Content

Title：	Act Governing the Commissioning of the Operation of Public Elementary and Junior Secondary Schools to the Private Sector Ch
Date：	2014.11.26
Legislative：	This Act was promulgated under Presidential Decree Hua.Zong.Yi.Yi.Zi. No. 10300177151 on November 26, 2014, with total 33 articles and sha 11 be enforced on January 1, 2015.
Content：	Chapter 1 General Articles Article 1 This Act is specifically promulgated in order to encourage private sector’s involvement in the operation of public elementary schools and junior high schools, expedite educational experiment and diversity, develop educational features, and nurture holistic citizens with balanced teachings of morals, knowledge, physical strength, social skill, and aesthetics. Article 2 The competent authority as mentioned in this Act shall mean the Ministry of Education at central government level, or municipal government at municipality level, and county/city government at county/city level. Article 3 The terms used in this Act are defined in below: 1. Private management consignment shall mean competent authority of municipal, county, or city government outsourcing its operation of a public elementary school or junior high school (herein after referred to as the Schools), in particulars, use of school land, building, and teaching equipment, zoning of school district, collection of tuition and fee, curriculum, employment and compensation packages for principal, faculty, and staff, administrative organization, manning quota, class organization principles, teaching assessment, school budget execution, and school evaluation, to a consignee through entering into an administrator’s agreement in order to develop local education features, fulfill educational ideas, and encourage educational experiment. 2. Consignee shall mean a person with domestic nationality, a non-for-profit private corporation, or a civilian institute or group being consigned by a competent authority of municipal, county, or city government with the task of school management. However, incorporated school and its affiliated private school or short-term supplementary school shall not be a consignee. 3. Consigned school shall mean a school of which management is consigned to a consignee by a competent authority of municipal, county, or city government; the school shall remain as a public school. The person, or a representative or person in charge of a private corporate, civilian institute or group mentioned in Subparagraph 2 of the previous Paragraph shall not contradict with Paragraph 1 of Article 31 of the Act of Governing the Appointment of Educators. Article 4 A competent authority of municipal, county, or city government consigning its management of schools to a private contractor shall provide adequate budget for the consigned school to cover personnel expense, building and equipment expense, and operation expense. The consigned schools shall protect students’ right to receive education and fulfill the public welfare, public purpose, efficacy, experiment nature, diversity, and innovation in citizenship education. Article 5 The Paragraph 2 of Article 4, Paragraph 3 of Article 5, Paragraphs 1 and 2 of Article 6, Article 8, Article 8-2, Paragraphs 1 to 5 of Articles 9,

Paragraphs 2 to 4 and 6 of Article 10, and Articles 12, 13, and 18 of the Primary and Junior High School Act , Articles 19, 20, and 23, Paragraphs 1 and 2 of Article 24 of the Teachers' Act, Articles 4, 5, 12, 13, 21, 27, and 28 of the Act of Governing the Appointment of Educators, and other related regulations governing self-governance do not apply to school district zoning, collection of tuition and fee, curriculum, employment, pension, and compensation packages for principals, faculty, and staff, administrative organization, manning quota, class organization principles, and teaching assessment of a consigned school. The scope of the said inapplicability shall be stated in the administrator's agreement made by the respective competent authority of municipal, county, or city government.
The consigned school shall comply with the intention of the Gender Equity Education Act in terms of faculty hiring, student recruitment, curriculum, and teaching.

Chapter 2 Procedures for Application and Review
Article 6
A competent authority of municipal, county, or city government shall invite scholars, experts, local community leaders, parents, or other stakeholders to undertake an evaluation activity pertaining to its consignment of school management prior to the said consignment, and organize a public hearing when necessary.
A person, non-for-profit private corporate, or civilian institute or group concerning a specific school management consignment may request the competent authority of municipal, county, or city government to approve for an evaluation project or public hearing pursuant to the previous Paragraph.
Prior to dissolution or merger of schools, the competent authority of municipal, county, or city government shall undertake an evaluation activity and organize public hearing in accordance with Paragraph 1, and then proceed to private management consignment.

Article 7
Having passed by the evaluation project mentioned in the previous Article, a competent authority of municipal, county, or city government shall announce the related information about qualification, duration, rights and obligations, screening criteria, deadline for application, and decision procedure and open for applications.

