

中华人民共和国中外合作办学条例

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第一章 总 则

第一条 为了规范中外合作办学活动,加强教育对外交流与合作,促进教育事业的发展,根据《中华人民共和国教育法》、《中华人民共和国职业教育法》和《中华人民共和国民办教育促进法》,制定本条例。

第二条 外国教育机构同中国教育机构(以下简称中外合作办学者)在中国境内合作举办以中国公民为主要招生对象的教育机构(以下简称中外合作办学机构)的活动,适用本条例。

第三条 中外合作办学属于公益性事业,是中国教育事业的组成部分。

国家对中外合作办学实行扩大开放、规范办学、依法管理、促进发展的方针。

国家鼓励引进外国优质教育资源的中外合作办学。

国家鼓励在高等教育、职业教育领域开展中外合作办学,鼓励中国高等教育机构与外国知名的高等教育机构合作办学。

第四条 中外合作办学者、中外合作办学机构的合法权益,受中国法律保护。

中外合作办学机构依法享受国家规定的优惠政策,依法自主开展教育教学活动。

第五条 中外合作办学必须遵守中国法律,贯彻中国的教育方针,符合中国的公共道德,不得损害中国的国家主权、安全和社会公共利益。

中外合作办学应当符合中国教育事业发展的需要,保证教育教学质量,致力于培养中国社会主义建设事业的各类人才。

第六条 中外合作办学者可以合作举办各级各类教育机构。但是,不得举办实施义务教育和实施军事、警察、政治等特殊性质教育的机构。

第七条 外国宗教组织、宗教机构、宗教院校和宗教教职人员不得在中国境内从事合作办学活动。

中外合作办学机构不得进行宗教教育和开展宗教活动。

第八条 国务院教育行政部门负责全国中外合作办学工作的统筹规划、综合协调和宏观管理。国务院教育行政部门、劳动行政部门和其他有关行政部门在国务院规定的职责范围内负责有关的中外合作办学工作。

省、自治区、直辖市人民政府教育行政部门负责本行政区域内中外合作办学工作的统筹规划、综合协调和宏观管理。省、自治区、直辖市人民政府教育行政部门、劳动行政部门和其他有关行政部门在其职责范围内负责本行政区域内有关的中外合作办学工作。

第二章 设立

第九条 申请设立中外合作办学机构的教育机构应当具有法人资格。

第十条 中外合作办学者可以用资金、实物、土地使用权、知识产权以及其他财产作为办学投入。

中外合作办学者的知识产权投入不得超过各自投入的三分之一。但是，接受国务院教育行政部门、劳动行政部门或者省、自治区、直辖市人民政府邀请前来中国合作办学的外国教育机构的知识产权投入可以超过其投入的三分之一。

第十一条 中外合作办学机构应当具备《中华人民共和国教育法》、《中华人民共和国职业教育法》、《中华人民共和国高等教育法》等法律和有关行政法规规定的基本条件，并具有法人资格。但是，外国教育机构同中国实施学历教育的高等学校设立的实施高等教育的中外合作办学机构，可以不具有法人资格。

设立中外合作办学机构，参照国家举办的同级同类教育机构的设置标准执行。

第十二条 申请设立实施本科以上学历教育的中外合作办学机构，由国务院教育行政部门审批；申请设立实施高等专科教育和非学历高等教育的中外合作办学机构，由拟设立机构所在地的省、自治区、直辖市人民政府审批。

申请设立实施中等学历教育和自学考试助学、文化补习、学前教育等的中外合作办学机构，由拟设立机构所在地的省、自治区、直辖市人民政府教育行政部门审批。

申请设立实施职业技能培训的中外合作办学机构，由拟设立机构所在地的省、自治区、直辖市人民政府劳动行政部门审批。

第十三条 设立中外合作办学机构，分为筹备设立和正式设立两个步骤。但是，具备办学条件，达到设置标准的，可以直接申请正式设立。

第十四条 申请筹备设立中外合作办学机构，应当提交下列文件：

(一) 申办报告，内容应当主要包括：中外合作办学者、拟设立中外合作办学机构的名

称、培养目标、办学规模、办学层次、办学形式、办学条件、内部管理体制、经费筹措与管理使用等；

(二) 合作协议，内容应当包括：合作期限、争议解决办法等；

(三) 资产来源、资金数额及有效证明文件，并载明产权；

(四) 属捐赠性质的校产须提交捐赠协议，载明捐赠人的姓名、所捐资产的数额、用途和管理办法及相关有效证明文件；

(五) 不低于中外合作办学者资金投入百分之十五的启动资金到位证明。

第十五条 申请筹备设立中外合作办学机构的,审批机关应当自受理申请之日起**45**个工作日内作出是否批准的决定。批准的,发给筹备设立批准书;不批准的,应当书面说明理由。

第十六条 经批准筹备设立中外合作办学机构的,应当自批准之日起**3**年内提出正式设立申请;超过**3**年的,中外合作办学者应当重新申报。

筹备设立期内,不得招生。

第十七条 完成筹备设立申请正式设立的,应当提交下列文件:

(一) 正式设立申请书;

(二) 筹备设立批准书;

(三) 筹备设立情况报告;

(四) 中外合作办学机构的章程,首届理事会、董事会或者联合管理委员会组成人员名单;

(五) 中外合作办学机构资产的有效证明文件;

(六) 校长或者主要行政负责人、教师、财会人员的资格证明文件。

直接申请正式设立中外合作办学机构的,应当提交前款第(一)项、第(四)项、第(五)项、第(六)项和第十四条第(二)项、第(三)项、第(四)项所列文件。

第十八条 申请正式设立实施非学历教育的中外合作办学机构的,审批机关应当自受理申请之日起**3**个月内作出是否批准的决定;申请正式设立实施学历教育的中外合作办学机构的,审批机关应当自受理申请之日起**6**个月内作出是否批准的决定。批准的,颁发统一格式、统一编号的中外合作办学许可证;不批准的,应当书面说明理由。

