



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

Promotion of Racial Integration and Prevention of Racial Discrimination in School

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The Purpose of this Presentation

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- To promote the usage of the booklet “Promotion of Racial Integration and Prevention of Racial Discrimination in School”
- To increase the understanding of educators and other stakeholders on the application of Race Discrimination Ordinance in the kindergarten, school or other educational institutions.



The Outline of this Presentation

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- Key concepts of the Race Discrimination Ordinance
- Recommendation on :
 - language
 - religious practice
 - uniform policy
- Conclusion



Background

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- **International Obligations:**
 - International Covenant on Civil and Political Rights (ICCPR)
 - International Covenant on Economic, Social and Cultural Rights (ICESCR)
 - International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- **Domestic legislation:**
 - The Basic Law
 - Bill of Rights Ordinance

Principles:

- Respect Individual Rights
- Equality before the Law



Race Discrimination Ordinance

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- Purpose of the Law:
 - To render discrimination, harassment and vilification on the ground of race, unlawful
 - To prohibit serious vilification of persons on the ground of race
- Effective:
 - 10 July 2009



Race (1)

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- Discrimination on the ground of one's race is unlawful under the RDO
- Race means a person's
 - Race
 - Colour
 - Descent
 - National Origin
 - Ethnic Origin



Near Relative's Race

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Unlawful to discriminate a person on the ground of the race of his/her near relative

- Near Relative:
 - Spouse and his/her parents, brothers and sisters, grandparents
 - Parents, Grandparents
 - Children(include children born out of wedlock, adopted children and step children) and the spouse
 - Brothers or sisters and the spouse
 - Grandchildren and the spouse



Not Race (2)

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- Not unlawful to discriminate on the following grounds:
 - New Territories indigenous inhabitants
 - Permanent residency, right of abode, right to land, restriction or condition of stay, permission to land and remain
 - Length of residency
 - Nationality, citizenship or resident status of other countries

The Protected Grounds under the Race Discrimination Ordinance

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Direct and Indirect Discrimination

Victimisation

Employment

Education

Racial Harassment

Racially Hostile Environment

Goods, Facilities, Services

Membership in clubs

Racial Vilification

Racial Serious Vilification

Disposal / Management of Premises

Eligibility to vote or stand in public elections



What is discrimination?

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Less
favourable
treatment

In comparable
circumstances

Causing
detriment



The Applicability of Race Discrimination Ordinance in School

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It unlawful for school to discriminate a person on the ground of race:

- **In the terms** of admission
- **By refusing** to accept an application;
- **By limiting access** to any benefits, facilities or services,
- **By expelling** a student from the establishment or **subjecting** him or her to any other detriment.

DIRECT DISCRIMINATION

Please note medium of language in school and holiday arrangement are exempted under the Race Discrimination Ordinance



Applicable of the RDO on School and Child Care Provider

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It is unlawful for any person concerned with the provision of goods, facilities or services to discriminate against another person on the ground of his race:

- **By refusing** to provide the goods, facilities or services of **(with payment or not):**
- **By refusing** to provide the goods, facilities or services of :
 - the like quality
 - in the like manner
 - on the like terms

DIRECT DISCRIMINATION

Racial segregation is also considered as race discrimination under the Race Discrimination Ordinance



Scenario 1

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- Two students were making noises in the classroom
- One student come from Race A and the other come from Race B
- The teacher told the student from Race B to lower his voice.
- Student from Race A get disciplinary action
- Student from the Race A labelled as trouble maker.

Less favourable treatment

In comparable circumstances

Causing detriment



Scenario 2 (cont.)

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- Student from Race A become highly unpopular in the school
- The teacher spoke to the headmistress and persuaded the parents to move the student to another school as the student was “too naughty”.
- The parents moved their child to another school and later on it was found out that their child has special need.

The “**BUT for TEST**” in discrimination case:

Will the school take the same action if the student does not come from Race A ?
Would the teacher send the student for counselling if the student is not from Race A?



Indirect Discrimination

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Indirect Discrimination

- Same treatment (same requirement or condition)
- Unfair result to people of a particular racial group
- Requirement or condition not justifiable

Example :

- Language requirement
- Correspondence in school
- Uniform
- Religious practices and school rules



Scenario 1

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- A Pakistani couple approaching school to get **school application form**
- The school receptionist asked whether the couple know any Cantonese.
- When the couple said they do not know any Cantonese, the receptionist told the couple to find another school.

