Change of Direction for International Schools and National Education System

OVERVIEW

The sexual assault of a student in the toilets of the Jakarta International School shocked both the national and expatriate community in Indonesia. The incident has also attracted intense media attention and made headlines across the nation and in addition has brought to the forefront some important issues of concern to the public.

In response, the Government saw it necessary to undertake an extensive review of current legislation covering Indonesia’s education system, especially with respect to matters directly related to international schools and child protection.

As part of this action, Presidential Directive No. 5 of 2014 on the National Movement on Combating Sexual Crimes against Children (“Presidential Directive”) was issued which has been followed by a national movement to alter the direction and stance of the Indonesian Government in how to prevent and deal with sex crimes against children.

More importantly, the Presidential Directive also instructed various ministers to immediately carry out enactments or revisions of current regulations of relevance to the national education system and child protection. Although it will take some time, the Government’s intention to revamp the national education system and the child protection frameworks is part of the fabric of the Presidential Directive.

More specifically, the Jakarta International School case prompted changes to the regulations covering foreign schools including the recently issued Minister of Education and Culture (“Minister”) Regulation No. 31 of 2014 on Cooperation for Organizing and Managing


Table of Content

OVERVIEW .............................................................. 1
PURPOSE .......................................................... 2
EDUCATION COOPERATION ............................... 2
JOINT EDUCATIONAL INSTITUTIONS .................. 2
Establishment Procedures ............................. 2
Requirements ................................ ................ 3
Transitional Period ................................ ........ 6
Closure Provisions ................................ ......... 6
COOPERATION IN ACADEMIC AND NON-ACADEMIC
PROGRAMS ................................ ....................... 6
Requirements ................................ ................ 7
Licensing Procedures ................................ ..... 7
PRESIDENTIAL DIRECTIVE kplh........................... 7
Policies to Prevent and Eradicate Sex Crimes
against Children............................................... 7
The Importance of Sex Education Finally
Acknowledged............................................... 7
Legislative Implications................................. 8
Family Supervision and Local Community
Cooperation Remains Critical....................... 8
CONCLUSION ................................ ..................... 8

Copyright © 2014, hukumonline.com, All Rights Reserved
Education between Foreign and Indonesian Educational Institutions (“2014 Regulation”).

The 2014 Regulation primarily aims to redefine technical and administrative requirements for cooperation arrangements between Indonesian and foreign educational institutions under Ministerial Regulation No. 18 of 2009 on Organizing Education by Foreign Educational Institutions in Indonesia (“2009 Regulation”).

PURPOSE

This Indonesian Law Digest (“ILD”) will first highlight key provisions of the 2014 Regulation, including comparisons with the 2009 Regulation. It will also review the regulatory implications of the Presidential Directive which aims to change societal behavior and perceptions of how children should be protected.

EDUCATION COOPERATION

Under the 2014 Regulation, Indonesian Educational Institutions (“Indonesian EI”) and Foreign Educational Institutions (“Foreign EI”) may enter cooperation arrangements to organize both formal and non-formal educational establishments.

Formal educational establishments includes the four common existing education levels of kindergartens, primary schools, secondary schools, and high schools or the equivalent as provided under the national education system. Non-formal educational establishments cover programs typically provided by auxiliary educational institutions, such as training institutions, community educational centers, study groups, Islamic boarding schools (pesantren), and the like.2

There are two forms of cooperation arrangements under which Indonesian EI and Foreign EI can be implemented:3

1. Cooperation to establish a joint education establishment (satuan pendidikan kerja sama); and
2. Cooperation for joint management of academic and non-academic educational programs.

The latter form of cooperation was not provided for under the 2009 Regulation. These two types of cooperation are the primary coverage of this ILD.

JOINT EDUCATIONAL INSTITUTIONS

A joint educational institution can be established for both formal and non-formal education.4 The 2014 Regulation provides different requirements for parties establishing different types of joint educational establishments (“joint establishments”) depending on the nature of the cooperation.

