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Company:

New Oriental Education & Technology Group (NYSE: EDU)

Industry:

Education

Recommendation:

Strong Sell

Report Date:

July 18, 2012

Price:

\$14.62

Market Cap:

2.26 billion

Float:

117.1 million

Avg Volume:

1.14 million

- EDU has reported 392% revenue growth since going public.¹ The revenue growth has been built on store growth of 338% during this time.² EDU tells investors that its entire store network is company-owned, but this is a lie. As recently as last month, EDU president and CFO Louis Hsieh adamantly denied that EDU has any franchisees. This report shows Hsieh's statements are patently false – EDU has numerous franchisees. However, these franchisees are not a hidden bonus for investors. Rather, they are part of a substantial fraud in EDU's accounts.
- It is virtually certain that EDU uses the upfront franchise and other fees to inflate its cash balances in order to receive unqualified audit opinions from its auditor.
- EDU's Beijing operation (which is approximately 35% of EDU's reported revenue) has prepared financial statements for 2009 – 2011 are fraudulent. EDU has submitted these financial statements to its domestic regulator, the Civil Affairs Bureau ("CAB"). It is probable that EDU used these same financials in the preparation of its U.S. filings.
- EDU's corporate structure is far more problematic than just a weak VIE. The schools that conduct its operations are ultimately state property. We question how EDU can consolidate them.
- We believe that as a result of our exposure of these problems with EDU's reporting, EDU will restate historical results – likely significantly; and, that its auditor will resign.

Calculation based on RMB revenue, and excludes currency fluctuations.
 Store count number includes schools and learning centers; it excludes book stores.

Magna Cum Fraude

We rate EDU a Strong Sell because it is probable that EDU will have a significant restatement, and that its auditor will resign.

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Franchising: The CFO Doth Protest Too Much, Methinks³

“A lie ain’t a side of a story. It’s just a lie.”
- The Wire, season 5 episode 8⁴

In the following excerpt of a June 2012 conversation, EDU president and CFO Louis Hsieh is either lying or demonstrating that he is being lied to. As we show in this report, it is indisputable that EDU has an extensive franchising operation. It is virtually certain that EDU has been consolidating the financials of its franchisees into its own financials.

We encourage investors to listen to the recording of this conversation at
<http://www.muddywatersresearch.com/watch-the-video-edu>.

Q: “Do you franchise any of your stores?”

Hsieh: “No. No. Our biggest asset, the reason our moat is so large is cause of our brand name. We will protect that. [inaudible] We own everything.”

Q: “So the four hundred and thirty learning centers...”

Hsieh: “We own all of them.”

¹ Calculation based on RMB revenue, and excludes currency fluctuations.

² Store count number includes schools and learning centers; it excludes book stores.

³ Props to Shakespeare for the original line in Hamlet Act III, Scene II “The lady doth protest too much, methinks.”

⁴ <http://en.wikipedia.org/wiki/Clarifications>

Q: "How many? I'm sorry."

Hsieh: "It's six hundred and fifty."

Q: "Learning centers and schools? It's a mix?"

Hsieh: "Yeah. Over six hundred. About six hundred and fifty. We own everything."

Q: "A hundred percent fully-owned?"

Hsieh: "Yes."

Q: "I see. And do you have any arrangements, in terms of, you know, capital, capex, or cost sharing, or profit sharing, or any type of cooperation?"

Hsieh: "No."

Q: "With others?"

Hsieh: "Nope. All ours. We've grown completely organically. We owe nobody."

Q: "Purely organic, a hundred percent owned by New Oriental?"

Hsieh: "Correct. Absolutely correct. That's how we control the quality."

Introduction

New Oriental Education & Technology Group Inc. ("EDU") is lying to shareholders about its store growth and financial performance. As is typical of many of the frauds we have witnessed in China, how EDU actually conducts its business differs materially from what it tells investors. Inside China, EDU has an extensive and long-standing franchising operation. We know this because we have listened to discussions between EDU and a potential franchisee. Outside China, EDU's president / CFO Louis Hsieh vehemently denies the existence of any franchising or financial sharing arrangements whatsoever.

We have evidence that EDU's franchising operation covers dozens of cities, including its original Tier 1 markets, and that the franchising includes both POP Kids and traditional format stores. However, EDU has never disclosed any information related to franchising. It is virtually certain that EDU uses the front-end weighted franchise fees it receives to game its cash balance confirmation during its audit. It is also virtually certain that EDU consolidates its franchisees' results as though they were EDU's own. This has a number of other implications for numbers reported since going public in September 2006, including:

- 37.0% revenue CAGR built on 29.1% store count CAGR from FY2006 to FY2011.
- Capital expenditures since going public of approximately \$104 million.
- 19.5% enrollment CAGR.
- 41.0% teacher and 39.8% non-teacher employee count CAGRs.

- 56.8% net cash balance CAGR.⁵

How large is EDU's franchise network? The fact that EDU is lying about whether it has franchises – a fundamental aspect of its business model – implies that franchising is a big problem for EDU. After researching EDU's franchising for six months, including having chilling encounters with China's spy agency, we have our baseline count of franchises; but, our count might understate the extent. Therefore in this report, we are going to prove only that EDU is lying – that it is in fact franchising. We will give EDU the opportunity to come to the market confessional and admit to investors what is really going on. Should we find any inaccuracies at that point, we reserve the right to publicly release more information on EDU's franchise network.

EDU's financial statements for its Beijing operation are fraudulent because they show tax treatment that is impossible. We have obtained a legal opinion from a PRC tax expert to this effect. It is probable that the fraudulent financials have contaminated EDU's SEC filings. Interestingly, EDU's 2011 audit fee was 32% lower than in 2007, despite having increased its (purported) store base by 195% during this time.⁶ Further, EDU's 2011 audit fee was the lowest of its peer group (AMBO, XRS, XUE, and CAST)⁷ despite EDU's purported operations being significantly larger than the others. Because the evidence of hidden franchising and fraudulent financials is overwhelming, it is probable that EDU will restate historical earnings. It is also probable that EDU's auditor, Deloitte, will resign.

We see EDU's historical reported gross margin of over 60% as being far in excess of what is possible. Our discussions with non-publicly traded companies indicated that store level gross margins (i.e., prior to allocating corporate overhead to the stores) in Tier 1 cities generally top out at 30%, and in Tier 2-3 cities generally top out at 20%. The limitations on gross margin have to do with when customers are actually available to take classes – generally only weekday evenings and weekend days. During most of official business hours, capacity utilization is quite low. There are therefore limits to how efficiently one education company can manage its utilization and thus its gross margin.

Because of EDU's obsession with store count, we suspect that relatively few of its stores reach the 30% margin levels in Tier 1 cities or 20% margin levels in Tier 2-3 cities. During our fieldwork over the past six months, we observed some Tier 1 city stores that only offered classes one day each weekend, indicating that utilization is poor. In other words, we feel that a number of EDU's stores are there more for show than for profit.

EDU has had an oddly symbiotic relationship with the other publicly-traded China education companies, most of which also seem highly questionable. (See *infra EDU and its Public Comps: Too Good to be True.*) The entire group generates a positive feedback loop of suspect financial performance for each of its members, with three of the four members reporting gross margins approaching 50%+. We are skeptical though. We found that TAL Education Group (NYSE: XRS), which shares pre-IPO investor pedigree with EDU and fraud blow-up Longtop Financial Technologies; and Ambow Education Ltd. (NYSE: AMBO) have a number of red flags as well. The public company for which we have the greatest faith in reported financials is Xueda Education Company (NYSE: XUE). XUE reports overall gross margins of “only” 29.5% (after reporting significantly lower margins in

⁵ Converted to USD.

⁶ Based on FY2011 audit fee and reported store count.

⁷ CAST, whose former chairman effectively stole the company from shareholders (see *EDU and its Public Comps: Too Good to be True*), did not file a 2011 report, so the number is based on its 2010 fee, which was higher than EDU's 2010 and 2011 fees.

prior years). The reality is that the for profit education industry suffers from the competitive difficulties that afflict most businesses in China – low barriers to entry that spawn numerous copycat businesses, and result in greatly reduced margins due to commoditization of the product.

Muddy Waters is not the first firm to conclude that EDU is committing fraud. In November 2011, OLP Global LLC (“OLP”) released two reports to its clients that postulate EDU has overstated profits by over 50% between FY 2007 and FY 2010 by failing to eliminate intercompany transactions.⁸ EDU defended itself by pointing to its audited cash balances. EDU’s November 20, 2011 press release response stated in part:

“For OLP Global’s allegations to hold an indicia of credibility or logic, its report would need to demonstrate a US\$137 million shortfall in New Oriental’s cash balance from the Company’s alleged overstating of net income...”⁹

Understanding that franchise fees have most likely been disguised as company cash and consolidating results from franchisees would be a good start toward demonstrating the shortfall. As Peregrine Financial Group showed us just last week, little more than an inkjet printer and P.O. box are needed to forge hundreds of millions of dollars of cash balances in the U.S. Given EDU’s cash balance numbers are unreliable, it appears the Company needs another rebuttal. Unfortunately, EDU did not attempt to rebut some of the more specific allegations in the OLP reports.

We cannot reliably value EDU without more information. In our view, it is probable that EDU will have a substantial restatement. The evidence of significant wrongdoing is so compelling and will likely lead EDU’s auditor, Deloitte, to numerous other problematic discoveries. We therefore think that an auditor resignation is probable.

Perhaps the most twisted aspect of the EDU story is its corporate structure. Because EDU is a VIE, EDU shareholders of course do not own the operating company – Chairman Yu does. (See infra *EDU’s VIE: All Hat and No Cattle*) The VIE structure provides a significant opportunity for management to abuse shareholders. EDU’s VIE lacks many standard VIE investor protections, which we believe reflects management’s bad faith. Even stranger, the schools the VIEs established do not actually belong to the VIE. By PRC law, these schools “not requiring reasonable returns” belong to the government, with the assets (including retained earnings) belonging to the state upon windup. EDU’s ultimate valuation should reflect that the Company structure is a VIE that consolidates schools ultimately belonging to the state.

For retail investors who missed out on the opportunity to buy CDO-squareds while jealously watching Icelandic pension funds snatch them up, you can buy your very own piece of financial engineering through EDU shares.

⁸ Subjects of negative Muddy Waters research reports invariably respond that MW does not understand XYZ industry. The author of the OLP report, Adele Mao, covered China education companies for Susquehanna International Group.

⁹ http://investor.neworiental.org/phoenix.zhtml?c=197416&p=irol-newsArticle_Print&ID=1632247&highlight=

Table of Contents

- I. New Oriental is a Franchisor
 - a. Material Franchise Terms.
 - b. How Extensive is EDU's Franchising?
- II. Sharpen the Pencils, Cook the Books, No More Investors' Dirty Looks
 - a. EDU is a For Profit, but has Submitted Financials to its PRC Regulator, and Likely to Deloitte, that Claim Otherwise. These Financials are Fraudulent.
 - i. Legal and tax framework applicable to EDU and the BJ Operation
 - ii. In Reality the BJ Operation Is Required to Pay EIT Because Its Revenue is Deemed "For-Profit".
 - iii. However BJ Operation's Financials Purport to be Those of a School with EIT Exemption During 2009 – 2011, These are Fraudulent Financials
 - iv. A Slight but Telling Internal Inconsistency Supports the Conclusion that the BJ Operation's Financials are Fraudulent
 - v. It is Likely that EDU's Auditor, Deloitte, Relied on the BJ Operation's Financials in its Audit, and thus the Fraudulent Financials Have Contaminated US Filings
 - b. New Oriental Almost Certainly Consolidates its Franchises' Results as its Own
- III. Revenue to Certain Subsidiaries Declined from CY2008 to CY2010, Contradicting EDU's Reported Numbers.
- IV. Ghosts in the Machine: Internet Anomalies
- V. EDU's Audit: You Don't Get What You Don't Pay For.
- VI. Hood Rich Mike
- VII. The Great Leap Backward: China's Ministry of State [In]Security, EDU's Dividend, and EDU's VIE.
- VIII. EDU's VIE: All Hat and No Cattle
- IX. EDU and its Public Comps: Too Good to be True
- X. Conclusion

I. New Oriental is a Franchisor

EDU's current franchising focus is on POP Kids stores. Parents of young children are the least price-sensitive market segment, and thus EDU's brand is the most valuable in this segment. (For discussion of the commoditization of EDU's other store formats, see *EDU and its Public Comps in China: Too Good to be True*). If one goes to the POP Kids "About Us" web page (popxdf.cn/about/201112/30998560.html), one will see information on how to "cooperate" with EDU (i.e. become a franchisee). Below is the application process from the website.

关于泡泡教育官方网站

http://pop.xdf.cn/about/201112/30998560.html

Apple Yahoo! Google Maps YouTube Wikipedia News (653) Popular

Cooperation (Franchising) Hotline Phone Number

字场所（面积不低1000平方米）和相应的设备设施。

4. 有能力获得“社会力量办学许可证”及其他批准和许可，熟悉当地的社会力量办学情况，有一定的社会资源。
 5. 愿意接受新东方泡泡（POP）少儿教育全国管理中心的经营指导、业务培训和考核，并与中心保持及时的业务沟通。
 6. 遵守国家相关法律法规，无违法经营或犯罪等不良记录。

 合作专线: 010-62605055

品牌合作申请流程

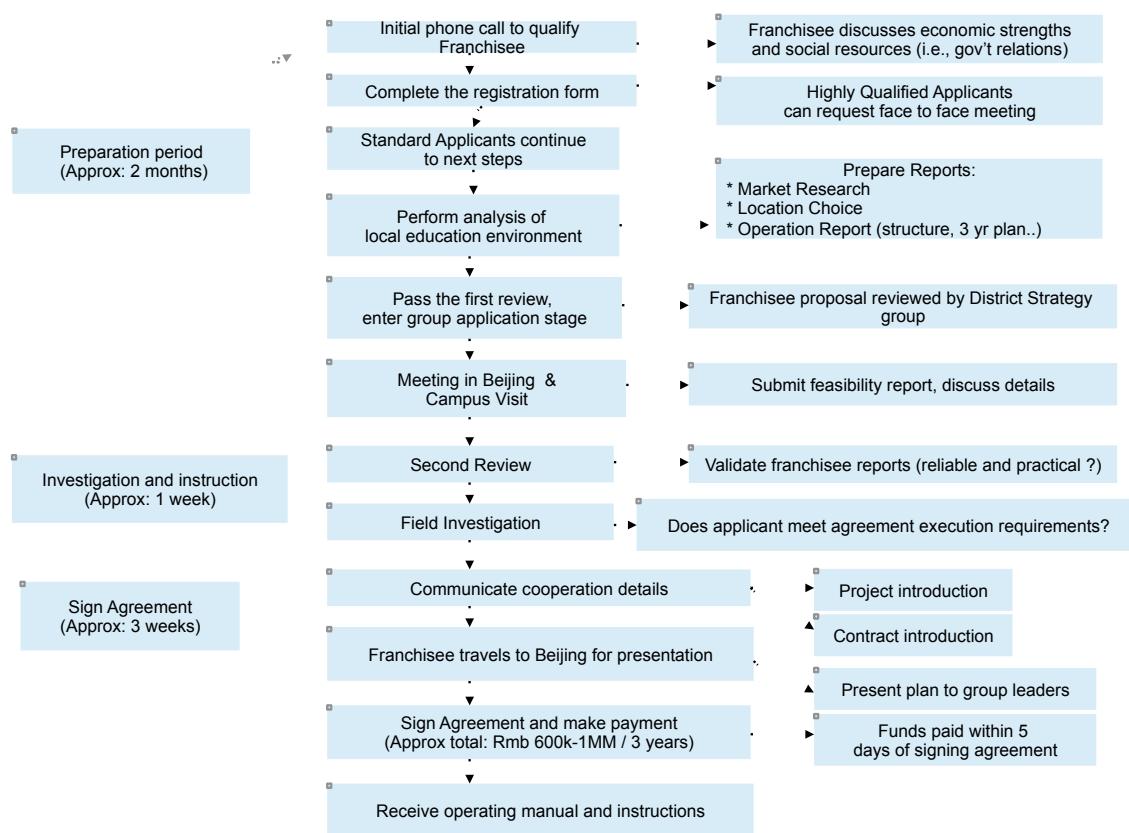
```

graph TD
    A[合作前期准备  
周期约两个月] --> B[初审合格, 进入集团申报审批阶段]
    B --> C[复审合格, 赴申请地区进行考察]
    C --> D[签约流程  
周期约三周]
    D --> E[运营手册讲解发放]
    
```

The flowchart details the three phases of the application process:

- 合作前期准备 (约两个月):**
 - 首次咨询（电话、E-mail） → 介绍自身经济实力、社会关系状况
 - 填写2份《品牌合作人登记表》 → 高质量合作人可以面谈
 - 基本信息合格客户，进入下一阶段
 - 对当地办学环境进行分析 → 合作费在60—100万之间/三年
 - 市场调研报告
 - 选址报告
 - 运营报告（组织架构、三年规划等）
 - 初审合格，进入集团申报审批阶段
 - 赴京洽谈，参观校区 → 提交可行性报告，并就细节性问题充分沟通
 - 合作地区符合集团整体战略布局
 - 三项报告是否属实可行
 - 签约条件是否具备
- 考察指导 (周期约一月):**
 - 复审合格，赴申请地区进行考察
 - 项目介绍
 - 合同介绍
 - 来京事宜沟通
 - 合作签约的细节沟通
- 签约流程 (周期约三周):**
 - 合作人来京宣讲 → 汇报办学优势学校运营规划（30分钟），集团领导审核
 - 与合作人签订意向书、收款
 - 运营手册讲解发放

The below is a translation of the flowchart:



An EDU employee made the below statements during a call this year with a potential franchisee. We have posted a subtitled recording of the conversation at

<http://www.muddywatersresearch.com/watch-the-video-edu>. The entire transcript (in English) is in the Appendix.

“...in our franchise area, you are solely responsible for your own profits and losses. We won’t get overly involved in the daily operations and personnel management. If you want, we can give you some advises on staff selections. But we will not hire people for you...”

“...The franchise fee is like this, the franchise fee is different depending on various regions. And it’s evaluated based on several factors, the average staff salary, the GDP, the economic environment, the future developments and the geographical location, etc. There is also an overall evaluation of the city. This is why there was an initial understanding and simple discussion over the phone. After that, there would be an overall evaluation of the city, including an evaluation of the future site selection, evaluation of your personal abilities, your degree of enthusiasm for education, and other major factors. Finance is also part of the criteria...”

“No matter how many branches you open, it’s charged as one school. For instance, if you ace our preliminary examination, reexamination, final examination and defense, and if we do decide to give you the authorization, your first school would always be the standard regardless of the number of branches. New Oriental always charges fees based on the size of the first school.”

“...This certainly is the difference between joining a franchise and building your own business. This part will grow and develop into a system...”

“We sign the contract for three years. This fee covers three years only. After three years, we may raise or lower the fee based on your status. Because beginners only get authorized to teach the English subject, if they are doing a good job and want to have math and Chinese literature and language, they'll need to pay extra.”

“...A franchise school has different conditions and space for development. They're not things that we have control over on our part, do you understand?...”

Material Franchise Terms

We viewed a POP Kids franchise agreement. EDU's franchising terms seem designed to perpetuate the EDU myth by maximizing store base growth to justify breakneck reported revenue and profit growth. Our analysis is that the franchise contract strikes the right balance for a company concerned far more with store base growth than with profits.

The upfront amount EDU charges ensures that the franchisee has demonstrated some business acumen (by virtue of having access to such funds), and has some skin in the game. Both of these factors lessen the risk that the franchisees fail to grow their store counts. Further, EDU's franchise agreement requires franchisees to open at least one new store per year, and penalizes them for not growing, despite such growth providing little (direct) financial benefit to EDU.

EDU seems reluctant to use the word “franchise” in the agreement. (It prefers the Chinese word for “cooperation”.) However, the substance of the agreement is clearly that of a franchise. The following are some of the terms from the franchise agreement. A translation of the agreement is in the Appendix.

- The franchisee pays EDU several types of upfront fees and a security deposit. These fees are charged on a per-city basis,
 - The franchisee pays EDU a trademark license fee of RMB 600,000 to RMB one million for three years per city. After the three-year period expires, then franchisees will pay approximately 5% of revenue annually.
 - The franchisee pays EDU a technical training support fee of RMB 80,000 per city per subject. The available subjects are English, Chinese, and math.
 - The franchisee pays EDU a performance guarantee deposit (security deposit) of RMB 100,000.
- The franchisee is responsible for capital expenditures, operating expenses, and staffing. This sharply calls into question the reported \$49.1 million in capital expenditures and 5,928 part and full-time employees added in FY2011.
- The franchisee owns all of the tangible assets and is responsible for the liabilities of the business. Obviously, EDU does not own these stores.
- The franchisee has the exclusive rights to own and operate POP Kids in a given city, and may only operate an EDU-affiliated education business within that territory. This is a typical franchising provision.
- The franchisee has rights to use the POP Kids and New Oriental trademarks subject to restrictions. Mr. Hsieh has talked about not franchising in order to protect EDU's brand. Evidently the brand is not as much of a consideration as EDU leads investors to believe.

- The agreement penalizes franchisees RMB 100,000 if they do not open one new store per year. As previously mentioned, the trademark license fee is per city, not per store. Therefore, the additional fees franchisees must pay to EDU for new stores are de minimis.¹⁰
- Franchisees must open an initial store with a minimum size of 1,000 m² (11,000 ft²). Each additional store must be a minimum size of 500 m² (5,500 ft²).¹¹ In June 2012, Hsieh has said the following to an investor regarding EDU's expansion strategy – in particular with respect to the 81 learning centers EDU claims to have opened in Q32012:

“What typically happens, the pattern is, we go into a city, we'll open up large learning centers first, fifteen hundred square meter ones. Then we'll open up five hundred to one thousand square meter ones in the, in the second sort of ring, you know second set of large schools.”

