

Changes to the Regulatory Framework for Dubai Private Schools

Ivor McGettigan - Partner, Head of Education - Employment and Incentives
i.mcgettigan@tamimi.com - Abu Dhabi

August 2017

Super-Regulator

The Resolution applies to all private primary and secondary schools in Dubai including those in free zones (also including the Dubai International Financial Centre). It confers sweeping powers on the Knowledge and Human Development Authority ('KHDA') who now have a role in almost every facet of school operation. KHDA approval is required in respect of a wide array of matters including the:

- appointment of Principal and teachers (pursuant to KHDA regulations)
- code of conduct for the school and staff
- tuition fee increase or discount
- contract between parent and school
- change of owner, operator, Principal, school name/address/building
- curriculum
- extra-curricular activities
- student affairs policy (including non-discrimination)
- student safety and protection policy
- student admissions
- advertising campaigns
- fundraising activities and receiving donations

Student Affairs and Safety

The Resolution stipulates that the school has a student affairs policy, approved by the KHDA, covering equality, non-discrimination and compliance with KHDA regulations regarding admission etc.

The school must form a committee to deal with complaints by students/parents and take appropriate action to address them. Student counselling as well as programmes dealing with health, social and mental care should not be in conflict with public order and morals.

The school is charged with caring for and preserving students' rights and to take all necessary measures to protect them. It must have a student safety policy (which also must be approved by the KHDA).

Non-discrimination

The topic of discrimination in the education space has caused the death of many trees in other jurisdictions due to the copious articles, opinions and case-law written on the subject. Contrary to popular belief discrimination is often specifically legislated for in many jurisdictions and frequently for good reason (e.g. in order to ensure a minority can obtain education as per their particular ethos and are not 'swamped by the majority'). The issue is contentious and one of the main drivers of litigation against schools in many jurisdictions.

The Resolution stipulates that private schools must treat all enrolled students equally without

discrimination on the basis of nationality, race, gender, religion, social class, or special educational needs for students with disabilities. It is noted that this requirement applies to enrolled students not applicants. However the Resolution goes on to provide that schools must accept the enrolment of students with disabilities (i.e. applicants) in accordance with the conditions of the school's educational permit, general KHDA regulations and applicable legislation.

Staff Matters

From an employment perspective the KHDA has a significant role in staff affairs. Its approval is required for education staff hires who are recruited subject to KHDA conditions and procedures.

The school must ensure continuous professional development of its academic staff by way of an annual plan.

The Resolution also stipulates that the school should "take all necessary action for encouraging and motivating citizens to join its educational staff according to the applicable legislation and rules approved by KHDA in this regard."

Penalties

The Resolution has some stiff penalties for non-compliance. It contains a schedule that cross references offences with penalties of up to AED 150,000. However the KHDA will write to the school first and ask that the violation be rectified in which case the penalty will not be imposed. If the same violation is repeated within one year then the penalty doubles.

In addition to these financial penalties the KHDA has a number of other very serious sanctions as its disposal including suspension of student admissions, suspension of the school's right to expand and ultimately the cancellation of the schools license.

Conclusion

Given the all encompassing role of the KHDA in the operation and governance of private schools in Dubai it is imperative for schools to develop good lines of communication with the KHDA and approach matters in a proactive way with them. Thankfully the KHDA is well known for its transparency, dynamism and ease of doing business with so a long term collaborative relationship is achievable which will lead to better outcomes for all stakeholders.

Al Tamimi & Company's Education team supports education providers on all legal aspects of their operations. For further information please contact Ivor McGettigan (i.mcgettigan@tamimi.com).