Content

Title：	Act Governing the Closure of Private Educational Institutions at Senior High School or Higher Level Ch
Date：	2022.05.11
Legislative：	Presidential Decree Hua Zong Yi.Yi.Zi. No. 11100039261 issued May 11, 2022: promulgation of complete text of 25 articles, taking immediate effect.
Content：	Article 1 This Act is enacted to establish the Closure of Private Educational Institutions at Senior High School or Higher Level (hereinafter referred to as “the school”) for the purpose of protecting students’ rights to education and teachers’ and staff members’ interests under the impact of low birth rates. For matters not covered in this Act, the provisions in the Private School Law shall apply. Article 2 The competent authorities for this Act are: the Ministry of Education at the central government level and the municipal governments at the municipal level. Article 3 The central competent authority shall set up the Closure Fund for Private Senior High School or Higher Level (hereinafter referred to as “the Fund”) to assist in school closures for the purpose of protecting students’ rights to education and teachers’ and staff members’ interests. The Fund comes from: 1.Grants from the government based on the regular budget procedures. 2.Interest income from the Fund. 3.Donation income. 4.Income from donated property remaining after the dissolution and liquidation of the school legal persons (hereinafter referred to as the “school legal persons”) . 5.Reimbursements from school legal persons or municipal competent authorities that have received advances. 6.Income from the disposal of the Fund’s property. 7.Other related income. The Fund is utilized for the following purposes: 1. Subsidies for the following costs: i.)Costs related to helping student placement for school under special guidance and have stopped all admission activities and those related to protecting students’ rights to education. ii)The abovementioned costs expended by private senior high schools under the assistance of the municipal competent authority. 2. Advances for the following costs: i.)Costs required for maintaining normal operation of a school under special guidance that has stopped all admission activities and after reorganization of the board of directors by the school legal persons’s competent authority. ii)Costs required for paying the insurance, pension, or severance of teachers and staff members who worked for school under special guidance that have stopped all admission activities and after reorganization of the board of directors by the school legal persons’s competent authority. iii) Necessary costs required for the dissolution and liquidation of a school legal persons as confirmed by the central competent authority. iv) The three abovementioned costs expended by private senior high schools under the assistance of the municipal competent authority.

3. Advances for paying teachers' and staff members' salaries owed by schools that are closed before the implementation of this Act.
4. Other management, general affairs, and related expenses.
Municipal competent authorities may apply for subsidies or advances from the Fund for the purpose of assisting in the closure of private senior high schools under their jurisdiction.
Advances granted by the Fund shall be deposited into a designated account of the school legal persons in a financial institution earmarked for usages as described in Subparagraphs 2 and 3 of Paragraph 3. The fund deposited into the designated account shall not be used as the subject of offset, seizure, guarantee, or compulsory enforcement.
The central competent authority shall lay down regulations on the targets of subsidies or advances, application eligibility and procedures, review procedures, standards for granting subsidies and advances, repayments of the advances, and other related matters.

Article 4
The competent authorities shall establish the Closure Review Committee for Private Senior High School or Higher Level (hereinafter referred to as "the Review Committee") to deliberate on the following matters:
1. Identification and removal of "school under special guidance" according to Article 6.
2. Matters that shall not be undertaken by school under special guidance according to Article 11.
3. Appointment and dismissal of directors and supervisors designated by a school legal persons' s competent authority according to Article 12.
4. Penalties that ordain school under special guidance to stop all admission activities and cease operation according to Article 13.
5. Reorganization of a school legal persons' s board of directors according to Article 14.
6. Approval and order of the dissolution of a school legal persons according to Article 21.
Matters mentioned in Subparagraphs 1, 2, and 4 of the preceding paragraph shall be reviewed by the Review Committee of the school's competent authority; matters mentioned in Subparagraphs 3, 5, and 6 thereof shall be reviewed by the Review Committee of the school legal persons' s competent authority.
The Review Committee mentioned in Paragraph 1 shall include 15 to 25 members; one of them shall be the convenor, to be designated by the relevant competent authority. The other committee members shall be hired (or appointed) by the relevant competent authority from among the following categories of personnel. Those mentioned in Subparagraphs 2 to 5 shall comprise no less than two thirds of all committee members. Members of either gender shall be no less than one third of all committee members
1. Representatives from the relevant authority.
2. Representatives from the school legal persons.
3. Representatives of the school's teachers.
4. Representatives of the school's students.
5. Experts or scholars with professional background in accounting, finance, law, or education.
6. Impartial public figures.
When deliberating on matters mentioned in Subparagraphs 1, 2, and 4 of the first paragraph, the Review Committee shall appoint two additional full-time teachers or staff members and two students of the school as committee members, without restriction as prescribed in the preceding paragraph.
Matters reviewed by the Review Committee are exempted from the requirement to seek advice from the Private School Consultative Committee as stipulated by the Private School Law.
Regulations relating to the selection of the Review Committee members, organization and operation of the Review Committee, etc. as mentioned in Paragraph 1 shall be determined by the competent authority.