Article 8
The application mentioned in the previous Article shall require an operation plan that includes the following items:
1. The name and domicile or residence of an applicant as a person, or the name and public affair office, firm, or office of an applicant as a private corporate or group;
2. Duration of plan execution;
3. Goals, visions, features, and expected outcomes of the plan;
4. The regulations need to be exempted in accordance with Paragraph 1 of Article 5, and the reasons and substitute solutions for the said exemption;
5. The qualification and expertise of the principal and faculty to be hired;
6. Intended administrative organization and staff quota;
7. Methods and related matters for hiring personnel;
8. Curriculum design and instruction methods;
9. Campus planning, environment design, and teaching facility plan;
10. Recruitment target, student enrollment, and class size;
11. Short-, mid-, and long-term financial planning; and
12. Other issues required by the respective competent authority of municipal, county, or city government.
The competent authority of municipal, county, or city government concerning the operation plan mentioned in the previous Paragraph shall have the said plan reviewed initially by scholars and experts and re-examined by the municipal, county, or city education review committee. If the management consignment is approved by the competent authority, it should notify the applicant and announce through public bulletin.

Article 9
The application shall sign agreement with the competent authority of municipal, county, or city government within one month from the day next to the notice date of approval of management consignment, and the said agreement shall include the followings except the operation plan mentioned in Paragraph 2 in above:
1. Name and location of school;
2. Consignment duration;
3. Enrollment date and school zone and district;
4. Assistance should be provided by the competent authority of municipal, county, or city government;
5. Expenses to be borne and tasks to be assumed by each party;
6. Specific performance indicators;
7. Transfer of management subjects;
8. Handling of breach; and
9. Other related matters.

Article 10
The applicant shall complete the following tasks within 3 months after signing an administrator’s agreement, report the said completion to the competent authority of municipal, county, or city government for approval, and proceed to student enrollment:
1. Obtain letter of consent to employment from the principal, faculty, and staff;
2. Complete teaching preparations like curriculum planning, teaching and activity design, and use of teaching resource; and
3. Complete preparation for student enrollment.
An applicant fails to complete the abovementioned tasks may apply for an extension not exceeding 3 months; further failure after the said extension shall be subject to revocation of permit and termination of agreement by the competent authority of municipal, county, or city government.
A consignee that deems change of administrator’s agreement necessary shall submit a proposal of amendment draft to the competent authority of municipal, county, or city government for amendment approval. If change of operation plan is involved, an amended operation plan shall be also submitted together.

Chapter 3 Rights and Obligations of Faculty, Staff, and Employee
Article 11
The principal, faculty, and staff hired/assigned by a school within its organization system in accordance with applicable regulations concerning hiring of educators and public employee and prior to the competent authority of municipal, county, or city government’s private management consignment shall be transferred to the consigned school on the date of consignment to continue their employment with the same status of educators and public employee, and remain the subjects to the originally applicable laws concerning their employment, tenure, disciplinary actions, performance assessment, training, advance study, compensation, insurance, protection, right to form organization, retirement, layoff, survivor’s benefits, benefits, and other entitled rights.
The governance of the personnel affair and accounting personnel among the retained personnel mentioned in the previous Paragraph shall be the same with other public employee.
The regulations concerning organization and applicable before the consignment date shall be applicable to the retained public employee mentioned in the previous Paragraph regarding to their promotion and civil service assessment.
Articles 15, 16, and 17 shall be applicable to the personnel mentioned in Paragraphs 1 and 2 who are retired or lay off but then hired by the consignee, and their monthly pension pay and favorable saving plan will be suspended.

Article 12
The competent authority of municipal, county, or city government shall consult with and provide job placement initiatives for the principal, faculty, or staff mentioned in Paragraph 1 of the previous Article who are

not willing to transfer to the consigned school, otherwise they shall retire or depart on the date of consignment in accordance with applicable regulations.

Article 13
The Act of Governing the Appointment of Educators shall be applicable to the personnel who are hired/assigned by and outside organization system to assume concurrent teaching positions with a school in accordance with applicable regulations concerning hiring of educators prior to the competent authority of municipal, county, or city government's private management consignment, and accept the transfer to the consigned school on the date of consignment to continue their employment, until the expiration of their employment agreement.

Article 14
The consignee shall recognize the labor conditions and labor seniority of the laborers of the original school, to whom the Labor Standard Act is applicable, being transferred to the consignee on the consignment date. The original school shall preannounce the termination of labor agreement in accordance with the laws with the laborers who do not wish to transfer, and pay for the severance or retirement in accordance with applicable laws.
The helpers hired by the original schools in accordance with the existing Key Points for Managing Helpers (previously known as the Rules Governing General Affairs) (including technicians and drivers; herein after referred to as original school helpers) who transfer to the consignee on the consignment date and shall apply for retirement or departure on the consignment date. After the consignment date, the original school helpers shall be otherwise governed by the personnel policies adopted by the consigned schools.
The competent authority of municipal, county, or city government shall provide job placement initiatives for the school helpers mentioned in the previous Paragraph who are not willing to transfer to the consignee, and the new employer organization (agency) shall recognize the work seniority already accumulated.

