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Panel on Education

Background brief prepared by the Legislative Council Secretariat for the meeting on 11 January 2010

The Chinese University of Hong Kong (Amendment) Statutes 2009

Purpose

This paper summarizes the concerns of the Panel on Education (the Panel) on The Chinese University of Hong Kong (Amendment) Statutes 2009 (the Amendment Statutes).

Background

Review on the governance structure of the University Grants Committee (UGC)-funded institutions

2. In May 2001, the then Secretary for Education and Manpower commissioned the UGC to launch a comprehensive review of higher education in Hong Kong. The review covered all aspects of higher education provision, including the corporate governance of the UGC-funded institutions. In March 2002, the UGC published the review report entitled "*Higher Education in Hong Kong: Report of the University Grants Committee*" (the Report). The Report recommended that the UGC-funded institutions should ensure the fitness for purpose of their governance and management structures.

3. Against this background, the Audit Commission (Audit) conducted a value for money audit on the UGC-funded institutions including their corporate governance. The findings were contained in Report No. 40 of the Director of Audit which was released in March 2003. Audit noted that the Senate of The Chinese University of Hong Kong (CUHK) was relatively large as compared with those of other UGC-funded institutions. As at 1 December 2002, the Senate of CUHK had 146 members, while those of other UGC-funded institutions had less than 100 members. Audit recommended that the UGC should request CUHK to review whether the size

of the Senate should be reduced to make it function more effectively.

4. Pursuant to the release of the Report and the Audit Report, CUHK set up a Task Force on University Governance of the Council. The Task Force invited a panel of external experts to offer suggestions on university governance. The panel was of the view that the membership of the Senate should stand at around 50. The CUHK Council decided that it should be left to the Senate to propose a plan for reorganization. At the Extraordinary Meeting of the Senate held on 21 May 2008, an Ad Hoc Committee on Reorganization of the Senate (the Ad Hoc Committee) was established with the responsibility for proposing the reorganization of the Senate and the related legislative amendments. The Ad Hoc Committee comprised over 30 members with two student representatives.

The Amendment Statutes

5. The Amendment Statutes sought to provide for –
- (a) the reorganization of the Senate;
 - (b) the inclusion of Associate Deans and Assistant Deans of the Faculty concerned and one student member to each Board of the Faculty;
 - (c) the change of the title of teachers;
 - (d) the deletion from the Statutes of the detailed administrative procedures for making University appointments to allow such procedures to be determined by the CUHK Council from time to time; and
 - (e) the conferring of a new master's degree and a new doctoral degree, i.e. the Master of Nursing Science and the Doctor of Nursing, by the University.

Deliberations of the Panel

6. The Panel discussed the Amendment Statutes at its meeting on 9 November 2009. It had received two written submissions respectively from the President of The Students Union of CUHK and the student unions of four constituent colleges. The student unions raised objection to the proposed student representation in the reorganized Senate. The major concerns raised by members are summarized in the following paragraphs.

Number of student representatives

7. The number of student representatives in the Senate would be reduced from a maximum of 12 to three after the reorganization. The President of the Students Union of CUHK and the presidents of the students unions of the four constituent colleges stressed the importance of adequate student representation in the Senate to

reflect the views of students to the University. They were of the view that the reduced student representation in the reorganized Senate would significantly diminish its role as an established channel for communication between students and teachers. While agreeing to the need to streamline the Senate, members enquired about the representation of the various categories of stakeholders in the proposed reorganized Senate.

8. According to CUHK, as at May 2008, the Senate had 207 seats of which 12 were for student representatives. After the reorganization, the Senate would comprise 51 to 53 members. There would be three student members in the Senate to be elected respectively by and from among all full-time undergraduate students, all full-time postgraduate students and student members of the Boards of Faculties. The seats for the Chairmen of Departments/Directors of Studies would be reduced from 72 to eight, and Professors or Readers in each Department making up a total of 94 would no longer be ex officio members in the reorganized Senate. A comparison of the number of representatives of stakeholders in the Senate before and after its reorganization is in **Appendix I**.

