Response to Issues related to the
Education (Amendment) Bill 2002
(Meeting on 11 April 2003**)**

Purpose

This paper sets out the Administration's response to the issues in relation to the Education (Amendment) Bill 2002 (the Bill) raised by Members of the Bills Committee at the meeting held on 11 April 2003.

Power of Incorporated Management Committee

2.　　The proposed Committee Stage amendment to section 40AE(2)(b) is being drafted.　The background and present arrangements on the terms and conditions of service of staff in aided schools are at Annex A.

3.　　At present, 71 aided primary and 11 special schools have opted for the Administration Grant and 438 aided primary and 62 special schools, the Revised Administration Grant.

4.　　The Codes of Aid for primary and secondary schools were last issued in 1994 while that for special schools in 1998.　Following the implementation of various new education initiatives in recent years, a number of circulars were issued on various subjects.　These circulars have a direct bearing on the Codes of Aid.　Pending a comprehensive review of the Codes of Aid following the enactment of the Bill and the fundamental review of grants to aided schools, we have, at the present stage, made available to schools via the Education and Manpower Bureau (EMB) Homepage a web-based English version of the Codes of Aid with hyperlinks to relevant circulars.　The Chinese version of the Codes of Aid is still under preparation.　Print-outs of the web-based English version of Code of Aid for Secondary Schools and Code of Aid for Primary Schools are attached for reference.

5.   In the past and up till now, if EMB is going to amend any major provisions in the Codes or to introduce important new arrangements that are to be included into the Codes, we will first consult schools councils, major school sponsoring bodies, associations of school heads, teachers' unions and other educational bodies as appropriate.   If the amendments involve funding commitments, the proposals will be submitted to the LegCo Panel on Education for support and the Finance Committee for funding approval.   Aided schools will be informed of any approved changes via circulars.   The Codes of Aid will be amended accordingly.

School sponsoring bodies cease operating schools

6.   School-based management (SBM) is believed to be the best way to enable schools to meet the needs of their students and the community and to ensure the quality of education.   All public sector schools in Hong Kong have implemented SBM since the year 2000 and have been devolved with more autonomy and funding flexibility to implement SBM.   In return, they should be more transparent and accountable in their operation and the use of public funds. Given the fact that schools have implemented SBM for a number of years and school sponsoring bodies (SSBs) will have a transition period of five years to adopt the new framework, it is unlikely that a school sponsoring body will stop operating their existing sponsored schools in the light of the following -

(a) Past history proved that SSBs have strong sense of mission and commitment to providing quality education. It is inconceivable that participation of teachers and parents in school management and decision-making – which is intended to increase the transparency of school operation and facilitate its decision-making - will lead to SSBs ceasing their operation of schools.

(b) The Bill has already addressed most of SSBs' concerns, for example, it -

  (i)   reduces the number of parent and teacher managers from "two or more" to "one or more";

  (ii) allows SSBs to set the vision and mission of the school and maintain full control of the use of their funds and assets;

  (iii) clearly sets out the functions of SSBs and Incorporated Management Committees (IMCs);

(iv) provides a much longer transition period : from three years to five years;

(v) allows SSBs to draft the constitution of their IMCs;

(vi) allows SSBs to appoint or elect a manager to be the Chairman of their IMCs, to delegate functions and determine the number of each category of managers and their tenure of office (SSBs are allowed flexibility to include all these in the IMC constitution);

(vii) allows SSBs to be exempted from the requirement of the composition of the IMC, the setting up of a principal selection committee and the maximum number of schools a manager shall serve on provided that the Permanent Secretary for Education and Manpower is satisfied with their justifications for such exemption;

(viii) allows IMCs to retain the post of supervisor if necessary;

(ix) provides individual managers of IMCs with greater protection regarding their legal liability.

(c) Participatory-decision making by key stakeholders is one of the major principles of SBM. It will enhance transparency and accountability of school management and has the general support of the community, parents, teachers and SSBs, as reflected in our consultations on the SBM governance document and briefing sessions on the Bill.

