

HKFPE Position Paper:

A Fair Trading Environment for Schools Compliant with the Law

Issue 1 – Supervision of Unlicensed Schools

The Education Department is applying an unrealistic level of regulatory inflexibility to registered schools, thereby undermining their ability to compete in a fairly regulated trading environment. Generally, the Education Department focuses its attention on registered schools and seeks to check, pursue and prosecute minor breaches of the regulations by operators who are making a genuine effort to comply with the law. In doing so, it ignores unregistered operations that do not even comply with essential Fire Services Department and Building Services Department regulations and safety requirements.

Additionally, the Education Department abrogates its responsibility to investigate ‘rogue’ institutions by effecting cursory inspections through visiting schools at times that allow unregistered operators to exploit loopholes in the regulations. This means that the Education Department is effectively turning a blind eye to illegal schools.

Background

- Registration of all schools, including “Schools with Non-Formal Curriculum”, also known as “Private Schools”, is governed by the Education Ordinance, Chapter 279 (the “Ordinance”).
- A “**school**” is defined as “*an institution, organization or establishment which provides for 20 or more persons during any one day or 8 or more persons at any one time, any nursery, kindergarten, primary, secondary or post secondary education or any other educational course by any means, including correspondence delivered by hand or through the postal services.*” (Sec. 3)
- “*Every School shall be registered or provisionally registered*” (Sec. 10)
- Registering a private school in Hong Kong can take more than a year at the moment and the procedure is onerous and expensive.
- Many tutorial schools flout the regulations and, in the absence of Education Department action, unregistered and dangerous institutions are prospering. The HKFPE estimates that there are hundreds of non-registered schools exploiting this situation
- If effective, ongoing enforcement action were to be taken, currently unregistered (and therefore unregulated and potentially dangerous)

schools would be encouraged to come within the ambit of the Ordinance.

Issue 2 – Supervision of Teachers

The HKFPE urges the Education Department to take a hard-line position in defining and regulating teacher qualifications. Without this control, any person without suitable qualifications may masquerade – and earn a living as – a teacher, to the detriment of students and the Hong Kong's talent pool.

In the absence of action from the Education Department, this problem will intensify and pose a threat to HKFPE members and any other educators who are committed to maintaining high educational standards.

Background

- Over the past few years, there has been a steady and increasing flow of negative media reports concerning unqualified teachers operating in private education institutions.
- The HKFPE, in common with most of the developed world, consider teachers to be professionals in the same manner as lawyers, doctors and certified accountants.

Issue 3 – False Advertising

There is no deterrent to unregistered schools that use advertising to attract and recruit students. If these establishments are prepared to ignore their responsibilities under the law, in terms of registration, fire and building regulations, it is unlikely that they would feel bound to the ethic of 'truth in advertising'.

Clearly, in this situation, the potential for student and parents to fall victim to unscrupulous operators is great. And naturally, the reputations of all private educators are vulnerable when such abuses are reported in the media.

Background

- There are no laws in place to deter unregistered schools from recruiting students by making false claims in their advertising and marketing material
- It is not incumbent on media owners to require proof of credentials before accepting advertising on behalf of an education establishment even though it is common practice to refuse advertising that, in the media owner's opinion, makes exaggerated claims.

The Federation proposes:

- The Education Department should re-evaluate and revise its investigation and review procedures so that they are appropriate to deal with those establishments that do not comply with the law, with

due weight given to ensuring accurate and thorough checks at appropriate times of the day.

- The promotion of fair trade by ensuring the ED effectively monitors and records major abuses of the law leading to the closure of illegal operations.
- The enactment of regulations that will ensure only properly qualified teachers are allowed to teach in properly qualified schools in the same way that other professions are regulated in Hong Kong.
- New laws that would restrict unregistered schools from publishing advertisements in any media. Additionally, all advertising published should bear ED registration numbers and any falsification should mean perpetrators would face prosecution.
- The Federation is keen to talk with the ED and other departments to discuss the implementation of these measures or explore any other avenues that will alleviate these problems.

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