中外合作办学许可证由国务院教育行政部门制定式样,由国务院教育行政部门和劳动行政部门按照职责分工分别组织印制;中外合作办学许可证由国务院教育行政部门统一编号,

具体办法由国务院教育行政部门会同劳动行政部门确定。

第十九条 申请正式设立实施学历教育的中外合作办学机构的，审批机关受理申请后，应当组织专家委员会评议，由专家委员会提出咨询意见。

第二十条 中外合作办学机构取得中外合作办学许可证后，应当依照有关的法律、行政法规进行登记，登记机关应当依照有关规定即时予以办理。

第三章 组织与管理

第二十一条 具有法人资格的中外合作办学机构应当设立理事会或者董事会，不具有法人资格的中外合作办学机构应当设立联合管理委员会。理事会、董事会或者联合管理委员会的中方组成人员不得少于二分之一。

理事会、董事会或者联合管理委员会由5人以上组成，设理事长、副理事长，董事长、副董事长或者主任、副主任各1人。中外合作办学者一方担任理事长、董事长或者主任的，由另一方担任副理事长、副董事长或者副主任。

具有法人资格的中外合作办学机构的法定代表人，由中外合作办学者协商，在理事长、董事长或者校长中确定。

第二十二条 中外合作办学机构的理事会、董事会或者联合管理委员会由中外合作办学者的代表、校长或者主要行政负责人、教职工代表等组成，其中三分之一以上组成人员应当具有5年以上教育、教学经验。

中外合作办学机构的理事会、董事会或者联合管理委员会组成人员名单应当报审批机关备案。

第二十三条 中外合作办学机构的理事会、董事会或者联合管理委员会行使下列职权：

- (一) 改选或者补选理事会、董事会或者联合管理委员会组成人员；
- (二) 聘任、解聘校长或者主要行政负责人；
- (三) 修改章程，制定规章制度；
- (四) 制定发展规划，批准年度工作计划；
- (五) 筹集办学经费，审核预算、决算；
- (六) 决定教职工的编制定额和工资标准；
- (七) 决定中外合作办学机构的分立、合并、终止；
- (八) 章程规定的其他职权。

第二十四条 中外合作办学机构的理事会、董事会或者联合管理委员会每年至少召开一次会议。经三分之一以上组成人员提议，可以召开理事会、董事会或者联合管理委员会临时会议。

中外合作办学机构的理事会、董事会或者联合管理委员会讨论下列重大事项，应当经三分之二以上组成人员同意方可通过：

- (一) 聘任、解聘校长或者主要行政负责人；
- (二) 修改章程；
- (三) 制定发展规划；
- (四) 决定中外合作办学机构的分立、合并、终止；
- (五) 章程规定的其他重大事项。

第二十五条 中外合作办学机构的校长或者主要行政负责人，应当具有中华人民共和国国籍，在中国境内定居，热爱祖国，品行良好，具有教育、教学经验，并具备相应的专业水平。

中外合作办学机构聘任的校长或者主要行政负责人，应当经审批机关核准。

第二十六条 中外合作办学机构的校长或者主要行政负责人行使下列职权：

- (一) 执行理事会、董事会或者联合管理委员会的决定；
- (二) 实施发展规划，拟订年度工作计划、财务预算和规章制度；
- (三) 聘任和解聘工作人员，实施奖惩；
- (四) 组织教育教学、科学研究活动，保证教育教学质量；
- (五) 负责日常管理工作；
- (六) 章程规定的其他职权。

第二十七条 中外合作办学机构依法对教师、学生进行管理。

中外合作办学机构聘任的外籍教师和外籍管理人员，应当具备学士以上学位和相应的职业资格证书，并具有 2 年以上教育、教学经验。

外方合作办学者应当从本教育机构中选派一定数量的教师到中外合作办学机构任教。

第二十八条 中外合作办学机构应当依法维护教师、学生的合法权益，保障教职工的工

资、福利待遇，并为教职工缴纳社会保险费。

中外合作办学机构的教职工依法建立工会等组织，并通过教职工代表大会等形式，参与中外合作办学机构的民主管理。

第二十九条 中外合作办学机构的外籍人员应当遵守外国人在中国就业的有关规定。

第四章 教育教学

第三十条 中外合作办学机构应当按照中国对同级同类教育机构的要求开设关于宪法、法律、公民道德、国情等内容的课程。

国家鼓励中外合作办学机构引进国内急需、在国际上具有先进性的课程和教材。

中外合作办学机构应当将所开设的课程和引进的教材报审批机关备案。

第三十一条 中外合作办学机构根据需要，可以使用外国语言文字教学，但应当以普通话和规范汉字为基本教学语言文字。

第三十二条 实施高等学历教育的中外合作办学机构招收学生，纳入国家高等学校招生计划。实施其他学历教育的中外合作办学机构招收学生，按照省、自治区、直辖市人民政府教育行政部门的规定执行。

中外合作办学机构招收境外学生，按照国家有关规定执行。

第三十三条 中外合作办学机构的招生简章和广告应当报审批机关备案。

中外合作办学机构应当将办学类型和层次、专业设置、课程内容和招生规模等有关情况，定期向社会公布。

第三十四条 中外合作办学机构实施学历教育的，按照国家有关规定颁发学历证书或者其他学业证书；实施非学历教育的，按照国家有关规定颁发培训证书或者结业证书。对于接受职业技能培训的学生，经政府批准的职业技能鉴定机构鉴定合格的，可以按照国家有关规定颁发相应的国家职业资格证书。

中外合作办学机构实施高等学历教育的，可以按照国家有关规定颁发中国相应的学位证书。

中外合作办学机构颁发的外国教育机构的学历、学位证书，应当与该教育机构在其所属国颁发的学历、学位证书相同，并在该国获得承认。

中国对中外合作办学机构颁发的外国教育机构的学历、学位证书的承认，依照中华人民共和国缔结或者加入的国际条约办理，或者按照国家有关规定办理。

第三十五条 国务院教育行政部门或者省、自治区、直辖市人民政府教育行政部门及劳

动行政部门等其他有关行政部门应当加强对中外合作办学机构的日常监督,组织或者委托社会中介组织对中外合作办学机构的办学水平和教育质量进行评估,并将评估结果向社会公布。

