

## **LAW ON THE PROMOTION OF NON-GOVERNMENT EDUCATION IN CHINA**

*Translation by Yingying Xu, PROPHE doctoral assistant,  
with PROPHE Director Daniel Levy and PROPHE Contributing Scholar Fengqiao Yan*

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The law includes ten chapters. They are listed as follows:

Chapter 1 General Provisions

Chapter 2 Establishment

Chapter 3 Organization and Activity

Chapter 4 Teachers and Students

Chapter 5 Property and Financial Management

Chapter 6 Administration and Supervision

Chapter 7 Support and Rewards

Chapter 8 Change and Closure

Chapter 9 Legal Responsibilities

Chapter 10 Supplementary Provisions

### **Chapter 1: General Provisions**

#### Article 1

The law is formulated in accordance with the Constitution and the Education Law with a view toward implementing the strategy of Prospering China by Science and Education, to promote healthy development of non-governmental education, and to safeguard the rights of non-governmental schools and students.

#### Article 2

The law is in effect in situations where non-governmental organizations and individuals run schools and other educational institutions by non-budgetary funds to satisfy social needs.

#### Article 3

Non-governmental education is in the realm of public beneficiary enterprises and is an integral part of the whole socialist education system.

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The general policy for non-governmental education is to encourage actively, to support significantly, to guide correctly, and to administer legally.

Government at various levels should integrate non-governmental education into the overall plan for economic and social development.

#### Article 4

Non-governmental schools should abide by laws and regulations, implement educational policy, assure educational quality, and devote themselves to educating the diverse personnel that the socialist system requires.

Education should be separate from religion. This policy governs non-governmental schools. No organizations and no individuals are allowed to employ religion to impede educational activities.

#### Article 5

Non-governmental schools and governmental schools have identical legal standing.

The autonomy of non-governmental schools is guaranteed.

The country safeguards the legal rights of owners, principals, faculty and students in non-governmental schools.

#### Article 6

The country encourages donations and endowments for education. It will reward organizations and individuals who make great contributions to non-governmental education.

#### Article 7

The educational department of the State Council is responsible for the overall planning, coordination and macro management of non-governmental education.

The Labor and Social Security Department and other relevant departments of the State Council are responsible for non-governmental education in prescribed categories.

#### Article 8

The education departments at the county level and above are responsible for non-governmental education in their location.

The labor and social security department and other relevant departments at the county level and above are responsible for non-governmental education in prescribed categories.

## **Chapter 2: Establishment**

#### Article 9:

Social organizations that establish non-governmental schools should be in the form of corporate organizations.

Individuals that establish non-governmental schools should possess political rights and complete civil behavior capacity.

Non-governmental schools should have the appropriate juridical qualifications.

**Article 10:**

The establishment of non-governmental schools should meet the local needs of educational development, and should meet the requirements of the Education Law and other relevant laws and statutes.

The criteria for establishing non-governmental schools reflect the criteria for establishing public schools of the same kind and at the same level.

**Article 11:**

The establishment and running of non-governmental schools that award degrees, provide pre-school education, aid self-learners prepare for exams, and offer other cultural education should be examined and approved by the educational administrative departments of upper-county level governments according to national regulations; establishing and implementing professional-based non-governmental schools that provide professional qualification training and professional skills training should be examined and approved by the labor and social security administrative departments of upper-county level governments according to national regulations, and should make copies for the records of the educational administrative departments at the same level.

**Article 12:**

Applying for the interim establishment of non-governmental schools, applicants should submit the following documents to the examination and approval departments:

- (1) An application report, mainly including: founders, aim of cultivation, size of school, level of school, form of school, qualification of school, internal administrative system, financing, and expenditure, etc.
- (2) Names and addresses of founders.
- (3) Sources of school property, amount of capital, and valid probative documents with a clear record of property right.
- (4) School property that has come as donations requires submission of a donation agreement with a clear record of the identity of the donor, the amount of the donation, the purpose of the donation, and the methods of administering the donation; also required is submission of the relevant valid probative documents.

**Article 13:**

Within 30 days after receiving the application for interim establishing a non-governmental school, the examination and approval departments should make decisions in written form on approval or disapproval of the application.

If approved, the departments should issue authorization certificates of establishment. If disapproved, the departments should explain the reasons.

The time limit for interim establishment should not exceed 3 years. Beyond 3 years, applicants should reapply.

