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EDUCATIONAL SERVICES DIVISION

# Review of foreign government / organisation support for language education in NSW government schools

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## Table of Contents

Executive Summary.....	3
<b>Part 1: Review of all agreements the department has with foreign governments or organisations to support language education in NSW public schools.....</b>	<b>5</b>
1.1 Overview of all language agreements and MOUs.....	5
1.2 Discussion.....	6
1.3 Recommendations regarding language agreements.....	7
<b>Part 2: Review of the Confucius Institute in the NSW Department of Education.....</b>	<b>8</b>
2.1 Establishment.....	8
2.2 Structure.....	9
2.3 Renewal of agreement.....	10
2.4 Issues raised.....	10
2.4.1 Perceived benefits of the program.....	10
2.4.2 Concerns raised about the program.....	12
2.5 Discussion.....	17
2.5.1 The value of Confucius Classrooms.....	17
2.5.2 No evidence of inappropriate foreign influence.....	17
2.5.3 The perception of possible foreign influence.....	17
2.5.4 Re-negotiation of agreement.....	18
2.5.5 Termination of agreement if re-negotiation is not possible.....	19
2.5.6 Impact on the department if the department no longer hosts a Confucius Institute.	19
2.6 Recommendations regarding the Confucius Institute.....	20

## Executive Summary

The Minister for Education has requested that the NSW Department of Education (the department) review the governance arrangements for foreign government/organisation support for language programs that operate in NSW public schools. The Minister has also requested specific advice on the operation of the Confucius Institute established in the department in 2012.

The department has signed a number of agreements and memorandums of understanding (MOUs) with foreign governments or organisations to support language education in schools. In accordance with the terms of reference (**Attachment A**), this review has examined the governance arrangements of these programs, including risks associated with their operational structure and continued operation. The review has considered all available department documentation and relevant material in the public domain about the relevant agreements. This review has also considered advice from the Commonwealth Home Affairs Portfolio.

In relation to language agreements generally, this review recommends that the department establish a dedicated team for six months to:

1. Improve the administration of arrangements with foreign governments or organisations. This could be done by establishing guidelines for the development of these agreements that would:
  - require Legal Services involvement in drafting MOUs and legally binding agreements
  - describe the level of executive approval expected for different types of arrangements
  - require that all foreign nationals placed in schools must meet all relevant checks expected of departmental teachers and are supervised by a departmental teacher at all times
  - require an evaluation of the program activities as part of the agreement renewal process.
2. Review the renewal clauses of all agreements. This could be done by:
  - reviewing agreements that are close to renewal and, if there is a decision to renew, use the opportunity to update the agreement into a more standardised format
  - reviewing agreements that have expired to ensure all activity has ceased and/or the parties enter into a new standardised agreement.
3. Maintain a thorough record of all agreements the department has with foreign governments or foreign organisations that support language education in schools. This could be done by developing a central registry that includes agreements entered into by schools such as sister school relationships.

In relation to the Confucius Institute, this review recommends the department:

4. Continue to support the teaching of Chinese in NSW schools. The department should continue to support activities that provide benefits and opportunities to students, such as access to Chinese native language speakers in classrooms, incursions and excursions to participate in Chinese cultural activities and sister school partnerships.
5. Re-negotiate the current Confucius Institute agreement with Hanban to remove any possible perception that the agreement could facilitate political influence by a foreign government in schools and the department. The re-negotiated agreement would ensure that:
  - the institute is removed from its current location in the department and placed in an alternate location. The department could partner with the Confucius Institute in the alternate location to support Confucius Classrooms in NSW public schools
  - the Board contains department representatives, has only an advisory role and cannot take part in decisions about recruitment and the operations of the institute
  - there is acknowledgement that the department's *Controversial Issues in Schools* policy allows students freedom to discuss controversial topics in Confucius Classrooms

- NSW law is stated to be the relevant applicable law for all purposes
  - the agreement is published to ensure transparency
  - there is a formal evaluation of the institute, including an evaluation of student outcomes, as part of the agreement's renewal process.
6. Consider terminating the agreement with Hanban, if re-negotiation is not possible. The agreement may be terminated by giving six months' written notice, under the termination clause in Article 11.1.

### **Overview of the review's findings**

Foreign government/organisation support for the teaching of foreign languages provides valuable learning experiences for NSW public school students. The review did not find any specific causes for concern regarding most of the language agreements. It did find opportunities to improve program management and governance of these agreements.

The department can strengthen its program management and governance in relation to all the language agreements it has with foreign governments or organisations. This includes standardising the process of drafting the agreements and ensuring appropriate levels of input from Legal Services and high level sign off. There should be a centralised process to monitor end dates and centralised record keeping. Any agreements that are due to be renewed should be moved to the new standardised format and process. There should be close attention paid to record keeping and all programs should be evaluated for effectiveness particularly before they are renewed.

The review looked in the detail at the Confucius Institute agreement. The Confucius Institute agreement is a different type of agreement to the other agreements. As well as establishing a unit in the department, the institute includes foreign nationals selected by Hanban, is subject to a board with foreign representation and has reporting requirements back to Hanban. Many commentators (including academics, parents and members of parliament) have expressed concerns about political influence being exerted through the operation of the Confucius Institute in the department.

The review examined whether there is any basis to concerns raised about political influence through the institute. The review did not discover any evidence of actual political influence being exercised.

The review found, however, a number of specific factors that could give rise to the perception that the Confucius Institute is or could be facilitating inappropriate foreign influence in the department. The primary concern is the fact that the NSW Department of Education is the only government department in the world that hosts a Confucius Institute, and that this arrangement places Chinese government appointees inside a NSW government department. There are also concerns about the compatibility of the agreement with existing NSW law and policy governing the NSW public service and the department. For example:

- the agreement says the Confucius Institute Board has authority to appoint the role of director (manager), Confucius Institute which is a public service role in the department subject to the relevant NSW employment legislation
- there is ambiguity in the agreement's wording which requires that Confucius Institute activities must not contravene laws and regulations both in Australia and China.

The review finds that the department should continue to support the teaching of the Chinese language in NSW public schools. It proposes specific provisions that should be sought in re-negotiating the agreement to remove any possible perception that the agreement could facilitate political influence by a foreign government in schools and the department.

# **Part 1: Review of all agreements the department has with foreign governments or organisations to support language education in NSW public schools**

## **1.1 Overview of all language agreements and MOUs**

The department has a number of memorandums of understanding (MOUs) with foreign governments/organisations to support language education in NSW public schools. These MOUs facilitate activities such as exchange programs, sister schools, delegation visits and information-sharing on curriculum development and teaching practices.

This review has found 16 agreements/MOUs signed by the department:

### **MOUs with foreign governments**

- MOU with the Department of International Cooperation & Exchanges, China
- MOU with Shanghai Municipal Education Commission, China
- MOU with Shanghai Pudong Education Bureau, China
- MOU with Education Bureau of Huangpu District, Shanghai, China
- MOU with Nanjing Municipal Education Bureau, Jiangsu, China
- MOU with Beijing Municipal Education Commission, China
- MOU with the Department of Culture & Education, China Overseas Exchange Association
- MOU with the Ministry of Education of the Republic of Korea
- MOU with the Ministry of Education, Culture and Sport of Spain
- MOU with the Consulate General of the Republic of Italy in Sydney

### **MOUs or agreements with foreign organisations**

- Agreement with Confucius Institute Headquarters, China (Office of Chinese Language Council International [Hanban])
- MOU with the Goethe Institut Australia, Sydney

### **MOUs involving universities**

- MOU with Ningbo Municipal Education Bureau (China) and Western Sydney University for the ROSETE program
- MOU with the Jeollanamdo Office of Education (South Korea) and University of New England for the Asia ConneXions program
- MOU with Waseda University, Japan
- MOU with Universidad de Monterrey Prepa UDEM, Mexico

This review has considered each agreement in detail, as well as department files and information in the public domain. The agreements are summarised in the table at **Attachment B**. The review found that:

- 1 MOU establishes a unit in the department that includes foreign nationals selected by a foreign government organisation, is subject to a board with foreign representation and has reporting requirements back to the board
- 5 MOUs place foreign nationals in schools as teaching assistants
- 3 MOUs provide capacity building resources in the form of foreign nationals assisting department staff with the development of language programs in NSW public schools
- 2 MOUs do not have expiry dates
- 9 MOUs were signed off at the executive director level or below – the rest were signed off by Deputy Secretaries or Secretary (or Director General)
- 5 MOUs involved a significant commitment of resources from one or more parties and did not articulate a clear primacy of NSW law over the laws of other countries
- 2 MOUs have automatic renewal clauses; 2 MOUs do not mention any conditions for renewal

- 1 MOU does not have any termination clauses
- 1 MOU does not state the names or positions of the signatories
- 1 MOU has contradicting dates of when it was signed.

## **1.2 Discussion**

In reviewing all the documentation available, it was apparent that there was great variation in the drafting of agreements with foreign governments or organisations. The clauses in some agreements, particularly older agreements, are very loose and/or missing standard clauses that would normally be expected in agreements of this sort.

The Confucius Institute agreement is the one agreement that:

- establishes a unit in the department that includes foreign nationals selected by a foreign government organisation - Office of Chinese Language Council International (Hanban)
- is subject to a board with foreign representation and has reporting requirements back to the board.

There are a number of issues that arise specifically with the Confucius Institute agreement and for this reason the agreement will be dealt with in depth in section 2 of the review.

### **Guidelines for entering into agreements**

The department should develop guidelines for making agreements involving foreign governments and organisations.

Guidelines for developing such agreements should require legal overview of the drafting process. It would be useful for the department to obtain legal assistance in drafting standard clauses and example agreements for language support agreements with foreign organisations or organisations. For example such clauses would specify:

- that NSW law covers the agreement, and that any foreign government or organisation employees working in NSW schools are subject to NSW employment law and policies and must observe the department's *Controversial Issues in Schools* policy
- whether the agreement is considered legally binding.

The guidelines should provide clear guidance about the level of sign off expected for different types of agreements. There is a lot of variation in the level at which agreements are signed off – some are at the Secretary level and others at a director level. This review suggests that anything involving either foreign governments or organisations providing money or teacher placements in schools should have at least Deputy Secretary level sign-off.

As is current practice, the guidelines should also state that when foreign nationals are placed in schools they must meet all relevant checks expected of departmental teachers and are supervised by a departmental teacher at all times.

The guidelines should require an evaluation of the activities undertaken under the agreement as part of the agreement renewal process, and as good practice in program management.

### **Renewing agreements**

It would be beneficial if there was a more consistent approach to renewing agreements. Some agreements have no renewal clause and some have automatic renewal clauses. All agreements that are close to renewal should be reviewed and, if there is a decision to renew, the opportunity should be taken to update the agreement into a more standardised format.

There should be a review of all agreements that have expired to ensure all activity has ceased. If the activity has continued the situation should be reviewed and if there is a decision to continue the arrangement the parties should enter into a new standardised agreement with clear renewal provisions. These should include a termination for convenience clause, which is generally included in government contracts to allow governments the necessary flexibility to terminate a contract without needing to rely on normal termination clauses.

### **Record keeping**

The department should maintain a thorough record of all agreements with foreign governments or organisations to support language teaching in schools. The Educational Services Division has attempted in recent years to create a central registry of all agreements and this work needs to continue. They have encountered difficulties in locating all agreements and determining whether agreements are current or not. These things need to be remedied and all current agreements identified and tracked through the central registry.

