



China propose draft regulation on employment and management of foreign teachers in the country

(Information as at 6 August 2020)

On 21 July 2020, the Chinese Ministries of Education, Science and Technology, Public Security, and Foreign Affairs jointly issued a draft regulation - “Measures for the Employment and Management of Foreign Teachers (Draft for Solicitation of Comments)” (unofficial translation of 外籍教师聘任和管理办法 (征求意见稿)).¹ A full, unofficial translation is provided in Appendix A, and will be of interest to foreign education providers and teachers operating in and with China.

According to China’s Administration of Foreign Experts Affairs, in 2017, China had 400,000 foreign teachers but only a third had a valid working permit. ² The Chinese Government has signalled for tightened supervision on foreign teachers in China in several of its recent policies.

The draft law specifies a number of new standards and requirements for foreign teachers working in China, which will apply to **all types of schools at all levels that provide academic qualifications**. The Department of Education, Skills and Employment officials at the Australian Embassy in Beijing understand this will include:

- Foreign teachers employed by Chinese schools, colleges and universities.
- Foreign teachers employed by international schools, colleges and universities operating in China.

¹ People’s Republic of China, Ministry of Justice, 外籍教师聘任和管理办法 (征求意见稿) (Unofficial Translation: Measures for the Employment and Management of Foreign Teachers (Draft for Solicitation of Comments)) 21 July 2020 http://www.moj.gov.cn/news/content/2020-07/21/zlk_3252777.html

² CGTV. China Considers New Rules for Foreign Teachers. China Global Television Network, 23 July 2020, <https://news.cgtn.com/news/2020-07-23/China-considers-new-rules-for-foreign-teachers-Sm3kLFyKK4/index.html>

- Foreign teachers employed by foreign institutions travelling to China to teach as part of Transnational Education partnerships (i.e. joint institutes and joint programs).

In addition to stricter requirements around foreign teachers' qualifications, the draft law has a focus on ensuring foreign teachers' activities and course content to be in line with China's educational principles. This includes not undermining China's "**sovereignty, security, honourable reputation and public interest**".³ It also requires education institutions to provide at least 20 hours of training for teachers new to China covering "**China's constitution, law, national context, teaching ethics, education regulation, job-related knowledge and education competence**".⁴

A National Comprehensive Information Service Platform for Foreign Teachers (Unofficial translation of: 全国外籍教师综合信息服务平台) will be established to document foreign teachers in China, and allow for government agencies and education institutions to register, report and search for relevant information.⁵ The Platform will include credit track records of foreign teachers.⁶ Employers can reflect on foreign teachers' performance **on abiding by the Chinese law, abiding by the contract, quality of education and teaching ethics**.⁷

Foreign teachers that have been reported with certain violations will be dismissed from the employing institution, including action and speech that undermines China's national sovereignty, security, honour and public interest.⁸ Foreign teachers that have good track records will be rewarded with streamlined procedures on entry-exit related matters.

The draft regulation prohibits education institutions and foreign teachers from adopting condensed timetables that are "clearly unreasonable" to conduct teaching in a short period of time.⁹

The Department of Education, Skills and Employment officials in the Australian Embassy Beijing will seek further clarity on relevant areas of the draft regulation and provide an update when appropriate. Education providers and other stakeholders wishing to provide feedback and suggestions on the draft regulation can do so through channels outlined on the MoE's [website](#) (submissions due on 21 August 2020).

For further enquiries, please contact the [Education and Research Section](#) of the Australian Embassy in Beijing.

³ Article 5, People's Republic of China, Ministry of Justice, 外籍教师聘任和管理办法 (征求意见稿) (Unofficial Translation: Measures for the Employment and Management of Foreign Teachers (Draft for Solicitation of Comments)) 21 July 2020 http://www.moj.gov.cn/news/content/2020-07/21/zlk_3252777.html

⁴ Ibid, Article 20

⁵ Ibid, Article 26

⁶ Ibid, Article 29

⁷ Ibid, Article 30

⁸ Ibid, Article 31

⁹ Ibid, Article 20

Appendix A

Disclaimer: This literal translation by the Education and Research Section of the Australian Embassy in Beijing is provided as a working tool, and is provided "as is." No warranty of any kind, either expressed or implied, is made as to the accuracy, correctness, or reliability of any translations. Only the original official version should prevail as a source of reference.

