



The Integrity Management for School

A Practical Guidebook for School Staff



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From the editor

This guidebook is for general guidance only, and does not discuss all possible situations. The explanations on the relevant legislation, rules and regulations in the book are, again, only brief and general, and cannot represent the original meaning of the law and legal advice. Readers should therefore check with the original law and seek legal advice when in doubt. The ICAC will not be responsible for any damages arising from actions or inactions by any person due to the content of this guidebook.

The use of the pronoun, 'he', in this guidebook represents both male and female and does not imply any form of sexual discrimination.

Chapter 2 : Case Studies

In handling school business, staff are likely to come across integrity dilemmas in four major areas:

- (1) Acceptance of advantages and donations
- (2) Conflict of interest
- (3) Tendering and procurement
- (4) Accounts management

These are the four pilot areas in promoting an integrity culture. The following case studies are based on real ICAC cases and situations commonly encountered by school staff. The case studies are presented in a scenario format, followed by an analysis that looks into the corruption loopholes and recommends preventive measures.

Acceptance of Advantages and Donations

It is not unusual for school staff to be offered gifts and donations. These situations have to be carefully handled to prevent a breach of the PBO.

A person offers an advantage if he donates gifts or money to a school or individual staff member as a reward for the latter to reciprocate by giving preferential treatment or convenience at work e.g. granting a contract without following proper procedures. Both the offeror and the acceptor of the advantage are considered to be in breach of the PBO. Although the law allows employees to solicit or accept advantages with the employers' permission, generally speaking, the school management should not give such permission if the offeror has business dealings with the school (such as if they are students, parents, suppliers or textbook publishers).

The following case studies illustrate certain situations that school staff might face in their day-to-day work in relation to the offering and acceptance of advantages and donations. School staff have to enhance their awareness and thoroughly consider all factors and the relevant laws and regulations before deciding whether to accept or refuse an advantage.

Case 1 Is it an offence if the purpose of bribery has not been achieved?

The School Management Committee (SMC) of a primary school decides to change the English textbooks for the next school year, and appoints the school head Mr. Au to choose suitable textbooks and contact the relevant publishers. Au meets with a sales manager of an English textbook publisher to discuss the matter and he boasts that he is influential in the SMC and is able to persuade the school managers to accept his recommendation. He asks the sales manager for monetary reward in exchange for recommending the textbooks to the SMC. After careful consideration, the SMC declined Au's recommendation.

Case analysis

According to the PBO, no school staff can solicit or accept an advantage as an inducement or reward for his action or inaction when carrying out his duties without permission from the SMC. Au has betrayed the trust of the SMC and has abused his power by asking for money from the sales manager. This act has breached the PBO. If the sales manager offers money to Au to get his business, it is a corrupt act, and both he and Au have committed a crime.

Although the SMC in the end did not accept Au's recommendation, Au has already made a verbal agreement with the publisher to solicit an advantage under Section 11 of the PBO. So despite the fact that the purpose of bribery has not been achieved, the agreement alone constitutes an infringement of the law.

The following are important legal points regarding the PBO that school staff should bear in mind :

- **A verbal agreement counts** : The offeror and the recipient of a bribe are liable to prosecution if a verbal agreement of corruption is reached notwithstanding the purpose of bribery has not been carried out.
- **Custom constitutes no defence** : It shall not be a defence to claim that any advantage accepted or offered is customary in any profession or trade. The court will only judge by whether or not permission has been given by the recipient's employer.

Case 2 Can school staff accept gifts from students?

A form 5 class master, Mr. Chan, will retire at the end of the school year. He is very popular amongst his students and their parents for his passion at teaching and concern for his students. As a token of their appreciation, the students give Chan an expensive wristwatch for his retirement. Chan finds it difficult to decline their kind offer, but the gift is too expensive to accept. He takes it back to the staff room pondering what he should do. It is then that he meets his colleague Mr. Lee, who is also caught in a similar dilemma. He has received a gift from parents, which is an inexpensive decoration and the parents are eager for him to take it. Should Chan and Lee accept those gifts?

Case analysis

In this scenario, students and parents offer gifts to teachers as a token of their appreciation.

For gifts given on special occasions such as retirement, if Chan is a government school teacher, he should apply for approval according to the relevant Civil Service Regulations (CSR), Civil Service Bureau (CSB) circulars, EMB internal circulars or EMB circular memoranda, and accept the gift only upon approval.

(Please refer to: CSR Chapter III Conduct and Discipline, paragraph 448: Retirement Gifts; Acceptance of Advantages (Chief Executive's Permission) Notice 2004; EMB Internal Circular No. 7/2003 – Acceptance of Retirement Gifts by Staff of the Education and Manpower Bureau and EMB Internal Circular No. 1/2004 – Guidelines on Staff Discipline)

If Chan is employed by a school under government subvention, he should refer to the school's internal guidelines on the types and the maximum value of gifts that school staff are allowed to accept on special occasions.