Article 5
In any of the following circumstances, a school shall be identified as "under early warning" upon investigation and confirmation by the school's competent authority:

1. The school’s financial status has deteriorated and is likely to affect normal operation of the school.
2. For private schools of junior college level or above, the number and qualification of teachers in more than 50% of the school’s colleges, institutes, departments, and degree programs are not up to the standards specified by the law and regulations in the most recent academic year.
3. Private schools of junior college level or above fail the assessment of performance in protecting students’ rights to education in the most recent semester.
4. Percentage of qualified teachers in a private senior high school falls below 50%.
The school’s competent authority shall inform the school under early warning in writing, and may also perform a financial financial audit of the school, provide consultation and guidance, or assess its performance in protecting the students’ rights to education.

Article 6
In any of the following circumstances, a school shall be proclaimed as “school under special guidance” upon review and confirmation by the Review Committee after being brought up by the school’s competent authority:
1. Financial status has significantly deteriorated, with proven fact of inability to pay debts or serious impact on the normal operation of the school.
2. In the event of the circumstance described in Subparagraph 2, Paragraph 1 of the preceding article, the school continues to have the number and qualification of teachers in more than 50% of its colleges, institutes, departments, and degree programs not up to the legally specified standards in the subsequent academic year after the school’s competent authority has ordained improvement by a deadline.
3. In the event of the circumstance described in Subparagraph 3, Paragraph 1 of the preceding article, the school still fails the next assessment in due time after the school’s competent authority has ordained improvement by a deadline.
4. In the event of the circumstance described in Subparagraph 4, Paragraph 1 of the preceding article, the school’s percentage of qualified teachers still fails to reach 50% in the subsequent academic year after the school’s competent authority has ordained improvement by a deadline.
5. The school has owed teachers’ salaries and been fined by the school’s competent authority pursuant to the provisions in the Teacher Remuneration Act.
6. Being identified as a school under early warning twice or more in three years.
7. Violation of the Private School Law, education related law and regulations, or the school legal persons’s charter of endowment, with serious circumstances affecting the rights and interests of students or teachers and staff members.
The school’s competent authority shall establish an inspection and guidance team to perform regular inspection and guidance on the school under special guidance. The relevant inspection and guidance records shall be publicly disclosed until the school is reviewed and the label removed by the Review Committee.
Regulations governing the identification and removal criteria and procedures for the school under early warning as described in the preceding article, the review and identification criteria, procedures, proclamation method, guidance, and supervision of school under special guidance as described in Paragraph 1, criteria and procedures for removal from special guidance, and other related matters shall be laid down by the central competent authority.
A school under special guidance that was identified before the implementation of this Act shall be proclaimed as “under special guidance” if it is reviewed and confirmed by the Review Committee to have any of the circumstances described in Paragraph 1 after being brought up by the school’s competent authority.

Article 7
A school under special guidance shall report to the school’s competent

authority and obtain consent before undertaking a construction project, goods and services procurement, financing, disposal of movable property and other rights, and creation of encumbrance with a worth of more than NT$1 million.
Failure to comply with the provision of the preceding paragraph will be listed as a reference for the school's improvement status by the competent authority.

