

Opportunities and Challenges for Private Education in China: A Review of the Latest Policy Revisions

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Abstract

Purpose: This study reviews the latest revisions to “Implementation Regulations of the Private Education Promotion Law of the People’s Republic of China.” In doing so, this study provides a comprehensive overview of the policy and its history, as well as the future outlook of private education in China.

Design/Approach/Methods: Data were collected from the official website of the Ministry of Education of China as well as the media.

Findings: This study identifies the background, rationale, major breakthroughs, and impacts of the revised policy.

Originality/Value: This study provides a comprehensive analysis of the latest revisions to “Implementation Regulations of the Private Education Promotion Law of the People’s Republic of China.” In addition to an academic interpretation of these policy changes, it suggests how private education in China may develop.

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Keywords

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The Standing Committee of the National People's Congress passed the second revision of the "Law of the People's Republic of China on the Promotion of Private Education" (*Minban Jiaoyu Cujinfa* 《民办教育促进法》, hereinafter, "Promotion of Private Education") in November 2016. Thereafter, the macro-strategic level (MOE), Ministry of Human Resources and Social Security, Ministry of Civil Affairs, State Commission Office of Public Sectors Reform, and State Administration for Industry and Commerce jointly issued various supporting documents, including the "Implementation Rules for the Classification and Registration of Private Schools" and "Implementation Rules for the Supervision and Management of For-profit Private Schools." However, the amendments to "Implementation Regulations of the Private Education Promotion Law of the People's Republic of China" (hereinafter, "Implementation Regulations") were not officially adopted until April 7, 2021, when the premier signed it for release. The five-year gap opened space for doubt and criticism. Indeed, on September 1, 2020, General Secretary Xi Jinping presided over the 15th meeting of the Central Committee for Comprehensively Deepening Reform, in which "Implementation Opinions on Regulating the Development of Private Compulsory Education" was reviewed and approved. This resulted in a large number of those in the private education sector feeling anxious about the prospects of private education in the country. Indeed, some even suggested that private education had completed its historical mission and that the Chinese government should focus on developing public education in the future. Despite such claims, at the national level, attitudes toward developing private education have not changed.

Nonetheless, the development of private education highlights that many problems remain unresolved and require attention at the national level. Formulated by the State Council in accordance with the "Private Education Promotion Law," "Implementation Regulations" sets out the government's support and administrative regulations of private education in China. If the promulgation of the "Promotion of Private Education" marked the beginning of a new era of the classified management of private schools in China, the issuance of the "Implementation Regulations" signals that private education has entered a new stage of standardized management. In this respect, "Implementation Regulations" serves to guarantee the further implementation of the "Promotion of Private Education," improving the quality of private educational institutions to meet the needs

of diversified education. In short, the revised policy is intended to ensure the healthy and orderly development of private education.

Private education in China

In recent years, the privatization of education has gained increasing popularity around the world, particularly insofar as it offers both students and parents more options in deciding what kind of education they want. However, the expansion of private education has also had negative consequences, attracting attention from governments and policymakers (Zancajo, 2019). In China, the government has made several efforts to regulate and develop private education without providing government funds. Relying entirely on social forces, China has formed a private education supply system covering all education levels and types from preschool to higher education, nonacademic to academic education, and from general to vocational education. As of 2020, private schools nationwide accounted for more than one-third of the total number of schools of all levels and types, with private enrollment accounting for close to one-fifth of all students (MOE, 2021a). There are a variety of private schools' types and education styles. In an imperfect system, such variety has allowed for the emergence of several issues that negatively impact the education ecology, underscoring the urgent need for stricter regulation and governance of China's private education sector (Zhou et al., 2018).

The rapid development of private education and the vicious competition between private schools

Private education has fomented homogeneous competition in the education market, and the private sector is characterized by irrational expansion. Indeed, to attract students, some private schools blindly increase their hardware investment, packaging, and publicity, resulting in a high degree of competition between schools and waste of educational resources. At the same time, some private primary and secondary schools, especially training institutions, place too much emphasis on standardized student performance, increasing students' academic burden in the form of prelearning and mechanical training. Overburdened, students experience higher stress and anxiety; over-complicated, instruction at such schools deviates from the values of education (Jiang, 2021).