In regard to small gifts given to teachers, if Lee is employed by a school under government subvention, disregarding the monetary value of the gift, he should refer to the school's internal guidelines on acceptance of advantages and see whether the value of the gift has exceeded the maximum limit. If it has, he should seek approval from the school before accepting the gift. If Lee is a teacher at a government school, he should decline any gift offered by students or parents as far as possible. In circumstances where offers cannot be declined or such decline may cause embarrassment, Lee should declare to the school management as soon as reasonably possible after the acceptance and it is subject to the school management's decision on the disposal of the offers.

(Please refer to: CSR Chapter III Conduct and Discipline, paragraph 444: Acceptance of Advantages and CSB Circular 16/2002, paragraph 4 to 8)

The school should also inform students and their parents of the school policy on acceptance of advantages to minimise unnecessary misunderstanding and to forbear from building the culture of gift-giving.

Factors to consider by school staff before accepting a gift :

- Will accepting the gift infringe the PBO?
- Does it conform to the employer's/school's guidelines on acceptance of advantage?
- Has the value of the gift exceeded the limit allowed?
- Is it a proper occasion to accept the gift (e.g. graduation, retirement)?
- Has the offeror requested overtly or covertly that you have to return a favour at work?
- Will accepting the gift make you feel obliged to the offeror, or influence your decision at work?
- If in doubt, consult your school management for advice.



Case 3 How to handle entertainment?

Mr. Chan is the lunchbox supplier for an aided secondary school. He has repeatedly invited Mr. Cheung, the teacher responsible for lunchbox arrangements, to dinner. Cheung accepts his request once in a while to maintain a good working relationship. Recently, Chan has opened a new delicatessen and invites Cheung to try out new dishes. Cheung can hardly decline but accepts the invitation. During the dinner, Chan gives Cheung a few free meal coupons. He even mentions that the lunchbox contract is nearing its end, and hints Cheung should help in the renewal of the contract. Cheung doesn't know what to do.

Case analysis

According to the PBO, “entertainment” means the offering of food or drink for immediate consumption on the occasion. *(Please refer to Appendix : Section 2 of the PBO on the interpretation of “entertainment”).* Although accepting entertainment does not constitute an offence, lavish or frequent treats are often a prelude to corruption. It may make the recipient feel obliged to pay back and find it difficult to turn down requests to return a favour in business dealings later on.



In the scenario, the supplier Chan has a corrupt motive. He makes use of the dinner as a sweetener to ask Cheung for an extension of the contract. Cheung should pay heed to such traps that are likely to bring about an infringement of professional integrity. Although entertainment is an acceptable form of business practice, Chan has to avoid too lavish and frequent entertainment that may blur his objectivity in dealing with school affairs.

The free meal coupon is also an advantage. If Cheung accepts the coupons without permission from the school management and assists Chan to renew his contract, then Cheung will be in breach of the PBO.

School staff should consider the following factors before accepting entertainment:

- Is it too lavish and too frequent?
- Will accepting the entertainment make you feel obliged to the offeror, or will it affect your impartiality when conducting business? Will it cause the misapprehension that you and the offeror have a very close relationship?
- Will it bring your school into disrepute?

Some lunchbox suppliers supply a few extra lunchboxes to compensate for transportation losses. Can school staff consume the leftover lunchboxes?

- Even when schools accept extra lunchboxes for administrative convenience, the staff-in-charge should try to avoid personal interest, misunderstanding or unnecessary argument in handling these extras.
- Schools should seek the advice of their SMCs and set guidelines so that the staff-in-charge know the proper way of dealing with extra lunchboxes, e.g. by distributing them in turn to students on duty.
- If the supplier often delivers more lunchboxes than necessary to cover the loss and leftovers are frequent, the school should discuss with the supplier on adjustment of the supply.

Case 4 Should the school accept donations from suppliers?

As the school sports day is approaching, the school uniform supplier, Mr. Lam, suggests donating 100 sets of tracksuits and flag prizes for the event and hopes that the school may favour extending his school uniform contract which is soon due for renewal. Mr. Law, the chairman of the Monitoring Committee on Trading Operations discusses the matter with the school head, noting that the contract with Lam will soon expire. The committee has invited tenders for the new contract and Lam was among the tenderers invited. Should the school accept the donations from Lam under such circumstances?

Case analysis

Lam anticipates that the school will give him preferential treatment in the tendering exercise when he donates tracksuits and flag prizes. The school should decline the donation from Lam to maintain fair competition.

Since the school has invited tenders for the new contract, it should handle donations from suppliers cautiously. Even if the supplier has no intention to bribe, it is prudent for the school to reject the donation so as to avoid misunderstanding or possible criticism from other tenderers who may claim that, due to the donation, the school has favoured certain supplier.

The school should also set out criteria and procedures for the acceptance of donations, and be mindful of those who use donations as a way of getting business.

