

ภาคผนวก

ภาคผนวก ก

ระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐาน

โรงเรียนเอกชนประเภททกววิชา พ.ศ. 2545

**ระเบียบกระทรวงศึกษาธิการ  
ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา  
พ.ศ. ๒๕๔๕**

ด้วยกระทรวงศึกษาธิการ เห็นสมควรปรับปรุงระเบียบกระทรวงศึกษาธิการ ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา พ.ศ. ๒๕๔๕ ให้เหมาะสมและเอื้อประโยชน์แก่ผู้เรียนและสอดคล้องกับสภาพปัจจุบัน

ฉะนั้น อาศัยอำนาจตามความในมาตรา ๖ มาตรา ๑๗ และมาตรา ๔๕ แห่งพระราชบัญญัติโรงเรียนเอกชน พ.ศ. ๒๕๒๕ รัฐมนตรีว่าการกระทรวงศึกษาธิการ จึงวางระเบียบไว้ ดังต่อไปนี้

ข้อ ๑. ระเบียบนี้เรียกว่า “ระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา พ.ศ. ๒๕๔๕”

ข้อ ๒. ให้ใช้ระเบียบนี้ตั้งแต่วันถัดจากวันประกาศเป็นต้นไป

ข้อ ๓. ให้ยกเลิกระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา พ.ศ. ๒๕๔๔ บรรดาระเบียบ ข้อบังคับ และคำสั่งอื่นใดในส่วนที่กำหนดไว้แล้วในระเบียบนี้ หรือซึ่งขัดหรือแย้งกับระเบียบนี้ให้ใช้ระเบียบนี้แทน

ข้อ ๔. ในระเบียบนี้ “โรงเรียน” หมายความว่า โรงเรียนทกววิชาที่จัดตั้งขึ้นโดยมีวัตถุประสงค์เพื่อทกววิชา บางวิชาตามหลักสูตรของกระทรวงศึกษาธิการในระดับประถมศึกษาปีที่ ๕ ถึงระดับประถมศึกษาปีที่ ๖ และระดับมัธยมศึกษา “สื่อ” หมายความว่า เครื่องมือและอุปกรณ์ต่างๆ ที่ใช้เพื่อเป็นการเรียนการสอน เช่น เครื่องวีดิทัศน์ ระบบโทรทัศน์วงจรปิด เครื่องมือหรืออุปกรณ์ใดๆ ที่สามารถถ่ายทอดสัญญาณภาพ และเสียงจากสถานที่แห่งหนึ่งไปยังอีกสถานที่หนึ่งได้ “เจ้าหน้าที่ประจำห้องเรียน” หมายความว่า บุคลากรทางการศึกษาหรือครูผู้ช่วย ซึ่งมีหน้าที่ดูแลความประพฤติของนักเรียนและรักษาระเบียบแบบแผนของห้องเรียน ดูแลการใช้สื่อและสามารถให้ความรู้เกี่ยวกับการเรียนการสอน

ข้อ ๕. ลักษณะการจัดการเรียนการสอน

๕.๑ จัดการเรียนการสอนโดยใช้ครูเป็นผู้สอน

๕.๒ จัดการเรียนการสอนในลักษณะผสม โดยมีทั้งครูผู้สอนและสื่อ

๕.๓ จัดการเรียนการสอนโดยใช้สื่อ

ข้อ ๖. สถานที่ตั้งโรงเรียนและอาคาร

๖.๑ สถานที่และบริเวณที่ตั้งโรงเรียนต้องมีลักษณะกว้างขวางและเหมาะสมพอแก่กิจการของโรงเรียน โดยต้องมีพื้นที่ใช้สอยไม่น้อยกว่า ๑๐๐ ตารางเมตร ไม่ขัดต่อสุขลักษณะ

หรืออนามัยของนักเรียน การคมนาคมสะดวก ตั้งอยู่ในสิ่งแวดล้อมที่ดีไม่อยู่ใกล้โรงงานอุตสาหกรรม ที่อาจเกิดภัยอันตรายใดๆ หรืออยู่ใกล้สถานที่อื่นที่ไม่เหมาะสมแก่กิจการของโรงเรียน

๖.๒ ต้องมีกรรมสิทธิ์ในอาคารหรือกรณีเช่าต้องมีสัญญาเช่าอาคาร จากผู้มีสิทธิในการให้เช่า มีกำหนดระยะเวลาไม่น้อยกว่า ๓ ปี โดยระบุวัตถุประสงค์การเช่า เพื่อใช้จัดตั้งโรงเรียน ยกเว้นกรณีการเช่าที่ดินของสำนักงานทรัพย์สินส่วนพระมหากษัตริย์ ที่ราชพัสดุ ที่ศาสนสมบัติกลาง ที่ธรณีสงฆ์ หรือที่องค์การของรัฐ หรือรัฐวิสาหกิจ

๖.๓ อาคารต้องเป็นเอกเทศ หรืออาคารร่วมต้องแยกเป็นสัดส่วน ไม่ปะปนกับกิจการอื่น และเป็นอาคารที่มีความมั่นคงแข็งแรงเพียงพอที่จะใช้จัดการเรียนการสอน

๖.๔ ต้องเป็นอาคารที่ได้รับใบอนุญาตก่อสร้างหรือใบอนุญาตต่อเติมอาคาร จากทางราชการ ให้ใช้เป็นอาคารเรียนเพื่อการศึกษา เว้นแต่ในกรณีที่ไม่สามารถหาเอกสารจากทางราชการได้ ให้วิศวกรที่ได้รับใบอนุญาตให้ประกอบวิชาชีพวิศวกรรมควบคุมตามกฎหมายว่าด้วยวิชาชีพวิศวกรรม เป็นผู้ตรวจสอบและรับรองความมั่นคงแข็งแรงของอาคาร

#### ข้อ ๗. ห้องเรียน

๗.๑ ห้องเรียนที่จัดการเรียนการสอนโดยใช้ครูเป็นผู้สอน ใช้เกณฑ์คำนวณความจุ ๑ ตารางเมตรต่อนักเรียน ๑ คน จำนวนนักเรียนไม่เกินห้องละ ๔๕ คน

๗.๒ ห้องเรียนที่จัดการเรียนการสอนลักษณะผสม โดยมีทั้งครูผู้สอนและสื่อ ใช้เกณฑ์คำนวณความจุ ๑ ตารางเมตร ต่อนักเรียน ๑ คน จำนวนนักเรียนไม่เกินห้องละ ๕๐ คน

๗.๓ ห้องเรียนที่จัดการเรียนการสอนโดยใช้สื่อ ใช้เกณฑ์คำนวณความจุ ๑ ตารางเมตร ต่อนักเรียน ๑ คน จำนวนนักเรียนไม่เกินห้องละ ๕๐ คน

๗.๔ ห้องเรียนที่จัดแบบห้องบรรยายขนาดใหญ่ที่สามารถมองเห็นครูผู้สอน อาจมีนักเรียนเกินห้องละ ๕๐ คน ใช้เกณฑ์คำนวณความจุ ๑ ตารางเมตรต่อนักเรียน ๑ คน และจะต้องเพิ่มสื่อ และเจ้าหน้าที่ประจำห้องเรียนตามสัดส่วนนักเรียน

#### ข้อ ๘. การจัดอาคารสถานที่และความปลอดภัย

๘.๑ ห้องเรียน ห้องประกอบ ต้องมีแสงสว่างพอเพียงและมีระบบถ่ายเทอากาศ ที่ถูกสุขลักษณะ

๘.๒ มีห้องธุรการและหรือห้องพัสดุแยกต่างหากจากห้องเรียน

๘.๓ จัดให้มีพื้นที่หรือห้องสำหรับพักผ่อนให้เพียงพอกับจำนวนนักเรียนที่มีอยู่ตามสมควร

๘.๔ จัดให้มีน้ำดื่ม น้ำใช้ที่สะอาดถูกสุขลักษณะให้เพียงพอตามจำนวนนักเรียนที่มีอยู่

๘.๕ มีห้องส้วมแยกชาย-หญิง โดยถืออัตราส่วนจำนวนนักเรียน ๓๕ คน ต่อ ๑ ที่ สำหรับการเปิดสอนในแต่ละรอบเกิน ๒๐ คนขึ้นไปให้เพิ่มอีก ๑ ที่

๘.๖ ต้องจัดให้มีทางหนีไฟตามกฎหมายว่าด้วยการควบคุมอาคาร หรือให้เป็นไปตามกฎกระทรวงฉบับที่ ๔๗ (พ.ศ. ๒๕๔๐) ออกตามความในพระราชบัญญัติควบคุมอาคาร พ.ศ. ๒๕๒๒ ในเรื่องการป้องกันอัคคีภัย

ข้อ ๘. เจ้าหน้าที่ประจำห้องเรียน และการใช้สื่อ

๘.๑ ต้องจัดให้มีเจ้าหน้าที่ประจำห้องเรียนตลอดเวลา ที่มีการจัดการเรียนการสอนในอัตราส่วน ๑ คน ต่อนักเรียน ๑ ห้อง

๘.๒ สื่อโทรทัศน์หรือฉากรับภาพ ต้องมีขนาดใหญ่เพียงพอให้นักเรียนสามารถมองเห็นและเข้าใจเรื่องราวที่สื่อนำเสนอได้อย่างชัดเจน โดยจะต้องให้มีสื่ออย่างน้อย ๑ เครื่อง ต่อนักเรียน ๑๕ คน

ข้อ ๑๐. คุณสมบัติของครู และเจ้าหน้าที่ประจำห้องเรียน

๑๐.๑ ครูจะต้องมีความรู้ตามระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดความรู้และประสบการณ์ของผู้เข้ารับใบอนุญาตให้เป็นครูใหญ่ และความรู้ของผู้เข้ารับใบอนุญาตให้เป็นครูโรงเรียนเอกชน พ.ศ.๒๕๒๖ และที่แก้ไขเพิ่มเติม

๑๐.๒ เจ้าหน้าที่ประจำห้องเรียนต้องมีความรู้ไม่ต่ำกว่าปริญญาตรีทางการศึกษา หรือสาขาวิชาที่เกี่ยวข้อง และมีทักษะในการใช้สื่อ

ข้อ ๑๑. ค่าธรรมเนียมการเรียน

๑๑.๑ การเก็บค่าธรรมเนียมการเรียน จะต้องได้รับอนุญาตจากสำนักงานคณะกรรมการการศึกษาเอกชน โดยให้เก็บได้ในอัตรา ดังนี้ การเรียนการสอนโดยใช้ครูผู้สอนให้เก็บในอัตราที่สูงกว่าการเรียนการสอนโดยใช้สื่อผสมครู ส่วนการเรียนการสอนโดยใช้สื่อเป็นเครื่องมือจะต้องเก็บในราคาต่ำสุด

๑๑.๒ กรณีที่นักเรียนได้ชำระค่าธรรมเนียมการเรียนแล้ว มีเหตุจำเป็นที่ไม่สามารถเข้าเรียนตามหลักสูตรที่สมัครเรียน ให้ผู้รับใบอนุญาตคืนเงินค่าธรรมเนียมการเรียนให้แก่นักเรียนตามเงื่อนไขที่กำหนดไว้ในระเบียบการของโรงเรียน ส่วนอัตราราคาคืนเงินให้เป็นไปตามที่สำนักงานคณะกรรมการการศึกษาเอกชนกำหนด

ข้อ ๑๒. ให้ผู้รับใบอนุญาตตีประกาศให้เห็นได้ชัดเจนในเรื่องต่อไปนี้ คือ

๑๒.๑ ใบอนุญาตให้ดำเนินกิจการโรงเรียน

๑๒.๒ ใบอนุญาตให้เก็บค่าธรรมเนียมการเรียน

๑๒.๓ เกณฑ์มาตรฐานการจัดตั้งโรงเรียน

๑๒.๔ ข้อมูลอื่นๆ ที่จำเป็น เช่น รายชื่อครูอาจารย์ และหลักสูตรการเรียน

ข้อ ๑๓. โรงเรียนจะต้องจัดทำรายงานการดำเนินงานการดำเนินงานเสนอต่อผู้อนุญาตทุกปี และจะต้องมายื่นขอต่อใบอนุญาตทุกๆ ๓ ปี ตามหลักเกณฑ์ที่สำนักงานคณะกรรมการการศึกษาเอกชน กำหนด

ข้อ ๑๔. ให้เลขาธิการคณะกรรมการการศึกษาเอกชน รักษาการตามระเบียบนี้ และให้มีอำนาจวินิจฉัยปัญหาอันเนื่องมาจากการปฏิบัติตามระเบียบนี้

ประกาศ ณ วันที่ ๗ พฤศจิกายน พ.ศ. ๒๕๔๕

ปองพล อติเรกสาร  
(นายปองพล อติเรกสาร)  
รัฐมนตรีว่าการกระทรวงศึกษาธิการ

ภาคผนวก ข

ระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐาน

โรงเรียนเอกชนประเภททกววิชา (ฉบับที่ 2) พ.ศ. 2549

**ระเบียบกระทรวงศึกษาธิการ  
ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา  
(ฉบับที่ ๒) พ.ศ. ๒๕๔๕**

ด้วย กระทรวงศึกษาธิการ เห็นสมควรแก้ไขระเบียบกระทรวงศึกษาธิการ ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา พ.ศ. ๒๕๔๕ เพื่อให้เหมาะสมกับสภาพปัจจุบัน

ฉะนั้น อาศัยอำนาจตามความในมาตรา ๖ และมาตรา ๑๗ แห่งพระราชบัญญัติโรงเรียนเอกชน พ.ศ. ๒๕๒๕ รัฐมนตรีว่าการกระทรวงศึกษาธิการจึงวางระเบียบไว้ ดังต่อไปนี้

ข้อ ๑ ระเบียบนี้เรียกว่า ระเบียบกระทรวงศึกษาธิการ ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา (ฉบับที่ ๒) พ.ศ. ๒๕๔๕

ข้อ ๒ ระเบียบนี้ให้ใช้ตั้งแต่วันถัดจากวันประกาศเป็นต้นไป

ข้อ ๓ ให้ยกเลิกความในข้อ ๔ แห่งระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชนประเภททกววิชา พ.ศ. ๒๕๔๕ และให้ใช้ความต่อไปนี้แทน

ข้อ ๔ ในระเบียบนี้

“โรงเรียน” หมายความว่า โรงเรียนทกววิชาที่จัดตั้งขึ้นโดยมีวัตถุประสงค์เพื่อทกววิชาบางวิชาตามหลักสูตรของกระทรวงศึกษาธิการ

“สื่อ” หมายความว่า เครื่องมือ หรืออุปกรณ์ต่างๆ ที่ใช้เป็นสื่อการเรียนการสอน เช่น เครื่องวิดิทัศน์ ระบบโทรทัศน์วงจรปิด เครื่องมือหรืออุปกรณ์ใดๆ ที่สามารถถ่ายทอดสัญญาณภาพและเสียง จากสถานที่แห่งหนึ่งไปยังอีกสถานที่หนึ่งได้

“เจ้าหน้าที่ประจำห้องเรียน” หมายความว่า บุคลากรทางการศึกษา หรือครูผู้ช่วยซึ่งมีหน้าที่ดูแลความประพฤติของนักเรียน และรักษาระเบียบแบบแผนของห้องเรียน ดูแลการใช้สื่อ และสามารถให้ความรู้เกี่ยวกับการเรียนการสอน

ข้อ ๔ ให้ยกเลิกความในข้อ ๖.๔ ของข้อ ๖ แห่งระเบียบกระทรวงศึกษาธิการว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททกววิชา พ.ศ. ๒๕๔๕ และให้ใช้ความต่อไปนี้แทน

“ข้อ ๖ อาคารและสถานที่ตั้งของโรงเรียน ต้องมีลักษณะดังต่อไปนี้

๖.๔ ต้องเป็นอาคารที่ได้รับอนุญาตก่อสร้างหรือใบอนุญาตต่อเติมอาคารจากทางราชการ ให้ใช้เป็นอาคารเรียนเพื่อการศึกษา เว้นแต่ในกรณีที่ไม่สามารถหาเอกสารจากทางราชการได้ ให้วิศวกรที่ได้รับอนุญาตให้ประกอบวิชาชีพวิศวกรรมควบคุมตามกฎหมายว่าด้วยวิชาชีพวิศวกรรม