(d) EMB will help schools overcome technical difficulties such as drawing up the constitution and electing and nominating managers in order to meet the requirements in the Bill.

Powers of SSBs and IMCs

7.   Members expressed concern whether SSB should be given the power to veto the decision of IMC in order to ensure its monitoring of the work of IMC. SSB is empowered to set out the vision and mission for the school; ensure, through the SSB managers, that the mission is carried out; give general directions to the IMC in the formulation of education policies of the school and oversee the performance of the IMC as stipulated in proposed section 40AD. Besides, SSB is responsible for drafting the IMC constitution and its representatives may make up to 60% of IMC. Thus, SSB should be able to

steer IMC. We do not consider it necessary to state explicitly that SSB may veto the decision of IMC.

Operational problems of large SSBs in implementation of new governance structure

8.   We have analysed the present situation of schools under the five largest SSBs, each of which operates more than 30 schools.   Assuming that seven SSB managers will be required by each IMC to meet the 60% quota of SSB managers and each manager serves on five IMCs, we found that for the two larger SSBs among the five, the existing number of SSB managers will be sufficient to meet the new requirement.   The other three SSBs adopt a central school management committee system at present and will need to appoint additional SSB managers in the IMCs of their sponsored schools if they wish to fill the 60% quota. Nevertheless, these SSBs have indicated that they have plans to resolve the problem of additional SSB managers.

9.   Members have raised concern that a large SSB might face the problem of coordinating attendance of sufficient SSB mangers at IMC meetings and supervise the work of IMCs.   Proposed section 40AD already empowers SSB to give general directions to IMC in the formulation of education policies of the school and oversee the performance of IMC.   SSB may stipulate in the IMC constitution requiring IMC to submit the school Annual Report to the SSB. SSB may also enter into an agreement with the IMC in managing the school.   As SSB managers are appointed by SSB, they may state clearly the duties and responsibilities of SSB managers in the SSB constitution and the appointment letters issued to the relevant managers.   Large SSBs usually employ full-time administrative staff to support the school management committees of their sponsored schools.   This kind of staff may be exempted from the requirement that a manager can serve in not more than five IMC.

Additional information in response to enquiries at the meeting

(a) Justifications for legislating the SBM framework

10.   The implementation of SBM will give schools greater autonomy in the delivery of education and deployment of resources.   The Government has spent huge resources on school education every year.   The annual recurrent

subvention to a standard 30-class aided secondary school and a standard 30-class whole-day primary school is about $38 million and $19 million respectively. As the quality of education provided by the school directly impacts on learning outcomes of pupils, the quid pro quo to additional autonomy is that schools have to be more transparent and accountable to the community for their performance and the proper use of funds. The implementation of a participatory governance framework involving the principal, teachers, parents, alumni and independent community members is necessary as it would increase the transparency and accountability of school governance and provide a forum for the views of different key stakeholders for the betterment of the school.

11.   There are also both practical and technical reasons for going down the legislative route to implement the governance framework by amending the Education Ordinance. Legislating the SBM requirements will give the framework a higher and credible status. This will demonstrate the Government's commitment to implement the requirements and ensure compliance on the part of SSBs. Furthermore, the roles of school management committee (SMC) and SSB are not currently defined in law. The Education Ordinance will therefore need to be amended to better reflect the respective roles of IMC and SSB under the proposed SBM framework.

12.   At present, in the course of their duties, school managers may attract contractual and tortuous liability.   Since most school managers, particularly the teachers and parents, are serving on a voluntary basis, they would be deterred from participating in SMCs if there is no protection on their liability provided in the legislation.   The incorporation of SMCs and the protection for managers' liability could only be effected by legislation.

13.   We have considered enforcing the SBM framework through other measures such as encouraging compliance by persuasion and support or by amending the Codes of Aid. Our experience with the School Management Initiative (SMI) Scheme (where schools participated on a voluntary basis) showed that after the promotion of participatory governance for over 10 years, only 65 participating schools had included teachers and parents in their SMCs. Most schools were adopting a wait-and-see attitude in this issue.