第五章 资产与财务

第三十六条 中外合作办学机构应当依法建立健全财务、会计制度和资产管理制度,并按照国家有关规定设置会计账簿。

第三十七条 中外合作办学机构存续期间,所有资产由中外合作办学机构依法享有法人财产权,任何组织和个人不得侵占。

第三十八条 中外合作办学机构的收费项目和标准,依照国家有关政府定价的规定确定并公布;未经批准,不得增加项目或者提高标准。

中外合作办学机构应当以人民币计收学费和其他费用,不得以外汇计收学费和其他费用。

第三十九条 中外合作办学机构收取的费用应当主要用于教育教学活动和改善办学条件。

第四十条 中外合作办学机构的外汇收支活动以及开设和使用外汇账户,应当遵守国家外汇管理规定。

第四十一条 中外合作办学机构应当在每个会计年度结束时制作财务会计报告,委托社会审计机构依法进行审计,向社会公布审计结果,并报审批机关备案。

第六章 变更与终止

第四十二条 中外合作办学机构的分立、合并,在进行财务清算后,由该机构理事会、董事会或者联合管理委员会报审批机关批准。

申请分立、合并实施非学历教育的中外合作办学机构的,审批机关应当自受理申请之日起3个月内以书面形式答复;申请分立、合并实施学历教育的中外合作办学机构的,审批机关应当自受理申请之日起6个月内以书面形式答复。

第四十三条 中外合作办学机构合作办学者的变更,应当由合作办学者提出,在进行财务清算后,经该机构理事会、董事会或者联合管理委员会同意,报审批机关核准,并办理相应的变更手续。

中外合作办学机构住所、法定代表人、校长或者主要行政负责人的变更,应当经审批机关核准,并办理相应的变更手续。

第四十四条 中外合作办学机构名称、层次、类别的变更,由该机构理事会、董事会或

者联合管理委员会报审批机关批准。

申请变更为实施非学历教育的中外合作办学机构的,审批机关应当自受理申请之日起 3 个月内以书面形式答复;申请变更为实施学历教育的中外合作办学机构的,审批机关应当自受理申请之日起 6 个月内以书面形式答复。

第四十五条 中外合作办学机构有下列情形之一的,应当终止:

- (一) 根据章程规定要求终止,并经审批机关批准的;
- (二) 被吊销中外合作办学许可证的;
- (三) 因资不抵债无法继续办学,并经审批机关批准的。

中外合作办学机构终止,应当妥善安置在校学生;中外合作办学机构提出终止申请时,应当同时提交妥善安置在校学生的方案。

第四十六条 中外合作办学机构终止时,应当依法进行财务清算。

中外合作办学机构自己要求终止的,由中外合作办学机构组织清算;被审批机关依法撤销的,由审批机关组织清算;因资不抵债无法继续办学而被终止的,依法请求人民法院组织清算。

第四十七条 中外合作办学机构清算时,应当按照下列顺序清偿:

- (一) 应当退还学生的学费和其他费用;
- (二) 应当支付给教职工的工资和应当缴纳的社会保险费用;
- (三) 应当偿还的其他债务。

中外合作办学机构清偿上述债务后的剩余财产,依照有关法律、行政法规的规定处理。

第四十八条 中外合作办学机构经批准终止或者被吊销中外合作办学许可证的,应当将中外合作办学许可证和印章交回审批机关,依法办理注销登记。

第七章 法律责任

第四十九条 中外合作办学审批机关及其工作人员,利用职务上的便利收取他人财物或者获取其他利益,滥用职权、玩忽职守,对不符合本条例规定条件者颁发中外合作办学许可证,或者发现违法行为不予以查处,造成严重后果,触犯刑律的,对负有责任的主管人员和其他直接责任人员,依照刑法关于受贿罪、滥用职权罪、玩忽职守罪或者其他罪的规定,依法追究刑事责任;尚不够刑事处罚的,依法给予行政处分。

第五十条 违反本条例的规定,超越职权审批中外合作办学机构的,其批准文件无效,

由上级机关责令改正；对负有责任的主管人员和其他直接责任人员，依法给予行政处分；致使公共财产、国家和人民利益遭受重大损失的，依照刑法关于滥用职权罪或者其他罪的规定，依法追究刑事责任。

第五十一条 违反本条例的规定，未经批准擅自设立中外合作办学机构，或者以不正当手段骗取中外合作办学许可证的，由教育行政部门、劳动行政部门按照职责分工予以取缔或者会同公安机关予以取缔，责令退还向学生收取的费用，并处以 10 万元以下的罚款；触犯刑律的，依照刑法关于诈骗罪或者其他罪的规定，依法追究刑事责任。

第五十二条 违反本条例的规定，在中外合作办学机构筹备设立期间招收学生的，由教育行政部门、劳动行政部门按照职责分工责令停止招生，责令退还向学生收取的费用，并处以 10 万元以下的罚款；情节严重，拒不停止招生的，由审批机关撤销筹备设立批准书。

第五十三条 中外合作办学者虚假出资或者在中外合作办学机构成立后抽逃出资的，由教育行政部门、劳动行政部门按照职责分工责令限期改正；逾期不改正的，由教育行政部门、劳动行政部门按照职责分工处以虚假出资金额或者抽逃出资金额 2 倍以下的罚款。

第五十四条 伪造、变造和买卖中外合作办学许可证的，依照刑法关于伪造、变造、买卖国家机关证件罪或者其他罪的规定，依法追究刑事责任。

第五十五条 中外合作办学机构未经批准增加收费项目或者提高收费标准的，由教育行政部门、劳动行政部门按照职责分工责令退还多收的费用，并由价格主管部门依照有关法律、行政法规的规定予以处罚。

第五十六条 中外合作办学机构管理混乱、教育教学质量低下，造成恶劣影响的，由教育行政部门、劳动行政部门按照职责分工责令限期整顿并予以公告；情节严重、逾期不整顿或者经整顿仍达不到要求的，由教育行政部门、劳动行政部门按照职责分工责令停止招生、吊销中外合作办学许可证。