เป็นผู้ตรวจสอบและรับรองความมั่นคงแข็งแรงของอาคาร ยกเว้นอาคารศูนย์การค้าตามกฎหมายว่าด้วยการควบคุมอาคาร”

ข้อ ๕ ให้ยกเลิกความในข้อ ๑๓ แห่งระเบียบกระทรวงศึกษาธิการ ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททวิศึกษา พ.ศ. ๒๕๔๕ และให้ใช้ความต่อไปนี้แทน

“ข้อ ๑๓ โรงเรียนที่ได้รับอนุญาตจัดตั้งอยู่ก่อนวันที่ระเบียบนี้ใช้บังคับ ให้ดำเนินการต่อไปได้

เว้นแต่มีการเปลี่ยนแปลงในเรื่องใด ให้เป็นไปตามที่ระเบียบกำหนดให้โรงเรียนส่งรายงานแสดงกิจการของโรงเรียนทุกปี หากขาดส่ง ๓ ปี ติดต่อกันให้พิจารณาดำเนินการตามกฎหมาย”

ข้อ ๖ ให้ยกเลิกความในข้อ ๑๔ แห่งระเบียบกระทรวงศึกษาธิการ ว่าด้วยการกำหนดมาตรฐานโรงเรียนเอกชน ประเภททวิศึกษา พ.ศ. ๒๕๔๕ และให้ใช้ความต่อไปนี้แทน

“ข้อ ๑๔ ให้ ปลัดกระทรวงศึกษาธิการ รักษาการตามระเบียบนี้ และให้มีอำนาจวินิจฉัยปัญหาอันเนื่องมาจากการปฏิบัติตามระเบียบนี้”

ประกาศ ณ วันที่ ๕ เมษายน พ.ศ. ๒๕๔๘

จตุรงค์ ฉายแสง

(นายจตุรงค์ ฉายแสง)

รัฐมนตรีว่าการกระทรวงศึกษาธิการ

**ภาคผนวก ก**

**Private School Law & Private School Law Enforcement Rule**

## **Private School Law**

*2007-10-11*

Amended 18 January 2006

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

#### **Article 1**

This Law is specifically adopted to promote the robust development of private schools, make them more part of the local community, and raise their level of autonomy, thereby encouraging private donations for the establishment of private schools and increasing educational opportunities for citizens. Matters not addressed by this Law shall be governed by other applicable laws and regulations.

#### **Article 2**

Private individuals may apply to establish private schools of all levels and all kinds with the exception of military and police academies.

#### **Article 3**

Private schools shall be subject to supervision by the competent educational authority. Their establishment or amendment registration shall be conducted in accordance with government education policy, and the competent educational authority shall approve or modify said establishment or amendment registration in light of local conditions.

#### **Article 4**

The term "competent educational authority" as used in this Law shall refer to the Ministry of Education for private schools at the senior high school level and above. For other private schools it shall refer to the local government of the special municipality, county, or county-level city where the school is located. However, where private senior high schools are located in a special municipality, the competent educational authority shall be the special municipality government.

#### **Article 5**

For the purpose of deliberations regarding preparations for establishment, suspension of operations, dissolution, relocation, major financial assistance, vacancies on the board of directors, or other major circumstances involving private schools, the competent educational authority may establish a private schools council by hiring academic experts, private school representatives, members of society, and representatives of the relevant government agencies, who will offer their opinions. Regulations governing the hiring members of the consultative commission and the convening of meetings shall be prescribed by the Ministry of Education.

#### **Article 6**

The name of a private school shall clearly state the type and level of school.

**Article 7**

Private schools may establish branch campuses or branch departments. The establishment of branch campuses or branch departments as referred to in the previous paragraph shall be carried out in accordance with criteria, procedures, and regulations prescribed by the Ministry of Education.

**Article 8**

Standards for the establishment of private schools of all types and all levels shall be prescribed by the Ministry of Education.

**Article 9**

Private universities/colleges and religious corporations shall, on the purpose of cultivating clergymen and religious talents and conferring religious degrees thereafter, apply to the Ministry of Education in accordance with the related regulations. A college of religion may be established upon approval by the Ministry of Education. Private schools shall not force any student to participate in any religious ceremonies or rituals; however, the college of religion is exempt from this. The establishment and incorporation of the religious corporations mentioned in Paragraph 1 shall conform to the provisions of the related laws.

**Article 10**

To establish a private school, the founder shall submit a school establishment proposal in accordance with the establishment standards for that specific type and level of school, along with the articles of incorporation, to the competent educational authority for examination and approval. To encourage private donation to the schools, the same corporate body shall at the same time launch private schools of different levels and categories, whose preparation plans shall comply with the standards for setting up schools of different levels and categories.

**Article 11**

The school establishment proposal shall clearly state the following information:

1. purpose of founding;
2. name of the school;
3. location and land area of the school, and other relevant information;
4. colleges, graduate institutes, departments, junior college departments, classes, and levels;
5. source of the endowment fund, name of the benefactor, the total value of assets donated, and relevant evidentiary documentation;
6. estimate of school operating fund requirements; and
7. relevant information about the founder. At the time of application to establish a school, relevant evidentiary documentation shall be obtained regarding the acquisition of land for the site of the school through donation or leasing of public land or land from a public enterprise. Schools may, according to a phased annualized plan, build/install such structures and facilities as are needed for the colleges, graduate institutes, departments, junior college departments,

classes, and levels the school intends to establish. School funding requirements may be calculated on an annualized basis.

#### **Article 12**

The articles of incorporation shall clearly state the following items:

1. all items listed in paragraph one of the preceding article;
2. the number of directors, and matters pertaining to their hiring and dismissal;
3. matters pertaining to the board of directors; and
4. matters pertaining to the manner of the school's management.

#### **Article 13**

The role of founder shall be assumed by a benefactor(s). However, the benefactors may recommend another (other) committed individual(s) to serve as the founder(s). Where an incorporated body or unincorporated body serves as (a) founder, its rights and obligations shall be exercised by its representative(s). The number of founders shall be limited to from one to three persons.

### **Section 2: Directors and the Board of Directors**

#### **Article 14**

Private schools shall establish a board of directors with between 7 and 21 directors. The quorum of directors shall be clearly stated in the board of directors' Articles of Incorporation. The board of directors may employ 1 to 3 consultants to attend meetings of the board and provide consulting services. The board of directors may hire a couple of administrative staff, which shall be subsumed within the prescribed number of school personnel; the title and the prescribed number for the administrative staff shall be prescribed in the board of directors' Articles of Incorporation.

#### **Article 15**

A minimum of one-third of directors must have previous research experience in education or have considerable experience teaching at the same or higher academic level; the standard for recognition shall be prescribed by each competent educational authority. Foreigners may hold no more than one-third of directors' positions, and may not serve as a chairman.

#### **Article 16**

Current employees of the competent educational authority or public officials who exercise supervisory authority over a given private school shall not serve concurrently on that school's board of directors.

#### **Article 17**

Full-time faculty members of a private school may, in accordance with Article 15 paragraph 1, serve concurrently as a director of the private school at which they teach or as a director of another school, but shall not serve concurrently as chairman of the board. The administrative staff and students of a private school shall not serve on that school's board of directors.

**Article 18**

Directors who are married to one another, or are related to each other within the third degree of kinship either by blood or marriage, shall not constitute more than one-third of the membership of the board of directors.

**Article 19**

An individual meeting any one of the following circumstances shall not serve as a director:

1. has received a final and unappealable conviction for rebellion or treason, or is the subject of an outstanding arrest warrant for such an offense and the case has yet to be settled;
2. has received a final and unappealable conviction for corruption or malfeasance in office, or is the subject of an arrest warrant for such an offense and the case has yet to be settled;
3. has previously been sentenced to a prison term of more than one year, and less than three years have elapsed since completion of the sentence;
4. has been deprived of his/her civil rights and they have yet to be restored;
5. has been dismissed or suspended from a civil service position and the period of dismissal or suspension has yet to expire;
6. has been dismissed in accordance with the provisions of Article 25 paragraph 1 subparagraph 3 from a previous position as board chairman or director;
7. has been declared bankrupt and has not yet had his/her rights restored; or
8. has no legal capacity or limited legal capacity.

**Article 20**

The membership of the founding board of directors shall comprise the founder(s) and other persons selected by the founder(s) from among suitable individuals within three months following approval by the competent educational authority for establishment of the school in accordance with the provisions of Article 10. The list of board members, along with their letters of acceptance, shall be reported to the competent educational authority for review and recordation, whereupon the board members shall be formally hired within 30 days. Within 30 days following the hiring of the directors, the founder(s) shall call a founding meeting of the board of directors, at which a chairman of the board shall be elected. Following the formation of the founding board of directors, the founder(s) shall relinquish to the board of directors authority over all matters regarding establishment of the school.

**Article 21**

Within 30 days of the establishment of the board of directors, the chairman of the board shall submit the following items to the competent educational authority for review and recordation:

1. the articles of incorporation of the board of directors;
2. the minutes from the founding meeting of the board of directors;
3. a financial statement for the establishment of the school, certified by a certified public accountant; and
4. the documents and records provided by the founder.

**Article 22**

The authority of the board of directors shall be as follows:

1. the hiring and dismissal of directors, and the election and removal of the chairman of the board;
2. the hiring and dismissal of the school's principal (president);
3. review and approval of reports on school affairs, proposals concerning school affairs, and major rules and regulations;
4. fundraising;
5. review and approval of budgets and annual account settlements;
6. endowment fund management;
7. financial supervision; and
8. all other authority granted to the board of directors by this Law.

All the major resolutions, enacted and approved by the board of directors in accordance with the authority prescribed in the preceding paragraph, shall report as special cases to the competent educational authority for review and recordation; the chairman and the directors of the board, elected in accordance with the related provisions of this Law, may start to exercise their authority after being reported to the competent educational authority for review and recordation.

**Article 23**

Directors shall serve for a term of three years, and may serve consecutive terms if re-elected. All the incumbent directors may be candidates for the directors of the next term; the board of directors shall nominate suitable persons as director candidates with a number of more than one fifth of the directors prescribed in the board of directors' Articles of Incorporation. Founder(s) shall serve as ex officio director(s), and shall serve consecutive terms without being subject to the requirement for re-election. In the event a founder resigns, dies, or is dismissed or discharged in accordance with related provisions of this Law, said founder shall forfeit his/her status as ex officio director, and a by-election shall be held to fill the seat thus vacated.

**Article 24**

Two months prior to the expiration of the directors' terms of office, the board of directors shall convene to elect the next board of directors. Within 20 days following the submission of the roster of new directors and their letters of acceptance to the competent educational authority for review and recordation, the incumbent chairman shall convene a meeting of the new board and a new chairman shall be elected. In the event the incumbent chairman fails to convene a meeting of the new board of directors within the specified time period, a quorum of one-third of the new directors may request the approval of the competent educational authority to convene the meeting. The transition from the former to the new chairman shall be completed with 10 days and reported to the competent educational authority for recordation.

**Article 25**

Where any one of the following circumstances exists with regard to a serving chairman or director, he or she shall be dismissed:

1. a written letter of resignation is submitted to and approved by the board of directors;
2. any one of the circumstances listed under Article 19 exists;
3. the person takes advantage of his/her position to commit a crime, and a final and unappeasable conviction of said crime is obtained;
4. the individual in question accepts employment by the competent educational authority, or accepts a public service position with supervisory authority over private schools;
5. a director is absent without cause for three consecutive board meetings; or
6. the chairman fails to convene a board meeting for a period of one year. Where a chairman or director is indicted for the crimes described in subparagraph 3 of the preceding paragraph or subparagraph 1 or 3 of Article 19, said chairman or director shall be immediately suspended from duty. Where the chairmanship or any director seats are vacant, the board of directors shall conduct by-elections.

#### **Article 26**

The term of office of a chairman or director elected in a mid-term by-election shall be limited to the remainder of the term of office of the original chairman or director. When the chairman and/or directors are elected in a by-election, their letters of acceptance, along with the minutes of the board of directors meeting during which they were elected, shall be submitted to the competent educational authority for review and recordation. In the event of failing to convene the board of directors meeting due to the vacancy caused by resignation or death of any director, or dismissal or discharge of any director in accordance with the related provisions of this Law, the competent educational authority shall hire suitable persons as directors to complete the remainder of the term of office of the original directors.

#### **Article 27**

The board meeting shall be called at least once every semester, and the meeting notice shall be sent to the directors in a storable and verifiable way. The board chairman shall convene and preside over the board meeting. If he/she cannot attend or preside over the meeting, the board shall elect another director to preside over the meeting. At the request of not less than 1/3 of the current directors for calling the board meeting with written statement of the purpose and reasons of the meeting, the board chairman shall convene it within 10 days from receipt of the request; if the board chairman does not give a notice of calling the board meeting within the aforesaid time limit, the directors raising the request may convene the board meeting by themselves with the permission of the administration in charge of education. Under any of the following circumstances, the administration in charge of education may, at the request of not less than 2 current directors or according to its own authority, designate a director to call the board meeting:

1. Where the board meeting has not been called for two consecutive semesters.
2. Where the board meeting cannot be called because the board chairman is not elected within the time limit set forth in Paragraph 1 of Article 24 or the elected board chairman quits due to certain reasons.

**Article 28**

The board of directors shall notify the principal (president) to attend board meetings. Where the proceedings involve the personal interests of the principal (president), however, the principal (president) shall not attend, except to provide necessary explanations.

**Article 29**

The board chairman shall attend the board meeting personally and may not appoint representative to act on behalf of him. The resolution of the board meeting requires the attendance of more than a half of the directors and the consent of more than a half of the attendees. However, resolutions on the following important matters require the attendance of not less than 2/3 of the directors and the consent of more than a half of the total current directors:

1. Reelection or by-election of director.
2. Election, reelection or by-election of board chairman.
3. Appointment or dismissal of school head.
4. Disposition of real property or setting of burden according to the provision of Paragraph 1 of Article 61.
5. Amendment of the organic constitution of the board.
6. Decision on school close-down, disbandment, or application for bankruptcy. To make a resolution on the important matters listed in Subparagraph 2 of the proviso of the preceding Paragraph, if the meeting aborts for 3 times continuously because the attendees are less than 2/3 of the directors and in the 4th meeting, the attendees are still less than the required number but more than a half of the directors, the meeting can be called with the actual attendees and resolution may be made with the consent of more than a half of the total current directors. For the discussion of important matters as prescribed in the preceding two paragraphs, the meeting agenda shall be sent to the directors in a storable and verifiable way and declaration be made to the administration in charge of education 10 days prior to the opening of meeting; the administration in charge of education may dispatch personnel to attend the meeting as nonvoting delegate; after the meeting is over, the proceeding of the meeting shall be submitted to the administration in charge of education for examination and recordation. The "10 days prior to the opening of meeting" referred to in the preceding paragraph means there shall be at least 10 days from the day next to the day of sending the meeting notice to the day before the opening day of meeting. To appoint or dismiss school head according to the provision of Subparagraph 3 of Paragraph 2, the board shall prescribe rules and submit them to the administration in charge of education for examination and recordation prior to enforcement. To appoint a school head, the board shall, within 15 days after it is adopted in the board meeting, report it to the administration in charge of education for examination and approval, and then the head may be appointed by the board.

**Article 30**

When matters discussed during a meeting of the board of directors involve the personal interests of the chairman or any director, that director or chairman shall not

attend the proceedings, except to provide any necessary explanations, and shall not participate in any vote on such matters. The provisions of the preceding paragraph shall not apply to elections for the positions of chairman or director following completion by said persons of their term of office.

### **Article 31**

When the competent educational authority designates a director to convene a meeting of the board of directors in accordance with the provisions of Article 27 paragraph 4 or 5, and board meetings are convened accordingly three consecutive times, directors who are absent without cause on each such occasion shall be considered to have resigned, and the director responsible for convening the meeting shall select suitable replacements who, upon the approval of the competent educational authority, shall be hired to serve as directors for the remainder of the terms of the dismissed directors.

