

Your Ref: CB2/BC/4/02
Our Ref: PA 04/2-026

4th February, 2004

Chairman
Bills Committee on Education (Amendment) Bill 2002
Legislative Council
Hong Kong Special Administrative Region of the
People's Republic of China
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Chairman,

Education (Amendment) Bill 2002

Thank you for your letter of 13th January, 2004 inviting our association to attend a further meeting in respect of Education (Amendment) Bill 2002, and to present a written submission.

On behalf of the association, I would like to state forcefully again that we do not accept that the proposed model of school governance is the only possible one or necessarily the best one for all schools.

We hold strongly that the varied traditions and practices of the rich and diverse educational landscape of Hong Kong may only be preserved by adopting a multi-faceted approach, allowing for more models than one.

For ease of reference of your honourable members, I have attached two of our previous submissions, that of 10th March, 2003 and 10th October, 2003.

We look forward to discussing the Bill with your committee again.

Yours sincerely,



Timothy W. H. Ha
Chairman

c.c.: All HKASBS members
WHH/fw

10th March, 2003

Chairman
Bills Committee on Education (Amendment) Bill 2002
Legislative Council
Hong Kong Special Administrative Region of the
People's Republic of China
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Chairman,

Education (Amendment) Bill 2002

The Hong Kong Association of Sponsoring Bodies of Schools welcomes the opportunity of being consulted on Education (Amendment) Bill 2002. Our association represents twenty-seven major sponsoring bodies of schools in Hong Kong and our members together have about one thousand schools of various levels under their care. A list of our members is in the appendix.

Membership of the School Management Committee

In constituting the Incorporated Management Committee (IMC) of each individual school, we are strongly of the view that a multi-modelled approach be adopted. Throughout the last two centuries, the varied traditions, backgrounds, visions, sizes and practices of the many sponsors and the schools under their charge have all contributed to the diversity and richness of the school system in Hong Kong and it is most essential that a flexible and multi-faceted rather than a rigid and unitary approach, such as the one envisaged in the Bill, be taken.

As recently as 1997, the Education Commission in its Report No. 7 on the topic of Quality School Education specifically recommends: 'that to facilitate efficient school management, schools may consider to establish a School

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Executive Committee (SEC) under the School Management Committee (SMC), to decide on school matters and be answerable to the SMC'. We consider this to be a viable option in principle and would recommend that at least one alternative model, based on the philosophy of the above recommendation, be included.

This means that under the School Sponsoring Body (SSB), on the basis of any one individual school, a dual level management be set up.

The committee of the first level shall have the following characteristics:

1. It deals mainly with broad policy issues and sets the vision and mission of the schools.
2. It has oversight of the budget of the school involving Government grants proposed and drawn up by the second level.
3. It manages any private financial resources and raises funds from the public for major development.
4. It has final authority over important personnel matters.
5. Its members are generally appointed by the SSB according to conditions agreed between the two bodies.
6. It holds general meetings about two to three times a year.

The committee of the second level shall have the following characteristics:

1. It implements the vision and mission of the school, puts policy into practice and generally ensures the successful operation of the school.
2. The SSB shall appoint from the committee of the first level members of the second level committee, and shall appoint a chairman from among them.
3. One member to be elected from among the full-time teachers of the school.
4. One parent member to be nominated by the PTA.

5. One past student member to be nominated by the alumni association.
6. One independent member to be co-opted by the committee.

Apart from the alternative model above, it should be possible for SSBs to propose further alternative models according to individual needs and circumstances.

Power of Veto or Dissolution and Reconstitution

When a school is established, the SSB sets a clear vision and mission for the school. However, in the course of the school's development, there is the possibility that it may deviate from the direction or goals originally intended for it. There may also be crucial decisions which if taken might go against fundamental principles which the SSB holds dear.

Moreover, a situation may arise where the IMC is not longer functioning properly due, for instance, to serious internal conflict. The IMC might then best be dissolved so that a new beginning could be made.

It must be noted that a teacher, a parent and an independent manager may resign anytime and then walk away from the IMC while the SSB cannot. Furthermore, when a school is adjudged to be malfunctioning, which may even be due to an impasse reached with the teachers or parents, the SSB may have its sponsorship withdrawn by the government. If the SSB is to discharge its responsibility well, it must be given the power to so.

We therefore wish to see included in the amendment bill provisions which will empower the SSB a) to veto certain resolutions or decisions if necessary b) to dissolve and to re-constitute an IMC.

Liability of IMC and SSB

Although the Bill proposes some protection for individual members of an IMC, it is not entirely clear whether such persons, especially those who are serving as a public service in their personal capacities, are immune from litigation. Clear provision should be made to ensure such immunity.

Similarly, although the IMC collectively may now be the target of litigation, the SSB may not be entirely immune. Dissatisfied litigants who fail to seek satisfaction from the IMC may direct the action up to the SSB. This is of course very unfair to the SSB. Therefore, clear provision should be included in the Bill to ensure complete immunity for the SSB.

