

## LCQ12: Procedure for handling complaints against teachers

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 (October 28):

Question:

Early this month, the Education Bureau (EDB) determined that a primary school teacher under complaint was culpable for serious professional misconduct and cancelled his teacher's registration. The EDB indicated that during the investigation, a professional team under the EDB comprising directorate officers (the professional team) had reviewed the relevant lesson plans and teaching materials as well as the investigation report submitted by the school concerned, and invited that teacher on two occasions to submit written explanations. However, that teacher claims that he was not given any opportunity for making an oral representation, and not until October 6 did he first learn from the EDB's press conference about some of the grounds for the cancellation of his teacher's registration. As a result, he never had the opportunity to fully defend his case. In this connection, will the Government inform this Council:

- (1) of the following details of the professional team:
  - (i) the number and ranks of its members, as well as the membership list,
  - (ii) the terms of reference,
  - (iii) whether it is of a standing nature,
  - (iv) the date of and reasons for its formation,
  - (v) the number of complaints against teachers handled by it since its formation, with a breakdown by the complaint-handling stage (i.e. complaint just received, investigation commenced, and investigation completed (specifying the investigation results)),
  - (vi) the mechanism for appointing members and their term of office, and
  - (vii) whether there is any non-official education professional participating in its work; if not, of the reasons for that;
- (2) of the complaint handling procedure of the professional team, including:
  - (i) whether anonymous complaints will be handled,
  - (ii) the detailed processes,
  - (iii) whether the complainee will be informed of all the contents of the complaint,
  - (iv) the time given to the complainee to prepare his/her written representation,
  - (v) whether the complainee has an opportunity to attend a hearing to making an oral representation, and
  - (vi) whether the relevant procedure has been made public;
- (3) of the criteria adopted by the EDB for determining whether a teacher has violated the professional code of conduct, including whether the Code for the

Education Profession of Hong Kong is used as the basis;

(4) of the number of complaints about teachers' professional conduct received by the EDB since January last year, with a breakdown by the date of receipt and the complaint-handling stage; among such complaints, the number of those lodged by persons whose identities cannot be verified or by anonymous persons, and the number of those in which the EDB took the initiative to conduct investigations; among those complaints in respect of which investigations have been completed, the respective numbers of those for which the EDB has taken the following actions: (i) cancelling the teachers' registration, (ii) issuing reprimand letters, (iii) issuing advisory letters, (iv) giving verbal reminders, and (v) determining that the complaints being unsubstantiated; the mechanism for lodging appeals against the EDB's decisions and the relevant requirements; and

(5) given that at present, independent statutory bodies are responsible for regulatory matters (including registration and complaints handling) for the members of quite a number of professions (including doctors, nurses, lawyers and accountants) with self-regulation as the basic principle, while the regulatory matters for teachers are currently predominated by the EDB, of the reasons for that?

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 the society. According to the Education Ordinance, the Education Bureau (EDB) is the authority for registration of teachers and is responsible for ensuring 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 to be a teacher or is incompetent as 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.

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

(1) and (2) In enforcing the provisions regarding refusing or cancelling the registration of teachers under the Education Ordinance, the Permanent Secretary for Education (PS(Ed)) set up an internal Task Force comprising the EDB's directorate officers to review all cases which involve the registration of teachers starting from 2003. As a standing mechanism, the Task Force is tasked to conduct detailed review, in-depth analysis and discussion of each case and make recommendations to the PS(Ed), including cancellation of teacher registration or refusal of application for teacher registration.

As the professional conduct of teachers have a direct impact on students' well-being, the EDB has the responsibility to seriously follow up on the complaints, even they are anonymous, if the allegations obviously involve words and deeds which fail to meet the moral standards generally

acceptable to society, or are prejudicial to the safety and healthy development of students. The EDB has been handling every complaint against teachers prudently and in accordance with the established mechanism and procedures in a fair, just, impartial and objective manner.

Upon receiving a complaint against a teacher, the EDB will request the school concerned to conduct an investigation. The school will look into the matter, take appropriate school-based follow up actions, inform the teacher concerned about the details of the complaint so as to 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. The EDB will fully consider all the information collected and all the relevant factors, including the school's report, the teacher's representations, the existing legislations, EDB guidelines, visions, goals and aims of the curriculum, and review whether the education of the students is promoted in a proper manner in accordance with the Education Ordinance by the school and teacher concerned. For cases that are likely to be substantiated in the EDB's initial view, we will inform the teachers concerned of our views and invite them 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 the teacher to submit representations within 14 days with full understanding of the severity of the case.

The Task Force will fully consider all information, including the school's report and the teacher's representations, before making recommendations to the PS(Ed). During the process, the teacher concerned have full and fair opportunities for making representations and self-defence. If a teacher is not satisfied with the decision of cancelling his/her teacher registration, he/she may appeal to the Appeal Boards Panel within 21 days. The mechanism on handling the registration of teachers committing offence or misconduct has been concisely set out in Annex 6 of the Report on Review of the Present Framework and Mechanism for Promoting and Upholding Teachers' Professional Conduct under the Education Commission, which is uploaded to the webpage.

As regards the Appeal Boards Panel, the members are appointed by the Chief Executive in accordance with Section 59 of the Education Ordinance. An Appeal Board is appointed in accordance with Section 62(1B) of the Education Ordinance to hear or determine any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher. The Appeal Board shall consist of 5 members of the Appeal Boards Panel and at least 3 of its members must be registered teachers.