Store base growth has always been the lynchpin of the EDU myth. The following quotes illustrate its importance – and thus why EDU engaged in the risky behavior of seeking franchisees while concealing this side of its business from investors.

“What [opening 81 learning centers in Q3 2012] should tell you guys is that our business is so strong in one-on-one and kids that we're opening up a lot more centers than we normally would.” – Louis Hsieh to an investor in June 2012.

How Extensive is EDU's Franchising?

We have evidence that EDU's franchising goes back to before its IPO, is prevalent in Tier 1 cities, and includes numerous traditional (i.e., non-POP Kids) and POP Kids stores. We are allowing EDU the opportunity to come clean on its franchising in response to our report. Should we find that management is still not being truthful, we reserve the right to further discredit them.

¹⁰ Section 3.2.3.

¹¹ *id.*

II. Sharpen the Pencils, Cook the Books, No More Investors' Dirty Looks

EDU's Beijing operation submitted financial statements to its PRC regulator that are highly likely to be fraudulent. It is probable that these financials contaminated EDU's U.S. filings. Further, it is also virtually certain that EDU is consolidating its franchised stores as though they were its own. The upfront fees EDU collects from franchisees are almost certainly used to help it game the cash balance confirmation portion of its annual audit. SAIC financials for the EDU entities that collect licensing revenue from EDU's stores declined from 2008 to 2010, which implies that EDU's overall revenue decreased during this time, rather than growing at a reported CAGR of 33.7%.¹² We believe that the quality of EDU's audits is poor for two reasons. First, EDU paid 31.9% less for its FY2011 audit than for its FY2007 audit, despite having 195% more stores. (FY2007 was EDU's first fiscal year end as a public company.) Second, EDU is claiming tax exemptions that are clearly inapplicable. These false exemption claims are a red flag that should have alerted Deloitte.

EDU is a For Profit, but has Submitted Financials to its PRC Regulator, and Likely to Deloitte, that Claim Otherwise. These Financials are Fraudulent.

EDU's PRC financials for its Beijing operation (the "BJ Operation") are fraudulent because they claim an impossible tax treatment. We have a legal opinion to this effect. In our experience, fraudulent tax treatment is usually an indicator of fraudulent accounts, rather than the fraud endgame itself. In other words, fraudulent tax treatment usually means there are far more accounting problems. Beijing is one of the two largest contributors (in terms of cities) to EDU's revenue and profit.¹³ According to the dubious financials, the BJ Operation generated \$207.7 million of revenue in CY2011. The financials show that the BJ Operation receives an exemption from corporate income tax (known as enterprise income tax, or "EIT"). However, the BJ Operation really has no such EIT exemption. The 0% EIT is a lie. Financials reflecting this exemption are therefore falsified. EDU submitted these financials to its local regulator, the Beijing Civil Affairs Bureau ("CAB"). It is probable that these financials contaminated EDU's U.S. filings because EDU's 20-F strongly implies BJ Operations has the exemption.

Legal and tax framework applicable to EDU and the BJ Operation

To understand why the BJ Operation's financials are most likely fraudulent, one has to understand the legal framework for the for-profit education industry in China. For profit education became explicitly legal with the Law on the Promotion of Privately-Run Schools (the "Private School Law"), which became effective in 2003. China is a single party state, and education is an important means of ensuring control. Therefore education is highly sensitive. Further, China is a communist country that is not comfortable with the idea of profit seeking in every aspect of society.

The Private School Law stated that there are two types of private (i.e. non-state) educational institutions: schools and operational training institutions. The Private School Law states that it does not cover operational training institutions; and, that the government will formulate separate measures to govern such institutions. However, the government never did formulate any separate measures. Thus, the least ambiguous structure for a for-profit education business is to establish schools, which are subject to the Private School Law.

¹² In RMB.

¹³ According to a June 2012 investor conversation with Louis Hsieh. The other significant city is Shanghai.

The Private School Law provides for two categories of privately-funded schools: “requiring reasonable returns” and “not requiring reasonable returns” (“NRRR”). EDU interprets these categories as meaning for-profit and non-profit, respectively. The problem with the interpretation is that non-profit (NRRR) does not mean the school is exempt from paying tax. One of the essential differences between the two classifications is that the investors / promoters of NRRR schools do not retain ownership rights to the schools’ assets – the schools are essentially state property. Under the law, when NRRR schools are wound-up, their assets belong to the state. (China GAAP does not allow public companies to consolidate NRRR schools because of the effective state ownership of these institutions.)

NRRR schools have two primary regulators, the Ministry of Education (“MOE”) and the Civil Affairs Bureau (“CAB”). The MOE approves applications for schools and oversees them. The CAB has general oversight of entities that are not corporate entities, and oversees their annual inspections. CAB’s role is similar to that of the State Administration of Industry and Commerce (“SAIC”) for corporate entities.

EDU and most other school investors established NRRR schools. MOE seems to discriminate against applications to establish schools requiring reasonable returns because these schools would not ultimately belong to the state. As a practical matter, it is therefore far easier to get MOE approval to start a NRRR school. While the law contemplates that promoters would establish NRRR schools as acts of charity and benevolence, attorneys figured out that if the investors formed separate companies that provide services to the schools (e.g., trademarks, curricula, etc.), investors could transfer profits out of the schools and into corporate entities. This is the structure that EDU uses for most of its schools.

In EDU’s 20-F, it states that EDU has “restricted net assets” amounting to \$285.8 million as of FY2011.¹⁴ This could refer – at least in part – to the assets still in the schools that EDU has not been able to get out via contract. Regardless, Muddy Waters’s opinion is that the basis for consolidating NRRR schools is weak from an economic reality standpoint. However, in this era of accounting fantasy with respect to VIEs (see *EDU’s VIE: All Hat and No Cattle*), there might not be anything improper with this consolidation under U.S. GAAP standards.

NRRRs do not necessarily receive tax exemptions. NRRRs may apply for EIT exemptions on their non-profit income. However, they must still pay full EIT on their for-profit income. The Private School Law provides that NRRRs will receive the same tax preferences that state schools do. (Most state schools are exempt from EIT.) In one sense, NRRRs do receive the same tax preferences as state schools...on their non-profit income. The key question then is: “What constitutes non-profit income (versus for-profit income) for a privately-owned NRRR?”

In Reality the BJ Operation Is Required to Pay EIT Because Its Revenue is Deemed “For-Profit”.

The only possible reason why EDU’s Beijing subsidiary would not be paying Enterprise Income Tax is because it is not turning a profit. PRC tax law makes it clear that no EIT exemption is available to the BJ Operation because its revenue is deemed “for-profit”. We have obtained a formal legal opinion from a PRC tax expert stating this. We confirmed with the BJ Operation’s tax collector that a) only degree-granting private schools are eligible for the EIT exemption, and b) EDU receives no EIT exemption. EDU told a potential franchisee that all of EDU’s company-owned schools pay EIT.

¹⁴ EDU FY2011 20-F, p. 57.

The regulation Caishui 2004 [39], which was promulgated in 2004 and is still effective,¹⁵ enumerates the categories of educational institutions eligible for tax preferences. The regulation mainly provides for tax preferences for schools that award officially recognized diplomas and their offshoots (e.g., training programs that such schools run). Caishui 2004 [39] does not provide for any tax preferences for schools providing non-diploma education in foreign language or test preparation (or any other EDU program). We provide a translation of Caishui 2004 [39] in the Appendix. Therefore, despite having NRRR classification, EDU's tuition income would still be deemed for-profit and subject to EIT.

The Ministry of Finance ("MOF") reiterated this policy in a 2008 reply to the Chinese People's Political Consultative Congress.¹⁶ The MOF stated that NRRRs receive the same tax treatment as government-funded schools in that NRRRs' income from tuition for officially recognized diploma programs would be exempt from EIT. We provide a Chinese version and English translation of the MOF reply in the Appendix. EDU's schools are therefore all subject to EIT on their tuition and course material revenue.

The BJ Operation pays EIT. It is possible that in some smaller, remote cities EDU has negotiated special tax treatment (in contravention of the law). Major cities, such as Beijing and Shanghai, almost never grant such special treatment. We have confirmed that Beijing has not granted an EIT exemption to the BJ Operation. First, the Beijing tax bureau publishes lists of entities granted exemptions. The URLs for those lists are in the Appendix. No EDU entity is among the entities listed.

Tax officials confirmed to us that BJ Operation pays EIT. We first inquired whether or not an investor could establish a school there that provides courses similar to those EDU provides and receive an EIT exemption. The tax bureau responded that the EIT exemption would not be available because it is only available to schools that award officially-recognized diplomas. We then brought up EDU, saying that EDU has such an exemption. The tax official stated that EDU pays taxes.

Finally, an EDU employee who works in franchising told a potential franchisee that all EDU company-owned schools pay EIT.

However BJ Operation's Financials Purport to be Those of a School with EIT Exemption During 2009 – 2011, These are Fraudulent Financials

NRRR schools must file audited financials annually with both the MOE and CAB. NRRR schools use a different accounting system than do business entities, and a brief explanation is necessary to understand BJ Operation's financial statements.

Because NRRR schools technically belong to the state, there is no Shareholders' Equity account. Rather, the equivalent account is Net Assets. NRRR schools do not record Net Income – the equivalent account is Changes in Net Assets. The NRRR school accounting system does not have a separate account for taxes – instead, taxes (including EIT) are included in the Other Expenses account. The fraudulent CAB income statement for the years 2009 – 2011 is below.

¹⁵ <http://www.js-n-tax.gov.cn/Page/StatuteDetail.aspx?StatuteID=4224>

¹⁶ http://en.wikipedia.org/wiki/Chinese_People's_Political_Consultative_Conference

EDU Beijing Haidian School Income Statement
Calendar Year
(RMB '000s)

	2009	2010	2011
Service Revenue	729,106	974,846	1,289,496
Other revenue	13,135	25,395	43,704
Total revenue	742,241	1,000,241	1,333,200
Cost of sales	337,167	518,618	700,682
G&A exp	109,714	217,371	293,779
Fund raising exp	1,908	3,584	5,257
Other expenses	563	930	1,596
<i>% of Income before other expen.</i>	<i>0.19%</i>	<i>0.36%</i>	<i>0.48%</i>
Total costs and expenses	449,352	740,503	1,001,314
Changes in net assets	292,889	259,738	331,886

The Other Expenses account should be at least 25% of income before Other Expenses. The statutory EIT rate applicable to BJ Operation is 25%. Because BJ Operation recorded less than 1% of income before Other Expenses in the Other Expenses account, it is clear that the income statement purports to be that of an entity with EIT exempt income. There are no separate disclosures of EIT in the BJ Operation's filings.

A Slight but Telling Internal Inconsistency Supports the Conclusion that the BJ Operation's Financials are Fraudulent

There is an internal inconsistency in the CAB financials that supports the conclusion the BJ Operation filings are fraudulent by virtue of not having an EIT exemption, and thus should be paying EIT. On page five, there is a field asking whether the filer enjoys any tax preference. The BJ Operation (correctly) responded that there is no such preference (See the Appendix). The absence of a tax preference wholly contradicts the income statement, which further shows that BJ Operation paid no EIT.

It is Likely that EDU's Auditor, Deloitte, Relied on the BJ Operation's Financials in its Audit, and thus the Fraudulent Financials Have Contaminated US Filings

We believe that the fraud in the BJ Operation's financial statements has contaminated EDU's U.S. GAAP accounts. BJ Operation's revenue numbers accord with EDU's U.S. filing disclosures. EDU's 20-F includes statements that indicate the BJ Operation has an EIT exemption. Finally, if EDU did not prepare these accounts for U.S. filings, then for whom did EDU prepare them?

The BJ Operation's revenue in the CAB financials (approximately 30 – 35% of EDU's consolidated revenue) roughly accords with EDU's disclosures regarding the percentage of the revenue that EDU reports comes from Beijing. EDU's FY2011 20-F states that Beijing, Shanghai, Guangzhou, and Wuhan collectively accounted for approximately 50% of revenue.¹⁷ That percentage dropped from

¹⁷ EDU FY 2011 20-F, p. 12.

51% the prior year as EDU consolidates more stores from outside of these cities. (FY2009 – 54%, FY2008 – 60%, FY2007 – 65%.) EDU CFO Louis Hsieh told investors in a June 2012 conversation that Beijing and Shanghai together account for approximately 38% of current revenue. We believe that the BJ Operation’s CAB financials also consolidates some operations outside of Beijing, including in Shanghai – our fieldwork in Shanghai found that some Shanghai stores “belong to” the BJ Operation. Thus, the revenue reported in the CAB statements accords with EDU’s disclosures, making it likely that these financials are the basis for part of the U.S. filings.

EDU’s 20-F strongly implies that Deloitte believes the BJ Operation is non-profit (emphasis added):

The subsidiaries of New Oriental China, which were registered as private schools (the “school-subsidiaries”), are subject to income taxes determined in accordance with The Law for Promoting Private Education (2003) where those school-subsidiaries registered as private schools not requiring reasonable returns (similar to a not-for-profit entity) are treated as public schools and are generally not subject to enterprise income taxes.¹⁸

As we showed *supra*, it simply is not true that NRRR schools are generally exempt from EIT. The following statement also from the 20-F strongly implies that the BJ Operation has an EIT exemption:

As a result, preferential tax treatments for our schools vary among different cities. In some cities, our schools are subject to a standard enterprise income tax rate of 25% (which was 33% prior to January 1, 2008), while in other cities, our schools are subject to a 2% to 3% tax on gross receipts in lieu of the standard enterprise income tax or are exempted from the enterprise income tax. Among our schools in the four major cities from which we derived a majority of our revenues [Beijing, Shanghai, Guangzhou, and Wuhan per page 12 of the 2011 20-F] in each of the past three fiscal years ended May 31, 2008, 2009 and 2010, our school in Wuhan has been subject to the standard enterprise income tax, and our school in Shanghai has been subject to standard enterprise income tax rate since the beginning of 2007.¹⁹

New Oriental Almost Certainly Consolidates its Franchises’ Results as its Own

There are two reasons why it is virtually certain that EDU is consolidating the franchises. First, the franchise contract is designed to give EDU cash and reports that assist with its audit needs, but don’t make sense from a legitimate economic perspective. Second, with franchisee fee payments and enrollment data flowing into EDU’s system, Deloitte would be very sensitive as to whether the controls exist to separate them. Because EDU’s SEC filings never mention franchising, Deloitte obviously has no idea that EDU franchises. Thus, there are no internal controls to separate the franchising cash and data. Without internal controls, it is a near-certain bet Management is consolidating the franchises.

EDU’s franchise contract makes it probable that EDU is consolidating its franchisees’ financials – even though the franchisees, and not EDU, own the stores, assets, and cash flows. EDU’s franchisees are required to provide their financials to EDU during EDU’s audit, and according to EDU’s fiscal year. EDU’s fiscal year for SEC reporting purposes ends May 31st. The franchise agreement we viewed provides:

¹⁸ EDU FY2011 20-F, p. 47.

¹⁹ EDU FY2011 20-F, p. 48.

“In accordance with Party A’s [EDU] fiscal year (beginning on June 1st and ending on May 31st), Party B [the franchisee] shall provide an annual financial report and a report on the status of the school’s operations within 2 months of the end of the fiscal year.”²⁰

The franchise agreement also requires documents that EDU could give to Deloitte to establish ownership for audit purposes:

“Party B [the franchisee] shall at the time of execution of this agreement provide to Party A for its review records and reports including a copy of the school’s registration certificate, a copy of the private non-enterprise legal person registration certificate, a copy of the certificate stating the organization’s code, a copy of the permit, a copy of the tax registration certificate, the capital verification report certificate, the school’s articles of incorporation, a photograph of the school, the organization’s organizational chart, name list of the staff and rules and regulations, etc.”²¹

The fact that the franchisees have to provide the financials at all is suspicious. Franchisees pay a fixed upfront fee that covers the first three years of the franchise. EDU does not collect any variable franchise fees during this time; therefore, it is not clear what EDU’s legitimate interest in receiving franchisees’ financials would be.

Requiring franchisees to provide accounting through May 31st is unnecessarily burdensome, unless EDU is consolidating the franchises. China law requires entities to operate on a calendar fiscal year for PRC audit/annual inspection purposes. The June 1st through May 31st financial record requirement is awkward for franchisees because it would require them to provide un-audited financials for the period through May 31st. It is therefore pointless for EDU to request these records according to its own fiscal year unless it is using these records for its own audit.

EDU’s online enrollment system also plays a role in consolidating the results. EDU announces its results before the deadline for franchisees to provide their documents. However, the franchise agreement requires the franchisees to use EDU’s enrollment system to register students for courses. Thus EDU has a good look at the franchisees’ top lines before reporting.

III. Revenue to Certain Subsidiaries Declined from CY2008 to CY2010, Contradicting EDU’s Reported Numbers.

The declining revenues in EDU’s main WFOE subsidiaries’ State Administration for Industry and Commerce (“SAIC”)²² financial statements shows declining revenue from CY2008 to CY2010.²³ As we explain in the VIE section, these two entities, Beijing Hewstone Technology Co., Ltd. and Beijing Decision Education Co. Ltd., are the parties that enter into licensing agreements with EDU’s schools and learning centers. Hewstone receives license fees for EDU’s trademarks. Through CY2010, Decision received fees for teaching support, website development and use, and enrollment system use.

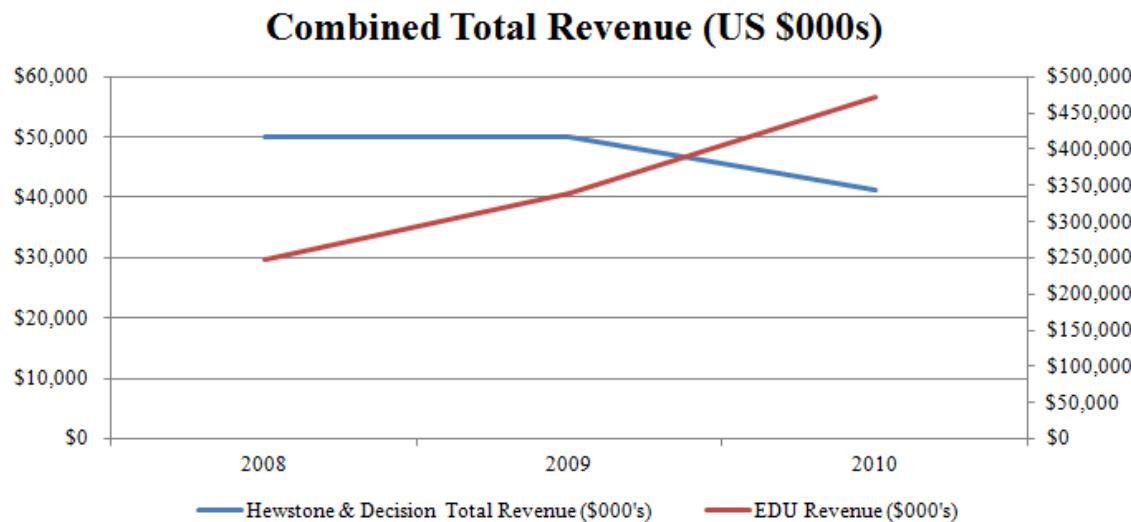
²⁰ Section 3.1.3

²¹ Section 3.1.2.

²² SAIC is one of two primary regulators for corporate entities in China. Every corporate entity undergoes an annual inspection, during which it submits annual financial information to SAIC. SAIC places the financial information in the entity’s official file. By law, SAIC files are available for inspection to any PRC-qualified attorney. However, under China’s recent state policy of protecting frauds, these files have recently become harder to obtain.

²³ CY2011 was not available when we obtained the SAIC files.

It would seem that because EDU reported overall revenue growth during this period, the two subsidiaries' revenue would grow due to increased license fee revenue. This was not the case though.



As we discuss in *EDU's VIE: All Hat and No Cattle*, it appears that EDU allowed four of the licensing agreements to lapse on January 1, 2011; therefore, SAIC numbers through CY2010 would capture the license revenue. Due to China's crackdown on due diligence research, we have not obtained files for all of EDU's WFOEs. However, EDU has not filed amendments to the licensing agreements, which leads us to conclude that the agreements have not been assigned to other entities, and thus all licensing revenue flowed to Hewstone and Decision.

Some have criticized the use of SAIC financials as a means of detecting fraud. Perhaps the most vocal criticism has come from Benjamin Wey of New York Global Group.²⁴ New York Global specializes in bringing China companies to the U.S. markets via reverse merger. The FBI raided Mr. Wey's office in January 2012.²⁵ In contrast, Muddy Waters sees significant SAIC filing discrepancies – particularly in the revenue line – as important indicators of fraud.

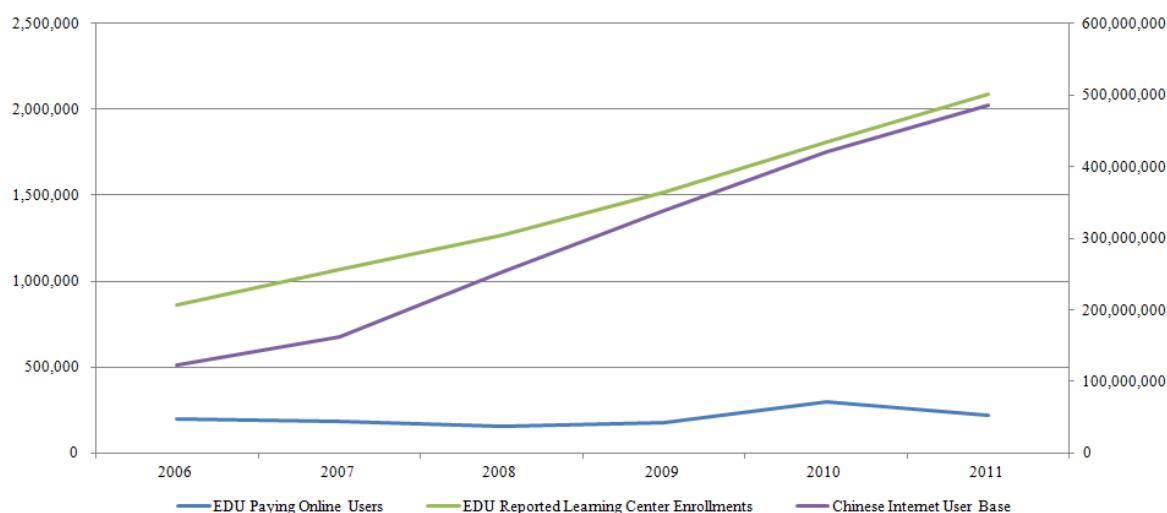
Muddy Waters is not the first firm to note a discrepancy between EDU's U.S. and SAIC filings. OLP Global ("OLP") cited declining revenue in EDU's VIE entity, New Oriental China ("NOC"), to challenge EDU's reported revenue and profit in OLP's November 17, 2011 report. As is typical (in our experience) of companies rightfully accused of fraud, EDU responded to the OLP report in a selective manner. EDU chose to ignore the point about NOC's deteriorating financial performance. Because OLP's report was circulated to a limited number of clients, the market was largely unaware of EDU's selective response.