The School Supervisor

The post of the School Supervisor is well-established and has served Hong Kong well for many years. The Bill now proposes to do away with the office altogether. We wish to have the office re-instated. The Supervisor has a very important part to play in working as a conduit between the SSB, the IMC, the principal as well as the government. Also, in unusual circumstances, such as when the principal is new, or when there is an interregnum between an outgoing and incoming principal, or when there is disagreement between the staff and the principal, the Supervisor will prove to be invaluable.

Therefore, the Bill should re-instate the post of Supervisor and make it a regular and properly recognized office, which is entrusted with clear functions and authority.

Appointment of the Principal

We recognise that the Principal has a very important part to play in the management of the school and to further its vision and mission. We therefore feel strongly that the Principal should be appointed directly by the SSB. In large sponsoring bodies this prerogative is absolutely necessary to enable suitable Principals to be deployed on a collective basis. For example, an SSB may wish to deploy an experienced Principal to open a new school. Schools losing or gaining students will also require Principals to be moved according to grade adjustment. Therefore, the formation of a principal selection committee should only be an optional model which the SSB may adopt at its discretion.

Indeed the proposal of forming a principal selection committee as a prerequisite, as far as we can recall, has been simply imposed by the Education and Manpower Bureau and has never been included in previous consultations.

Conclusion

In conclusion, we wish to thank the Bills Committee for letting us put forward our views and would like to emphasize again that the rich diversity of the school system in Hong Kong can only be preserved by an equally flexible and multi-faceted system of governance and management.

Yours sincerely,



Timothy W. H. Ha
Chairman

Hong Kong Association of Sponsoring Bodies of Schools

Membership List

The Baptist Convention of Hong Kong
Caritas – Hong Kong
The Catholic Diocese of Hong Kong
Congregation of the Immaculate Heart of Mary Scheut Mission Hong Kong Limited (C.I.C.M.)
Daughters of Charity of the Canossian Institute, Inc.
The Director in Hong Kong of Saint Joseph's College
The Evangelical Lutheran Church of Hong Kong
Evangelical School Development Incorporation Limited
Hong Kong Buddhist Association
The Hong Kong Council of the Church of Christ in China
Hong Kong Red Cross
Hong Kong Sheng Kung Hui
Hong Kong Taoist Association
Kowloon Tong Church of the Chinese Christian & Missionary Alliance
The Lok Sin Tong Benevolent Society Kowloon
Lung Kong World Federation School (Hong Kong) Limited
The Lutheran Church - Hong Kong Synod
The Methodist Church, Hong Kong
Po Leung Kuk
Shun Tak Fraternal Association
Sik Sik Yuen
Sisters of the Precious Blood
Sisters of St Paul De Chartres
Society of St Francis De Sales
Tsung Tsin Mission of Hong Kong
The Tung Koon District General Association
Tung Wah Group of Hospitals

香港辦學團體協會會員名單

香港浸信會聯會
香港明愛
天主教香港教區
聖母荏聖心會
嘉諾撒仁愛女修會
香港聖若瑟書院校董會
基督教香港信義會
基督教興學會
香港佛教聯合會
中華基督教會香港區會
香港紅十字會
香港聖公會
香港道教聯合會
香港九龍堂基督教中華宣道會
九龍樂善堂
世界龍岡學校(香港)有限公司
香港路德會
循道衛理聯合教會
保良局
順德聯誼會
畚色園
寶血女修會
沙爾德聖保祿女修會
鮑思高慈幼會
基督教香港崇真會
東莞同鄉總會
東華三院

10th October, 2003

Chairman
Bills Committee on Education (Amendment) Bill 2002
Legislative Council
Hong Kong Special Administrative Region of the
People's Republic of China
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Chairman,

Bills Committee on Education (Amendment) Bill 2002

Thank you for your letter of 23rd September, 2003 inviting our comments on the Administration's response [LC Paper No. CB(2) 3055/02-03(01)] to the concerns of Members and deputations.

We wish to state again that we support the general philosophy of the bill, namely, to enhance accountability, transparency and participation of the stake-holders in the governance of schools, particularly, the governance of aided schools.

However, we do not agree that the Proposed Model is only possible model or that it is necessarily the best model for all schools. We also do not share many of the views of the Administration given in the response paper.

Diversity in Governance Structure

In our previous submissions to your committee we stressed the need to maintain diversity in the governance structure of schools and expressed our opposition to imposing a unitary and rigid structure on all schools.

In our letter of 10th March, 2003 we stated:

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“In constituting the Incorporated Management Committee (IMC) of each individual school, we are strongly of the view that a multi-modelled approach be adopted. Throughout the last two centuries, the varied traditions, backgrounds, visions, sizes and practices of the many sponsors and the schools under their charge have all contributed to the diversity and richness of the school system in Hong Kong and it is most essential that a flexible and multi-faceted rather than a rigid and unitary approach, such as the one envisaged in the Bill, be taken.”