**Article 14:**

In applying for official establishment of a non-governmental school, applicants should submit the following documents to the examination and approval departments:

- (1) Authorization certificate of interim establishment;
- (2) Interim establishment situation report;
- (3) School statute, and names of personnel of the first school council, trustees or other decision-making organizations;
- (4) Valid probative documents of school property;
- (5) Qualification probative documents of school principal, faculty members, and fiscal agents and accountants.

**Article 15:**

Those that possess the qualifications and meet the criteria for establishing non-governmental schools can apply directly for official establishment, and should submit the above-mentioned documents in Article 12 and Article 14 (3), (4), (5).

**Article 16:**

For those that apply for official establishment of non-governmental schools, the examination and approval departments should make decisions in written form on approval or disapproval within 3 months, and inform the applicants of the decisions; for those that apply for official establishment of non-governmental higher education institutions, the examination and approval departments should make decisions in written form on approval or disapproval within 6 months, and inform the applicants of the decisions.

**Article 17:**

The examination and approval departments should issue an authorization certificate of establishment for those approved to officially establish non-governmental schools. The examination and approval departments should explain reasons to those disapproved to officially establish non-governmental schools.

**Article 18:**

After issued an authorization certificate of establishment, a non-governmental school should register according to relevant laws and administrative regulations. Registration offices should refer to relevant regulations to help register in a timely way.

**Chapter 3: Organization and Activity****Article 19:**

Non-governmental schools should have a school council, board of trustees, or other decision-making organizations.

**Article 20:**

The school council or board of trustees\* should be composed of the founders or their representatives, principals, representatives of faculty and staff, etc. More than one third of the directors and trustees should have over five years educational and teaching experience.

The school council or board of trustees should be composed of more than 5 people, with one board chairman. A list of the names of the board chairman, directors and trustees should be reported to the examination and approval departments for their records.

**Article 21:**

The school council or board of trustees exerts the following authority:

- (1) Hire and fire the principal;
- (2) Review the school statute, and make school rules and regulations;
- (3) Compose the school development plan and authorize annual work plans;
- (4) Finance the school, audit the budget and do a final accounting of revenue and expenditure;
- (5) Decide on the authorized size of faculty and staff, and the criteria for their salaries;
- (6) Decide about any division, merger, or termination of the school;
- (7) Decide on other important issues.

Authorities of other decision-making organizations should refer to this article.

**Article 22:**

The board chairman or school principal serves as the legal representative of the non-governmental school.

**Article 23:**

A non-governmental school, when hiring its principal, should refer to the criteria for hiring principals in public schools of the same kind and at the same level, but can extend the age limit, and should report to the examination and approval departments for authorization.

**Article 24:**

The principal of a non-governmental school is responsible for the educational, teaching, and administrative work of the school. The principal exerts the following authority:

- (1) Implements decisions made by the school council, board of trustees, or other decision-making organizations;
- (2) Carries out the school development plan, draws up the annual work plan, finance and budget, and school rules and regulations;
- (3) Hires and fires school personnel, and applies a reward-punishment system;
- (4) Organizes educational, teaching, and scientific research activities, ensures education and teaching quality;
- (5) Is in charge of the school's daily administrative work;

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\* Translator's note: unlike in article 19, here only the two are mentioned.

- (6) Undertakes other authorized work by the school council, board of trustees, or other decision-making organizations.

Article 25:

Non-governmental schools should follow relevant national regulations regarding awarding degree certificates, course-completion certificates, and training-qualification certificates to their students according to the students' category, number of years of study, and grades.

Students receiving professional skills training can be awarded the national professional qualification certificate, after they are appraised as qualified by government-authorized professional skills evaluation organizations.

Article 26:

Non-governmental schools should guarantee faculty and staff participation in democratic administration and supervision through faculty and staff representative assemblies or other forms identified by law.

Faculty and other working personnel in non-governmental schools have the right to set up labor unions and protect their legal rights and interests, according to the law on labor unions.

#### **Chapter 4: Faculty and Students\***

Article 27:

Faculty and students in non-governmental schools have equal legal status to those in public schools.

Article 28:

Faculty appointed by non-governmental schools should have the teaching credentials prescribed by government.

Article 29:

Non-governmental schools should provide ideological and moral education and professional training to their faculty.

Article 30:

Non-governmental schools should, according to law, guarantee the compensation and welfare of their faculty and staff, and pay their social insurance fees.

Article 31:

Faculty and staff in non-governmental schools have rights equal to those in public schools regarding professional training, appointment, calculation of teaching years and working years, commendations and rewards, and social activities, etc.

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\* Translator's note: the original Chinese text uses "educated people," which is a common way of saying of "students."

