

## Recent major legal updates affecting China's education sector

The China K-12 education sector has presented huge opportunities for investors and international operators and it is obvious why. China is the largest country in the world by population, with latest United Nations estimates reporting a population of 1.42 billion in 2018. Roughly 13% of its population are of school age. Although traditionally school education has been provided free of charge and by the State, this changed back in the late 1980s as non-Chinese nationals, unable to access State education and with an increasing amount of disposable income, created an opportunity for private schools, and the increasing internationalisation of China's main economic hubs – Shanghai, Guangzhou and Beijing – saw an expatriate workforce keen to provide best in class private and international education to their children.

In 2018 we now see 806 international schools in China, having now overtaken the UAE, and with a number of well-known UK school brands operating (including Dulwich College, Wellington College and Harrow). Current growth projections are predominantly built around an expectation that an increasing amount of Chinese nationals will want to, and be able to, send their children to private schools teaching both the Chinese compulsory education curriculum and international curricula. For international school operators and investors looking to bring international school brands to China, there are two main opportunities in China:

1. International Schools for children of foreign personnel (International Schools) - these can be for profit, and can teach international curricula, but can only admit foreign passport holders. No Chinese nationals can attend. Foreign investors and operators can wholly own these types of schools. The market for International Schools is mostly confined to opportunities in the main international hubs, like Shanghai. Stiff competition and enough current supply make opportunities challenging. Investors and operators shouldn't be put off, especially if the school concept has a particular USP or is targeting an otherwise under supplied price point or niche. But competition for admissions will be fierce.
2. Dual curriculum schools (Dual Curriculum Schools) - these can admit both Chinese nationals and foreign passport holders, but have to operate two streams of education. One for Chinese nationals teaching the State curriculum from Grade 1 (UK year 2) to Grade 9 (UK year 10), and the other stream for (a) foreign passport holders and (b) for Chinese nationals in Kindergarten/nursery (including UK FS1 to Year 1) and then again from grade 10 (UK year 11) onwards. Foreign ownership is only permitted if it is in joint venture with a Chinese partner.

The biggest opportunities lie in tapping into the domestic demand for Dual Curriculum Schools. This also opens up other regions of China for possible school sites, as most of the large cities in China have very little (if none) expatriate families.

The Revision of the "*Private Education Promotion Law of the People's Republic of China*" ("*中华人民共和国民办教育促进法*" 2016 修正, the "**2016 Revision**") was promulgated on 7 November 2016 and came into force on 1 September 2017, which brought material changes to the education sector in China, especially relating to the classification of non-profit purpose school and for profit purpose school. Following

September 2017 a series of supporting rules have been promulgated to implement the 2016 Revision.

On 30 December 2016, the Ministry of Education ("**MOE**"), the Ministry of Civil Affairs (the "**MCA**"), the State Administration for Industry and Commerce ("**SAIC**"), the Ministry of Human Resources and Social Security ("**MOHRSS**"), and the State Commission Office of Public Sectors Reform ("**SCOPSR**") jointly issued the "*Detailed Rules for the Implementation of Classified Registration of Private Schools*" ("民办学  
校分类登记实施细则", the "**Detailed Rules**") to further clarify certain major changes in the 2016 Revision. Below are some of the major changes brought by the 2016 Revision and the Detailed Rules:

- A private school can be registered as either a for-profit private school or a non-profit private school. For-profit private schools must register at SAIC, whereas non-profit private schools must register either at the department of civil affairs as a non-enterprise private entity or at the administrative authorities for public institutions as a public institution.
- For-profit private schools can determine their own fee structures and standards so long as they conform to the market regulation. The fees and standards need to be announced to the public. However there is no requirement to obtain prior approval from regulatory bodies.
- Non-profit private schools cannot determine their own fees. The fee items and standards of non-profit private schools need to comply with the specific measures developed by the government at the provincial, regional and / or municipal level.
- For-profit private schools are registered at SAIC, the founders therefore may obtain benefits from school operation in accordance with the rules and regulations stipulated in the Company Law and other relevant laws.
- In the spirit of encouraging the development of private education, the State Council issued "*Several Rules on Encouraging the Operation of Education by Social Forces and Promoting the Healthy Development of Private Education*" ("国务院  
关于鼓励社会力量兴办教育促进民办教育健康发展的若干意见", the "**State Council Rules**"). The State Council Rules provide that the government at either national or local level will increase the level of support given to private schools. This support may include financial investment, land policies, preferential tax treatments, autonomous policies and operation, and protection of rights of teachers and students.

On 30 December 2016, the MOE, SAIC and MOHRSS jointly issued the "*Detailed Rules for the Implementation of Supervision and Administration of For-profit Private Schools*" ("营利性民办学校监督管理实施细则") which stipulates that the establishment, division, merger and other material changes of for-profit private schools shall first be approved by the education authorities or the authorities in charge of labour and social welfare, as the case may be, and then be registered with the competent branch of SAIC.

On 1 September 2017, SAIC and MOE jointly issued the "*Notice on the Work concerning the Administration of Name Registration of For-profit Private Schools*" ("工商总局、教育部关于营利性民办学校名称登记管理有关工作的通知") which specifies the detailed requirements for naming for-profit private schools.

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