Cooperation to form a formal education establishment requires the Indonesian EI having an “A” accreditation although the Foreign EI only needs to be accredited and registered by the relevant authorities in their home country. For non-formal cooperation, both the Indonesian EI and Foreign EI need only be accredited and registered by each of their home authorities but without the need for an “A” accreditation.5

The procedures for forming an educational establishment, and how to close it – should the need arise – is discussed below. Important technical matters once the joint establishment has been formed will also be discussed, covering technical requirements for curriculum, students, teachers, management, and facilities and infrastructure.

Establishment Procedures

To establish a joint establishment, the Indonesian EI and Foreign EI must first secure a recommendation from the regency/municipal and provincial government where the Indonesian EI is located.6 After obtaining the recommendation, the Indonesian EI and Foreign EI can proceed to the permit processes at the Ministry of

---

2 2014 Regulation, Art. 2 (2) and (3)
3 2014 Regulation, Art. 3
4 2014 Regulation, Art. 4 (1)
5 2014 Regulation, Art. 4 (2) and (3)
6 2014 Regulation, Art. 25 (a) and (b)
Education and Culture ("Ministry") which consists of two stages.

The first stage is the licensing procedure which involves the applicant securing an establishment plan approval for the joint school. In order to do this, an application must be submitted to the Minister via the relevant Director General, along with the recommendation from the regency /municipal and provincial government. Upon receiving the application, the Director General has three months to approve or reject the plan. If the plan is approved, the second stage entails filing an application to establish a joint educational institution to the same Director General. This must be conducted within two years of attaining the approval plan otherwise the approved plan will automatically expire.

The application must include the following support documents:

1. Cooperation agreement between the Indonesian EI and Foreign EI;
2. Feasibility study report, covering: 1) Spatial planning, geographical, ecological considerations, 2) Student registrants, financial, social and cultural prospects, 3) Capacity of existing nearby educational services, and 4) Budget plan for the following academic year;
3. Constitutional documents as a limited liability company, foundation, or cooperative;
4. Bank reference letter showing the availability of sufficient financial resources for the next 6 years;
5. The recommendation from the respective regency/municipal or provincial government;
6. Master plan for education development;
7. Spatial plan;
8. Proof of building ownership or lease agreement that is valid for 6 years; and
9. Copy of freehold or other land title certificate.

The Director General must approve or reject the application within 4 months of receipt. If the application is approved, the Minister will issue an establishment permit, which also acts as an operational permit for the joint educational institution. The establishment permit for a formal joint educational institution is valid for 6 years, whereas non-formal joint educational institution permits are for 3 years. Both can be extended by undertaking the same process as needed for securing a new establishment permit. Note that previously the 2009 Regulation did not differentiate between the validity period for formal and non-formal joint establishments.

Requirements

A critical requirement for a joint educational institution introduced by the 2014 Regulation is the prohibition to use the word “international” as part of or in the institution’s name, classes, or courses. This will have consequence on the names of existing international schools including the following so called international schools in Jakarta:

1. ACG International School Jakarta;
2. Australian International School;
3. Bunda Mulia International School;
4. Central International School;
5. El Shaddai International School;
6. Global Jaya International School;

For more information on Indonesian land titles, see: ILD No. 323

12 For more information on Indonesian land titles, see: ILD No. 323
13 2014 Regulation, Art. 27 (3) and (4)
14 2014 Regulation, Arts. 19, and 28 (1), and 2009 Regulation, Art. 16 (2)
15 2014 Regulation, Art. 35
7. Global Sevilla International School;
8. Heritage International School;
9. Jakarta International Multicultural School;
10. New Zealand International School;
11. North Jakarta International School;
12. Royal Buckingham International School; and

The word “international” was not previously prohibited under the 2009 Regulation, which explains the large number of existing educational institutions that use the word “international” in their name despite varying degrees of being international.