**Article 32:**

Non-governmental schools should, according to law, guarantee the legal rights of their students. Non-governmental schools should, by national regulations, set up a student-status administration system and reward-punishment system for their students.

**Article 33:**

Students from non-governmental schools have rights equal to those of counterparts from public schools of the same kind and at the same level, regarding entering upper-level schools, getting jobs, preferential societal treatment, participation in the evaluation for honors, etc.

**Chapter 5: Administration of School Property and Finance****Article 34:**

Non-governmental school should, according to law, set up financial and accounting systems and property administrative systems, and have accounting books according to government regulations.

**Article 35:**

Non-governmental schools have corporate property rights to the properties provided by the founder, public properties, donations, and accumulated school properties.

**Article 36:**

During its existence, non-governmental schools, according to law, administer and use all properties. No organization or individual may embezzle. No organization or individual may illegally impose charges on non-governmental educational organizations.

**Article 37:**

For students who receive formal education, non-governmental schools propose the fees and their amounts, and report to relevant departments for approval and notification. For other students, non-governmental schools propose the fees and their amounts, and report to relevant departments for putting on record and notification. The fees charged by non-governmental schools should be used mainly in educational and teaching activities and improving school conditions.

**Article 38:**

The examination and approval departments and other relevant departments supervise the use and financial administration of properties of non-governmental schools. Non-governmental schools should, at the end of each fiscal year, compose a financial accounting report, entrust accountants to audit, and announce auditing results.

## **Chapter 6: Administration and Supervision**

### Article 39:

The educational administrative departments and other relevant departments should supervise educational and teaching activities and teacher training in non-governmental schools.

### Article 40:

The educational administrative departments and other related departments should, according to law, supervise non-governmental schools to improve school quality. They should organize or entrust social intermediary organizations to evaluate school level and quality, and announce the evaluation results to the public.

### Article 41:

Non-governmental schools should submit their admission brochure and advertisements to the examination and approval departments for their records.

### Article 42:

If a non-governmental school infringes upon the legal rights of its students, the latter and their relatives have the right to appeal to the educational administrative departments and other relevant departments, who should handle the problem in a timely manner.

### Article 43:

The government supports and encourages social intermediary organizations to provide services to non-governmental schools.

## **Chapter 7 Support and Rewards**

### Article 44:

Governments above the county level can set up special funds to subsidize non-governmental schools' development, and reward and commend the advanced groups and individuals.

### Article 45:

Governments above the county level can support non-governmental schools by subsidizing them, and leasing or giving away idle public property.

### Article 46:

Non-governmental schools enjoy preferential taxation policy prescribed by the government.

### Article 47:

Non-governmental schools, according to laws and regulations, can receive donations from individuals, corporate entities, and organizations.



The government, according to relevant regulations, gives preferential taxation and commendation to the individuals, corporate entities, and organizations that donate to non-governmental schools.

Article 48:

The government encourages monetary organizations to use loans to support non-governmental education development.

Article 49:

The government, when entrusting non-governmental schools to bear compulsory education responsibilities, should appropriate the needed educational funding as described in the entrust agreement.

Article 50:

When establishing and extending non-governmental schools, the government should give preferential policy based on regulations of land use and construction for public welfare. Land for educational purposes should not be used for any other purposes.

Article 51:

After non-governmental schools deduct school-running costs and reserve a development fund, and draw other necessary costs, founders can receive reasonable rewards from the school-running surpluses. The State Council decides the specific methods for reasonable rewards.

Article 52:

The government will take measures to support and encourage social organizations and individuals to go to minority nationality regions and remote and poor areas to establish non-governmental schools and to promote educational development.

## **Chapter 8 Change and Closure**

Article 53:

The school council or board of trustees should, after settling their bills, report on any division [ed. note: into several schools], establishment, or merger of non-governmental schools to the examination and approval departments for approval.

Within 3 months after receiving the application for separation, establishment, or merger of non-governmental schools, the examination and approval departments should make decisions in written form on approval or disapproval. For those applying for separation, establishment, or merger of non-governmental higher education institutions, the examination and approval departments can also make decisions in written form on approval or disapproval within 6 months after receiving the application.

**Article 54:**

When there is change of the owners of non-governmental schools, the current owners should bring this up, get approval from the school council or board of trustees, settle their bills, and report to the examination and approval departments for approval.

**Article 55:**

For changing names, levels, and categories of non-governmental schools, the school council or board of trustees should report to the examination and approval departments for approval. For those non-governmental schools that apply to change to other non-governmental schools, the examination and approval departments should make decisions in written form on approval or disapproval within 3 months after receiving the application. Among them, for those applying to change to non-governmental higher education institutions, the examination and approval departments can also make decisions in written form on approval or disapproval within 6 months after receiving the application.