Measures for the Employment and Management of Foreign Teachers (Draft for Solicitation of Comments)

(Unofficial translation of 外籍教师聘任和管理办法（征求意见稿） by the Education and Research Section, Australian Embassy China)

Chapter I: General Provisions

Article 1: (Legislative basis) These Measures are drafted in accordance with Education Law of the People's Republic of China, Teachers Law of the People's Republic of China, Exit and Entry Administration Law of the People's Republic of China, Regulations of the People's Republic of China on Administration of the Entry and Exit of Foreigners and other relevant laws and regulations to promote educational international cooperation and exchanges and regulate the employment and management of foreign teachers.

Article 2: (Definitions) The phrase "foreign teachers" used in this document refers to foreign nationals that have been employed by education institutions and have obtained foreigner's work permit and residence permit for work purpose to conduct educational work in China.

"Education institutions" used in this document refers to all types of schools at all levels that provide academic qualification education, as well as kindergartens, tutoring institutions of self-taught examinations, and off-campus training institutions that have been established in accordance with the law.

Article 3: (Basic principles) Employment of foreign teachers shall follow the principles of further opening up, employ as demanded, quality assurance, service optimisation and classified management.

Article 4: (Scope of employment) Job positions that are employing for foreign teachers should be positions that are in actual educational demand, and that domestic hiring is inadequate to fulfil. The position should also not be against any relevant national laws and regulations.

Article 5: (Special obligations) Foreign teachers shall comply with China's laws and regulations; follow China's public order, morals and teacher's ethic; comply with the principle of separation between education and religion; make sure that the teaching activities and content comply with China's education policies and basic education requirements, and must not undermine China's sovereignty, security, honourable reputation and public interest.

Article 6: (Management system) The State Council's administrative department for education is responsible for overseeing the employment of foreign teachers by education institutions; the State

Council's administrative departments for foreign affairs, science and technology, public security, immigration and other relevant departments are responsible, according to division of duties, for managing foreign teacher's visas, work permits, entry into the country and residence permit.

Local people's governments' administrative departments for education are responsible for overseeing the employment of foreign teachers in its administrative region; local people's governments' foreign affairs department, administrative departments for science and technology, public security organs and other relevant departments are to be responsible, according to division of duties, for managing foreign teachers in the respective administrative region.

Chapter II: Conditions and Procedures

Article 7: (Basic requirements) Foreign nationals who meets the requirement for obtaining work permit and residence permit for working purpose, as well as the education and teaching professional certification as required in this document, can be employed by education institutions as foreign teachers.

Article 8 (Qualifications requirements) Foreign teachers shall possess education qualification and teaching skills that are necessary for engaging in the educational work. Specifically, foreign teachers that teaches courses within majors (including major in foreign languages and literature) at all types of schools at all levels that provide academic qualifications should have obtained bachelor or above degree level qualification and have related teaching experience at relevant institutions or work experience in the relevant field for two years or more; foreign teachers that provides foreign languages training should have obtained bachelor or above degree level qualification and have received language education training in the corresponding language and obtained qualification for language training of the corresponding language. Foreign teachers should in theory be teaching the teacher's native language; foreign teachers who uses Chinese language to teach courses should meet Mandarin proficiency level of "Putonghua Level Three Class B" or above, or have obtained certificate of Chinese Proficiency Test (Hanyu Shuipin Kaoshi, HSK) indicating corresponding grade.

Foreign nationals that have received doctorate degrees or teaching certifications from the country of the foreigner's nation of nationality may be exempted from the required educational work experience.

Article 9: (Other conditions) Foreign teachers shall be physically and psychologically healthy and be in good character. Foreign teachers should have no criminal record and history of infectious disease or psychiatric disorders; no sexual harassment, ingestion or injection of drugs or any long-term use of dependent psychotropic drugs and other diseases or behaviours that could affect the safety, mental and physical health of students.