第五十七条 违反本条例的规定，发布虚假招生简章，骗取钱财的，由教育行政部门、劳动行政部门按照职责分工，责令限期改正并予以警告；有违法所得的，退还所收费用后没收违法所得，并可处以 10 万元以下的罚款；情节严重的，责令停止招生、吊销中外合作办学许可证；构成犯罪的，依照刑法关于诈骗罪或者其他罪的规定，依法追究刑事责任。

中外合作办学机构发布虚假招生广告的，依照《中华人民共和国广告法》的有关规定追究其法律责任。

第五十八条 中外合作办学机构被处以吊销中外合作办学许可证行政处罚的，其理事长或者董事长、校长或者主要行政负责人自中外合作办学许可证被吊销之日起 10 年内不得担任任何中外合作办学机构的理事长或者董事长、校长或者主要行政负责人。

违反本条例的规定，触犯刑律被依法追究刑事责任的，自刑罚执行期满之日起 10 年内

不得从事中外合作办学活动。

第八章 附 则

第五十九条 香港特别行政区、澳门特别行政区和台湾地区的教育机构与内地教育机构合作办学的，参照本条例的规定执行。

第六十条 在工商行政管理部门登记注册的经营性的中外合作举办的培训机构的管理办法，由国务院另行规定。

第六十一条 外国教育机构同中国教育机构在中国境内合作举办以中国公民为主要招生对象的实施学历教育和自学考试助学、文化补习、学前教育等的合作办学项目的具体审批和管理办法，由国务院教育行政部门制定。

外国教育机构同中国教育机构在中国境内合作举办以中国公民为主要招生对象的实施职业技能培训的合作办学项目的具体审批和管理办法，由国务院劳动行政部门制定。

第六十二条 外国教育机构、其他组织或者个人不得在中国境内单独设立以中国公民为主要招生对象的学校及其他教育机构。

第六十三条 本条例施行前依法设立的中外合作办学机构，应当补办本条例规定的中外合作办学许可证。其中，不完全具备本条例所规定条件的，应当在本条例施行之日起 2 年内达到本条例规定的条件；逾期未达到本条例规定条件的，由审批机关予以撤销。

第六十四条 本条例自 2003 年 9 月 1 日起施行。

Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools

(Adopted at the 68th Executive Meeting of the State Council on February 19, 2003, promulgated by Decree No. 372 of the State Council of the People's Republic of China on March 1, 2003, and effective as of September 1, 2003)

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the Education Law of the People's Republic of China, the Vocational Education Law of the People's Republic of

China and the Law of the People's Republic of China on Promotion of Privately-Run Schools for the purposes of standardizing Chinese-foreign cooperation in running schools, strengthening international exchange and cooperation in the field of education and promoting the development of the educational cause.

Article 2 These Regulations apply to the activities of the cooperation between foreign educational institutions and Chinese educational institutions (hereinafter referred to as Chinese and foreign cooperators in running schools) in establishing educational institutions (hereinafter referred to as Chinese-foreign cooperatively-run schools) within the territory of China to provide education service mainly to Chinese citizens.

Article 3 Chinese-foreign cooperation in running schools is an undertaking beneficial to public interests and forms a component of China's educational cause.

For Chinese-foreign cooperation in running schools, the State adopts the policies of opening wider to the outside world, standardization of running schools, exercising administration according to law and promoting its development.

The State encourages Chinese-foreign cooperation in running schools to which high-quality foreign educational resources are introduced.

The State encourages Chinese-foreign cooperation in running schools in the field of higher education and vocational education, and encourages Chinese institutions of higher learning to cooperate with renowned foreign institutions of higher learning in running schools.

Article 4 The legal rights and interests of Chinese and foreign cooperators in running schools and of Chinese-foreign cooperatively-run schools shall be protected by the laws of China.

Chinese-foreign cooperatively-run schools shall enjoy preferential policies made by the State and enjoy autonomy when conducting educational activities in accordance with law.

Article 5 Chinese-foreign cooperation in running schools shall abide by the laws of China, implement China's educational policies, comply with Chinese public ethics and shall not jeopardize China's sovereignty, security and public interests.

Chinese-foreign cooperation in running schools shall meet the needs of the development of China's educational cause, ensure teaching quality and make efforts to train all kinds of talents for China's socialist construction.

Article 6 Chinese and foreign cooperators in running schools may cooperate to establish educational institutions of various types at various levels. However, they shall not establish institutions offering compulsory education service or special education services such as military, police and political education services.

Article 7 No foreign religious organization, religious institution, religious college and university or religious worker may engage in cooperative activities of running schools within the territory of China.

Chinese-foreign cooperatively-run schools shall not offer religious education, nor conduct religious activities.

Article 8 The education administrative department of the State Council shall be responsible for overall planning, comprehensive coordination and macro control for all Chinese-foreign cooperative activities in running schools nationwide. The education administrative department, the labour administrative department and other relevant administrative departments of the State Council shall be responsible for the work in relation to Chinese-foreign cooperation in running schools in accordance with their functions and duties as defined by the State Council.

The education administrative departments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for overall planning, comprehensive coordination and macro control for all Chinese-foreign cooperative activities in running schools within their respective administrative regions. The education administrative departments, the labour administrative departments and other relevant administrative departments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the work in relation to Chinese-foreign cooperation in running schools within their respective administrative regions in accordance with their functions and duties.

Chapter II Establishment

Article 9 An educational institution which applies for establishing a Chinese-foreign cooperatively-run school shall have the legal person status.

Article 10 A Chinese or foreign cooperator in running a school may contribute with funds, in kind or in forms of land-use right, intellectual property rights or other assets to establish the school.

Contribution of intellectual property rights by a Chinese or foreign cooperator in running a school shall not exceed one-third of its total contribution. However, for a foreign educational institution that comes to China for cooperation in running a school at the

invitation of the education administrative department or the labour administrative department of the State Council or at the invitation of the people's government of a province, an autonomous region or a municipality directly under the Central Government, its contribution in the form of intellectual property rights may exceed one-third of its total contribution.