It is understood that schools sometimes enter into agreements with foreign government agencies such as schools. Very few of the sister school agreements are held in the register and schools should be asked to provide the agreements. The guidelines should also apply to agreements made by schools to ensure appropriate oversight of agreements and risk management as well as record keeping.

### **1.3 Recommendations regarding language agreements**

In relation to language agreements generally, this review recommends that the department establish a dedicated team for six months to:

1. Improve the administration of arrangements with foreign governments or organisations. This could be done by establishing guidelines for the development of these agreements that would:
  - require Legal Services involvement in drafting MOUs and legally binding agreements
  - describe the level of executive approval expected for different types of arrangements
  - require that all foreign nationals placed in schools must meet all relevant checks expected of departmental teachers and are supervised by a departmental teacher at all times
  - require an evaluation of the program activities as part of the agreement renewal process.
2. Review the renewal clauses of all agreements. This could be done by:
  - reviewing agreements that are close to renewal and, if there is a decision to renew, use the opportunity to update the agreement into a more standardised format
  - reviewing agreements that have expired to ensure all activity has ceased and/or the parties enter into a new standardised agreement.
3. Maintain a thorough record of all agreements the department has with foreign governments or foreign organisations that support language education in schools. This could be done by developing a central registry that includes agreements entered into by schools such as sister school relationships.

## Part 2: Review of the Confucius Institute in the NSW Department of Education

### 2.1 Establishment

In 2012 the department entered into an agreement (**Attachment C**) with the Office of Chinese Language Council International (Hanban) to establish a Confucius Institute within the department. Confucius Institutes are established in universities around the world but NSW is the only school system to have a Confucius Institute located within the department. The department agreed to establish a Confucius Institute with Hanban in 2010 under a MOU.

As part of the agreement, Hanban partnered the department with the Jiangsu Provincial Department of Education. This partnership is part of Hanban's standard establishment process and is designed to support the department's Confucius Institute by giving it access to personnel and sister schools from the partner agency. The department signed a supplementary agreement with the Jiangsu Provincial Department of Education in 2013 (**Attachment D**).

The Confucius Institute is responsible for establishing and supporting Confucius Classrooms, which are Chinese (Mandarin) language and culture classes taught by a departmental Chinese language teacher and assisted by a paid 'volunteer' teacher from China.

Confucius Classrooms are currently run in 13 NSW public schools:

Primary:

- Chatswood Public School
- Hurstville South Public School
- Kensington Public School
- Rouse Hill Public School

Secondary:

- Bonnyrigg High School
- Chatswood High School
- Coffs Harbour High School
- Concord High School
- Fort Street High School
- Homebush Boys' High School
- Kingsgrove North High School
- Mosman High School
- Rooty Hill High School

### Growth of numbers participating in Confucius Classrooms

Part of each Confucius Institute's mission is to increase the number of students studying Mandarin in their location. The first Confucius Classrooms in NSW public schools opened in 2013. Since then, the number of students learning Mandarin in Confucius Classrooms has increased by 78 per cent, from 2,691 students to 4,814 students in 2017. Overall however, the number of students attending Confucius Classrooms only makes up a small percentage (15 per cent) of the total 30,000 students studying Mandarin in NSW public schools.

In 2015, there were 60 Confucius Classrooms in Australia, 18 of which were in NSW (13 in NSW public schools). Across the world there are approximately 520 Confucius Institutes and 1,200 Confucius Classrooms in operation.

## **2.2 Structure**

### **Board of Directors**

The department's Confucius Institute is governed by a Board of Directors consisting of six representatives from the NSW Department of Education and seven from the Jiangsu Provincial Department of Education:

Representatives from the NSW Department of Education:

- Deputy Secretary, Educational Services (Chair)
- Executive Director, Learning and Teaching Directorate
- Executive Director, Public Schools NSW
- Executive Director, Learning and Business Systems Directorate
- Director, Secondary Education, Learning and Teaching Directorate
- Principal representative, Confucius Classroom school

Representatives from the Jiangsu Provincial Department of Education:

- Deputy Director-General, Jiangsu Provincial Department of Education (Jiangsu Board Chair)
- Party Secretary, Nanjing Xiaozhuang University
- Party Secretary, Nanjing Second Normal University
- Director, International Division, Jiangsu Provincial Department of Education
- Director, Jiangsu Educational Services for International Exchange
- Deputy Director, Nanjing Municipal Educational Bureau
- Deputy Director, Xuzhou Municipal Educational Bureau

The Board is responsible for assessing and approving the Confucius Institute's annual plans, annual reports, projects, budgets and accounts. Every year, schools that have Confucius Classrooms submit an annual report to the Board and seek approval for their budget expenditure. The agreement does not state how frequently the Board is required to meet. The Board is also responsible for appointing and dismissing the Director (manager) and Deputy Director of the Confucius Institute program unit.

### **Confucius Institute program unit**

The Confucius Institute program unit is responsible for providing administrative support for Confucius Institute activities. The unit is located within the Educational Services Division, Learning and Teaching Directorate, and consists of four staff positions. The department and Jiangsu Provincial Department of Education each fund two staff positions in the unit:

Positions funded by the NSW Department of Education:

- Manager, Confucius Institute Program and China International Strategy (Clerk 11/12)
- Confucius Institute Officer (Senior Education Officer Level 1)

Positions funded by Hanban (staff are from Jiangsu Provincial Department of Education):

- Deputy Director, Confucius Institute (this is a Chinese title and does not equate to a departmental director position)
- Confucius Institute Officer (Chinese Project Officer)

### **Financial contributions from Hanban**

Hanban provided the department with US\$150,000 to establish the Confucius Institute and provides US\$10,000 start-up funding for each school that opens a Confucius Classroom. Hanban also pays the salary of one 'volunteer' teacher assistant from the Jiangsu Provincial Department of Education for each classroom. The 2012 agreement refers to the assistant teachers from China as 'volunteers', however Hanban pays the teachers a salary and living allowance. Funding volunteer teacher

assistants is an uncommon arrangement as Hanban does not pay its volunteer teachers in other parts of the world.<sup>1</sup>

The department and Hanban both support the running of Confucius Institute projects through funding or in-kind support. Projects funded by the Confucius Institute include annual professional development programs for departmental Chinese language teachers and orientation programs for the assistant teachers from China.

The following table shows the annual operating costs of both departments:

Provider:	Operating costs (annual):
NSW Department of Education	Salaries of: <ul style="list-style-type: none"><li>• 1x Clerk 11/12, Confucius Institute program unit</li><li>• 1x Senior Education Officer Level 1, Confucius Institute program unit</li><li>• 1x NSW DoE Chinese language teacher per classroom</li></ul>
	Funding or in-kind support for Confucius Classroom projects
	Office/classroom space and equipment
	Medical insurance for volunteer teachers
	Travel for department officers to China (not always annual)
Hanban	Salaries & living allowance of: <ul style="list-style-type: none"><li>• 1x Deputy Director, Confucius Institute program unit</li><li>• 1x Project Officer, Confucius Institute program unit</li><li>• 1x 'volunteer' teacher assistant per classroom</li></ul>
	Funding for Confucius Classroom projects (up to US\$10,000 per school)
	<b>Establishment grants (one-off payments):</b>
	Establishment grant for the Confucius Institute - US\$150,000
	Establishment grant for each Confucius Classroom - US\$10,000

## 2.3 Renewal of agreement

In 2017, the agreement between the department and Hanban was renewed by the Secretary until 2022. The agreement is set to automatically renew every five years unless either party notifies the other that they wish to terminate the agreement.

## 2.4 Issues raised

### 2.4.1 Perceived benefits of the program

#### Increased popularity of learning Mandarin in schools

The benefits of learning Mandarin at school are widely recognised, as it can expand students' future career and travel opportunities and promotes intercultural understanding of Australia's major trading partner. The annual reports submitted by Confucius Classroom schools suggest that the program has helped to increase the popularity of Chinese language and culture in schools. During the course of this review, a Confucius Classroom teacher from Kingsgrove North High School wrote a letter to tell the NSW Minister for Education that the program has had a positive and significant impact on Mandarin

<sup>1</sup> Internal NSW Department of Education records of a 2015 meeting between the Deputy Secretary, School Operations and Performance and Deputy Director General, Hanban.

learning and has contributed to the increasing number of students learning Chinese. The growth in the number of students attending Confucius Classrooms, which have had a 78 per cent increase since 2013, indicates that there is demand for Chinese language classes in schools.

### **Access to funding and teaching resources from Hanban**

Schools with Confucius Classrooms receive funding from Hanban that may be used to host cultural immersion events such as China Day (also known as Confucius Institute Day, this event celebrates the anniversary of the founding of Confucius Classrooms in each school and features student performances and workshops run by the assistant teachers from China), Moon Festival Celebration, Dragon Boat Festival, film festivals and excursions to locations such as Sydney's Chinatown and the Chinese Garden of Friendship.

Schools also receive Chinese language teaching materials from Hanban, however it is not compulsory for teachers to use these resources.

### **Access to qualified native speakers and sister schools**

A key benefit of a Confucius Classroom is that it gives students access to a trained assistant Mandarin teacher from China as a year round resource in their classrooms. The annual reports and the letter from the Chinese language teacher at Kingsgrove North High School suggest that the assistant teachers are a significant resource for both the departmental teacher and students. The assistant teacher works under the direction and supervision of the department's classroom teacher, and may assist by developing resources, team teaching and running clubs and extra-curricular activities at the school.

Since 2013, Hanban has sent 50 assistant teachers to NSW schools. Within this group, four were experienced teachers, while the other 46 were recent graduates. Assistant teachers are fluent in English and hold at minimum a Bachelor degree and Certificate of Volunteer Chinese Teacher. They are placed within a school for a 12-24 month period. The department provides the assistant teachers with an annual two-day orientation program and teacher observation program to help them become familiar with NSW syllabuses.

Each Confucius Classroom school also has at least one sister school in China. The sister school program is highly valued in school communities as it allows students to develop a relationship with students in China through reciprocal school visits.

### **Professional development opportunities for NSW teachers and principals**

The Confucius Institute provides two professional development opportunities for NSW teachers:

- **Chinese Language Teachers' Conference:** An annual conference organised by the Confucius Institute program unit for NSW K-12 Chinese language teachers from all sectors. The 2017 conference included sections on innovative pedagogies in Chinese teaching, familiarisation with the new Chinese K-10 syllabus, embedding literacy and numeracy skills and teaching Chinese culture through creative arts. Participating in the conference contributes five hours of registered professional development for teachers.
- **Principal visits to China:** Hanban provides an opportunity for ten NSW school principals to visit Chinese schools every year. The opportunity is open to all principals interested in establishing or growing the Chinese language and cultural program at their school. They do not need to have a Confucius Classroom in their school to participate. The visits took place in 2014, 2015 and 2016. The 2018 delegation has been postponed in light of the review.

## 2.4.2 Concerns raised about the program

### Concerns raised regarding the location of the Confucius Institute within the department

The NSW Department of Education is the only department of education in the world that hosts a Confucius Institute. The other 13 Confucius Institutes in Australia are all located inside universities. It is unique for foreign government employees to be working inside an Australian government department and this arrangement has raised concern among commentators (including academics, parents and members of parliament) about the independence of the NSW education system and potential conflicts of interest generated by the arrangement.