### **Article 32**

If the board meeting cannot be called or violation to the laws and regulations on education occurs due to disputes in the board, the administration in charge of education may set a time limit for improvement; and if no measures are taken for improvement or no effect of improvement is reached, may recall all the directors. However, in case of severe circumstance and urgent situation, the administration in charge of education may, with resolution of the Private Schools Advisory Commission, recall all the directors or suspend their jobs for two to six months, and this period of suspension may be prolonged where necessary. When recalling all the directors in accordance with the provision of the preceding Paragraph, the administration in charge of education shall designate some of the original directors and the persons who are fair-minded and enthusiastic about education to jointly elect new directors to reorganize the board. Where necessary, the administration in charge of education may, at its discretion and before the new board is established, designate three to five persons who are fair-minded and enthusiastic about education and one or two supervisors to organize an administrative committee to perform the duty of the board until the new board is established. The provision of the preceding paragraph may also apply when all the directors are suspended from their jobs according to the provision of the proviso of Paragraph 1. For the board reorganized according to the provision of Paragraph 2, the administration in charge of education shall, two months before expiration of the tenure of the board, designate not less than 1/3 of the new directors and the other directors elected by the board according to the provision of Article 24 to reorganize the board. For the board reorganized according to the provision of Paragraph 2 or the preceding Paragraph, the reappointment of a director shall be limited to one time only. Where the board reorganized according to the provision of Paragraph 2 or Paragraph 5 donates properties of a certain amount to the school and does not violate the laws and regulations on education, it may be excluded from the provisions of the preceding Paragraphs with the approval of the administration in charge of education; the aforesaid "certain amount" shall be determined by the administration in charge of education with the resolution of the Private Schools Advisory Commission. When all the original directors who are recalled by the administration in charge of

education because the board meeting cannot be called due to disputes file an request to the administration in charge of education after the cause of recall is eliminated, the administration in charge of education shall, with the permission of the Private Schools Advisory Commission, designate the whole of the original directors to organize the new board upon expiration of the tenure of the current session of board. Where the recall of all directors decided by the administration in charge of education according to the provision of Paragraph 1 is finally rescinded by the court, it shall be deemed that the board reorganized according to the provision of Paragraph 2 or Paragraph 5 or reelected according to the provision of Article 24 is dismissed and the original board is recovered from the day when the administration in charge of education gives a notice until the original tenure expires. However, this shall not apply if the tenure of the original board has expired. For the original board recovered according to the provision of the preceding Paragraph or the board organized according to the provision of Paragraph 8, the next session of board shall be elected two months before the tenure of the current session of board expires according to the provision of Article 24; where, one of the directors shall be designated by the administration in charge of education.

#### **Article 33**

The chairman, directors, and board of directors, except where exercising authority provided for in this Law, shall respect the administrative authority of the school. The job of principal (president) and other administrative positions within the school shall not be filled by the chairman or any director acting in a concurrent capacity.

#### **Article 34**

The positions of chairman, director, and consultant shall all be non-paid, provided that stipends may be paid for meeting attendance and transportation.

### **Section 3: Registration as a Foundation**

#### **Article 35**

Private schools shall register their incorporation as a foundation with the court of jurisdiction in the school's locality. After said incorporation registration, where there are changes in registered information, an amendment registration shall be filed. The same shall apply for dissolution in accordance with the law.

#### **Article 36**

To register its incorporation as a foundation, the entire board of directors of a private school shall, within 30 days of review and recordation of the establishment of its board of directors by the competent educational authority, submit an application to said authority requesting that the application be forwarded to the district court with jurisdiction for handling. The application referred to in the preceding paragraph shall contain the following information:

1. purpose;
2. name of the school;
3. location of the school;
4. total asset value;

5. year, month, and date of approval; and
6. the names and domiciles of directors.

**Article 37**

In the event the deadlines set forth under Article 20 paragraph 1 or 2, Article 21, or the preceding article are not met, and the school fails to handle specified matters after being instructed by the competent educational authority to do so within a limited time period, such failure shall be viewed as a withdrawal of the application to establish the school.

**Article 38**

After a private school registers its incorporation as a foundation, all increases or decreases in the school's immovable property or major asset holdings shall be reported (along with a detailed statement of the changes) within three months of the end of the school year to the competent educational authority. Once it has approved the changes, said authority shall forward the statement to the court of jurisdiction to process an amendment registration. When the chairman and/or directors change after an election or by-election, or other major changes occur, these changes shall be reported to the competent educational authority. Once it has approved the change(s), said authority shall forward the report to the court of jurisdiction to process an amendment registration.

**Article 39**

After registering its incorporation as a foundation or completing an amendment registration, a private school shall submit a duplicate of the court-issued Certificate for Registration as a Foundation, along with a copy of a newspaper in which public announcement of the registration appears, to the competent educational authority for recordation.

**Article 40**

Where a private school's chairman of the board or any of its directors have falsified information in registering the school as a foundation, the matter shall be handled in accordance with the provisions of the applicable laws and regulations.

**Section 4: Accreditation and Student Recruitment****Article 41**

Within one year after a private school completes registration of its incorporation as a foundation and receives a Certificate for Registration as a Foundation, the board of directors shall prepare the following documents and submit them to the competent educational authority to apply for accreditation:

1. the school's basic identifying information submitted in connection with its registration as a foundation, and the reference number of the registration certificate;
2. a detailed inventory of school lot, school assets, and school facilities;
3. the school's organizational charter;
4. curriculum vitae and proof of identification for the principal (president) the school intends to hire;

5. a statement detailing how the board of directors raised, maintained custody of, and disbursed the school's establishment funds, specifying amounts;
6. a budget document specifying the source and projected allocation of the school's operating funds; and
7. the school's academic rules and regulations, and important provisions with respect to personnel, finance, accounting, and assets. Where a private school fails to apply for accreditation by the deadline set forth in the preceding paragraph, the competent educational authority may revoke approval for the establishment of said school and notify the court of jurisdiction.

#### **Article 42**

The competent educational authority shall dispatch personnel to conduct an investigation to review and approve each item of information listed under paragraph 1 of the preceding article. Where the documentation in question is subsequently transferred to another agency for review, that agency shall attach its opinions to serve as reference in the process of review and approval.

#### **Article 43**

Where the competent educational authority determines following review that a private school is in compliance with the school establishment standards and that all pledged assets have been handed over and transferred to the ownership of the foundation, accreditation of said private school shall be approved. Once a school at the level of secondary school or lower is approved for accreditation, the competent educational authority shall report the approval to the Ministry of Education for recordation.

#### **Article 44**

A private school shall not begin recruiting students until after the competent educational authority has approved its accreditation. The school's recruiting methods and the maximum number of students that can be enrolled in the school's graduate institutes, [university-level] departments, [junior college-level] departments, sections, classes, and levels shall be reported to the competent educational authority for review and approval. Where the principal (president) of a private school violates the provisions of the preceding paragraph by engaging in illegitimate recruiting of students, in addition to refusing recognition to the given students' enrolment status, action shall be taken in accordance with the provisions of Article 56 paragraph 2.

#### **Article 45**

Where a school that has not been approved for accreditation in accordance with this Law illegitimately recruits students in the name of the school (or in a name approximating that of the school), or illegitimately recruits students and conducts classes in the name of a foreign school within the territory of the Republic of China, the competent educational authority shall order the immediate suspension of operations and dissolution of the school and give public notice to such effect. The responsible persons and perpetrators shall each be assessed a civil fine of not less than NT\$50,000 and not more than NT\$150,000, and the equipment and facilities used may be confiscated. When the competent educational authority levies penalties in

accordance with the provisions of the preceding paragraph, it may request the assistance of the local government. Where a party assessed a civil fine in accordance with the provisions of the preceding paragraph refuses to pay the fine, the matter shall be handed over to the courts for compulsory execution. Where a party refuses to comply with an order for suspension of operations and dissolution issued in accordance with the provisions of paragraph 1, the responsible person(s) and perpetrators shall be sentenced to prison (for no longer than three years) or detention, or in lieu of or in addition thereto may be fined up to New Taiwan Dollars 1 million.

### **Chapter 3: Special Recognition and Subsidies**

#### **Article 46**

Where private schools are managed properly and perform well, and they meet any one of the following conditions, the competent educational authority shall provide special recognition for the board of directors, principal (president), and/or other relevant persons:

1. the board of directors is of sound organization, fulfills all of its responsibilities, and contributes positively to the administration of school affairs;
2. the board of directors has proven fundraising ability and exercises effective management of the school's endowment fund;
3. the board of directors has established a sound system of remuneration, retirement, workmen's compensation, insurance, and other benefits for teaching faculty and administrative staff, and the system has a proven track record;
4. the school, acting in response to the nation's development needs, has expanded or renovated its teaching facilities or carried out experimental research, and in so doing has achieved significant success;
5. the school implements a balanced educational program that promotes moral, intellectual, physical, and social development with proven outstanding results;
6. the school has achieved significant accomplishments in the administration of its affairs;
7. the principal (president) has outstanding talent and leadership abilities, adheres faithfully to national policy, implements directives from government agencies, handles school affairs successfully, and has achieved positive results;
8. the teachers are dedicated to teaching, work hard to improve teaching methods or carry out academic research, and demonstrate creativity and innovation;
9. there is a spirit of professionalism among teaching faculty and administrative staff, who are veterans at their jobs and have achieved outstanding performance; or
10. the teaching faculty and administrative staff go to extraordinary lengths in caring for, counseling, and assisting students. The special recognition referred to in the preceding paragraph, in addition to the award of medals in accordance with the law, may also include the awarding of plaques, decorations, certificates of merit, scrolls, monetary awards, and commendations.

#### **Article 47**

Regular scholarships and special scholarships offered by the various levels of government shall be made available to students at private schools.

**Article 48**

In formulating annual education budgets, the various levels of government shall provide subsidies to private schools as necessary for the sound development of schools. Where schools are especially well run or show outstanding achievements, reward incentives shall be provided. The scope and amount of government subsidies to private schools shall depend on the soundness of the school and its board of directors system, on the diligence with which the school is operated, and other such factors. Regulations governing the provision of reward incentives to private schools shall be prescribed by the Executive Yuan.

**Article 49**

Private schools that require public land or land owned by government enterprises may file a request with the competent educational authority to contact the party in charge of the land and arrange the sale or lease of the land in accordance with the law. Where the land referred to in the preceding paragraph requires a zoning change, the private school shall report the matter to the competent educational authority, which shall conduct a review and refer the matter to the competent authority for handling according to regulations. When urban planning agencies draft or amend urban development plans that affect the integrity of a private school lot, the views of the competent educational authority shall be consulted.

**Article 50**

Where individuals and groups make donations to private schools, in addition to receiving special recognition as provided for under the law, they may also claim their donations as tax exemptions in accordance with the Income Tax Law and the Inheritance and Gifts Law. The donations referred to in the preceding paragraph shall be made in accordance with the following provisions:

1. When the donation is made in cash, the full amount must be delivered to the school and entered into the proper financial account.
2. When the donation is in the form of movable property other than cash, or immovable property, items must be inventoried and their ownership duly transferred.

**Article 51**

To promote private school development, the Ministry of Education may establish a foundation for the promotion of private schools to handle donations to private schools from private individuals and profit-seeking enterprises. A private individual or profit-seeking enterprise that makes a donation to a private school through the foundation referred to in the preceding paragraph may itemize the donation as a deduction, expense, or loss when filing an income tax statement for that year, subject to the following provisions:

1. For donations made by individuals, the itemized amount on the tax return shall not exceed 50 percent of overall gross income for the year.
2. For donations by profit-seeking enterprises, the itemized amount on the tax return shall not exceed 25 percent of overall gross income for the year. Individuals or profit-seeking enterprises making donations through the foundation referred to in paragraph 1 may designate a specific school to

which the donation is to be given. The organization of the foundation and regulations governing it shall be prescribed jointly by the Ministry of Education and Ministry of Finance.

#### **Article 52**

Exemptions or deductions for taxes on land or real estate owned by private schools shall conform to the provisions of applicable tax laws.

#### **Article 53**

In accordance with the provisions of applicable tax laws, private schools may apply for duty-free import of books, instruments, equipment, and other necessities which must be imported on account of the school's character, size, instructional needs, and research. Books, instruments, equipment, and other necessary items imported duty-free in accordance with the provisions of the preceding paragraph shall not be transferred or used for other purposes without first paying the appropriate import duties.

### **Chapter 4: Supervision**

#### **Article 54**

The principal (president) shall exercise overall management of school affairs in accordance with the law, shall execute resolutions passed by the board of directors, and shall be subject to the supervision of the competent educational authority. Spouses and direct blood relatives of directors or the chairman shall not serve as the school principal (president). The principal (president) shall serve full-time and may serve concurrently as a teacher in the same school, but shall not serve concurrently in other positions outside the school. The spouse of a director, chairman, or principal (president), and relatives to such persons who are within the third degree of kinship either by blood or marriage, shall not work at the school in any job connected with general affairs, accounting, or personnel matters. Private schools shall, before hiring staff in charge of general affairs, accounting and personnel matters, clearly state that no violations of the provisions prescribed in the preceding paragraph and report to each competent educational authority for review and recordation. The competent educational authority shall notify the school thereof to dismiss the persons who violate the provisions at once.

#### **Article 55**

The principal (president) shall be selected by the board of directors and may be hired following reporting to the competent educational authority for approval. Where the post of principal (president) is vacant, the board of directors shall within six months complete the selection of a new principal (president) and report their selection for approval. Where the competent educational authority determines that the principal (president) selected by the board of directors is unqualified, the board of directors shall within six months complete the selection of a new principal (president) and report its selection for approval. If approval is not sought for a new candidate prior to the deadline or the new candidate is also found to be unqualified, the competent educational authority may dispatch personnel to serve temporarily as acting principal (president).

**Article 56**

Where a principal (president) faces public prosecution, the competent authority may, before a final judgment is rendered, notify the board of directors to immediately suspend [the principal (president)] from duty and appoint a suitable acting principal (president). Where the principal (president) is found guilty and the judgment becomes final and unappealable, or is found in serious violation of education laws and regulations, or is found to have committed acts that are seriously out of keeping with accepted norms concerning the proper conduct of an educator, the competent educational authority shall notify the board of directors to immediately dismiss the principal (president), and shall set a deadline for the selection of a qualified individual to submit for approval as a replacement. Where the school fails to meet the deadline for candidate submission, or the candidate submitted is deemed unqualified, the matter shall be handled in accordance with the provisions of paragraph 2 of the preceding article. Where the competent educational authority, in accordance with the law, notifies the board of directors to suspend or dismiss the principal (president) but the instructions are not acted upon, said authority may directly suspend or dismiss the principal (president) from duty and appoint a suitable individual to serve temporarily as acting principal (president). Where legal violations related to personnel or financial matters cause a private school to become involved in a major dispute that seriously disrupts normal operations, and the circumstances are urgent, the competent educational authority may directly suspend the principal (president) and other relevant employees from duty and appoint suitable individuals to temporarily serve in the positions of those suspended.

