

Regulations for Social Organizations Operating Schools

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Premier Li Peng July 31, 1997

Chapter 1 General principles

Article 1 The following regulations are established to encourage social organizations to operate schools, safeguard the lawful rights of founders, schools and other educational institutions, teachers and other educational workers, and those who receive education, as well as promote the healthy development of social organizations operating schools.

Article 2 These regulations are applicable to commercial and institutional organizations, social groups, and other social organizations as well as individual citizens who do not use public financing and who intend to operate schools and other educational institutions¹.

Article 3 Social organizations that operate educational enterprises are component parts of the Socialist educational enterprise. All levels of the People's Government must intensify their leadership over social organizations that operate educational institutions and make sure that they are in line with government economic and social development programs.

¹ The term 'educational institution' in this article refers to those operated by non-governmental social organizations unless otherwise stated. Trsl.

Article 4 The guiding principle for the government dealing with social organizations that operate educational institutions is to show positive encouragement, full support, proper guidance, and close supervision.

Article 5 These social organizations should take as their main object the following fields of activity: vocational, adult, senior middle, and pre-school education. The government should encourage these social organizations to operate compulsory educational institutions as a complement to state compulsory education. The state strictly controls social organizations operating institutions of higher education.

These social organizations should not operate open or covert religious schools.

Article 6 These social organizations should not have profit as their aim in operating education institutions.

Article 7 No organization or individual can get funding from commercial enterprises and individuals under the pretext of being a social force interested in operating schools.

Article 8 The government protects the lawful rights and interests of those social organizations that operate educational institutions. They enjoy autonomy according to law in operating these educational institutions.

Article 9 In operating educational institutions these social organizations must observe laws and regulations, uphold the aim of socialist education, implement national goals, and guarantee the quality of their education and teaching.

Article 10 The educational institutions operated by these social organizations together with their teachers and students enjoy equal status before the law as do government operated schools, their teachers and students.

Article 11 The State Council's department of education is responsible for the overall planning, the general coordination, and

macro-management of social organizations that operate educational institutions throughout the country.

The State Council's department of education, the labor administration department and other appropriate departments are responsible for social organizations that operate educational institutions within the scope determined by the State Council.

Appropriate departments at all local levels of the People's Government above the county level are responsible for social organizations that operate educational institutions within the scope determined by provinces, autonomous regions, and municipalities under direct control of the central government.

Article 12 Organizations and individuals belonging to social organizations that operate educational institutions and make outstanding contributions can be rewarded.

Chapter 2 Establishment of educational institutions

Article 13 Units that apply to set up educational institutions must be qualified juridical persons; individuals applying must enjoy political rights and complete civil power to act.

Examination agencies that carry out government education examinations, professional qualification examinations, and examinations determining the level of technical skill should not operate educational institutions that are linked to its interests.

Article 14 Whoever establishes educational institutions must fulfill the basic conditions as set out in educational law and vocational educational law.

The executive branch of the State Council determines the norms established for implementing schools awarding credentials in higher education; provinces, autonomous regions, and municipalities under direct control of the central government determine the norms for other educational institutions respectively.

Article 15 Education departments in local governments above the county level can approve within limits set by the government the setting up and operating of educational institutions that grant academic credentials, schools providing make-up courses, pre-school education, and schools that offer grants-in-aid for students studying

on their own. Labor departments in local governments above the county level can within limits set by the government approve the setting up and operating of educational institutions whose main purpose is to train vocational workers and technicians of all levels as well as those educational institutions set up for training vocational skills that can assist people to find work. These departments must also send duplicate records for registration to the education departments on the same government level. For setting up and operating other educational institutions the consent of pertinent government agencies in charge must be obtained before departments on the same government level grant approval.