#### *Concerns raised by experts and academics*

A number of experts and academics have criticised the department's Confucius Institute. In December 2017 Ross Babbage, former head of strategic analysis at the Office of National Assessments, called for an urgent review of the department's Confucius Institute on the grounds that it was inappropriate for Chinese government-funded personnel to be operating within an Australian state government. Babbage commented that Confucius Classrooms were 'unacceptable' and that this 'sort of activity has to be put in the picture of the broader programs ... that the Chinese government has been sponsoring into Australia. These Confucius Institute initiatives cannot be seen as somehow separate, or an abstraction from them. Accepting Chinese government-funded personnel within an Australian state government department is a very serious issue that deserves urgent review.'<sup>2</sup>

Dr Marshall Sahlins, sociologist at the University of Chicago who wrote a book about the influence of Confucius Institutes on academic life, criticised the NSW arrangement as 'dangerous for the obvious reason that it implants Chinese interests and personnel, not simply in NSW universities but in the NSW government department in charge of education.'<sup>3</sup>

Similar concerns have been raised regarding Confucius Institutes in Australian universities. Swinburne University Emeritus Professor John Fitzgerald has urged universities to reconsider their involvement with the program, commenting that 'the creation of Confucius Institutes signals to authorities in China that Australian universities are prepared to make an exception for China on questions of academic freedom, teaching curriculums, and research integrity.'<sup>4</sup>

#### *Concerns raised in Parliament*

NSW Greens MP Jamie Parker and John Kaye MLC have asked numerous questions on notice in parliament over a number of years regarding the appropriateness and transparency of the Confucius Institute. The questions covered a range of concerns about the curriculum, funding, structure and personnel involved in the Confucius Institute, as well as the decision-making authority of Hanban.

In late 2011, Jamie Parker, John Kaye and Geoffrey Lee (Liberal Member for Parramatta) each tabled a petition<sup>5</sup> in parliament with over 10,000 signatures each opposing Confucius Classrooms. The petition requested for Confucius Classrooms to be removed from schools and replaced with an Australian-run organisation, on the grounds that a foreign government should not interfere with the content and values upheld in NSW public schools. The petition welcomed the teaching of Chinese language and culture in schools, but argued that such teaching should be free from Chinese Communist Party doctrine and censorship.

<sup>2</sup> L. Lim and A. Furze (additional reporting by Andrew Connell), 'Confucius Institute in NSW education department 'unacceptable' – analyst', *Guardian Australia*, 8 December 2017, <https://www.theguardian.com/world/2017/dec/08/confucious-institute-in-nsw-education-department-unacceptable-analyst>, (accessed 6 September 2018).

<sup>3</sup> Ibid.

<sup>4</sup> J. Fitzgerald, 'Unis could bide their time and escape the long arm of Beijing', *The Australian*, <https://www.theaustralian.com.au/news/inquirer/unis-could-bide-their-time-and-escape-the-long-arm-of-beijing/news-story/202b5b9462af59a9f38f57aaee13b7b8>, (accessed 12 June 2018).

<sup>5</sup> 10,000 + petition on Confucius Classrooms, received 10 November 2011, <https://www.parliament.nsw.gov.au/tp/files/55678/10.000%20+%20petition%20on%20Confucius%20Classrooms.pdf> (accessed 12 June 2018).

### *Concerns raised by parents and community organisations*

Although the total number of complaints received about Confucius Classrooms is very small, there are anecdotes in the media about parents raising concerns about the program's affiliation with the Chinese Government.

A Sydney parent from Taiwan, avoided enrolling her daughter in a school that offered Confucius Classrooms and instead teaches her Chinese at home because of her concerns about the program. The same parent also voiced concern about the program's teaching of simplified Chinese characters rather than traditional characters used in Taiwan and Hong Kong.<sup>6</sup> One Chinese-Australian parent, whose son attends a school where the Confucius Classrooms program is compulsory from Kindergarten to Year 2, said it was akin to 'the infiltration of the Chinese Communist Party into the NSW public school system'.<sup>7</sup> Another parent chose not to send his son to a school with a Confucius Classroom and has established a Facebook page and change.org petition to raise awareness about the issue.<sup>8</sup> There was also a case reported in the media where a principal asked a Chinese parent to monitor Confucius Classroom lessons on behalf of the school.<sup>9</sup>

Community groups have also raised awareness about Confucius Institutes. On 7 June 2018, Canadian documentary *In the Name of Confucius: A Documentary Exposing the Hidden Truth behind China's Global Push to Educate Our Youth* was screened at NSW Parliament House. The event was hosted by two activist organisations, the Australia Tibet Council & the Australia Value Alliance. The screening attracted some media attention. The event was followed by a panel discussion with guests including the film's director, an ex-Chinese government diplomat and Executive Officer of the Australia Tibet Council (also a Member of Tibetan Parliament-in-Exile).

### **International concerns raised about Confucius Institutes**

Confucius Institutes have come under increasing international scrutiny in recent years and numerous institutes have been closed. In 2014, plans to establish a Confucius Institute in the Toronto District School Board in Canada were terminated on the grounds that the program was out of line with community values, among other reasons.<sup>10</sup> The controversy attracted significant media attention after heated community protests occurred and community organisations campaigned against the Confucius Institute.

Numerous universities worldwide including the Texas A&M University System, University of Chicago, Pennsylvania State University, Stockholm University, France's University of Lyon, Japan's Osaka Sangyo University and Canada's McMaster University and University of Sherbrooke have closed their Confucius Institutes in recent years over concerns about academic independence, funding, legal issues and political and community pressure.

### **Legal concerns and incompatibility with departmental policies**

A concern raised by commentators is that Confucius Classrooms will be in some way influenced by Chinese Communist Party doctrine and censorship. The 2012 agreement between the department and

<sup>6</sup> K. Munro, 'Behind Confucius Classrooms: the Chinese government agency teaching NSW school students', *The Sydney Morning Herald*, 29 May 2016, <https://www.smh.com.au/national/nsw/behind-confucius-classrooms-the-chinese-government-agency-teaching-nsw-school-students-20160525-gp3882.html>, (accessed 12 June 2018).

<sup>7</sup> Ibid.

<sup>8</sup> C. Metcalfe, 'Parents worried about Confucius Classrooms program in north shore public schools', *The Daily Telegraph*, 10 June 2016, <https://www.dailymail.co.uk/news/local/north-shore/parents-worried-about-confucius-classrooms-program-in-north-shore-public-schools/news-story/df4e9a86acf0969c2fc03a313aa7d62f>, (accessed 12 June 2018).

<sup>9</sup> Ibid.

<sup>10</sup> 'TDSB votes to end Confucius Institute partnership', *Canadian Broadcasting Corporation*, 29 October 2014, <http://www.cbc.ca/news/canada/toronto/tdsb-votes-to-end-confucius-institute-partnership-1.2817805> (accessed 12 June 2018).

Hanban states that all Confucius Institute activities must ‘respect cultural customs, and shall not contravene laws and regulations of both Australia and China’ (Article 5.4). There is ambiguity in the agreement as to what extent China’s laws, regulations and cultural customs need to be observed in Australian classrooms, particularly in regard to the censorship of controversial subjects such as the Tiananmen Square student massacre, Falun Gong, China’s human rights record, and calls for independence in Tibet or Hong Kong.

Article 5.4 could also present conflict of duty issues for department employees, Hanban-appointed employees, and volunteer teachers from Hanban. The clause appears to be incompatible with the department’s *Controversial Issues in Schools Policy*<sup>11</sup>, which states that all teachers in NSW public schools are responsible for managing controversial issues that may arise in class and that the study of such issues provides valuable and significant learning experiences when managed appropriately. The *Controversial Issues in Schools Policy* applies to all staff in NSW public schools, including external providers and volunteers involved in activities with students. This policy would be applicable to all staff working in Confucius Classrooms, including those employed by Hanban.

#### *Legal concerns*

The department sought legal advice before signing the agreement with Hanban. It revised the agreement a number of times before it was signed in 2012.

Regarding Article 5.4, legal advice pointed out that the agreement does not state which law (Chinese or Australian) is to prevail if those laws come into conflict. Such conflict is quite possible given that the employment contracts of Confucius Institute staff (from China) are subject to Australian law. The signed version of the agreement (Article 12) states that unresolved differences between the two parties can be submitted to the local law court. Article 10 of the supplementary agreement says that any disputes about the operation or business of the institute should be resolved under NSW law. The legal advice also raised concern over a draft version of Article 4.5, which stated that the Confucius Institute can provide ‘*information and consultative services concerning China’s education, culture and so forth*’ as part of its scope of activities. The legal advice suggested:

*‘whilst it may be a sensitive issue, it may be considered preferable that the document expressly state that the “information” and “services” do not extend to the political system and matters relating to China being a one-party state.’*

The final agreement contains a smaller change that the legal advice suggested *might* overcome the issue. It removes the wording ‘*and so forth*’ so that it now reads ‘*information and consultative services concerning China’s education and culture.*’

The concerns raised in the legal advice overall suggest that the agreement is not clear about the application of Articles 5.4 and 4.5. This places the department in a less-than-ideal position should conflict arise.

Prior to the renewal of the agreement in 2017, legal advice included the comment that the agreement was a ‘strange kind of document’ which did ‘not appear to be drafted in a normal legal manner’, with some aspects suggesting it may be a translation. It also observed that there were many ‘vague and non-specific aspects’ to the agreement. For example, the agreement is unclear as to whether Hanban ‘Headquarters’ was a legal entity, and does not give details on how the Board is to be formed.

As part of the review, the department sought legal advice in June 2018. This advice again observed that the agreement is in a form similar to a MOU and does not contain the elements expected of a standard legal contract. For example, the agreement is not covered by any specific domestic or international law and does not include a termination for convenience clause, which is generally included in government contracts to allow governments the necessary flexibility to terminate a contract without needing to rely on normal termination clauses.

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<sup>11</sup> NSW Department of Education Policy Library, *Controversial Issues in Schools*, DOC16/1020444  
<https://education.nsw.gov.au/policy-library/policies/controversial-issues-in-schools>.

## **Concerns about the decision-making authority of Hanban**

Signed agreements between the department, Hanban and the Jiangsu Provincial Department of Education give Hanban decision-making authority in some department matters. The Confucius Institute Constitution (**Attachment E**, Article 30) states that all Confucius Institutes are obliged to report their annual projects and budget proposals to Hanban for examination and approval. This requirement implies that Hanban (via the department's Confucius Institute Board) can withhold approval for budget expenditure and/or activities that occur in Confucius Classrooms. The constitution is unclear on what happens if Hanban does not approve the Confucius Institute's plans and whether Hanban has the power to veto any departmental activities.

Hanban (via the Jiangsu Provincial Department of Education) also has decision-making authority within the Board of Directors and in the recruitment of Chinese nationals for department roles.

### *Board of Directors*

The composition of the Confucius Institute Board of Directors is currently unequal in favour of Chinese representatives. The 2013 agreement between the department and Jiangsu Provincial Department of Education (**Attachment D**, Article 4) states that both departments are to have between five and six Board members each. The composition of the current Board appears to breach the agreement as there are seven representatives from Jiangsu and six from NSW. The composition of the Board has implications for the operation of the Confucius Institute, as the Board is responsible for approving the institute's annual plans.