The Education Commission set up the Working Group on Promoting and Upholding Teachers' Professional Conduct (Working Group) in 2013 to conduct a review on the EDB's investigation mechanism of handling cases of misconduct involving educators. In its report issued in 2015, the Working Group affirmed that the aforementioned mechanism has been working effectively. Since members of the internal Task Force are experienced education professionals and the

EDB has listened to the views of frontline principals and teachers through different channels, the internal Task Force has sufficient understanding of the work of frontline teachers and the teaching environment, and can make proper recommendations to the PS(Ed). The Working Group was satisfied with the mechanism. In addition, the Appeal Board which considers the decisions of the PS(Ed) also has the participation of experienced registered teachers. The Working Group did not recommend to involve outside teachers in the investigation work of the internal Task Force regarding complaints on misconduct.

In the past ten years (2010 to 2019), the EDB handled a total of 585 cases relating to the suspected professional misconduct of teachers, of which the registration of 72 teachers were cancelled. In addition, there were 26 persons whose applications for teacher registration were refused. Since each case is unique and, for various reasons, the time required to handle each case varies, it is not meaningful to provide a breakdown of the cases by the source of the case and the handling stage. As such, we have not compiled the relevant statistics.

(3) In accordance with the Education Ordinance and from the perspective of the education profession, the EDB handles cases of suspected professional misconduct of teachers in a prudent, lawful, reasonable and just manner. In determining whether a teacher commits misconducts, we will consider the matter from the perspective of the education profession. Our focus is on whether the acts in question conform to the professional ethics required of a teacher, whether the teacher concerned has fallen short of social expectations and whether the values so demonstrated will have an adverse impact on the teaching profession or students. In fact, to live up to the public's expectations of teachers' moral standards or values, a professional educator should appreciate the impact of his/her words and deeds on the thinking and character of students, show respect to the law, conform to the behavioural norms acceptable to society, and do his/her best to uphold the honour, dignity and morality of the teaching profession. These are clearly stipulated in the Code for the Education Profession of Hong Kong. Moreover, the Professional Standards for Teachers of Hong Kong, which was published by the Committee on Professional Development of Teachers and Principals upon in-depth discussion, states that teachers should be committed role models of professionalism; uphold the public's trust in the teaching profession; maintain high standards of ethics and behaviour within and outside school to realise the core professional values. The most basic requirement is that teachers should nurture students' character and be a role model themselves, demonstrating good character, positive values and attitude. The words and deeds of teachers should live up to the moral standards generally acceptable to society. For example, we trust that the general public would not accept teachers making hate messages, cursing people, or using extremely indecent language or foul language in insulting people. Teachers should also not bring negative impact on students (such as teaching distorted or wrong contents) or risk the safety of students (such as assaulting students or being involved in unlawful acts). In determining the follow-up actions, such as whether cancellation of registration is warranted, the EDB will comprehensively review the cases, taking into account the nature, gravity and other related

circumstances.

(4) We have provided the number of cases relating to the suspected professional misconduct of teachers handled by the EDB in the past ten years (2010 to 2019) in part (1) and (2), among which the number in 2019 has been included. While we understand that the public are more concerned about the cases related to the social incidents since June 2019, we have consolidated the related figures. During the period from June 2019 to August 2020, the EDB received a total of 247 complaints about the professional conduct of teachers. The EDB has largely completed the investigation of 204 cases, of which 73 were found unsubstantiated. Of the substantiated cases, we have cancelled the registration of one teacher and issued reprimand letters to 21 teachers, warning letters to 12 teachers, advisory letters to 19 teachers and verbal reminders to 18 teachers. For the rest of the cases, some of them are initially substantiated, and the EDB is handling these cases according to standing procedures. Since each case is unique, the reasons as to whether investigation is initiated by the EDB differ, and the time required to handle each case also varies, it is not meaningful to categorise the cases by such conditions. As such, we have not compiled the relevant statistics. In recent years, most of the complaints were made through emails. While the complainants' email addresses were given, we are unable to confirm whether the names provided by the complainants are real. Notwithstanding this, as the words and deeds of teachers have a direct impact on students, the EDB has the responsibility to seriously follow up the complaints, even if they are anonymous, if the allegations involve words or deeds which obviously fail to meet the moral standards as acceptable to the general public, risk the safety of students, or harm the healthy development of students. Hence, we also do not categorise the complaints by whether they are anonymous or not.

(5) According to the Education Ordinance, the EDB is the authority for registration of teachers, including approving applications of "registered teachers" or "permitted teachers" and cancelling teachers' registration, to ensure that all teachers allowed to teach in schools are fit and proper persons, in order to safeguard students' well-being.

The EDB has continuously reviewed the related arrangements. The Working Group on Promoting and Upholding Teachers' Professional Conduct set up by the Education Commission in 2013 has made reference to the practices of other professions in its review. In its report issued in 2015, the Working Group was satisfied with the mechanism of the EDB in performing the monitoring role. Indeed, different professions have their own uniqueness, and their respective registration systems have their own backgrounds, underpinning philosophies, legal bases and procedures. It is not appropriate to single out part of an individual profession (such as regulatory matter) and compare it with teaching profession without regard of the context.