

Mr KAU Kin-wah
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

4 July 2003

Dear Mr Kau,

Education (Miscellaneous Amendments) Bill 2003

I refer to your letter of 30 June 2003. Our response to your observations is as follows:

Clause 4 – section 22(1) & (3)

section 32 of the Education Ordinance provides that "Every school shall be managed by its management committee." Hence, schools with day and evening sessions not managed by the same managers (that is, having separate management committees) should be separately registered even if the day and evening sessions are operated in the same school premises (but at different sessions).

Clause 5 – proposed section 59(3)

We shall introduce Committee Stage Amendments in respect of the proposed section 59(3) along the following lines –

“An Appeal Boards Panel mayregulate the procedure for appeals and make standing orders for the purposes.”

Clauses 6, 11, 17 and 19 – appeal to Appeal Boards Panel

We agree to your point and Committee Stage Amendments will be introduced to the relevant provisions to the effect that a person may appeal to “an Appeal Board” instead of “the Appeal Boards Panel”.

Clause 7 - proposed s 62(1B)

The provision allowing the secretary to appoint substitute for any number of members at any stage of appeal proceedings serves the intended purpose that the secretary can appoint any persons from the Panel to act in place of the absent member so as to ensure smooth and efficient conduct of Board hearings. The

provision has balanced the principle of fairness and ensuring smooth and efficient conduct of Board hearings with the consent of the appellant/respondent. This practice is not uncommon among other appeal boards and are also running smoothly in other Administrative Appeal Boards. Please refer to section 8 of Cap. 442 for similar circumstances.

Clause 14(1)(a)

Section 59 of the Education Ordinance specifies that the Appeals Board comprises (a) not less than 9 persons as members of the Appeals Board, of whom at least 3 shall be registered teachers; (b) one of the persons appointed under (a) as chairman of the Appeals Board. Since the chairman of the existing Appeals Board is a member of the Board, clause 14(1)(a) is clear enough to deem the chairman to become a member of the Appeals Boards Panel. However, clause 14(1) is silent on whether the chairman would also be deemed to be the chairman of the Appeals Boards Panel. For clarity sake, we propose to add a new paragraph in clause 14(1) along the following lines-

“(aa) any person who was the chairman of the former Appeals Board immediately before the commencement date is deemed to be the chairman of the Appeals Boards Panel for the remainder of his term of office, or (if applicable) until he ceases to be so for any reason before his term of office expires;”.

Yours sincerely,

(Mrs S M YU)
for Secretary for Education and Manpower

c.c. DoJ (Attn: Ms Carmen CHU, SGC)