Article 11 A Chinese-foreign cooperatively-run school shall meet the basic requirements prescribed by the Education Law of the People's Republic of China, the Vocational Education Law of the People's Republic of China, the Higher Education Law of the People's Republic of China and other laws and administrative regulations, and shall have the legal person status. However, a Chinese-foreign cooperatively-run school established to offer higher education service through the cooperation between a foreign educational institution and a Chinese institution of higher learning which offers education for academic qualifications may have no legal person status.

The establishment of a Chinese-foreign cooperatively-run school shall follow the standards for the establishment of State-run educational institutions of the same type and at the same level.

Article 12 An application for establishing a Chinese-foreign cooperatively-run school offering higher education for academic qualifications at or above the regular university education shall be subject to examination and approval of the education administrative department of the State Council; an application for establishing a Chinese-foreign cooperatively-run school offering specialized higher education or higher education for non-academic qualifications shall be subject to examination and approval of the people's government of the province, autonomous region or municipality directly under the Central Government where the proposed school is to be located.

An application for establishing a Chinese-foreign cooperatively-run school offering secondary education for academic qualifications, programs of tutoring self-taught students for examinations, programs offering supplementary teaching of school courses and pre-school education shall be subject to examination and approval of the education administrative department of the people's government of the province, autonomous region or municipality directly under the Central Government where the proposed school is to be located.

An application for establishing a Chinese-foreign cooperatively-run school offering vocational technical training shall be subject to examination and approval of the labour administrative department of the people's government of the province, autonomous region or municipality directly under the Central Government where the proposed school is to be located.

Article 13 The establishment of a Chinese-foreign cooperatively-run school shall include two steps of preparation for establishment and formal establishment. However, the applicant may file an application directly for formal establishment if it fulfills the conditions for offering education and meets the standards for establishment.

Article 14 An applicant who applies for preparation for establishment of a Chinese-foreign cooperatively-run school shall submit the following documents:

(1) a project report which shall mainly contain the names of the Chinese and foreign cooperators in running the school, the name of the proposed cooperatively-run school, educational targets, size of the school, level and form of education to be offered, conditions for offering education, system of internal management, sources of funding and capital management and use, etc.;

(2) a cooperative agreement which shall contain the duration of cooperation and ways of dispute settlement, etc.;

(3) valid documents verifying sources of assets and amount of capital, with clear statement of ownership;

(4) a donation agreement for any assets provided as a donation to the proposed school, which carries the name of the donor, value of donation, purpose of use and management methods, and the relevant valid verifying documents; and

(5) a certificate verifying that not less than 15 percent of initial funds provided by the Chinese and foreign cooperators is already invested.

Article 15 In the case of an application for preparation for establishment of a Chinese-foreign cooperatively-run school, the examination and approval authorities shall decide whether to grant the approval or not within 45 days from the date of receiving the application. If the application is approved, a letter of approval for preparation for establishment shall be issued; if the application is not approved, reasons shall be provided in writing.

Article 16 An applicant whose application for preparation for establishment of a Chinese-foreign cooperatively-run school is approved shall file an application for formal establishment within three years from the date of approval; if it is more than three years, the Chinese and foreign cooperators in running the school shall file an application anew.

During the period of preparation for establishment, no students shall be enrolled.

Article 17 An applicant who has completed its preparation for establishment and applies for formal establishment shall submit the following documents:

(1) an application for formal establishment;

(2) the letter of approval for preparation for establishment;

(3) a report on the progress of preparation for establishment;

(4) the articles of association for the Chinese-foreign cooperatively-run school, and a list of members on its first board of trustees or board of directors, or of its first joint managerial committee;

(5) valid documents verifying assets of the Chinese-foreign cooperatively-run school;
and

(6) documents verifying the qualifications of the president or principal administrator, the teachers and financial staff.

An applicant who directly applies for formal establishment of a Chinese-foreign cooperatively-run school shall submit all documents listed under subparagraphs (1), (4), (5) and (6) of the preceding paragraph and subparagraphs (2), (3) and (4) of Article 14.

Article 18 In the case of an application for formal establishment of a Chinese-foreign cooperatively-run school offering education for non-academic qualifications, the examination and approval authorities shall decide whether to grant the approval or not within three months from the date of receiving the application; in the case of an application for formal establishment of a Chinese-foreign cooperatively-run school offering education for academic qualifications, the examination and approval authorities shall decide whether to grant the approval or not within six months from the date of receiving the application. If the application is approved, a permit for Chinese-foreign cooperation in running the school printed in a standard format and numbered in a unified way shall be granted; if the application is not approved, reasons shall be provided in writing.

The format of the permit for Chinese-foreign cooperation in running a school shall be determined by the education administrative department of the State Council and the printing be arranged separately by the education administrative department and the labour administrative department of the State Council in accordance with their respective functions and duties; the permit for Chinese-foreign cooperation in running a school shall be numbered in a unified way by the education administrative department of the State Council and the specific measures shall be formulated by the education administrative department jointly with the labour administrative department of the State Council.

Article 19 In the case of an application for formal establishment of a Chinese-foreign cooperatively-run school offering education for academic qualifications, the examination

and approval authorities, upon receiving such an application, shall organize an expert committee to make an evaluation, and the expert committee shall give its opinions.

Article 20 A Chinese-foreign cooperatively-run school which has obtained the permit for Chinese-foreign cooperation in running the school shall register in accordance with the relevant laws and administrative regulations, and the registering authorities shall process the registration timely in accordance with the relevant provisions.

Chapter III Organization and Administration

Article 21 A Chinese-foreign cooperatively-run school with the legal person status shall set up a board of trustees or a board of directors, and a Chinese-foreign cooperatively-run school without the legal person status shall set up a joint managerial committee. Chinese members on the board of trustees, the board of directors or of the joint managerial committee shall not be less than half of the total number.

The board of trustees, the board of directors or the joint managerial committee shall be composed of at least five members with one of them serving as the chairperson and one of them serving as the vice-chairperson respectively. If either of the Chinese and foreign cooperators in running the school assumes the chairpersonship, the other shall assume the vice-chairpersonship.