**Article 56:**

Non-governmental schools should be closed if:

- 1) They are required to close according to school statutes, and their closure is approved by the examination and approval departments; or
- 2) Their authorization certificates of establishment are revoked; or
- 3) They cannot continue school operation because their liabilities exceed assets.

**Article 57:**

When non-governmental schools are closed, their students should be taken care of properly. When non-governmental schools that offer compulsory education are closed, the examination and approval departments should assist the schools to arrange for their students to continue study.

**Article 58:**

When non-governmental schools are closed, they should settle their accounts according to law. Schools closed on their own request should arrange to settle accounts; for those closed by the examination and approval departments according to law, the examination and approval departments should arrange for settling accounts; for those closed because their liabilities exceed assets and they cannot continue school operation, courts should arrange for the settling of accounts.

**Article 59:**

Non-governmental schools should pay off their property according to the following order:

- 1) Pay off students' tuitions and fees;
- 2) Pay off due compensation of faculty and staffs and their due social insurance fees;
- 3) Pay off other debts.

After paying off the abovementioned liabilities, the remaining property of non-governmental schools should be handled according to relevant laws and regulations.

**Article 60:**

The examination and approval departments should take back the authorization certificates of establishments, destroy the seals, and cancel registrations of the closed non-governmental schools.

**Chapter 9 Legal Responsibilities****Article 61:**

If non-governmental schools violate the Education Law and Teachers' Law in their educational activities, they should be penalized according to the regulations in the Education Law and Teachers' Law.

**Article 62:**

If non-governmental schools exhibit any of the following behaviors, the examination and approval departments or other relevant departments should demand that they correct them within a fixed time period, and issue warnings to them; if non-governmental schools have illegal income, they should return the illegal fees they charge, and the illegal income should be confiscated; if non-governmental schools have serious problems, they are ordered to stop enrollment and their authorization certificates of establishment are revoked; if non-governmental schools commit crime, they need to bear criminal responsibilities.

The following behaviors are:

- 1) Separate or merged non-governmental schools without authorization;
- 2) Change non-governmental schools' names, levels, categories and founders without authorization;
- 3) Issue false admission brochures and advertisements to swindle money;
- 4) Illegally issue or forge degree certificates, course-completion certificates, training certificates, and professional qualification certificates;
- 5) Administer chaotically in ways that seriously harms education and teaching and have bad social effects;
- 6) Submit false verification documents or adopt other fraudulent conducts to conceal important facts or seek authorization certificates of establishment through fraud and deception;
- 7) Forge, change, trade, rent, or lend authorization certificates of establishment;
- 8) Maliciously close schools, withdraw capital, or misappropriate school funds.

**Article 63:**

If the examination and approval departments or other relevant departments exhibit any of the following behaviors, upper level departments should demand correction; if the examination and approval departments or other relevant departments have serious problems, the people in charge and those who have direct responsibilities are given administrative disciplinary punishment according to law; those who cause economic losses should be responsible for compensation according to law; those who commit crime should bear criminal responsibilities.

- 1) Do not give a response within a fixed time period after receiving the establishment application;
- 2) Approve applications that do not conform to this law;
- 3) Administer carelessly in ways that lead to serious consequences;
- 4) Charge fees that violate the relevant regulations;
- 5) Infringe upon the legal rights of non-governmental schools;
- 6) Other misuse of authority and fraudulent practices.

Article 64:

If social organizations and individuals establish non-governmental schools without authorization, the administrative departments of the upper county level governments should demand that they correct matters within a fixed time period; those that meet the requirements of establishing non-governmental schools as described in this law and other relevant laws can supplement examination and approval procedures; those that do not meet the requirements of establishment within the time limit should stop operating school and, if they cause economic losses, they should be responsible for compensation.

### Chapter 10 Supplementary Provisions

Article 65:

“Non-governmental schools” named in this law include other non-governmental educational organizations that are set up legally.

“Principals of schools” named in this law include chief administrative officers in other non-governmental educational organizations.

Article 66:

The State Council will set up different regulations about the administrative methods for the for-profit non-governmental training organizations that are registered at the industrial administrative departments.

Article 67:

The State Council will set up measures about cooperative school operations of foreign organizations and individuals in China.

Article 68:

This law will be implemented from September 1, 2003. On the same day, “Regulations of School Operations by Social Forces” (*shehui lilianq banxue tiaoli*) enacted by the State Council on July 31, 1997 will be abolished.