Schools should consider the following factors before deciding whether to accept a donation:

- Is the donation for the use or other educational purposes of the school? Will it benefit the students and the school, e.g. will it improve the school facilities and learning environment? Will accepting the donation increase the school's recurrent expenditure?
- Will accepting the donation bring the school into disrepute?
- Will accepting the donation induce a conflict of interest or a perceived conflict of interest situation and provoke criticism from people affected (such as unsuccessful tenderers or failed applicants to the school), or the public?
- Will accepting the donation put the school in a position of obligation to return favour to the offeror, e.g. being partial to an individual supplier or an applicant for school admission?

(Please refer to: EMBC No. 14/2003 – Acceptance of Advantages and Donations by Schools and their Staff)

Should a school accept a donation from a publisher when selecting textbooks?

- According to the EMBC No. 4/2004 – Notes on Selection of Textbooks and Learning Materials for Use in Schools, selection of textbook should not be influenced by a donation from supplier. The principle of textbook selection should be based on the students' needs and the quality and pricing of textbooks.
- Generally speaking, schools can accept complimentary textbooks, teachers' manuals and teaching resources that are produced to support the use of textbooks, e.g. wall charts, overhead transparencies, cassette tapes or computer software provided by publishers.
- Schools should decline donations or other advantages from publishers, including free teaching aids, such as overhead projectors, television sets, computer hardware; cash grants for purchasing equipment or teaching aids; or other forms of donations, like scholarships and prizes. In exceptional circumstances where there are compelling reasons to accept the donations, they should be fully justified, documented and approved by the SMC.
- If the school considers that it is necessary to receive certain donations, the acceptance should be justified with reasons and with prior approval from the SMC.
- The school should record the details of all donations on file and the record should be made accessible to parents and the public. The record could be uploaded on the Internet.

(Please refer to: EMBC No. 4/2004 – Notes on Selection of Textbooks and Learning Materials for Use in Schools)

Preventive Measures : The way to handle the acceptance of advantages and donations

Understand the PBO : All school staff should understand and observe the PBO. As previously explained, for private schools or schools under government subvention, Section 9 of the PBO empowers the principal (i.e. the SMC) to decide whether its agents (i.e. all school staff) can accept advantages when carrying out their duties.

Staff of government schools are prescribed officers and are governed by Section 3 and 4 of the PBO and Acceptance of Advantages (Chief Executive's Permission) Notice 2004, which stipulate the conduct of civil servants.

If any school staff is doubtful about matters relating to the acceptance of advantages, they should seek clarification from the school to avoid inadvertent contravention of the law.



Adhere to the policies on acceptance of advantages and donations :

The EMB has clearly stated the principles for accepting advantages and donations. All private schools or schools under government subvention should refer to the relevant EMB circulars to formulate their own policies and guidelines, and explain to all staff the school's stance and the rules on acceptance of advantages. The guidelines should clearly state the situations that do not allow the acceptance of advantages and donations, the special occasions (such as graduation ceremonies, retirement or resignation) that acceptance of gifts is permitted, the maximum value of gifts allowed; the principles and application procedures for accepting donations. If school staff are offered gifts or other forms of advantages beyond the stated limits, they should obtain prior permission from school before accepting the offer.

(Please refer to: EMBC No. 14/2003 – Acceptance of Advantages and Donations by Schools and their Staff; and Sample Code of Conduct for Schools)

For staff of government schools, they should understand and observe the CSR and the internal circulars issued by the EMB.

(Please refer to: CSB Circular 15/2002 – Acceptance of advantages offered to an officer in his private capacity; CSB Circular 16/2002 – Advantages/entertainment offered to an officer in his official capacity and gifts and donations to a department for the benefit of staff; and EMB Internal Circular No. 1/2004 – Code of Conduct)

In addition, schools have to inform parents, suppliers and other business partners of the policies so as to reduce unnecessary misunderstanding by outside parties and prevent building up a gift-giving culture.

(Please refer to: Sample Letter to Supplier/Contractors regarding Offering Gifts to School Staff; and Sample Letter to Parents regarding Offering Gifts to School Staff)

Avoid the “sweetener” : Corruption always begins with a “sweetening process” instead of a direct bribe at the outset. It usually starts with the offering of free meals or small gifts. Hence, to avoid being “sweetened up”, school staff should enhance their awareness. They should consider, before accepting any gifts or entertainment, whether this will constitute an offence or violate school regulations. School staff should also consider whether they will feel obliged to pay back the offeror and find themselves trapped in a compromising situation when being asked to return a favour in their work later on.

Should school staff use their personal credit cards to make school purchases?

- Schools should encourage suppliers to deliver the goods and arrange payment through school cheques. This helps minimise school purchases paid for by the staff’s personal credit cards.
- If the use of personal credit cards is unavoidable, the school staff responsible should first obtain permission from the school before doing so.
- Redeeming gifts with points is a form of advantage. To facilitate administration and increase transparency, the SMC should formulate guidelines that clearly state the school’s standpoint, the mechanism of declaration and the handling methods.