Article 16 Those who apply for approval to operate educational institutions must present the following documents to the approving board:

- (1) Statement of purpose;
- (2) Documentary proof showing the qualifications of the applicant;
- (3) Documentary proof showing the qualifications of the proposed principal or the person in charge and the teachers to be employed;
- (4) Documentary proof of the capital and financial sources of the applicant;
- (5) The statutes and development plan of the applicant;
- (6) Other documents that the government-approving board may want.

For those applicants who wish to jointly operate an educational institution, the document of agreement on joint operation must also be presented.

Article 17 The approving education board must base its approval on the conditions and norms for setting up and operating an educational institution. Furthermore, the approval must accord with national interest, the common good of society, and with a reasonable educational structure and the overall requirements of educational institutions.

For applicants that want to set up and operate educational institutions that grant academic credentials, the approving board should accept the application before the third quarter of the year and make a written response before the end of April of the second year. For applicants that want to set up other educational institutions, the

approval board must make a written response within three months from the time the application was received.

Article 18 Those who have been granted permission to operate a school must be present with a document of approval. These forms are determined by the educational department of the State Council. The educational and labor departments of the State Council share the responsibility of organizing their printing.

Once receiving permission to operate schools, these educational institutions according to each one's pertinent social organization must make an officially approved application to operate as a non-commercial unit before they undertake any educational activities.

Article 19 Educational institutions must not establish branch institutions.

Article 20 The name of the educational institution must clearly indicate its type, its education level, and administrative level of its operation. Unless they have permission from either the education or labor departments of the State Council as the case may warrant they should not use in their names the following names: "Chinese", "China" or "International".

Chapter 3 Supervising the curricula and administration of educational institutions

Article 21 Educational institutions can set up school boards of directors. The proposed candidates for the principal or person in charge, sets the direction for its development, secures financial resources, and prepares the budget and other important matters.

The board of directors is made up those who establishes the school or his representative, representatives of teachers and staff of the school and those dedicated to the work of education. They should be upright citizens. More than one third of the board members should have more than 5 years teaching experience.

Those who established the school can propose the founding members of the board. Later members can be chosen according the board's statutes. Members take office after they have been officially approved by the board of education.

Government officials in office should not be members of the board of directors. However, exceptions are permitted owing to special circumstances and with the permission of a governing body higher than the county or its pertinent officials.

Article 22 The principal or other official in charge are responsible for the education and administration of educational institutions.

The term of office of the principal or important executive officials is similar to that of corresponding principals and executive officials on the same level in government operated schools. Age requirements, however, can be suitably relaxed.

Persons chosen to act as principal and other major official are proposed by the established board of directors. If no board has been set up, the person who operates the school can propose them. These officials can then assume office once official approval has been given.

Article 23 The board of directors, the principal or other major officials as well as the person in charge of general affairs, treasurer and personnel director must avoid all nepotism.

Article 24 Teachers and other personnel have the right to organize a labor union according to labor law to protect their legal interests.

Article 25 Educational institutions can freely employ teachers and other personnel according to appropriate government regulations. Teachers so employed must meet government educational standards and conditions for employment. The institution must take measures to improve their political and professional training.

Education institutions must draw up a contract for their teachers and personnel stating the terms of employment.

Educational institutions that employ foreign nationals must act according to pertinent government regulations.

Article 26 Educational institutions can freely enroll students according to pertinent government regulations.

Educational institutions must have official approval before publishing their general regulations and advertisements for enrolling students.

Educational institutions that enroll students from other areas must act according to pertinent government regulations.

Article 27 Educational institutions can freely set up their own special fields of studies according to pertinent government regulations.

Article 28 The educational content of studies offered by educational institutions must be in accord with the Constitution, the law, and other regulations.

Social organizations that operate primary and middle schools must teach according to the curriculum and teaching programs drawn up by the State Council's executive board and education boards of provinces, autonomous regions, and municipalities under direct control of the central government. Teaching materials must be examined and revised by the education boards of provinces, autonomous regions, and municipalities under direct control of the central government.