Two of the Jiangsu Board members are also Chinese Communist Party Secretaries. This, combined with the fact that there are more Chinese members on the Board than departmental members, could raise the perception that the Confucius Institute is facilitating foreign influence at a senior level within the department.

It is worth noting that the department's six Board members are senior officers at the Principal, Director, Executive Director and Deputy Secretary level. Numerous senior officers at these levels have travelled to China for Confucius Institute meetings and conferences, with the costs shared between the department and Hanban. These interactions can be seen as facilitating high level access to the department which could give rise to the perception of foreign influence.

### *Recruitment of Chinese nationals for roles in the department*

Under the 2012 agreement, the Board of Directors has the authority to appoint the Director and Deputy Director of the Confucius Institute. The Director position (known as the Manager Confucius Institute, Clerk 11/12) is funded by the department, and the Deputy Director position is funded by Hanban. Hanban also funds and appoints a Chinese national as one of the two Confucius Institute Officers in the Confucius Institute program unit. This arrangement raises questions about the appropriateness of having a Board with foreign government members involved in or influencing the outcome of recruitment to a NSW public service role.

This arrangement also raises questions as to whether these employees would face real or perceived conflict of duty issues due to their obligation to act in the interest of both Hanban and the department, and whether this would compromise decision-making or influence their duties in other ways.

In October 2015, a question raised in NSW Parliament revealed that the department did not receive any legal advice in respect to anti-discrimination laws in the operations and hiring process of Confucius Classrooms and the Confucius Institute.

The department does not have a role in the recruitment of the assistant teachers that are appointed by Hanban into Confucius Classrooms. Assistant teachers are required to apply for a visa and undergo a

criminal record check in China and the Working with Children Check issued by the NSW Office of the Children's Guardian. It is worth noting that the Working with Children Check can only access Australian records and most assistant teachers from China would not have a sufficient history of records (convictions or charges) in Australia to make the Working with Children Check meaningful or effective.

### **Specific concerns raised about Confucius Classrooms**

Although there is no evidence to suggest that students in Confucius Classrooms have been exposed to propaganda or political influence, some other issues with Confucius Classrooms have been identified. These concerns relate to:

#### *The target audience of Confucius Classrooms*

Some commentators have raised concern with the fact that Confucius Classrooms target children and young adults who cannot necessarily decide whether they are involved in the program or not.

Dr Falk Hartig at the Goethe University in Frankfurt has studied Confucius Institutes in Australia, and comments that 'they are targeting young students and children...(this) seems to be a little different than targeting adult students who may think for themselves what it may mean if I go to a Confucius Institute.' <sup>12</sup>

Confucius Institutes located in universities have the advantage of being independent of government and their programs are targeted at adults who have freely chosen to study the subject. The department's Confucius Institute cannot be seen as independent of government and targets children and young adults who may not be aware of the political context and concerns surrounding the institute.

#### *Funding and other incentives to schools*

NSW MP Jamie Parker has raised the issue of Hanban's provision of funding for schools to use for their Confucius Classrooms: 'One of the problems is that schools are always so desperate for funding that people that are supposed to be providing funds are often welcomed with open arms without the kind of analysis and critical eye that's required.'<sup>13</sup>

Under the agreement with Hanban, schools receive an establishment grant of US\$10,000 for opening a Confucius Classroom and also receive free teaching materials (books and audio visual material) from Hanban. The volunteer teacher is also a significant resource provided by Hanban.

#### *No program evaluation undertaken*

There does not appear to be a strategy in place to assess the overall impact of the Confucius Institute program on the teaching of the Chinese language in NSW public schools. Every year each school provides an annual report to the Board which gives a picture of activities undertaken, the perceived value of the activities to the students and any achievements of note. However no formal evaluation of student outcomes has occurred since the program's establishment.

#### *Lack of guidance on classroom structure*

Despite the large number of Confucius Classrooms around the world, Hanban does not provide guidance or set standards for the operation and structure of Confucius Classrooms. In 2016 the

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<sup>12</sup> L. Lim and A. Furze, 'Confucius Institute in NSW education department 'unacceptable' – analyst', *Guardian Australia*, 8 December 2017, <https://www.theguardian.com/world/2017/dec/08/confucious-institute-in-nsw-education-department-unacceptable-analyst>, (accessed 12 June 2018).

<sup>13</sup> Ibid.

department developed its own operating guidelines to improve the program's transparency and to ensure that there was a level of consistency across all Confucius Classrooms in NSW public schools.

The document, Model Confucius Classrooms<sup>14</sup> is available to the public and describes the elements of a Confucius Classroom, role statements for the teacher and assistant teacher, and contains assurance that Confucius Classrooms use the NESA syllabuses (Chinese K-10, Chinese Beginners, Chinese Continuers, Chinese Extension, Chinese in Context and Chinese and Literature). The document was developed by departmental teachers. Departmental records indicate that these were departmental positions funded by Hanban on a temporary contract<sup>15</sup>. The fact that the department needed to develop the document partially for the sake of transparency suggests that the risks associated with public accountability may not have been carefully considered before the program's establishment.

## 2.5 Discussion

### 2.5.1 The value of Confucius Classrooms

The review finds that the teaching of Chinese language through Confucius Classrooms provides benefits and opportunities to students, such as access to Chinese native language speaking assistant teachers in classrooms, incursions and excursions to participate in Chinese cultural activities and associated sister school partnerships.

### 2.5.2 No evidence of inappropriate foreign influence

This review has found no evidence of actual political influence being exerted by the Chinese government through the Confucius Institute in NSW public schools. Parents, politicians and academics have raised concerns in different forums but none provide evidence of actual influence. Further evidence would need to be gathered under wider terms of reference to be able to say anything conclusive on this point.

### 2.5.3 The perception of possible foreign influence

The review finds, however, that there are a number of specific factors that could give rise to the perception that the Confucius Institute is or could be facilitating inappropriate foreign influence in the department. The primary concern is the fact that NSW is the only government department in the world that hosts a Confucius Institute, and that this arrangement places Chinese government appointees inside a NSW government department. Having foreign government appointees based in a government department is one thing, having appointees of a one party state that exercises censorship in its own country working in a government department in a democratic system is another.

Compounding these concerns is the fact that China is noted by many commentators as seeking to expand its political influence throughout many parts of the world. Recently the Chinese company Huawei was banned from Australia's 5G network due to national security concerns. An important element of maintaining public confidence in government institutions is that they are seen as free from any possibility of inappropriate influence from vested interests or those with a conflict of interest. The public sector operates under legislation, regulations and guidelines to provide this assurance and to prevent corruption in such things as procurement processes or inappropriate influence over planning decisions. For similar reasons, our political system includes separation of certain powers and a system of checks and balances.

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<sup>14</sup> Model Confucius Classroom document, <https://education.nsw.gov.au/teaching-and-learning/curriculum/key-learning-areas/languages/confucius-institute-at-nsw-department-of-education/confucius-classrooms> (accessed 12 June 2018).

<sup>15</sup> Internal NSW Department of Education records of a 2015 meeting between the Deputy Secretary, School Operations and Performance and Deputy Director General, Hanban.

The fact that numerous questions have been raised by parents, academics and members of parliament about the transparency and appropriateness of the arrangement speaks to the conclusion that some see this arrangement as potentially compromising the department's governance. At least some of those commentators are those who either have an expertise in Chinese geopolitical matters and/or of the fundamentals of governance in a democratic system. To informed observers, the placement of an institute with foreign government involvement inside a government department is both unwise and problematic within the good governance expectations of our democratic political system.

Other factors that give rise to the perception of foreign influence include:

- the fact that there are currently seven Chinese representatives on the Board of Directors, which is one more than the number allowed under the 2013 agreement (NSW only has six representatives). While we understand this number fluctuates, the situation where there are more Chinese representatives should not be allowed to arise. This is especially so as some of the Chinese representatives are Communist Party officials
- a clause in the agreement stating that all Confucius Institute activities must respect cultural customs and must not contravene laws and regulations both in Australia and China , which has the potential to conflict with the department's *Controversial Issues in Schools Policy*. It could give rise to the perception that discussion of controversial topics may be banned in Confucius classrooms
- the financial contributions from Hanban to the department, specific schools and specific senior officers (in the form of partially funded trips by principals and senior department officers to China) as well as the contribution of the assistant teacher resource could be seen as a financial inducement for schools and officials to ignore certain activities in the department or in classrooms
- the decision-making authority of the Board in the recruitment of roles based in the institute and the potential for those employees to face conflict of duty issues. Also the fact that the department has no role in the appointment of the assistant teachers as they are selected by Hanban
- the fact that legal advice has identified potential issues with the current agreement with Hanban such as ambiguity in the terms and the omission of certain standard clauses.

Even if the issues listed above were not apparent at the time the original agreement was signed, they are relevant now and the department should take action to ensure that there is no perception of inappropriate foreign interference in NSW public schools and the department.

#### **2.5.4 Re-negotiation of agreement**

The current agreement with Hanban should be re-negotiated to address the risks associated with the factors outlined above. The department should seek further legal advice on how the structure and organisation of the Confucius Institute and Confucius Classrooms can be modified so that the arrangement is not perceived as allowing for the possibility of inappropriate influence by a foreign government in schools and the department. There should be close involvement by the department's Legal Services in the drafting of the re-negotiated agreement so that the wording is clear and unambiguous to ensure that the issues identified in the current agreement are avoided.

Some of the crucial things that should be made clear in a future agreement are:

- the institute should not be located inside the department to remove the perception of an inappropriate institutional governance arrangement. Instead it could be placed in an alternate location such as a university
- the Board contains department representatives, has only an advisory role and cannot take part in decisions about recruitment and the operations of the institute. The department should be involved in any recruitment for roles in this institute or for assistant teachers
- the *Controversial Issues in Schools* policy applies in Confucius Classrooms and means that students have the freedom to discuss controversial topics

- NSW law is stated to be the relevant applicable law for all purposes. There can be no application of Chinese law to the operation of the institute, the teaching activity of the Chinese teaching assistant and any other activity by a Chinese national involved with the institute needs to be governed by NSW law
- the agreement is published to ensure transparency. This will ensure that it is visible to all potential critics and they can see the strict provisions of the agreement to ensure there is no potential for political influence
- there should be a formal evaluation of the institute, including an evaluation of student outcomes, as part of the agreement's renewal process.

#### **2.5.5 Termination of agreement if re-negotiation is not possible**

If re-negotiation is not possible, the agreement may be terminated under Article 11. Under the agreement, the options for termination are:

- on six months' written notice; or
- the two parties have no aspiration of cooperation at the expiration of the term; or
- the intent of the agreement cannot be achieved (including where either party is not satisfied with the outcomes achieved); or
- the act of one party severely harms the image and reputation of the institute; or
- force majeure.

#### **2.5.6 Impact on the department if the department no longer hosts a Confucius Institute**

Changing or ceasing the current model will impact a relatively small proportion of Chinese language students. Confucius Institute students only make up 15 per cent of Chinese language students in NSW public schools and students in Confucius Classrooms are already in regular Chinese language classes. This transition is not expected to cause major disruption because schools can continue to run Chinese language classes taught by the school's Chinese language teacher.

It would also seem that many of benefits highlighted in the annual reports could continue even if there was no Confucius Classroom program. This includes exchanges with sister schools in China, incursions and excursions to participate in Chinese cultural activities and participation in activities with other schools.