14.   As for amendment to the Codes of Aid, relevant bodies have to be consulted.   This will unlikely be any more straightforward than the legislative

route. Moreover, the sanction for non-compliance of the Codes of Aid is to reduce subsidies, whereby students' interests may be affected.

15. We have also considered requiring SMCs to incorporate under the Companies Ordinance. However, this will cause inconvenience to SMCs and their members as they will be required to comply with various legislative requirements under the Companies Ordinance, for example, putting in place a memorandum and articles of association, filing annual returns to the Companies Registry and paying registration fees, etc. some of which may not be entirely applicable to schools.

(b) <u>Development of school-based management</u>

16. To help Members better understand the latest development of SBM in schools, we have prepared a paper on this issue at <u>Annex B</u>.

Education and Manpower Bureau
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**Background and Present Arrangements on the
Terms and Conditions of Service of Staff in Aided Schools**

In relation to proposed sections 40AE(2)(b) and (c) and 40AE(3)(c), Members of the Bills Committee enquired whether (i) the employment of the teaching and non-teaching staff; and (ii) the engagement of "professionals and other persons" in aided schools are subject to the Codes of Aid. This paper gives a response to the enquiries as well as provides the background and sets out the present arrangements.

Employment of teaching and non-teaching staff in aided schools

2.   The staff members in aided schools fall into two broad categories, namely, teaching and non-teaching. Teaching staff include, on top of those engaged mainly in teaching duties, school heads and those with specific duties such as teacher librarians, student guidance teachers and teachers assisting in speech therapy and low-vision training teachers as entitled by different types of aided schools.

3.   Non-teaching staff comprises non-specialist and specialist staff. The non-teaching staff in ordinary schools are mainly non-specialists such as laboratory technicians (in secondary schools only), clerical and janitor staff. The non-teaching-non-specialist staff in special schools include cooks, drivers, watchmen, artisans, teacher assistants, etc. Non-teaching-specialists are mainly employed in special schools and they are school social workers, speech therapists, physiotherapists, occupational therapists, occupational therapist assistants, educational psychologists, nurses, wardens, assistant wardens, houseparents, programme workers and brailling staff. Educational psychologists are also employed in aided secondary ordinary schools. A table on the "Teaching and Non-teaching Staff in Aided Schools" is attached for reference.

4.   The school management committees (SMCs) are obliged to comply with the terms and conditions specified in the Codes of Aid for the employment of

staff within the approved establishment (with numbers, ranks and pay scales specified). For the clerical and janitor staff paid under the Administration Grant and the janitor staff paid under the Revised Administration Grant, aided schools are given the flexibility to adopt any establishment for such staff, and there are no pay scales set for these staff for aided schools to follow.

Teaching staff, specialists and laboratory technicians (LTs)

5.	The salaries of all teachers, specialists and LTs within the approved staff establishment employed in accordance with the requirements laid down in the Codes of Aid are paid under the Salaries Grant on a deficiency grant basis. The respective Codes of Aid stipulate the staff establishment entitled by a school, the salary scales of various grades and ranks, the conditions for appointment and promotion (requirements on qualifications and experience), experience recognised for award of increments, and other terms of service such as sick leave.

Non-teaching staff in ordinary schools and non-teaching-non-specialist staff in special schools

(a) Secondary schools

6.	Since the 1970s, aided secondary schools have been provided with an Administration Grant under the Code of Aid to employ administrative and janitor staff according to their own needs. The SMC has the discretion to determine the number of staff required, their posts and salaries, having regard to the funds available, as well as the terms of service, subject to the provisions of the Employment Ordinance. Schools may choose to appoint part-time staff or use the Grant to procure cleaning/administrative/clerical services by contract. Schools are allowed to retain savings arising from cost-effective initiatives. In other words, the Administration Grant allows aided secondary schools greater flexibility in deploying their financial and manpower resources.

(b) Primary and special schools

7.	Prior to September 1993, the clerical and janitor staff in aided primary schools and the non-teaching-non-specialist staff in special schools were paid under the Salaries Grant on a deficiency grant basis. The Codes of Aid stipulated the number and rank of these staff a school could employ as well as

their salaries.   The Codes also set out the qualifications requirements for appointment (save for workshop attendant, watchman, cook and janitor staff) and the annual paid leave entitlement.