The legal representative of a Chinese-foreign cooperatively-run school with the legal person status shall be appointed through consultation between the Chinese and foreign cooperators in running the school from the chairperson of the board of trustees, or the chairperson of the board of directors, or the president of the cooperatively-run school.

Article 22 The board of trustees, the board of directors or the joint managerial committee of a Chinese-foreign cooperatively-run school shall be composed of the representatives from both the Chinese and foreign cooperators in running the school, the president or principal administrator of the school, the representatives of the school's teaching and administrative staff, etc., and one-third of the members shall have at least five years of work experience in the field of education and teaching.

The list of members on the board of trustees, the board of directors or of the joint managerial committee of a Chinese-foreign cooperatively-run school shall be submitted to the examination and approval authorities for the record.

Article 23 The board of trustees, the board of directors or the joint managerial committee of a Chinese-foreign cooperatively-run school shall exercise the following powers:

- (1) electing or by-electing the members on the board of trustees, the board of directors or of the joint managerial committee;
- (2) appointing or dismissing the president or the principal administrator;
- (3) modifying the articles of association and formulating school rules and bylaw;
- (4) formulating development plans and approving annual work plans;
- (5) raising operational funds, examining and approving the budget and the final accounts;
- (6) determining the staff arrangement and quotas and the wage scales;
- (7) making decisions on the division, merger or termination of the Chinese-foreign cooperatively-run school; and
- (8) exercising other powers specified by the articles of association.

Article 24 The board of trustees, the board of directors or the joint managerial committee of a Chinese-foreign cooperatively-run school shall meet at least once a year. Interim meetings of the board of trustees, the board of directors or the joint managerial committee may be convened upon proposal made by at least one-third of its members.

The board of trustees, the board of directors or the joint managerial committee of a Chinese-foreign cooperatively-run school shall adopt its decision upon agreement by at least two-thirds of its members when it discusses the following major issues:

- (1) appointing or dismissing the president or the principal administrator;
- (2) modifying the articles of association;
- (3) formulating the development plan;
- (4) making decisions on the division, merger or termination of the Chinese-foreign cooperatively-run school; and
- (5) other major issues specified by the articles of association.

Article 25 The president or the principal administrator of a Chinese-foreign cooperatively-run school shall be a person with the nationality of the People's Republic of China, domicile in the territory of China, love the motherland, possess moral integrity, and have work experience in the field of education and teaching as well as compatible professional expertise.

The president or the principal administrator appointed by a Chinese-foreign cooperatively-run school shall be subject to approval of the examination and approval authorities.

Article 26 The president or the principal administrator of a Chinese-foreign cooperatively-run school shall exercise the following powers:

(1) executing the decisions of the board of trustees, the board of directors or the joint managerial committee;

(2) implementing the development plan and drafting annual work plans, financial budget, rules and bylaw;

(3) employing and dismissing the staff and executing rewards and punishments;

(4) organizing teaching and scientific research activities and ensuring teaching quality;

(5) taking charge of daily administrative work; and

(6) exercising other powers specified by the articles of association.

Article 27 A Chinese-foreign cooperatively-run school shall administer its teachers and students in accordance with law.

Foreign teachers and administrators employed by a Chinese-foreign cooperatively-run school shall possess a bachelor's degree or above and related occupational certificates, and have at least two years of work experience in the field of education and teaching.

The foreign cooperator shall send a certain number of teachers from its own educational institution to teach in the Chinese-foreign cooperatively-run school.

Article 28 A Chinese-foreign cooperatively-run school shall safeguard the lawful rights and interests of its teachers and students in accordance with law, guarantee the payment and welfare benefits of the teaching and administrative staff and pay social insurance premiums for the teaching and administrative staff.

The teaching and administrative staff of a Chinese-foreign cooperatively-run school shall establish their trade union and other organizations in accordance with law, and participate in the democratic governance of the Chinese-foreign cooperatively-run school through the staff congress or other means.

Article 29 Foreign employees of a Chinese-foreign cooperatively-run school shall abide by the relevant provisions on employment of foreigners in China.

Chapter IV Education and Teaching

Article 30 A Chinese-foreign cooperatively-run school shall offer courses on the constitution, laws, ethics of citizens and basic facts about China, etc. in accordance with the requirements by China for educational institutions of the same type at the same level.

The State encourages Chinese-foreign cooperatively-run schools to introduce internationally advanced courses and teaching materials that are urgently needed in China.

A Chinese-foreign cooperatively-run school shall report the courses that it offers and the teaching materials that it has introduced in to the examination and approval authorities for the record.

Article 31 A Chinese-foreign cooperatively-run school may, if necessary, use foreign languages in teaching, but shall use the standard Chinese language and standard Chinese characters as the basic teaching language.

Article 32 The enrollment by Chinese-foreign cooperatively-run schools offering higher education for academic qualifications shall be incorporated into the national enrollment plan for institutions of higher learning. The enrollment by Chinese-foreign cooperatively-run schools offering other education for academic qualifications shall be conducted in accordance with the provisions of the education administrative departments of the people's governments of the provinces, autonomous regions or municipalities directly under the Central Government.

The enrollment of overseas students by Chinese-foreign cooperatively-run schools shall be conducted in accordance with the relevant provisions of the State.

Article 33 The enrollment brochures and advertisements of Chinese-foreign cooperatively-run schools shall be submitted to the examination and approval authorities for the record.

A Chinese-foreign cooperatively-run school shall publicize regularly relevant information on the type and level of its education, its specialties and courses and its enrollment plan, etc.

Article 34 Chinese-foreign cooperatively-run schools offering education for academic qualifications shall grant academic qualifications certificates or other education certificates in accordance with the relevant provisions of the State; those that offer education for

non-academic qualifications shall grant training certificates or course completion certificates in accordance with the relevant provisions of the State. Students who receive vocational skill training may be granted relevant national vocational qualifications certificates in accordance with the relevant provisions of the State if they pass the evaluation by a vocational skill evaluation organ authorized by the government.