Article 29 Educational institutions must make full use of all social educational facilities, equipment, and materials, as well as fully use the aid offered by the television broadcasting university and other similar schools to develop educational activities and raise their educational standards.

Article 30 Educational institutions must set up and implement management systems for student and teaching matters according to pertinent government regulations.

Article 31 Students attending schools approved for granting records of formal education upon completing their studies and passing their examinations, should obtain their diplomas issued by their school according to pertinent government regulations.

Students from other educational institutions upon completing their studies should obtain a certificate, stating their level of training or other educational attainments and indicating their studies and examination results. Furthermore they can take part in examinations

testing their professional competence or technical level according to pertinent government regulations. Upon passing these examinations they can obtain proper documentation of their professional competence or technical level attained.

Article 32 To obtain the official seal the educational institute must clearly show the approval for operating the school and the licensing agency. Then it must formally register with the Security Agency higher than the level of the county.

The educational institute must register a copy of its seal with the licensing agency and the Security bureau.

Article 33 The Educational and Labor Bureaus and other pertinent department must exercise close supervision over social organizations that operate schools. Each local government higher than the county level must also exercise close supervision over how the standard and quality of these educational institutions in their districts are assessed.

No supervisory agency can charge a fee for its supervisory work.

Chapter 4 Management over the property and finances of educational institutions

Article 34 Educational institutes must set up a legal financial and accounting system as well as a system for property management. Furthermore they must also prepare account books according to the accounting system approved by the administrative unit in charge.

Article 35 Educational institutions must collect their fees according to pertinent government regulations.

Educational institutes state their fees and the criterion for collecting them. After being verified by the licensing, it in turn will offer its suggestions. Next the finance ministry and the price control agency will give the final approval each acting according to its own area of responsibility once they have reviewed the education offered by the institute in question, its cost and the actual amount of aid it receives from other sources.

Article 36 As long as educational institutions exist they have the legal right to use and manage their property, but they cannot transfer its ownership or use it as security for other purposes. No organization or individual should encroach on the property of these educational institutions.

Article 37 Educational institutions should set the proportion between each employee's salary and benefits calculating approximately the proportion existing between them and ordinary operating expenses. They should report these matter to the official licensing agency.

Their surplus income can only be used for investing in educational needs and for making improvements. They cannot be assigned for other purposes or investing in areas outside of the school.

Article 38 Educational institutions should draw up a financial report at the end of each fiscal year and have the social auditing agency audit its financial situation according to conditions set by the licensing agency. This auditing agency should then submit a report of its findings to be examined by the licensing agency.

Chapter 5 Modifications and liquidation of educational institutions

Article 39 Educational institutions that change their titles, nature, or educational level, must obtain authorization from the licensing agency; those that modify other elements must register such changes with the licensing agency.

Article 40 Educational institutions that merge must make an inventory of their property and a financial audit. Furthermore, after merging they must make suitable arrangements for their former students.

Article 41 Educational institutions that meet any of the following conditions must be liquidated:

- (1) when the board of directors or the founder ask to be liquidated according to the provisos set out in the charter;

- (2) when circumstances prevent carrying out normal educational activities.

The licensing agency must authorize such liquidations.

Article 42 Upon liquidation, educational institutions must make suitable arrangements for their students. The licensing agency can assist in this process. When educational institutions that carry out compulsory education liquidate, the licensing agency must make suitable arrangements for students undergoing compulsory education to continue their studies.

Article 43 Educational institutions that liquidate must clear their financial accounts.

Upon liquidation educational institutions must first meet the salary expenses of their teachers and employees as well as all social insurance claims. All surplus wealth that remains after liquidation should be returned in whole or part to the founders who first invested in the institution. The licensing agency should make over-all arrangements for any remaining surplus using it to develop other social organizations that want to operate schools.

Article 44 The licensing agency must make public the liquidation of educational institutions and have them return the permit for operating the school as well as the seals that must be securely kept.