Article 8
A school legal persons shall fulfill the following requirements during the time when a school it set up is proclaimed as "school under special guidance":
1. Be responsible for improving the school's operation and finance.
2. No remunerated full-time chairman of the board, directors, or supervisors shall be instituted.
3. All expenditures of the board of directors shall not exceed the levels specified by the school legal persons' competent authority, and the principle of austerity shall be observed.
4. Spouses, blood relatives and in-laws within third-degree affinity of the school legal persons' chairperson, directors, and supervisors shall not serve as executives of the school under the corporation or its affiliated organizations.
5. A list of the board of directors shall be announced on the websites of the school's and school legal persons' competent authorities.

Article 9
Apart from disclosure of information relating to school affairs, a school under special guidance shall also disclose additional information upon request of the school's competent authority. When necessary, the competent authority may commission an agency or a group to perform financial monitoring on the school under special guidance.

Article 10
A school under special guidance shall make every effort to protect students' rights to education. The school's competent authority shall assess the school's performance in protecting students' rights to education and, depending on actual circumstances, may coordinate with other schools to help with the offering and delivery of classes.
A school under special guidance shall not force students to transfer to other schools. In case a student desires to make a transfer, the school shall give due assistance to the student for the transfer.

Article 11
A school under special guidance shall not engage in the following activities unless an approval from the school's competent authority is obtained:
1. Offer a distance-learning program. However, a distance-learning program that is already offered should be carried out as planned until the end of the semester.
2. Engage in extension education. However, extension education classes that are already offered should be carried out as planned until the end of the semester.
3. Engage in recurrent education in the form of out-of-school classes. However, classes that are already offered should be carried out as planned until the end of the semester.
4. Engage in vocational continuing education. However, vocational continuing education classes that are already offered should be carried out as planned until the end of the semester.
5. Offer exclusive classes for indigenous peoples.
6. Offer overseas classes.
7. Admit overseas students.
8. Engage in independent enrollment of students.
9. Allow private junior colleges or above to admit master's or Ph.D. students.
10. Other matters decided by the Review Committee.
The school's competent authority may suspend part or all of the incentives

and subsidies for a school under special guidance.

Article 12
For the purpose of bolstering governance of school under special guidance, the school's competent authority shall designate at least three additional directors of the school legal persons from among the school's full-time teachers or staff members, students, experts and scholars, plus one more expert or scholar to be the supervisor, exclude from restriction as prescribed in Paragraph 1, Article 15 and Paragraph 1, Article 19 of the Private School Law, and the school legal persons' s charter of endowment. The duties and authority of the aforesaid directors and supervisor shall be the same as the directors and supervisors instituted according to the Private School Law, and are replaceable depending on actual needs.
The aforesaid full-time teachers or staff members, students, experts and scholars who serve as directors shall not be the spouses, blood relatives or in-laws within third-degree affinity of the original chairperson, directors, or supervisors of the school legal persons. When the teachers or staff members who serve as directors resign, their directorship shall be replaced.
The board of directors' meetings of the school legal persons owning a school under special guidance shall be thoroughly audio or video recorded. If the directors or supervisor mentioned in Paragraph 1 have expressed an objection to a resolution, the school legal persons shall record their objecting opinions in the minutes of the meeting, report it to the school legal persons' s competent authority within 10 days, and publicly disclose it on the website specified by the school legal persons' s competent authority.

Article 13
A school under special guidance should make improvement within two years from the date the proclamation mentioned in Paragraph 1 of Article 6 is made. If the school fails to have the school's competent authority remove its label upon the deadline, the competent authority shall order the school to stop all admission activities in the next academic year and close at the end of that academic year when admission stops.
The improvement period for a school under special guidance as mentioned in Paragraph 4 of Article 6 shall not exceed one year, to be determined by the Review Committee after being brought up by the school's competent authority. If the school fails to have the school's competent authority remove its label upon the deadline, the competent authority shall order the school to stop all admission activities in the next academic year and close at the end of that academic year when admission stops.