Chinese-foreign cooperatively-run schools offering higher education for academic qualifications may grant relevant Chinese certificates of academic degrees in accordance with the relevant provisions of the State.

Certificates of academic qualifications or certificates of academic degrees of a foreign educational institution granted by a Chinese-foreign cooperatively-run school shall be identical with the certificates of academic qualifications or certificates of academic degrees issued by the foreign educational institution in its own country and shall be recognized by that country.

The recognition of certificates of academic qualifications or certificates of academic degrees of a foreign educational institution granted by Chinese-foreign cooperatively-run schools shall be governed by the international treaties concluded or acceded to by the People's Republic of China or the relevant provisions of the State.

Article 35 The education administrative department of the State Council or the education administrative departments, the labour administrative departments and other related administrative departments of the people's governments of the provinces, autonomous regions or municipalities directly under the Central Government shall strengthen their routine supervision over Chinese-foreign cooperatively-run schools, organize or authorize intermediary organizations to evaluate the management and educational quality of the Chinese-foreign cooperatively-run schools and publicize the evaluation results.

Chapter V Assets and Financial Matters

Article 36 Chinese-foreign cooperatively-run schools shall establish and improve their financial and accounting systems as well as their assets management system in accordance with law, and shall keep books of accounts pursuant to the relevant provisions of the State.

Article 37 During the period of their existence, Chinese-foreign cooperatively-run schools shall enjoy the property of legal persons on all their assets in accordance with law, and no other organizations or individuals may encroach on such assets.

Article 38 The items and standards of charges by Chinese-foreign cooperatively-run schools shall be determined and publicized in accordance with the relevant provisions of

the State on price fixing by the government; no additional items or increase in charges shall be allowed without approval.

Chinese-foreign cooperatively-run schools shall use Renminbi instead of any foreign currencies in calculating and collecting tuition and other fees.

Article 39 All fees collected by Chinese-foreign cooperatively-run schools shall be mainly used for educational and teaching activities and for improving the conditions of school operation.

Article 40 Chinese-foreign cooperatively-run schools shall abide by the provisions of the State on foreign exchange control in conducting their activities of the receipt and payment of foreign exchange and opening and using foreign exchange accounts.

Article 41 Chinese-foreign cooperatively-run schools, at the end of each fiscal year, shall prepare financial and accounting reports, commission public auditing institutions to conduct auditing work in accordance with law, publicize the audit findings, and file such information with the examination and approval authorities for the record.

Chapter VI Alteration and Termination

Article 42 Division or merger of a Chinese-foreign cooperatively-run school shall be reported to the examination and approval authorities for approval, after the liquidation, by the board of trustees, the board of directors or the joint managerial committee.

In the case of an application for division or merger of a Chinese-foreign cooperatively-run school offering education for non-academic qualifications, the examination and approval authorities shall reply in writing within three months from the date of receiving the application; in the case of an application for division or merger of a Chinese-foreign cooperatively-run school offering education for academic qualifications, the examination and approval authorities shall reply in writing within six months from the date of receiving the application.

Article 43 Alteration of cooperators in running a Chinese-foreign cooperatively-run school shall be proposed by the cooperators, and after liquidation, with the consent of the board of trustees, the board of directors or the joint managerial committee, shall be reported to the examination and approval authorities for approval, and the relevant alteration formalities shall be undertaken.

Any alteration in the domicile, legal representative or the president or the principal administrator of a Chinese-foreign cooperatively-run school shall be subject to examination and approval of the examination and approval authorities, and the relevant alteration formalities shall be undertaken.

Article 44 Any alteration in the name, level or type of a Chinese-foreign cooperatively-run school shall be reported for approval by the board of trustees, the board of directors or the joint managerial committee to the examination and approval authorities.

In the case of an application for altering a Chinese-foreign cooperatively-run school to offer education for non-academic qualifications, the examination and approval authorities shall reply in writing within three months from the date of receiving the application; in the case of an application for altering a Chinese-foreign cooperatively-run school to offer education for academic qualifications, the examination and approval authorities shall reply in writing within six months from the date of receiving the application.

Article 45 A Chinese-foreign cooperatively-run school shall be terminated in one of the following cases:

(1) where a request for termination is made in accordance with the articles of association and approved by the examination and approval authorities;

(2) where its permit for Chinese-foreign cooperation in running the school is revoked;
or

(3) where it is unable to continue its operation due to insolvency and such termination is approved by the examination and approval authorities.

A Chinese-foreign cooperatively-run school shall make proper arrangements for its students at school upon its termination; a Chinese-foreign cooperatively-run school shall submit a plan for such arrangements while applying for termination thereof.

Article 46 A Chinese-foreign cooperatively-run school shall make liquidation in accordance with law upon termination.

Where a Chinese-foreign cooperatively-run school itself requests termination, the Chinese-foreign cooperatively-run school shall organize liquidation; where the termination is the result of dissolution by the examination and approval authorities in accordance with law, the examination and approval authorities shall organize liquidation; where the termination is the result of inability to continue the operations for education due to its insolvency, a people's court shall be requested according to law to organize liquidation.

Article 47 Upon liquidation, a Chinese-foreign cooperatively-run school shall settle its outstanding debts according to the following sequence:

(1) tuition and other fees that shall be refunded to the students;

(2) salaries due to the teaching and administrative staff and their social insurance premiums payable;

(3) payments for other outstanding debts.

The remaining assets of a Chinese-foreign cooperatively-run school after the settlement of the above debts shall be handled in accordance with the provisions of the relevant laws and administrative regulations.

Article 48 Where a Chinese-foreign cooperatively-run school is terminated after approval or its permit for Chinese-foreign cooperation in running the school is revoked, it shall return its permit for Chinese-foreign cooperation in running the school and its official seals to the examination and approval authorities and register its cancellation in accordance with law.

