

EDUCATION



Parents of students with special educational needs show their support for the judicial challenge outside the High Court yesterday. Photo: K. Y. Cheng

NETs BAN AT DISABLED SCHOOL CHALLENGED

Lawyers for boy seek judicial review of school's exclusion from native English-speaking teacher scheme, saying it is illegal and discriminatory

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A mentally retarded boy is taking the education chief to court, accusing the government of bias for excluding his school from the native English-speaking teacher (NET) scheme.

Lawyers for Law Chi-yuen, 10, said the NET scheme was illegal and discriminatory because it applied to pupils with physical disabilities but not those who are mentally disabled.

Chi-yuen is a Primary Four pupil at HHCKLA Buddhist Po Kwong

School, which provides special education to learners with mild intellectual disabilities. The 250-pupil Fan-ling school applied to the Education Bureau to join the scheme in April but was rejected in July, according to court filings.

The school appealed in September but the bureau turned it down, saying there were no specific recommendations for intellectually disabled students to learn English.

Applying for leave to seek a judicial review at the High Court yesterday, Chi-yuen's lawyer, Valentine Yim, argued that the secretary for

education breached the Disability Discrimination Ordinance because the NET scheme distinguished between students with intellectual and physical disabilities.

Yim said that even if the policy was found not to be discriminatory, the education chief was still wrong in not exercising his discretion to consider the school's application.

"The bureau has the power and discretion to depart from the NET policy, but it did not give thought to that and blindly followed the policy," he said. "Of course, if it exercised discretion and still came to the same decision with good reasons provided, that's fine. But it didn't even bother to exercise the discretion."

He also said the bureau had taken into account irrelevant factors in dismissing the school's application.

"The fact that other schools for intellectually disabled students do not offer English as a core subject is an irrelevant consideration," Yim said, "If our school is up to it, the bureau should consider our application."

Chi-yuen's application for the judicial review, which he filed through his mother, is supported by his school. It wants the court to quash the bureau's July decision.

Mr Justice Johnson Lam Man-hon will hand down judgment on the application at a later date.

About 20 parents and disabled people were present in court to show their support. Chi-yuen was absent because he had to attend school.

"Why are there conditions attached to education?" one of the parents asked. "We are just asking for fair treatment, not anything extra."

男童的律師對於學校排除「外籍英語教師加強計劃」尋求司法覆核，認為它是非法的及附有歧視性。

一名弱智的男童正將教育局長告上法庭，指責政府對特殊教育有成見，排除他的學校引入「外籍英語教師加強計劃」。

十歲羅智遠的律師說，「外籍英語教師加強計劃」是非法及附有歧視性的，因為它適用於身體殘障學生，但不包括智障學生。

根據法庭文件，小學四年級生羅智遠正就讀香海正覺蓮社佛教普光學校，一間位於粉嶺的輕度智障特殊學校。250 名學童於 4 月加入教育局的「外籍英語教師加強計劃」，但在 7 月被拒絕。學校 9 月提出上訴，但被該局拒絕，聲稱計畫沒有具體為智障學生學習英語的建議。

昨日許可申請往高等法院尋求司法覆核，羅智遠的律師，Valentine Yim 認為教育局局長違反“殘疾歧視條例”，因為「外籍英語教師加強計劃」區分了智障和身體殘障學生。

律師說即使政策並非歧視，對於教育長仍不行使其酌情權去考慮學校的申請是錯誤的。

“當局有權力和酌情權去偏離計劃的策略，但它並沒有考慮到，只麻木跟從。當然，如果它行使酌情權，就算結果都是失敗，只要提供合理的原因，我們都會接受，但它連行使酌情權都沒有。”

他還表示，當局在駁回學校的申請時算入一些無關的因素在內。

律師說 “事實上，其他特殊學校不為學生提供英語作為核心科目不是一個考慮因素。如果我們的學校是做不到，主席團應該考慮我們的申請。”

學校支持羅智遠和他家長申請的司法覆核，它法院撤銷主席團的 7 月決定。

司法約翰遜 Lam Man-Hon 先生會稍後公布申請的結果。

一名家長問 “為什麼教育需要附帶條件？我們只是要求公平待遇，而不是額外的東西。”

約 20 名殘疾人士及父母到法庭為表支持，而羅智遠因上學未能出席。