Article 15
The consignee may hire a person with specific expertise to assume the position of school principal according to the needs of school development and teaching features, while employment priority shall be given to an educator who qualifies as a school principal in accordance with the Act of Governing the Appointment of Educators.

Article 16
The consignee may hire persons with expertise in specific subject or discipline as teaching personnel according to the needs of school development and teaching features, while employment priority shall be given to the persons holding teacher certificates.
The regulations governing public school teachers shall be applicable to the rights and obligations, excluding compensation and benefits, of the teacher certificate holders who are not full-time teachers within organization system as mentioned in Paragraph 1 of Article 11, unless otherwise agreed upon in the agreement made among the competent authority of municipal, county, or city government, consignee, consigned schools, and the teachers, where more favorable personnel policies adopted by the consigned schools are available.
The following rules shall be applicable to the full-time teachers holding teacher certificate hired beyond organization system:
1. The regulations governing public school teachers shall be applicable to their rights and obligations, excluding compensation and benefits, unless otherwise agreed upon in the agreement made among the competent authority of municipal, county, or city government, consignee, and teachers, where more favorable personnel policies adopted by the consigned schools are available.
2. Their retirement, survivor's benefits, layoff, and insurance shall be governed by the personnel policies adopted by the consigned schools, and the regulations governing public school teachers do not apply in the

matters hereto.
The consigned schools shall comply with the regulations governing recognition of work seniority accumulated by the teachers of the consigned schools prior to the promulgation of this Act regarding to their retirement, survivor's benefits, firing, and insurance applications.
The compensation and benefits for teaching personnel who do not hold teacher certificates shall be governed by the agreement made between the consignee and the said teaching personnel and the personnel policies adopted by the consigned schools, and the regulations governing public school teachers do not apply to their retirement, survivor's benefits, layoff, and insurance. Their work seniority accumulated at equivalent position with good service record and with teacher certificate on teaching jobs at public schools may be included in the determination of salary tiers without exceeding the highest seniority-salary class allowed for the position currently held.
With consent from the current school employer and permission from the competent authority of municipal, county, or city government, teachers of other schools may be attached to consigned schools and assume teaching position within the organization system of the consigned schools but not to exceed 3 years. The consigned schools are responsible for their compensation and benefits. They shall return to their original schools upon the expiration of secondment, and the original schools shall keep their job vacancies.
The consigned schools shall withhold pension fund on monthly basis during the attachment period mentioned in the previous Paragraph in accordance with the Statute Governing the Retirement of School Faculty and Staff.

Article 17
Staff newly hired by consigned schools after the consignment date shall be governed by the agreement made with their consignees and the personnel policies adopted by the consigned schools, and the regulations governing public employee do not apply in such case.

Article 18
The consignee shall submit its proposed critical policies and rules of school administrative organization, personnel allocation, and personnel policies according to their respective school size to the competent authority of municipal, county, or city government for review and approval.
The manning quota for faculty adopted by consigned schools may not fall short under the same stipulated for public schools.

Article 19
A consignee or its representative, person in charge, director or principal's spouse, third-level relative by blood or by marriage shall not assume the positions or jobs of general affairs, accounting, or personnel at the consigned school. The personnel as described hereto and are already on the jobs of general affairs, accounting, or personnel prior to the consignment agreement or the principal's inauguration shall be re-assigned to other positions or jobs.
The competent authority of municipal, county, or city government may order the consignee or the principal to relieve the personnel hired in violation to the rules mentioned in the previous Paragraph; the consignee's or the principal's failure to comply immediately shall be subject to be relieved directly by the competent authority of municipal, county, or city government.

Chapter 4 Student Recruitment, Class Size, and Teaching Equipment
Article 20
When the competent authority of municipal, county, or city government and consignee determine school district zoning in their administrator's agreement, the original school district of the original school shall be given priority consideration, and other school districts may be included without being limited by the school district zoning of the original school.
If applicants outnumber total enrollment, the order of household registration dates or lucky draw may be adopted in determining priority for school admittance.

In responding to and considerations of community development, population change, traffic condition, and school environment, the competent authority of municipal, county, or city government may amend the consignment agreement and change the school district zoning mentioned in the previous Paragraph after a public hearing has been implemented.
The competent authority of municipal, county, or city government shall assist the parents of students within the school district who refuse to enroll in the consigned school and help the students to transfer to other nearby schools and subsidize traffic expense at its discretion and needs. The schools receiving transfer students hereto shall provide life and learning guidance depending on practical needs.

Article 21
Each class size at consigned schools may not exceed the numbers stipulated in the regulations applicable to public schools. The regulations pertaining to teaching equipment applicable to public schools shall be applicable to the consigned schools, unless otherwise approved by the competent authority of municipal, county, or city government.