Meanwhile, local governments are limited by their own economic constraints and the demands of political achievement projects. Accordingly, local governments have come to view private schools as a means of "inviting investment," enacting special policies to encourage public schools and state-owned enterprises to participate in the establishment of private schools. Indeed, "private schools run by prestigious schools" and other pseudo-private schools have

bolstered the “school choice fever” of parents and general society, compounding the contradiction between supply and demand.

Moreover, in the name of “internationalization,” some private education institutions have increased tuition through the provision of bilingual teaching or “foreign brands” in order to capture the market. According to a recent report, foreign-funded early childhood education accounts for 18% of the market. Similarly, an industry survey found that six institutions listed in the “Top Ten National Early Education Brand Rankings 2020–2021” are foreign (The Blue Book of Chinese Early Education, 2021).

The industrialized operation of private schools

The over-capitalization of private schools has resulted in a lack of government supervision (Zhou et al., 2018). To address this issue, “Promotion of Private Education” has clarified the legal framework for the management of for-profit and nonprofit private schools, while the relevant ministries and commissions of the State Council developed “Implementation Rules for the Supervision and Management of For-profit Private Schools.” However, the private education industry is still beset by issues, including the violation of government regulations. For instance, some schools have obtained social capital through external transactions and change in company, hindering proper school management. In August 2018, the General Office of the State Council issued “Opinions on Regulating the Development of Off-campus Training Institutions” (hereinafter, “Opinions”), the first national level policy to systematically regulate the development of off-campus training institutions, particularly in the field of education and training. Its strengths notwithstanding, “Opinions” failed to bring the private education and training industry into order. Consequently, at a 2021 MOE press conference announcing the revised “Implementation Regulations,” Changya Liu, Director of the Development Planning Department of the MOE, placed particular emphasis on the fact that education is not to be used as a tool for capital operation and that capital interests can no longer be allowed to drive the chaotic expansion of an education industry field (MOE, 2021b).

Some private schools have ignored the policy revisions pertaining to the internal management and specialization of operating schools in the country, hurriedly establishing education groups before identifying their competitive edge. This has resulted in school groups achieving rapid expansion through various means, such as joining and/or building schools in different areas. Such moves have had significant repercussions on the broader educational environment. Indeed, one survey found that the largest private education group controlled more than 1400 kindergartens. Meanwhile, in the field of higher education, a listed company runs some 26 universities with more than 300,000 students. It was recently revealed that three privately run and overseas-listed universities in the Chinese mainland have continuously acquired universities

and colleges both at home and abroad, their revenue and profits increasing by more than 30% (MOE, 2021b).

Meanwhile, both private schools and local governments have been severely affected by real estate companies and other enterprises, the expansion of which has resulted in the loss of state-owned assets and produced both policy- and operation-related risks. Other high-risk areas include private school sponsor qualifications, the implementation of the property rights of a legal representative, financial management, tuition collection and usage, student status and enrollment management, campus safety management, and faculty management. As such, there is an urgent need to review and refine the rules governing the management and operation of private education entities in China (Xin, 2021).

The lack of protection of rights and interests and decline of core competitiveness in private education

With its exponential growth, private education enjoys a higher social status and recognition in Chinese society. However, the legitimate rights and interests of all parties—including the private school, educators, faculty, and sponsors—have not been fully guaranteed, hindering the healthy development of private education. Indeed, it is difficult to enshrine the status and value of private education if the rights and interests of such institutions cannot be guaranteed. Moreover, private education institutions are still struggling to win the recognition and trust of society. In particular, private school teachers lack a sense of belonging to and identification with their school due to the unequal treatment of teachers and students in public and private schools. In fact, the core competitiveness of private schools should be created by teachers. The continuous improvement of the remuneration of public school teachers has compounded the insecurity of those in private schools, negatively affecting their work as educators. Addressing this issue is one of the main features of “Implementation Regulations.”