²⁴ <http://www.prnewswire.com/news-releases/benjamin-wey---a-china-experts-views-on-understanding-saic-and-sec-filing-discrepancies-for-us-listed-china-based-companies-103869893.html>

²⁵ http://www.cnbc.com/id/46153498/FBI_Raids_Chinese_Reverse_Merger_Shop.

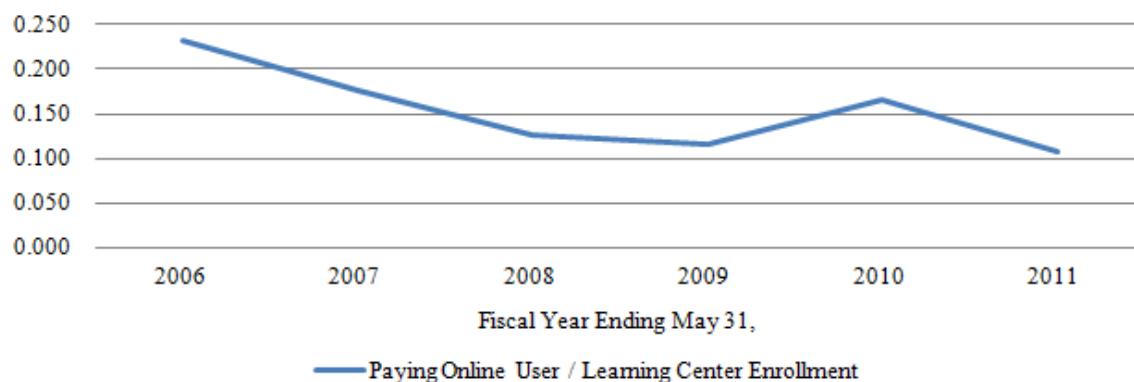
IV. Ghosts in the Machine: Internet Anomalies

EDU's reported internet figures do not support its growth story. According to EDU's investor relations, "Most of [the online courses] are used to complement the in-person classes." If that is the case, we are curious as to why EDU's reported online subscriber base has flat-lined as its number of in-person enrollments has skyrocketed by 143.2% and the Chinese internet user base has increased by 294.3% over the same period:



On top of the phenomenal reported learning center enrollment growth and rapid increase in internet penetration in China, EDU claims to have dedicated resources to expanding its online classes to an impressive course catalog to 4x what it was in 2006 by 2010 (for some reason, EDU reported a decline in FY 2011 to 1,000 online courses offered). Despite what would seem like enormous wind in its sails, online subscribers per learning center enrollments have declined to less than half of what they were five years ago:

Paying Online User Per Learning Center Enrollment



We received purported online revenue figures from EDU's IR. These figures show strong growth over the past few years. This revenue growth does not jibe with the lack of growth in paying online users. To believe these numbers, it would mean that EDU instituted substantial price increases in the face of declining enrollments. For instance, in FY 2011, the number of paying online users declined by 25.6%,

but revenue increased by 28%-- implying that the average paying user paid 72.1% more during FY 2011 than during FY 2010:

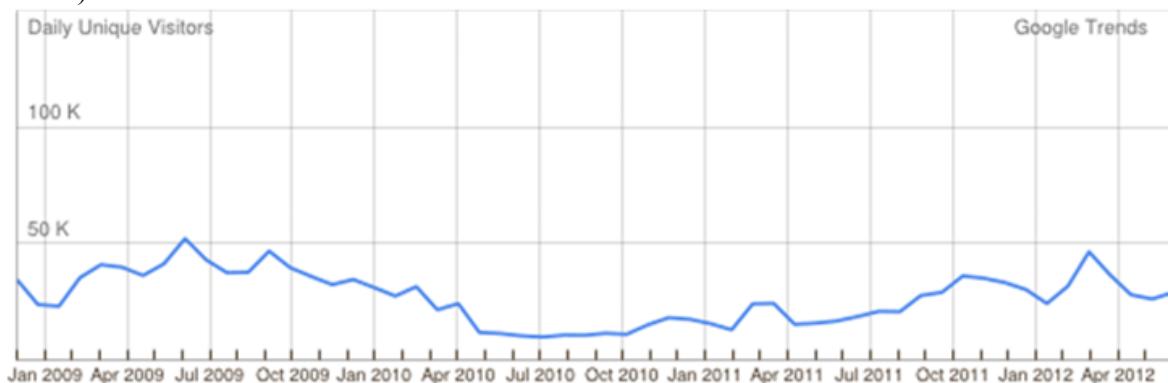
EDU's Online Education Division						
	Fiscal Year Ending May 31,					
	2006	2007	2008	2009	2010	2011
Registered Online Users	2,000,000	3,500,000	4,500,000	5,300,000	6,000,000	6,700,000
YoY Change in Registered Users		1,500,000	1,000,000	800,000	700,000	700,000
Available Online Classes	300	400	500	600	1,200	1,000
EDU Paying Online Users	200,000	188,000	160,000	176,000	301,000	223,800
Change in Paying Users (%)		-6.0%	-14.9%	10.0%	71.0%	-25.6%
Online Revenue ¹			¥25,076,494	¥30,022,725	¥58,033,226	¥74,259,738
Change in Online Revenue (%)				19.7%	93.3%	28.0%
EDU Reported Learning Center Enrollments	859,000	1,067,000	1,271,000	1,519,000	1,807,000	2,089,000
Chinese Internet User Base ²	123,000,000	162,000,000	253,000,000	338,000,000	420,000,000	485,000,000
Paying Online User / Learning Center Enrollment	0.233	0.176	0.126	0.116	0.167	0.107
Note:						
1	Online revenue not disclosed in SEC filings; figures were obtained through IR					
2	Figures published by CNNIC as of June 30 each year					

We also found a data point that seems to contradict EDU's reported traffic in its 2006 prospectus (emphasis added):

"Our technology platform is a combination of e-learning platforms, alumni platforms, content management systems, exam platforms, e-business promotion platforms and bookstore platforms, live Internet classrooms, as well as licensed speech recognition platforms... Currently, approximately 3,000 students can use our online systems at the same time."²⁶

If EDU's servers were only equipped to support 3,000 students at a time, how did they accommodate the 200,000 paying users that it claimed to have?

Google Trends shows that traffic to koolearn.com, EDU's online education website, has been consistently below 50,000 unique visitors per day, and has flat-lined/declined over the past few years, with a significant drop in FY 2010—the year EDU reported a record 71.1% increase in paying users²⁷ (yes, we know that only iResearch has that special something needed to measure internet traffic in China):



²⁶ EDU October 14, 2006 Prospectus, p. 89.

²⁷ <http://trends.google.com/websites?q=koolearn.com&sa=N>

EDU's Audit: You Don't Get What You Don't Pay For.

EDU's auditor since it went public is the troubled Deloitte Touche Tohmatsu Shanghai ("Deloitte"). Deloitte has had a number of high profile audit failures in recent years.

- It is currently adverse to the Securities and Exchange Commission in two litigations relating to the audits of China companies, and has the distinction of being the first foreign auditor against which the SEC has ever prosecuted an enforcement action.
- There are likely a number of problem audit clients at other Big Four firms to be unearthed; however, Deloitte is leading the pack in this measure.

There is an argument that companies in China are un-auditible because it is so easy to defraud the auditors. Investors typically misunderstand auditors' role – auditors are generally not attempting to ensure that financial statements are free of fraud. In the China context, auditors focus on checking that the PRC GAAP accounts have been correctly translated into US GAAP.

The crux of the anti-fraud portion of a typical audit is the cash balance confirmation process. As last week's Peregrine Futures fraud revelations show, all that one needs to fool auditors regarding hundreds of millions of dollars in cash balances is an inkjet and a P.O. box.²⁸ In China, auditors will often attempt to verify the balances with individual employees of banks. However, China's banking system makes it shockingly easy for companies to defraud auditors regarding cash balances. As Deloitte's resignation letter to China MediaExpress Holdings Inc.'s (OTC: CCME) board makes clear, bank employees' allegiance is easily purchased (Citron Research and Muddy Waters published exposés of CCME in January / February 2011):

"Prior to its resignation, DTT raised the following issues (some of which may be considered to be disagreements) encountered during the audit, including: issues related to the authenticity of bank statements; a loss of confidence in bank confirmation procedures carried out under circumstances which DTT believed to be suspicious;...concerns over possible undisclosed bank accounts and bank loans;..."²⁹

(Deloitte had already issued an unqualified opinion on CCME's fraud)

The letter also points to another large problem with China cash balance confirmations: it is relatively easy to rent balances for cash confirmation purposes. After all, the cash balance lessors are well outside of the reach of U.S. law, so from their perspective, there is no downside to renting out balances. The ease with which companies can generate fake bank balances is possibly best illustrated by Duoyuan Global Water (PINK: DGWIY). DGWIY was delisted from the NYSE on April 17, 2012, which followed the resignation of its entire audit committee on April 20, 2011. In its resignation letter, the audit committee wrote:

"...Once the Audit Committee commenced its work, progress was hampered because among other things, management:

- failed to meet requested deadlines to provide all the requested documents to the review team;

²⁸ For a good discussion of traditional ways of exploiting audit confirmation weaknesses, see:
https://www.confirmation.com/media/333/boomer%20gtcc_l2.pdf

²⁹ China MediaExpress Form 8-K filed March 29, 2011.

- declined to permit the forensic auditor appropriate unfettered access to the financial data;
- further delayed when follow-up information was sought by the review team and delayed the start of the forensic accounting work on the grounds that document gathering needed to be completed;
- withdrew financial information from the forensic accounting team because the team was taking notes during its review work.

After each of the above incidents (as well as other incidents), members of the Audit Committee, at the review team's request, would spend significant amounts of time to resolve the impasse created by management. Each time management promised future cooperation; however, each time when the review team recommenced its work, full cooperation was not forthcoming and new issues would arise.”³⁰

Muddy Waters had already exposed DGWIY as a fraud on April 4, 2011. Even for the most optimistic of investors, the audit committee mass resignation letter should have been proof positive that the company is a fraud. Regardless, DGWIY managed to pump up its bank accounts for a verification performed by its special investigative committee of replacement directors.³¹ In an August 8, 2011 press release, DGWIY reported:

“...The Company's Special Investigation Committee (the "Committee") today announced that based on the available bank account statements, the Company's bank balances were approximately:

- (i) USD\$24,362,243 plus RMB801,756,757(USD\$122,286,126) equal to USD\$146,648,369 on March 31, 2011, and
- (ii) USD\$23,221,331 plus RMB683,530,316(USD105,409,872) equal to USD\$128,631,203 on May 31, 2011.

The Committee utilized the Company's existing eight (8) online internet banking facilities for the March 31 and May 31, 2011 RMB balances, and those internet bank balances were consistent with the bank statements.”³²

Cash balances can be faked in China through a combination of document forgery (forgery is so commonplace in China that street hawkers outside of the Shanghai railway station sell counterfeit tax invoices), compliant bank employees who will never be held accountable and whose monthly salaries are only several hundred dollars, and the availability of balances for rent. China's financial fraud economy is substantial –the largest in the world by far – and such balances are thus relatively easy to come by.

As an example, Muddy Waters's research director, Carson Block, was invited by a Shanghainese friend in 2007 to participate in a scheme at Bank of China (“BOC”) whereby toward the end of each week, Mr.

³⁰ <http://sec.gov/Archives/edgar/data/1465317/000095012311044385/h05033exv99w2.htm>

³¹ The previous directors on the committee, along with the committee's former legal advisor, resigned on April 20 & April 21, 2011.

³² <http://ir.duoyuan-hq.com/phoenix.zhtml?c=230632&p=irol-newsArticle&ID=1594164&highlight=>

Block would have moved money into an account at a designated BOC branch in Shanghai. He would have then been free to remove the money the following Monday or Tuesday. For his efforts, he would have received weekly interest payments that would have exceeded 20% on an annualized basis. Mr. Block surmised two things at the time a) for him as a white foreigner to have been invited to participate, the scheme must have been enormous; and, b) this program was likely designed to help BOC managers meet reserve requirements, which managers were otherwise unable to meet because they had illicitly extended too many loans (Mr. Block declined to participate).

This is all relevant to EDU because as EDU adds stores, it adds bank accounts. Typically, each store will have at least one bank account—often more. The cash movements become more numerous, more complex and to and from more places, generating increasing amounts of paper records. The opportunities for EDU to game cash balance therefore increase. Despite EDU's greater complexity calling for more audit firepower, EDU's audit fees have decreased significantly since 2007, which was its first full year as a public company. During this time, there was significant inflation in China of accountant's salaries, so we assume that Deloitte's cost per man-hour increased during this time. For Deloitte to charge 1/3 less than in 2007 while auditing a network almost 3x as large, all while paying accountants more, is risky.

If it is clear that on a standalone basis EDU is not paying for a quality audit. It is ever more obvious when comparing its peers. EDU paid less for its 2011 audit than any of its US-listed peers, despite reporting significantly greater size and geographic reach. (As we discuss in *EDU and Its Public Comps: Too Good to be True*, we think that financials of the other companies in this industry generally should be viewed with skepticism.)

China Education Company Auditor Fees						
	2006	2007	2008	2009	2010	2011 Auditor
EDU	384	1,368	1,300	1,098	1,000	932 Deloitte
GEDU	NA	NA	NA	253	744	NA PwC
XRS	NA	NA	NA	NA	350	998 Deloitte
AMBO	NA	NA	NA	1,194	1,468	2,383 PwC
XUE	NA	NA	NA	110	1,298	1,490 Deloitte
CAST	NA	900	1,700	1,000	1,100	NA Deloitte

EDU Audit Fees Compared with Other Metrics						
	2006	2007	2008	2009	2010	2011
Period-End RMB Conversion Rates	8.0215	7.6516	6.9400	6.8278	6.8305	6.4786
Audit Fees (\$000's)	384	1,368	1,300	1,098	1,000	932
Audit Fees (RMB 000's)	3,080	10,467	9,022	7,497	6,831	6,038
Year-over-Year Change	NA	239.8%	(13.8%)	(16.9%)	(8.9%)	(11.6%)
School Count	NA	35	41	48	48	54
Learning Center Count	NA	130	207	222	319	433
Total Facilities Count	NA	165	248	270	367	487
Audit Fee per School/Learning Center (RMB)	NA	63.4	36.4	27.8	18.6	12.4

Given that EDU is collecting sizable upfront fees from franchisees and obviously consolidating the franchises to some extent, EDU clearly has even more of an opportunity to game its cash confirmation process. At the same time, it is underpaying for its audit.

We call not only upon EDU shareholders, but shareholders of all China companies to review the audit fees the companies pay to ensure they are not paying the auditor to cut corners. Appropriate audit fees are monies well spent.

Hood Rich Mike

*“Got everything in my momma name
But I’m hood rich la da daa da daa da”
– “Still Fly” by Big Tymers³³*

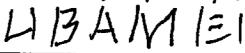
What does chairman Michael Yu have in common with Mannie Fresh? They both got everything in they momma name. In the FY2011 20-F, it states that Michael Yu’s 26.4 million shares are owned by a BVI company in turn owned by his mother, called Tigerstep Developments Ltd. The filing reads:

“Mr. Yu disclaims beneficial ownership of all the shares held by Tigerstep Developments Limited.”³⁴

Give us a pound Mike. Our dawg.

Below is the signature of Li Ba Mei, chairman Yu’s mother, on a May 22, 2012 Form 144 for the recent sale of EDU ADSes totaling \$41.8 million. In the words of the Notorious B.I.G. “Now my mom pimps a Ac with minks on her back.”³⁵

ATTENTION: *The person for whose account the securities to which this notice relates are to be sold hereby represents by signing this notice that he does not know any material adverse information in regard to the current and prospective operations of the Issuer of the securities to be sold which has not been publicly disclosed. If such person has adopted a written trading plan or given trading instructions to satisfy Rule 10b5-1 under the Exchange Act, by signing the form and indicating the date that the plan was adopted or the instruction given, that person makes such representation as of the plan adoption or instruction date.*



(SIGNATURE)

We are not saying that Michael Yu is the most repugnant company chairman we have ever seen. He is far from it. We respect that he built a network of stores that has delivered a useful service to millions of customers, albeit while lying to attract the capital to do so. Investors need to understand that Chairman Yu has a very pragmatic attitude toward business.

Education Testing Services (“ETS”)³⁶ sued EDU in 2001 for copyright infringement for distributing TOEFL tests to students without ETS’s permission. Bloomberg Businessweek Magazine asked ETS’s former general counsel Stanford von Mayrhauser about the litigation:

³³ Muddy Waters often uses American hip-hop as metaphors for improper corporate behavior. To be fair though, American hip-hop usually surpasses corporate China in the celebration of criminal and cartel behaviors.

³⁴ EDU FY2011 20-F, p. 69.

³⁵ Translation: my mother drives an Acura and wears mink coats. From “Juicy” off of the 1994 debut album “Ready to Die”.

“During settlement talks in Washington, D.C., von Mayrhauser sat across from Yu. ‘I remember his saying, ‘You’re going to lose, no Western company can win in Beijing. Even if you win, you’ll only get \$5,000,’” Von Mayrhauser says. ‘That pretty much ended the meeting.’”³⁷

The article mentions that ETS later agreed to license an online TOEFL exam to EDU (emphasis added):

“Yu says ETS realized he ‘is not a vicious person’ and was only *following standard Chinese business practices.*”³⁸

In this case, we don’t hate the player, we just hate the game.

The Great Leap Backward: China’s Ministry of State [In]Security, EDU’s Dividend, and EDU’s VIE.

In 2012, China made it state policy to protect its frauds by (in violation of its own laws) restricting access to government files. Its domestic spy agency, the Ministry of State Security (“MSS”), also began a campaign of intimidation against individuals who do on-the-ground research to detect fraud. The MSS became aware that we were researching EDU at the end of March / beginning of April 2012. There is a very high probability that it informed EDU of this fact.

On April 17, 2012, EDU announced a \$0.30 per ADS special dividend to be paid September 29, 2012 to shareholders of record on August 31, 2012. This dividend announcement was unusual. First, EDU chose its fiscal Q3 announcement as the time to announce its first dividend as a public company, despite having been public for 22 quarters. (The announcement of a first-time dividend at Q3 numbers is a little odd for any company.)

The second unusual aspect of this announcement is that EDU had previously been obstinate about not paying dividends, offering a series of questionable excuses for not paying one. As recently as the prior quarter’s call (fiscal Q2), Louis Hsieh had said:

“So, our U.S. dollar balance is not high. So we study it each time, but there is no movement on that right now. And as you know, there’s also a withholding tax in China that looks like it’s 10% but when the companies actually go through the process, there ends up being a lot of other taxes and the amount goes up into the 20%. And so the cost of dividends or repurchase – stock repurchases becomes overwhelming high unless you have a lot of U.S. dollars, which we don’t.”³⁹

EDU’s history as a non dividend-payer was particularly vexing because EDU paid cumulative dividends per common share of its Cayman parent company of RMB1.56 before going public. So EDU

³⁶ www.ets.org.

³⁷ BloombergBusinessweek Magazine, May 5, 2011,
http://www.businessweek.com/magazine/content/11_20/b4228058558042.htm#p4.

³⁸ *id.*

³⁹ Q2 2012 earnings call,

finally chose to accord the same treatment to its post-IPO shareholders as it did to its pre-IPO shareholders—but only after the MSS found out that we were researching the Company.

EDU's dividend is returning capital that EDU raised from shareholders and therefore does not validate reported numbers. It has become common for China companies suspected of fraud to declare dividends, which in the cases of companies such as China MediaExpress,⁴⁰ is purely returning a portion of the money the companies raised. As shown in the table below, the money EDU will be paying out for its special dividend is simply a partial return of capital it raised through its pre-IPO proceeds and two offerings. The planned dividend therefore does not validate EDU's historical reported numbers.

Nathan Financing Cash Flows (USD \$000's)									
Figures in \$000s	FY Ending May 31,								
	2004	2005	2006	2007	2008	2009	2010	2011	Total
Proceeds from Issuance of Preferred A Shares		22,119							\$22,119
Proceeds from IPO				123,632					\$123,632
Proceeds from Follow-On Offering				24,134					\$24,134
Proceeds from Stock Options			2,332	8,274	5,322	12,446	6,432		\$34,806
Dividends	(3,301)	(7,918)	(8,072)						(\$19,291)
Share Repurchases				(27,263)	(35,455)	(29,996)			(\$92,714)
Total	(\$3,301)	\$14,201	(\$8,072)	\$150,098	(\$18,989)	(\$30,133)	(\$17,550)	\$6,432	\$92,686

In FY 2004, EDU's cash flows were rocked by the RMB 100.0 million refund (\$12.1 million) it had to pay to a “potential investor.” The Prospectus sheds little light on the event, and a deposit of that size at that point in time suggests that the “potential investor” was considering acquiring a majority of, if not all of the company. While we can only imagine what may have changed the investor's mind, EDU had concurrent loans taken out for RMB 104.5mm in the same year, and did not fully pay down its debt until after its IPO.