Election of student representatives

9. The student unions considered it important for the President of the Students Union of CUHK and the representatives of the respective student unions of the original four constituent colleges to remain as members of the reorganized Senate. The student unions pointed out that it was an established practice for the presidents of the student unions of the four constituent colleges to be the ex officio members of the Senate. The President of the Students Union of CUHK was elected by universal suffrage, and the presidents of the student unions of the constituent colleges were elected from among students of the respective colleges. The elected presidents were in the best position to represent the students of their respective colleges. The proposed election of the undergraduate student representative in the reorganized Senate from among full-time undergraduate students would relegate the role and representation of student unions. Members sought clarification on whether the three student members in the reorganized Senate would be in a better position to represent students than the presidents of the students unions.

10. CUHK stressed that it had no intention of precluding the President of the Students Union of CUHK and the presidents of the students unions of the four constituent colleges from becoming student members of the reorganized Senate. They were eligible to stand as candidates for the election of student members to the reorganized Senate.

11. Some members suggested that CUHK might consider adopting the means taken by Hong Kong University of Science and Technology to conduct a poll among its students to decide on the method of electing student representatives to the reorganized Senate.

12. CUHK responded that the Senate had convened an extraordinary meeting on 25 June 2009 with the attendance of student members. The meeting decided to adopt

the method of electing student representatives as set out in the Amendment Statutes. It was also agreed that a review would be conducted five years after the implementation of the Amendment Statutes.

Definition of "teacher"

13. Under the Amendment Statutes, a definition of "teacher" was added to Statute 1 to provide that a teacher meant *"a member of the full-time teaching staff of the University of the rank of Assistant Lecturer or above holding an appointment in the teacher grades of Professor, Associate Professor or Assistant Professor or such other appointments as the Council may determine to be a teacher from time to time"*.

14. According to the legal adviser to the Panel, the Amendment Statutes amended the definition to the effect that a member would need to hold an appointment in the teacher grades of Professor, Associate Professor or Assistant Professor, in addition to being a full-time teaching staff of CUHK of the rank of Assistant Lecturer or above as provided in The Chinese University of Hong Kong Ordinance (Cap. 1109). In his view, this would constitute a fundamental difference to the existing definition of "teacher" in the Ordinance. The proposed conferment to the CUHK Council to determine such other appointments to be regarded as teachers would constitute another difference in the definition of "teacher" between the Ordinance and the proposed amended Statute 1. The explanation given by CUHK for conferring the Council with the power to determine such other appointments as teachers was to avoid the need to amend the relevant Statute whenever there was an addition of titles to the definition of "teacher".

Inclusion of instructors in the definition of "teacher"

15. Some members had received written views from The Chinese University of Hong Kong Employees General Union (the Union) and the Teachers' Association of The Chinese University of Hong Kong (the Association) requesting the inclusion of instructors in the definition of "teacher". Both organizations were of the view that instructors constituted a large number of teaching employees of CUHK and many of them had outstanding achievements in teaching. The Union considered it discriminatory to exclude instructors from the definition of "teacher". The Association held the view that any members who were full-time staff of CUHK and undertook teaching duties should be regarded as teachers. Members stressed that while they had no intention of infringing on the autonomy of CUHK, the Legislative Council had to consider the issue in the context of the Amendment Statutes.

16. CUHK pointed out that it had all along recognized the achievements and contributions of instructors to CUHK, and instructors were indisputably the teaching employees of the University. The provision of a definition of "teacher" in the Ordinance in 1976 was to clearly define the teaching staff who should be regarded as teachers and who would have the academic status and power to be eligible for membership of the Senate and the Assembly of Fellows. CUHK stressed that once a certain rank of staff was included in the definition of "teacher", the staff concerned would have the status equivalent to a professor. The appointment requirements,

recruitment and promotion procedures, scope of work, responsibilities and remuneration of staff of the rank of professors and instructors were very different. The issue at stake was not simply the literal inclusion of instructors in the definition of "teacher" but also the associated impact on the academic governance, development and management of CUHK. In its discussion with instructors, CUHK understood that the request of instructors was more than the literal inclusion of instructors in the definition of "teacher".