Additionally, to establish a joint educational institution, both the Indonesian EI and Foreign EI must satisfy the following requirements:16

1. Possess the required permits from the Minister;
2. Adopt national education standards;
3. Allow Indonesian students to participate in National Exams;
4. Be accredited by the National Accreditation Agency;
5. Established based on a cooperation arrangement;
6. Have a master plan for education development; and
7. Satisfy all requirements applicable under Indonesian laws and regulations.

Curriculum

A joint establishment must draft its curriculum in accordance with the national education standard as set out in Government Regulation No. 19 of 2005 on National Education Standards.17 A joint establishment may however, supplement certain aspects of the national education standard with another country’s education curriculum.18

Joint establishments may also opt to entirely apply a foreign education system and curriculum without referring to the national education standard. However, this requires a permit be granted by the Minister based on a recommendation from the relevant Director General.19 If the foreign education system or curriculum standard has a religious studies component, the joint establishment is also required to acquire a recommendation from the Minister of Religious Affairs.20

Regardless of the education system or curriculum standard used (whether domestic or foreign), all joint establishments must include compulsory units on Religious and Pancasila Studies, and Civics for Indonesian students, while foreign students must study Indonesian language and Indonesian Studies. These mandatory units for foreign students are new to the 2014 Regulation and were not included in the 2009 Regulation.21

Students

Students of a joint establishment may be foreign or Indonesian citizens. Under the 2014 Regulation, joint establishments are allowed to manage their own student enrollment process, provided that it does not deny enrollment to Indonesian nationals.22

Joint establishments must also allow foreign students who wish to study in Indonesian universities to sit the National Exam (Ujian Nasional), which is held annually for high school students in their final year. An English translation of the official National Exam test paper can be provided for foreign students (excluding test papers for the Bahasa Indonesia subject).23

Previously, the 2009 Regulation did not specify whether or not foreign students could participate in the National Exam.

Teachers

Teachers and staff of a joint establishment must comply with the respective national standards, for

---

16 2014 Regulation, Art. 5 (1)
17 Has been amended by Government Regulation No. 32 of 2013
18 2014 Regulation, Art. 11 (1)
19 Supra, n. 7
20 2014 Regulation, Art. 7
21 2014 Regulation, Art. 11 (3) and (4)
22 2014 Regulation, Art. 8 (1), (2) and (3)
23 2014 Regulation, Art. 13 (3) and (4)
which a bachelor degree (or equivalent) is the minimum requirement for a teacher.24

Joint establishments must also satisfy the mandatory Indonesian foreign national composition for teachers and support staff. Under these requirements, at least 30 percent of the teachers must be Indonesian nationals, and 80 percent of the support staff must be Indonesian.25 Previously, the 2009 Regulation provided 51 percent Indonesian teachers, and 100 percent for Indonesian national support staff (excluding the principal).26

The applicable standards for Indonesian teachers and support staff are contained in the following Ministerial Regulations:

1. No. 12 of 2007 on Standards for School/ Madrasah Supervisors;
2. No. 13 of 2007 on Standards for Principals;
3. No. 16 of 2007 on Academic Qualifications and Competency Standards for Teachers;
4. No. 24 of 2008 on Standards for School Administration Personnel;
5. No. 25 of 2008 on Standards for School/ Madrasah Library Personnel;
6. No. 27 of 2008 on Academic and Competency Qualification Standards for Counselors;
7. No. 40 of 2009 on Standards for Examiners in Courses and Training Programs;
8. No. 41 of 2009 on Qualification Standards for Advisers in Courses and Training Programs;
9. No. 42 of 2009 on Standards for Course and Training Program Management;
10. No. 43 of 2009 on Standards for Education Administration in Package A, Package B, and Package C Programs; and

The standards, requirements, and licensing procedures for foreign teachers and support staff are set out in Ministerial Regulation No. 66 of 2009 on Granting Licenses for Foreign Teachers and Support Staff in Formal and Non-Formal Educational Units in Indonesia (“Foreign Teacher Regulation”).