We believe that the dividend declaration was made to preempt a report from Muddy Waters that EDU knew would be damning to the Company's credibility. Michael, why are you running?

We experienced the feeling of EDU attempting to preempt us again on July 11, 2012 – just one week ago. We believe that on approximately July 9th, EDU became aware that we were looking critically at its VIE structure. As we discuss in *EDU's VIE: All Hat and No Cattle*, EDU's VIE structure was – and still is – dangerous for EDU shareholders. Interestingly, EDU chose July 11th, only six days before its scheduled earnings release to announce that it had “improved” the quality of its VIE structure. Per yesterday's announcement regarding the SEC investigation of EDU, EDU only became aware of the investigation on July 13, 2012. Thus, EDU's VIE press release seems to be related to our work, rather than that of the SEC. Again Michael, why are you running?

One of the purported strengthening measures EDU announced was to transfer ownership of the VIE company to Michael Yu. The rationale in press release was that (emphasis added):

“The Company believes that New Oriental China's equity interests should only be held by the shareholders whose interests are more closely aligned with those of the Company, and that the interests of Mr. Yu, who is the Company's founder, Chairman and Chief Executive Officer, are

⁴⁰ On December 16, 2010 CCME, declared a dividend of 5% - 10% on future profits (after being rumored to be a fraud).

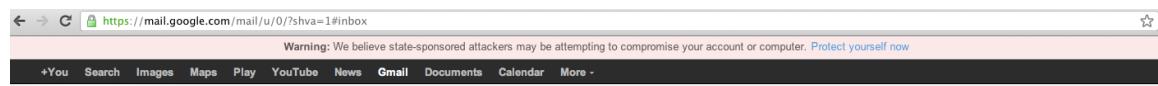
aligned with those of the Company, given the significant beneficial ownership Mr. Yu has in the Company and his continuing leadership position at the Company.”⁴¹

If Chairman Yu had significant beneficial ownership in EDU, he wouldn’t be Hood Rich Mike. So which one is it?

If you had trouble downloading this report, don’t blame us. Last week, as we were finishing up our research on EDU, it appears that our server’s defenses against denial of service attacks were tested. The following is the graph of traffic to our server that we had never seen before:



Since Google made it policy to inform Gmail users of “state sponsored” attempts to hack email accounts, Mr. Block has repeatedly seen the following notice in his Gmail:



Despite our never having taken a public stand on China’s political issues, the CPC is clearly treating Muddy Waters as a threat, and is taking overtly hostile actions toward us – particularly as we closed in on releasing this report on EDU. The combination of targeting all due diligence researchers while obstructing SEC and PCAOB investigations / inspections are also hostile actions, but they are directed against American investors at large.

We titled this section *The Great Leap Backward* because we wanted to clearly make the point that fraud and corruption among publicly-traded companies from China is so widespread that the Communist Party of China (“CPC”) feels it has no choice other than to suppress revelations of the fraud. According to the New York Times, auditors have resigned from 67 U.S.-listed China companies,⁴² and another 126 China companies have either been delisted or gone dark.⁴³ As this report

⁴¹ http://investor.neworiental.org/phoenix.zhtml?c=197416&p=irol-newsArticle_Print&ID=1713730&highlight=

⁴² We prefer the phrase “China company” to “Chinese company.” “Chinese” is an ethnicity (or a language) and has nothing to do with the propensity to commit fraud. “China” in this case refers to a country with a political and economic system that (contrary to the nature of the vast majority of its inhabitants) propagates fraud, corruption, and theft.

⁴³ http://www.nytimes.com/2012/07/13/business/in-china-inspecting-the-inspectors.html?_r=1&pagewanted=all

should illustrate, the problem listings still exist. In other words, the scourge of China companies committing stock fraud is too large to actually be cleaned up.

The CPC's reaction to the tragic high-speed rail crash in 2011 was literally to bury the crashed train. There is a strong parallel between the crash and the crackdown on research. The crash, like China's public company fraud, cannot be solved. Further, both are the indirect results of the rotting of China's society that flows from the CPC's unbridled corruption.

It is an open secret that the official economic data the CPC publishes are products of fraud. According to a U.S. State Department cable published by WikiLeaks, presumptive incoming premier Li Keqiang told U.S. officials in 2007 that China's GDP figures are "man made" and "for reference only", and advised focusing instead on other measures to gauge the state of China's economy.⁴⁴ Our message to the CPC and China companies is that if you want us and others to stop exposing fraud in China, then stop committing it.

Foreign policy makers and businesses are typically of the view that we should engage with China on two separate tracks: economic interests and human rights. We (Muddy Waters) were also once proponents of this view. Our work over the past two years has taught us that lack of respect for human rights becomes lack of respect for economic rights. Our message to investors is that human rights and economic rights are two sides of the same coin.

EDU's VIE: All Hat and No Cattle

EDU's VIE structure deviates widely from best practices and is among the most troubling we have seen. Among other problems, EDU took over five years to register the share pledge of its VIE, and only did so this May likely in order to preempt a critical report from Muddy Waters (see *The Great Leap Backward*). Even worse, EDU evidently should have foreclosed on the pledged equity 17 months ago, yet did not. The pledge is therefore cosmetic only. Unlike best practices VIEs, such as Baidu, Inc. ("BIDU"), which attempt to place as much economic substance within the shareholders' company as possible, EDU's structure leaves most economic value in the hands of chairman Michael Yu.

We believe that the arguably non-consolidatable structure was primarily designed to protect EDU Chairman Yu from shareholders, should he lose control of the public company. This weak VIE structure is consistent with the Hood Rich methodology of placing assets that would be within reach of a functional court system (i.e., his shares in the public company which would be adjudicated in the British Virgin Islands) into his mother's name. On the other hand, the shares of the VIE would be almost impossible to wrest from Chairman Yu in PRC court or arbitration, so why wouldn't he give them all to himself?

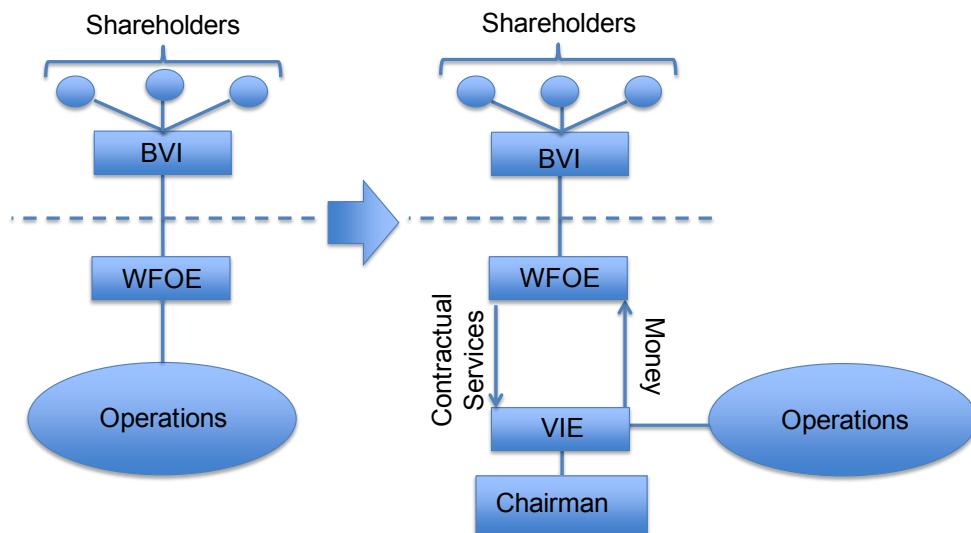
As a refresher, a VIE (variable interest entity) is a way of allowing a publicly-traded company to consolidate operations that it does not actually own. In the wake of the Enron collapse, the US required public companies to consolidate off balance sheet structures. China companies quickly realized that they could use the post-Enron rules – specifically FIN 46 – to consolidate operating businesses that China law prohibited foreigners to own (e.g., internet businesses). This consolidation was highly desirable for IPOs.⁴⁵

⁴⁴ <http://presscuttings.ft.com/presscuttings/s/3/articleText/61910386#axzz20kdRjmn>

⁴⁵ Commentators generally assume that consolidation was necessary for IPOs; however, we disagree. A sounder alternative to VIEs would be a structure whereby the public company has truly independent management, reports only based on the

A VIE structure creates the illusion that the shareholders own the underlying business. In reality, management or their designees are the shareholders of the operating business. The public companies (via their subsidiaries) have contracts with the operating businesses that are supposed to provide cash flows to the public companies, as well as controls that act as checks on the heavily conflicted managements. For a more detailed explanation of VIEs, see www.chinaaccountingblog.com.⁴⁶

The following diagram illustrates the differences between a basic, conventionally-structured China public company and a basic VIE structure:



There are best practices for VIEs that provide more shareholder protections from potentially rogue management. The following is a description of the agreements constituting Baidu Inc.'s (NASDAQ: BIDU) VIE package, which reflects these best practices. (Ironically, BIDU chairman / CEO Robin Li has been on EDU's board since before EDU's IPO) BIDU's IPO prospectus describes the public company's ability to control the operating company in the following way (emphasis added):

We [the public company] have contractual arrangements with Baidu Netcom [the operating company] and its shareholders pursuant to which...Through these contractual arrangements, we also have the ability to substantially influence Baidu Netcom's daily operations and financial affairs, appoint its senior executives and approve all matters requiring shareholder approval...⁴⁷

As we will explain in this section, EDU has no such control of its operating company, which we believe is a deliberate attempt to protect Chairman Yu from shareholders, should he lose control of the public company. BIDU's VIE package consists of the following agreements:⁴⁸

cash flows it receives from the operating company, and is audited separate from the operating company. Such (more prudent) structures would have had far less "sex appeal" in the IPO selling process than did the illusion of owning the operating business, and thus have not been used.

⁴⁶ This blog is highly critical of the use of VIE structures, which we largely agree with. However, we are far more critical than he of auditors' conduct in China.

⁴⁷ BIDU 424B filed 8/5/2005, p. 4.

⁴⁸ BIDU 424B filed 8/5/2005, pp. 45-6.

BIDU: Technology Consulting Service Agreement and Business Cooperation Agreement. These agreements provide that the public company's WFOE⁴⁹ subsidiary will provide key operating services to the operating company, including:

- secondment of employees,
- internet search services, and
- internet advertising services.

BIDU's agreements reflect an attempt to place as much of the substance of BIDU's business operations into the WFOE in order to decrease the standalone value of the operating company to BIDU management (should management go rogue). This limitation of the value of the operating company is common to VIE structures.

However, EDU's WFOEs have very little business substance within them, which increases the temptation for EDU management to use the operating company to enrich itself. Having little substance in the WFOEs makes it easier to walk away from the public company shareholders and keep the operating business. It is troubling EDU's VIE package would have been structured this way.

Operating Agreement. This agreement places a good deal of management substance in BIDU's WFOE.

- It requires BIDU's operating company to appoint directors the WFOE designates.
- BIDU's WFOE receives the right to appoint the operating company's senior executives.
- BIDU's operating company is prohibited from making material business decisions without the WFOE's approval.
- This agreement also provides cross-guarantees between BIDU's WFOE and operating company that make it hard to sever BIDU's operating company from the listco and WFOE.

BIDU's operating agreement therefore places a substantial amount of control over BIDU's operating company in the hands of the WFOE, which is a subsidiary of the public company. This is important because shareholders would eventually be able to take control of BIDU's WFOE should management go rogue. These controls therefore act as assurance that rogue BIDU management does not use the operating company for its own enrichment. These controls represent best practices and are common to VIE structures.

EDU has few such controls.

Software and Other License Agreements. BIDU's WFOE owns key software code for BIDU's search and advertising business. It also owns the web domains for BIDU's websites. Under these agreements, BIDU's WFOE licenses the code and domains to the operating company. This is another way in which BIDU's VIE package puts business substance into the company controlled by BIDU shareholders, and diminishes the standalone value of the operating company.

Of course the main substance of EDU's business is the learning centers, which are owned by the schools, which are owned by the VIE. In this way, EDU leaves substantially all of the value in the operating company, which Chairman Yu now wholly owns.

Proxy Agreement. BIDU's operating company shareholders agree to allow BIDU's WFOE (via an individual the WFOE appoints) to vote for them on all matters.

⁴⁹ The acronym is pronounced "woofie." It means wholly foreign-owned enterprise, which has legal significance in China.

EDU has no such agreement.

Irrevocable Power of Attorney. This effects BIDU's proxy agreement by specifying the individuals who will vote on behalf of BIDU's operating company shareholders. It provides that the power of attorney shall terminate if the designated individuals cease their employment with BIDU's WFOE.

EDU has no such agreement.

Equity Pledge. BIDU's operating company shareholders recorded a pledge at the State Administration of Industry and Commerce (SAIC) in favor of the WFOE over their equity in the operating company. (We do not have BIDU's SAIC files, so we cannot confirm this.) If BIDU's operating company breaches its contractual obligations to BIDU's WFOE, then the WFOE may foreclose on the pledged equity. Such pledges are only enforceable if recorded at SAIC, which is the official register of such pledges. It is common in VIE structures for the operating company shareholders to record such a pledge at SAIC.

In contrast, EDU's operating company shareholders did not record any equity pledge at SAIC until two months ago (after likely learning from the MSS that we were researching EDU). As part of the VIE package, EDU had entered into an agreement to record such a pledge in the operating company's internal shareholder registry. The pledge was to secure EDU's performance under four agreements with its WFOEs.

The more important point though is that (registered or not), EDU has already proven that the pledge is cosmetic. EDU evidently failed to renew three of the four agreements that the VIE share pledge purportedly secures. These agreements have disappeared from its exhibits list after expiring on January 1, 2011. Yet, EDU has not foreclosed on the pledged security. Thus the pledge truly is illusory.

EDU's cosmetic pledge agreement provides that the pledge is to secure the VIE's performance (i.e., payments to the WFOEs) under the "Main Contracts." The pledge agreement defines Main Contracts as the:

- Trademark License Agreement. EDU has two trademark license agreements, but this presumably refers to the one between its WFOE Hewstone and the various schools. This trademark license agreement – formerly exhibit 4.7 – expired on January 1, 2011 and was not renewed.
- Website Development and Use Agreement. This agreement – formerly exhibit 4.5 – also expired on January 1, 2011 and was not renewed.
- Teaching Support Agreement. This agreement – formerly exhibit 4.4 – expired on January 1, 2011 and was not renewed.
- New Enrollment System Development Agreement. – formerly exhibit 4.6, but now 4.4 – is likely still in effect because it is still listed in the exhibits.

EDU's defense against a charge that it failed to enforce the pledge would be that it wrote the pledge in a way so as to allow the agreements to terminate without triggering the pledge. The pledge agreement appears to allow EDU to amend the list of the agreements that are included in the Main Contracts (presumably including by deleting them). Regardless, if that is the rationale for failing to foreclose, then the pledge is clearly illusory.

Equity Option. BIDU's operating company issued BIDU's WFOE an option to purchase its shares when it becomes legal for the WFOE to own the operating company. The term of the option is 10-years.

EDU's operating company also issued an option that allows the WFOE to purchase the operating company's equity when it becomes legal to do so. We do not expect the PRC government to make it legal for the listed companies to own either BIDU or EDU's operating businesses anytime soon.

EDU and its Public Comps: Too Good to be True

“I am in awe of New Oriental’s success in a marketplace that fractured, that difficult, that competitive,”
The Princeton Review’s Kanarek says.⁵⁰

While EDU does deliver good education and training to its clients, we believe that actual profit margins are a good deal lower than EDU and most of its peers report. The reality of business in China – particularly retail business – is that competition is far more deleterious to margins than most foreign investors perceive. Once a given business model demonstrates success in a given location, virtually overnight there will be numerous competitors setting up shop to compete. Their competitive strategy is usually to undercut prices. The mass market in China is legendarily price-sensitive. Everybody bleeds until enough of the players are washed out of the industry that margins recover somewhat, just in time for the same cycle to repeat itself.

In the past decade, China has generally been awash in liquidity due to the accumulation of enormous capital and current account surpluses of recent decades, and inflation of massive credit and asset bubbles. As a result, capital has often been allocated without due consideration for economic returns, which exacerbates the deleterious impact of competition beyond what would be the case in a more conventional economy. We have long observed that China seems to be the land of six-month business plans as a result of these competitive forces.

EDU has a strong nationwide brand in China, which is built on solid delivery of service. However, that can only give you so much pricing power in this environment. The reality is that most of EDU's sweet spots are commoditized, particularly domestic and overseas test preparation, and adult English. That is not to say that EDU's loses much market share to fly-by-night operations. Rather, there are enough operators that deliver quality services that EDU's brand does not afford it much of a moat.

We have observed that EDU's course pricing is often not higher than that of its competitors. Credit Suisse made the same observation in a November 2011 report, in which the analysts found that EDU's pricing is comparable to, if not lower than, its competitors.⁵¹

“Our primary ASP study on hourly rates of small classes in Beijing and a representative Tier 3 city shows that the market perception of EDU having a price premium over competitors is wrong.”⁵²

⁵⁰ Bloomberg BusinessWeek Magazine, May 5, 2011,
http://www.businessweek.com/magazine/content/11_20/b4228058558042.htm#p4.

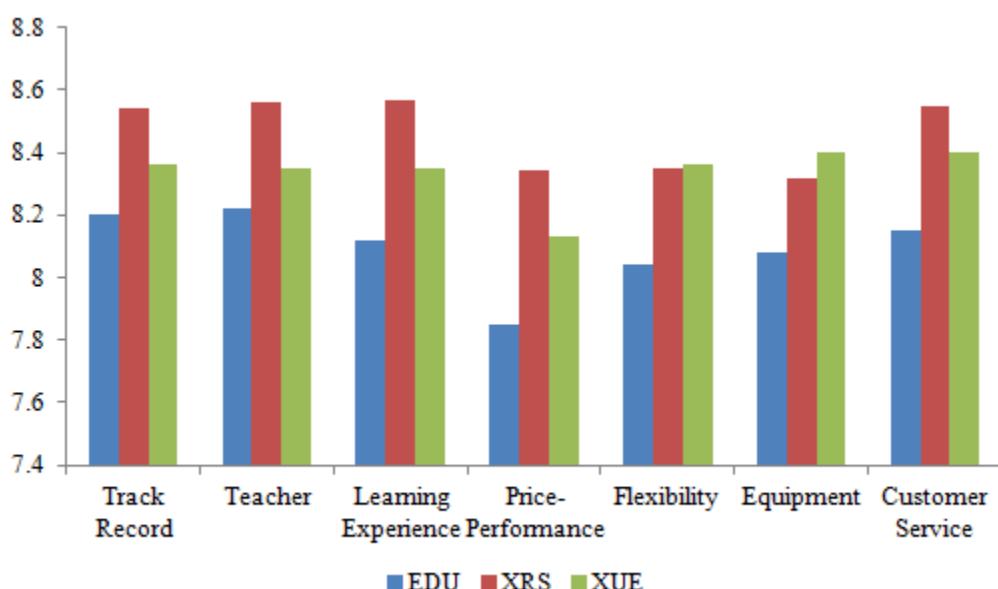
⁵¹ <http://tinyurl.com/7p924wz> (Credit Suisse November 29, 2011 China Education Sector Review)

⁵² *id.*

In a graph on p. 17 of Credit Suisse's report, Credit Suisse noted that rather than pricing its services at a premium, EDU priced virtually all of its English classes *below* those of TAL Education, one of its primary competitors that is known for non-English courses. We also found this to be the case most of the time following an internal study in which we compared EDU's pricing of comparable classes with its competitors while controlling for confounding variables in EDU's pricing. This contradicts EDU's frequent mention of its "premium pricing" in China to explain how it is producing 60% gross margins to investors:

"So we're like Wal-Mart but with a Tiffany price. So we offer one thing under one roof for them and so we're doing the same thing now to K-12."⁵³

The reason behind this can be attributed to the fact that, based on survey results published by Credit Suisse in the same report, EDU is at the bottom of its peer group of public companies **for every single customer service metric**. We have approximated Credit Suisse's graph below for your convenience:



The only segment in which we perceive that EDU has a real pricing advantage is POP Kids. Parents of young children are the least price-sensitive segment of for-profit education customers. During discussions about opening a Tier 3 city franchise between a potential franchisee and EDU, the EDU representative indicated that the potential franchisee should expect to generate gross margins of 10-15%.

EDU's VIP business gross margin seems to be greatly overstated as well. Louis Hsieh claimed that VIP business gross margins reached 54% in FY2011.⁵⁴ We had a conversation with a senior executive from Only Education, which we perceive to have greater brand strength in the Shanghai market than EDU does. The Only executive stated that gross margins on VIP classes are 17% to 20%. This executive is also one of the sources who stated that group classes in Tier 1 cities top out around 30%.

⁵³ Louis Hsieh, EDU Q1 2011 earnings call.

⁵⁴ Louis Hsieh, EDU Q4 2011 earnings call.

Louis Hsieh also commented that POP Kids gross margins are in the mid-50% range.⁵⁵ As mentioned supra, a Tier 3 city POP Kids franchisee should expect to generate 15% to 20% gross margins.

We are skeptical of the financials of several of EDU's publicly-traded peers, specifically Ambow Education Holding Ltd. (NYSE: AMBO), ChinaCast Education Corp. (OTC: CAST), and TAL Education Group (NYSE: XRS). The financials of Xueda Education Group (NYSE: XUE) are the most plausible of the group, and their financials indicate that companies in the industry are operating barely above break-even.