Certainly, a number of policies at the national and local levels were issued in response to some of the aforementioned problems in the development of private education. However, the previous system design and supervision lag far behind the private education practice, resulting in the poor implementation of “Promotion of Private Education” and the inability to create a more orderly educational environment. As such, despite, systematic system reconstruction at the top level remains necessary.

Major breakthroughs

In addition to reflecting the spirit of central policies over the past five years, the amended “Implementation Regulations” incorporates the 16-Chinese-character policy of “active

encouragement, strong support, correct guidance, law-based management” (*Jiji guli, dali zhichi, zhengque yindao, yifa guanli*). It focuses on several key issues in the reform and development of private education, standardizing and refining these issues and guiding private schools to improve their quality and develop their own characteristics. The policy embodies four main aspects: private school operation, government responsibilities, developing and instituting support measures, and optimizing corporate governance structures.

To keep a right direction of private school operation

The revised policy places particular emphasis on the need for private schools to “adhere to the leadership of the government and the direction of socialist school.” In addition, the government has the right to make related policies, participate in significant decision-making, and implement supervision in accordance with laws, administrative regulations, and relevant state stipulations. The policy also suggests strengthening the construction and role of primary party organizations in private schools. According to the policy document,

[The] head of the party organization should be a member of the decision-making body of a private school, and representatives of the Party’s grassroots organization should be the members of the supervisory body. The school’s charter shall stipulate the procedure by which the head of the school’s Party organization join the school’s decision-making body and its supervision body.

“Implementation Regulations” also regulates the qualifications of those in charge of school decision-making bodies and principals, including the stipulation that all heads and members of school decision-making bodies should be citizens of the People’s Republic of China.

In view of the foregoing, the revised policy seeks to strengthen the value orientation of private schools and their educational goals and reinforce a sense of identification with and dedication to China and its objectives. Accordingly, “Implementation Regulations” strictly regulates the use of overseas teaching materials and courses, noting that “private schools implementing compulsory education shall not use overseas teaching materials” and the use of foreign teaching materials must be “in compliance with relevant national regulations.” As such, “Implementation Regulations” highlights “adhering to the public welfare nature of education, strengthening the education of the students’ socialist core values, and implementing the fundamental task of establishing morality.”

To strengthen the government responsibilities in cultivating a fair and orderly competitive environment

“Implementation Regulations” elucidates the government’s responsibilities in the private education sector, emphasizing that compulsory education is the responsibility of the county-level government.

In this respect, it notes the need to standardize government approval and strengthen the public welfare of private education. It also points to the need for the government to intensify its efforts to regulate various school-running behaviors, improve supervision and management mechanisms, reduce unfair competition, prevent educational monopolies, and create a sound educational ecology.

Certainly, it is crucial that the growth of unequal competition as a result of the participation of local governments and public schools in the establishment and running of schools is prevented. In this regard, “Implementation Regulations” clearly prohibits local governments from using state-owned enterprises and public educational resources to operate or participate in the operation of private schools providing compulsory education. Similarly, public schools providing compulsory education are not allowed to run or participate in the running of private schools. All public schools are prohibited from running or participating in the running of for-profit private schools or nonprofit private schools, the latter of which provides profit in various and often disguised forms (e.g., management fees).

As noted, “Implementation Regulations” also comprehensively regulates the practice of running private schools and improves the daily supervision mechanism of such institutions. More specifically, the policy makes provision for improving the system through which private schools are established and the corporate governance structure of private schools, as well as specifies the organization and activities of private schools. The policy also seeks to supplement or improve related decision-making and supervisory agencies, compose standardized operating rules for private schools, and clarify relevant legal regulations regarding prominent problems in practice, including the selection of curriculum materials as well as examination and admission regulations. In particular, the policy provides detailed regulations for emerging problems in practice, including a change in organizers, group-run schools, online education, and school names. Examples of such regulations include raising the threshold for group education, clarifying responsibilities, strengthening school quality, improving the relative independence between schools, restricting monopolies, and prohibiting profiteering.

