

Educational Institutions in UAE: Approvals Required for Public Benefit Activities and Fundraising

Andrea Tithecott - Partner, Head of Regulatory, Head of Healthcare - Commercial / Regulatory / Legislative Drafting

a.tithecott@tamimi.com - Abu Dhabi



Education providers are no longer exempt from the requirement to obtain government approval for a whole range of activities, from holding fetes, to pure fundraising. In this article we analyse how these restrictions impact upon educational providers and their students.

The nature of the activity

The nature of the activity will determine what type of regulatory approval is required. Clearly, not all activities carried out by education providers and their students are purely focused on fundraising. However, in recent times due to the introduction of new laws addressing the subject of fundraising, there has been a tendency to assume that all activities would require this type of approval. This is not always necessary. Many activities carried out by education providers, students, and parent groups are not predominantly concerned with raising funds (but which sometimes have that incidental benefit), but may still require other approvals.

In order to determine which pathway for obtaining approvals should be followed, It is necessary to examine whether an activity is:

- for the benefit of the education provider;
- for the benefit of the public (in whole or in part); and
- whether there is an element of fundraising, and the intended class of recipient of the funds generated.

Activities for the benefit of the education provider

In circumstances where an educational establishment is gathering support from other corporate bodies and from the public to improve the facilities offered by that provider, for example, investment in new sports equipment, or to create a bursary to allow the students additional educational opportunities, such as a trip overseas to undertake a research project; this kind of activity, although there is an element of fundraising, does not fall into the category of requiring a fundraising approval. The activity is purely for the benefit for the education provider and its students.

Activities for the benefit of the public

Many education providers carry out activities which are intended to be of benefit of the public. For example, where a school has a Corporate Social Responsibility (CSR) programme, and participates in activities whereby either the general public or members of the general public will benefit. CSR activities creates opportunities for students to learn how to get involved in 'volunteering' and helping others who are less fortunate.

In the past, these kinds of activity would not have triggered any requirement on the education provider to obtain any kind of regulatory approval. Nowadays, the position is less clear. If the CSR activity is classified as being of public benefit, this can impose an obligation on the education provider to either register formally with a social community regulator or at least notify that regulator of its intended activities.

At Federal level, the Federal Law No. (2) of 2008 Regarding Non-Governmental Public Welfare Associations and Organisations, requires organisations carrying out philanthropic activities to register as 'public welfare associations' but does not apply to:

'schools and institutes, federations, associations, clubs, and youth and sport centers interested in youth cultural, social and sport affairs in the state regulated by Law no.25 of 1999 on the General Authority of

Youth and Sports Welfare.’

In Dubai, Law No. (12) of 2017 regulating Civil Society Organisations in Dubai, requires any organisation which engages in any kind of activity as a ‘civil association’ to first obtain a licence from the Community Development Authority (“CDA”) but does not apply to:

1. The associations and institutions covered by the provisions of the Federal Law No. (2) of 2008; or
2. The bodies working in the field of youth and sport care covered by the provisions of the Federal Law No. (7) of 2008.

There may be some education providers which do not conform to those which are described and exempted from the above-mentioned laws. The most obvious example being a university, which is not specifically mentioned, but could instead fall into the category of ‘school’ or ‘institute’. In some cases, the education provider may need to prove that they should have the benefit of the exemption.

In those rare cases where the exemption does not apply, the organizer of the activity could argue that in carrying out occasional CSR activities, this does not place it squarely within the definition of either a public welfare organization or a civil association. However, the regulators themselves take a very broad interpretation of what activities fall within their particular legal scope, and have even required hospitals created on a ‘not for profit’ basis to obtain licenses to participate in activities which are connected with having a public benefit. One way of avoiding having to obtain approval is to conduct the CSR activity in conjunction with a social services provider or registered charity which has already obtained approval, in effect ‘piggy-back’ on the principal’s licence.

Fundraising

The laws applicable to fundraising activities have been explained in detail in our [previous articles](#), and thus are mentioned only in brief here in the context of their application to fundraising projects organised by education providers, parent groups, and students.



The federal position

The Federal Fundraising Law (Federal Resolution No. 8 of 1974) expressly prohibits any UAE-based association from raising money inside or outside the UAE without first obtaining a licence. Prior to obtaining a licence, an association must be registered with and the General Authority for Islamic Affairs and Endowments, and requires the submission of certain information about the applicant along with details

of the activities it plans to undertake.

Dubai position

The Emirate of Dubai issued Decree No. 9 of 2015 (“Dubai Fundraising Decree”), which is applicable to fundraising activities which take place in the Emirate, and are regulated by Islamic Affairs and Charitable Activities Department (“IACAD”). The Dubai Fundraising Decree prohibits anyone (a person or a legal entity) from collecting funds, raising donations, or permitting third parties to collect donations in the Emirate of Dubai, without obtaining prior approval from IACAD. Prior to the implementation of the Dubai Fundraising Decree education providers in Dubai were not required to obtain governmental approvals for fundraising.

Since the issuance of the Dubai Fundraising Decree, some education providers have been concerned about carrying out fundraising activities due to the burden of obtaining approval and confusion as to when approvals are actually required.

Non-compliance

Strict penalties are applied to those who will fall foul of the applicable laws and conduct fundraising activities without prior approval, up to and including:

- a fine not less than AED 5,000 and not exceeding AED 100,000; and/or
- imprisonment of one month to one year.

IACAD can seize the funds collected and shall redirect them for another purpose. Any bank account opened for the collection of donations will be suspended or closed and funds transferred to IACAD.

IACAD at its sole discretion may offer an amicable settlement in lieu of imposing penalties, by:

- Issuing a written warning to the violator, and obtaining an undertaking not to repeat the same violation;
- Obligating the violator to repay double the amount of the donated funds;
- Closing the venue where the funds were raised for a period of up to one year.

Abu Dhabi and other Emirates

The Federal law applies in the other emirates, as has been explained above, but no additional laws have been implemented. However, the government departments responsible for social welfare in other emirates are reaching-out and creating opportunities for government and the private sector to work together on CSR initiatives. Thus for practical purposes, education providers in other Emirates would be encouraged to strike up a dialogue with their local regulator with regard to any CRS, or public benefit or fundraising activities even where there is no need to formally register or seek particular approval.

Social Media

The [Cyber Crimes Law 2012](#) (Federal Decree by Law No. 5 of 2012) stipulates that, any person who establishes, operates, or supervises, an “Electronic Site” (such as a website), or publishes information on an information network, or any other information technology tool, which calls for or promotes the collection of donations without approval, shall be punished by imprisonment and a fine not less than AED 250,000 and not exceeding AED 500,000 or both. At present, the responsible regulator under the Cyber Crimes Law, the Ministry of Economy, does not have a process for granting approval. In the Emirate of Dubai, the fact of having IACAD approval is sufficient.

Notably, the Dubai Fundraising Decree also contains provisions prohibiting the advertising of fundraising activities on social media sites in the absence of the requisite approval.

Therefore, education providers should refrain from advertising fundraising events on social media networks unless such activity is carried out with the relevant approvals.

Conclusion

Education providers, parents groups and students are advised to carefully plan the activities to be undertaken and to obtain governmental approvals, where these are required, and to avail of the exemptions available wherever possible.

Al Tamimi & Company's [Andrea Tithecott](#) regularly advises on [regulatory matters](#) which impact education providers. For further information please contact Andrea Tithecott at (a.tithecott@tamimi.com).