**Article 57**

The qualifications for principals (presidents) and teaching faculty at private schools of all kinds and levels shall be the same as those provided for public schools of the same kind and level. Where the competent educational authority has approved, registered, certified, or validated the qualifications of the principals (presidents) and teachers referred to in the preceding paragraph and such persons subsequently transfer to a public school, seniority that they accumulated at private schools may be carried over for the purpose of evaluating qualifications and determining salary level. Where such principals (presidents) or teachers enter into a retirement pension plan, workmen's compensation plan, or severance pay agreement at a public school, they shall receive credit for seniority accumulated at private schools, subject to the provision that years of service at a private school for which the person in question is already covered by a retirement pension plan or severance pay agreement shall be deducted. These rules concerning the carryover of seniority for retirement pensions, workmen's compensation, and severance pay shall apply mutatis mutandis to public school principals (presidents) and teachers transferring to private schools. The calculation of seniority for retirement pensions, workmen's compensation, and severance pay for principals (presidents) and teachers transferring between public and private schools pursuant to the provisions of the preceding paragraph shall be conducted in accordance with the provisions of the Teachers Law. Retirement pension benefits, workmen's compensation benefits, and severance pay due to principals (presidents) and teachers for time spent working at private schools prior to the establishment of the Savings Pension Plan in accordance with the provisions of

the Teachers' Law, shall be paid through the national Private School Faculty and Staff Pension Fund ("Private School Pension Fund") established in accordance with the provisions of Article 58. The competent educational authority shall make budgetary allocations to pay retirement benefits, workmen's compensation, and severance pay due to principals (presidents) and teachers for time spent in service at public schools. Retirement benefits, workmen's compensation, and severance pay due in connection with prior service as set forth in the preceding paragraph shall be calculated using the base number for the lump-sum retirement payments that were distributed prior to the introduction of the Savings Pension Plan. When a person who has spent part of his/her career at private schools retires from a public school, to be ruled eligible to collect monthly retirement benefits, he or she must meet eligibility requirements for the collection of monthly retirement benefits by public school principals (presidents) and instructors. When an individual comes out of retirement to again serve as a principal (president) or instructor at a private or public school, upon second retirement or application for workmen's compensation, seniority accumulated prior to that person's first retirement shall be carried forward in calculating the base number for benefits, subject to the condition that the resultant base number shall not be higher than the maximum base number used for calculating the benefits of principals (presidents) and instructors at public and private schools prior to establishment of the Savings Pension Plan.

#### **Article 58**

A private school's board of directors shall prescribe rules and regulations for the raising of funds to conduct matters relating to faculty and staff retirement pensions, workmen's compensation, severance pay, and other benefits. Said rules and regulations shall be reported to the competent educational authority for review and recordation. After the rules and regulations referred to in the preceding paragraph have been reported to the competent educational authority for review and recordation, two percent of tuition fees may be collected to cover retirement pensions, compensation, and severance pay expenses for the school's faculty and staff together with the one percent of tuition fees set aside by the board of directors or the school for remittance into the National Private School Faculty and Staff Retirement and Compensation Fund. These funds shall be deposited in an exclusive bank account, and shall not be used for purposes other than disbursing retirement pensions, compensation, or severance pay. Where such disbursements are not conducted in accordance with regulations or are misused, the competent educational authority shall supervise the recall of said funds and investigate the culpability of relevant individuals. When a private school uses the Savings Pension Plan to administer faculty and staff retirement pensions, workmen's compensation, and severance pay in accordance with the provisions of the Teachers Law, of the approved two percent of tuition fees referred to in the preceding paragraph, one percent shall be collected each semester and placed in the original Private School Pension Fund for payment of staff retirement pensions, compensation, and severance pay, and for payment of retirement pensions, compensation, and severance pay owed to teachers by pension funds established pursuant to some authority other than the provisions of the Teachers Law. Where a shortfall exists, it shall be covered by the competent educational authority. Any surplus of such funds shall be used together with the one percent of tuition fees collected by the board of directors and the school

to replenish the pension fund established after introduction of the Savings Pension Plan, paid into each month in accordance with the provisions of the Teachers Law. Each school shall make up for any shortfall through its own fundraising efforts. Where retirement and compensation benefits are higher than the standards for public schools, expenditures generated by that portion higher than the [public school] standards shall be covered by the board of directors and the school, provided, however, that the competent educational authority shall provide special recognition. The competent educational authority shall work together with relevant cabinet-level agencies of the Executive Yuan to steer the establishment of a National Private School Faculty and Staff Pension Fund Board of Trustees. The membership of the Board of Trustees shall be composed of representatives of the boards of directors of private schools, representatives of the faculty and staff of private schools, and representatives of relevant agencies. The Board shall register with the court as a foundation, and shall establish an endowment fund. Collections, contributions, management, and investment of the endowment fund shall be subject to supervision by the Ministry of Education. Regulations governing the establishment, management, and investment activities of the Private School Pension Fund shall be prescribed by the Ministry of Education.

#### **Article 59**

Where a private school is poorly run, violates this Law or applicable regulations, or violates the terms of its approval for establishment, the competent educational authority may handle the matter, depending upon circumstances, in the following ways:

1. issue an official reprimand;
2. require remedial measures and/or corrective action within a specified time period;
3. suspend subsidies, in part or in full; and/or
4. suspend recruiting of students for all or part of the school's classes.

#### **Article 60**

The management and use of a private school's assets and endowment fund shall be subject to the supervision of the competent educational authority. The "purpose of founding" mentioned in Subparagraph 5 of Paragraph 1 of Article 11 shall be deposited in the special account upon the registration of juridical person; no withdrawal may be allowed without the approval of the competent educational authority. Endowment fund and overheads may not be entrusted or loaned to any director, individuals, or non-financial institutions. The revenue, expenditure, keeping and use of the endowment fund mentioned in Paragraph 1 shall be taken care of its profit and safety. Except the founding fund, one half of the endowment fund may, upon the approval of the board of directors, be invested so as to increase the school's financial resources; measures regarding investment items, proportion, and limitation and other binding matters shall be enacted by the Ministry of Education. The entire membership of the board of directors shall be responsible for reimbursing the school for any loss caused by the investments referred to in the preceding paragraph.

**Article 61**

Disposal or encumbrance of the immovable property of a private school must be approved by a resolution of the board of directors, adopted in accordance with the provisions of Article 29 paragraph 2 of the Law, and shall be executed only after approval from the competent educational authority. The disposal or encumbrance of the immovable property of a private school as referred to in the preceding paragraph shall be done in compliance with the following provisions:

1. A private school may dispose of immovable property only where the lack of same will not impede the development of the school or the conduct of school affairs.
2. The immovable property that a private school may encumber shall be limited to school buildings and portions of the school lot with no direct relationship to teaching or that have already been declared condemned. Where there is a statutory mortgage lien upon the immovable property of a private school pursuant to the provisions of another law, those provisions shall apply.

**Article 62**

All private school revenues shall be used to defray budgeted expenditures. Where there is a surplus, it shall be added to the school's endowment fund.

**Article 63**

The fees that private schools collect from students, and the purpose and amount thereof, shall not go beyond the scope prescribed by the competent educational authority. The scope referred to in the preceding paragraph shall be prescribed in light of educational costs and what each school requires for sound overall development. Fees collected for special educational purposes outside the scope referred to in paragraph 1 require the approval of the competent educational authority.

**Article 64**

Following ratification by the board of directors, a private school shall report its budgeted annual revenues and expenditures to the competent educational authority for recordation, and shall then implement said budget. The competent educational authority may issue an official reprimand where it believes that there are irregularities in the budgeted annual revenues and expenditures as referred to in the preceding paragraph.

**Article 65**

In order to enhance teaching results and increase the size of the school's endowment fund, a private school may establish ancillary organizations that engage in activities related to teaching, practicums, laboratory experimentation, research, and extension education. Relevant rules and regulations, however, must first be formulated and reported for approval by the competent educational authority and the government agency with regulatory authority over the type of enterprise(s) being established. The financial affairs of such organizations shall be kept strictly separate from the financial affairs of the school. All profits shall be used to improve teacher qualifications, acquire equipment, and add to the school's endowment fund, and shall not in any form be given as a special benefit to any specific individual. When the

operations of such organizations are suspended, all remaining assets shall belong to the school. Ancillary organizations operated in accordance with the provisions of the preceding paragraph shall not affect the normal operations of the school, but their operations and finances shall still be subject to school supervision.

**Article 66**

Private schools shall establish an accounting system to handle accounting operations. Regulations governing such accounting systems shall be prescribed by the Ministry of Education.

**Article 67**

Private schools shall prepare closing financial statements within two months following the end of the academic year. The annual closing statements shall be audited and approved by a certified public accountant possessing the qualifications required by the competent educational authority. In order to supervise the financial affairs of private schools, the competent educational authority may dispatch personnel or hire a certified public accountant to inspect the accounts of private schools. Private schools shall cooperate with the audits and inspections referred to in the preceding two paragraphs by providing all relevant information. The certified public accountant's auditing report and the financial statements shall be reported at a meeting of the school's governing board.

**Article 68**

Where any one of the following circumstances applies to the chairman, directors, principal (president), chief accountant, assistant accountant(s), and/or cashiers of a private school, the competent educational authority may suspend said individuals from duty for a period of no more than one year; where the circumstances are serious, said individuals may be dismissed; where violations of the Criminal Code are involved, the matter shall be referred to the courts for prosecution:

1. accounting documents, account books, or financial statements have been falsified or altered, or accounting documents, account books, or financial statements that should remain on file have been disposed of or destroyed;
  2. there has been an intentional failure to maintain accounting books, or failure to complete budgets or prepare closing financial statements within the prescribed deadline;
  3. the competent educational authority has not been allowed to conduct an investigation, or tables and forms have not been prepared in accordance with regulatory requirements for submission to the competent educational authority for inspection and approval; or
  4. fees have been collected from students in violation of regulations.
- Where a school principal (president) is suspended from duty or dismissed in accordance with the provisions of the preceding paragraph, the provisions of Article 56 shall apply mutatis mutandis to the appointment of a temporary replacement or the selection of a successor.

## **Chapter 5: Suspension of Operations and Dissolution**

### **Article 69**

Where there are insurmountable obstacles to a private school's achievement of its operating objectives or major difficulties are encountered precluding the school's continued operation, the board of directors may, after reporting to the competent educational authority for approval, suspend operations, or dissolve the school in accordance with the law.

### **Article 70**

Where a private school is willing to donate its assets to the government and let the latter assume continued operation of the school, the board of directors must pass a resolution to that effect in accordance with the provisions of Article 29 paragraph 2 subparagraph 6. After the plan is reported to the competent educational authority and approval is received, the school will be dissolved and liquidated in accordance with the law. Before the competent educational authority approves the takeover of a private school in accordance with the provisions of the preceding paragraph, it shall first give due consideration to the intent of the school's articles of incorporation, the views of the benefactor(s), the personnel situation, and the school's finances.

### **Article 71**

Where any of the problems listed in Article 59 exist at a private school and the circumstance are serious or the competent educational authority has ordered remedial measures and/or corrective action within a specified period and the school fails to carry out said remedial measures or corrective action within that deadline, the school may be ordered to suspend operations or dissolve.

### **Article 72**

Where a private school commits any one of the following infractions, the competent educational authority may order the school's dissolution:

1. the school has unilaterally suspended operations or stopped recruiting students without proper authorization;
2. the school, following approval for suspension of operation, fails to resume operations within the prescribed deadline; or
3. the school has been ordered, in accordance with the provisions of the preceding article, to suspend operations and fails to do so, or does not do so within the specified time period and fails to carry out remedial measures and/or corrective action.

### **Article 73**

Except in cases of bankruptcy, a private school's entire board of directors shall act as the liquidator. The liquidator shall, within 15 days of receipt of notification for dissolution from the competent educational authority, register dissolution of the foundation with the court of jurisdiction. When a private school has no liquidator as set forth in the preceding paragraph the court may, ex officio or upon the motion of an interested party, appoint a liquidator. The court may dismiss a liquidator whenever it deems necessary. When the court appoints or dismisses a liquidator, it may solicit the views of the competent educational authority.

**Article 74**

A private school's liquidator shall, within 30 days of assuming the said position, report the date on which said position was assumed to the competent educational authority. The same shall apply when the liquidator is dismissed or replaced.

**Article 75**

Following a private school's dissolution and liquidation, ownership of any remaining assets shall be determined in one of the following ways, provided that the ownership of assets shall not be assigned to any natural person or profit-seeking organization:

1. Asset ownership may be determined in accordance with the provisions of the articles of incorporation.
2. On the basis of a resolution by the board of directors, and with the approval of the competent educational authority, assets may be donated to a private school, to a foundation engaged in pursuits related to education, culture, or social welfare, or to any of various levels of government.
3. When asset ownership cannot be determined, any remaining assets shall belong to the local government where the school is located. Utilization of a private school's remaining assets described in the preceding paragraph by any of the various levels of government shall be limited to administrative activities related to education, culture, and/or social welfare.

**Article 75-1**

Prior to a private school's suspension of operations, dissolution, or liquidation, salaries and severance pay owed to teaching faculty and administrative staff in accordance with the terms of their employment contracts shall have top priority for settlement.

**Article 76**

Upon completion of liquidation, a private school's liquidator shall produce a statement of income and expenditures during the liquidation period, which shall be submitted together with all of the school's accounting books to the district court of jurisdiction for examination. Where approval is granted, the liquidator shall be released from any further obligation and the court shall notify the registrar to register completion of the liquidation.

**Article 77**

When a private school suspends operations or is dissolved, the school shall issue transfer certificates to its students to enable them to transfer to other schools. When necessary, the competent educational authority may take charge of placing students in other schools.

**Chapter 6: Supplementary Provisions****Article 78**

Foreigners may, in accordance with the provisions of this Law, establish schools at the senior high school level or above within the territory of the Republic of China.

The position of principal (president) at such schools shall be filled by a citizen of the Republic of China.

**Article 79**

Foreigners may establish schools within the Republic of China for the purpose of educating their children, provided that citizens of the Republic of China are not recruited as students. Provisions of this Law regarding establishment, special recognition, and subsidies shall not apply to schools established by foreigners as referred to in the preceding paragraph. Regulations governing the establishment of such schools shall be prescribed by the Ministry of Education.

**Article 79-1**

Citizens of the Republic of China may establish private schools outside the Republic of China for the purpose of educating their children. Measures regarding the establishment and management of the schools, remuneration and subsidy, rights and duties of principals (presidents), teachers, administrative staff and students, and other binding matters shall be enacted by the central government agency along with the related executive government agency. People of Taiwan Area, if establishing private schools in Mainland Area for the purposes of educating their children, shall abide by the provisions prescribed in the Act Governing Relations Between Peoples of the Taiwan Area and the Mainland Area.

**Article 80**

Enforcement rules for this Law shall be prescribed by the Ministry of Education.

**Article 81**

This Law shall enter into force from the date of promulgation. This Law is made in Chinese, which shall prevail in case of any discrepancy between the English translation and the Chinese original.

## **Private School Law Enforcement Rules**

2006-06-15

[Translation Winkler Partners, 2002] Amended 28 July 2000

### **Article 1**

These Enforcement Rules are adopted pursuant to Article 80 of the Private Schools Law ("the Law").

### **Article 2**

The term "schools of all levels" as used in Article 2 of the Law refers to universities, junior colleges, senior high schools, junior high schools, and elementary schools that have been duly accredited by the competent educational authority. The term "schools of all kinds" as used in Article 2 of the Law refers to schools that have been accredited by the competent educational authority, and that can be categorized pursuant to applicable education rules and regulations.

### **Article 3**

The purpose of colleges, departments, or institutes of religious learning established in accordance with Article 9 of the Law shall be academic research on the subject of religion; the preparation of clergy members shall not be the educational objective.

### **Article 4**

The following documents shall be submitted with respect to the items set forth in Article 11 paragraph 1 subparagraphs 3, 5, 6, and 7 of the Law:

1. Location and land area of the school, and other relevant information (subparagraph 3): Refers to copies of the cadastral map and land registration for land that the school owns, has received through donation, or plans to purchase or lease. Where the land for the proposed campus has been donated, evidentiary documentation from the benefactor must be submitted attesting that the donation has actually been made. Where the land is to be purchased, a letter of undertaking shall be provided in which the titleholder pledges to sell the land. Where the land is to be leased and where it is public land or land owned by a state-run enterprise, documentation of a long-term lease agreement shall be provided. Where the land to be purchased or leased is publicly owned, said transactions shall be conducted in accordance with the law.
2. Evidentiary documentation concerning the endowment fund (subparagraph 5): Refers to certificates of deposit from financial institutions or other documentation that can prove the possession of the required funds.
3. Evidentiary documentation of donated assets (subparagraph 5): Refers to evidentiary documentation of ownership of all cash, inscribed stock, land, buildings and other assets donated; letters of undertaking that pledge transfer of assets to the school upon approval of registration of its incorporation as a foundation; and any other documentation.
4. Estimated operating fund requirements (subparagraph 6): Includes relevant evidentiary documentation with respect to start-up costs, operating expenses,

expenses for purchase and/or lease of the school lot, and operating and maintenance expenses for school buildings and teaching facilities.