Chapter 6 Security and support

Article 45 All pertinent government agencies above the level of the county should give support to social organizations wishing to operate schools according to pertinent laws and regulations.

Article 46 All pertinent government educational departments, labor departments, and all other pertinent government departments above the level of the county must provide the same professional guidance, study programs, administrative care for teachers, as well as rewards and commendations, to social organizations operating educational institutions as they do for government operated schools.

Article 47 Local governments above the level of the county in providing land needed for the construction of educational institutions should draw up plans according to pertinent government regulations and actual local situations, and implement them according to regulations set for industrial and commercial property dealing with the public welfare, and grant such institutions priority.

Article 48 The salaries, insurance and other social benefits of teachers and other staff working in these educational institutions, should be guaranteed by the institutions according to law.

The amount of time that specialist teachers spend in these educational institutions should be calculated by the consecutive number of years they have spent as a teacher.

Article 49 Students in educational institutions operated by social organizations enjoy the same rights by law, take part in examinations, and join in other social activities, as do students in government operated schools.

Graduates from these institutions should compete on a fair and equal basis in the market place, and not be subject to discrimination in their work units

Chapter 7 Legal responsibilities

Article 50 Social organizations that operate institutions of education and that break regulations of the educational law will be penalized according to pertinent regulations of said law.

Article 51 If those who operate these institutions of education provide spurious funding or, if after opening the school, withdraw funds for their own personal benefit the licensing agency should step in to rectify matters. If this intervention is ignored those involved should be fined less than double the amount of money falsely invested or withdrawn. In serious matters the licensing agency can order the closure of the school and their license revoked.

Article 52 Counterfeiting, changing, or selling licenses for operating educational institutions will be penalized by the Public Security Bureau according to penal regulations concerning public

order. Those who commit crimes will be investigated to determine criminal responsibility.

Article 53 If educational institutions exceed the kinds and norms for fees agreed upon the licensing agency should order the excess amount to be returned within a specified period of time. Furthermore, the finance department and pricing agency should impose a penalty according to the regulations determined by law.

Article 54 If educational institutions do not determine what proportion of the regular expenses in running the school is to be expended on salaries and welfare benefits for various levels of employees, or if they do not act according to this proportion, or if they use any accumulation for free distribution or investing outside of the school, the licensing agency should sound a warning. If the situation is serious, or if the offending institution refuses to change, the agency can order the closure of the institution, revoke the license, or take control themselves.

Article 55 If the school management is chaotic or if educational standards are low enough to create an unfavorable environment, the licensing agency should sound a warning and arrange that matters be rectified within a determined period of time. If the situation is serious, or if matters cannot meet the conditions for rectification, the licensing agency can order closure of the institution, revoke the license or take control themselves.

Article 56 If the licensing agency abuse their power, bend the law in their favor, or are negligent in supervising the educational institution that has been approved creating serious consequences, the official in charge or other officials that have direct responsibility will be dealt an administrative penalty. Those who commit crimes will be investigated to determine criminal responsibility.

If administrative departments accept any fees for their supervision of educational institutions, they must return these fees and the official in charge, or other officials that have direct responsibility will be dealt an administrative penalty according to law.

Chapter 8 Supplementary articles

Article 57 Social organizations running training activities that are not set up as independent institutions are to follow these regulations.

Article 58 Foreign organizations and individuals who operate or who cooperate in running educational institutions in China come under other regulations established by the State Council and do fall under these regulations.

Article 59 Social organizations that operate educational institutions that were established, approved and registered according to laws, regulations, and rules before these regulations come into effect can continue to operate. They must, however, according to these new regulations apply for a document of authorization to continue or supply for any thing that is lacking in the former approval. In case they do not meet some of the requirements demanded by these new regulations they must within a specified time frame fulfill these conditions.

Article 60 These regulations take effect from October 1, 1997. Regulation #18, part 2 that concerns social organizations operating non-profit units takes effect from the day that they register.