Article 10: (Relevant permits) In order for foreign nationals to engage in educational work as foreign teachers, they shall obtain foreigner's work permit, work visa (Z type) and residence permit for working purpose. They can begin to engage in teaching activities after receiving approval and complete foreign teachers record-filing in according with relevant provision.

Article 11: (Duties of institutions) When employing foreign teachers, the education institutions should confirm that the foreign national with proposed appointment as foreign teacher possesses relevant professional qualification and meets relevant conditions to work as a foreign teacher.

Article 12: (Work permits) Education institutions that intends to employ foreign teachers shall apply for foreigner's work permit from the provincial level people's governments' administrative department for science and technology or its authorised administrative department. Besides submitting required document for the application of foreigner's work permit, the institution should also submit proof of the prospective foreign teachers' education qualification as outlined in Article 8, an explanation on the reason of employing the prospective foreign teacher, and materials of the prospective teacher on committing to comply with Article 5 of the document and meeting requirement of Article 9 of the document.

Article 13: (Visa applications) Foreign national with proposed appointment as foreign teacher shall apply for work visa (Z type) from China's visa issuing authorities based abroad, in accordance with relevant procedures and provisions.

The visa issuing authorities based abroad will decide whether to issue work visa (Z type) in accordance with law, using methods such as interviews and verifications of materials.

Article 14: (Residence permits) Education institutions shall assist foreign teachers with proposed appointment to apply for residence permit for work purpose at public security organs of local people's government at county-level or above.

Article 15: (Record-filing of teachers) Within 5 working days after the foreign teacher receives foreigner's work permit and residence permit, the education institution should upload copies or electronic documents of materials including first page of the work contract, the page that indicates the dates of employment, and the signatures of both parties, the foreign teacher's foreigner's work permit, and residence permit to the National Comprehensive Information Service Platform for Foreign Teachers. The Platform will generate a record-filing number for the foreign teacher.

Article 16: (Domestic applications) If an education institution intends to employ a foreign national that is already living lawfully in China as a foreign teacher, the application for foreigner's work permit and residence permit shall be handled in accordance with measure set out in this document, and the foreign teacher should be filed on record in accordance with relevant provision. If an education institution intends to employ a foreigner that has obtained permanent residency in China, the foreign teacher should be filed on record in accordance with relevant provision.

Chapter III: Service and Management

Article 17: (Duties of institutions) Education institutions should refine system for the employment, management, service and assessment of foreign teachers; regulate education conduct of foreign teachers; safeguard the legitimate rights of foreign teachers and appropriately maintain employment files of foreign teachers.

Article 18: (Management of contract) Education institutions should sign written contracts with employed foreign teachers. The contract should contain information including, but not limited to work duties of the foreign teacher, work location, post duties, period of employment, rights and obligations of both parties, method of assessment, dispute resolution mechanism and liability for breaching the contract.

Article 19: (Public disclose of information) Unless otherwise specified by the state, education institutions should make public of the name, nationality and other basic information, as well as post of employment, record-filing number, work permit and other relevant information of its employed foreign teachers on the institutions 'public notice board and website.

Article 20: (Job training) In accordance with the teacher's cultural background and specification of the position, education institutions should formulate pre-employment and post-employment training plan for foreign teachers. Education institution should organise or entrust a specialised education agency to conduct job training for foreign teachers that are employed for the. The training should include information on China's constitution, law, national context, teaching ethics, education regulation, job related knowledge and educational skills.

Article 21: (Management of the institution) Education institutions should strengthen service and management of foreign teachers in accordance with laws and contractual agreements and ensure the quality of education and teaching.

Education institutions or foreign teachers should not carry out short-term intensive teaching through packed arrangement of courses and other obviously unreasonable methods.

Article 22: (Management of part-time employment) Foreign teachers can only enter into one contract with one education institution during one term of employment to obtain a record-filing number.