5. Relevant information about the founder (subparagraph 7): Refers to the name, place of birth, date of birth, address, academic qualifications, and employment history of the founder. Where the founder is designated by a two-thirds vote of the benefactors, a letter of consent shall be provided for each such benefactor. Where the founder is a foundation or an unincorporated body, evidentiary documentation shall indicate the group's name and location of business as well as the name, place of birth, date of birth, address, academic qualifications, and employment history of the group's representative.

#### **Article 5**

In accordance with the provisions of Article 75 paragraph 1 subparagraph 1 of the Law, the articles of incorporation referred to in Article 12 of the Law shall not include any provision assigning property remaining [after the school's liquidation] to a natural person or a profit-seeking entity. Where there is a bequeathal for the establishment of a school but no designated executor, the matter shall be handled by the competent educational authority.

#### **Article 6**

Where the benefactors set forth in Article 13 paragraph 1 of the Law number greater than three, the benefactors shall hold a meeting to select a founder. The founder shall be elected through the casting of paper ballots, with the successful candidate required to receive the affirmative votes of at least two-thirds of the benefactors. Once the competent educational authority has granted approval, in accordance with the provisions of Article 10 of the Law, to the proposal for establishment of a school, the founder shall not be changed. This restriction shall not apply, however, where a change is reported to the competent educational authority and approval is obtained.

#### **Article 7**

The term "directors" as used in Article 15 paragraph 1 of the Law refers to individuals possessing any one of the following qualifications:

1. is graduate of a teacher training college or normal university, or of an education-related department at the university level;
2. has taught in a school at the same academic level or higher;
3. has worked in education administration at a school of the same academic level or higher; or
4. has served two or more previous terms as a director of a school of the same academic level or higher.

#### **Article 8**

When selecting and hiring board members in accordance with the provisions of Article 15 of the Law, the board chairman shall prepare a directors' register in triplicate for submission, along with documentation of each board member's academic qualifications and employment history, to the competent educational authority for review and recordation. The directors' register referred to in the preceding paragraph

shall include each director's name, place of birth, date of birth, address, academic qualifications, and employment history. The register shall further specify, for each director, whether any of the circumstances set forth under Article 18 or Article 19 of the Law apply to the individual in question.

#### **Article 9**

The term "current employees of the competent educational authority" as used in Article 16 of the Law includes employees of competent educational authorities at the level of the central government, special municipality, county, and county-level city.

The term "public officials who exercise supervisory authority over a private school" as used in Article 16 of the Law refers to individuals with authority to supervise the affairs of private schools, and to officials who have educational administrative duties in the government agency at the next level up from the competent educational authority.

#### **Article 10**

Where a full-time faculty member serves concurrently as a board member of the same school in accordance with the provisions of Article 17 paragraph 1 of the Law, Article 33 paragraph 2 of the Law provides that he or she shall not serve concurrently as the school's principal (president) or in any other administrative position at the school.

#### **Article 11**

The meaning of the terms "third degree of kinship," "kinship by marriage," and "direct blood relatives" as used in Article 18 and Article 54 paragraphs 2 and 4 of the Law shall be determined in accordance with the criteria set forth in Article 967 through Article 971 of the Civil Code.

#### **Article 12**

The articles of association of a private school's board of directors as set forth in Article 21 paragraph 1 subparagraph 1 of the Law shall explicitly state the following matters:

1. matters pertaining to the number of directors, their terms of office, their initial election, ordinary elections, and by-elections;
2. matters pertaining to the initial election, subsequent election, and by-election of the chairman of the board;
3. matters pertaining to the authority of the board of directors, the convening of its meetings, and the manner in which it is to adopt resolutions;
4. matters pertaining to the number of personnel employed by the board of directors, as well as the prerequisite qualifications for any consultants who may be employed thereby;
5. matters pertaining to the suspension of a school's operations, dissolution, and liquidation; and
6. matters pertaining to amendment of the articles of association of the board of directors.

Consultants engaged by the board of directors pursuant to the provisions of Article 14 paragraph 2 of the Law shall possess the qualifications required under the

provisions of the board of directors' articles of association. Consultative opinions proffered by such consultants should be entered into the minutes of board of directors meetings.

Following the establishment of the board of directors, when the board chairman reports the board's establishment to the competent educational authority for review and recordation pursuant to the provisions of Article 21 of the Law, the minutes from the board of directors' founding meeting and the various documents and records to be handed over by the founder shall be submitted in triplicate.

The documents and records to be handed over by the founder as referred to in the preceding paragraph include the proposal for establishing the school, files, a list of assets, and other relevant matters.

The board of directors may engage one secretary and a number of clerks to perform daily duties and record the minutes of board meetings. Said positions may not be filled by a board member. The aforementioned personnel shall be provided for in the school's organizational charter and included in the number of persons in the school's authorized workforce.

### **Article 13**

Each major resolution passed ex officio by the board of directors pursuant to the powers vested in it under Article 22 of the Law shall be individually reported to the competent educational authority for review and recordation.

### **Article 14**

Incumbent directors may all stand as candidates for the next board of directors, and the board of directors shall in addition recommend suitable candidates for at least one-fifth of the total number of director seats as set forth in the articles of association for the board of directors. The term of the board of directors shall commence from the date on which [the board election] takes effect per approval by the competent educational authority. The competent educational authority shall provide the school with a copy of the approval document.

### **Article 15**

When the outgoing chairman of a board of directors transfers the chairmanship to the incoming chairman in accordance with Article 24 paragraph 3 of the Law, an inventory of all items transferred shall be produced in triplicate. Items transferred shall include the seals of office, a directory of current and former board members, minutes of boards meetings, major plans, files, a list of assets, financial reports, and other relevant items.

### **Article 16**

Where the chairman of the board of directors or a member thereof is discharged from duty pursuant to any of the provisions listed under Article 25 paragraph 1 of the Law, the board of directors shall review evidentiary documentation serving as proof of the need for such discharge. The aforementioned documentation shall also be submitted when a board chairman or director is elected in a by-election and the election result is reported to the competent educational authority for review and recordation pursuant to the provisions of Article 26 paragraph 2 of the Law.

The phrase "absent without cause" as used in Article 25 paragraph 1 subparagraph 5 of the Law refers to cases where a director who is duly notified of a board meeting fails to apply for leave of absence in advance to the board of directors in accordance with regulations. However, this provision shall not apply in the event an unforeseen incident on the day of a board meeting prevents a director from applying for leave of absence and said director provides a legitimate explanation for the absence within three days after the meeting.

#### **Article 17**

Where circumstances arise that require ordinary elections or by-elections for the selection of a board chairman and/or board members pursuant to the provisions of Article 23 paragraph 2, Article 24 paragraph 1, and Article 25 paragraph 3 of the Law, such elections shall be held in accordance with the proviso under Article 29 paragraph 2 of the Law within 30 days of the occurrence of said circumstances. The selection of a new board chairman and/or directors shall be reported pursuant to the procedures set forth in Article 8 above. A person selected as board chairman or board member by ordinary election or by-election shall not exercise the duties of office until after his or her selection has been reported to the competent educational authority for review and recordation.

#### **Article 18**

In the event the board chairman fails to convene a board meeting within the required time period as set forth in Article 27 paragraph 3 of the Law and the directors who requested the board meeting convene it on their own, the competent educational authority may designate one of the directors as the convener. Where the circumstances set forth in Article 27 paragraph 4 of the Law arise with respect to a board of directors and the directors petition the competent educational authority to convene a board meeting, the petition must be made by more than two of the current directors.

#### **Article 19**

Where a director resigns, dies, or is dismissed from duty pursuant to the applicable provisions of the Law, thereby leaving the board with less than the number of directors required to convene a board meeting, the competent educational authority may, through mutatis mutandis application of the latter part of Article 31 of the Law, select an appropriate person to complete the remainder of said director's term. Where a board chairman is suspended from duty for the circumstances set forth in Article 25 paragraph 2 of the Law, the board of directors shall select one person from among their number to serve temporarily as acting chairman of the board.

#### **Article 20**

Where the board chairman is unable to attend a board meeting or is required to refrain from attendance because the meeting agenda includes matters related to his or her own matters, the directors in attendance shall select one person from among their number to serve as temporary chairman of the board.

Each time a board meeting is convened, each director shall personally sign the meeting minutes. Those who do not personally sign the minutes during the meeting

shall be regarded as absent. The minutes of board meetings shall be stored in perpetuity, and shall be sent to each director within ten days of the day following the meeting. When the board of directors adopts a resolution concerning any of the critical matters set forth in the proviso under Article 29 paragraph 2 of the Law, it shall do so by means of a vote. Immediately after the ballots have been counted they shall be sealed in an envelope, which shall be signed and stored in perpetuity. The result of such a vote shall be indicated in the meeting minutes.

#### **Article 21**

When a board of directors decides to hire or dismiss a principal (president) in accordance with the provisions of Article 29 paragraph 2 subparagraph 3 of the Law, it shall first adopt a set of procedural rules, which it shall report to the competent educational authority for approval and recordation before proceeding to implementation. When a board of directors decides to hire a principal (president) in accordance with the provisions of Article 29 paragraph 2 subparagraph 3 of the Law, it shall submit the relevant documents (curriculum vitae, documentary proof of education level and work experience, a duplicate of the board minutes, and a letter of acceptance) within 15 days of adoption of the decision to the competent educational authority for approval and recordation before the board of directors effects the hire.

#### **Article 22**

When the board of directors intends to deliberate upon any of the critical matters set forth in the proviso under Article 29 paragraph 2 of the Law, this fact shall be stated specifically on the agenda. Ten days prior to the board meeting, the agenda and a board meeting announcement shall be sent to each director via registered express mail (or some other form of delivery which provides verifiable proof of the letter's dispatch), and shall also be reported to the competent educational authority. The phrase "ten days prior to the board meeting" as used in the preceding paragraph refers to the period beginning the day after the mailing date of the board meeting announcement and continuing until the day before the board meeting, with said period to be no shorter than ten full days. After the board meeting referred to in paragraph 1 is adjourned, the board minutes shall be reported to the competent educational authority for review and recordation.

#### **Article 23**

Where Article 31 of the Law mentions the convening of three consecutive board meetings, this refers to situations where the chairman of the board, acting upon directions issued pursuant to the provisions of paragraph 4 or 5 of Article 27 of the Law, convenes three consecutive board meetings at six- to ten-day intervals, having dispatched separate board meeting announcements to each director four days prior to each meeting via registered express mail or some other form of delivery which provides verifiable proof of the letter's dispatch. The phrase "four days prior" as used in the preceding paragraph refers to the period beginning the day after the mailing date of the board meeting announcement and continuing until the day prior to the board meeting. This period shall be no shorter than four full days. The phrase "absent without cause" as used in Article 31 of the Law refers to when a director

fails to apply for leave of absence prior to a board meeting and also fails to provide, within the three days following the meeting, proof of a legitimate reason for being absent. The board member in charge of convening meetings of the board of directors shall prepare and administer, pursuant to the provisions of Article 8, a register of the persons selected as board members as well as documentation of their academic qualifications and employment history.

#### **Article 24**

Where the competent educational authority orders a board of directors to make rectification within a specified period of time pursuant to Article 32 paragraph 1 of the Law, it shall set the time limit based on the facts of the case. Where the competent educational authority orders a board of directors to make rectification within a specified period of time pursuant to the forepart of Article 32 paragraph 1 of the Law, if the deadline elapses and rectification is not made or rectification efforts are ineffective, said authority may, after consulting with the Private Schools Council, dismiss the entire board of directors. Where the competent educational authority forms a new board of directors or a management board pursuant to the provisions of Article 32 paragraphs 2 and 3 of the Law, it may consult beforehand with the Private Schools Council regarding the matter. The management board referred to in the preceding paragraph shall in principle act as the board of directors for a period of one year, but may as necessary extend this period after consulting with the Private Schools Council regarding the matter.

#### **Article 25**

The phrase "administrative authority of the school" as used in Article 33 paragraph 1 of the Law refers to all powers with respect to school affairs other than those powers assigned by the Law to the chairman of the board, the directors, or the board of directors.

#### **Article 26**

The board chairman and all directors shall sign and affix their seals, along with the seal of the school, to the application submitted by a private school when it registers its incorporation as a foundation in accordance with the provisions of Article 36 of the Law. If the school's official seal has not yet been prepared and issued by the competent educational authority, the application need not be stamped with this seal. After the official has been issued, however, the school shall send a copy of its official seal impression to court registrar's office, and shall also submit to the competent educational authority a photocopy of documentary evidence of issuance of its official seal. The term "total asset value" as used in Article 36 paragraph 2 subparagraph 4 of the Law includes the school lot, structures, buildings, books, instruments, equipment, endowment fund, and all other assets. The registration document's description of the school lot shall include a land description accompanied by a photocopy of the certificate of title and drawings of the school lot and school structures. The competent educational authority may, as necessary, check the authenticity of the certificate of title. If the school lot referred to in the preceding paragraph is rented from the government or a government-run enterprise, it shall not be included when calculating the school's total assets, but the registration document

must include a note identifying the lessor, lessee, and property leased. This requirement shall also apply to the lease of school structures and buildings. The term "year, month, and date of approval" as used in Article 36 paragraph 2 subparagraph 5 of the Law refers to the date and reference number of the document attesting approval by the competent educational authority of the school's establishment.

#### **Article 27**

Where a private school carries out a registration amendment pursuant to the provisions of Article 38 of the Law in connection the disposal of immovable property, an increase or decrease in major assets, an election or by-election for the chairman of the board and/or directors, or an organizational restructuring, the application shall be signed and sealed by the current chairman of the board and more than half of the current directors, and the school seal shall also be affixed. For registration amendments carried out in connection with other changes, the application need only be signed and sealed by the current chairman of the board and affixed with the school seal. The application referred to in the preceding paragraph, and a list of asset changes, shall be submitted in quadruplicate. Where the school lot or school structures are rented, the provisions of paragraph 3 of the preceding Article shall apply. Where an ordinary election or by-election for the board chairman and/or directors is held, and in the event of other major changes, the school shall apply to amend its registration as a foundation within 30 days of approval and recordation by the competent educational authority.

#### **Article 28**

The competent educational authority shall carefully review all forms, lists, and documents submitted by a private school in connection with any application to register its incorporation as a foundation or to amend such registration. Where the information presented in this documentation matches information originally provided to and approved by the competent educational authority, the authority shall verify this fact, affix its seal to the registration application package, and forward it for processing by the district court with relevant jurisdiction. Duplicates of the application documents shall be sent to the applicant school and its board of directors. Where it is discovered upon review that the information in the application package does not match information originally provided to and approved by the competent educational authority, the school shall be instructed to make necessary corrections.

#### **Article 29**

In accordance with the provisions of Article 42 of the Law, the competent educational authority shall dispatch personnel to conduct a thorough investigation within 30 days of receipt of an official application for accreditation along with all related forms and lists. The investigation shall be completed and a report submitted within 30 days.

#### **Article 30**

In connection with the provision of Article 43 paragraph 1 of the Law, whereby donated assets must be handed over and transferred to the ownership of the foundation

before a private school can receive accreditation, such transfer shall be evidenced by the following documentation:

1. cash: deposit slips from a financial institution;
2. inscribed stock certificates: documented proof of transfer of title;
3. land and buildings: a copy of the cadastral book; and
4. other assets: documentary proof that said assets have been duly handed over and transferred to the ownership of the foundation.

### **Article 31**

Quotas for the number of students that can be recruited by each graduate institute, university department, junior college department, division, program, and class shall be determined by the competent educational authority in consideration of the needs of the nation and society, and in light of each school's structures, buildings, teaching faculty, facilities, library holdings, instruments, and other such factors. For schools that are already accredited, the quality of their operations over the years shall also be taken into account. If the proposal for a private school's establishment is to be carried out in stages over a period of several years, implementation shall take place according to schedule. Parts of the school not yet scheduled for establishment shall not begin recruiting students until after the time of their scheduled establishment. Where the competent educational authority, acting pursuant to the provisions of Article 59 paragraph 1 subparagraph 2 of the Law, has required remedial measures and/or corrective action within a specified time period and said time period has not yet elapsed, the competent educational authority may, as circumstances merit, reduce the number of students that a school may recruit and the number of classes it may establish.