Chapter 5 Evaluation, Reward, and Guidance
Article 22
The competent authority of municipal, county, or city government shall assemble evaluation teams to conduct regular or non-regular evaluation and guidance on the consigned schools.
The evaluation mentioned in the previous Paragraph may be consigned to related academic institutes or groups. Criteria and method for evaluation shall be announced prior to the evaluation. Evaluation result shall be made public after the evaluation. During evaluation, parents may be invited to offer comments. Those rated top/excellent will be granted a reward. Written demand for rectification within a given deadline may be given to those fail to meet standard and a reassessment is to ensue. The competent authority of municipal, county, or city government may order another rectification with a given deadline to those fail to pass the re-assessment.
The measures for evaluation, reward, and guidance mentioned in the previous Paragraph shall be determined by the competent authority of municipal, county, or city government.

Article 23
The competent authority of municipal, county, or city government may give priority for continuation as consignment period approaches its expiration for those rated top/excellent in evaluation as mentioned in the previous Article.

Chapter 6 Agreement Renew, Take-over, Termination, and Expiration
Article 24
Consignees who wish to continue with the consignment after the expiration of consignment period shall submit school management performance, financial statement, school affair evaluation report, and future operation plan to the competent authority of municipal, county, or city government an apply for agreement renewal no later than one year prior to the expiration of consignment period.

Article 25
The competent authority of municipal, county, or city government shall take over the consigned school and appoint an adequate substitute as acting principal until a new principal reports for duty if the consignee’s application for renewal as mentioned in the previous Article being denied, or the consignee does not wish to renew, or the agreement is terminated in accordance with Article 26 or Paragraph 2 of Article 27. The regulations governing selection of public school principal do not apply to the appointment of acting principal.
Unless otherwise agreed in consignment agreement, in the situation mentioned in the previous Paragraph the consignee shall immediately transfer the property, operation right, student records, and school affair files of the consigned school to the competent authority of municipal, county, or city government.

The self-governance regulations stipulated by the competent authority of municipal, county, or city government shall be applicable to the take-over mentioned in the previous two Paragraphs.

Article 26
The competent authority of municipal, county, or city government may terminate the consignment agreement after submitting any of the following situations to the education review committee for approval:
1. The consignee or the consigned school engages in profit seeking or illegal activity;
2. The consignee or the consigned school is experiencing financial difficulty to the extent that the school is unable to function normally and the students' rights are damaged;
3. The consigned school has incurred an incident that puts the school operation and students' rights in great peril; or
4. The consigned school fails to pass the re-review mentioned in Article 22 and fails to make satisfactory rectification before the second deadline given by the competent authority of municipal, county, or city government.

Article 27
The competent authority of municipal, county, or city government terminating agreement before the expiration of the consignment period shall do so before on the end of the respective school year, unless otherwise one of the situations mentioned in the previous Article has incurred.
The consignee exercising the agreement or administrative regulations to terminate agreement due to poor operation should submit application to the competent authority of municipal, county, or city government at least 6 months prior to the end of the respective school year. The application will then be submitted to the education review committee for review. If approved, the agreement shall be terminated by the competent authority of municipal, county, or city government.

Article 28
The competent authority of municipal, county, or city government shall provide assistance, with consideration of parents' opinions, to the students wishing to transfer out from the consigned school of which agreement is terminated or expired, and help the said students to transfer to nearby schools where vacant recruitment quota is available.

Article 29
The faculty and staff transferred to the consigned school, to which agreement renewal is not made between the consignee and the competent authority of municipal, county, or city government, in accordance with Paragraph 1 of Article 11 and teachers hired within organization table and to whom the regulations governing public school teachers may apply in accordance with Paragraph 2 of Article 16 shall remain employed by their respective original schools after the expiration of the consignment period, except for those who opt for departure or retirement.
The consignee shall be solely responsible for the employee other than the faculty and staff not opting for departure or retirement mentioned in the previous Paragraph.

Chapter 7 Penalty
Article 30
The consignee's or the principal's violation to Paragraph 1 of Article 19 shall be subject to a penalty fine of TWD 50,000 to 200,000 administered by the competent authority of municipal, county, or city government. Those violating the Act on Recusal of Public Servants Due to Conflicts of Interest at the same time shall be the first ones to be punished by the same Act.

Chapter 8 Miscellaneous
Article 31
The schools already consigned in accordance with the originally applicable laws prior to the promulgation of this Act may carry on with the original agreement until the expiration of the respective term, and this Act shall

be applicable after the said expiration.

Article 32
The enforcement rules for this Act shall be determined by the central-level competent authority.

Article 33
The promulgation date of this Act shall be determined by the Executive Yuan.

Data Source： Laws and Regulations Retrieving System