As such, the revised policy strongly suggests strengthening the financial management and strictly prohibiting profit-making practices of nonprofit schools, which seek to control private schools through capital operation. In terms of the financial and asset management of private schools, “Implementation Regulations” focuses on implementing and improving the fee collection and management mechanism of private schools in accordance with the law, strengthening fund and asset management regulations for private schools, developing new regulations on related transactions, and strictly prohibiting profit-making under the guise of nonprofit activities. More specifically, the policy document stipulates that,

[Non-profit] private schools should use accounts filed with relevant authorities for collecting fees and conducting activities. The relevant authorities shall supervise the accounts. The income of for-profit private schools shall be fully included in the school's settlement accounts in the bank. The distribution of school balances shall be carried out after the annual financial settlement.

“Implementation Regulations” further notes that if multiple private schools are held or actually controlled at the same time, the nature of the nonprofit private schools should not be changed to directly or indirectly obtain school-running profits. Significantly, such entities are not allowed to abuse their dominant market position to exclude or restrict competition. No social organization or individual is allowed to control private schools providing compulsory education through actions such as mergers, acquisitions, and agreement control. In this respect, other private schools are advised to establish an information disclosure system for related party transactions. Moreover, relevant departments are directed to strengthen the supervision of agreements signed between nonprofit private schools and interested parties and review-related transactions on an annual basis. In particular, the supervision and management of private training institutions needs to be strengthened in order to prevent education from developing into a profit-seeking industry (Dong, 2020).

To stipulate detailed measures for category-based support and supervision

The revised “Implementation Regulations” policy maintains the equal legal status of public and private enterprises and clarifies various policies and measures related to financial support, tax incentives, land security, and so on. In this regard, it is clear that private education needs to pay greater attention to the welfare of teachers and protect their rights and interests. This is reflected by the following points:

1. Private schools pay wages in full and on time according to the type of legal representative registered with the school; they also pay social insurance premiums and housing provident funds in full. Establishing supplementary endowment insurance—such as occupational annuities and enterprise annuities—for faculty and staff in accordance with relevant regulations should also be encouraged.
2. Private schools that implement preschool education and degree education should draw on a certain proportion of their tuition income to establish special capital or funds, which should be managed by the school and used for career incentives. Such expenditure can also be used to improve the treatment of faculty and staff.
3. The education administrative department should establish a record system for the labor and employment contracts of full-time teachers in private kindergartens and primary and secondary schools. They should also establish a systematic file, ensure their treatment is

equal to that of public teachers, and ensure a reasonable flow of teachers between public and private schools.

4. Schools should sign contracts with the recruited personnel in accordance with the law to clarify the rights and obligations of both parties. If hiring full-time teachers, private schools should ensure that contracts stipulate the teacher's position and responsibilities, teacher ethics and professional assessment methods, welfare treatment, training, and continuing education, and other issues in addition to the necessary items in accordance with the law.

The revised "Implementation Regulations" document emphasizes that different types of policy support should be offered in accordance with the type, level, characteristic, and task of different schools. According to the policy, "the state encourages enterprises to run or participate in running private schools that implement vocational education in the form of sole proprietorship, joint ventures, cooperation, etc." Public schools that implement vocational education can attract the capital, technology, management, and other elements of enterprises and run or participate in the running of for-profit private schools that implement vocational education. Moreover, local governments can supply land to private schools that implement preschool and academic education through bidding, auction, or agreement in accordance with the law. Local governments can also supply land through a long-term lease, first lease and then grants, or a combination of a lease and grant. Land grant fees and leases can be paid in accordance with the contract within the prescribed time limit.

The local government is also advised to pay more attention to promoting support measures and operation procedures for the category-based management of private schools. This is reflected in the detailed support and incentive policies for for-profit and nonprofit private schools with different natures in terms of tuition pricing, asset and financial management, and financial aid. According to "Implementation Regulations," local governments may refer to relevant funding standards and support policies, such as the average expenditure of public schools at the same level, and provide appropriate subsidies to nonprofit private schools. Local governments should also encourage and support nonprofit private schools to guarantee the welfare of teachers through government subsidies and rewards. In this respect, private schools enjoy priority in acquiring leased and transferred idle state-owned assets, while for-profit private schools enjoy tax incentives stipulated by the state.