### **Article 32**

Where the competent educational authority is required under the provisions of Article 47 paragraph 1 of the Law to provide special recognition, the matter shall be handled as follows:

1. for schools qualifying under subparagraphs 1 to 3: The competent educational authority may start the recognition process on its own authority, or the school's board of directors may submit a proposal.
2. for schools qualifying under subparagraphs 4 to 7: The competent educational authority may start the recognition process on its own authority, or the school's board of directors or principal (president) may submit a proposal.
3. for schools qualifying under subparagraphs 8 to 10: The school's principal (president) may submit a proposal.

Where a school's board of directors or principal (president) submits a proposal, the competent educational authority shall conduct a thorough review and award special recognition commensurate with the facts of the case.

### **Article 33**

Where a government agency at any level establishes regular scholarships and/or special scholarships in accordance with the provisions of Article 47 of the Law, school fees, the financial resources of individual students, eligibility, and other such factors shall be considered in awarding such scholarships.

**Article 34**

When a government agency at any level provides subsidies to private schools in accordance with the provisions of paragraphs 1 and 2 of Article 48 of the Law, it shall appropriate funds in the greatest amount possible, and in so doing shall give due consideration to such factors as school size, school type, costs, quality of education, and utilization of resources.

**Article 35**

When a private school, acting pursuant to the provisions of paragraphs 1 and 2 of Article 49 of the Law, applies to buy or lease land needed for school use that is owned by the government or a government-run enterprise, the competent educational authority may, where necessary, contact the government agency responsible for management of government-owned land, or the government-run enterprise itself, and dispatch personnel to conduct an inspection. Before the competent educational authority expresses its views pursuant to the provisions of Article 49 paragraph 3 of the Law, it shall first give due consideration to factors that might affect the integrity of a private school's school lot, and shall further seek the views of the private school in question.

**Article 36**

Where an individuals or group makes a donation to a private school pursuant to the provisions of Article 50 of the Law, the recipient school shall provide the benefactor with a document that details the items donated and the value thereof. It shall further provide a donation certificate to serve as documentary proof of the authenticity of the donation. The donor may use these documents in applying to the local tax collection authority for a tax credit.

**Article 37**

Where a private school applies for any of various tax credits pursuant to the provisions of Article 52 of the Law, it shall submit a duplicate to the competent educational authority for recordation.

**Article 38**

Where a school principal (president) takes up concurrent part-time duties at a post outside the school pursuant to the provisions of Article 54 paragraph 3 of the Law, he or she shall first obtain the consent of the board of directors, and may only do so on the condition that said duties will not affect job performance at the school. The heads of the departments of academic affairs, student affairs (disciplinary affairs), and general affairs at a private school shall be selected and hired by the school principal (president) from among qualified instructors in accordance with regulations governing schools at that particular level. However, the head of the department of general affairs may be a member of administrative staff with equivalent rank serving in the post either concurrently or in a full-time capacity. Other employees shall be selected and hired by the school principal (president) from among persons who are eligible for participation (under rules prescribed by the competent educational authority) in the insurance program for teaching faculty and administrative staff at private schools.

The heads of the departments of academic affairs and student affairs (disciplinary affairs) as well as the offices of accounting and personnel shall not in principle be older than 65 years of age, and their selection must be reported to the competent educational authority for recordation. When a school reports the selection of the heads of general affairs, accounting, and personnel, it must submit the person's curriculum vitae together with documentary proof of his or her educational qualifications and employment history, and shall further indicate whether the person's selection violates any of the provisions listed under Article 54 paragraph 4 of the Law. Salaries and job performance evaluations for members of the teaching faculty and administrative staff at private schools shall be subject, *mutatis mutandis*, to legal provisions applying to public schools of the same kind and level.

#### **Article 39**

Where the competent educational authority, acting pursuant to the provisions of Article 55 paragraph 2 or Article 56 of the Law, dispatches an appropriate person to serve temporarily as acting school principal (president), it may seek the views of the Private Schools Council beforehand. The person thus dispatched shall serve as acting principal (president) until the school's board of directors selects a qualified candidate and said candidate is approved by the competent educational authority.

#### **Article 40**

The phrase "serious violation of education laws and regulations" as used in Article 56 paragraph 2 of the Law refers to either of the following circumstances:

1. the school principal (president) violates education laws and regulations, receives an official reprimand from the competent educational authority, and is ordered by the latter to make rectification within a specified period of time, but rectification is not achieved; or
2. the school principal (president) violates mandatory or prohibitory provisions of education laws and/or regulations.

#### **Article 41**

Where the competent educational authority is considering reducing a school's subsidies by more than one-half pursuant to the provisions of Article 59 paragraph 1 subparagraph 3 of the Law, or suspending recruitment of students for all of a school's classes pursuant to the provisions of Article 59 paragraph 1 subparagraph 4 of the Law, it may seek the views of the Private Schools Council beforehand.

#### **Article 42**

A private school's operating funds, and its endowment fund as set forth in Article 60 of Law, shall be managed and utilized in the following ways;

1. deposited with a financial institution;
2. used to purchase government bonds and short-term securities;
3. used to purchase immovable property for the school's own use; and/or
4. invested in safe instruments in order to increase the school's financial resources, provided that such investments shall be approved by the school's board of directors and not more than one-half of the endowment fund shall be thus invested, and on the condition that the funds thus available for such investments shall not include those making up the initial endowment fund.

The entire membership of the board of directors shall be responsible for reimbursing the school for any loss caused by the investments referred to in subparagraph 4 of the preceding paragraph.

#### **Article 43**

The endowment fund referred to in Article 11 paragraph 1 subparagraph 5 of the Law shall be deposited in an exclusive bank account at the time of the school's registration as a foundation, and may only be used after review and recordation by the competent educational authority. A private school's endowment fund and operating funds shall not be entrusted or lent to a director, any other individual, or any organization other than a financial institution. Following a private school's final accounting at the end of an academic year, any surplus funds remaining shall be reported to the competent educational authority and deposited, within one month of said reporting, into the exclusive bank account for the school's endowment fund.

#### **Article 44**

The phrase "immovable property... with no direct relationship to teaching" as used in Article 61 paragraph 2 subparagraph 2 of the Law refers to land and structures not listed in the proposal for school establishment or in any proposal for school expansion. When the competent educational authority deliberates upon whether to approve plans by a private school to dispose of or encumber immovable property pursuant to the provisions of Article 61 of the Law, said authority shall consider the following questions:

1. Has the school ever effected a registration amendment pursuant to the provisions of Article 38 of the Law? Is there any question concerning property rights with respect to the immovable property? Are the school's financial affairs in order?
2. Would disposal or encumbrance of the immovable property hinder the school's development or the conduct of its affairs?
3. Would income generated by disposal or encumbrance of the immovable property be actively applied toward the conduct of school affairs?
4. Does the school have sufficient debt-servicing capability or a dependable source of revenues?

#### **Article 45**

The types of fees collected from students by private schools, and the purpose and amount thereof, shall be prescribed by the competent educational authority. The phrase "fees collected for special educational purposes" as used in Article 63 paragraph of the Law refers to fees collected in order to fund extraordinary measures that will benefit the education of students and do not fall within the scope of regular teaching.

#### **Article 46**

Where a private school applies pursuant to the provisions of Article 65 of the Law to establish affiliated organizations, it must first apply for and obtain approval from the competent educational authority before carrying out procedures required by the government agency that acts as the regulatory authority for the organization to be

established. Private schools shall handle the accounting and financial affairs of the organizations referred to in the preceding paragraph in accordance with their rules governing accounting systems, internal control, and auditing operations.

**Article 47**

These Rules shall enter into force from the date of issuance. These Rules are made in Chinese, which shall prevail in case of any discrepancy between the English translation and the Chinese original.

ภาคผนวก ง

Supplementary and Continuing Education Law

## **Laws and Regulations Related to the WTO Supplementary and Continuing Education Law**

Amended 23 June 2004

Note: This Law is enacted in Chinese, which shall prevail in case of any discrepancy between the English translation and the Chinese original.

### **Article 1**

The mission of supplementary and continuing education shall be to supplement the general knowledge of the nation's citizens, raise the nation's level of education, disseminate practical skills, foster the development of vigorous and well-rounded citizens, and spur social progress.

### **Article 2**

The meaning of the term "competent educational authority" as used in this Law depends on context. At the central government level it means the Ministry of Education. At the level of special municipalities it means the government of the special municipality. At the level of counties or county-level cities it means the government of the county or county-level city.

### **Article 3**

Supplementary and continuing education can be divided into three types: supplementary compulsory education, supplementary advanced education, and short-term tutorial education. Citizens past school age who have not received nine years of compulsory education shall receive supplementary compulsory education. Citizens who have already received nine years of compulsory education may receive supplementary advanced education. Citizens seeking to acquire general knowledge and skills may receive short-term tutorial education.

### **Article 4**

Supplementary compulsory education shall be carried out by supplementary compulsory schools affiliated with an elementary or junior high school. Supplementary compulsory schools affiliated with an elementary school shall be divided into lower and upper divisions. The lower division shall provide the equivalent of the first three years of elementary education, and the term of study shall be six months to one year. The upper division shall provide the equivalent of the last three years of elementary education, and the term of study shall be one year and six months to two years. Supplementary compulsory schools affiliated with junior high schools shall provide the equivalent of a junior high school education, and the term of study shall be no shorter than three years.

### **Article 5**

Supplementary advanced education is offered as necessary by supplementary schools affiliated with schools at the level of senior secondary school or higher. Supplementary advanced education schools shall be divided into three levels: supplementary advanced education schools affiliated with senior high schools and senior vocational schools;

supplementary advanced education schools affiliated with junior colleges; and supplementary advanced education schools affiliated with universities. Supplementary advanced education schools at each level shall be affiliated only with schools in the same category and at the same level or higher. Areas where teachers are required to possess a Certificate for Teaching in Remote or Special Districts shall strengthen efforts to establish supplementary advanced education schools.

#### **Article 6**

Short-term tutorial education may be provided by schools, government organizations, foundations, or private parties. Short-term learning centers shall be divided into two categories: non-academic short-term learning centers and academic short-term learning centers. Courses shall last from one month to one year and six months.

#### **Article 7**

Supplementary compulsory education, and supplementary advanced education at the senior high school and senior vocational school levels, may be provided as necessary to persons under incarceration or serving in the armed forces. The central educational authority shall, in consultation with the related competent authorities, prescribe the procedures by which decisions are made regarding: teachers; curriculum and teaching materials; performance evaluation; term of study; administration of students' enrolment status; the issuance, revocation, and voidance of certificates; and related matters.

#### **Article 8**

Part-time supplementary advanced education at the senior vocational school level may be provided to junior high school graduates who do not continue their schooling, until such students reach their 18th birthday. The method for providing such education shall be prescribed by the central educational authority.

#### **Article 9**

When a supplementary compulsory school, supplementary advanced education school, or short-term learning center is established, completes an amendment registration, or is closed, each of the following regulations must be observed: In the case of supplementary schools affiliated with elementary and junior high schools, the approval of the competent educational authority at the appropriate level shall be required.

1. In the case of supplementary advanced education schools affiliated with senior high or senior vocational schools, the approval of the central educational authority shall be required.
2. In the case of supplementary advanced education schools affiliated with institutions of education at the level of junior college or higher, the approval of the central educational authority shall be required.
3. In the case of short-term learning centers, the approval of the competent educational authority in the appropriate special municipality, county, or county-level city shall be required. The competent educational authority in the special municipality, county, or county-level city shall decide upon the following: conditions and procedures for the establishment and accreditation of such schools; facilities and management; teachers; method of collecting

fees; number of students per class and procedures for the protection of students' rights; inspections; awards; conditions for cancellation and revocation of accreditation; and administrative regulations.

#### **Article 10**

Supplementary compulsory schools and supplementary advanced education schools at each level may offer daily weekday courses, non-daily weekday courses, or weekend courses. Course content shall be designed to meet the educational requirements of students and the needs of society.

#### **Article 11**

For supplementary compulsory schools and supplementary advanced education schools at each level, the central educational authority shall prescribe the courses to be taught, number of hours (class periods) per week, curriculum standards, facilities standards, graduation requirements, and rules governing practicum coursework.

#### **Article 12**

In addition to regular teaching methods, supplementary and continuing education may also be provided via such means as correspondence, radio, television, and computer networks.

#### **Article 13**

There shall be no admission requirements for supplementary compulsory schools affiliated with elementary schools. Admission requirements for supplementary compulsory schools affiliated with junior high schools, and for supplementary advanced education schools at all levels, shall be limited to requiring that entrants possess prescribed academic qualifications, or have passed an equivalency examination, or have attained an equivalent level of education. To enroll in any supplementary compulsory school or a supplementary advanced education school, a student must do one or more of the following: pass an entrance examination; obtain admission by a special screening test; complete a registration process; receive a placement; or obtain guaranteed admission. Pertinent guidelines shall be adopted separately by each school. The central educational authority shall prescribe the following particulars regarding the equivalency tests referred to in paragraph 1: the scope of the tests; the organization to administer the tests; the number of tests to be held each year, and the time of each test; the subjects to be tested; eligibility requirements; issuance, revocation, and voidance of certificates; and related matters. The same authority shall also prescribe equivalency criteria.

#### **Article 14**

Where a student at a supplementary advanced education school applies for a military draft deferment, the application shall be handled in accordance with the Military Service Law and related regulations.

**Article 15**

Any student who completes, with passing grades, courses at a supplementary compulsory school or a supplementary advanced education school affiliated with a senior high school or senior vocational school, shall be permitted to graduate, and shall receive a graduation certificate from the school. This certificate shall confer the same education level as that attained by graduating from a [regular] school in the same category and at the same level. Any student who completes with passing grades the prescribed course credits at a supplementary advanced education school at the level of junior college or higher shall be allowed to graduate, and shall receive a graduation certificate (or diploma) from the school. This graduation certificate (or diploma) shall confer the same status as that attained by graduating from a [regular] school in the same category and at the same level.

**Article 16**

A student who, at any level of supplementary compulsory school or supplementary advanced education school, completes the main coursework taught in the same grade level in a [regular] school in the same category and at the same level, and receives passing grades, may apply to transfer into an appropriate class at a [regular] school in the same category and at the same level. However, where admission is subject to age restrictions, these restrictions shall apply.

**Article 17**

Supplementary compulsory schools and supplementary advanced education schools at each level shall have one principal, who shall take overall responsibility for all school affairs. The principal of the [regular] school with which a supplementary compulsory school or supplementary advanced education school is affiliated may serve concurrently as principal of the affiliated supplementary school. Supplementary compulsory schools and supplementary advanced education schools at each level shall have one assistant principal, who shall assist the principal in handling school affairs. The position of assistant principal shall be taken as a concurrent assignment by a person working full-time as an instructor at [the regular] school. The table of the staff of supplementary compulsory schools and supplementary advanced education schools at each level shall be prepared by each school in accordance with standards established by the regulators.

**Article 18**

The teachers at supplementary compulsory schools and supplementary advanced education schools shall be qualified persons hired in accordance with the law by the principal. Administrative staff shall be hired via one of the following two procedures: (1) Selected by the principal from among staff currently employed [at the regular school] to serve concurrently at the supplementary school; or (2) hired in accordance with laws governing the hiring of personnel. For supplementary compulsory schools and supplementary advanced education schools at each level, regulations governing [regular] schools in the same category and at the same level shall be applied in determining the qualifications, compensation, and benefits of teaching and administrative and staff.

**Article 19**

A school at the level of junior college or higher may, as necessary, establish supplementary advanced education courses equivalent to the level of coursework at its own school, and Select qualified students [to attend]. For students who complete the coursework with passing grades, the school shall issue a credit certificate to document the subjects completed. When a student transfers into a school from another school at the same level, the school accepting the transfer student shall consider recognizing previously completed course credits where the names of the subjects and the number of credits for those subjects are the same in the department admitting the student as in the student's previous school.

**Article 20**

A school at the level of junior college or higher shall offer extension education programs in areas where there is a social need for such education and the school has a department or section that offers instruction that is similar in nature.