- AMBO: has had two CFOs resign in the past year, has been accused by a former employee of financial impropriety, and posted a surprise Q1 2012 net loss vs. a profit the prior year despite reporting 22.1% growth in year-over-year revenue at the same time.
- CAST: In March 2012, CEO Ron Chan was fired after being accused of refusing to allow Deloitte to certify ChinaCast's books. Follow his firing, Chan stole the company's chops, business licenses, and accounting statements. This prevented ChinaCast from engaging in any further business. The company also announced that it was investigating the unauthorized transfer of ownership in two of its colleges, possible undisclosed related party transactions, possible undisclosed loans to third parties, and suspicious trading of CAST stock. Chan issued a public letter to the board of directors, in which he accused (former dissident shareholder) Ned Sherwood of attempting to use his board position to control the company and "creating a hostile and terrifying atmosphere" and denied the claims that he had stolen the chops and licenses. At some point, several burly men came into the Shanghai office of ChinaCast and carted off several computers from the finance department.
- XUE: has had low or negative operating margins during the entire time it has been public and reported gross margins half as high as EDU's VIP segment despite being in the same business XRS: EDU, XRS, and LFT share a common pedigree – they all received pre-IPO investment from Tiger Global Investment Consulting (Beijing) Co. Ltd.'s Ms. Xiaohong Chen. XRS's current CFO, Joseph Kauffman, was previously with EDU.⁵⁶

To be clear, for-profit education is definitely not the worst industry in which to compete in China. Because of the Chinese focus on educational achievement, good providers have an ability to separate themselves from the herd. However, the top tier is somewhat crowded, and particularly in an environment in which employee salaries are increasing rapidly, we view it as wholly unlikely that mass market⁵⁷ education companies are able to generate gross margins in excess of 50%.

Gross Margins					
	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
EDU	59.5%	61.6%	61.7%	61.9%	60.1%
GEDU	57.6%	60.2%	58.6%	55.8%	NA
XUE	(35.1%)	6.3%	25.7%	32.9%	29.5%
AMBO	NA	36.2%	58.5%	62.4%	60.5%
XRS	NA	50.8%	51.0%	46.0%	49.2%

⁵⁵ Louis Hsieh, EDU Q4 2011 earnings call.

⁵⁶ XRS 2011 20-F, p. 86

⁵⁷ An example of a non-mass market education company is Metro Education (www.metro-education.com), which focuses on a particular international accounting certification. We cannot attest to Metro's financials, but industry sources indicate that its Shanghai store level gross margin can reach 45%.

Operating Margins					
	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
EDU	19.9%	22.6%	20.8%	20.0%	17.1%
GEDU	27.2%	26.5%	20.6%	17.5%	NA
XUE	(127.8%)	(35.1%)	(0.9%)	6.9%	1.6%
AMBO	17.6%	13.7%	16.5%	18.8%	12.3%
XRS	NA	18.8%	24.3%	22.3%	23.1%

Above are the gross margins as reported in their financial statements for EDU and some of its competitors.

Conclusion

The best thing we can say about EDU right now is that it is probably not “a zero” in the conventional fraud sense. It has a real business, and might even overall be profitable. However, there is clearly a lot to be found beneath the hood once the auditor starts looking (e.g., the likely consolidation of heretofore unknown franchisees’ results and upfront fees, and fraudulent PRC financial statements). It is probable EDU will restate earnings, and probable that Deloitte will resign.

Beyond the immediate issues of the franchising and fraud, EDU shareholders need to consider the value of their investment in this legal structure. The first problem is that EDU is a weak VIE. The next problem is that the VIE owns the productive assets through schools. According to law, those schools and their assets really belong to the PRC government. Investors should take heed that PRC public company GAAP forbids consolidating schools.

List of Appendices

English transcript of call between EDU franchising employee and a potential franchisee	35
Translation of Franchise Agreement	40
Translation of Caishui 2004	56
Chinese version of MOE reply regarding NRRR tax treatment	60
Lists of Beijing Non-Profit Organizations with tax-exempt status	25
Beijing Civil Affairs Bureau Financials.....	60

English transcript of call between EDU franchising employee and a potential franchisee
(P.F.)

NOTE: this record began several seconds into the conversation.

EDU: It is a prefecture-level city, correct?

P.F.: Yes, a prefecture-level city.

EDU: What is your main business right now?

P.F.: I am preparing to invest in some educational businesses. Currently in Taixing, there aren't many education schools that can cover this area. We happen to have some people in the Bureau of Education. That's why we hope to introduce new brands to Taixing. We came across POP English online and feel like it is a nice brand, mostly because parents nowadays pay a great deal of attention to their children's education.

EDU: Are you planning to do this on your own, invest on your own, or what?

P.F.: Yes, we're making investments on our own.

EDU: Do you have some kind of a main formal job for now?

P.F.: I don't understand what you meant, do you mean me or our company?

EDU: I meant you, right now, at this moment.

P.F.: Actually our company have many projects in Taixing at the present time. We are a company that's working with and under the Architectural Bureau. We are hoping to do investments in other areas. We are relatively more interested in the educational area, because we have plenty of space ourselves.

EDU: Have you ever done anything related to the educational area? Never done projects in this area before?

P.F.: No, haven't been in touch with education related areas, but we have some staffs who are in the educational system themselves.

EDU: Are those the people who are cooperating with you?

P.F.: Right.

EDU: First we need to consider your distance to our direct owned school. Earlier you said it was 30 minutes. Based on the trend of stationing, the profit of the direct owned school gets our prior consideration. We might do some evaluations. You can leave me your telephone number. Those teachers who are in charge of the franchise are all out of town on business trips. I can forward your information to them. They know better of the general developing direction in our area, whether the priority is in the east, west, south, or north. Please leave me your number. If they are interested in your area, and your area suits the basic franchise qualifications, they will give you a call. Please leave your number.

P.F.: OK, OK.

EDU: So can you give me your number?

P.F.: 132*****. My last name is Li, the one with the "wood" character on top and the "son" character at the bottom.

EDU: Your current business is not related to education at all, right?

P.F.: What we're doing is not largely related to education.

EDU: In what respect?

P.F.: We are doing developments, project developments, some landed estate and commercial real estate developments. At this time we have some space in some of the developed projects that can be used for the school.

EDU: Will you be working on this yourself, or will you ask the executive principal to do things for you?

P.F.: I don't know much about this. By executive principal, you mean a principal you guys send to us?

EDU: No, in our franchise area, you are solely responsible for your own profits and losses. We won't get overly involved in the daily operations and personnel management. If you want, we can give you some advises on staff selections. But we will not hire people for you.

P.F.: This means we will arrange on our own all the staff, teachers and such, right?

EDU: We can give you some final moment advises. In the process of hiring, interviews for example, after mass-elections, preliminary examinations, reexaminations, when it comes to the actual decisions, we can give you advises on the important positions if you want, and give you advises during the practical investigations.

P.F.: I'd like to know what the New Oriental will provide us with, how much it will cost to join the franchise, and what services you will provide?

EDU: The franchise fee is like this, the franchise fee is different depending on various regions. And it's evaluated based on several factors, the average staff salary, the GDP, the economic environment, the future developments and the geographical location, etc. There is also an overall evaluation of the city. This is why there was an initial understanding and simple discussion over the phone. After that, there would be an overall evaluation of the city, including an evaluation of the future site selection, evaluation of your personal abilities, your degree of enthusiasm for education, and other major factors. Finance is also part of the criteria, you have a certain financial strength from doing real estate development for such a long time. But will you be able to full-heartedly devote yourself to education? These are all things we will take into consideration during our future investigations. If the preliminary examination says that you are quite qualified, we'll have a set of forms for you to fill out.

P.F.: What's an estimated amount of the franchise fee? Let me know so I can have an answer for my boss.

EDU: Oh, you're not the boss?

P.F.: No, I'm not the boss. But I'm in charge of all the investment projects under the name of the company.

EDU: The franchise fee is not quite the same as the few things we just talked about. The franchise fee is about 600,000-800,000 yuan.

P.F.: If we do this, when doing this, will you give us the entire city to work on or is it counted by locations? We're in Taixing city right now... (Pause)

EDU: No, the entire city... (call dropped)

Note: two places cannot be heard clearly which are highlighted in yellow in below, would be the name of training workshops or the time when the training workshops will be held.

(New Oriental forwarded phone call sound recording, after redialing in)

EDU: Hello.

P.F.: Hello, Teacher Liu?

N.O: Yes this is.

P.F.: Sorry, I lost the signal earlier, and couldn't call in for a while.

EDU: That last call didn't get forwarded to me.

P.F.: We were talking about joining the franchise, will we be authorized over the entire city, or...

EDU: Okay, you just mentioned that Taixing is about 30 minutes away from Nanjing.

P.F.: More than that, probably 40-45 minutes. It's a fair distance.

EDU: We were just talking about the authorization. We would authorize the one cooperating school over the entire city. In the case of other personnels, counties, districts and everything in between, as long as they belong in the Taixing region, they won't be getting our authorization after the first school.

P.F.: I see. Do we get to open multiple locations? We are planning on selecting two to three sites, does this count as one franchise and a single franchise fee, or else?

EDU: No matter how many branches you open, it's charged as one school. For instance, if you ace our preliminary examination, reexamination, final examination and defense, and if we do decide to give you the authorization, your first school would always be the standard regardless of the number of branches. New Oriental always charges fees based on the size of the first school.

P.F.: What will New Oriental provide us with? What about the instructors, classrooms, and training? Do we...

EDU: New Oriental each year holds one training workshop, and also training meeting, and our team will appoint teachers to be specifically in charge of the school's supervision and guidance. Isn't there an 80,000 yuan annual technical service fee? This fee covers the on-site counseling services twice per year, our on-site assistance provides help with spring semester and fall semester classes, classroom settings, all sorts of practical problems, guidance and supervision.

P.F.: And what about the textbooks and teaching materials?

EDU: We all use the same New Oriental textbooks and teaching materials.

P.F.: Do we need to pay extra for those?

EDU: Yeah, it's an additional fee.

P.F.: And how about school promotion?

EDU: Didn't you get our information through the websites? New Oriental has an official website. All the schools have their own websites, and the schools can be found on the website. We have our annual brand name advertisement, it goes along with various holidays such as the Children's Day. We also have the annual "POP Kids English Talent Competition", and there will be some advertisements surrounding it. Our center has an entire set of tactics. We'll ask you to do things our style. The posters, brochures and flyers you use are all readily given to you, you won't need to hire people to make extra designs. Because we must have a unifying brand. We don't want to have all the schools come up with their own designs, all sorts of crazy designs, they don't go together as a unifying brand. Our marketing includes all kinds of activities each year, with all these activities going on, student enrollments shouldn't be a problem. This certainly is the difference between joining a franchise and building your own business. This part will grow and develop into a system.

P.F.: Because New Oriental is a brand name, we do hope to quickly recruit many students. Here in our city, well, it's a small city, but normally the parents are very willing to spend money on their kids' educations.

EDU: Yeah, of course it's always good to make profits. However, we've also been thinking, we would want our cooperators and investors to make sure the quality of teaching and services...Because New Oriental cares a lot about the brand reputation. We don't want to cause complaints and dissatisfaction among the parents. This is why we need to specifically evaluate the investor's personality, and his views on education. For the future development of the school, does he want to make education his career, or his business? We'll be considering these questions in several rounds of communications. Once we become partners, our goal is to have a mutually beneficial collaborative development. We don't want to always have to worry about something on your part that doesn't satisfy our requirement, or some things you do on your own free will. We'll maintain a certain degree of supervision in the future. For instance, you won't be allowed to

do advertisements using certain words and such. We'll also have related formal trainings. Because you're investing in New Oriental, it's certainly a brand name, our teaching quality and public reputation are all very good. When doing the actual school business, we want our investors in those second-tier cities and small towns to make sure they are doing their best to maintain high cohesion with the New Oriental Headquarters' spirit.

P.F.: Yes, right. Let me confirm the franchise fee one more time, because I need to have a reply for my boss. The franchise fee is generally 600,000-800,000, and it remains the same regardless of how many branches we open. Is this a one time fee or annual fee? One time fee?

EDU: We sign the contract for three years. This fee covers three years only. After three years, we may raise or lower the fee based on your status. Because beginners only get authorized to teach the English subject, if they are doing a good job and want to have math and Chinese literature and language, they'll need to pay extra.

P.F.: You also mentioned an annual 80,000 yuan technical management fee.

EDU: Annual technical service fee.

P.F.: Annual technical service fee-- is this directed at one school or for all schools?

EDU: It's the same price for all schools. All the franchise schools get charged the same thing, regardless of their city's population, economic status or whether it's a county-level city or prefecture-level city.

P.F.: I meant to say that we're planning to open two to three locations. So does this 80,000 fee cover one location or all the locations?

EDU: It covers the entire region, the city of Taixing, no matter how many branches you open, it's charge as one school. And then if we have trainings, we'll be focusing on one location. If our training teachers go to your city for two days, they won't have enough time to get to every site. So if we're going to do trainings, we'll need to discuss ahead of time how to get the best result in a very short period of time.

EDU: Oh, we only have this one problem. For everything else we can cooperate with you, but there is this one problem, the teaching staff. We probably won't be able to find many good local English teachers. In this regard, what plans and solutions do you have to help us?

EDU: Pardon? I didn't catch that, can you speak louder?

P.F.: The teachers. We're in a small town and there aren't many good English teachers. What kind of help can you provide us with on this?

EDU: New Oriental has classes for teaching staff. These classes are meant to publicly recruit each year those young teachers who have ambitions in education. We then give them three months of training and look for the ones with potentials. Then we'll see how you can provide them with a development platform. We're not saying that you must go to this school. School and school are different. A franchise school has different conditions and space for development. They're not things that we have control over on our part, do you understand? So if you are truly sincere, you can come over to seek your qualified candidates. Another choice would be to try the career fairs at your local colleges, English language schools and technical institutes. You can send us those college graduates with potentials for the trainings. You'll be able to keep them for sure if you can offer good pays and benefits. Yixing is a good example. I've been talking to the Yixing principal. Yixing is also one of our franchise schools. I'm not sure how much you know about Yixing. Their situation sounded quiet similar to yours. The Yixing principal was able to work things out using his personal charm. It's been three years and nothing has changed there, he has kept all the good teachers through his development and management skills and he has a highly cohesive team that can go through thick and thin with him. The human resource management on the investor's part is a major factor. We can provide the potential candidates, the teachers, but the key is what you can do to keep them, or how you can even recruit them, your sincerity is very important.

P.F.: Okay, thanks, Teacher Liu.

EDU: I've wrote down your general information. When the teacher in charge of the franchises comes back, I'll let him know. He'll give you a call if necessary.

P.F.: OK, Thank you.

EDU: You're welcome. Good-bye.

P.F.: Good bye.

Translation of Franchise agreement

Cooperation Agreement

Party A (甲方):

Address:

Contact information:

Responsible party:

Party B (乙方):

Address:

Contact information:

Responsible party:

Legal representative:

Whereas:

Party A is established in Beijing, China as an educational consulting company, legally authorized as the New Oriental Educational Technology Group, and enjoys the name use rights and sub-licensing rights (or re-licensing rights) to the brand POP Kids Education, and enjoys the fair use rights and sub-licensing rights to the POP Kids Educational Management System and supporting educational hardware and software. Party A is willing to work with an organization which is known for its quality and high standards to cooperate in developing educational activities.

Party B is established in the city of _____, as a _____ company/organization (unit), with the business scope of _____, and is willing to engage in this Cooperation Agreement with Party A in accordance with the rights and obligations listed below.

1. Provisions

1.1.1 In order to promote high quality education, and to promote the educational development of children, to establish and further promote the educational brand, Parties A and B shall abide by principles of equality, willingness, honesty, mutual benefit, mutual trust, and compensation, and hereby mutually consent to execute this brand licensing and cooperation agreement.

1.1.1.1 Party B confirms that prior to executing this agreement that it has all of the qualifications required by law to establish a school. Party B agrees that in receiving the agreed upon rights provided in this agreement, that it shall also fulfill its obligations and responsibilities in accordance with this agreement.

1.1.2 Party B is will to accept the leadership, management, and training of Party A in the overall operation of the licensed brands discussed herein (including but not limited to the areas of enrolling students, brand usage, brand promotion, the training model, operational management, etc.)

- 1.2 The Cooperative Project
- 1.2.1 Both parties agree that Party A authorizes Party B to engage in POP Kids Education in accordance with the POP Kids Educational Management System.
- “POP Kids Education” is the brand for the system developed under the New Oriental Education Technology Group flag specifically for the high quality educational training of children ages 3-12. POP is the acronym for “Play our Play”, and indicates the method of education through game play, story based instruction, and exciting activities, it allows children to enjoy learning, be healthy, develop self-confidence, and from this develop on the path to a successful future life. “POP Kids” provides high quality education to the children throughout their educational training, and emphasizes the qualities and concepts of compassion, sharing, humility, and respect, and devotedly endeavors to shape the children into outstanding young international citizens.
- “POP Kids Education” coursework covers “POP Kids English”, “POP Kids Composition”, “POP Kids English Dance”, and other subjects. The “POP Kids English” course is one of New Oriental traditional outstanding subjects, by stimulating the children’s interest in education, and developing their good study and educational habits, establishing self-confidence in learning, the children enjoy learning all the while elevating their English language ability, and generating a firm foundation for their continuous English language education. Party A authorizes that the “POP Kids English” course shall be a part of this contract and the project which Party B shall develop.
- “POP Kids Composition” and “POP Kids English Dance” and other such courses are not within the authorized scope of this agreement, Parties A and B may however add this to the agreement after further consultation, under similar terms and conditions, Party B may enjoy a priority to these rights.
- 1.2.2 Party A and Party B’s cooperation and the authorizations provide to Party B the “POP Kids Education” series brand. With confirmed authorization of Party A’s name rules and regulations, Party B may use the name “New Oriental POP Kids Education _____ City Training Center,” and Party B may not independently make any changes. As “POP Kids Education” is a brand under the New Oriental family of brands, Party A permits Party B the reasonable use of the “New Oriental” brand in the situations and circumstances delineated below in this agreement.
- 1.2.2.1 Party A consents that Party B may use the New Oriental trademark together with the POP Kids Education trademark and combined with the LOGO, the specific method of use shall be per in accordance with the “POP Kids Education Brand Use Rights Agreement”. This includes signage outside of the school, the walls inside of the school, television media, printed media, vehicle ads, posters, single page ads, enrollment brochures, and other similar advertising. Any advertising materials to be

- produced by Party B which shall include the name of New Oriental shall be reported in advance to Party A for its review and approval, and may only be distributed after they have received Party A's consent. Party B must not use any materials containing the New Oriental and POP Kids Education name and LOGO together without Party A's consent, if Party B engages in unauthorized use, then Party A has the right to require that Party B immediately cease such use and make a deduction of 10,000 RMB from its Performance Guarantee Bond: if Party B does not terminate the activity within the required time, or engages in unauthorized use two or more times, Party A has the right to unilaterally terminate this agreement and deduct all of Party B's brand use license fee.
- 1.2.2.2 In all of the various press releases, POP Kids Education shall be described in the following manner: "POP Kids Education" is New Oriental Technology Group's well-known children's education brand, the brand was established in 2004, and focuses on top quality educational training services for children ages 3 to 12 years old.
- 1.2.2.3 Outside of the above mentioned formats, Party B may not independently use the New Oriental name, not in the form of the three Chinese characters of "新东方", in Pinyin, or in English; if so Party B will be deemed to be in violation of the contract. If such a breach is discovered, Party A has the right to immediately terminate the contract, and confiscate all of the remaining brand use license fees.
- 1.2.2.4 Party A authorizes Party B to have the rights to the educational territory of the City of _____ (this agreement shall utilize the National Administrative District division criteria as the basis for the territory determination, and only permits the establishment of educational sites within this city's area, the establishment of new educational sites or cooperative educational business in the cities and counties outside and in the surrounding areas are not permitted, the authorized scope of educational activities is: educational training for 3 to 12 year old children, and the brand use agreement shall have the effective start date of _____ / _____ / _____ (YR/MO/DY), and terminate on _____ / _____ / _____ (YR/MO/DY). Party B shall strictly comply with the above written licensed territory, scope of permitted educational activities, and brand use term limits; in the event of a violation, Party A has the right to require Party B to correct the matter within 3 days and to make a deduction from the Performance Guarantee Bond of 10,000 RMB, if Party B does not take corrective action with the time required time, Party A has the right to unilaterally terminate the agreement and confiscate and all of the remaining brand use license fees.
- 1.2.3 Party B shall use the trademark licensed through this agreement from Party A, and when using New Oriental's related "VI'58, shall strictly

adhere to the contents of the “POP Kids Education Program VI Visual Identity System (2010 version)”, in the case of circumstances calling for a special use Party B shall make an application to Party A, and only after receiving such permission, may such usage take place, in the event of unauthorized use, then upon discovery Party A has the right to compel Party B to pay a fine of 10,000 RMB, if after one month from the date of discovery the unauthorized use of New Oriental’s VI still continues then Party A has the right to make a complete deduction of the funds remaining in the Performance Guarantee Bond and unilaterally terminate the agreement.

- 1.2.4 Party B may only establish and develop the New Oriental POP Kids English program within the city of _____, if Party B independently develops another training program, Party A may unilaterally and immediately terminate the agreement, and may furthermore confiscate all of the remaining brand use license fees. Party B may not use Party A’s brands, VI, logos, or name or other materials outside of the scope of this agreement or in violation of its rules. Party B is forbidden from transferring all or parts of these brands to a third party; if Party B is found to have such issues, then upon discovery, the two sides shall immediately terminate this agreement, and all of the remaining brand use license fees shall be forfeit.

1.2

The Cooperative Relationship

Party B shall have all of the rights for its property, shall have independent legal responsibility, and bear all civil liability. It shall carry out its main business to be self-financing and independently audited. The parties to this agreement are separate entities under civil law, between the individual parties no co-investment, agent, employee, contractor, or lessor/leasee relationship exists. Party B is not the representative of Party A, Party A has no labor relationship to the staff and employees of Party B and has no responsibility or obligations to them.

2. Party A’s Rights and Obligations

2.1 Cooperation Rights

- 2.1.1 Party A authorizes Party B to use the “POP Kids Education System” and “POP Kids English” system courses.
- 2.1.2 Party A is responsible for training Party B, and simultaneously for collecting the Trademark License Fee and the Technology Training Support Fee, in accordance with the separate agreements made by the two parties.