Under the Foreign Teacher Regulation, foreign teachers must at least have a bachelor degree, whereas foreign support staffs are required to possess a post-graduate degree. Additionally, both foreign teachers and support staff must first secure a license from the Minister prior to working in Indonesia.27

The required licenses must be obtained by the respective joint establishment that intends to recruit foreign staff by submitting a proposal to the Secretary General at the Ministry. The proposal must attach the supplementary information for the administrative requirements listed in Article 5 (3) of the Foreign Teacher Regulation.28

If the proposal is approved, the Minister will issue a license for the foreign teachers and support staff. The license will have the same validity period as the Foreign Worker Recruitment Permit (Izin Mempekerjakan Tenaga Kerja Asing - IMTA)29 of the joint establishment.30

Management

The 2014 Regulation also sets out certain obligations on the management of the joint establishment as follows:31’s

1. Satisfies managerial standards that may be supplemented by other educational management standards in other countries upon obtaining a permit from the Minister;

---

24 2014 Regulation, Arts. 9 (1) and (4), and 10 (3)
25 Education personnel include the management, librarians, laboratory staff, administration staff, cleaning service staff, and security. See: Article 10 (1) of the 2014 Regulation
26 2014 Regulation, Arts. 9 (2), and 10 (4), and 2009 Regulation, Arts. 5 (2), and 6 (3)
27 Foreign Teacher Regulation, Arts. 3 (2) (a), 4 (2) (a), and 5 (2)
28 Foreign Teacher Regulation, Art. 5 (1) and (3)
29 For the procedures to draft and secure approval for a Foreign Worker Recruitment Permit, as well as in-depth elaboration on how to recruit foreign nationals, see: ILD No. 342
30 Foreign Teacher Regulation, Art. 5 (4) and (5)
31 2014 Regulation, Art. 15
2. Implements gender equality principles and respects multiculturalism;
3. Incorporates information and communication technologies; and
4. Is able to prepare students to be independent, prepare them with knowledge relevant to available jobs, or achieve accomplishments at international levels.

Previously, the 2009 Regulation required joint establishment to secure the ISO9001 (version 2000 or later) and ISO14000 certificates within 3 years of commencing operations.\(^{32}\)

**Facilities and Infrastructure**

Joint establishments are required to equip their libraries and classrooms with digital facilities, as well as information and communication technology. They must also provide multimedia classrooms and a health clinic.\(^{33}\)

Additional standards for joint establishment facilities and infrastructure may be in line with similar standards as implemented overseas after securing a permit from the Minister.\(^{34}\)

**Transitional Period**

Existing international and foreign schools in Indonesia have until 1 December 2014, to carry out necessary adjustments to comply with the 2014 Regulation. Those failing to comply will be forced to shut down or convert into a national school.\(^{35}\)

**Closure Provisions**

A joint establishment will be closed by the Minister if it:

1. Does not comply with the 2014 Regulation before 1 December 2014;
2. No longer fulfills the requirements for a joint establishment under the 2014 Regulation; or
3. The operating license expires or an extension of it is denied by the relevant Director General.\(^{37}\)

If ordered to shut down operations, the management of the respective joint establishment is required to:

1. Transfer their students to other school(s) within 6 months;
2. Settle financial obligations with their teachers and supporting staff, including repatriating foreign teachers and support staffs to their home country within 3 months; and
3. Handover assets to the Indonesian EI counterpart or otherwise in accordance with the cooperation arrangement provisions within 1 year of closure.

The management of a joint establishment that is forced to close is prohibited from establishing another joint establishment with the same name.\(^{39}\) Prior to the 2014 Regulation, this prohibition was did not exist.

**COOPERATION IN ACADEMIC AND NON-ACADEMIC PROGRAMS**

Indonesian EI and Foreign EI may enter into cooperation arrangements for managing academic and non-academic programs.