**Article 21**

Supplementary compulsory schools at each level shall not charge tuition fees, but may consider charging other fees. Supplementary advanced education schools at each level may charge fees commensurate with those charged by [regular] schools in the same category and at the same level, with said fees to be prescribed by the competent educational authority at the appropriate level. Fees charged by schools at the level of junior college or higher for extension programs must be approved by the central educational authority.

**Article 22**

Supplementary compulsory schools and supplementary advanced education schools affiliated with private schools shall be established and operated pursuant to this Law. Matters not set forth in this Law shall be handled pursuant to the Private School Law and pertinent laws and regulations.

**Article 23**

Short-term learning centers may recruit and admit foreign students. The central educational authority shall, in consultation with the related competent authorities, prescribe regulations governing the conditions and methods of recruitment, the management thereof, and other requirements.

**Article 24**

Where a party recruits and accepts students to attend a short-term supplementary compulsory school or a school similar to a short-term supplementary compulsory school without applying for accreditation in accordance with the law, the competent educational authority under the special municipality, county, or county-level city where the violation occurs shall order the school to close, and shall issue public notice of suspension of its operations. Equipment and fixtures used by the school may be confiscated, and its responsible person shall be assessed an administrative fine of not less than New Taiwan Dollars 50,000 and not more than New Taiwan Dollars 250,000. If, after a fine has been assessed, the party in question still refuses

to close the school as required by law, fines may continue to be assessed daily. Where an administrative fine assessed pursuant to the preceding provisions is not paid within the specified time period, the competent educational authority in the special municipality, county, or county-level city where the violation occurs shall have its order enforced by compulsory execution.

**Article 25**

In the event a short-term learning center is poorly managed, violates this Law or other pertinent laws and regulations, or violates the conditions of its establishment permit, the competent educational authority in the special municipality, county, or county-level city where the problem occurs may render any of the following dispositions, as the facts of the case merit:

1. issue an official reprimand;
2. order the school to take corrective action within a specified time period;
3. order a halt to recruitment of students; and/or
4. revoke the school's accreditation.

**Article 26**

For independent schools for supplementary and continuing education that were established and began operating before the amendment to this Law went into force, registration updates and related matters shall be handled pursuant to provisions applying to schools in the same category and at the same level.

**Article 27**

Enforcement rules for this Law shall be adopted by the central competent educational authority.

**Article 28**

This Law shall enter into force from the date of promulgation. This Law is enacted in Chinese, which shall prevail in case of any discrepancy between the English translation and the Chinese original. Ministry of Education, Republic of China (Taiwan)

**ภาคผนวก จ**

**Education Act 1996**

**LAWS OF MALAYSIA**  
**Act 550**  
**EDUCATION ACT 1996**

An Act to provide for education and for matters connected therewith.  
[31 December 1997, P.U. (B) 541/1997]

**Short title and commencement**

1. This Act may be cited as the Education Act 1996 and shall come into force on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for different provisions of this Act.

**Interpretation**

2. In this Act, unless the context otherwise require

“age”, in relation to a pupil, means the age attained by the pupil on the first day of the first month of the school year in question; “appointed date” means the date of coming into force of this Act;

“approved fees” means fees approved by the Minister;

“Assistant Registrar” means an Assistant Registrar of Schools or Assistant Registrar of Teachers, as the case may be, appointed under subsection 5(3);

“capital grant” means a payment from public funds to an educational institution for—

(a) the provision of buildings;

(b) the alteration to or extension of existing premises;

(c) the provision of furniture or equipment for new, altered or extended premises; or

(d) such other purposes as may be prescribed;

“Chief Inspector” means the Chief Inspector of Schools appointed under subsection 6(1);

“Chinese language” means the form of the Chinese language commonly known as Mandarin;

“compulsory education” means primary education which is prescribed to be compulsory education under subsection 29A(1);

“correspondence” means correspondence delivered by hand or by post;

“correspondence school” means an organization or institution providing instruction or teaching by means of correspondence;

“Director of Education” means a Director of Education of a State or Federal Territory appointed under section 4;

“Director General” means the Director General of Education appointed under section 3;

“distance education centre” means a place, an organization or an institution providing instruction or teaching—

(a) exclusively through the medium of electronics;

(b) exclusively through correspondence;

(c) partly through the medium of electronics and partly through correspondence or other methods of instruction; or

(d) partly through the medium of electronics and partly through correspondence and other methods of instruction;

“Education Officer”, in relation to a district or an area, means an education officer appointed under paragraph 4(b);

“Education Service” means a public service under paragraph (h) of Clause (1) of Article 132 of the Federal Constitution;

“educational institution” means a school or any other place where, in the carrying on of the work of an organization or institution, persons are habitually taught, whether in one or more classes, and includes a kindergarten and a distance education centre but does not include—

(a) any place where the teaching is confined exclusively to the teaching of any religion; or

(b) any place declared by the Minister by notification in the *Gazette* not to be an educational institution for the purposes of this Act;

“employee” means a person employed by a board of governors, other than a governor, a teacher or such other person as may be appointed or nominated by the Minister under subsection 58(2) or 61(2), as the case may be, employed or actively taking part in work connected with the running or the administration of an educational institution;

“extension education” means a full-time or part-time education for persons who are not following the usual course of study at an educational institution;

“government school” or “government educational institution” means a school or an educational institution established and fully maintained by the Minister under Part IV;

“government-aided school” or “government-aided educational institution” means a school or an educational institution in receipt of capital grant and full grant-in-aid;

“governor” means a person who is empowered under an instrument of government to administer or manage an educational institution;

“grant-in-aid” means any payment from public funds, other than a capital grant, made to an educational institution;

“higher education” means education provided by a higher educational institution;

“higher educational institution” means an educational institution providing higher education leading to the award of a diploma, degree or the equivalent thereof;

“instrument of government” means an instrument of government as specified in section 53;

“kindergarten” means any place where pre-school education is provided to ten or more pupils;

“lower secondary education” means a three-year course appropriate for a pupil who has completed primary education;

“National Curriculum” means such curriculum as may be prescribed;

“national language” means the Malay language as stipulated in Article 152 of the Federal Constitution;

“national school” means a government or government-aided primary school--

(a) providing primary education appropriate for pupils from the age of six years;

(b) using the national language as the main medium of instruction;

(c) in which the English language is a compulsory subject of instruction;  
and

(d) in which facilities for the teaching of

(i) the Chinese or Tamil language shall be made available if the parents of at least fifteen pupils in the school so request; and

(ii) indigenous languages shall be made available if it is reasonable and practicable so to do and if the parents of at least fifteen pupils in the school so request;

“national secondary school” means a government or government aided secondary school—

(a) providing a five-year course of secondary education appropriate for pupils who have just completed primary education;

(b) using the national language as the main medium of instruction;

(c) in which the English language is a compulsory subject of instruction;

(d) in which facilities for the teaching of—

(i) the Chinese or Tamil language shall be made available if the parents of at least fifteen pupils in the school so request;

(ii) indigenous languages shall be made available if it is reasonable and practicable so to do and if the parents of at least fifteen pupils in the school so request; and

(iii) Arabic, Japanese, German or French or any other foreign language may be made available if it is reasonable and practicable so to do; and

(e) preparing pupils for such examinations as may be prescribed, and includes any such school providing a transition class;

“national-type school” means a government or government-aided primary school—

(a) providing primary education appropriate for pupils from the age of six years;

(b) using the Chinese or Tamil language as the main medium of instruction;

and

(c) in which the national and English languages are compulsory subjects of instruction;

“parent” includes a guardian and any person who has the legal or actual control of a pupil;

“place” means any place, whether public or private;

“post-secondary education” means education provided to a person who has completed upper secondary education, but does not include higher education;

“pre-school curriculum” means the National Pre-school Curriculum prescribed by the Minister under section 22;

“pre-school education” means an educational programme for pupils from the ages of four to six years;

“premises” means any building used as an educational institution and includes any building for the purpose of providing accommodation and other facilities for pupils and staff of the institution but does not include any land occupied therewith;

“prescribed” means prescribed by regulations made under this Act;

“primary education” means a course of study at primary level which is designed for a duration of six years but which may be completed within five to seven years;

“primary school” means a school providing primary education appropriate for pupils from the age of six years;

“private school” or “private educational institution” means a school or an educational institution which is not a government or government-aided school or educational institution;

“pupil” means a person of any age for whom education or training is being provided in an educational institution;

“registered teacher” means any teacher registered under this Act;

“Registrar” means the Registrar of Schools and Teachers appointed under subsection 5(3) and includes the Registrar General;

“Registrar General” means the Registrar General of Schools and Teachers appointed under subsection 5(1), and includes the Deputy Registrar General of Schools and Teachers appointed under subsection 5(2);

“school” means a place where ten or more persons are habitually taught whether in one or more classes, but does not include any place where the teaching is confined exclusively to the teaching of any religion;

“secondary education” means education comprising lower secondary and upper secondary education;

“secondary school” means a school providing secondary education appropriate for a pupil who has just completed primary education;

“special education” means education that caters for the special educational needs of pupils;

“special school” means a school providing special education as prescribed by regulations made under section 41;

“State Authority” means the Ruler or Yang di-Pertua Negeri of a State and, in the case of a Federal Territory, the Yang di-Pertuan Agong;

“teacher” means a person who—

(a) teaches pupils in an educational institution; or

(b) prepares or issues lessons or corrects returned answers in, for or through a distance education centre, and includes a head teacher or principal;

“transition class” means a class in a secondary school providing one year of instruction to pupils from a primary school using a language other than the national language as the medium of instruction prior to the commencement of the lower secondary education;

“upper secondary education” means education suitable to the abilities and aptitudes of a pupil who has completed lower secondary education.

### **National Education System**

**15.** The National Education System shall comprise—

(a) pre-school education;

(b) primary education;

(c) secondary education;

(d) post-secondary education; and

(e) higher education,

but shall not include education in expatriate schools or international schools.

### **Categories of educational institutions**

**16.** There shall be three categories of educational institutions in the National Education System, namely—

- (a) government educational institutions;
- (b) government-aided educational institutions; and
- (c) private educational institutions.

### **National language as the main medium of instruction**

**17.** (1) The national language shall be the main medium of instruction in all educational institutions in the National Education System except a national-type school established under section 28 or any other educational institution exempted by the Minister from this subsection.

(2) Where the main medium of instruction in an educational institution is other than the national language, the national language shall be taught as a compulsory subject in the educational institution

## **PART VII**

### **PRIVATE EDUCATIONAL INSTITUTIONS**

#### **Saving relating to private educational institutions**

**73.** (1) Nothing in this Act shall be construed as prohibiting the establishment and maintenance of a private educational institution. (2) Notwithstanding subsection (1), every private educational institution shall comply with this Act and all regulations made under this Act and applicable to the educational institution. (3) This Part shall not apply to a private higher educational institution.

#### **Private educational institutions to comply with the requirement of National Curriculum and to prepare pupils for prescribed examinations**

**74.** A private educational institution providing primary education or secondary education or both shall comply with the requirements of the National Curriculum and shall prepare pupils for prescribed examinations.

#### **Subjects to be taught in private educational institutions providing post-secondary education**

**75.** (1) The Minister may require a private educational institution providing post-secondary education to teach the following subjects:

- (a) the national language, where the medium of instruction is other than the national language;
- (b) Malaysian studies;
- (c) the English language, where the medium of instruction is other than the English language;
- (d) studies relating to Islamic education for pupils professing the Islamic religion; and
- (e) moral education for pupils not professing the Islamic religion, based on the prescribed curriculum.

(2) The subjects mentioned in paragraphs (1)(a) to (1)(e) shall be taught in addition to any other subject or course of study taught in the private educational institutions.

**Power to make regulations for supervision and control of standard of education**

**76.** The Minister may make regulations for the supervision, regulation or control of the standard of education in private educational institutions.

**Prohibition as to courses of study and training in respect of degrees, etc., conferred by universities, etc.**

**77.** (1) No private educational institution shall conduct any course of study or training programme jointly, in association, affiliation or collaboration or otherwise, with a university or institution of higher education or other educational institution or organization within or outside Malaysia, except with the approval in writing of the Minister.

(2) The Minister shall not give his approval under subsection (1) unless he is satisfied that the private educational institution has made suitable arrangements with the university or institution of higher education or other educational institution or organization as to the facilities for the provision of the course of study or training programme referred to in the subsection.

(3) When granting approval under subsection (1) the Minister may impose such terms and conditions as he deems fit.

(4) A person who contravenes subsection (1) or fails to comply with any term or condition imposed by the Minister under subsection (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to

imprisonment for a term not exceeding two years or to both.

**Application of other provisions of the Act to private educational institutions**

**78.** For the avoidance of doubt, it is declared that nothing in this Part shall affect or derogate from the application of other provisions in this Act to private educational institutions except in so far as the educational institutions have been expressly exempted.

**PART VIII**

**REGISTRATION OF EDUCATIONAL INSTITUTIONS**

*Chapter 1—Registration of Educational Institutions*

**All educational institutions to be registered**

**79.** (1) Subject to the other provisions of this Act, every educational institution shall be registered under this Act.

(2) An application for registration under this Act shall be made to the Registrar General in such manner as may be prescribed.

(3) The Registrar General may impose such terms and conditions as he deems fit when registering an educational institution under subsection (1)

**Register**

**80.** The Registrar General shall keep or cause to be kept a register of educational institutions in such form and manner as may be prescribed.

**Provisional certificates of registration**

**81.** (1) Pending investigation on an application made under subsection 79(2), the Registrar General may, in his discretion, issue to the person who is to act as chairman of the board of governors or the person responsible for the management of an educational institution a provisional certificate of registration in such form and subject to such conditions as may be prescribed.

(2) A provisional certificate of registration issued under subsection (1) may at the discretion of the Registrar General be revoked at any time by notice in writing served on the person to whom the certificate was issued.

**Registration**

**82.** (1) Without prejudice to section 81 and subject to subsection (3) and section 83, the Registrar General shall, upon an application for the registration of an educational institution duly made and after such inquiry as he may think necessary, and upon payment of such fee as may be prescribed, register the educational institution and issue to the chairman of the board of governors or to the person responsible for the management of the educational institution a certificate of registration.

(2) The chairman of the board of governors or any other person responsible for the management of an educational institution shall cause a copy of the certificate of registration issued under subsection (1) to be kept exhibited in a conspicuous part of the premises of the educational institution.

**Refusal to register an educational institution**

**84.** The Registrar General may refuse to register an educational institution if he is satisfied—

(a) that the educational institution does not satisfy the prescribed standards of health and safety;

(b) that the educational institution is used or likely to be used for a purpose detrimental to the interests of Malaysia, the public or the pupils;

(c) that the name under which the educational institution is to be registered is, in his opinion, undesirable;

(d) that existing educational facilities are already adequate in the area in which it is proposed to open the educational institution;

(e) that a statement which was false or misleading in a material particular has been made in or in connection with the application for registration;

(f) that the person applying for the registration of the educational institution fails or refuses to comply with any of the conditions imposed by the Registrar General under subsection 82(3); or

(g) that the person appointed to be the chairman of the board of governors or head teacher is not a fit and proper or responsible person to act as chairman or head teacher, as the case may be.

**PART IX**  
**REGISTRATION OF TEACHERS**

*Chapter 1—Registration of Teachers*

**Prohibition to teach**

**103.** (1) Subject to subsection (2), no person shall teach in an educational institution unless he is registered as a teacher under this Act.

(2) Subsection (1) shall not apply—

(a) to a person who is a member of the Education Service teaching in government or government-aided educational institution;

(b) to a person to whom a permit to teach has been issued under section 114; and

(c) to a pupil in an educational institution for the training of teachers established by and under the direct control of the Minister.

**Register of teachers**

**104.** The Registrar General shall keep and maintain or cause to be kept and maintained in such form as may be prescribed a register of teachers in which shall be entered such particulars as may be prescribed.

**Application for registration as a teacher**

**105.** An application for registration as a teacher shall be made to the Registrar General in such form and manner as may be prescribed.