Same treatment

Unfair result to people of a particular racial group

Requirement or condition not justifiable



Harassment

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- Unwelcome conduct in relation to a person
- Based on someone's race
- The aggrieved person's feeling:
 - Offended, intimidated or humiliated

Subjective

Reasonable person's anticipation

Objective



Example of Racial Harassment

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- Name calling
- Bullying
- Making racial joke and/or making fun of someone's accent, appearance or traditional food
- Using offensive language when communicating with people from different group



Racial Harassment : In Education and Providing GFS

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- Unlawful for:
 - Responsible person, member & employee of an educational establishment to harass students or applicants
 - Student to harass another students, applicant or responsible person, member & employee of the educational establishment
- Service provider to harass service users
- Creating racially hostile or intimidating environment (work, education or using services)



Hostile (intimidating) Environment

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- A person, alone or together with other persons, engages in conduct (which may include oral or written statement) based on another person's race which creates a **hostile environment** for other(s).

Example : Making a joke about particular race even without an intention to harass any person.



Victimization

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Less Favourable
Treatment

Because someone has or
intends to:

File a complaint or help
someone to file a
complaint or investigate
complaint under the RDO



Example of Victimisation

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A student was subjected to harassment or discrimination

Because

He /she intends to officially lodge a complaint to the school or to the EOC on discrimination

Less Favourable Treatment

Because someone has or intends to:

File a complaint or help someone to file a complaint or investigate complaint under the RDO



Racial Vilification

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Activity in public inciting

- hatred towards
- serious contempt for; or
- severe ridicule of

persons on the ground of their race.

Serious Vilification : Criminal Offence;

Penalty:

Maximum fine at level 6 (\$50,001 – 100,000) and to
Imprisonment for 2 years



Liabilities (1)

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■ **Personal liability:**

Teachers, school administrators, students are liable for own discriminatory acts or harassment

■ **Accessory liability:**

- To pressure someone to discriminate or harass;
- To instruct someone to discriminate or harass; or
- Knowingly aid a person to discriminate or harass



Liabilities (2)

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- **Principal's liability:**
 - Liable for authorized discriminatory acts done by school's agent

- **Employer's liability:**
 - Liable for employees' discriminatory acts done in the course of their employment, whether with or without employer's knowledge or approval
 - Defense: Has taken reasonably practicable steps to prevent discrimination or harassment



Recommendation on Admission

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- Create a consistent admission criteria backed by reasonable justification
- For kindergarten : Be creative on different way of using assessment for non Chinese speaking students such as conducting observation in interaction with other children, learning motivation, etc.
- Engage interpreter when necessary
(HK Christian Service - CHEER Centre 3106 3104)



Recommendation on Language

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- Publish bilingual notice
- Asking staff to speak directly with parents to explain the school's notices
- Engage interpreter during activities
(HK Christian Service - CHEER Centre 3106 3104)



Recommendation on Religious Practices

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- We recommend that schools be aware of other students religious restriction especially during religious celebration
- We recommend school to take account the cultural, religious and racial practices of students and consider request for accommodation by students.

How :

- By consulting students and parents
- By consulting the religious leaders on the religion needs



Recommendation on Uniform Policy

- We recommend that school uniform rules to respect and take into account the cultural, religious and racial practices.
- Considerations on imposing uniform rules and restrictions:
 - Contribute to school identity
 - Promote positive behaviours and discipline
 - Avoid manifest disparities of wealth and style
 - Maintain health and safety
 - Uphold the best interest of the pupil in education
- When making or reviewing rules on school uniform, we recommend school to adopt an inclusive and transparent process



General Recommendation

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- Formulate **equal opportunities policies** in school.
- Make sure **all school policies are applied uniformly**, consistently and across the board.
- Provide **training for all staff, teachers, as well as students** on cultural awareness, sensitivity.
- Promote the **usage of interpretation** as well as any other kinds of accommodation to ensure access to education, services and information by students and parents.



General Recommendation

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- Organize activities that **encourage interaction** of students from different racial backgrounds.
- Consciously **mix racial groups** in class, in sports teams and in school-wide activities.
- **Promote the achievements and contributions** of students of different ethnic backgrounds in school's internal and external materials, e.g. newsletters, posters, etc.



Conclusion

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- We are increasingly living in a very diverse society.
- Special considerations need to be taken in order to ensure every one in Hong Kong enjoys equal access to education and obtains the whole person development.
- Cultural diversity in school should be seen as an asset to prepare students for the skills and competitiveness to enter adulthood and international job market.

THANK YOU

We welcome your questions and suggestions

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