The termination of the agreement would result in the loss of annual funding for the 13 Confucius Classroom schools. This loss of funding may be significant for individual school budgets and result in a reduction of Chinese language and cultural events students can participate in. Schools would also lose access to a native speaking assistant teacher in their Chinese language classrooms.

## **2.6 Recommendations regarding the Confucius Institute**

In relation to the Confucius Institute, this review recommends the department:

4. Continue to support the teaching of Chinese in NSW schools. The department should continue to support activities that provide benefits and opportunities to students, such as access to Chinese native language speakers in classrooms, incursions and excursions to participate in Chinese cultural activities and sister school partnerships.
5. Re-negotiate the current Confucius Institute agreement with Hanban to remove any possible perception that the agreement could facilitate political influence by a foreign government in schools and the department. The re-negotiated agreement would ensure that:
  - the institute is removed from its current location in the department and placed in an alternate location. The department could partner with the Confucius Institute in the alternate location to support Confucius Classrooms in NSW public schools
  - the Board contains department representatives, has only an advisory role and cannot take part in decisions about recruitment and the operations of the institute
  - there is acknowledgement that the department's *Controversial Issues in Schools* policy allows students freedom to discuss controversial topics in Confucius Classrooms
  - NSW law is stated to be the relevant applicable law for all purposes
  - the agreement is published to ensure transparency
  - there is a formal evaluation of the institute, including an evaluation of student outcomes, as part of the agreement's renewal process.
6. Consider terminating the agreement with Hanban, if re-negotiation is not possible. The agreement may be terminated by giving six months' written notice, under the termination clause in Article 11.1.

## Terms of reference

The NSW Minister for Education has requested that the NSW Department of Education (the department) review all foreign government/organisation support for language programs that operate in NSW public schools. The Minister has also requested specific advice on the operation of the Confucius Institute established in the department in 2012.

The department has signed a number of agreements and memorandums of understanding with foreign governments and organisations to support language education in schools. The review will examine the governance arrangements of these programs, including risks associated with their operational structure and continued operation.

As a desktop review, this review will consider all departmental documentation, advice from relevant Commonwealth government departments and relevant material in the public domain about the programs.

It is not within the scope of the review to formally collect evidence from students, teachers, parents or principals about these programs, unless such comments and perspectives are in the public domain.

The review will report to the Minister for Education in late 2018.

Attachment B – Summary of language agreements/MOUs with foreign governments or organisations

Agreement title (program name)	What does the agreement provide?	Is there a significant commitment of resources from signatories?	Start/end date	Renewal history	Does the agreement place foreign nationals in schools?	Does the agreement place foreign nationals in corporate areas of the department?	Is there a clear primacy of NSW law over the laws of other countries?	Level of sign off
MOU between DoE and the Department of International Cooperation & Exchanges, China	<p>Both parties agree to activities including:</p> <ul style="list-style-type: none"> <li>• placing a qualified teacher of Mandarin in DoE in the position of Language Consultant, Chinese for a period of 2 years, with a possibility of extension. The person will be selected by the Department of International Cooperation &amp; Exchanges. It is unclear from the MOU which party is responsible for paying the person's salary.</li> <li>• investigating the collaborative establishment of a self-funding Chinese Language Centre (Confucius Institute) in NSW</li> <li>• exchanging information on curriculum, management and organisation of schools</li> <li>• sending exchange delegations</li> </ul> <p>The Department of International Cooperation &amp; Exchanges agrees to provide a number of short-term scholarships for NSW teachers of Chinese to study in China. DoE will provide some financial support to the teachers.</p>	Yes	3/4/2006 - ?  No expiry date provided.	None.  The MOU does not mention any conditions for renewal.	No	Yes	<p>No. The MOU does not state whether it intends to be legally binding and does not specify which laws prevail in the event of a dispute.</p> <p>The MOU may be terminated by either party by giving 6 months written notice.</p>	Deputy Director-General (Deputy Secretary)

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<b>MOU between DoE and Shanghai Municipal Education Commission, China</b>	<p>This MOU provides a framework within which both parties can consider further programs of cooperation.</p> <p>Both parties agree to activities including:</p> <ul style="list-style-type: none"> <li>• using their own resources to expand the study of Chinese in NSW and English in Shanghai</li> <li>• facilitating information exchange on curriculum, management, and organisation of NSW schools and TAFE colleges and tertiary colleges in China.</li> </ul>	No	13/7/2010 - ?	None.  The MOU does not mention any conditions for renewal.	No	No	<p>No. The MOU does not state whether it intends to be legally binding and does not specify which laws prevail in the event of a dispute.</p> <p>The MOU may be terminated by either party by giving 6 months written notice.</p>	Director General (Secretary)
<b>MOU between DoE and Waseda University, Japan (Internship program)</b>	<p>This internship program allows up to two students per year from Waseda University to gain Japanese-language teaching experience in DoE schools.</p> <p>The interns are required to follow the directions of a DoE supervisor and do not receive remuneration from DoE or Waseda University. Waseda University provides some funding to cover out-of-pocket expenses for interns.</p> <p>The length of the internship and number of hours spent in DoE schools are to be determined by both parties.</p>	No	21/9/2012 - 31/12/2017 (expired)	The original MOU signed in 2012 was automatically renewed for another 2 years until 31/12/2017	Yes	No	<p>No. The MOU does not state whether it intends to be legally binding and does not specify which laws prevail in the event of a dispute.</p> <p>The MOU may be terminated by either party by giving 6 months written notice.</p>	Director

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<b>Agreement between DoE and Office of Chinese Language Council International (Hanban) (Confucius Institute program)</b>	<p>This agreement establishes a Confucius Institute in DoE, which runs Mandarin language and culture classes (Confucius Classrooms) in NSW public schools.</p> <p>DoE agrees to provide:</p> <ul style="list-style-type: none"> <li>• Salaries of 1x clerk 11/12 and 1x SEO Level 1 to support the Confucius Institute program unit</li> <li>• In-kind support for Confucius Classrooms projects</li> </ul> <p>Hanban agrees to provide:</p> <ul style="list-style-type: none"> <li>• Start-up funding of US\$150,000 to DoE and US\$10,000 for each Confucius Classroom school</li> <li>• Up to US\$10,000 per year for each Confucius Classroom school</li> <li>• Salaries of assistant teachers (Chinese nationals selected by Hanban) that assist the DoE teacher in each Confucius Classroom</li> <li>• Salaries of two staff members (Chinese nationals) to support the Confucius Institute program unit</li> </ul>	Yes	26/10/2012 - 26/10/2022	The original agreement signed in 2012 was automatically renewed in 2017.	Yes	Yes, the agreement places two foreign nationals in the department's Confucius Institute program unit.	There is no clear primacy of NSW/Australian law. The agreement states that all Confucius Institute activities must ' <i>respect cultural customs, and shall not contravene laws and regulations of both Australia and China</i> ' (Article 5.4).	Secretary

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Agreement title (program name)	What does the agreement provide?	Is there a significant commitment of resources from signatories?	Start/end date	Renewal history	Does the agreement place foreign nationals in schools?	Does the agreement place foreign nationals in corporate areas of the department?	Is there a clear primacy of NSW law over the laws of other countries?	Level of sign off
<b>MOU for the promotion and teaching of the Spanish language between DoE and the Ministry of Education, Culture and Sport of Spain</b>	<p>Both parties agree to contribute to the implementation of Spanish language programs in NSW government schools.</p> <p>Under the MOU, DoE agrees to provide support for a Spanish Language Advisor that is appointed by the Spanish Ministry to the department.</p> 	Yes	27/11/2012 - 27/11/2017 (expired)	None.	No	Yes	<p>No. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by either party by giving 90 days written notice.</p>	Secretary
<b>MOU between DoE and Shanghai Pudong Education Bureau, China</b>	<p>Both parties agree to activities including:</p> <ul style="list-style-type: none"> <li>• establish partnership schools to support student and teacher exchange</li> <li>• send delegations to visit each other</li> <li>• enhance information exchange regarding curriculum development and school management</li> </ul>	No	8/12/2014 - 8/12/2017	None.	No	No	<p>No. The MOU does not state whether it intends to be legally binding and does not specify which laws prevail in the event of a dispute.</p> <p>No termination clauses are provided.</p>	<p>Deputy Secretary</p> <p>The MOU does not state the names or positions of the signatories.</p>
<b>MOU between DoE and Nanjing Municipal Education Bureau, China</b>	<p>Both parties agree to activities including:</p> <ul style="list-style-type: none"> <li>• collaborate on education practice &amp; teaching reform</li> <li>• strengthen sister school communication</li> <li>• support the establishment of Confucius Classrooms</li> </ul>	No	22/7/2015 - 22/7/2020	None.	No	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated at any time upon</p>	Executive Director

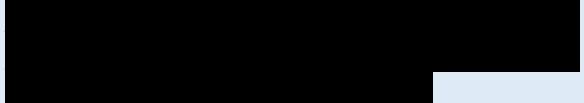
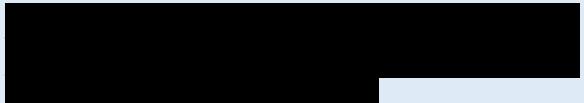
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							agreement of both parties.	
<b>MOU between DoE and the Department of Culture &amp; Education, China Overseas Exchange Association regarding the cooperative community programmes of the Chinese language in NSW</b>	<p>Both parties agree to cooperate in activities including:</p> <ul style="list-style-type: none"> <li>• teacher and student exchange visits</li> <li>• support Chinese language schools to access NSW public schools as part of the community languages program</li> <li>• co-develop teaching resources to support Mandarin learning in community language schools</li> <li>• both parties are to agree on a formal 'activity plan' each year that will become a supplementary agreement to the MOU.</li> </ul>	No	6/10/2015 - 31/12/2018	None.	No	No	<p>No. The MOU does not state whether it intends to be legally binding and does not specify which laws prevail in the event of a dispute.</p> <p>The MOU may be terminated by either party by giving 90 days written notice.</p>	Executive Director
<b>MOU between DoE and Beijing Municipal Education Commission</b>	<p>Areas of cooperation between the parties may include:</p> <ul style="list-style-type: none"> <li>• bilateral visits</li> <li>• short term teacher and student exchanges</li> <li>• establishment of a platform to develop relationships between NSW and Beijing schools</li> </ul>	No.	23/10/2015 – 23/10/2017 (expired)	This MOU supersedes the original MOU signed in 2012.	No	No	N/A. The MOU is not intended to be legally binding.	Deputy Secretary
<b>MOU between DoE and Education Bureau of Huangpu District Shanghai, China</b>	<p>Both parties agree to activities including:</p> <ul style="list-style-type: none"> <li>• exchange visits</li> <li>• promotion of Chinese and English in both countries</li> <li>• encourage establishment of partnership schools</li> <li>• exchanging information on curriculum and school management</li> </ul>	No	4/11/2015 - 4/11/2020	A previous MOU between the parties was signed in 2009.	No	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by agreement of both</p>	Deputy Secretary

