

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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**Bills Committee on
Education (Amendment) Bill 1999**

**Minutes of Meeting
held on Tuesday, 22 February 2000 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members Present : Hon YEUNG Yiu-chung (Chairman)
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam
Hon LEUNG Yiu-chung
Hon CHOY So-yuk
Hon SZETO Wah

Members Absent : Hon Cyd HO Sau-lan
Prof Hon NG Ching-fai
Dr Hon YEUNG Sum

Public Officers Attending : Mr Gordon LEUNG
Principal Assistant Secretary for Education
and Manpower (6)

Mr K K CHONG
Senior Assistant Director of Education (Operations)

Mr CHENG Man-yiu
Assistant Director of Education (Schools)

Mr Gilbert MO
Deputy Law Draftsman
(Bilingual Drafting and Administration)

Ms Betty CHOI
Senior Government Counsel

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Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2) 6

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Miranda LEUNG
Senior Assistant Secretary (2) 9

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I. Meeting with the Administration
[Paper No. CB(2)1145/99-00(01)]

At the invitation of the Chairman, Principal Assistant Secretary for Education and Manpower (6) (PAS(EM)6) briefed members on the paper setting out the Administration's response to issues raised at the meeting on 14 February 2000. The gist of discussion on the Administration's response is summarised below.

Application of the retirement policy

2. Members noted that subject to members' views, the Administration would consider introducing Committee stage amendments (CSAs) to proposed section 58A of the Bill to the effect that aided schools could employ a person who was over 60 years old either as a temporary replacement of a teacher who was unable to perform his teaching duties; or that the person was filling a post that fell outside the teaching staff establishment of the school approved by the Director of Education (D of E) and was not publicly funded.

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3. Mr SZETO Wah reiterated his query about the rationale for exempting Direct Subsidy Scheme (DSS) schools, which were also publicly funded, from abiding by the retirement policy. Mr SZETO expressed concern that exempting DSS schools from the retirement policy might lead to a phenomenon that these schools would have more principals and teachers over the age of 60. PAS(EM)6 and Senior Assistant Director of Education (Operations) (SAD/E(O)) explained that the regulatory regime of DSS schools, was intended to be different from that of aided schools. The rationale was to encourage the development of a broader diversity of schools. DSS schools were subsidised on the basis of the average unit cost of an aided school place. DSS schools were given greater flexibility, as compared with aided schools, in the deployment of resources, curricula, medium of instruction, etc. On employment and personnel matters, DSS schools had autonomy to decide on the

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terms of appointment, salaries, promotion, retirement, etc. The Administration stressed that it would be inappropriate to single out the difference in retirement policy between DSS schools and aided schools. PAS(EM)6 added that DSS schools were not regulated by any code of aid but by way of a contract between the Government and the school concerned.

Adm

4. Mr. CHEUNG Man-kwong was of the view that Government was applying unequal treatment to aided schools and DDS schools on the pretext of developing a broader diversity of schools. It was also illogical to argue that a relaxation in the application of retirement policy will encourage diversification. In response to Mr CHEUNG's enquiry, Deputy Law Draftsman (Bilingual Drafting and Administration) (DLD(BDA)) said that a code of aid similar to the codes of aid for aided schools could be made applicable to DSS schools if they were to be subject to the same regulatory regime. At Mr. CHEUNG's request, the Administration agreed to reconsider Mr. SZETO WAH's views about the need to extend the application of the Bill to DSS schools.

Setting the retirement age at 60

5. Mr LEUNG Yiu-chung informed members that according to a recent report of the Commission on Strategic Development, the retirement age on the basis of the world's demographic trend should be 65 and not 60. He was concerned that the proposed legislation might soon be incompatible with the future trend. PAS(EM)6 reiterated the purpose of a retirement policy was to ensure a healthy staff turnover and maintain aspirations for career advancement teaching staff. The retirement policy would be subject to review in the future, having regard to the prevailing development at that time.

6. Mr LEUNG Yiu-chung opined that enforcing a retirement policy was not the only means to achieve revitalisation of a workforce. He urged Government to consider other measures, including reduction of class size or teacher-student ratio to create more employment opportunities for graduates in teaching.

Selection process before an application for extension of service to be made

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7. Mr CHEUNG Man-kwong expressed dissatisfaction that the term "minimum qualifications" was retained in paragraph 24(b) of the Administration's response. At his request, PAS(EM)6 agreed to use an alternative term in place of "minimum qualifications". Mr. CHEUNG further asked and PAS(EM)6 undertook to provide a more detailed paper to elaborate on the core attributes a selection panel should consider in assessing an applicant's suitability for appointment as a principal or teacher.

