

By fax
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香港城市大學
City University
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26 April 2007

Ms Odelia Leung
Clerk to Bills Committee
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road, Hong Kong

杜國維先生
校董會秘書
Mr John Dockerill
Secretary to Council

Dear Ms Leung

**Re: Bills Committee on
City University of Hong Kong (Amendment) Bill 2006**

Thank you for your letters of the 12th February and the 17th April 2007 concerning the provision of information on the mechanism adopted by the two student bodies, whose Presidents will have membership on the restructured University Council when the Amendment Bill is enacted, to cover the situation of the offices of their Presidents becoming vacant. The University Council requested both the Students' Union (SU) and the City University Postgraduate Association (CUPA) to provide such information. While we are comfortable with the mechanisms adopted by the SU, we are still awaiting for CUPA, after repeated reminders, to receive the amendment to its constitution to provide for an Acting President in the event of an absence of a cabinet. At this stage, we are not sure when their amendment can be completed. The details of the information on the mechanisms provided by the two student bodies are set out below.

The Students' Union

The SU constitution stipulates clearly in the event that there is no SU President, arising from the office of President being vacant or the absence of an Executive Committee, an acting President will be appointed. The following extract of their constitution (Sections 13.8 and 13.9) is included below for your information. (The use of the word "Council" in the extracts refers to the Council of the Students' Union)

"13.8 Vacancies:

- 13.8.1 If the post of President is vacated, the duties of the post shall be assumed by the Internal Vice-President; if the post of Internal Vice-President is also vacated at the same time, the duties of post of the President shall be assumed by the External Vice-President;*
- 13.8.3 At the beginning of each session and before a new Executive Committee has been elected, the Council Chairman shall be the acting President and a Provisional Executive Committee shall be formed with the consent of the Council until a new Executive Committee is elected. The Council, with the consent of not less than*

two-thirds of the total number of Council members, may also appoint a Full Member to act as the President of the Union in place of the Council Chairman. The Acting President appointed by the aforementioned method may be recalled by not less than two-thirds of the total number of Council members.

13.9 Dissolution:

During the session period of the Executive Committee, if the posts of President, Internal Vice-President and External Vice-President are vacated simultaneously, or if half or more than half of the total posts of the Executive Committee are vacated, the Executive Committee shall be dissolved automatically. The Council Chairman shall be the acting President, a Provisional Executive Committee shall be formed with the consent of the Council prior to a new Executive Committee being elected. The Council may, upon the consent of not less than two-thirds of the total number of Council members, also appoint a Full Member to act as President of the Union in place of the Council Chairman. The Acting President appointed by the aforementioned method shall be recalled by not less than two-thirds of the total number of Council members.”

The provision covers the appointment of Vice-Presidents as Acting President in the absence of the President and also addresses the unlikely situation that the Executive Committee ceases to function and there are no Vice-Presidents. In this event the Union Council Chairman will be the acting President.

Since the SU President will remain to be an ex-officio member on the new Council to be enacted after passage of the Amendment Bill, if the office of SU President becomes vacant for any reason, the acting SU President can serve on the Council. The University Council is satisfied that the provision in the SU constitution adequately addresses the issue of vacancies occurring in the post of President.

The City University Postgraduate Association (CUPA)

CUPA is a more recently established organization (in 1996). The current membership is approximately 6,000; most of whom are part-time students studying on taught postgraduate programmes. The organization is governed by an Executive Committee (the “cabinet”) which is subject to an annual election. The constitution requires the election to be based on the cabinet as a whole, rather than electing individual officers.

With regard to the provision for the appointment of an Acting President for CUPA, Section 7.5.2 of its constitution states as follows:

“7.5.2 The Vice President

- (i) Shall assist the President in all the affairs of CUPA*
- (ii) Shall be the acting President on all the affairs of CUPA in the event of the absence of the President or the post of President falling vacant. ”*

There is however no mechanism in their constitution for coping with the situation when there is no cabinet and hence no Vice-President. The CUPA President stated that it was their

original intention to solve this particular problem by amending their constitution at the Annual General Meeting (AGM) scheduled to be held in March. Amendments to the constitution are then required to be submitted to the School of Graduate Studies for approval before they can come into effect. The proposed amendment is presented in Appendix 1.