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Agreement title (program name)	What does the agreement provide?	Is there a significant commitment of resources from signatories?	Start/end date	Renewal history	Does the agreement place foreign nationals in schools?	Does the agreement place foreign nationals in corporate areas of the department?	Is there a clear primacy of NSW law over the laws of other countries?	Level of sign off
							parties (no minimum notice period specified).	
<b>MOU on cooperation in Italian language teaching between DoE and the Consulate General of the Republic of Italy in Sydney</b>	<p>Both parties agree to support the teaching of Italian in NSW government schools. DoE agrees to activities including:</p> <ul style="list-style-type: none"> <li>• continuing to staff secondary schools with teachers of Italian</li> <li>• facilitating opportunities to host teachers from Italy in NSW schools.</li> </ul> <p>The Italian Consulate agrees to activities including:</p> <ul style="list-style-type: none"> <li>• providing advice to DoE in relation to the teaching of Italian</li> <li>• selecting Italian teachers and assistant teachers to provide support to students in Italian programs</li> </ul>	No	11/5/2016 - 11/5/2021	The current MOU supersedes the 2008 MOU.	No, but it is allowable under the MOU.	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by either party by giving 90 days written notice.</p>	Executive director
<b>MOU between DoE, Jeollanamdo Office of Education, South Korea and University of New England (Australia-Korea ConneXion program)</b>	The program aims to connect Australian schools with schools in Jeollanamdo, Korea using videoconferencing and exchange visits.	No	12/10/2016 - 12/10/2021	None.	No	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by either party by giving 60 days written notice.</p>	Executive director

Attachment B – Summary of language agreements/MOUs with foreign governments or organisations

Agreement title (program name)	What does the agreement provide?	Is there a significant commitment of resources from signatories?	Start/end date	Renewal history	Does the agreement place foreign nationals in schools?	Does the agreement place foreign nationals in corporate areas of the department?	Is there a clear primacy of NSW law over the laws of other countries?	Level of sign off
<b>MOU between Western Sydney University, DoE and the People's Republic of China Ningbo Municipal Education Bureau (ROSETE program)</b>	<p>This MOU supports the operation of the ROSETE program, which provides scholarships for university graduates from China to study a Master of Philosophy (Educational Research) or PhD at Western Sydney University.</p> <p>The students spend up to 10 hours per week assisting in the teaching of Chinese in selected NSW government schools. Up to 10 students from China participate in the program per year.</p>   	Yes	27/11/2016 - 27/11/2021	<p>The current MOU supersedes the 2012 MOU.</p> <p>The first ROSETE program agreement was signed in 2007.</p>	Yes	No	<p>No. The MOU is not intended to be legally binding but there are significant resources being invested from all parties.</p> <p>The MOU may be terminated by either party by giving 6 months written notice.</p>	Executive Director

Attachment B – Summary of language agreements/MOUs with foreign governments or organisations

Agreement title (program name)	What does the agreement provide?	Is there a significant commitment of resources from signatories?	Start/end date	Renewal history	Does the agreement place foreign nationals in schools?	Does the agreement place foreign nationals in corporate areas of the department?	Is there a clear primacy of NSW law over the laws of other countries?	Level of sign off
<b>MOU between DoE and Universidad de Monterrey Prepa UDEM, Mexico</b>	<p>This MOU provides the framework within which both parties can consider cooperative programs in the form of exchange programs and study tours.</p> <p>The terms and conditions of specific collaborative projects will be set out in future agreements.</p>	No	9/11/2016 - 20/12/2018	None.	No	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by either party by giving 6 months written notice.</p>	Director
<b>MOU between DoE and the Ministry of Education of the Republic of Korea (Korean Plant-a-School Program)</b>	<p>This MOU supports the Korean Plant-a-School Program and supports Korean language programs in NSW government schools generally.</p> <p>Under the Plant-a-School program the Korean Ministry agrees to fund a DoE Korean language teacher's salary for one day per week for the first two years of the program at mutually agreed DoE schools.</p> <p>Up to four DoE schools will be selected to receive funding for 2018-2019.</p>	Yes	9/12/2016 - 31/12/2021	The current MOU supersedes the 2014 MOU.	No	No	<p>No. The MOU is not intended to be legally binding and does not state which laws prevail in the event of a dispute.</p> <p>The MOU may be terminated by either party by giving 30 days written notice.</p>	Director
<b>MOU between DoE and the Goethe Institute Australia</b>	<p>Both parties agree to support the implementation of German language programs in NSW government schools.</p> <p>DoE agrees to provide professional learning and other support within the limits of available resources.</p> <p>The Goethe Institut agrees to provide a teachers' service team at the Goethe Institute and professional development opportunities for teachers of German.</p>	No	11/5/2017-31/12/2021	The current MOU supersedes the 2011 MOU.	No	No	<p>N/A. The MOU is not intended to be legally binding.</p> <p>The MOU may be terminated by either party by giving 30 days written notice.</p>	Director



Education &  
Communities



**AGREEMENT BETWEEN**  
**CONFUCIUS INSTITUTE HEADQUARTERS OF CHINA**  
**AND**  
**THE STATE OF NEW SOUTH WALES, AUSTRALIA AS REPRESENTED BY**  
**ITS DEPARTMENT OF EDUCATION AND COMMUNITIES**  
**ON THE ESTABLISHMENT OF**  
**THE NEW SOUTH WALES DEPARTMENT OF EDUCATION AND**  
**COMMUNITIES CONFUCIUS INSTITUTE**

In order to strengthen educational cooperation between China and Australia, support and promote the development of Chinese language education, and increase mutual understanding and friendship among people in China and in Australia, according to the *Constitution of Confucius Institutes* and *Memorandum of Understanding* signed on July 23rd, 2010 between the State of New South Wales, Australia, as represented by its Department of Education and Communities (“the Department”) and Confucius Institute Headquarters (Headquarters), the parties for the establishment of Confucius Institute at the State of New South Wales (the Institute), hereby agree as follows:

**Article 1 Purpose**

The purpose of this agreement is to identify the rights and responsibilities of



Headquarters and the Department in the establishment and management of the Institute and supercedes the provisions contained in the Memorandum of Understanding signed on July 23, 2010.

## Article 2 Character

The Institute shall be a non-profit educational institution.

## Article 3 Executive Institution

The Department is desirous of collaborating with Jiangsu Provincial Education Department of China. Hanban will authorise and appoint the Chinese educational department to form the Confucius Institute with the Department as the Chinese executive institution. The two parties of cooperation will sign the supplementary agreement on detailed matters of the cooperation. The supplementary agreement should be audited by Hanban before signing.

The Institute must be launched within one year after this agreement signed. This will be an official event to announce the agreement and formal commencement of activities.

## Article 4 Scope of Activities

The Department of Education and Communities Confucius Institute can provide the following activities according to the Confucius Institute Constitution and local requirements.

1. Teaching Chinese language and providing Chinese language teaching resources;
2. Establishing Confucius Classrooms in New South Wales government

schools;

3. Training Chinese language teachers and supporting the accreditation of Chinese Language Teachers;
4. Holding the HSK examination (Chinese Proficiency Test) and develop Chinese language teaching materials;
5. Providing information and consultative services concerning China's education and culture to teachers and students;
6. Conducting language and cultural exchange activities;
7. Developing bilingual programs in subjects such as Mathematics and Science for curriculum exchange;
8. Other activities jointly supported by NSW Department of Education and Communities and Headquarters.

## Article 5 Organisation

1. The Board of Directors will be established to govern the Confucius Institute. It is formed with members nominated from two parties, and its duties may include: amending the Constitution of the Institute (**Attachment A**); formulating development plans for the Institute; decision-making on the significant issues including teaching, research and management; accessing grants and other funding sources; appointing and dismissing the director of the Institute; examining and approving budget proposals and final financial accounts of the Institute; providing guidance on the development and management of Confucius Classrooms; reporting to the two parties on the management status and any significant issues.
2. The NSW Department of Education and Communities Confucius Institute shall adopt a Director Responsibility System under the leadership of the Board of Directors.

3. The Institute must accept the assessment of Headquarters regarding the form and standard of Mandarin language being taught.
4. The Institute activities must be in accordance with the Confucius Institute Constitution, and also respect cultural customs, shall not contravene the laws and regulations, both in Australia and China.
5. The Institute draws up annual budget proposals as well as final financial accounts identifying the expenditure. The Department will be in charge of its daily operation and management, and assume sole responsibility for its profits or losses.



## Article 6 Obligations

The obligations of Headquarters:

1. To authorise the use of the title “Confucius Institute”, logos and institute emblems.
2. To provide teaching materials, coursewares and other books according to need and to endorse the use of online courses. In the initial establishment of the Confucius Classrooms, Hanban will provide 3,000 Chinese books, teaching materials, and audio-visual materials for the first time.
3. To provide US\$150,000 start-up funding for the Institute and annual funding according to project needs.
4. To provide US\$10,000 start-up funding for each Confucius Classroom, and provide teacher volunteers, teaching resources and scholarships.
5. To send numbers of Chinese instructors based on the requirements of teaching, and pay for their air fares, salaries and accommodation.

The obligations of the Department of Education and Communities:

1. To provide a fixed office place and appropriate sites for teaching, other

activities and be responsible for installation and the maintenance of the Confucius Institute.

2. To provide appropriate administrative personnel (full time or part-time) and provide the related payments; to provide necessary working facilities and an appropriate working environment for the personnel provided by Headquarters through this agreement.
3. To have sole responsibility for recommendation of establishment of Confucius Classrooms in NSW public schools.
4. To assist the Chinese volunteer teachers with visa applications, residence procedures and health insurance cover.
5. To have a fully auditable account for the Confucius Institute within the Department's financial system (SAP).
6. To provide an annual contribution for the operation of the Confucius Institute which should not be less than the amount provided by Headquarters.
7. To set up Confucius Classrooms in the State of New South Wales according to the Headquarters' criteria.

#### ○ Article 7 Intellectual Property

Headquarters exclusively owns the title of "The Confucius Institute", its related logo, and emblem as its exclusive intellectual property. The Department cannot continue to apply or transfer the title, logo, and emblem in any form, either directly or indirectly, after this agreement has been terminated.

Both parties own any pre-existing intellectual property and any intellectual property developed as part of the operations of the Confucius Institute will be owned by both parties each having an in perpetuity irrevocable license to use

the materials.

#### Article 8 Revision

With the consent of both parties, this Agreement may be revised during its implementation and any revisions will be made in writing, both in English and Chinese, and will take effect as signed by authorised representatives of the parties.

#### Article 9 Term

The Agreement shall be in effect on the date when the two parties sign below. The Agreement shall have a period of 5-year validity. Either party, if it wishes to terminate the Agreement must notify the other in writing during the 90 days before the end of the Agreement, otherwise it will automatically be extended for another 5 years.

#### Article 10 Force Majeure

Parties hereto will be released from their obligations under this agreement in the event of a national emergency, war, prohibitive government regulation or any other cause beyond the control of the parties hereto that renders the performance of this agreement impossible. In the event of such circumstance, the party under the situation shall inform the other party in writing that the program may be delayed or terminated, and duly take the effective measures to mitigate the loss of the other party.

#### Article 11 Termination

This Agreement shall be terminated in one of the following cases:

1. Either party intends to terminate this Agreement upon giving a written

notice at least six months in advance of their intention to terminate.

2. The two parties have no aspiration of cooperation at the expiration of the term.
3. The intent of the Agreement cannot be achieved because the anticipated aims and outcomes of the NSW Department of Education & Communities Confucius Institute do not satisfy either party or either party is not satisfied with the outcomes achieved.
4. If the act of one party of the Agreement severely harms the image and reputation of the Confucius Institute.
5. The Agreement cannot go through because of force majeure.