- 2.1.3 Party B must strictly respect the terms of this agreement, and carry out those educational activities for which it has authorization.
- 2.2 Training and Guidance
- 2.2.1 Party A will provide specializing training to the managers and instructors who hold positions at Party B, and in order to improve their management and operations, will provide additional follow-on training, the guidance Party A will provide to the staff of Party B shall take three forms. 1. Remote video conference call, 2. Visits to Party B to provide management guidance, 3. Visits by Party B's teachers to Party A's schools to observe and learn. The annual training and support schedule is as follows: field support and supervision: 3 times; teacher training, 3 times; management training, 2 times; training on the selection of managers, 1 time. On each training occasion, Party B will notify Party A in advance of the time and type of training.
- 2.2.2 On each occasion when Party B carries out on-site training and support activities, the travel expenses, including lodging, meals and local expenses associated with the dispatch of its support personnel and trainers to Party A, these expenses shall be borne by Party B, the trainers' compensation and labor expenses shall be paid by Party A; during the training sessions conducted at Party A's designated facility, the travel expenses for those teachers to be trained including lodging, meals, and other activities shall be the responsibility of Party B, as shall the compensation, labor expenses, and other miscellaneous local expenses for Party A's participants.
- 2.2.3 Outside of the provisions in 2.2.1 for training and support, when Party B invites Party A's managers or teachers to carry out internal training, the trainer's compensation, housing, meals, and labor expenses, shall be borne by Party A; when Party B invites Party A to participate in promotional activities, the training involved and related labor expenses shall be borne by Party A, activities shall include but not be limited to seminars for parents, enrollment seminars, seminars with public school teachers. Party B's senior trainers hourly rate is 500 rmb/hr, standard trainers hourly rate is 300 rmb/hr, elite trainers hourly rate is 200 rmb/hr. The expenses associated with assessing Party B's classes are: Party A's senior trainers 300 rmb/hr, standard trainers 200 rmb/hr, and elite trainers 150 rmb/hr. Group instruction by Party A's Director, Project Manager, Headmaster (Principal) or other high level managers or trainers are to be paid 1200 rmb/hr (for 60 mins), Party A's President, Vice President or other such high level managers shall be paid 2000 rmb/hr (for 60 mins). The standard rate for special invitations of famous educators is 2000-3000 rmb (after tax, for 2 to 2.5 hrs).
- 2.2.4 Two months prior to a newly hired teacher assuming their post, Party B must inform Party A of their need for a review, and Party A shall at its discretion arrange for their training. Only after Party B's new teacher completes Party A's training course and receives the official Teacher

- Certificate issued by Party A shall the new teacher be able to take up their position, and the successful completion of Party B's teachers review and training shall be entered into Party A's records. Each year Party A shall evaluate Party B's teachers, and only after such educational review then Party A may continue to utilize these teachers.
- 2.3 Party B shall provide to Party A assistance and consulting in the areas of operations, management, and education. However, to the extent that Party A's operational management or educational behavior are found to have harmful effects on the brand, then Party B must accept the recommendations for correction made by Party A. Party B shall be responsible for any of the expenses incurred during the processes of making such corrections.
- 2.4 Party A is responsible for strategic planning, promotion, advertising, and development for the POP Kids Education Brand made to date, for continuous research, improvement, development and accumulation of operational/technological assets, and also the training, guidance, and support of Party A (the detailed treatment of the expenses associated with the training, guidance, and support shall be addressed in a separate agreement between the parties).
- 2.5 Party A shall provide to Party B a public web platform for promotions, shall provide to Party B a post-registration user name and pass-word, into which Party B's IT specialist may enter content and make changes, all of the content and formatting on this site must receive Party A's approval.
- 2.6 Within the territory, scope of operation, and period of time defined in this agreement, Party A shall exclusively cooperate with Party B, and shall not enter any type of cooperation with another third party under the same terms as in this agreement. In the event that a third party is using the name of Party A or the POP Kids Education brand and similar training content, then Party B should expeditiously report this to Party A and with the assistance of Party A take measures with regards to the infringing party, and safeguard the legitimate rights and interests of the brand and both parties A and B. In the event that the relevant department within Party A has a conflict with regards to the terms of this agreement with Party B and its business in the area of the territory, scope of operations, or time period, then Party A shall assist Party B to handle this properly and safeguard the legitimate rights and interests of both parties A and B.
- 2.7 Party A is responsible for the discounted price contract for purchasing the primary teaching and instructional materials, as well as other supplemental and POP Kids related products and materials, and Party A shall receive payment under the premise that it shall manage the production, confirm the shipment to ensure that Party B has the instructional, promotional, materials it needs.
3. Party B's Rights and Obligations
- 3.1 Disclosure of Information

- 3.1.1. Party B guarantees that the company/organization (unit)'s information and proof of funds are accurate and without falsification; guarantees that the Responsible Person does not have any criminal offense or other such offense on their personal record. Party B must supply materials including but not limited to the following: the resume for Responsible Person for Party B, certificate of qualifications (including proof of no criminal record), academic transcript (required), credit certificate, property title certificate (if necessary) , as well as during the period of cooperation, must in accordance with Party A's requirement and as agreed upon in this agreement immediately supply other materials including but not limited to accurate status and operational reports, etc.
- 3.1.2. Party B shall at the time of execution of this agreement provide to Party A for its review records and reports including a copy of the school's registration certificate, a copy of the private non-enterprise legal person registration certificate, a copy of the certificate stating the organization's code, a copy of the permit, a copy of the tax registration certificate, the capital verification report certificate, the school's articles of incorporation, a photograph of the school, the organization's organizational chart, name list of the staff and rules and regulations, etc. If there are future changes to such documents, then Party B shall within 3 days of becoming aware of the change report such changes to Party A for its review and approval, if Party B does not report these in time, then Party A shall make a deduction of 10,000 RMB from its Guarantee Deposit.
- 3.1.3. In accordance with Party A's fiscal year (beginning on June 1st and ending on May 31st), Party B shall provide an annual financial report and a report on the status of the school's operations within 2 months of the end of the fiscal year. In the event any such matters arise which could have a serious impact upon the school, which Party A is not aware of at the time, then Party B must immediately notify Party A and report on the circumstances related to the major event. Major events include the following:
1. Party B resolves to make a major investment or to acquire other property;
 2. Party B enters into a major contract, including one which would produce a significant impact on the capital, responsibility, rights and interest, or results of operations.
 3. Party B incurs or believes that it will incur a major debt or obligation;
 4. Party B suffers a major loss or a loss which is the equivalent of more than 10% of its total net assets;
 5. Party B finds that external conditions will produce a major impact on its operations;
 6. Party B's Chairman, Vice Chairman, Management of Senior Managers change;
 7. Party B resolves to dissolve its entity or apply for bankruptcy;
 8. Party B becomes involved major litigation;

9. Party B experiences other major events which could produce a major impact on its operations (including fire, flood, or natural disaster).
10. If Party B's ownership structure experiences a change, then prior to such change Party B must apply for approval to Party A in written form; only after approval has been provided shall such changes be eligible to take effect.

3.2 Operations Management

- 3.2.1 Within 3 months of signing the agreement, Party B shall establish a full-time teaching department and operations department, of which selection of the head of the school and the school manager shall be first reviewed and mutually agreed upon by both Party A and Party B, and only after found to be acceptable shall be eligible to assume their posts.
- 3.2.2 Party B voluntarily accepts the management, direction, and guidance of Party B, shall strictly adhere to the educational ideas, safeguard the brand, refer to the management model, instructional model, and accept Party A's supervision over the quality management of the school and the information and support provided by Party A. Party B must use the enrolment system provided by Party A, accurately record the data entries, and moreover accept Party B's remote monitoring, and to ensure that Party B's data is secure and without leakage, Party B has the right to request a data transfer at any time, for the purpose of monitoring the quality of the services provided by its schools. If Party B refuses to use the registration system or otherwise is unable to maintain a normal operation and steady use of the enrollment system, then the agreement shall automatically terminate and Party A shall retain all of the brand licensing fee as well as the Performance Guarantee Bond.
- 3.2.3 In order to smoothly develop the cooperative educational institution, the school location / training site selected by Party B shall not be located in a space smaller than 1000 m², and with usage space of less than 80%, and should be inspected and approved by Party A. In order to ensure that New Oriental and POP Kids training centers smooth development, Party B shall guarantee within the term of this agreement, that it will during each operational year in _____ city's operational area increase the number of schools by at least one school, with an educational training area of not less than 500 m², Party B's educational site shall request Party A's code number, the new appointments for the responsible person for the educational site and general manager shall be reviewed and approved by Party A, and shall not take effect or be used until after Party A has provided its approval. If Party B does not comply with these requirements in establishing a new educational site, then Party B shall pay to Party A one hundred thousand (100,000) RMB as a fine for the violation.

- Without Party A's permission, Party B may not relocate, increase its investment, enlarge its school/educational site or school building, if it needs to do so, it shall apply for such in writing two months in advance, and await Party A's review and approval before carrying out such plans, in the event of a violation of the above written requirements, then Party B shall pay to Party A one hundred thousand (100,000) RMB as a fine for the violation.
- 3.2.4 The educational training cooperative operation and business between Party B and Party A shall strictly prohibit and restrict Party B from engaging in or mingling any other business be it new or pre-existing or other training activities at the site, with the staff, or the equipment.
- 3.2.5 Party B has a duty to accept Party A's requirements with regards to the layout of the school, arrange the classes, organize instruction, and guarantee the quality of education. Party A has the right to make changes and adjustments to the curriculum and specific content shall be subject to notice from Party A. Party A utilizes an instructional quality evaluation and audit method, and problems pertaining to teachers found to be unable to meet the educational quality requirements or are affecting the educational quality or a similar such situation, will be handled with corrective action requirements, utilizing punitive measures, cancelling the provided cooperative creditation or terminating the agreement. Party B shall use the designated location, use full-time teachers for teaching, teachers must hold the official Teacher Certificate issued by Party A, and provide other relevant information to Party B for its records. If part-time teachers are to be hired, then this shall first be reported to Party A for its review and approval, and only after such approval has been provided shall their employment be carried out.
- 3.2.6 Party B has a duty to actively implement the POP Kids Education system, safeguard and expand the brand's visibility and reputation, engage in lawful measures to restrain behavior or actions which defame or otherwise harm the brand, actively investigate instances of brand imitation or counterfeiting, and to use lawful means to safeguard the lawful rights and interests of Party A and its brand image. With prior written consent from Party A, these rights protections costs shall be accepted as Party A's responsibility. Additionally, Party A's requirements shall be strictly carried out in a manner conforming with the documents as written, and these specifications referred to herein shall be implemented with spirit and in a principled manner. Party B furthermore has a duty to participate in the unified national brand activities, including sales activities, charitable activities, among others.
- 3.2.7 Party B shall strictly adhere to the terms of this agreement listed below with regards to any advertisements, and will not engage in any false or misleading publicity or distortion of the facts. The New Oriental Children's English enrollment advertisements that Party B sends out, must be sent out solely and independently by Party B and not in conjunction with any other training center. Any other advertisements or other

- promotional materials sent out which are not with the scope of business authorized by Party A must not include Party A's trademark or related products.
- 3.2.8 Party B accepts Party A's oversight and monitoring, and moreover shall follow Party A's regulations with regards reports to the parents about Party A's monitoring of the phone and website. Within 10 days of the end of each quarter, the class codes, the class name lists, the opening and closing dates of the classes, the normal class attendance, the actual class attendance, the class pricing, the number of refunds, the class instructors, and other information shall be provided in a status report to Party A, and the information must be correct, confirmed, and true. If these requirements are violated, than Party B shall pay a fine for breach of contract to Party A in the amount of 30,000 rmb.
- 3.2.9 Party B should actively participate in the various academic activities organized by Party A, inter-school exchange activities, and the annual school party. In case of an emergency, Party B shall report the event to Party A within 24 hrs of its occurrence in order for Party A to provide its suggestions, and Party B shall take action to follow Party A's suggestions to quickly remedy the situation.
- 3.2.10 Party B must not independently produce any copies of products by "New Oriental" or "POP Kids Education" or other related or similar characters including the designs from the VI program.

3.3 Advertising and Promotions

Party B shall voluntarily invest, and carry out promotions and advertising within the designated cooperative territory, however Party A must first be provided a copy of important promotional copy (content), sample posters, sample video, broadcast tape to review and approve. Party B guarantees that it will not invest less than 50,000 rmb/yr in such advertising. When engaging in either redecorating its school or in advertising Party B must follow and implement Party B's provided VI design program requirements, must not engage in false or misleading advertising, adhere to the principle of truthfulness, and safeguard the brand image. Party B shall be eligible to purchase at a special discounted price from Party A POP Kids educational materials, accessories, gifts and promotional products, such as "Parent and Kid" magazine or "Big Competition Special Issue", etc.

3.4 Educational Materials and Instruction

- 3.4.1 Party B must carry out teacher training and student enrollment promotions in accordance with Party A's rules and regulations related to the long-term class curriculum system, and purchase such materials from the designated vendors. With regards to the utilization of instructional materials from

outside or other supplemental materials, notification of such intention and the particulars of the situation must be provided to Party A no less than 30 days in advance, and the materials may only be used after Party B's approval has been received, moreover prior to the formal introduction of the materials into the classroom for use, a complete set shall be sent to Party A for the record.

3.4.2 Party B shall hire Chinese instructors at a rate of between 15 and 50 rmb per 50 to 60 minute class, with the specific rate being determined by Party B according to local conditions, and the rate shall be reported to Party A for its records; foreign teachers shall be paid at a rate of between 150 to 500 rmb per class, and the rate shall be reported to Party A for its records. Foreign teachers hired by Party B are required by law to go to the relevant department in charge of the employment application to complete registration procedures, and any legal disputes arising from such shall be the sole responsibility of Party B.

3.5 Agreed Upon Fees

3.5.1 Trademark License Fee

Within 10 days of the execution of this agreement, Party B shall pay to Party A a one- time Trademark License Fee of _____ RMB. The Trademark License Fee shall not be refundable under any circumstances.

3.5.2 Technical Training Support Fee

Within 10 days of the execution of this agreement, as stipulated in this agreement Party B shall pay to Party A the first year's Technical Training Support Fee of _____ RMB, if after 30 days or after receiving notice of the need to make this payment the payment has still not been made, this agreement will automatically terminate, and Trademark License Fee will not be refunded. The second year's Technical Training Support Fee shall be _____ RMB, the third year's Technical Training Support Fee shall be _____ RMB, and these fees shall be paid within 30 days of the start date of the operational year. The period of the first operational year shall begin upon start date of ____/____/____ (YR/MO/DY).

3.5.3 Performance Guarantee Deposit

Within 10 days of the execution of this agreement, Party B shall pay to Party A a Performance Guarantee Deposit in the amount of _____ RMB to be used to guarantee the quality of the education provided at the school, the school's credit, and its confidential materials. In the event that Party B is found to have credit or quality problems or encounters economic losses, Party A has the right to make deductions from the Performance Guarantee Deposit in an equivalent amount, and Party B shall make a supplemental payment within one month to make up for the deduction. After the expiration of this one year agreement, the Performance Guarantee Deposit will be returned without interest.

- 3.5.4 The payments identified above shall be made to the following bank account: _____.
- 3.5.5 Party B shall have ownership rights to the tangible assets, Party B shall also assume any and all obligations or debts resulting from any illegal activities.
- 4 Liability for breach of contract, confidentiality, and non-compete
- 4.1 Party B must adopt effective confidentiality measures to protect Parties A's confidential company information. All of the content of the management technology assets and other similar documents, recordings, electronic materials, excluding items which would be used in the normal course of educational activity, which Party A has provided to Party B must not be duplicated, copied, rerecorded by Party A through any means, or disclosed to other people, in the event of such a violation Party A shall pay to Party B 50,000 rmb, and Party A shall have the right to terminate this agreement.
- 4.2 Party B must not transfer or sub-license to any party outside of its own organization or any third party the use of Party A's brand, management technology assets, or the company's confidential information, in the event of such a violation Party B shall pay to Party A 100,000 rmb, and furthermore shall compensate Party A for the actual losses or damages, and upon discovery of the above described situation, Party A shall have the right to terminate this agreement.
- 4.3 If Party B is unable to follow Party A's operational management and instruction, and uses teachers to carry out instructions who have not received the Teacher Certificate (New Teacher Training Certificate) from Party A, then depending on the severity of the violation Party A shall provide a written warning, or require payment of a 20,000 rmb fine. If Party B is unable to manage its operation effectively, and cannot guarantee that it can maintain a standard of quality education, harming the students and parents beneficial interests, damaging the brand's reputation, or is in some other way engaged in conduct violating this agreement, then Party B has the right to terminate the agreement, and make a deduction from the funds provided in the Performance Guarantee Bond.
- 4.4 If after Party A terminates this agreement Party B continues to use Party A's brand (including but not limited to Party A or Party A related enterprise names, trademarks, etc.) to carry out educational activities, then Party A shall deduct all of the remaining funds in the Performance Guarantee Bond, seek compensation from Party B for losses and resulting damages, and hold Party B legally liable.
- 4.5 If Party B is unable to meet the payment term for the Technology Training Fee stipulated in article 3.5.2, for each day that the payment is late, Party A shall charge a late fee of 1% of the Technology Training Fee. If 30 days have passed without payment, then Party has the right to terminate the agreement, and cease all cooperation with Party A.

- 4.6 If Party B severely violates national laws or regulations, Party A's management model or educational concepts, then Party has the right to terminate the agreement, cease all cooperation with Party A.
- 4.7 In accordance with Party A's requirement, Party B must have its staff enter into confidentiality agreements, otherwise in the event of a failure to do so shall compensate Party A in the amount of 20,000 rmb. If the staff of Party B engage in conduct violating the confidentiality provisions of this agreement, then Party B shall be liable to Party A for the results of these actions and shall accept responsibility.
- 4.8 In the event that Party A enters into a contract with a third party other than Party B which covers an identical territory, time period, or scope of operations, then Party A shall pay to Party B 50,000 rmb, and compensate Party B for actual losses and damages. This excludes instances wherein such violations are without Party A's consent or which are illegitimately imitating Party A's name. If such a problem is discovered, Party A has a duty to aggressively take action to halt the activity, and hold [the offending party] legally accountable, and safeguard the rights and interest of Parties A and B. In such an instance, Party B shall also provide its active support and assistance.
- 4.9 In the event that Party A is engaged in a breach of contract, such that Party B is unable run a normal educational operation, Party B may terminate the agreement; if Party B's operations are poor [weak, or ineffective] making continuation [of operations] difficult, then Party A may terminate the agreement.
- 4.10 After Party B executes this agreement, Party B must not enter into an agreement with any other third party children's education or training center for a similar cooperation, and must not independently create any other similar children's' education or training center project, otherwise Party A shall have the rights to independently terminate the agreement, and [Party B] will be ineligible to have the Performance Guarantee returned. If Party B wishes to enter into an agreement for private training of middle school students or become an adult English language training center (including with a New Oriental local branch), then it must submit a written application to Party A, and may only enter into such an agreement, after it has received Party A's approval, and a copy of this agreement shall be provided to Party A for its records.
- 4.11 Party B has established a nationwide monitoring service; consumers (both students and parents) may report problems with the school's management, instruction, services, etc. to Party A for its review, if a serious issue is found with the instruction or safety, Party A has the right to make a deduction from or confiscate all of the Performance Guarantee Deposit as punishment in accordance with its severity.
- 4.12 Party B must keep confidential information about all of the fees agrees upon within this agreement.

5 Change, Renewal, and Termination

- 5.1 With regards to the matters contained in this agreement, both Parties A and B have reached consensus, and may enter into supplemental agreements. The supplemental agreements also forms an integral part of this agreement. In matters not specifically addressed in this agreement, but which are addressed in supplemental agreements, the supplemental agreement shall take precedence.
- 5.2 If Party B wishes to renew this agreement, it shall within three months of the expiration of this agreement, submit a written application to Party A. After both parties reach consensus, then a new cooperation agreement may be signed. If both parties are unable to reach consensus, then upon the expiration date of this agreement, the agreement shall automatically terminate. Party B has a duty to properly handle the matters following the end of the agreement, including but not limited to returning to Party A all instructional materials, changing the school's name, logo, etc.
- 5.3 Party B shall have the right of first refusal to this agreement under the same terms and conditions. Contract renewal fees shall include the Trademark Licensing Fee of _____ rmb, the Technology Training Fee shall change to become a percentage of the school's annual net revenue, and the specific percentage rate shall be: 4% of the net revenues for the first year of renewal, 5% of the net revenues for the second year of renewal, and 6% of the net revenues for the third year of renewal.
- 5.4 This agreement executed in Beijing Haidian District. This agreement as signed shall be subject to the jurisdiction of the People' Court.
- 5.5 If or when Party B terminates the agreement, it shall be required to return to Party A all writings, recordings, electronic materials, and other documents received, and Party A shall in accordance with section 3.5.3 of this agreement return the Performance Guarantee Deposit. If Party B has suffered a loss, then Party A has the right to make a deduction from the Performance Guarantee Deposit in an equal amount. If the loss suffered by Party B produces a breach of confidentiality, then Party A has the right under this agreement to investigate Party B to determine if it shall be held liable.
- 5.6 In the event of a dispute arising from this agreement, Parties A and B shall seek to resolve the matter through consultation on the principles of equality, friendship, and integrity. If the consultations are not able to resolve the dispute, then the dispute shall be resolved through litigation.
- 5.7 This agreement shall survive the change of legal representative of either Party A or B.
- 5.8 Article 5.5 of this agreement and other such confidentiality clauses shall survive the termination of this agreement and shall remain in effect in a legal sense.⁵⁹
- 5.9 If Party B solicits either a member of Party A or its affiliates with an offer for remuneration, gifts, or other such tangible or intangible benefits, it

shall be considered commercial bribery, and upon its first occurrence, Party A shall have the right under this agreement to terminate this agreement and/or adopt other necessary legal measures. The telephone hotline for Party A's Audit Investigation Department is: 010-62605388; Email: wubi_jubao@xdf.cn.