8.	In line with the Government's policy to give more funding flexibility to aided schools, an Administration Grant similar to that for secondary schools was introduced to aided primary schools and the school section[1] of special schools in September 1993. Those schools that have opted for the Grant enjoy the same flexibility as secondary schools in managing their resources in acquiring clerical and janitor support. For other non-teaching-non-specialist staff in special schools, such as cooks and drivers, the status quo remains.

9.	The Administration Grant per annum was then calculated on the basis of the following formula:

(No. of clerical staff per approved establishment X mid-point salary +
No. of janitor staff per approved establishment X maximum point salary) X 12 months

Since the computation of the Grant was based on the mid-point salary of clerical staff, schools with clerks already paid at the maximum point of the salary scale found the Grant unfavourable to them.   Hence, a Revised Administration Grant, with the clerical element taken out, was introduced to aided primary schools and the school section[2] of special schools in April 1999.   Schools have been required to opt between the Administration Grant and the Revised Administration Grant. Schools which have opted for the Revised Administration Grant have their clerical staff continue to be paid under the Salaries Grant, and their terms and conditions are subject to the provisions of the Codes.   As regards janitor support, under the Revised Administration Grant, schools can determine the number of janitors required and their salaries, and may also use the Grant flexibly to employ part-time staff or acquire cleaning or even extra clerical and administrative services by contract.   Schools that have opted for the Revised Administration Grant may switch to the Administration Grant if they so prefer later but the option for the Administration Grant is final and irrevocable.

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[1]	Since January 2002, the Administration Grant has been extended to the boarding section of special schools.
[2]	Since January 2002, the Revised Administration Grant has been extended to the boarding section of special schools.

10.   Effective from the 2000/01 school year, the Administration Grant and the Revised Administration Grant are constituent grants consolidated under the Operating Expenses Block Grant (OEBG), which provides aided schools with greater funding flexibility and allows them to retain unspent funds up to 12 months' provision.   The rates of the Administration Grant and the Revised Administration Grant under the OEBG at the September 1999 level were used as the basis of adjustment for the 2001/02 rates in accordance with the movement of the Composite Consumer Price Index (CCPI).   Subsequent annual adjustment of these rates is to follow the CCPI movement.

Professionals and other persons serving in aided schools

11.   As need arises, aided schools will acquire professional services to handle tasks beyond the expertise of school staff, such as architects for repairs projects, geotechnical engineers for slope maintenance, and certified public accountants for auditing of school accounts.   These are not staff employed in the school and they are paid service fees for the professional service they render in accordance with the terms of service contracts between them and the schools.   Aided schools may also use the OEBG to employ temporary or part-time staff such as IT technicians, teaching assistants, etc. Nevertheless, this kind of staff do not fall within the school's approved establishment or are considered as professionals under the Codes of Aid.

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Teaching and Non-teaching Staff in Aided School

Type of staff	Aided secondary schools		Aided primary schools		Special schools	
	Within approved establishment	Not within approved establishment	Within approved establishment	Not within approved establishment	Within approved establishment	Not within approved establishment
Teaching staff	Teachers, school heads, teachers with specific duties, e.g. teacher librarians & workshop teachers	Temporary monthly-paid teachers appointed under the Operating Expenses Block Grant (OEBG)	Teachers, school heads, teachers with specific duties, e.g. teacher librarians	Temporary monthly-paid teachers appointed under the OEBG	Teachers, school heads, teachers with specific duties, e.g. teachers assisting in speech therapy, low-vision training teachers, workshop teachers, mobility instructors, resource teachers, etc.	Temporary monthly-paid teachers appointed under the OEBG
Non-teaching staff	Laboratory technicians & educational psychologists	Clerical and janitor staff, temporary or part-time staff appointed under the OEBG, e.g. IT technicians, teaching assistants, etc.	Clerical staff (schools opt for Revised Administration Grant)	Clerical staff (schools opt for Administration Grant) Janitor staff (schools opt for Administration Grant or Revised Administration	Specialist staff School social workers, speech therapists, physiotherapists, occupational therapists, occupational therapist assistants, educational psychologists, nurses, wardens, assistant wardens,	Clerical staff (schools opt for Administration Grant) Janitor staff (schools opt for Administration Grant or Revised Administration Grant)