The termination of the Agreement should not affect other agreements, contracts or programs between the two parties. Before the Agreement is terminated, the Department should make appropriate arrangements for the enrolled students and other matters.

#### Article 12 Dispute Settlement

Differences arising out of the interpretation or the implementation of this Agreement shall be settled amicably through consultation or negotiation between the Parties. Unresolved differences can be submitted to the local law court.

#### Article 13 Agreement Language

This Agreement is written in Chinese and in English. Each party shall keep one copy in Chinese and one copy in English of the signed Agreement. The Agreement, in both languages, shall have the same effectiveness.

## Article 14 Other Terms

The parties to this Agreement will treat this Agreement as confidential and will not, without prior written consent, publish, release or disclose or permit supplied to, obtained by, or which comes to the knowledge of each parties as a result of this agreement except insofar as such publication, release or disclosure is necessary to enable each party to fulfill their obligations under this Agreement.

- Each party must keep the other party's confidential information (that is, information in any form, that is not generally available to the public at the time of disclosure other than by reason of a breach of this agreement or that is in fact, or should reasonably be regarded as, confidential to the party to whom it belongs) secret and confidential and only use it in relation to the Services and not disclose it to any person without the other party's consent or unless disclosure to its officers, employees and permitted contractors is necessary for the provision of the services (but first must inform those persons of the confidential nature of the information), where disclosure is required by the law, or to its professional advisers. A party must inform the other party immediately upon becoming aware or suspecting any other disclosure of the information.

Other matters not settled by this Agreement shall be solved through friendly,

Other matters not settled by this Agreement shall be solved through friendly, cooperative negotiations between the two parties.

The State of New Institute  
represented by its Department of  
Education and Communities  
Director General

Confucius Institute Headquarters  
Director General

Michele Bruniges

Dr Michele Bruniges AM  
Date: 20/9/12

XU Lin

Date: 26/10/2012

**Supplementary Agreement to the Agreement between  
Confucius Institute Headquarters of China and the State of  
New South Wales, Australia**

as represented by its Department of Education and Communities on the establishment of The New South Wales Department of Education and Communities Confucius Institute Being an agreement concerning the New South Wales Department of Education and Communities Confucius Institute between the Jiangsu Provincial Department of Education and New South Wales Department of Education and Communities and approved by The Confucius Institute Headquarters

The Jiangsu Provincial Department of Education  
Address: No. 15 Beijing West Road, Nanjing, Jiangsu Province, P.R. China  
To be known in this Agreement as the Jiangsu Department

New South Wales Department of Education and Communities  
Address: 51 Wentworth Road, Strathfield, NSW 2135, Australia  
To be known in this Agreement as the NSW DEC

Both parties agree and recognise that this Agreement is supplementary to, and prepared in accordance with, the agreement on the establishment of The New South Wales Department of Education and Communities Confucius Institute signed by the Confucius Institute Headquarters and New South Wales Department of Education and Communities ("**Original Agreement**"). The Jiangsu Provincial Department of Education, together with the New South Wales Department of Education and

Communities ("NSW DEC"), entrusted by the Confucius Institute Headquarters, has reached an agreement as follows on NSW DEC Confucius Institute on the basis of mutual trust and agreed negotiations.

This Agreement is approved by The Confucius Institute Headquarters and is not intended to supersede the provisions of the Original Agreement. If any provision of this Agreement is contrary to a provision in the Original Agreement, then the provision in the Original Agreement shall prevail and be applied by the parties.

Articles 8, 10, 12 and 14 of the Original Agreement apply to this Agreement.

### **Article 1. Purpose**

The purpose of this Agreement is to identify and, where applicable, reiterate rights and obligations of the Jiangsu Provincial Department of Education and the New South Wales Department of Education and Communities in the establishment and management of the NSW DEC Confucius Institute in line with the Original Agreement.

### **Article 2. Name of the Institute**

The Institute shall be known in Chinese as 新南威尔士州教育与社区部孔子学院, and in English as " NSW Department of Education and Communities Confucius Institute" (hereby referred to as "**the Institute**").

The Institute is established in Sydney. The Jiangsu Provincial Department of Education and the New South Wales Department of Education and Communities shall use the title of "Confucius Institute" and the logo of the "Confucius Institute", the use of which is hereby authorised by the Confucius Institute Headquarters for the general promotion and day to day business activities of the Institute and display on letterhead and business cards.

### **Article 3. Nature of the Institute**

The Jiangsu Department and the NSW DEC recognise that The Institute is a non-profit educational institution as cited in Article 2 of the Original Agreement.

### **Article 4. Establishment of Board, Appointment of Chair and Vice-Chair and Governance of the Board**

Pursuant to Article 5 of the Original Agreement, a Board (which was referred to in Article 5 of the Original Agreement as Board of Directors) shall be established to govern the Institute.

The members of the Board shall include representatives from both parties who speak either Chinese or English.

The Board is responsible for assessing and approving the Institute's development programs, annual plans, fiscal year summaries, project implementation, budget proposals and financial accounts, as well as endorsing appointments or dismissals of the Director of the Institute, the Deputy Director of the Institute and all other matters as referred to in Article 5 (1) of the Original Agreement.

Details of appointment, retirement and dismissal of Board members must be submitted to the Confucius Institute Headquarters for archiving purposes.

The Board shall consist of 10-12 members, 5-6 of which will be nominated by the Jiangsu Department and the remaining 5-6 will be nominated by the NSW DEC.

The Jiangsu Department will:

- a. nominate the Vice-Chair, four to five Board members and other staff which the Board agrees are required for the operations of the Institute; and
- b. have the preferential rights to conduct the short-term programs in China organised by the Institute.

NSW DEC will:

- a. nominate the Chair, four to five Board members and other staff which the Board agrees are required for the operations of the Institute; and
- b. have rights to use the multi-media courseware and other teaching resources developed and provided by the Confucius Institute Headquarters.

Decisions of the Board will be made on the basis of two-thirds of the votes by the Board members present at a meeting of the Board.

The Board shall hold an annual meeting. The meeting could be a face to face, a video conference or teleconference event. The venue for the conference could be in Nanjing or Sydney or wherever else the Board may reasonably determine in the best interests of the Institute.

Following the execution of this Agreement, the Jiangsu Department and the NSW DEC will arrange for an initial meeting of the Board at the earliest available opportunity.

The Board may otherwise resolve to call meetings at such other times as it deems reasonably necessary in order to govern the Institute.

Notice of any Board meeting shall be provided to Board members at the addresses they supply upon the establishment of the Board (which may include an email address) and should be sent in both Chinese and English.

In addition, the Chair and the Vice-Chair together may nominate a time and a date for a meeting of the Board and may also do so with less than 14 days' notice if they believe there is good reason for a meeting to be called at short notice.

At meetings, Board members shall discuss the Institute's daily operation and administration issues directly, implement their decisions and otherwise carry out the duties specified in this Agreement.

The Board may resolve to delegate duties to members of staff employed by the Institute.

#### **Article 5: Scope and Activities of the Institute**

The parties reiterate the scope of activities as set out in the Original Agreement at Article 4 and in this regard they agree and reaffirm for the purposes of the establishment and continued operation of The Institute:

a. The work

The Institute shall assist the local primary and secondary schools in New South Wales with Chinese language teaching, participating in the Chinese Bridge activities and setting up Confucius Classrooms and providing Chinese language teaching resources.

b. Clients and content of service of the Confucius Institute

The Institute will:

- (i) provide Chinese language teaching and teaching resources to NSW public schools and, in particular, the local Chinese language teachers;
- (ii) assist in providing Chinese language teaching and developing academic and general Chinese language courses in public primary and secondary schools; and
- (iii) provide services to scholars and organisations of Chinese studies.

#### **Article 6: Details of Operation**

Subject to the assistance of the Jiangsu Department and the NSW DEC on the basis set out in Article 7 of this Agreement, in accordance with any directions as the Board resolves from time to time and within the agreed budget of The Institute, the Jiangsu Department and the NSW DEC intend that The Institute will:

- a. develop teaching of Chinese language in NSW public schools;
- b. encourage principals of public schools in New South Wales to visit China by participating in the Chinese Bridge Program organised by Hanban;
- c. conduct training programs in China for public school Chinese language teachers and organise assessments for Teaching Chinese as a Foreign Language;
- d. assist in setting up Chinese libraries in public primary and secondary schools in New South Wales;
- e. organise academic activities concerning Chinese language research and Chinese studies;
- f. organise exhibitions, performances, movies or contests related to promoting Chinese language and culture;
- g. organise HSK tests and develop other tests to meet the NSW public schools needs; and
- h. promote Chinese cultural products.

#### **Article 7. Responsibilities of each Party**

To support the operations referred to in Article 6 of this Agreement and subject to any resolution or direction of the Board:

The Jiangsu Department will:

- a. assist the Institute in Chinese language teaching and promotional activities and apply for financial support from the Confucius Headquarters;
- b. nominate and provide the Deputy Director and one project development officer who will support Chinese language teaching in NSW public primary and secondary schools;
- c. apply to the Confucius Institute Headquarters for, and otherwise be responsible for the salary, accommodation costs, international travel costs and insurance fees

for all its personnel (including the Deputy Director, volunteers and any other personnel engaged to carry out work for the Institute in New South Wales).

- d. provide a reasonable number of books for setting up the Chinese library;
- e. assist the NSW public schools by providing exemplar teaching programs;
- f. assist in planning for short-term learning programs in China organised by the Institute; and
- g. provide guidance relating to the management and planning of the Institute but subject always to the role of the Board.

NSW DEC will:

- a. nominate and provide the Director and hire staff according to the needs of the Institute and fund related expenses;
- b. provide a fixed office place and make arrangements as necessary for appropriate sites for teaching and other activities;
- c. be responsible for procuring all necessary equipment and for installation, management and maintenance of that equipment; and
- d. be responsible for promoting The Jiangsu Department and the Institute in Australia.

Apart from the funding referred to in Article 7(c) which remains the responsibility of the Jiangsu Department, all expenses which arise from either party undertaking the responsibilities outlined in this Article 7 will be paid from funds held for and on behalf of the Institute.

#### **Article 8. Financial Management**

The Institute will have a fully auditable account within the NSW DEC financial system (SAP). Funds provided by the Confucius Institute Headquarters will be used only for the specified purpose as cited in Article 6 of the Original Agreement.

In accordance with Article 5 (5) the Institute will prepare an annual budget and final financial accounts identifying its expenditure. The NSW DEC will be in charge of its daily operation and management.

The NSW DEC will make copies of financial accounts available as may be required for any meeting of the Board.

### **Article 9. Term**

This Agreement operates for the duration of the term of the Original Agreement ("Term"). If the Original Agreement is terminated, then this Agreement is automatically terminated on the same termination date.

If either party wishes to terminate this Agreement, it must notify the other party in writing at least one hundred and eighty days in advance.

If this Agreement is terminated, the Jiangsu Department and the NSW DEC recognise and agree that after the distribution of any funds as may be required arising from the termination, any funds retained for and on behalf of the Institute must be retained by NSW DEC in accordance with its obligations under the Original Agreement.

### **Article 10: Languages used in this Agreement and applicable jurisdiction**

This Agreement is written in Chinese and English respectively. Each party shall keep one copy in Chinese and one copy in English. This Agreement in Chinese and English has the same effect.