Upon consent of the employing institution, foreign teachers may take on reasonable part-time work at other education institutions. Foreign teacher that takes on part-time jobs should sign a three-party contract between the teacher, the employing institution and institution for the part-time job. The contract should specify responsibility of each party. The employing institution should not collect any fees from the institution for the part-time job. The three-party contract should be submitted to the responsible education department to be retained on file, and the responsible education department should provide the name list to exit and entry administration agency of the public security organ to be retained on file. The accumulative teaching hours of the foreign teacher at the part-time job should not exceed the hours spent teaching at the employing institution.

Article 23: (Assessment and supervision) Education institutions shall refine its assessment system, strengthen regulation and supervision of foreign teacher's teaching ethics and style, and conduct comprehensive assessment and evaluation of foreign teacher's performance and fulfillment of duties.

In the event that foreign teachers conduct teaching to minors, the employing institution should take on statutory responsibility for the protection of minors, and adopt appropriate measures to safeguard the safety, as well as physical and psychological health of minors.

Article 24: (Incentive measures) Education institutions shall safeguard and support foreign teachers to carry out research on teaching, academic exchange and other activities, and allow for democratic management in appropriate ways.

Education institutions should commend and reward foreign teachers that demonstrates outstanding performance in areas such as education and teaching, talent development, support for China to

conduct international communication. Institutions may also recommend the teacher to relevant departments for application to receive commendation and reward from the government and relevant departments.

Article 25: (Change of employment) If a foreign teacher changes employment to a different education institution, the new employing education institution shall reapply for foreigner's work permit and residence permit for work purpose, and prepare for other relevant documentations. The institution should also apply for a new record-filing number in accordance to Measures set out in this document.

Article 26: (Platform building) The administrative departments for education at the State Council shall establish and manage National Comprehensive Information Service Platform for Foreign Teachers, and establish specifications for foreign teachers' record-filing.

Administrative departments for education and education institutions may register on National Comprehensive Information Service Platform for Foreign Teachers and log-in to the platform for record-filing and search for relevant information.

Chapter IV: Oversight and Accountability

Article 27: (Information sharing) A sharing mechanism on foreign teacher's information shall be established. The State Council's administrative departments for science and technology shall share information with the State Council's administrative departments for education on foreign teachers that have been granted with foreigner's work permit; the State Councils' administration department for education shall share information in a timely manner with the State Council's administrative departments for science and technology on the list of foreign teachers that have been prohibited from teaching.

Article 28: (Routine regulation) Local people's governments' administrative departments for education, science and technology, entry and exist agencies of public security organs and other relevant departments shall strengthen routine supervision on education institutions' employment of foreign teachers and promptly discover and investigate any conduct that violates relevant law and regulation on the employment of foreign teachers.

If administrative departments for education and education supervision agencies found during routine inspection or other channels such as complaints or reports of violation that any education institution have employed foreigners to engage in education and teaching, the authority shall verify if the foreign national has foreigner's work permit, residence permit and record-filing number for foreign teachers. Any violation of the law shall be reported to relevant department in a timely manner.

Article 29: (Credit records) A credit record system for foreign teachers shall be established. Foreign teachers that acts in compliance with Chinese laws and contractual agreements, conducts high quality education and teaching, demonstrates good teaching ethics shall be reflected in assessments, reported to administrative departments for education and be included in the records on the National Comprehensive Information Service Platform for Foreign Teachers.

The administrative departments for science and technology and the entry and exit management bodies of public security organs shall facilitate foreign teachers that have received commendations from the governments and relevant departments and have good credit records, in areas such as obtaining permits and handling relevant procedures.