Type of staff	Aided secondary schools		Aided primary schools		Special schools	
	Within approved establishment	Not within approved establishment	Within approved establishment	Not within approved establishment	Within approved establishment	Not within approved establishment
				Grant) Temporary or part-time staff appointed under the OEBG, e.g. IT technicians, teaching assistants, etc.	houseparents, programme workers, brailling staff, etc. <u>Non-specialist staff</u> Clerical staff (schools opt for Revised Administration Grant) Cooks, drivers, watchmen, artisans, teacher assistants, etc.	Temporary or part-time staff appointed under the OEBG, e.g. IT technicians, teaching assistants, etc.

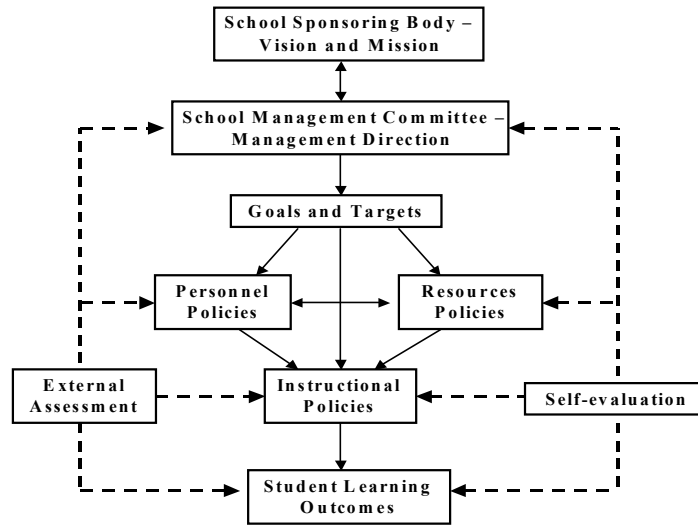## Development of School-Based Management

Some Members of the Bills Committee doubted the need to have all key school stakeholders participate in school management and suggested that schools be allowed to involve parents and teachers in school management on their own initiative.   We would like to give an account of the development of school-based management in schools and the devolution of responsibilities and autonomy to schools from the Education and Manpower Bureau.

From Centralised Management to School-based Management

2.   In the late 1980s, the emphasis of school education in Hong Kong shifted from the provision of adequate school places to the quality of school education and the diverse learning needs and capacity of students.   A centralised school management system was no longer considered an effective system to meet the new challenges.   School-based management (SBM) promotes bottom-up initiatives and encourages decision-making by people who work directly with and are most familiar with the needs of students.   SBM can lead to greater decision-making flexibility, change the work rules and improve student learning outcomes.

3.   SBM should not be seen as a "stand-alone" initiative.   It integrates the key elements of effective school management and changes that are intended to raise the quality of school education.   By the late 1980s and early 1990s, more studies on a school-by-school basis shared how links had been made to improve student learning outcomes, including new curriculum and standard frameworks, introduction of student assessment, programmes at key learning stages, etc.   A simplified theoretical framework of SBM is illustrated below.   It sets out how the various components of SBM interplay to achieve the end vision of SBM, i.e. enhanced student learning outcomes.

How SBM Influences Learning Outcomes

4.   The development of SBM can be dated back to 1991 when the School Management Initiative Scheme was introduced.   Under SBM, schools are given greater authority and flexibility to make their decisions and manage their own operation.

5.   There are two underlying principles of SBM.   First, SBM seeks to provide schools with enhanced flexibility and autonomy in managing their own operation and resources according to the needs of their students.   Second, it seeks to enhance the transparency and accountability in school operations, performance and the use of public funds.   Hence, SBM is a management framework which is school-based, student-centred and quality-focused.

