 sub. leg. A) stipulates the requirement that the dismissal of a teacher in the establishment must be approved by the managers of the school, and Section 6 of the Compendium to Code of Aid for Aided Schools sets out in detail the conditions and procedures for dismissal of teachers by aided schools and for termination of service by their teachers, but these provisions are not applicable to kindergartens joining the Free Quality Kindergarten Education Scheme, whether EDB will introduce relevant provisions for this type of kindergartens; if EDB will, of the details; if not, the

reasons for that; and

(6) whether EDB consulted, in the past decade, members of the sector each time before it amended the School Administration Guide; if EDB did, of the consultation channels involved; if not, the reasons for that, and whether EDB will consult members of the sector when revising the two guides in future; if EDB will not, of the reasons for that?

Reply:

President,

All schools (including primary and secondary schools as well as kindergartens (KGs)) are required to comply with the Education Ordinance, Education Regulations, other legislations, and circulars and guidelines issued by the Education Bureau (EDB).

For aided primary and secondary schools, the Government has put in place various measures to facilitate schools' implementation of school-based management, including more flexible funding arrangements, streamlined administrative procedures, and devolved more responsibilities in personnel management, financial and curriculum matters to schools. These measures give schools greater flexibility in their daily operation, resources management and planning for school development. As a result, schools can formulate their own school-based policies which better meet their needs as well as those of their students, develop their own characteristics and enhance the learning outcomes. The School Administration Guide, containing relevant excerpts of the Education Ordinance, Education Regulations, other legislations, and requirements and guidelines from the EDB on different areas for the reference and compliance of aided schools, facilitates schools in achieving the spirit of school-based management by formulating school-based policies and relevant procedures in respect of major areas of school administration and management to ensure smooth daily operation.

For KGs, the Government has implemented the new KG education scheme (Scheme) starting from the 2017/18 school year. The EDB has promulgated the implementation details of the Scheme by issuing a series of circulars and guidelines, organising briefing sessions and uploading the relevant information to the EDB website. In tandem, KGs have to comply with the Operation Manual for Pre-primary Institutions, the KG Education Curriculum Guide as well as instructions and circulars issued by the EDB. For ease of reference by KGs, the EDB compiled the KG Administration Guide by consolidating the relevant information, delineating some basic principles, providing detailed operating procedures and incorporating some existing practices. Given the differences in nature, operation and funding mode between aided schools and KGs joining the Scheme (Scheme-KGs), it is not appropriate to make direct comparison between the two guides.

Regarding the question raised by the Hon Ip Kin-yuen on the School Administration Guide and the KG Administration Guide, my reply is as follows:

(1) The EDB does not compile statistics on whether the contents of the School Administration Guide were cited in the court judgements. Hence, such information is not available.

(2) When conducting investigations on complaints or financial audit inspections, etc, the EDB has uncovered individual cases of non-compliance, such as not following the established procurement procedures. In such cases, we will obtain further details from the schools concerned and provide them with appropriate guidance and advice, including requiring the schools to make rectifications or formulate follow-up/improvement plans as practicable. Schools generally heed our advice on making suitable rectifications and reviewing their school-based mechanisms to prevent the recurrence of similar cases. If the schools still fail to make improvements without reasonable justifications, we will take further actions on a case-by-case basis. These include issuing advisory or warning letters and drawing up follow-up measures with the incorporated management committees and school sponsoring bodies to ensure that the schools comply with the Education Ordinance, Education Regulations, Codes of Aid, relevant legislations and the requirements and guidelines from the EDB.

(3) Notwithstanding that Scheme-KGs are subsidised by the Government, they differ from aided schools in operation and monitoring. There can be wide differences among individual KGs in terms of their scale of operation and management structure. Hence, the EDB sets out the basic principles for handling staff complaints, leaving essential room and flexibility for KGs to make their school-based arrangements in the light of their circumstances. We will continue to seek stakeholders' views on the feasibility of providing more specific guidelines.

(4) The School Administration Guide and KG Administration Guide are not legislative provisions. As stated above, these two guides incorporate the respective requirements and guidelines on daily operation for reference and compliance by aided schools and Scheme-KGs. In these two guides we also remind schools to comply with the relevant legislations, including the Education Ordinance, Education Regulations, Employment Ordinance, etc, and that they are bound by these legislations. As for the specific requirements under the Scheme, they are applicable to Scheme-KGs only. KGs not joining the Scheme are not bound by these requirements.

(5) Just like other schools, KGs, regardless of whether they have joined the Scheme, are required to comply with the Employment Ordinance, Education Ordinance and Education Regulations. For example, Section 76 of the Education Regulations provides that the appointment of any teacher who is to be employed in the school for a term for not less than six months shall be approved by the majority of the managers of the school, while the dismissal of any teacher who is employed for a term for not less than six months shall be approved by the majority of the managers of the school at a meeting of the management committee. Since Scheme-KGs are not aided schools and their operation and mode of funding are different from those of aided schools, conditions and procedures applicable to aided schools would not be directly applied to the Scheme-KGs.

(6) The requirements and guidelines stipulated in the School Administration Guide and KG Administration Guide are generally related to various EDB policies. When formulating or revising major policies, the EDB has all along consulted relevant stakeholders according to the nature and coverage of the respective policies. Consultation is usually conducted through meetings with stakeholders or their written submissions.