17. Members were concerned whether instructors were required to undertake research work. According to CUHK, instructors were not required to carry out research under the relevant terms and conditions of service. Almost every local or overseas university recruited instructors for teaching purpose. For CUHK, in addition to instructors, there were other ranks such as professional consultants and teaching fellows. Instructors of CUHK carried out a variety of duties, and some were appointed for providing physical and language education. CUHK currently had some 300 instructors.

18. There was a view that CUHK should address the issue from the perspective of function of staff members. It should explore the feasibility of adopting a broad definition of "teacher" under which any members of the full-time teaching staff of CUHK should be regarded as teachers. Instructors could be included in the definition of "teacher" for matters relating to the governance of CUHK such as membership of the Council, whereas they would not be so included for academic matters such as eligibility for membership of the Senate. There was also a suggestion that as the inclusion of instructors in the definition of "teacher" would bring along the issue of remuneration, CUHK should address the issue of inclusion first and deal with the issue of remuneration later.

19. In response, CUHK explained that there had been discussions on the proposal for inclusion, but in its views, the issue could not be addressed by simply adopting a broad definition of teacher in the Amendment Statutes as a number of material amendments to the Ordinance would be required. A Pro-Vice-Chancellor had been tasked to examine the issue in-depth. CUHK emphasized the importance for thorough discussions with and extensive consultation to be undertaken among stakeholders before any decision on the issue would be made.

Relevant papers

20. A list of the relevant papers on the Legislative Council website is in **Appendix II**.

Structure of the Senate of The Chinese University of Hong Kong

Composition	Number of members as at May 2008	Number of members as at Nov 2009	Number of members in the reorganized Senate
A. <i>Ex Officio Members</i>			
Vice-Chancellor	1	1	1
Pro-Vice-Chancellors	4	5	6*
College Heads/Masters	4	4	6
Deans of the Faculties and of the Graduate School	8	9	9
Registrar	1	1	-
Librarian	1	1	1
University Dean of Students	1	1	1
Director of the School of Continuing and Professional Studies	1	1	1
Sub-total:	21	23	25
B. <i>Teachers</i>			
Department Chairmen / Directors of Studies	72	69	8
A teacher from each Faculty Board	-	-	8
Other teachers, elected at large (including at least 5 Assistant/Associate Professors)	-	-	9
Professors, or the Readers in each Department in which there is no professor	94	99	-
2 Fellows from each Original College and Shaw College	8	8	-
Not more than two other teachers to be nominated by the Vice-Chancellor and appointed by the Senate	-	-	0-2
Sub-total:	174	176	25-27
C. <i>Students</i>			
President of the Students Union	1	1	-
One student representing the Students Union of each Original College and of Shaw College	4	4	-
Student of each Faculty of the University elected by, and from among, full-time students in that Faculty	7	8	-
Student member to be elected by and from among all full-time undergraduate students	-	-	1
Student member to be elected by and from among all full-time postgraduate students	-	-	1
Student member to be elected by and from among the student members of the Boards of Faculties	-	-	1
Sub-total:	12	13	3
Total No. of Senate Members:	207	212	53-55[△]

Notes:

* The Provost, who is also appointed as Pro-Vice-Chancellor, is included in this category.

△ At the time when recommendations were made by the Ad Hoc Committee, there were only 4 PVCs. Starting from 1 January 2010, the total number of PVCs (including the Provost) will be 6. Therefore the total number of members in the reorganized Senate will range from 53 to 55.

**Relevant papers on reorganization of the Senate of
The Chinese University of Hong Kong**

Meeting	Date of meeting	Paper
Public Accounts Committee	--	<p><u>Chapter 8 of the Report No. 40 of the Director of Audit</u></p> <p><u>Chapter 1 of the Supplemental Report of the Public Accounts Committee No. 40A</u></p> <p><u>Chapter IV of the Report of the Public Accounts Committee No. 43</u></p>
		<p><u>The Students Union of The Chinese University of Hong Kong's letter dated 21 April 2009 concerning the reorganization of the Senate of The Chinese University of Hong Kong (Chinese version only)</u></p>
		<p><u>Joint declaration on the reorganization of the Senate of The Chinese University of Hong Kong from five student unions of The Chinese University of Hong Kong (Chinese version only)</u></p>
Panel on Education	9.11.2009 (Item VI)	<p><u>Minutes</u> <u>Agenda</u></p>