6.   In 1997, the Education Commission Report No. 7 recommended that all public sector schools practise SBM by the year 2000.   To take this forward, the then Education Department had started to devolve more autonomy and responsibilities to schools since 1999.

Increased Autonomy and Flexibility to Schools

7.   Arrangements to facilitate schools' implementation of SBM include the streamlining of administrative procedures and the devolution of more responsibilities to schools in personnel management, financial matters and the

design and delivery of curriculum. All these measures are to create more room for schools to develop quality education for their students and with their own characteristics.

8. Schools are also given the authority to approve staff appointment, acting appointment and promotion of teachers, employment of substitute teachers and leave applications etc. With the consent of teachers and parents, the school management committee (SMC) can exercise its authority to freeze up to 10% of the teaching establishment and claim the Substitute Teacher Grant. Schools can make use of the grant to employ substitute teachers or for other purposes such as staff training, procurement of stores and services. In addition, schools are allowed to set aside not more than three staff development days per school year for teachers to take part in school-based development and school planning work. Schools' resources can be allocated in accordance with educational priorities which have been consciously defined and used for school development purpose.

9. The Government has also provided schools with more resources for the implementation of SBM and school development programmes. Starting from the 1999/2000 school year, all government and aided schools have been provided with a Supplementary Grant to cover expenses on additional clerical and administrative support arising from the implementation of SBM.

10. With effect from the 2000/2001 school year, the Government has introduced an Operating Expenses Block Grant (OEBG) which provides greater funding flexibility to facilitate longer-term school development planning. The OEBG consolidates various non-salary recurrent grants and allows the retention of savings of up to its 12 months' provision. Thus, it enables schools to deploy and budget their resources more flexibly for long-term strategic planning. Starting from the same school year, the Government has provided schools with a Capacity Enhancement Grant for contracting out services or employing additional staff on top of the approved establishment. The purpose is to relieve teachers' workload so that teachers will have enhanced capacity to implement the initiatives of education reform, such as developing school-based curriculum, enhancing students' language proficiency and coping with the diverse and special learning needs of students.

11. To further provide schools with flexibility in resource management under SBM, the recurrent and non-recurrent furniture and equipment grants have been combined to form the Composite Furniture and Equipment Grant with effect from

the 2001/02 school year and schools can accumulate the grant up to five times its provision. Other streamlining arrangements introduced include revising the tendering and purchasing procedures and devolving to schools the autonomy in the use of non-government funds for teaching or school purposes as well as staff professional development.

Transparency and Accountability of School Management

12. As more and more flexibility and autonomy have been devolved to schools, it is imperative to take measures to strike a balance between autonomy and accountability that would in turn help schools develop a self-managing culture for continuous school improvement and development. The quid pro quo to additional autonomy is that schools have to be more transparent in their operation and accountable to the community for their performance and the proper use of public funds. One of the means is that all public sector schools are required to make available their school plans and annual reports to parents and members of the public. In addition, through a more vigorous self-evaluation by schools supplemented by the external inspection so as to hold schools more accountable for their performance. Another means is to set up the SBM governance framework proposed in the Bill, which allows for the participation of all key stakeholders. Their participation in school management is the best means to enhance a school's transparency and accountability.

13. Besides, it provides the talents and allows contributions of different stakeholders to manage and monitor the devolved responsibilities and flexibility so as to bring about continuous school development. The involvement of stakeholders, who bring with them different perspectives and expertise to SMC, will provide a forum for the betterment of the school. Their participation in the decision-making process helps define what education quality and standards should be pursued, identify what approaches should be used to monitor and enhance school education, and contribute effort and commitment to the implementation.

Conclusion

14. In sum, involving major key stakeholders in school governance contributes to the following desirable outcomes. First, the decisions on resource

allocation of the school reflect priorities valued.   Second, the process provides for full accountability and is amenable to subsequent evaluation.   Third, the roles, goals and policies of the school will be more acceptable to all in the school community.   Hence, the Government supports a participatory, transparent and accountable school governance framework.

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