

LCQ4: Ordering teachers alleged to have breached law to be suspended from duties

Following is a question by the Hon Holden Chow and a reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (March 24):

Question:

During the disturbances arising from the opposition to the proposed legislative amendments, quite a number of teachers were arrested for suspected participation in unlawful activities. The Education Bureau (EDB) has written to schools requiring them to order an immediate suspension from duties of those teachers who were arrested for involvement in cases of serious offences, so as to protect students' safety and safeguard schools' operation. It is learnt that some schools have decided that such teachers are to be suspended from duties only upon conviction by the Court. In this connection, will the Government inform this Council:

(1) given that as the conviction threshold for criminal offences is rather high, the acts, committed by those teachers who were prosecuted for taking part in a riot or an unlawful assembly but have been acquitted in a criminal trial, may still constitute professional misconduct, whether the EDB will issue further guidelines to schools in the territory, stipulating that schools must enforce the arrangements for suspension from duties more stringently, so as to avoid students from being led astray by such teachers; and

(2) given that those teachers who were suspended from duties but have subsequently been acquitted by the Court may claim compensation from the schools for the losses they incurred by being suspended from duties, whether the Government will, on behalf of the schools, bear the liabilities for compensation so as to allay the concerns of the schools; if so, of the details; if not, the reasons for that?

Reply:

President,

Schools should be places for students to concentrate on learning without disturbances. As students' role models, professional teachers are obliged to teach them, offer them guidance and emotional support, and in particular cultivate their virtues and positive values, so that they can grow up healthily and contribute to the society in the future. The Education Bureau (EDB) has been striving ahead with schools, providing them with timely guidance, and assisting schools in adopting appropriate measures to create a safe, stable and peaceful environment for students to learn happily. In fact,

the majority of teachers uphold professionalism and are dedicated to nurturing their students. The misconduct of a few black sheep, though only a minority, has undermined the reputation of the teaching profession, while some of them are even involved in serious illegal acts. Such acts bring shame on members of the education profession, seriously affect the professional image of teachers, and undermine the society's confidence in teachers. The EDB is the authority for formulation, implementation and monitoring of education policies as well as the authority for registration of teachers. We take a very serious and prudent approach in handling cases of suspected professional misconduct of teachers to maintain the confidence of parents and society in our education services.

From mid-June 2019 to late December 2020, the EDB received a total of 269 complaints about suspected professional misconduct of teachers in relation to the social turmoil. We have largely completed the investigation of 244 cases, of which 95 are unsubstantiated. Among the remaining cases, we have cancelled two teachers' registration and issued reprimand and warning letters to 28 and 24 teachers respectively, reminding them to uphold professional ethics and that recidivism will definitely be met with severe punishments, including the possibility of cancelling the teacher's registration. We have also issued written advice to 27 teachers and verbal reminders to another 28 teachers, reminding them to refrain from activities that are detrimental to the image of the teaching profession, and to show respect to the behavioural norms acceptable to society. For the remaining cases that are likely to be substantiated in our initial view, we are currently handling them in accordance with the established procedures, with a view to determining the appropriate follow-up actions.

Our reply to the question raised by the Hon Holden Chow is as follows:

(1) The Codes of Aid stipulate that subject to the Employment Ordinance and other relevant provisions, a school may suspend a teacher from his/her normal duties if he/she has been involved or is likely to be involved in criminal proceedings of a serious nature or in serious misconduct.

In order to assist schools in coping with the challenges posed by social turmoil in 2019, the EDB has issued letters or guidelines to schools for a number of times. In the letter we issued to schools in late December 2019, we explained our expectations of teachers and the code of conduct for them. We also clarified to schools the basic principles for handling teaching staff who have been arrested, pointing out that when considering whether teachers should be suspended from duties, schools should take into account students' well-being, including the impact on their personal safety, moral development and quality of learning, as a primary consideration. If a teacher is suspected of having committed a serious crime, the school should also assess the risk involved should the teacher continue to contact with the students, even if the case or the incident is not yet concluded.

Specifically, if a teacher is involved in a serious offence related to personal safety, such as arson, serious wounding, riot, possession of dangerous goods or prohibited weapons, etc., or an offence generally considered by the public to be seriously violating moral standards, such as a

sexual offence, trafficking or possession of drugs, possession of child pornography, etc., taking into account students' personal safety and well-being, schools should handle the case prudently, and suspend the duties of the teacher concerned to prevent him/her from continuing to take up teaching duties or to have contact with students. As for teachers under arrest but not charged with any offences, schools should examine carefully the nature and seriousness of the cases involved and consider whether it is appropriate to allow them to continue to take up their teaching or other duties in schools.

In fact, schools, as employers, are responsible for the management of a professional team of teaching staff in school, including handling the appointment, promotion, termination, dismissal and any other staffing matters. If we learn that there are suspected cases of unlawful acts committed by teachers, we will closely liaise with the schools concerned and provide support in relation to various matters. If it is noted that the schools have deviated from the EDB's instructions in the process, we will offer advice to the schools and require them to re-consider the cases.

Regardless of whether an arrested teacher is convicted or not, the EDB will, upon completion of all the legal proceedings (including the appeal proceedings), review the registration status of the teacher concerned based on the information available. If the EDB considers that the teacher is no longer a fit and proper person to be a teacher, we will cancel the teacher's registration pursuant to the Education Ordinance. If the case does not warrant the cancellation of registration, the EDB will take follow-up actions of different levels having regard to the nature and severity of the case. These include issuing a reprimand, warning letter or advisory letter, etc. to remind the teacher concerned that he/she should uphold professional ethics and recidivism will definitely be met with severe punishments, including the possibility of cancelling the teacher's registration.

(2) Generally speaking, if a teacher is arrested for being suspected of having committed a crime and is charged later, schools will, taking into account the aforesaid factors and the nature of the crime, suspend the teacher from his/her normal duties before the completion of legal proceedings and a judgement is delivered on the case by the Court. Some cases will take a longer time to conclude if appeal procedures are involved. To ensure students can continue with their studies without being affected by the teacher's absence from duties, a school may make use of the resources provided by the Government to hire a supply teacher to temporarily take up the duties of the teacher being suspended from duties. In making the arrangements for the teachers being suspended from duties and their salary payment, schools should observe the requirements under the Codes of Aid, Employment Ordinance, employment contract, schools' own policies and the actual situation. In general, in case the teachers concerned have not performed any duties, they will not receive salary payment. Regarding the arrangements for suspending teachers from their duties, should there be any enquiries or difficulties encountered by individual schools, the EDB will provide appropriate advice and support, with a view to assisting them in making the proper arrangements and ensuring that students' learning will not be affected.

Thank you, President.