Article 30: (Bad credit record) In the event that a foreign teacher violates contract provisions, which falls under any of the following circumstances, the education institution shall report to the administrative departments for education after handling the violation. Upon verification by the administrative departments for education, the violation shall be reflected in the credit record:

1. Found with serious academic misconduct;
2. Violated the employing institutions' regulation by engaging in paid work outside of the institution;
3. Dismissed in violation of the rules and regulation of the employing institution
4. Resigned without authorisation before the end of the contract term

Article 31: (Employment prohibitions) If a foreign teacher falls under any of the following circumstances, the education institutions shall dismiss the foreign teacher and report to the administrative departments for education. The violation shall be reflected in the credit record:

1. Conducted in action and speech that undermines China's national sovereignty, security, honourable reputation and public interests
2. Held accountable for criminal charges
3. Obstructed the implementation of education policy
4. Violated rules of public security, such as taking drugs
5. Sexually assaulted or abused minors
6. Engaged in religious education or preaching illegally
7. Engaged in cult activities
8. Sexually harassed students or seriously violated China's public order and morals, teacher's ethic and code of conduct
9. Provided false information in the process of applying to teach in China
10. Accumulated three or more violations in conducts outlined in Article 30

Education institutions must not employ foreign national with the circumstance stated in the preceding paragraph to serve as foreign teachers.

Article 32: (Illegal employment) If an education institution or other social organisations illegally employs foreign nationals that do not have permit or record-filing to conduct teaching, or organise for employment of foreigners to illegally engage in education and teaching activities, the education

institution shall be punished by public security organ of the local people's government at county or above level. If the action constitutes criminal offenses, criminal liability shall be imposed in accordance to the law.

Article 33: (Falsification by institutions) Those that provides fake or modified documents and certification materials in the course of applying for foreigner's work permit and residence permit shall be subject to punishment by public security organ and exit and entry administration agency of the local people's government at county or above level.

Article 34: (Management responsibility) In any of the following situations where education institution violates these Measures, the administrative departments for education at the county-level or above shall order corrections and fine between 1,000 RMB to 10,000 RMB per incident, and issue warnings or punishments to the primary responsible persons from the education institution; where the circumstances are extremely serious, the administrative department for education shall, in accordance with the law, revoke the education institution's license for operation.

1. Employed foreign nationals who have failed to obtain foreign teacher record-filing number to work as foreign teachers, or failed to go through record-filing within the time limit;
2. Failed to deal with a timely manner with foreign teachers that have been found to be in circumstances listed in Article 30 and Article 31;
3. Arranged for foreign teachers to engage in illegal activities for profit or conduct short-term intensive teaching on tour that is clear unreasonable;
4. Neglected management of foreign teachers thus led to bad social influence;
5. Failed to investigate and handle in a timely manner on actions of foreign teachers that violates laws and regulation as reported by parents of students
6. Conducted in false advertisement on foreign teacher's resume and competence, thus misled the public;
7. Violated relevant provision on part-time employment of foreign teachers

Article 35: (Notification of information) If the administrative department for science and technology or public security organs discovers that education institutions have illegally employed foreign nationals or that foreign teachers have committed illegal or criminal activities, the department or public security organ shall notify the administrative department for education of the relevant circumstance and result of the investigation and relevant punishment.

Chapter V: Supplemental Provisions

Article 36: (Supplementary provisions) Higher education institutions that employs foreign experts to conduct academic exchange or short-term visit shall apply for F type visa or the visa type that is in accordance to the provision. Higher education institutions shall manage the education and teaching activities conducted by the foreign expert in accordance to Measures set out in this document.

Schools for children of foreign personnel shall abide by this document when employing foreign teachers.

Online training institutions that employs foreign nationals outside of the country to conduct educational works online shall refer to this document on qualification requirement, formulation of contract and implementation of service and management.

Article 37: (Supporting policies) Each province, autonomous region, and municipalities' administrative departments for education may, in conjunction with relevant departments, draft specific regulations on the employment and management of foreign teachers in its administrative region.

Article 38: (Effective date) This law is to take effect on XX/XX/2020.

In case of any discrepancy between provisions related to the employment of foreign teachers promulgated by the State Council's administration department for education or for science and technology, or by the former Foreign Experts Bureau, that are inconsistent with Measures set out in this document, the Measures in this document shall prevail.

Those who have already engaged in teaching as foreign teacher in China prior to the implementation of these Measures shall perform record-filing formalities in accordance with Article 19 within six months from the effective date of this document.