**Power of Registrar General to refuse to register a person as a teacher**

**106.** The Registrar General may refuse to register a person as a teacher under this Act if he is satisfied that the person—

(a) is under the age of eighteen years;

(b) has no qualifications to teach or has qualifications which in the opinion of the Registrar General are inadequate for the purpose;

(c) has made a statement which is false or misleading or which he knew is false or misleading in, or in connection with his application for registration or has intentionally suppressed any fact which is material to the application;

(d) suffers from some physical or mental defect or disease rendering him, in the opinion of the Registrar General, unsuitable to be a teacher;

(e) has been convicted of an offence by a court of law and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit; or

(f) is not a fit and proper person to be registered as a teacher.

**Notice of refusal to register a person as a teacher**

**107.** When the Registrar General refuses to register a person under section 106 he shall by notice in writing inform the person of the refusal, specifying the grounds of the refusal.

**Part XIII****REGULATIONS****Power of Minister to make regulations**

**130.** (1) Without prejudice to his power to make regulations under any other provision of this Act, the Minister may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the power conferred in subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:

(a) the admission of pupils to educational institutions, the keeping of registers of pupils in the educational institutions, the age limits and conditions under which pupils may be retained in an educational institution or in any class in the educational institution;

(b) the duration of terms of educational institutions, the days on which and the hours during which pupils shall attend the educational institutions and the days which shall be observed as holidays by all educational institutions or any specified educational institution or class of educational institutions;

(c) the establishment and management of educational institutions, and the duties of governors or other persons responsible for the management of the educational institutions;

(d) the form in which any register for the registration of educational institutions or governors or employees shall be kept or maintained and the procedure for the issue of extracts therefrom;

(e) the procedure to be followed and fees deemed proper to be levied in respect of an application for registration under this Act or in respect of any certificate, permit or

any other document issued under this Act;

(f) the procedure to be followed for the alteration or amendment of certificates of registration or permits issued under this Act and the replacement of the certificates or permits which are lost or defaced;

(g) discipline in educational institutions and any activity of pupils, whether in an educational institution or not, which in the opinion of the Minister may have an effect on the discipline of an educational institution;

(h) the National Curriculum including subjects and matters, not being studies relating to the religion of Malaysia, on which instruction may or shall be given in educational institutions and the times to be devoted to the study of each subject taught in educational institutions;

(i) the establishment, organization, management, control and dissolution of associations of pupils or pupils and teachers, or teachers and parents whether within an educational institution or not, and regulations made under this paragraph may provide for the association of teachers and parents to include any person other than the teacher or parents of the pupils of the educational institution concerned;

(j) the books, materials and apparatus to be used in educational institutions, and the methods of purchase of the books, materials and apparatus;

(k) the prohibition of the use in an educational institution or any specified class of educational institutions of any book or material, the use of which appears undesirable;

(l) the prohibition of the use or delivery to any pupil by a distance education centre or the supply, import or sale for use or delivery by a distance education centre of any material, book, lesson, instruction or other matter printed or written or otherwise the use of which by the distance education centre appears undesirable;

(m) the keeping of books of account and the audit of accounts in educational institutions in receipt of grants;

(n) the standards, including standards of health and safety, and uses to which the premises of educational institutions shall conform, and prescribing different standards and uses for such descriptions of educational institutions as may be specified in the regulations;

(o) the registration of pupils in educational institutions, the inspection of the registers of such pupils, the taking of extracts from the registers for the purposes of this Act

by persons duly authorized in that behalf under the regulations, and the provision to such authority as may be prescribed by regulations, of returns as to the contents of the registers as may be expedient, by the persons who are required to keep such registers under the regulations;

(p) the form in which the register of teachers kept under section 104 shall be kept or maintained, and the procedure for the issue of certified copies of entries made therein;

(q) the procedure to be followed for endorsement, alteration or amendment of certificates of registration as a teacher issued under section 109 and the replacement of lost or defaced certificates or permits to teach;

(r) the procedure to be followed and the consequences which shall ensue on the revocation of a certificate of registration as a teacher issued under section 109 or of a permit to teach;

(s) any fees deemed proper to be levied on application for registration as a teacher under, or on the issue of a certificate or of a permit to teach or otherwise in regard to any matter mentioned in, Part IX;

(t) the practice and procedure to be followed in connection with an investigation made by a Committee of Enquiry constituted under subsection 126(1);

(u) the manner in which appeals shall be made to the Minister from decisions of the Registrar General and the fees to be paid in respect of an appeal;

(v) the establishment, organization, management, control and dissolution of any sports council, body or committee at the educational institution, and of educational institutions at the district, state or national level;

(w) the provision of extension education in educational institutions established and maintained by the Minister under this Act;

(x) the circulation by a pupil or pupils, whether within an educational institution or not, of any magazine, pamphlet or printed or written matter of a like nature;

(y) the manner of determining the amount of grant-in-aid payable to government-aided educational institutions; (z) the conditions and limitations upon or subject to which grants-in-aid or capital grants shall be paid to government aided educational institutions;

(aa) the determination of approved fees to be charged in respect of attendance at educational institutions generally, or any class of government-aided educational institutions and the payment or remission of the fees;

(ab) the manner of transferring or vesting of any property transferred or vested under this Act and the manner of registering a title to the property;

(ac) any fees deemed proper to be levied in respect of any matter provided for under this Act;

(ad) the forms which may be used for carrying out the provisions of this Act and which may be used in connection with any matter stated or required in this Act to be prescribed by the Minister; and

(ae) any other matter which the Minister deems expedient or necessary for giving effect to any of the provisions of this Act.

#### **PART XIV OFFENCES AND PENALTIES**

##### **Offences and penalties relating to registration of educational institutions**

**132.** (1) A person who, being a chairman of a board of governors or governor or any other person responsible for the management of an educational institution, makes a false or misleading statement in promoting the educational institution shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) A person who—

(a) on making an application under this Act for the registration of an educational institution or for registration as a governor or employee, or otherwise for the purpose of inducing the Registrar General to exercise or refrain from exercising his powers under this Act, makes any statement which he knows to be false or does not believe to be true or intentionally suppresses any material fact, or furnishes any information which is misleading;

(b) obstructs or impedes the Registrar General, a public officer or a police officer in the exercise of the powers conferred upon the officer under section 100, 101 or 102;

(c) refuses to produce any book, document or article, or refuses to furnish information in contravention of subsection 100(2) or furnishes any information which he knows is false or does not believe to be true;

(d) being the chairman of a board of governors of an educational institution contravenes subsection 94(1);

(e) being a person required to be registered as a governor or employee under section 88 acts as a governor or employee without being so registered;

(f) being a governor or person responsible for the management of an educational institution causes or permits any person to act as governor or a person responsible for the management, or as an employee, of the educational institution without being registered under this Act;

(g) acts as a governor or employee in an educational institution not registered under this Act; or

(*h*) being the chairman of a board of governors or a governor or a person responsible for the management of an educational institution has failed to prevent the educational institution from being used for any activity or purpose of an unlawful nature, or for any activity or purpose of an unlawful organization, society or other body of persons, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) A person who—

(*a*) being the chairman of a board of governors or being the person responsible for the management of an educational institution fails to cause a copy of the certificate of registration of the educational institution to be exhibited in accordance with subsection 82(2);

(*b*) fails to surrender to the Registrar General any certificate of registration or instrument of government under subsection 87(5) or 97(1);

(*c*) being the chairman of the board of governors of an educational institution contravenes subsection 94(1); or

(*d*) being the owner or occupier of any premises and having reasonable cause to believe that the premises or part thereof is being used as an educational institution which is required to be registered under this Act but is not so registered, fails to take all reasonable steps to prevent such use, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

### **Offences and penalties relating to registration of teachers**

**133.** (1) A person who, in making an application for registration as a teacher or otherwise for the purpose of inducing the Registrar General to exercise or refrain from exercising his power under this Act, makes any statement which he knows to be false or does not believe to be true or intentionally suppresses any material fact or furnishes any information which is misleading, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) A person who—

(*a*) acts as a teacher in an educational institution in contravention of subsection 103(1);

(*b*) causes, permits or employs a person to act as a teacher in contravention of subsection 103(1);

(*c*) acts as a teacher in an unregistered educational institution; (*d*) being a registered teacher teaches in an educational institution in contravention of any condition imposed under subsection 109(2) or being the holder of a permit to teach issued under section 114 teaches in an educational institution in contravention of any condition imposed by the permit;

(*e*) causes, permits or employs a registered teacher to teach in an educational institution in contravention of any condition relating to the teacher imposed under section 109 or causes, permits or employs the holder of a permit to teach issued under section 114 to teach otherwise than in accordance with the conditions imposed by the permit;

(*f*) fails to surrender a certificate, document or permit in accordance with section 115; or

(g) being a registered teacher fails to make a report to the Registrar General in accordance with section 116, shall, on conviction of an offence under paragraph (b) or (e), be liable to a fine not exceeding ten thousand ringgit and shall, on conviction of an offence under paragraph (a), (c), (d), (f) or (g), be liable to a fine not exceeding five thousand ringgit

**General penalty**

**135.** (1) A person who is guilty of an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) A person who is guilty of an offence under this Act shall, in the case of a continuing offence, on conviction be liable, in addition to any other penalty to which he is liable under this Act in respect of the offence, to a daily fine not exceeding five hundred ringgit for each day the offence continues to be committed.

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ภาคผนวก ฉ

**Tatacara Penubuhan Pusat Tuisyen**

## **Tatacara Penubuhan Pusat Tuisyen**

### **Lokasi**

- Lokasi institusi hendaklah sesuai dengan iklim pengajaran embelajaran, keselamatan, kesihatan dan lainlain
- Tiada gangguan atau ancaman bahan kimia atau kotoran sampah.
- Tidak berdekatan dengan pusat hiburan, perjudian, rekreasi atau pasar.
- Tidak berdekatan dengan tempat yang mudah terbakar, bengkel yang bising, sungai atau bangunan lama.
- Tidak terlalu dekat dengan institusi lain yang mengendalikan kursus yang serupa.
- Pemindahan lokasi hendaklah terlebih dahulu mendapatkan kelulusan yang bertulis daripada Kementerian Pelajaran.

### **Premis**

- Premis yang digunakan bagi pusat tuisyen hendaklah sesuai dan selamat serta boleh didaftarkan sebagai sebuah pusat tuisyen.
- Sebarang penambahan/perpindahan premis/penubuhan cawangan hendaklah mendapat kebenaran bertulis daripada Kementerian Pelajaran.
- Pusat tuisyen mesti beroperasi di bangunan rumah kedai atau bangunan untuk tujuan komersial. Premis yang selain daripada itu tidak dibenarkan, melainkan premis yang diluluskan oleh pihak berkuasa tempatan.
- Piawaian yang telah ditetapkan bagi premis adalah:
  - Penyenggaraan
  - Pencahayaan,
  - Pengudaraan dan ruang premis
  - Bilik darjah
  - Kemudahan asas premis

### **Pendaftaran Pusat Tuisyen**

- Setiap permohonan pendaftaran institusi hendaklah dibuat dalam Borang A Jadual Pertama disertai fee yang ditetapkan oleh Peraturan-Peraturan Pendidikan (Pendaftaran Institusi Pendidikan) 1997 [P.U.(A) 534/97].
- Fee permohonan pendaftaran RM 150.
- Fee permohonan membarui Perakuan Pendaftaran RM 50.
- Perakuan Pendaftaran sah untuk tempoh 5 tahun.
- Pusat tuisyen hanya dibenarkan menjalankan aktiviti bimbingan untuk mata pelajaran peperiksaan sahaja.
- Perakuan Pendaftaran hendaklah dipamerkan di tempat yang mudah dilihat di premis institusi itu
- Perakuan Pendaftaran tidak boleh dipindah milik.

### **Nama Institusi**

- Nama institusi yang dicadangkan sesuai serta mengutamakan Bahasa Melayu, mempunyai unsur-unsur pendidikan dan bercirikan Malaysia.
- Nama institusi hendaklah dalam bahasa Melayu, bermula dengan “Pusat Tuisyen” dan diikuti dengan nama yang dicadangkan.

- Nama orang kenamaan tempatan yang telah meninggal dunia boleh digunakan dengan terlebih dahulu mendapat kebenaran bertulis daripada warisnya.
- Lain-lain nama yang tidak boleh digunakan termasuklah yang berikut:
  - nama orang kenamaan yang masih hidup,
  - nama tempat,
  - nama jalan,
  - nama singkatan,
  - nama yang tidak mempunyai makna.
  - nama institusi-institusi pendidikan yang terkenal sama ada di dalam atau luar negeri.
  - nama yang menggunakan “yayasan /politeknik”.

### **Kurikulum**

- Kurikulum yang diluluskan oleh Ketua Pendaftar hendaklah diguna oleh pusat tuisyen seperti yang diluluskan pendaftarannya.
- Mata pelajaran yang dibenarkan adalah mata pelajaran di bawah KBSR, KBSM, STPM dan mana-mana program peperiksaan yang diluluskan oleh Ketua Pendaftar.

### **Peruntukan Masa Beroperasi**

- Setiap pusat tuisyen dibenarkan mengendalikan tiga sesi operasi, iaitu sesi pagi, petang dan malam.
- Masa yang diperuntukkan bagi setiap sesi adalah tidak melebihi yang berikut:
  - sesi pagi 9.00 pagi - 11.00 pg
  - sesi petang 3.00 ptg - 6.00 ptg,
  - sesi malam 7.00 mlm-10.00mlm

### **Pengurusan**

- Pusat tuisyen disarankan mempunyai ‘student hand book’.
- Tiap-tiap institusi hendaklah mempunyai surat cara pengelolaan yang dipersetujui oleh Ketua Pendaftar.
- Ahli Lembaga Pengelola hendaklah dianggotai oleh sekurang-kurangnya tiga (3) orang termasuk pengerusi bagi pengurusan institusi pendidikan sebelum dibenarkan berdaftar dan beroperasi.
- Setiap pusat tuisyen perlu mempunyai rekod pendaftaran murid.
- Pusat tuisyen tidak dibenarkan menjalankan sebarang aktiviti luar bilik darjah.
- Setiap pusat tuisyen mesti mengutamakan keselamatan, kesihatan dan kebersihan murid.
- Setiap pusat tuisyen hendaklah memenuhi spesifikasi yang ditetapkan oleh 3 agensi:
  - Pihak Berkuasa Tempatan
  - Bomba dan Penyelamat
  - Pejabat Kesihatan

### **Yuran**

- Jenis dan kadar yuran hendaklah berpatutan dan diluluskan oleh Ketua Pendaftar.
- Sebarang kenaikan yuran perlu mendapatkan kebenaran bertulis daripada Ketua Pendaftar terlebih dahulu.
  - Kenaikan yuran pengajian boleh dipertimbangkan selepas 3 tahun.
  - Kadar kenaikan yuran pengajian tidak lebih dari 30%.
  - Notis 3 bulan hendaklah dimaklumkan kepada ibu bapa setelah mendapat kelulusan kenaikan yuran tersebut daripada Ketua Pendaftar.
- Pelaksanaan yuran baru adalah dibenarkan pada tahun berikutnya.
- Senarai yuran dan bayaran lain yang diluluskan hendaklah dipamerkan di tempat yang mudah dilihat di tadika itu dan hendaklah juga dimasukkan didalam prospektus institusi.

### **Hakmilik**

- Warganegara asing tidak dibenarkan bagi mengusahakan pusat tuisyen.
- Jika institusi itu ditubuhkan di bawah nama syarikat (ROC), ia hendaklah mempunyai had ekuiti minimum Bumiputera sebanyak 30%.
  - Sebarang pindaan struktur ekuiti/perubahan pemegang saham/ pindah hak milik mestilah mendapat kebenaran bertulis daripada Ketua Pendaftar.
  - Aktiviti-aktiviti syarikat berkaitan pendidikan mesti jelas dinyatakan di dalam *Memorandum and Articles (M&A)*.
    - Bagi persatuan / pertubuhan yang hendak menjalankan aktiviti pendidikan, maka perlembagaan persatuan / pertubuhan berkenaan hendaklah menyatakannya dengan jelas seperti yang diluluskan oleh Pendaftar Pertubuhan (ROS).

KEMENTERIAN PELAJARUN MALAYSIA  
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