5.10 This agreement is made in triplicate, and after being signed and chopped by Parties A and B shall take effect. Party A shall retain two copies, Party B shall retain one copy, each copy shall have equally validity under the law.

Party A (Chop)

Legal Representative or Authorized Person:
Person:

YR MO DY

Party A (Chop)

Legal Representative or Authorized

YR MO DY

Translation of Caishui 2004 [39]

Notice Of The Ministry Of Finance And The State Administration Of Taxation On Tax Education Policies [Translated]

The finance offices or bureaus, the administrations of state taxation and local taxation of all provinces, autonomous regions, municipalities directly under the Central Government, and cities directly under state planning, and the finance bureau of Xinjiang Production and Construction Corporations:

With a view to further promoting the development of education, and upon the approval of the State Council, we hereby make the following notice on the relevant tax policies concerning education:

I.On business tax, value-added tax and income tax

1.Business tax shall be exempted on the income gained from educational labor services provided by the schools, which engage in the education for academic credentials.

2.Business tax shall be exempted on the income gained from the labor services provided by students who take part in work-study program.

3.Business tax shall be exempted on the income gained by schools for their undertaking business of technology development and technology transfer, and the relevant business of technology consultation and service.

4.Business tax shall be exempted on the income gained from providing nursing services by nurseries or kindergartens.

5.Business tax and enterprise income tax shall be exempted on the income gained from holding classes for advanced study, training classes by colleges and universities, secondary schools and elementary schools (excluding their subordinate entities), which are funded by governments, on condition that all the income be owned by the schools.

6.Business tax and enterprise income tax shall be exempted on the income gained from undertaking the service items (excluding the advertisement industry, sauna bath, rubdown, oxygen public house) as prescribed in the tax items of "service industry" of the Interim Regulations on Business Tax by the enterprises, which are funded and managed by the government-funded vocational schools, and whose main purpose is to provide place of practice for the in-school students, and the business income of which is owned by the schools.

7.The enterprises established by special education schools may enjoy the preferential policies of value-added tax and enterprise income tax of the state granted to the welfare enterprises by referring to the standards for the welfare enterprises.

8.The donations to education by taxpayers through the non-profit public organizations or state organs within the territory of China may be fully deducted before paying enterprise income tax and individual income tax.

9.Enterprise income tax shall be exempted temporarily on the income of technical services gained by colleges and universities and various vocational schools from technology transfer, technology training, technology consultation, technology services, and technology contract for serving various industries.

10.No enterprise income tax shall be collected for the fees, which are collected by schools upon approval and included into the finance budget management or management of special account of capital outside the finance budget. And no enterprise income tax shall be levied upon financial appropriate funds gained by schools, and special subsidy income gained from the department in charge and the upper level entities for their enterprise development.

11.Individual income tax shall be exempted on the income gained by an individual from his/her education savings deposit interests. And individual income tax shall be exempted on the scholarships in education granted by the people's governments at the provincial level, all the ministries and commissions of the State Council, and the entities at or above the army corps of the Chinese People's Liberation Army, as well as those granted by foreign organizations and international organizations. Individual income tax shall not be paid temporarily for shares or proportions of capital contribution gained by an individual as awards when the college or university he/she is working for transfers the positional technological achievements and grants personal awards in the form of share rights such as shares or proportion of capital contributions, etc.. But individual income tax shall be paid according to law for dividends gained from shares or proportion of capital contributions or income gained from transfer of share rights or proportion of capital contribution.

II.On house tax, urban land use tax and stamp tax

House tax and urban land use tax shall be exempted on house property or land for self-use of various schools, nurseries or kindergartens whose expenditures are allocated and funded by government and those run by enterprises. And stamp tax shall be exempted on book documents issued by property owners for his property donation to schools.

III.On tax on occupation of cultivated land, contract tax, agriculture tax and agricultural special local product tax

1.The tax on occupation of cultivated land shall be exempted on the cultivated land requisitioned by schools or kindergartens upon approval. The specific scope of land use by the schools, which enjoy tax exemption shall include: land used for teaching houses, laboratories, playgrounds, libraries, offices and dining rooms and dormitories of the teachers, students, and employees of the full-time colleges or universities, high schools and elementary schools (including the schools funded by departments or enterprises). Tax shall not be exempted on the cultivated land occupied by schools for their undertaking of non-agricultural production and management. And the employee night schools, study classes, training centers and correspondence schools do not fall within the scope of tax exemption.

2.Contract tax shall be exempted on the land and houses that are used for teaching and scientific research, and whose ownerships are undertaken by state organs, institutions, public organizations or military entities. Those used for teaching refer to the classroom (or teaching buildings) and other land or houses used directly for teaching. Those used for scientific research refer to the sites for scientific test and other land or houses used directly for scientific research. Contract tax on houses and land that are used for teaching, and whose ownerships are undertaken by schools and educational institutions, to whom have been issued the license for running a school upon the examination and approval of the administrative departments of education of the people's governments at or above the county level, and which were established by enterprise or institutional organizations, public organizations and other individual or citizens personally facing to society by using the non-financial educational expenditures of the state.

3.Agriculture tax shall be exempted on the land used by agriculture academies for scientific test. The agricultural special local product tax shall be exempted on agricultural special local product income gained from scientific test made by the agriculture academies during the period of test.

IV.On customs duty

1.Import duties and import value-added taxes shall be exempted on the teaching apparatus, books, documents and general articles for study use directly used for education of various vocational schools, high schools, secondary schools, elementary schools and kindergartens, which are donated by overseas donators gratuitously. The foregoing donations shall not include the 20 kinds of commodities, which are not exempted from import duty as clarified by the state. Other relevant matters concerned shall be handled in accordance with the Interim Measures for the Exemption of Import Tax on Donations for Supporting the Poor and Charity Donations.

2.The import duty and import value-added tax, and excise shall be exempted on the articles (excluding 20 commodities that are not exempted from import duty as clarified by the state) that cannot be produced domestically, and which are imported within reasonable quantity and without the purpose of seeking profit and

used directly for scientific research and teaching by full-time colleges or universities above the junior college level with the academic credentials recognized by the Ministry of Education, and other schools approved by the Ministry of Finance together with the relevant departments of the State Council. The specific provisions on the scope of articles used for scientific research and teaching shall abide by the Interim Measures for the Exemption of Import Duty on Articles Used for Scientific Research and Teaching as approved by the State Council.

V.The following preferential tax policies shall be cancelled:

1.The provisions on exemption of income tax on the income gained from undertaking production and management by enterprises established by schools as prescribed in paragraphs 1 and 3 of Article 8 of the Notice on Some Preferential Policies of Enterprise Income Tax (CaiShuiZi [1994] No.001) promulgated by the Ministry of Finance and the State Administration of Taxation. Of which, the finance revenue increased due to cancellation of the preferential income tax policies shall be shared by the Central Finance and local finance, shall be included into special finance budget, and shall still be used fully for education. The subsidy funds that shall be owned by the Central Finance shall be listed into a special item of Central education, and used for improving the conditions for running secondary or elementary schools nationwide, especially in rural areas, and subsidizing students whose family have economic difficulties. The subsidy funds that shall be owned by local finance shall be listed into a provincial special item of education, and used mainly for improving the conditions for running secondary or elementary schools of the local regions and subsidizing rural students of middle schools and elementary schools whose family have economic difficulties.

2.The provisions of Paragraphs 1 and 3 of Article 3 of the Notice on Collection of Circulation Tax on Enterprises Established by Schools (GuoShuiFa [1994] No.156), that is, value-added tax shall be exempted on the taxable goods that are produced by enterprises established by schools, and used for teaching and scientific research of the corresponding schools; and business tax shall be exempted on the taxable labor services that are provided by enterprises established by schools for serving the teaching or scientific research of the corresponding schools.

VI.This Notice shall be implemented as of January 1,2004. In case any previous provisions are not in conformity with this Notice, this Notice shall prevail.

Ministry of Finance

State Administration of Taxation

February 5, 2004

Translation of MOE reply regarding NRRR tax treatment

http://www.mof.gov.cn/zengwuxinxi/tianbanli/2008lianghuitiandafuzhaiyao/zhe ngxiezhaiyao08/200903/t20090303_118333.html

当前位置： 首页>政务信息>提案办理>2008 年“两会”建议提案答复摘要>政协委员提案答复摘要

关于“依法给予民办学校享受与公办学校同等税收政策” 提案的答复（摘要）

In Reply to the Proposal to “Grant Private Schools the Right to Enjoy the Same Tax Policies as Public Schools in Accordance with Law” (Summary)

我国税制改革的目标之一就是要建立一个不区分所有制性质、各类企业统一适用的公平公正的税收制度。1994 年，我国按照建立社会主义市场经济体制的改革目标，遵循统一税政、公平税负、简化税制、合理分权、理顺分配关系、保证财政收入的指导思想，对原有税制进行了全面的、结构性的改革，统一了流转税、内资企业所得税和个人所得税，初步建立了适应社会主义市场经济体制要求的税制体系；2003 年以来，按照科学发展观的要求和党的十六届三中全会的部署，围绕完善社会主义市场经济体制和全面建设小康社会的任务，分步实施了税制改革，统一了内外资企业所得税制度、车船税制度，将外资企业纳入城镇土地使用税和耕地占用税征收范围。通过实施上述税制改革措施，我国基本实现了各类企业税收制度的统一。

One of the purposes of our national tax reform is to build a fair and impartial tax system that does not discriminate against the nature of a particular ownership; a system that can be equally applicable to all types of enterprises. In the year of 1994, while being in accordance with the reform goal to establish a “socialist market economy system”; and following the guiding ideology to “unify tax administration”, “achieve fair tax liability”, “simplify tax system”, “rationalize divisionalization”, “adjust distribution relations” and “secure fiscal revenue”, our country made a thorough and structural reform to the existing tax system. We unified the turnover tax, the domestic-funded enterprise income tax and the personal income tax; we started the initial establishment of a tax system that’s compatible with the socialist market economy. Since the year of 2003, while following the “Scientific Development Concept” and the arrangements made during the “Party’s 3rd Plenary Session of the 16th Conference”, while revolving around the mission to further improve the socialist market economy and the goal to build a “moderately prosperous society in all aspects”, we made stage-by-stage tax reforms. We unified the income taxes on domestic and foreign-funded enterprises, the vehicle and vessel

tax, and we included foreign-funded enterprises as part of the city and town land use tax and farmland occupation tax. Through applications of the tax reform measures mentioned above, our country has basically realized an unified tax system for all types of enterprises.

因此，对于学校的税收待遇问题，无论是民办学校还是公办学校，无论是要求取得合理回报，还是不要求取得合理回报的学校，无论是内资还是外资，都适用我国统一的税收制度，享受国家统一的税收优惠政策。比如按照新企业所得税法规定，对符合条件的非营利组织取得的收入，给予免征企业所得税 优惠政策，企业所得税法实施条例进一步明确了非营利组织应该具备的条件。无论是公办学校还是民办学校，只要符合相关条件的，均可享受国家统一规定的所得税 优惠政策。在新的企业所得税法实施后，我们进一步规范了税收优惠政策。除《中华人民共和国企业所得税法》、《中华人民共和国企业所得税法实施条例》、《国务院关于实施企业所得税过渡优惠政策的通知》（国发[2007]39号）、《国务院关于经济特区和上海浦东新区新设立高新技术企业实行过渡性税收优惠的通知》（国发[2007]40号）及《财政部国家税务总局关于企业所得税若干优惠政策的通知》（财税[2008]1号）规定的优惠政策外，2008年1月1日之前实施的其他企业所得税优惠政策一律废止。民办学校和公办学校的所得税政策都统一根据《中华人民共和国企业所得税法》和《中华人民共和国企业所得税法实施条例》执行。

Therefore, in regards to the school tax treatment problems, our state unified tax system is equally applicable regardless of whether it's a private school or a public school, a profit school or a non-profit school, a domestic funded school or foreign funded school. They all have the same chance to enjoy our unified preferential tax policy. For example, according to the "New Enterprise Income Tax Law", the incomes of all qualified non-profit organizations are exempted from corporate income tax. "The Regulations for implementing the Enterprise Income Tax Law" has made further clarifications on the definition of a non-profit organization. Thus, regardless of whether it's a public school or private school, as long as the school meets the relevant requirements stated by law, it shall be qualified to enjoy the "preferential income tax policies" under state's unified provisions. After the implementation of the "New Enterprise Income Tax Law", we further standardized the preferential tax policies. All the preferential policies on enterprise income tax that were implemented before 01/01/2008 have been abrogated with the following policies as the only exceptions: "People's Republic of China enterprise income tax law", "Rules for the Implementation of People's Republic of China enterprise income tax law", "Notification by State Council on the implementation of transitional preferential policies on enterprise income tax" (Issued by the State Council [2007]

No.39], “Notification of the State Council on Providing Transitional Preferential Tax Treatments to Hi-tech Enterprises Newly Set up in Special Economic Zones and Pudong New District of Shanghai” (Issue by State Council [2007] No. 40), “Notification by Ministry of Finance and State Tax Administration on certain preferential policies on enterprise income tax” (Finance and Tax [2008] No. 1). “People's Republic of China enterprise income tax law” and “Rules for the Implementation of People's Republic of China enterprise income tax law” shall be guidances to the tax policies on private school incomes and public school incomes.

关于你们在提案中提出的给予“不要求取得合理回报的民办学校”享受与公办学校同等的营业税优惠政策问题。2006年1月发布的《财政部国家税务总局关于加强教育劳务营业税征收管理有关问题的通知》（财税[2006]3号）第二条第1款将《财政部国家税务总局关于教育税收政策的通知》（财税[2004]39号）中的“政府举办的高等、中等和初等学校（不含下属单位）”界定为“是指从事学历教育的学校”。财税[2006]3号文件第一条中又进一步将“从事学历教育的学校”界定为“普通学校以及经地、市级以上人民政府或者同级政府的教育行政部门批准成立、国家承认其学员学历的各类学校”，并明确“上述学校均包括符合规定的从事学历教育的民办学校”。从上述规定可以看出，享受免征营业税政策并非以是否政府举办为条件，而是以是否为从事学历教育为条件，无论公办还是民办学校，只要其符合从事学历教育这一条件，均可以享受上述营业税优惠政策。

With regard to the questions brought up by the proposal “to grant ‘those private schools which do not require a reasonable reward’(non-profit schools) equivalent privileges as public schools on preferential business tax policies”: Issued in January 2006, the “Notification by reinforcing education services business tax collection and administration-related issues , Paragraph 1, Article II” defines “Government-run colleges and universities, middle schools and grade schools” (subordinate unites excluded) in “Notification by Ministry of Finance and State Tax Administration on Education Tax Policy” (Finance and Tax [2004] No.39) as “schools specifically engaged in academic (diploma) education”. The “Finance and Tax [2006] Document No. 3 Article I” further clarifies the definition of “schools engaged in academic education” to be “regular schools and all types of schools of which the establishment has been approved by regional and municipal government or government of equal level, and of which the student’s academic certificate is recognized and acknowledged by the state”, and the document also specifically states that “schools mentioned in above statement include all types of private schools that are engaged in academic education. From the provision stated above, we can make the following conclusion: being run by the government is not the precondition to enjoy the benefit of “business tax exemption policy”, the precondition to enjoy the policy is “being

engaged in academic education". Regardless of whether it's a public or private school, the school shall be equally qualified for the preferential income tax policy described above, as long as the "engagement in academic education" condition is met.

我们认为，现行政策已体现了公办学校与民办学校的税收政策待遇的统一，符合民办教育促进法的精神。

In our opinion, the currently existing policies evidently reflect the fact that public schools and private schools enjoy the same unified standard of tax policy treatment. This fact shows the spirit of the "Non-State Run Education Promotion Law of People's Republic of China".

感谢你们对财政工作的关心和支持，欢迎再提宝贵意见。

Thanks for your concerns and your support to our financial affairs. We welcome your valuable comments.

二〇〇八年九月一日

< September 1, 2008 >

Note by translator:

The English sentence *italics* should read: colleges, universities, middle schools and grade schools that are run by the government are defined as schools engaged in academic education, or diploma education.

These public schools are non-profit schools. Some of the private schools which are engaged in academic education and do not require a reasonable reward are also non-profits schools.

Lists of Beijing Non-Profit Organizations with tax-exempt status

1. 北京市 2008、2009 年度获得非营利组织免税资格的单位名单（第一批）
http://qiye.tax861.gov.cn/gzdt/display.asp?more_id=1353540
2. 北京市2008、2009年度获得非营利组织免税资格的单位名单（第二批）
http://www.bjsat.gov.cn/bjsat/bsfw/tzgg/201105/t20110530_44515.html
3. 北京市 2008、2009 年度获得非营利组织免税资格的单位名单（第三批）的通知
http://zfxgk.beijing.gov.cn/fgdyna.pr_infodetail.prStatuteDetailInfo.do?GM_T_CATALOG_INFO/CATA_INFO_ID=255490
4. 北京市 2008、2009 年度获得非营利组织免税资格单位名单（第四批）
<http://gongbao.tax861.gov.cn/dzbgg/1106/10.htm>
4. 2008、2009 年度获得非营利组织免税资格的单位名单（第五批）以及北京市 2010 年度获得非营利组织免税资格的单位名单（第一批）
http://www.bjsat.gov.cn/bjsat/bsfw/tzgg/201105/t20110530_44516.html
5. 北京市 2008、2009 年度获得非营利组织免税资格的单位名单（第六批）以及北京市 2010 年度获得非营利组织免税资格的单位名单（第二批）
<http://www.shxtx.org.cn/showBulltetin.do?id=11455&dictionaryId=7083015&webSiteId=708308&netTypeId=2>
6. 北京市 2008 2009 年度取得非营利组织免税资格单位名单（第七批）和北京市 2010 年度取得非营利组织免税资格单位名单（第三批）
http://www.bjsat.gov.cn/bjsat/bsfw/tzgg/201205/t20120509_87125.html
7. 关于公布北京市 2008 2009 年度取得非营利组织免税资格单位名单（第八批）和北京市 2010 年度取得非营利组织免税资格单位名单（第四批）的通知
http://www.bjsat.gov.cn/bjsat/bsfw/tzgg/201205/t20120509_87126.html
8. 关于公布北京市 2008 年度取得非营利组织免税资格单位名单（第九批）、北京市 2010 年度取得非营利组织免税资格单位名单（第五批）和北京市 2011 年度取得非营利组织免税资格单位名单（第一批）的通知
<http://zfxgk.beijing.gov.cn/columns/70/2/309640.html>

Beijing Civil Affairs Bureau Financials

北京市民办非企业单位 年度检查报告书

北京市社会团体管理办公室制

北京市海淀区私立新东方学校

年度检查报告书

海淀区民政局：

本报告书根据《民办非企业单位登记管理条例》、《民办非企业单位年度检查办法》、《民间非营利组织会计制度》等有关规定编制，并保证本报告书内容真实、准确、完整。

请予审查。

(民办非企业单位印章)

年 月 日

法定代表人（合伙人、个体负责人）申明

本报告书情况属实，本人愿意承担由此引起的一切法律责任。

法定代表人（合伙人、个体负责人）签字：

年 月 日

年检事宜联系人：

电 话：

移动电话：

电子邮件：

目 录

- 一、基本信息；
- 二、内部建设情况；
 - (一) 本年度会议及换届情况；
 - (二) 本年度内部管理情况；
 - (三) 本年度信息公示和服务承诺情况；
 - (四) 现有内设机构基本情况；
 - (五) 人力资源及党建情况
 - (六) 领导成员情况；
 - (七) 工作人员基本情况；
 - (八) 工作人员招聘计划；
- 三、接受监督情况
- 四、业务活动情况
 - (一) 本年度工作报告和下一年度工作计划
 - (二) 本年度开展业务活动情况；
 - (三) 本年度业务活动统计；
 - (四) 本年度已申报的服务民生项目完成情况；
 - (五) 本年度开展其他公益活动情况；
 - (六) 下一年度拟申报服务民生项目；
 - (七) 资源配置
 - (八) 本年度涉外活动情况；
- 五、财务会计报告
 - (一) 本年度审计意见；
 - (二) 资产负债表；
 - (三) 业务活动表；
 - (四) 现金流量表；
 - (五) 本年度接受捐赠资助情况、使用情况及公益性支出情况；
- 六、对民办非企业单位登记管理和培育发展的建议
- 七、业务主管单位年检初审意见

-3-

一、基本信息

名称	主体性质	法人	
登记证	组织机		

号		构代码			
行业分 类	教育	执业许 可证号			
成立时 间	1993-11-16	开办资 金	元		
业务主 管单位	北京市海淀区教育委员会				
主管单 位 联系人		业务主 管单位 联系电 话			
业务范 围					
住 所			邮政编码		
住所来 源	<input type="checkbox"/> 自有 <input type="checkbox"/> 个人或组织无偿提供 <input checked="" type="checkbox"/> 租赁 (租赁到期日: 年 月) 注: 如本年度新签租赁协议, 请提交加盖单位公章的租赁协议复印件。				
联系 人		固定电 话			
手机		网站地 址			
传真		电子邮 箱			
举办者 情况					
出资人 出资情 况					
举办个 人 户籍情 况	京籍人数	境内非京籍人数	境外人数		
法定代 表人 (合伙 人、个 体负责 人)姓 名	姓名	职务	固定电话	移动电话	
理 (董) 事长 姓名		理(董)事人数 (合伙人人数)		监事(会)人数	
现有内 设机构	个	本年度新增机构	个	本年度撤销机构	个
举办刊 物情况	公开发行的刊物数	种	内部资料性刊物数	种	
序号	公开发行刊物名称		刊 号		
1					

2			
3			
收费许可证	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无	许可证号	
人民币基本账户开户银行		银行账号	
外币开户银行		银行账号	

-4-

二、内部建设情况

(一) 本年度会议及换届情况

章程规定	换届或会议情况
理(董)事会()年一届	最近一次换届时间为(2011-12-22)
理(董)事会()年()次	最近一次理(董)事会时间为(2011-12-23) 本年度召开理(董)事会()次