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8. With reference to the proposed composition of the selection panel in paragraph 24(d) of the Administration's response, Mr. LEUNG Yiu-chung expressed dissatisfaction that appointment of independent members such as parents' representatives was not a mandatory requirement. In response to Mr. LEUNG's enquiry as to whether a serving teacher would be appointed to the selection panel, Assistant Director of Education (Schools)(ADE(S)) explained that it was not advisable for serving teachers to be involved because the personal data of applicants who might be incumbent teaching staff would be disclosed in the selection process.

9. Members noted that the recommended procedures of the selection exercise in paragraph 24(d) would allow a representative of the Education Department to join the selection panel as an observer if required. Messrs. SZETO Wah and CHEUNG Man-kwong were of the view that SMCs should be entrusted to conduct the selection exercise in accordance with the recommended procedures and criteria on their own. They considered that such an arrangement was not only difficult to implement but was also unreasonable given the fact that the applications for extension were subject to the review of the panel and the approval of D of E. Mr. CHEUNG added that the Panel would recommend to reject an application if any irregularity or inconsistency in respect of the procedural propriety of the selection exercise or the selection panel's recommendation was identified.

10. PAS(EM)6 responded that the objective of allowing an observer in the selection process was primarily to ensure fairness and transparency. AD/E(S) explained that the observer would not take part in the deliberation and decision-making of the selection process. The presence of the observer would be needed for D of E to collate information which D of E considered necessary to enable him to make a decision.

11. Mr CHEUNG Man-kwong said that the Administration's explanation was not convincing. Mr SZETO Wah was of the view that it demonstrated that Government did not have any trust in SMCs. At members' request, PAS(EM)6 undertook to consider the views expressed and revert to the Bills Committee at the next meeting.

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12. Miss CHOY So-yuk asked whether D of E would reject the recommendation of the selection panel. PAS(EM)6 and SAD/E(O) responded that the D of E's role was mainly to monitor the selection exercise in order to ensure fairness and transparency. Provided that the selection exercise had been properly conducted in accordance with the recommended procedures, D of E would very likely endorse the selection panel's recommendations. Miss CHOY further asked and PAS(EM)6 replied that it would not be possible to prescribe all the circumstances under which D of E might reject the selection panel's recommendation. In this regard, DLD(BDA) advised that even though the selection exercise had been conducted in accordance with the recommended

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procedures, D of E could reject the selection panel's recommendation if there was evidence which was not consistent with the assessment result.

13. Mr CHAN Kam-lam expressed concern that given the prevailing manpower market, the mandatory requirement of conducting an open selection process before an application for extension of service should be made would inevitably force incumbent principals or teachers reaching the retirement age to retire. Mr CHAN was of the view that the recommended procedures as set out in the Administration's response was the Government's attempt to disguise its mistrust in School Management Committees (SMCs). He urged that the Education Department should follow the principles of school-based management and give autonomy to SMCs on personnel matters.

14. SAD/E(O) reiterated the Administration's position that the proposed procedures were designed for the sake of transparency, fairness and accountability and did not stem from any mistrust in SMCs. Consideration would be given to delegate to the SMC the power to extend the employment of a serving teacher or principal reaching the retirement age when the SMC was formed in accordance with the school-based management. In response to Mr. CHAN Kam-lam's enquiry about the timeframe, SAD/E(O) informed members that it was the Administration's preliminary plan to commence the implementation of school-based management in the year 2001 and to achieve full implementation in three years' time.

15. Notwithstanding the Administration's explanation, Mr. CHAN Kam-lam said that he still had reservation on the recommended procedures in respect of the applications for extension of service. He requested that SMCs should be given autonomy on personnel matters as soon as possible. PAS(EM)6 responded that the Administration would do its utmost in expediting the implementation of school-based management. However, he would like to point out that SMCs had all along played a dominant role on personnel matters and its participation would be crucial in the proposed recommended procedures for extension of service as well.

Urgency of the Bill

16. Members noted that the Administration hoped that the Second Reading debate on the Bill could be resumed on 15 March 2000 in order to allow adequate time for the Education Department to make the necessary preparation for SMCs to apply for extension of service for the 2000/01 school year.

17. At members' request, the Administration undertook to provide its written response to issues raised at the meeting and its draft CSAs as soon as possible for members' reference.

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II. Date of next meeting

18. Members agreed that the next meeting should be held on Monday, 28 February 2000 at 4:30 pm to study the Bill clause-by-clause and examine CSAs to be proposed by the Administration.

19. There being no other business, the meeting ended at 12:20 pm.

Legislative Council Secretariat

3 April 2000