

LCQ2: Mechanism for handling complaints against teachers

Following is a question by the Hon Ip Kin-yuen and a reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (November 11):

Question:

Earlier on, the Education Bureau (EDB) cancelled the registration of a primary school teacher, and issued reprimand letters or warning letters to the principal, vice-principal and relevant teachers of the school in which that teacher worked. Quite a number of members of the public have queried that such a move by the EDB carried a political purpose. Also, some members of the public and bodies of the education sector have criticised that the complaint handling mechanism is tantamount to a black box operation. In this connection, will the Government inform this Council:

(1) regarding the following two time periods, i.e. from January 2015 to May 2019, and from June 2019 when the movement of opposition to the proposed legislative amendments started to the present, the respective numbers of cases in which the schools concerned, after investigating into the complaints against their teachers, had concluded that it was unnecessary to take disciplinary actions but the EDB subsequently took disciplinary actions against the teachers concerned;

(2) who first devised the mechanism currently in use for handling complaints against teachers (please enclose the relevant documents); of the reasons why, under this mechanism, not until the Appeal Board stage is the complainee given an opportunity to attend a hearing and make an oral representation; how the EDB ensures that, under such circumstances, the complainee is treated fairly and impartially before his/her teacher registration is cancelled; and

(3) given that the principal, vice-principal and relevant teachers of the primary school concerned have also been disciplined, whether such practice of collective punishment is applicable to all types of cases; if not, of the circumstances under which the school management and other teachers will be implicated?

Reply:

President,

Teachers play a vital role in passing on knowledge and nurturing students' character. Their words and deeds should meet the professional conduct required of them and the expectations of society. According to the Education Ordinance, the Education Bureau (EDB) is the authority for registration of teachers, hence has the responsibility to ensure the quality

of teachers. The EDB may cancel the registration of a teacher in accordance with the Education Ordinance if he/she is not a fit and proper person or is incompetent to be a teacher, so as to safeguard the well-being of students, uphold the professionalism of teachers and maintain public's confidence in education in Hong Kong.

In September this year, the EDB cancelled the registration of a teacher for the serious professional misconduct of disseminating the message of "Hong Kong independence" in class. I wish to stress that the EDB's decision was based on concrete evidence and the action taken was in accordance with the law. We have explained the matter to the public on various occasions and I am not going to repeat it here. While it is appreciated that society has different views on this matter, we deeply regret that there is organisation which not only has not considered the matter from the perspectives of the education profession and the well-being of students, but also has kept politicising the issue. There are more citizens and organisations in support of this Bureau to strictly enforce the law for upholding the professionalism of teachers and safeguarding the well-being of students. We will definitely continue to act in accordance with the law.

Our reply to the question raised by the Hon Ip Kin-yuen is as follows:

(1) Schools, as employers of teachers, have the responsibility to supervise their teachers, which includes handling complaints against them. If a teacher is found to have committed an act of professional misconduct or misbehaved, schools should, in compliance with the Employment Ordinance, the Codes of Aid and the terms of the employment contract signed with the teacher concerned, take appropriate follow-up actions according to the school-based mechanism. The EDB is responsible for the registration of teachers. If a teacher is found to have committed an act of professional misconduct or misbehaved, we have the responsibility to take appropriate action according to the law to safeguard students' well-being, uphold the dignity of the teaching profession and maintain the public's confidence in the teaching profession. It also does justice to all the teachers who are professional and dedicated. When considering the follow-up action to be taken, the EDB will focus on whether the act in question conforms to the professional conduct required of a teacher, whether the teacher concerned has fallen short of society's expectations and whether the values so demonstrated will have an adverse impact on the education profession or students. We will also fully consider all the information collected and all the relevant factors, including the school's report, the representations of the teacher, the existing legislations, the EDB guidelines, as well as the visions, goals and aims of the curriculum, to review whether the learning of students is promoted in a proper manner in accordance with the Education Ordinance by the school and teacher concerned. The EDB will, in light of the severity of the incident, take appropriate action such as issuing an advisory, warning or reprimand letter to the teacher concerned or may even cancel his/her teacher registration. Given that the EDB and schools have different responsibilities and that their considerations might not be the same, the follow-up actions taken by the two parties cannot be compared directly. As a matter of fact, we often receive complaints that query individual schools' management of their

teachers, and quite a number of these cases were referred by the teachers' union, in which the Hon Ip is playing a leading role, requesting the EDB to take follow-up actions. I trust that the general public will not accept it if the EDB only considers the schools' reports without conducting any independent investigation. It is not rare that the EDB does not fully agree with the views of the school management. As such, the EDB considers it unnecessary to compile, and it has not compiled, the statistics on such situations.

(2) The EDB has a clear mechanism with well-defined procedures for handling cases of suspected professional misconduct of teachers, which we have elucidated through different channels. As stated in my reply to the written question raised by the Hon Ip two weeks ago (October 28), in enforcing the provisions regarding refusing or cancelling the registration of teachers under the Education Ordinance, the Permanent Secretary for Education set up an internal Task Force comprising the EDB's directorate officers to review all cases which may involve the registration of teachers starting from 2003. In gist, the internal Task Force of the EDB reviewed all cases that may involve teacher registration. Upon receiving a complaint against a teacher, the EDB will request the school to conduct an investigation. The school will normally inform the teacher concerned about the complaint and let him/her give explanations on the case. The school will also meet with other people concerned, such as other teachers and students, as necessary, and then submit a report to the EDB. Upon receipt of the school's report, we will examine its content carefully and request the school to submit supplementary information as appropriate. For cases that are likely to be substantiated in the EDB's initial view, we will inform the teacher concerned of our view and invite him/her to submit written representations within reasonable time. For cases that may involve cancellation of registration, we will inform the teacher concerned of the possible cancellation of registration and invite him/her to submit representations within 14 days with full understanding of the severity of the case. During the process, the EDB will fully consider all the concrete evidence collected, analyse it thoroughly from a professional perspective at different levels. The teacher concerned has full and fair opportunities for making representations and self-defence, including the submission of representations with knowledge of possible cancellation of his/her registration, and some teachers have sought the assistance of legal advisors. The above mechanism ensures that the teacher concerned is treated fairly and impartially. Should the teacher be not satisfied with the decision of cancellation of his/her registration, he/she may appeal to the Appeal Boards Panel within 21 days.

The Education Commission set up the Working Group on Promoting and Upholding Teachers' Professional Conduct in 2013 to conduct a review on the EDB's investigation mechanism for handling cases of misconduct involving educators. In its review report issued in 2015, the Working Group affirmed that the existing mechanism has been operating effectively and was satisfied with the mechanism under which the EDB is playing the monitoring role.

(3) Teachers in schools should perform their respective roles and strive to provide quality education for students. The school management has the

responsibility to supervise the conduct of teachers and monitor the content of the school-based curriculum to ensure that it is in compliance with the curriculum guide, helping students to acquire the correct knowledge and concepts and helping them develop positive values and attitudes. Teachers, with their professional knowledge and judgement, should also achieve these goals through classroom teaching. In the present case, information showed that the management failed to effectively monitor the content of the school-based curriculum, including allowing the dissemination of the message of "Hong Kong independence" in class, and thus should be held responsible for their dereliction of duty. As for other teachers teaching the topic, they should have exercised their professional judgement and reported to the management when they found problems with the lesson plan, teaching materials and worksheet so that remedial action could be taken. However, the teachers concerned did not take any professional follow-up action, hence should also be held responsible. In short, the principal, vice-principal and other teachers involved in this case should be respectively held responsible. The term "collective punishment" or "implication" is seriously misleading and incorrect.

Thank you, President.