Furthermore, the revised policy notes that greater encouragement should be given to financial and insurance institutions to provide services for private schools in terms of finance and risk protection, which typically reflect the effective management of private education (Fielden & LaRocque, 2008). According to "Implementation Regulations," the state will encourage and

support insurance institutions to ensure that insurance products are suitable for private schools; explore the establishment of mutual support among industries and other mechanisms; and provide risk protection for issues such as the handling of major accidents, termination of the aftermath, and protection of the rights and interests of faculty and staff. In this regard, financial institutions can develop financial products suitable for the characteristics of private schools under the premise of controllable risks. Meanwhile, private schools can obtain finance using future operating income, intellectual property rights, and so on. In addition, qualified localities are encouraged to use social forces to set up private education development foundations or special funds to support the development of private education.

To optimize the corporate governance structure to promote the independent management and characteristic development of private schools

Finally, “Implementation Regulations” improves the corporate governance structure and school operation and management methods in terms of the composition of decision-making agencies, qualifications and responsibilities of directors, establishment of association articles, and composition of board supervisors. In this respect, the revised policy seeks to strengthen the responsibilities of the board of directors, whose responsibilities should include the change of sponsors, appointment and dismissal of principals, revision of school regulations, formulation of school rules, regulation and development planning, and the approval of annual work plans. Other responsibilities include collecting school-running funds, reviewing budgets and final accounts, decisions regarding the establishment quota, the salary standard of faculty and staff, as well as the division, merger, and termination of the school. The board of directors is also responsible for any other major issues stipulated in the school association articles (Dong, 2017).

“Implementation Regulations” has also seeks to strengthen the legal responsibilities of private schools. The sponsors, actual controllers, heads of decision-making bodies, principals, and other stakeholders have a significant influence on the operation and management of private schools. If any stakeholders have violated any laws and regulations, “Implementation Regulations” stipulates that, in addition to the general punishment, they must be prohibited from engaging in employment, including any corresponding jobs, for a certain number of years. Significantly, any transgressors are prohibited from holding a position of authority in any new decision-making bodies or serving as the principal of private schools for life. Article 61 of “Implementation Regulations” articulates the school-running and management responsibilities of private school sponsors and their actual controllers, while Article 62 identifies 11 aspects of the teaching management responsibilities of organizers or operators.

One of the main objectives of “Implementation Regulations” involves promoting the self-management of the private education industry and facilitating the independent management and innovative development of private schools under regulatory norms. With the improvement of

living standards, people's awareness of educational choices and demands is constantly improving. No longer limited to providing the same educational opportunities as public schools, private schools can and should provide alternative educational supplies to meet differentiated educational needs. In this respect, the revised policy advances the need for private schools to reexamine their strategic plans and school position, innovate teacher recruitment methods, use information technology to promote teaching reformation, form an internal mechanism for sustainable development, and demonstrate school-running characteristics. At the same time, "Implementation Regulations" highlights the important role of industry associations and other intermediary organizations in establishing early warning mechanisms, such as information sharing, risk prevention, and control. A quaternity type of private education governance system is recommended insofar as it strengthens the sense of authority and responsibility, industry self-discipline, and social and administrative supervision (Dong, 2017).

Following the promulgation and implementation of the first education regulation in the first year of the "Fourteenth Five-Year Plan," the revised "Implementation Regulations" policy places further emphasis on the indispensable status of private education in China's educational development from the macro-strategic level. At the same time, a historical and realistic perspective notes that the current problems in private education must be addressed by constructing a legal system, recognizing government responsibilities, and strengthening bottom-line thinking to support and guarantee the healthy and distinctive development of private schools.