Article 14
When a school under special guidance is approved or ordered to stop all admission activities by the school's competent authority, the school legal persons' s competent authority shall remove all the directors of the school legal persons from their offices at the same time and reorganize the board of directors. The number of full-time teachers or staff members, experts and scholars who serve as directors shall be no less than three quarters of all directors, and one third of them shall be preferentially undertaken by full-time teachers or staff members, notwithstanding any restriction stated in the school legal persons' s charter of endowment.
The full-time teachers or staff members, experts and scholars who serve as directors as mentioned in the preceding paragraph shall not be the spouses, blood relatives or in-laws within third-degree affinity of the original chairperson, directors, or supervisors of the school legal persons. When the full-time teachers or staff members who serve as directors resign, their directorship may be replaced by experts or scholars, notwithstanding the restriction stated in the preceding paragraph.
After the reorganization of the board of directors, the school legal persons' s competent authority shall designate a director to convene the board of directors' meeting for selecting a chairperson of the board within one month, which should be reported to the school legal persons' s competent authority for approval.
After closure of the school under special guidance, the office term of the

directors mentioned in Paragraph 1 should end on the closure date if the school legal persons has prepared to set up another school or has another school in operation. Also, a meeting shall be held for electing the next term's directors according to Article 21 of the Private School Law and the school legal persons' s charter of endowment.
The additional directors and supervisor designated by the school legal persons' s competent authority as mentioned in Article 12 and Paragraph 1 herein shall maintain impartiality, and shall not have direct or indirect interest in the school legal persons. Regulations governing their qualifications, selection and appointment procedures, term of office, replacement, costs, duties, and other related matters shall be determined by the school legal persons' s competent authority.

Article 15
After the school legal persons' s competent authority has reorganized the board of directors according to the provision of the preceding article, the board of directors may dismiss the president of the school under special guidance with more than half of all directors' consent and more than two thirds of the directors attending the meeting, notwithstanding the provision of Paragraph 2, Article 43 of the Private School Law is not applicable.
When the presidentship of the school under special guidance becomes vacant as described in the preceding paragraph or due to other reasons, the board of directors may select and appoint an appropriate person to be the acting president, the provision of Article 42 of the Private School Law is not applicable.

Article 16
After the school legal persons' s competent authority has reorganized the board of directors pursuant to Article 14 herein, the school under special guidance shall maintain normal school operation before it ceases operation, and shall continue to offer and deliver classes. The costs involved can be paid out of advances from the Fund.

Article 17
A school under special guidance shall grant allowances to the teachers and staff members in accordance with the following rules:
1. Severance allowance: When dismissing full-time teachers and full-time staff members in which the Labor Pension Act does not apply, a severance allowance shall be given based on their years of service in the school after January 1, 2010. Half-month pay of their last salary or wage should be given for each full year of service; the pay will be calculated on pro rata basis for less than one year's service.
2. Retirement allowance: The school shall draw up regulations relating to the retirement allowance for full-time teachers and staff members, to be implemented after approval by the board of directors.
3. Resignation allowance: The school shall draw up regulations relating to the resignation allowance for full-time teacher and staff members who leave their offices in circumstances other than those described in the two preceding subparagraphs, to be implemented after approval by the board of directors.
If the allowances mentioned in the preceding paragraph are paid out of advances from the Fund after the reorganization of the board of directors by the school legal persons' s competent authority, the maximum advance each person can get shall be limited to six months' last salary or wage.
Dismissed or resigned teachers or staff members who desire to continue working may look for a change of job using the job matching mechanism established by the school's competent authority. Other schools that hire the teachers or staff members as their full-time regular staff may be subsidized by the school's competent authority.