Chapter VII Legal Liability

Article 49 Where the examination and approval authorities for Chinese-foreign cooperation in running schools or their personnel, by taking advantage of their office, accept money or property from others or obtain other interests, or, by abusing their power or neglecting their duty, issue a permit for Chinese-foreign cooperation in running a school to those that do not meet the requirements prescribed by these Regulations, or fail to conduct investigation when an illegal act is discovered, if the consequences are serious and the case violates the criminal law, the persons in charge who are responsible and other persons directly responsible shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of acceptance of bribes, the crime of abuse of power, the crime of neglect of duty or other crimes; if the case is not serious for criminal punishments, they shall be given administrative sanctions in accordance with law.

Article 50 Where any authority, in violation of the provisions of these Regulations, examines and approves a Chinese-foreign cooperatively-run school beyond the scope of power, the document of approval shall be null and void and the higher level authorities shall order it to make corrections; the persons in charge who are responsible and other persons directly responsible shall be given administrative sanctions in accordance with law; if public property or interests of the State and the people sustains heavy losses, they shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power or other crimes.

Article 51 Where anyone, in violation of the provisions of these Regulations, establishes a Chinese-foreign cooperatively-run school without approval, or defrauds a permit for Chinese-foreign cooperation in running the school by illegitimate means, the education administrative department or the labour administrative department shall ban it according to their respective functions and duties, or, jointly with the public security organ, order it to return the fees collected from the students, and concurrently impose a fine of not more than 100,000 yuan; in case the criminal law is violated, criminal liability shall be

investigated in accordance with the provisions of the criminal law on the crime of swindle or other crimes.

Article 52 Where anyone, in violation of the provisions of these Regulations, enrolls students within the period of preparation for establishment of a Chinese-foreign cooperatively-run school, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to stop the enrollment of students and to return the fees collected from the students, and concurrently impose a fine of not more than 100,000 yuan; if the circumstances are serious and it refuses to stop the enrollment, the examination and approval authorities shall revoke the letter of approval for preparation for establishment.

Article 53 Where either Chinese or foreign cooperator in running a school makes false capital contribution or withdraws the capital contribution after establishment of the Chinese-foreign cooperatively-run school, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to make corrections within a prescribed time limit; if it refuses to make such corrections within the prescribed time limit, the education administrative department or the labour administrative department shall, according to their respective functions and duties, impose a fine of not more than twofold of its false capital contribution or of its capital contribution withdrawn.

Article 54 Anyone who forges, alters, buys or sells a permit for Chinese-foreign cooperation in running a school shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of forging, altering, buying or selling certificates of a State organ or other crimes.

Article 55 Where a Chinese-foreign cooperatively-run school adds items of fees charged or raises the level of fees charged without approval, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to return the fees overcollected, and the pricing department shall punish it in accordance with the provisions of the relevant laws and administrative regulations.

Article 56 Where a Chinese-foreign cooperatively-run school causes gross adverse impacts due to its poor management or inferior educational and teaching quality, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to make rectification within a prescribed time limit and make an announcement; if the circumstances are serious, or no rectification is made within the time limit, or the requirements are not met after its rectification, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to stop its

enrollment of students and revoke its permit for Chinese-foreign cooperation in running the school.

Article 57 Where anyone, in violation of the provisions of these Regulations, issues false enrollment brochures and swindles money or property, the education administrative department or the labour administrative department shall, according to their respective functions and duties, order it to make corrections within a prescribed time limit and give a warning, confiscate its illegal gains, if any, and may concurrently impose a fine of not more than 100,000 yuan after fees collected have been refunded, and, if the circumstances are serious, order it to stop enrollment of students and revoke its permit for Chinese-foreign cooperation in running the school; if a crime is constituted, criminal liability shall be investigated in accordance with the provisions of the criminal law on the crime of swindle or other crimes.

Where a Chinese-foreign cooperatively-run school issues false enrollment advertisements, it shall be investigated for legal liability in accordance with the relevant provisions of the Advertisement Law of the People's Republic of China.

Article 58 Where a Chinese-foreign cooperatively-run school has its permit for Chinese-foreign cooperation in running the school revoked as an administrative punishment, the chairperson of its board of trustees or its board of directors, or its president or principal administrator shall be prohibited from taking positions of the chairperson of the board of trustees or of the board of directors, the president or principal administrator of any Chinese-foreign cooperatively-run school within ten years starting from the date of revocation of its permit for Chinese-foreign cooperation in running the school.

Those who violate the provisions of these Regulations and the criminal law and are punished for criminal liability in accordance with law shall be prohibited from engaging in activities of Chinese-foreign cooperation in running schools within ten years starting from the date of completion of service of criminal punishments.

Chapter VIII Supplementary Provisions

Article 59 Cooperation in running schools between educational institutions from the Hong Kong Special Administrative Region, the Macao Special Administrative Region or Taiwan and mainland educational institutions shall be handled with reference to the provisions of these Regulations.

Article 60 Measures for administration of for-profit training institutions which are cooperatively run by Chinese and foreign parties and registered at the administrative department for industry and commerce shall be formulated separately by the State Council.

Article 61 Specific measures for examination and approval and administration of cooperatively-run educational projects for offering education for academic qualifications, tutoring self-taught students for examinations, supplementary teaching of school courses or pre-school education, etc., which provide education mainly to Chinese citizens and are operated jointly by foreign educational institutions and Chinese educational institutions within the territory of China, shall be formulated by the education administrative department of the State Council.

Specific measures for examination and approval and administration of cooperatively-run educational projects for offering vocational skill training, which provide education mainly to Chinese citizens and are operated jointly by foreign educational institutions and Chinese educational institutions within the territory of China, shall be formulated by the labour administrative department of the State Council.

Article 62 No foreign educational institution, other organization or individual may establish unilaterally schools or other educational institutions providing education mainly to Chinese citizens within the territory of China.

Article 63 Chinese-foreign cooperatively-run schools established in accordance with law before the implementation of these Regulations shall apply retroactively for permits for Chinese-foreign cooperation in running schools as required by these Regulations. Those that do not fully meet the requirements prescribed by these Regulations shall, within two years starting from the date of implementation of these Regulations, accomplish such requirements; for those that fail to do so within the prescribed time limit, the examination and approval authorities shall dissolve them.

Article 64 These Regulations shall be effective as of September 1, 2003.