Anticipated impacts on the future development of private education in China

In addition to reflecting the government's determination to regulate and support private schools in a variety of aspects, the recent revisions to the "Implementation Regulations" policy highlight the government's intention to push governments at all levels to make steady and orderly progress by releasing policy signals. The implementation of the revised policy is neither a "one-size-fits-all" approach nor something that can be achieved overnight. On the contrary, the meaning and impact of the policy will differ across regions, schools, and organizations. The policy is expected to have several repercussions, including the following.

First, it is expected that the proportion of private educational institutions of different levels and types will decrease significantly with the exception of private vocational schools, especially at the compulsory education stage. In accordance with the "Fourteenth Five-Year Plan," all regions will not only postpone the approval of newly established private schools in the compulsory education stage but make adjustments to the existing stock. Among them, the number of students in private schools will be reduced from about 20% to 5% within the province. Although the development speed of private education has slowed down dramatically, this does not mean that private education institutions

will no longer be approved. Rather, there will be greater differences between regions and levels. For example, in the process of governing public participation, the economies of different regions vary considerably. Some local governments cannot support the compulsory education system at all and have highly complex educational backgrounds, which will inevitably lead to the emergence of new types of private schools. In Beijing, Shanghai, Guangdong, Sichuan, and other provinces, there will be a substantial reduction in the number of students in private primary and secondary schools, exacerbating anxieties regarding education. Moreover, as the scope of enrollment in compulsory education and high school is strictly limited, competition among private schools is expected to intensify, pushing private schools with noteworthy characteristics to the fore.

Second, specialized schools largely characterized the provision of bilingual education of international brands affiliation (including Chinese-foreign cooperative schools) will endure greater impact, with the exceptions of higher and vocational education. Foreign capital institutions have become involved in private primary and secondary school management and operation in various ways, including expansion into the kindergarten and early education markets. This has raised a number of risks, including those at the policy and ideological levels as well as risks related to management and quality. The revised “Implementation Regulations” policy regulates and manages such quasi-international schools in terms of enrollment, curriculum, and internal management. This will inevitably lead to a crisis of public trust in such schools. Integrating resources, strengthening localized curriculum development, and highlighting the international competitiveness of China’s education will likely become the appropriate strategy for such private schools.

Third, it is difficult to contain the trend of collective private education development. “Implementation Regulations” specifically highlights the need to curtail the capitalization, commercialization, and industry monopoly brought about by group education. However, this round of private education regulation will invariably result in the reselection of sponsors, and mergers and acquisitions are inevitable. Moreover, some institutions are facing post-merger transformation, shifting from private schools under construction (preparatory) to high school education, vocational education, or inclusive kindergartens. Furthermore, the vast majority of individual private schools have yet to identify their own core competitiveness, making it difficult to cope with the latest bout of competition in the education market. Collectivization will help to enhance the ability of schools to resist risks. In contrast to the previous stage, private education groups will not move toward a large trust organization but establish a cluster based on the region or group to avoid the operational risks brought about by large-scale chains. Private schools will soon endure a new “shuffle” of the market.

Finally, the development of for-profit private schools will be significantly restricted. The “Implementation Regulations” policy emphasizes the need to promote the classified management of private education and refines specific measures in this regard. Nonetheless, the focus is still on encouraging the development of non-profit schools. It will take a relatively long time to

implement the preferential tax policies for for-profit schools. Indeed, greater emphasis has been placed on the public welfare of private education in the new era. As the income of for-profit schools is included in bank settlement accounts, the openness and transparency of information will pose new challenges for such private schools—and even more so for private off-campus training institutions. Although the revised policy does not specifically detail the governance measures for private off-campus training institutions, it does emphasize that private educational institutions should move away from capitalization, monopolization, and profit-seeking behavior. Such policy directives will undoubtedly restrict the survival and development of private training institutions.

Conclusion

Promoting the healthy development of private education in China requires a systematic approach. In this respect, the standardization and support of the revised “Implementation Regulations of the Private Education Promotion Law of the People’s Republic of China” should not only run parallel to the improvement of the taxation, land policy, financial insurance, and other systems but be implemented simultaneously with the modernization of China’s governance capabilities.

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