Cooperation arrangements for academic programs include student and teacher exchange programs, extracurricular activities, resource cooperation, and twinning programs. Cooperation for non-academic matters covers management contracts, joint utilization of assets, fundraising, sharing arrangements for intellectual property rights, services and royalties, internships, and carrying out international examinations.\(^{40}\)

The following discussion covers the requirements and the licensing procedures for cooperation on academic

---

32 2009 Regulation, Art. 13 (b)
33 2014 Regulation, Art. 14 (2), (3) and (4)
34 2014 Regulation, Art. 14 (1)
35 2014 Regulation, Art. 39 (2)
36 2014 Regulation, Arts. 37 (2) (a), and 39 (2)
37 2014 Regulation, Art. 37 (b)
38 2014 Regulation, Art. 37 (3) (a), (b) and (c)
39 2014 Regulation, Art. 37 (3) (d)
40 2014 Regulation, Art. 22 (3) and (4)
and non-academic programs between Indonesian EI and Foreign EI.

**Requirements**

Cooperation in academic and non-academic programs can be undertaken between an Indonesian EI and Foreign EI that are accredited and registered in their respective countries.\(^{41}\)

Moreover, Indonesian EI institutions may enter into a formal education program for early child learning, primary, or secondary schooling with a Foreign EI on academic programs whereas non-formal Indonesian EI can engage in a cooperation for both academic and non-academic programs.\(^{42}\)

**Licensing Procedures**

Indonesian EI and Foreign EI intending to enter cooperation arrangements for academic and non-academic programs must first submit a proposal for the said cooperation to the relevant Director General,\(^{43}\) which includes the cooperation contract between the Indonesian EI and Foreign EI, as well as a feasibility report covering geographical considerations, finances, social and cultural aspects, neighboring educational services, and budget plans.\(^{44}\)

The applicant must then secure a recommendation from the respective regency/municipal and provincial government where the Indonesian EI is located. The Minister will issue a permit for the cooperation after considering the recommendation.\(^{45}\)

**PRESIDENTIAL DIRECTIVE**

Perhaps the most prominent implication of the Jakarta International School case is the issue of a Presidential Directive. In summary, the Presidential Directive provides instructions to Ministers and Chairpersons of Non-ministerial Government Institutions, the Attorney General, the Indonesian Police Force, as well as regional governments aimed at the protection of children from sex crimes, such as child pornography, forced prostitution, sexual assault, as well as sexual abuse and harassment.\(^{46}\)

The Presidential Directive contains measures agreed by the President, Vice President, and their ministers that are to be implemented to prevent and combat sexual crimes against children. Susilo Bambang Yudhoyono, has expressed his hopes that, in addition to the steps currently implemented, this national movement to prevent and eradicate sexual crimes against children as provided under the Presidential Directive can be thoroughly implemented by law enforcement officials, relevant commissions, women and teacher organizations, as well as the press.\(^{47}\)

**Policies to Prevent and Eradicate Sex Crimes against Children**

Firstly, the Presidential Directive directs the Coordinating Minister of Public Welfare, and Coordinating Minister of Political, Legal, and Security Affairs to establish the necessary policies to eradicate sexual crimes against children.\(^{48}\)

The Presidential Directive also commands the Indonesian Police Force to increase preemptive measures, such as public guidance and counseling in educational institutions in order to familiarize the public on sexual crimes.\(^{49}\)

**The Importance of Sex Education Finally Acknowledged**

One of the most significant contributions introduced by the Presidential Directive is an acknowledgement by

---

\(^{41}\) 2014 Regulation, Art. 20
\(^{42}\) 2014 Regulation, Art. 22 (1) and (2)
\(^{43}\) Supra, n. 7
\(^{44}\) 2014 Regulation, Arts. 29 (a), and 30
\(^{45}\) 2014 Regulation, Arts. 29 (b), and 31 (1)
\(^{46}\) Presidential Directive, Preambule, and Point 1

\(^{48}\) Presidential Directive, Point 2, Items 1 (a) and 2 (a)
\(^{49}\) Presidential Directive, Point 2, Item 15 (d)
the Government of the importance of sex education in the national education system. This is acknowledged by the instruction to the Minister and Minister of Religious Affairs to include such matters in the national curriculum.50