注: 未按章程规定如期换届、开会, 如数召开会议的, 请在“八、工作报告”中说明

(二) 本年度内部管理情况

制度建设	证书使用管理制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无	印章使用管理制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无
	档案使用管理制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无	重大事项报告制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无
	员工(代表)大会召集制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无	信息公开和服务承诺制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无
	财务管理制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无	资产管理制度	<input checked="" type="checkbox"/> 有 <input type="checkbox"/> 无
是否执行《民间非营利组织会计制度》				<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否
税务登记	<input checked="" type="checkbox"/> 地税 <input type="checkbox"/> 国税 <input type="checkbox"/> 无		国税登记号	
			地税登记号	
财务管理	享受税收优惠政策情况	Translation of answer: "No"		
	专职财会人员数			
	票据类型	发放机关		
	<input type="checkbox"/> 捐赠票据 <input checked="" type="checkbox"/> 税务发票 <input type="checkbox"/> 行政事业性收费票据 <input type="checkbox"/> 其他:			

-5-

(三) 本年度信息公示和承诺服务情况

公示和承诺内容	是否公示	公示方式
基本信息	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	<input checked="" type="checkbox"/> 网站 <input checked="" type="checkbox"/> 报刊 <input checked="" type="checkbox"/> 电视 <input type="checkbox"/> 上墙悬挂 <input type="checkbox"/> 其他:
章程(或摘要)	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	<input checked="" type="checkbox"/> 网站 <input type="checkbox"/> 报刊 <input type="checkbox"/> 电视 <input type="checkbox"/> 上墙悬挂 <input checked="" type="checkbox"/> 其他:

收费项目及标准	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	
年度审计报告	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	<input checked="" type="checkbox"/> 网站 <input type="checkbox"/> 报刊 <input type="checkbox"/> 电视 <input type="checkbox"/> 上墙悬挂 <input type="checkbox"/> 其他:
接受使用捐赠和资助情况	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否 <input checked="" type="checkbox"/> 未接受过捐赠和资助	<input checked="" type="checkbox"/> 网站 <input type="checkbox"/> 报刊 <input type="checkbox"/> 电视 <input type="checkbox"/> 上墙悬挂 <input type="checkbox"/> 其他:
年度工作报告	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	<input checked="" type="checkbox"/> 网站 <input type="checkbox"/> 报刊 <input type="checkbox"/> 电视 <input type="checkbox"/> 上墙悬挂 <input type="checkbox"/> 其他:

-6-

(四) 现有内设机构基本情况

- 7 -

(五) 人力资源及党建情况

人力资源情况

单位名称

登记号

登记机关

从业 人员	从业人员总数		全职()人			兼职()人		
	人		专职()人		借调	离退休	负责人	工作人员
	男	女	负责人	工作人员			人	人
	人	人	人	人	人	人	从业人员中：志愿者()人	
户籍	京籍	人	外省市		人	境外人员		人
学历 结构	博士及以上		人	硕士(或在职研究生)		人	本科	人
	大专	人	中专	人	高中及以下		人	
职称 结构	高级职称	人	中级职称	人	初级职称	人	无职称	人
年龄 结构	25岁及以 下	人	26-35岁 (含)	人	36-45岁 (含)	人	46-55岁 (含)	人
	56-60岁 (含)	人	61-65岁 (含)	人	66-70岁 (含)	人	70岁 以上	人
工资 薪酬	执行工资 制度	自定岗位	年工资 总额	元	专职人员工 资总额	元	其他人员工 资总额	元
	负责人年 工资标准	元	部门负责人 年工资标准	元	工作人员年 工资标准	元	从业人员平 均年工资	元
社会 保障	签订劳动 合同	人	参加失业保险		人	参加工伤保险		人
	参加养老 保险	人	参加医疗保险		人	参加生育保险		人
	参加住房 公积金	人	参加补充医 疗保险	人	参加商业保 险	人	参加年金	人
岗位 设 置	部门机构 数	个	工作岗位		个	志愿者岗位	个	
	社工岗位 数	个	社工人数		个	大学生实习岗位	个	

-8-

党建情况

单位名称

登记号

登记机关

党员 情况	党员总 数	人	专职人 员党员 (人)人	负责 人	人	借调人 员党员 (工作 人员 人)人	负责 人	人	离退休 人员党 员 (工作 人员 人)人	负责 人	人	兼职工 员党员 (工作 人员 人)人	负责 人	人
	当年发 展党员 数	人	人	工作 人员	人	工作 人员	人	人	工作 人员	人	人	工作 人员	人	人
	年龄结构	35岁以下	人	35-54岁	人	55岁及以上			人					
	学历结构	博士及 以上	人	硕士(或在职研究生)		人	本科	人	人					
		大专	人	中专		人	高中及 以下	人	人					
	户籍情况	京籍党员		外省市党员										

			人		人	
党员组织关系系	社会组织党组织	人	业务主管单位党组织	人	挂靠单位党组织	
	属地党组织	人	原工作单位党组织	人	其他	
已建立党组织						
党组织情况	建立党组织	<input type="checkbox"/> 是 <input checked="" type="checkbox"/> 否	党组织名称			
	党组织类型		党组织隶属关系			
	党组织负责人情况	在社会组织中担任职务		年龄		学历
	未建立党组织					
	流动党员	人	流动党员组织关系	原籍	人才职介	自带
				人	人	人
流动党员参加组织生活情况		<input checked="" type="checkbox"/> 参加 <input type="checkbox"/> 不参加	未建党组织原因		其他	
党组织活动情况	党组织活动场所			党组织活动经费		
	党组织活动经费来源			近三年发展党员情况		
	组织生活	党员大会	支委会	民主生活会	党课	
		次	次	次	次	
	创先争优情况	召开动员会		<input type="checkbox"/> 是 <input checked="" type="checkbox"/> 否	开展活动	次
		开展活动的载体			活动完成状态	

-9-

(六) 领导成员情况 含理事会(董事会)成员、监事会成员、执行机构负责人(院长、副院长等)

序号	姓名	性别	出生年月	民非单位职务	政治面貌	学历	职称	人事关系所在单位及职务		专兼情况	代表身份	代表级别	享受政府津贴
								单位	职务				
	女	1954-01-17	董事长(理事长)	群众	大专(高职)	无				<input type="checkbox"/> 专职 <input checked="" type="checkbox"/> 兼职	无	无	否
	男	1962-03-11	院长(校长)	民主党派	硕士(研究生)	中级				<input checked="" type="checkbox"/> 专职 <input type="checkbox"/> 兼职	无	无	否
	男	1977-06-17	理事	中共党员	硕士(研究生)	无				<input checked="" type="checkbox"/> 专职 <input type="checkbox"/> 兼职	无	无	否
	女	1972-05-13	理事	群众	硕士(研究生)	无				<input checked="" type="checkbox"/> 专职 <input type="checkbox"/> 兼职	无	无	否
	男	1972-08-20	理事	群众	硕士(研究生)	无				<input checked="" type="checkbox"/> 专职 <input type="checkbox"/> 兼职	无	无	否
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			

										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			
										<input type="checkbox"/> 专职 <input type="checkbox"/> 兼职			

注：含理事会（董事会）成员、监事会成员、执行机构负责人（院长、副院长等）

-10-

(七) 工作人员基本情况 (填写所有工作人员情况，一页不够的请点击“插页”填写多页)

序号	姓名	性别	出生年月	政治面貌	学历	职称	国籍	户籍所在	人事关系所在单位	人事档案存放单位	专兼情况	薪资待遇	社会保障情况	职称评定部门
		女	1982-07-08	群众	大学本科	无	中国				专职	无	三险一金	
		男	1982-10-9	中共党员	大学本科	无	中国				专职	无	三险一金	
		女	1981-12-22	群众	大学本科	无	中国				专职	无	三险一金	
		女	1986-1-26	群众	大学本科	无	中国				专职	无	三险一金	
		女	1983-12-3	群众	大学本科	无	中国				专职	无	三险一金	
		女	1984-10-11	群众	大学本科	无	中国				专职	无	三险一金	
		女	1985-5-15	群众	大学本科	无	中国				专职	无	三险一金	
		男	1986-12-9	群众	大学本科	无	中国				专职	无	三险一金	
		女	1981-4-29	群众	大专(高职)	无	中国				专职	无	三险一金	
		男	1985-4-6	群众	大学本科	无	中国				专职	无	三险一金	
		女	1988-1-25	群众	大学本科	无	中国				专职	无	三险一金	
		男	1981-9-7	群众	大学本科	无	中国				专职	无	四险一金	
		男	1985-10-17	群众	大学本科	无	中国				专职	无	三险一金	
		男	1985-10-5	中共党员	大专(高职)	无	中国				专职	无	三险一金	
		男	1985-11-4	群众	大学本科	无	中国				专职	无	三险一金	

-11-

(八) 工作人员招聘计划

单位名称

登记证号

登记机关

招聘岗位	岗位要求									薪资福利 75 of 96
	招聘人	岗位性质	政治面貌	年龄	学历	专业	职称	户籍	工作经验	

	数										
	人										
	人										
	人										
	人										
其他	人										
其他	人										
招聘总体情况	招聘岗位总数	本单位招聘岗位	代招聘岗位	代会员单位招聘岗位	个	招聘人数	男	人	招聘专职人员	人	
	个	个	个	代其他单位招聘岗位	个	人	女	人	招聘兼职人员	人	
实习岗位	岗位要求							薪资福利			
	实习人数	实习时间	性别	学历	专业			薪资补助			
	人										
	人										
	人										
其他	人										
实习整体情况:		实习岗位: () 个, 实习人数: () 个									

五、财务会计报告

(一) 本年度审计意见 (此栏填写由会计师事务所出具的《审计报告书》中的审计结论, 500字以内)

审计机构:

注册会计师:

审计机构联系电话:

审计日期: 2012-01-20

(二) 资产负债表

编制单位:

年 月 日 单

位: 元

资产	行次	年初数	期末数	负债和净资产	行次	年初数	期末数
流动资产:				流动负债:			
货币资金	1			短期借款	61		
短期投资	2			应付款项	62		
应收款项	3			应付工资	63		
预付账款	4			应交税金	65		
存货	8			预收账款	66		
待摊费用	9			预提费用	71		
一年内到期的长期债权投资	15			预计负债	72		
其他流动资产	18			一年内到期的长期负债	74		
流动资产合计	20			其他流动负债	78		
				流动负债合计	80		
长期投资:							
长期股权投资	21			长期负债:			
长期债权投资	24			长期借款	81		
长期投资合计	30			长期应付款	84		
				其他长期负债	88		
固定资产:				长期负债合计	90		
固定资产	31						

原价						
减： 累计 折旧	32			受托代 理负 债：		
固定 资产 净值	33			受托代 理负债	91	
在建 工程	34					
文物 文化 资产	35			负债合 计	100	
固定 资产 清理	38					
固定 资产 合计	40					
无形 资 产：						
无形 资产	41			净资产：		
				非限定性 净资产	101	
受托 代理 资产：				限定性 净资产	105	
受托 代理 资产	51			净资产 合计	110	
资产 总计	60			负债和 净资产 总计	120	

-26-

(三) 业务活动表

编制单位： 年 月 日 单位：元

项目	行 次	上年累计数			本年累计数		
		非限定性	限定性	合计	非限定性	限定性	合计
一、收 入							
其中：							
捐赠收 入	1						
会费收 入	2						
提供服 务收入	3						

动态表格

商品销售 收入	4						
政府补助收入	5						
投资收益	6						
其他收入	9						
收入合计	11						
二、费用							
(一)业务活动成本	12						
其中1：人员费用	13						
其中2：日常费用	14						
其中3：固定资产折旧	15						
其中4：税费	16						
(二)管理费用	21						
(三)筹资费用	24						
(四)其他费用	28						
费用合计	35						
三、限 定性净 资产转 为非限	40						

定性净资产						
四、净资产变动额 (若为净资产减少额,以“-”号填列)	45					

-27-

(四) 现金流量表

编制单位:

年 月 日

单位: 元

项目	行次	金额
一、业务活动产生的现金流量:		
接受捐赠收到的现金	1	
收取会费收到的现金	2	
提供服务收到的现金	3	
销售商品收到的现金	4	
政府补助收到的现金	5	
收到的其他与业务活动有关的现金	8	
现金流入小计	13	
提供捐赠或者资助支付的现金	14	
支付给员工以及为员工支付的现金	15	
购买商品、接受服务支付的现金	16	
支付的其他与业务活动有关的现金	19	
现金流出小计	23	
业务活动产生的现金流量净额	24	
二、投资活动产生的现金流量:		
收回投资所收到的现金	25	
取得投资收益所收到的现金	26	
处置固定资产和无形资产所收回的现金	27	
收到的其他与投资活动有关的现金	30	
现金流入小计	34	
购建固定资产和无形资产所支付的现金	35	
对外投资所支付的现金	36	
支付的其他与投资活动有关的现金	39	
现金流出小计	43	
投资活动产生的现金流量净额	44	

三、筹资活动产生的现金流量:		
借款所收到的现金	45	
收到的其他与筹资活动有关的现金	48	
现金流入小计	50	
偿还借款所支付的现金	51	
偿付利息所支付的现金	52	
支付的其他与筹资活动有关的现金	55	
现金流出小计	58	
筹资活动产生的现金流量净额	59	
四、汇率变动对现金的影响额	60	
五、现金及现金等价物净增加额	61	

-28-

(五) 接受捐赠资助情况、使用情况及公益性支出情况 (单位: 人民币元)

项目	捐赠(资助单位或个人名称)	现金	物资折合	合计	约定用途	使用情况
一、本年度捐赠收入						
(一)来自境内的捐赠						
其中: 境内自然人						
	小计					
境内组织						
	小计					
(二)来自境外的捐赠						
其中: 境外自然人						

	小 计				
来自境外组织					
	小 计				
二、本年度政府补助收入					
	小 计				
三、公益支出	上年度公益活动支出金额 (元)		本年度公益活动支出金额 (元)		

“主要用途和使用情况”应填写每笔捐赠的情况。

三、接受监督情况

(一) 前三年度参加年检情况

年度	年度	年度	年度
年检结论	合格	合格	合格

(二) 本年参加评估情况: 参加 未参加

参加评估时间	组织评估单位	评估机构	评估内容	评估结论	有效期至

(三) 行政处罚情况

本单位是否受到过行政处罚? 是 否

如选“是”，请填写下表:

行政处罚的种类	行政处罚的实施机关	行政处罚时间	违法行为

(四) 本年度获得表彰奖励情况: 本年度是否受到表彰奖励 是 否

序号	获奖名称	奖励部门	级别
1			区县
2			
3			
4			

5			
---	--	--	--

-13-

(五) 本年度重大事项汇报情况

事件分类	事件内容	发生时间	处置措施	是否已上报	上报时间
重大事件				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	

-14-

活动分类	活动内容	发生时间	办理相关手续情况	是否已上报	上报时间
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	

				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
重要活动				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	
				<input type="checkbox"/> 是 <input type="checkbox"/> 否	

(一) 本年度工作报告和下年度计划 (限1500字)

(二) 本年度开展业务活动分项

有 无

序号	业务活动名称	内容简介	活动方式	支出资金 (元)	政府资助 (元)	政 府 委 托	委托部 门
1						<input type="checkbox"/> 是 <input type="checkbox"/> 否	
2						<input type="checkbox"/> 是 <input type="checkbox"/> 否	
3						<input type="checkbox"/> 是 <input type="checkbox"/> 否	
4						<input type="checkbox"/> 是 <input type="checkbox"/> 否	
5						<input type="checkbox"/> 是 <input type="checkbox"/> 否	
为制定法规政策提供意见建议			条	被采纳		条	

(三) 本年度业务活动情况统计 (选定机构类别填写相应内容)

■教育机 构	在校生数		本年度招生数	
	培训人次		毕业生就业数	
	承担政府委托义务教育招 生任务	<input type="checkbox"/> 是 <input checked="" type="checkbox"/> 否	委托招生人数	人
	机构类型	<input type="checkbox"/> 学历教育 <input checked="" type="checkbox"/> 培训机构 <input type="checkbox"/> 幼儿教育		
□文化机 构	办展次数		参观人次	
	对外演出次数		观众人次	
□卫生机 构	门诊人次		床位数	
	日均住院人数		病房面积	M
	机构类型	<input type="checkbox"/> 医院 <input type="checkbox"/> 门诊部 <input type="checkbox"/> 其他	是否医保定点单位	<input type="checkbox"/> 是 <input type="checkbox"/> 否
	医院等级	<input type="checkbox"/> 三级甲等 <input type="checkbox"/> 三级乙等 <input type="checkbox"/> 二级甲等 <input type="checkbox"/> 二级乙等 <input type="checkbox"/> 一级		
□养老助 残 服务机构	床位数量		本年总服务人次	
	住院人数		居住总面积	M
□康复机 构	在院康复治疗人数		本年康复出院人数	人
□体育机 构	组织体育活动次数		开展体育项目种类	种
	参加活动人次			

<input type="checkbox"/> 法律机构	法律咨询人次		人次		法律援助人次		人 次
<input type="checkbox"/> 社工机构	培养社会工作者		人		为社会组织输送社工		人
	专业培训		次		为社区提供服务		次
<input type="checkbox"/> 研究机构	承接政府研究课题		项		其他研究课题		项
<input type="checkbox"/> 农业及农村发展机构	农业实用技术培训		次		现场技术指导		次
	农业科技项目推广		项		服务家庭		户
<input type="checkbox"/> 其他机构	学术交流	举办论坛	咨询服务		技术开发	技术转让	技术指导
	次	次	次		项	项	次

注：各单位请按照业务活动开展情况选择填写相应数据

-17-

(四) 本年度已申报的服务民生项目完成情况

是否申报过民生项目：是 否

序号	项目名称	项目完成情况	项目投入：(元)				参与人群：(人)				受益人群(人次)	项目开展方式	
			政府投入		社会捐赠	自有资金	物资折合资金	工作人员	社工	志愿者			居民
			政府购买	政府补助									
											独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		
											<input type="checkbox"/> 独立 <input type="checkbox"/> 合作		

-18-

(五) 本年度开展其他公益活动情况 (请逐项填写2011年度开展的公益活动)

-19-

(六) 下一年度拟申报服务民生项目

组织名称				组织类别	<input type="checkbox"/> 社团 <input checked="" type="checkbox"/> 民非 <input type="checkbox"/> 基金会		
项目类型	公益性			项目名称			
项目简介 (限100字以内)							
项目预计启动时间	2012-03-01	项目预计完成时间	2012-12-31	活动地域	全市		
服务领域	<input type="checkbox"/> 扶贫救助 <input type="checkbox"/> 扶老助残 <input type="checkbox"/> 支教助学 <input type="checkbox"/> 文体科普 <input type="checkbox"/> 医疗卫生 <input checked="" type="checkbox"/> 促进就业 <input type="checkbox"/> 互益服务 <input type="checkbox"/> 生态环境 <input type="checkbox"/> 妇幼保护 <input type="checkbox"/> 服务三农 <input type="checkbox"/> 法律援助 <input type="checkbox"/> 拥军优属 <input type="checkbox"/> 服务社区 <input type="checkbox"/> 其他						
活动方式	<input type="checkbox"/> 资金资助 <input type="checkbox"/> 实物资助 <input type="checkbox"/> 专业咨询 <input checked="" type="checkbox"/> 专业培训 <input type="checkbox"/> 会议展览 <input type="checkbox"/> 编辑刊物 <input type="checkbox"/> 演出比赛 <input type="checkbox"/> 调研考察 <input type="checkbox"/> 评比表彰 <input type="checkbox"/> 入户服务 <input type="checkbox"/> 对外交流 <input type="checkbox"/> 技术指导 <input type="checkbox"/> 其他						
项目实施方式	<input checked="" type="checkbox"/> 独立 <input type="checkbox"/> 合作	是否希望与有共同目标的社会组织配合运作				<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	
是否申请加入政府购买服务	<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	是否参与联合劝募				<input checked="" type="checkbox"/> 是 <input type="checkbox"/> 否	
预计项目投入				预计参与人数			
资金	政府资助	已有政府资金支持	元	本组织工作人员	人	人次	
		需要政府资金支持	元	志愿者	人	人次	
	自有资金		元	社会工作者	人	人次	
	社会捐赠		元	居民	人	人次	
	其他		元	会员	人	人次	
物资		折合资金	元	其他	人	人次	

其他		折合资金	元	合计	人	人次
合计		元		企业	个	
预计受益人群	困难群体			普通群体		
	贫困学生	人	人次	城镇居民	人	人次
	下岗职工	人	人次	农民	人	人次
	残疾人	人	人次	外来务工人员	人	人次
	孤寡老人	人	人次	外籍人士	人	人次
	妇女儿童	人	人次	会员	人	人次
	其他	人	人次	其他	人	人次
	合计	人	人次	合计	人	人次
□无法计算直接受益人数						
完成项目需要政府部门、社会和其他组织提供的资源	场地	类型	礼堂	面积	m2	地域
	人员	志愿者		社会工作者		专家指导
	服务对象信息	低保人群	孤寡老人	妇女儿童	下岗职工	残疾人
		人	人	人	人	人
	是否需要协调社区		<input type="checkbox"/> 有 <input checked="" type="checkbox"/> 无	所属区县、街道		
	物资			其他需求		
联系人		联系电话		手机		传真
地址				E-mail		

-20-

(七) 服务民生行动资源配置表

本组织能为其他组织开展的服务民生项目提供的资源	资金		元
	场地		类型
			地域
	面积		m2
	志愿者		人
	社会工作者		人

专家指导	人
物资	
其他资源	

“物资”选项，需填写物资名称、数量。

“其他”选项，不满足上面分类的要求时填写，需写明具体内容。

-21-

(八) 本年度涉外活动情况

1. 涉外合作项目

-22-

2. 参加国际会议

序号	会议名称	会议时间	会议地点	主办方名称	我方 经费 来源

-23-

3. 参加国际组织

序号	国际组织中文全称	国际组织英文全称	参加时间	批准部门	担任任何职务

-24-