As the Institute will be established and operating in Sydney, any dispute arising from the operation or business of the Institute shall be dealt with according to the laws of New South Wales, Australia, and the Jiangsu Department and the NSW DEC recognise and agree that the operations and business of the Institute must be conducted in accordance with the laws of New South Wales.

### **Article 11. Other Matters**

Other matters not settled by, or referred to, in this Agreement shall be dealt with in light of the Original Agreement, or through friendly discussions between the Jiangsu Department and the NSW DEC or where possible, by resolution of the Board.

Representative for the Jiangsu Department

Ding Xiao Chang

signed on this date:

2013.1.8

Representative for NSW DEC



signed on this date:

25/2/13

## Confucius Institute Constitution

### Chapter 1: General Principles

1. Confucius Institutes devote themselves to satisfying the demands of people from different countries and regions in the world who learn the Chinese language, to enhancing understanding of the Chinese language and culture by these peoples, to strengthening educational and cultural exchange and cooperation between China and other countries, to deepening friendly relationships with other nations, to promoting the development of multi-culturalism, and to construct a harmonious world.
2. This Constitution is applicable to all Confucius Institutes worldwide.
3. In any other language, the name chosen to represent the Confucius Institutes must be equivalent in connotation and meaning to that of the head institute in Chinese.
4. The Confucius Institutes are non-profit educational institutions.
5. Adhering to the principles of mutual respect, friendly negotiations, and mutual benefit, the Confucius Institutes shall develop and facilitate the teaching of the Chinese language overseas and promote educational and cultural exchange and cooperation between China and other international communities.
6. The Confucius Institutes shall abide by the laws and regulations of the countries in which they are located, respect local cultural and educational traditions and social customs, and they shall not contravene concerning the laws and regulations of China.
7. The Confucius Institutes shall not involve or participate in any activities that are not consistent with the missions of Confucius Institutes.
8. A Confucius Institute can be established in various ways, with the flexibility to respond to the specific circumstances and requirements found in different countries.
9. Any corporate entity outside of China capable of facilitating language instruction, conducting educational and cultural exchange activities, and meeting the requirements for application as stated in this Constitution and may apply to the Confucius Institute Headquarters for the permission to establish a Confucius Institute.
10. The Confucius Institutes conduct Chinese language instructions in Mandarin, using Standard Chinese Characters.

### Chapter 2: Business Service

11. The Confucius Institutes shall provide the following services:
  - a. Chinese language teaching;

- b. Training Chinese language instructors and providing Chinese language teaching resources;
- c. Holding the HSK examination (Chinese Proficiency Test) and tests for the Certification of the Chinese Language Teachers;
- d. Providing information and consultative services concerning China's education, culture, and so forth;
- e. Conducting language and cultural exchange activities between China and other countries.

### **Chapter 3: The Headquarters**

- 12. The Confucius Institute Headquarters is a non-profit organization that has the independent status of a corporate body. It owns the proprietorship of the name, logo and brand of the Confucius Institutes. The Headquarters is the regulatory body that provides guidelines to the Confucius Institutes worldwide. The Headquarters is located in Beijing in the People's Republic of China.
- 13. The Confucius Institute Headquarters shall be governed by the Council. The Council shall consist of the Chair, the Vice Chairs, the Executive Council Members, and the Council Members. Candidates for the Chair, several Vice Chairs and the Executive Council Members shall be recommended by the education administrative agency of the Chinese State Council and approved by the State Council. Among the fifteen Council Members, ten shall be the Heads of the Board of Directors of Confucius Institutes overseas. These ten members of the First Council are appointed by the Headquarters, while members of following Councils shall be elected or rotate service on the basis of the founding dates of Confucius Institutes. The other five Council Members shall be representatives of Chinese partner institutions, appointed directly by the Headquarters. The term of service of Council Members is two years. They can pursue reappointment for one term. During their tenure of office, Council Members shall not receive any payment from the Confucius Institute Headquarters. The Council shall establish positions of the Chief Executive and Deputy Chief Executives. The Chief Executive, who shall also be an Executive Council Member, is the legal representative of the Headquarters.
- 14. The duties of the Council include: Formulating and amending the Constitution of the Confucius Institutes, examining and approving the development strategies and plans of global Confucius Institutes, examining and approving annual reports and working plans of the Headquarters, and discussing issues of significance concerning the development of Confucius Institutes.
- 15. The Council shall assemble once a year, called by the Chair. When needed, the Chair may decide to call for provisional Council Meetings or Executive Council Member Meetings.
- 16. Under the leadership of the Council, the Confucius Institute Headquarters carries out its own daily operations. The duties include:
  - a. Formulating development plans, criteria for the establishment of Confucius

- Institutes, and assessment standards for the Confucius Institutes;
- b. Examining and approving applications for the establishment of new Confucius Institutes;
  - c. Examining and approving the implementation plans of annual projects, annual budgetary items, and final financial accounts of individual Confucius Institutes;
  - d. Providing guidelines and making assessments to activities carried out by Confucius Institutes, supervising their operations and doing quality assurance management;
  - e. Providing support and teaching resources to individual Confucius Institutes;
  - f. Selecting and appointing directors and faculties from the Chinese side for individual Confucius Institutes, and training administrative personnel and instructors for these Confucius Institutes;
  - g. Organizing Confucius Institutes Conferences annually;
  - h. Constituting regulations and institutions for the management of the Chinese funds.
17. The Headquarters shall establish Special Working Committees that can provide consultative suggestions to the Headquarters. Members of the Committees shall be appointed by the Headquarters.
18. The Headquarters shall invite well-known leaders and visionaries of both China and abroad to be Senior Consultants.

#### **Chapter 4: Establishment**

19. An application for the permission to establish a Confucius Institute must satisfactorily demonstrate the following:
- a. That the applicant is a legally registered organization or corporation at the place where it is located with resources to conduct teaching, educational and cultural exchanges, and public service;
  - b. That there is a demand for learning the Chinese language and culture at the applicant's location;
  - c. That the personnel, space, facilities, and equipments required for language and culture instruction are available;
  - d. That the capital for the establishment is in place, and that the source of funds for operation is stable.
20. An applicant for the permission to establish a Confucius Institute shall submit an application package to the Confucius Institute Headquarters. This package shall include:
- a. An application letter signed by the principal or president;
  - b. An introduction of the applicant site, its registration certificate, and the principal or president;
  - c. A floor plan for the required instructional space, and lists of the relevant equipment and facilities available for the proposed Confucius Institute;
  - d. A projection of market demand, managerial structure, and operational plans for the proposed Confucius Institute;

- e. A statement detailing the source, regulation, and management of the funds for the proposed Confucius Institute;
  - f. Other materials required by the Confucius Institute Headquarters.
21. The Confucius Institute Headquarters will assess the application package submitted by the applicant. The assessment may include verification of the document materials, debriefings and interviews, on-site verification, and consultation with experts.
  22. Upon the approval of an application, the Confucius Institute Headquarters will sign an agreement with the applicant, thus conferring the permission for establishment and the official Confucius Institute Plaque upon that applicant.

### **Chapter 5: Funds**

23. A newly established Confucius Institute will receive aid to its initial operation in the form of a set amount of funds provided by the Chinese Parties. The funds for its annual projects shall be raised by individual Confucius Institutes and the Chinese Parties together in a ratio of approximately 1:1 commitment in general.
24. The aforementioned funds provided by the Chinese Parties will be managed through project management measures. Detailed measures are stipulated in Regulations for Administering the Chinese Funds for the Confucius Institutes.

### **Chapter 6: Administration**

25. An individual Confucius Institute shall establish a Board of Directors. A Confucius Institute established under joint venture between Chinese and overseas partners shall form a Board of Directors consisting of members from both sides. The total number of members and the component ratio of the Board shall be determined through consultation.
26. The Board of Directors shall be responsible for assessing and approving the Confucius Institute's development plans, annual plans, annual reports, project implementation schemes, budget proposals, final financial accounts. The Board shall also be responsible for appointing and dismissing Directors and Deputy Directors of the Confucius Institute.  
Appointments and dismissals of Directors and Deputy Directors shall be put on records at the Headquarters. The appointments of Directors and Deputy Directors for joint venture Confucius Institutes shall be decided upon negotiations between the Chinese and overseas partners.
27. An individual Confucius Institute shall adopt a system in which the Director, under the leadership of the Board of Directors, shall assume the main responsibility for the Institute's daily operation and administration.
28. The Director of a Confucius Institute shall have in-depth comprehension of Chinese current national issues, a skillful command of the language of the country in which the Institute is located, suitable administrative experiences in this position, and a strong ability to promote public affiliation and market potential.
29. Instructors appointed by Confucius Institutes shall have professional knowledge

and teaching competence required by such positions as teachers.

30. An individual Confucius Institute, in the allotted time, shall draw up executable plans for annual projects and budget proposals, summarizing the implemental efficacy reports of annual projects and final financial accounts, and submit them to the Headquarters for examination and approval. Changes and dispositions made to the assets on the Chinese side shall be reported to the Headquarters for examination and approval. Individual Confucius Institutes shall also submit the working schedules and summaries of their annual projects to the Headquarters for archiving purposes.
31. Confucius Institutes are not profit-making organizations, hence, income drawn from operation of the Institutes shall be used for teaching activities and improving teaching and service conditions. The accumulated income shall be utilized for sustainable development of the Institutes and may not be used for purposes otherwise.
32. The Confucius Institute Headquarters shall be responsible for conducting assessments of individual Confucius Institutes. The Headquarters reserves the right to terminate the Agreements with those Institutes that violate the principles or objectives, or fail to reach the teaching quality standards set forth by the head establishment.
33. The Confucius Institute Headquarters shall convene a Confucius Institute Conference annually to provide the opportunity for individual Institutes to exchange ideas and experiences, and to further study issues concerning the construction and development of the Institutes.

## **Chapter 7: Rights and Obligations**

34. All Confucius Institutes shall enjoy the following rights:
  - a. The rights set forth in the Agreement and this Constitution of the Confucius Institutes;
  - b. The right to use the Name and Logo of the Confucius Institutes;
  - c. The right of priority for obtaining teaching and cultural materials or resources provided by the Headquarters.
35. All Confucius Institutes shall observe the following obligations:
  - a. The obligation to observe the measures and regulations set forth in the Agreement and this Constitution of the Confucius Institutes;
  - b. The obligation to uphold and defend the reputation and image of the Confucius Institutes;
  - c. The obligation to accept both supervision from and assessments made by the Headquarters.
36. The Confucius Institute Headquarters reserves the right to pursue legal action to affix responsibility and invoke punitive consequences on any person/party for any of the following conduct:
  - a. The establishment of a Confucius Institute without permission or authorization from the Confucius Institute Headquarters;
  - b. Any activity conducted under the name of the Confucius Institutes without

permission or authorization from the Confucius Institute Headquarters;

c. Any violation of the Agreement or this Constitution of the Confucius Institutes that causes losses of capital or assets or damages or tarnishes the reputation of the Confucius Institutes.

#### **Chapter 8: Supplement**

37. Individual Confucius Institutes may constitute their own regulations and measures in accordance with this Constitution and submit to the Headquarters for archiving purpose.
38. This Constitution of the Confucius Institutes shall be followed as guide for setting up and regulating Confucius Institute Classrooms.
39. The Confucius Institute Headquarters reserves the right to interpret this Constitution.
40. This Constitution shall go into effect from the date of approval set forth by the Council of the Confucius Institute Headquarters.