The Presidential Directive however, appears to avoid mimicking the typical sex education provided in Western cultures, opting to focus on the sexual rights and obligations of children and knowledge of reproduction.51

Additionally, the Presidential Directive also commands the Minister of Health to provide information and education to children, stakeholders, and the general public regarding reproductive health, the impact of sex crimes on child development, child empowerment, and other preventive measures.52

**Legislative Implications**

In addition to the abovementioned directives, the Presidential Directive also has legislation implications by instructing the Minister of Women Empowerment and Child Protection, as well as the Minister of Law and Human Rights to expedite the issue of laws and regulations relevant to child protection.53

Specifically for the Minister of Women Empowerment and Child Protection, the Presidential Directive instructs a revision to Law No. 23 of 2002 on Child Protection, and the commencement of the drafting of the 2015 – 2019 National Action Plan to Prevent and Respond to Violence against Children through coordination with relevant government institutions.54

---

**Family Supervision and Local Community Cooperation Remains Critical**

The President asserted even though the Presidential Directive comprises aggressive, large scale, and continuous education and familiarization programs, supervision by family members remains of primary importance as it is parents and caregivers that can most readily recognize the condition of their children and must respond quickly to adverse changes.55

Mr. Yudhoyono further emphasized the importance of local community groups and leaders, such as urban and rural leaders, to cooperate with the Government to execute the Presidential Directive. He has affirmed that the Government has received supportive messages from those willing to volunteer in implementing the Presidential Directive alongside the Government.56

**CONCLUSION**

In general the 2014 Regulation can be seen as a proactive but balanced response to the Jakarta International School case, even though the Government may be reluctant to admit the 2014 Regulation serves this purpose. However, the prohibition of the use of the word “international” in the names of joint establishments and the new ratios for Indonesian to foreign teachers and support staffs including provision of a 20 percent slot for foreign nationals (previously 100 percent Indonesian nationals) to fill supporting staff positions, is indicative of the consideration that has been given to current issues related to international schools. This is of course one view, and it is likely that other interested parties will see differing and other agendas and motivations permeating through the content of this new legislation.

The more distinct responses initiated by the Government under the Presidential Directive, on the other hand, would have been better if they had been

---

50 Presidential Directive, Point 2, Items 3 (b) and 4 (b)
51 Ibid
52 Presidential Directive, Point 2, Item 5 (a)
53 Presidential Directive, Point 2, Items 6 (d) and 12 (a)
54 Presidential Directive, Point 2, Item 6 (d)
55 Supra, n. 46
56 Supra, n. 46
earlier preemptive steps taken by the Indonesian Government to prevent tragedies such as the Jakarta International School case from ever happening again although credit needs to be given for taking initiative on the issue of child protection.

This Government’s delinquency until now in dealing with the child protection issues, rather than being a result of the typical sluggishness that is common within government institutions and among government officials, also has roots in a general taboo and reluctance to openly discuss issues related to sexual matters including providing critical sex education. As implied by the Presidential Directive, the most critical aspect of such education is to teach respect of one’s own and other person’s bodies, knowledge of which can empower victims to reject unwanted sexual harassment, and act as a deterrent for perpetrator to reconsider committing such heinous crimes.

While not belittling the serious of the incident, one positive development that the Jakarta International School tragedy is that it has acted as a catalyst to provide the necessary shock and impetus to the Government, parents, as well as the general public on the importance of child protection and sex education, in the context of a society that until now has tended to be less than open in discussing such issues.

So far, the Government has shown a positive response to this incident that is unprecedented in its media coverage notwithstanding that the possibility of similar circumstance may exist but simply have not come into the public spotlight, by issuing the Presidential Directive. The Presidential Directive has prompted a change of direction and paradigm shift in the national education system which will hopefully provide better protection for, and empowerment of, future generations and which represents a renewed vigor of the Government to prevent future tragedies.