The CUPA President recently reported on their arrangements for approving the proposed changes to their constitution as follows:

The AGM originally scheduled for the 15th March 2007 had to be adjourned since it could not meet the stipulated quorum of 5% of its membership. On further enquiries, we were told that basically no one showed up at the AGM. She added that in the recent past, the quorum for holding the AGM had never been met. The adjourned AGM was scheduled to be held on the 31st March 2007 at 1:00 pm. According to their rules on meetings, if within the first half hour the quorum required (5%) was not met, the number present would form the quorum for the adjourned AGM. (*The University also received an email complaint from a CUPA member about the adjourned AGM. A copy of the student's email is attached at Appendix 2 for your information.*) We were informed that at 1:30 pm when the adjourned AGM commenced less than twenty members were present. The meeting was said to have finished at 9:00 pm during which some members of the Executive Committee joined at various times; the total number of members that attended (part of) the meeting was reported as 24. According to the CUPA President, when the amendment to the constitution was put to the vote, only the CUPA President and the Vice-President of the Executive Committee were present, together with the other 12 CUPA members. The result of the voting was 1 vote in support and 12 votes against the proposed amendment. The CUPA President did not vote (according to their constitution, she can make a casting vote in the event of a tie in the votes). The proposed amendment was therefore voted down.

The CUPA President subsequently advised that, in view of the failure to pass the proposed amendment at the adjourned AGM, the Executive Committee at its regular meeting of 11th April decided to arrange for presenting a new amendment to the constitution by calling for a General Polling. For the poll to be valid at least 5% (i.e. around 300 members) of the voting membership must cast their vote.

We were informed that they have never held any General Polling. She further explained that in the past few years, no polling had been conducted since in the annual election of the Executive Committee, there has never been the need to conduct an election since there is only one nominated cabinet. In the absence of experience and procedures to conduct of the Polling, no returning officer nor adequate mechanism for handling complaints, etc., the CUPA Executive Committee would at its regular meeting to be held in mid-May consider the proper procedures and related issues which need to be in place for the poll to be conducted. The CUPA President stated that the notice for the Polling would need to be issued at least 7 working days before the Polling takes place. We therefore do not know when exactly will the Polling be held. The CUPA also made no assessment on whether they can obtain the 5% valid votes needed to support the amendment to the constitution.

In view of the above proposed arrangement for changing the CUPA constitution, we cannot tell when the mechanism to cover the absence of the President in the event of the lack of a cabinet can be provided to the Bills Committee.

Enclosed at Appendix 3 is the CSA revised subsequent to the comments made by the legal adviser of the Bills Committee concerning the effective date of the Bill at its previous meeting held on the 12th February 2007.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Dockerill', written in a cursive style.

John Dockerill
Secretary to Council

cc The Hon Emily Lau, Chairman of Bills Committee
Chairman of Council

Appendix 1

The proposed amendment presented to the adjourned AGM of CUPA was to add a new section 6.3.8:

“In the event of no new Executive Committee has been elected, the immediate past President of CUPA shall be the acting President and a Provisional Executive Committee shall be formed with consent in the General Meeting until a new Executive Committee is elected.”

The revised amendment proposed for voting at the General Polling of CUPA is as follows:

“6.3.8 In the event of no new Executive Committee has been elected, the Immediate Past President of CUPA shall be the acting President, and his/her authority is limited to being the ex-official representative of CUPA at the Council of City University of Hong Kong only, until a new Executive Committee is elected. He/She shall call for another round of election for the new Executive Committee within three months.”

RESTRICTED & CONFIDENTIAL

CITY UNIVERSITY OF HONG KONG AMENDMENT BILL 2006

COMMITTEE STAGE

Amendments to be moved by Ir Dr Hon Raymond Ho

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting subclause (2).
3	(a) By deleting subclause (3).
	(b) By deleting subclause (4) and substituting – “ <i>(4)</i> Section 10(1)(<i>i</i>) is amended by repealing “and”.”.
	(c) By deleting subclause (5) and substituting – “ <i>(5)</i> Section 10(1)(<i>j</i>) is amended by repealing the full stop and substituting “; and”.”.
	(d) By adding – “ <i>(5A)</i> Section 10(1) is amended by adding – “ <i>(k)</i> the President of the CityU Postgraduate Association.”.”.
	(e) By deleting subclause (7).

《2006年香港城市大學(修訂)條例草案》

委員會審議階段

由何鍾泰議員動議的修正案

條次

建議修正案

- 1 刪去第(2)款。
- 3 (a) 刪去第(3)款。
(b) 刪去第(4)款而代以 –
“(4) 第 10(1)(i) 條現予修訂，廢除“及”。”。
(c) 刪去第(5)款而代以 –
“(5) 第 10(1)(j)條現予修訂，廢除句號而代以“；及”。”。
(d) 加入 –
“(5A) 第 10(1)條現予修訂，加入 –
“(k) 香港城市大學研究生會會長。”。
(e) 刪去第(7)款。