Article 18
The employment contracts between a school under special guidance and its teachers and staff members terminate one day before the school closes. The school under special guidance shall dismiss the teachers and staff members who have not finished their dismissal procedures on the closure date, and

grant the severance allowance as prescribed in Paragraph 1 of the preceding article, notwithstanding the provision of Paragraph 1, Article 27 of the Teachers' Act and the school's relevant dismissal procedures is not applicable.
After ceasing operation, the school under special guidance shall not have more than five employees, and their job descriptions, salaries, and other rights and duties shall be individually contracted between the school legal persons and the parties concerned.

Article 19
After a school under special guidance has stopped all admission activities, students who are still studying in the school when it ceases operation shall be assigned to other schools by the school's competent authority to continue their study.
If the students incur increased expenses due to the transfer of school as described in the preceding paragraph, the school's competent authority shall provide a subsidy, or grant a financial aid when necessary.
Regulations governing the principle of school selection, method of student assignment, credit waiver, conditions of graduation, and other related matters shall be determined by the central competent authority.

Article 20
When a school under special guidance ceases operation, the school shall submit all information that needs to be kept permanently such as student information, staff's personnel information, the school's inventory of property, financial statements and records, etc. to the school designated by the school's competent authority for continued preservation.

Article 21
Within two months after a school under special guidance has ceased operation, the respective school legal persons shall apply to the school legal persons' competent authority for approval of dissolution if the school legal persons has not planned to establish another school or has no other school in operation. The school legal persons' competent authority shall ordain its dissolution if the school legal persons fails to do so before the deadline.
The provisions of Articles 73 and 75 of the Private School Law shall apply to the dissolution and liquidation procedures of the school legal persons as mentioned in the preceding paragraph.
After the dissolution and liquidation of the school legal persons as described in Paragraph 1, allocation of the remaining property, except in the event of a merger, shall be handled as stated below, notwithstanding the provision of Article 74 of the Private School Law is not applicable:
1.Donate to the Fund, a central government's agency or a public school based on the board of directors' decision upon report to and approval by the school legal persons' competent authority.
2.Allocate to the municipality, city or county where the school legal persons is located; but real property shall be allocated to the municipality, city or county where the real property is located.
Provisions in the three preceding paragraphs shall also apply to schools that have already ceased operation before the implementation of this Act, and have not been able to resume operation or shift to other types of educational, cultural or social welfare corporation by the end of the closure period.
For a school that has stopped all admission activities before the implementation of this Act, the school's competent authority shall bring it up to the Review Committee for deliberation. If any of the circumstances listed in Paragraph 1 of Article 6 is confirmed, the school shall be ordered to close within one year after the implementation of this Act, and the provisions from Articles 14 to 20 and Paragraphs 1 to 3 herein shall apply.

Article 22
Upon liquidation of a school legal persons, the salaries it owes to the teachers and staff members, as well as the insurance premium, excess annuity, retirement and compensation fund, pension fund, severance pay,

allowances, and any of the above funds advanced by the Fund that it should incur pursuant to the law and regulations applicable to the teachers and staff members shall enjoy priority of compensation claim over ordinary creditors' claims and unguaranteed preferential claims.

Article 23
For the remaining property donated to the Fund, a central government agency, or a public school not set up by the local government after the dissolution and liquidation based on the decision of the school legal persons' s board of directors, the originally exempted land value increment tax on donated land pursuant to Article 28-1 of the Land Tax Act shall be made up and paid by the Fund, the central government agency, or the public school not set up by the local government when accepting the donated land.

Article 24
The school legal persons owning a school under special guidance may apply to the school' s competent authority or the school legal persons' s competent authority for a restructure of the institution, merger with another school legal persons or school, shift to other types of educational, cultural, or social welfare corporation after closing the school within two years from the date prescribed in Paragraph 1 of Article 6 pursuant to the Private School Law. The provisions in Paragraph 1 of Article 13, Articles 14 to 20, and Paragraphs 1 to 3 of Article 21 shall apply if such application has not been completed by the deadline.

Article 25
This Act shall come into effect on the date of promulgation.

Files： Act Governing the Closure of Private Educational Institutions at Senior Secondary or Higher Level.pdf

Data Source： Laws and Regulations Retrieving System