We are therefore very unhappy with the response of the administration to this point (para. 15, page 24) because it may mislead your committee:

“Schools may depending on their own circumstances, set up advisory bodies to advise on aspects of school operations or policies.”

Our point was that given the diversity in tradition and modes of governance which obtains in Hong Kong schools, more than one model should be allowed, and among such models one which is multi-tiered, such as that proposed in Education Commission Report No. 7 of 1997, be included.

Report No. 7 recommends: “that to facilitate efficient school management, schools may consider to establish a School Executive Committee (SEC) under the School Management Committee (SMC) to decide on school matters and answerable to the SMC”.

It is therefore clear from the above that a genuine multi-tiered structure is meant, and not the proliferation of a number of internal advisory committees, as alluded to in the Response [LC Paper No. CB(2) 3055/02-03(01)]. Whether intended or not, the Response might mislead your committee into thinking that all we are asking for is the freedom to appoint a number of internal advisory committees, which we strongly deny.

If your committee agrees that more than one model should be considered, then we may comment on the contents of the Administration’s Model on the understanding that it is not the only model allowed, to the exclusion of others. When more than one model is available, schools may then opt for the most appropriate one. Among the schools under our charge, some might indeed adopt the Administration’s Model.

Administration's Model

In our submission of 10th March, 2003 we raised a number of points relating to the Administration's Model and these are quoted below for your convenience:

1. Power of Veto or Dissolution and Reconstitution

“When a school is established, the SSB sets a clear vision and mission for the school. However, in the course of the school's development, there is the possibility that it may deviate from the direction or goals originally intended for it. There may also be crucial decisions which if taken might go against fundamental principles which the SSB holds dear.

Moreover, a situation may arise where the IMC is not longer functioning properly due, for instance, to serious internal conflict. The IMC might then best be dissolved so that a new beginning could be made.

It must be noted that a teacher, a parent and an independent manager may resign anytime and then walk away from the IMC while the SSB cannot. Furthermore, when a school is adjudged to be malfunctioning, which may even be due to an impasse reached with the teachers or parents, the SSB may have its sponsorship withdrawn by the government. If the SSB is to discharge its responsibility well, it must be given the power to so.

We therefore wish to see included in the amendment bill provisions which will empower the SSB a) to veto certain resolutions or decisions if necessary b) to dissolve and to re-constitute an IMC.”

2. The School Supervisor

“The post of the School Supervisor is well-established and has served Hong Kong well for many years. The Bill now proposes to do away with the office altogether. We wish to have the office re-instated. The Supervisor has a very important part to play in working as a conduit between the SSB, the IMC, the principal as well as the government. Also, in unusual circumstances, such as when the principal is new, or when there is an interregnum between an outgoing and incoming principal, or when there is disagreement between the staff and the principal, the Supervisor will prove to be invaluable.

Therefore, the Bill should re-instate the post of Supervisor and make it a regular and properly recognized office, which is entrusted with clear functions and authority.”

3. Appointment of the Principal

“We recognize that the Principal has a very important part to play in the management of the school and to further its vision and mission. We therefore feel strongly that the Principal should be appointed directly by the SSB. In large sponsoring bodies this prerogative is absolutely necessary to enable suitable Principals to be deployed on a collective basis. For example, an SSB may wish to deploy an experienced Principal to open a new school. Schools losing or gaining students will also require Principals to be moved according to grade adjustment. Therefore, the formation of a principal selection committee should only be an optional model which the SSB may adopt at its discretion.

Indeed the proposal of forming a principal selection committee as a prerequisite, as far as we can recall, has been simply imposed by the Education and Manpower Bureau and has never been included in previous consultations.”

In the Response, the above issues have not been directly addressed. In some places the issues have been cleverly side-tracked.

We hope that our points will receive the full attention of your committee, and suffice it to say, we are far from satisfied with the explanations.

Liability

In the Response (para. 12 page 21), it is claimed that managers will be given greater protection to ensure immunity from litigation. The Response gives the erroneous impression that ‘immunity from legal suit to IMC managers’ is sought. We have not asked for this special immunity. What we wish to have is the same treatment for school managers whether the school adopts the Administration’s Model or any other model of school governance and that whatever protection that is granted should not be exclusively reserved for schools using the Administration’s Model.

Statutory Framework

In the Response (para. 16 page 25) it is claimed that the justification for legislation to give firm legal backing to the SBM governance framework is to afford the framework a 'higher and credible status' (sic) and protection for the managers.

We have no objection to raising the status of management committees by incorporation. However, our view is that the same treatment be extended to schools opting for any model other than the Administration's Model.

You kindly indicated in your letter that you would welcome an oral presentation to the Bills Committee. We would appreciate any such opportunity and would be glad to attend your meeting.

We wish to thank the Bills Committee again for consulting us.

Yours sincerely,



Timothy W. H. Ha
Chairman