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## CHINA EFL/ESL JOBS: A Case of False Advertising

By: Niu Qiang and Martin Wolff

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### INTRODUCTION:

China has an established advertising law designed to prohibit misleading advertisements. The purpose of the advertising law is to protect those intended to be effected by the advertisement in question. Many commercial web sites, both inside and outside China, regularly advertise to recruit EFL/ESL teachers for employment in China. These commercial web sites usually charge a fee to place an advertisement and thus qualify as an "agent" pursuant to Chapter 1, Article 2 of the advertising law of China. And very clearly, an agent is responsible for false content pursuant to Chapter III, Article 27.

Some web sites simply advertise their own program. In either event, all of the advertisements appearing on the web are accessible within China and hence are arguably subject to the advertising laws of China. There can be no dispute that those web sites originating within China are definitely subject to the advertising laws of China.

So let's have a look at some of the relevant advertising laws of China:

<http://www.chinabusinessdesk.com/pages/Investment/laws/advertisement.html>

### **ADVERTISEMENT LAW OF THE PEOPLE'S REPUBLIC OF CHINA**

(Adopted at the Tenth Meeting of the Standing Committee of the Eighth National People's Congress on October 27, 1994, promulgated by Order No.34 of the President of the People's Republic of China on October 27, 1994, and effective as of February 1, 1995)

#### **Chapter I** General provisions

**Article 1** This Law is formulated in order to regulate advertising activities, promote the sound development of advertising business, protect the legitimate rights and interests of consumers, maintain the socio-economic order, and enable advertisements to play a positive role in the socialist market economy.

**Article 2** Advertisers, advertising agents and advertisement publishers engaged in advertising activities within the territory of the People's Republic of China shall abide by this Law.

The "advertisements" as used in this Law refer to commercial advertisements, for which a commodity producer or dealer or service provider pays, and by which the same, through certain media or forms, directly or indirectly introduces his commodities to be sold or services to be provided.

The "advertisers" as used in this Law refer to the legal persons, other economic organisations or individuals that, for the purpose of promoting the sale of commodities or providing services, design, produce and publish advertisements either by itself or by commissioning others to do so.

The "advertising agents" as used in this Law refer to the legal persons, other economic organisations or individuals that on a commission basis provide advertisement designing and production services and agent service.

The "advertisement publishers" as used in this Law refer to the legal persons or other economic organisations that publish advertisements for advertisers or advertising agents commissioned by advertisers.

**Article 3** An advertisement shall be true to facts, lawful, and in compliance with the requirements for the socialist cultural and ideological development.

**Article 4** An advertisement shall not contain any false information, and shall not cheat or mislead consumers.

### **Chapter III Advertising Activities**

**Article 27** An advertising agent or an advertisement publisher shall check relevant supporting documents, verify the contents of advertisements in accordance with laws and administrative rules and regulations. For an advertisement with untrue information or incomplete documents, the advertising agent may not provide designing, production and agent service, and the advertisement publisher may not publish such an advertisement.

### **Chapter V Legal Responsibility**

**Article 37** Where, in violation of the provisions of this Law, false propaganda for commodities or services has been conducted by making use of advertisements, the organ in charge of advertising supervision and control shall order the advertiser to stop publishing the advertisements and to use the same amount of its advertising expenses for making corrections in public within the corresponding areas, thus eliminating the effects, and shall impose on the advertiser a fine of not less than the amount of its advertising expenses but not more than five times that amount; the advertising agent and advertisement publisher who are held responsible shall be confiscated of their advertising charges and shall also be imposed thereupon a fine of not less than the amount of the advertising charges and not more than five times that amount; if the circumstances are serious, the advertising business of such offenders shall be stopped according to law. If the case constitutes a crime, the offenders shall be investigated for criminal responsibility according to law.

**Article 38** Where, in violation of the provisions of this Law, false advertisements have been published to cheat and mislead consumers, thus infringing upon the lawful rights and interests of consumers who have bought the commodity or accepted the service, the advertiser shall bear civil liabilities according to law; if an advertising agent or advertisement publisher, who knows clearly or ought to know that the advertisement is false, still designs, produces and publishes the advertisement, it shall bear joint and several liability according to law.

(This legislation has been amended since it was promulgated; however, the amendments are (in keeping with new guidelines) only available in Chinese.)

Now that we have a basic understanding of the advertising laws of China, let's have a look at some deceptive ads used to recruit EFL/ESL teachers to China. These ads are in three categories: 1) Qualifications Required to Teach EFL/ESL in China, 2) Teaching and Living Environment or Campus Description, 3) Salary Claims.

## **1) QUALIFICATIONS REQUIRED TO TEACH**

## EFL/ESL IN CHINA:

**FICTION:** Real Web Advertisements, misspellings and all.

ASIA VOLUNTEERS - Frequently Asked Questions – China - About Qualification

Do I need any Qualification or Training to Join Volunteer English Teaching Program in China?

No qualification is needed

Must be a native English speaker

Minimum commitment of one month is required

<http://www.asiavolunteers.com/china/faq.php> (Global Crossroad)

Who can do it?

**You can teach English overseas if:**

you are at least 19 years old or you have finished high school

you have a passport from Australia, New Zealand, Canada,

America, Great Britain, Ireland or South Africa

you speak English fluently, with minimal accent

you are interested in travel & other cultures

you are comfortable with strangers and have good social skills

[http://www.teachinternational.com/who\\_can\\_doit.php](http://www.teachinternational.com/who_can_doit.php) (Teach International)

“Xin Pai Foreign Language School - Date: Monday, 20 January 2003, at 10:08 a.m. More Job Vacancies Four more teaching positions are now available at Xin Pai Foreign Language School ... but even **those with no experience**, who would like to try their hand at teaching, **are welcome**, as we can provide on-the-job training and assistance” [xinpai@china.com](mailto:xinpai@china.com)

“Frequently Asked Questions: 1. What qualifications should one have in teaching in China? The basic qualifications are: being a native speaker of English, having a minimum BA degree and commitment to teaching, loving China and its people. Clear, well-spoken English and a good knowledge of the fundamentals of English grammar. **Teaching experience/certificate is preferred but not a must.**” <http://www.chinatefl.com/abroad.html>;

**What if I do not have a degree?**

If you do not have a degree, you must have:

Qualified Teacher Status and at least one years’ recent classroom-based experience of teaching English or modern languages, or a TEFL qualification and one years’ classroom-based experience of TEFL or teaching another subject.

However, some school will accept you without degree requested, and in some summer program, they may also accept. But some school will not accept you without a degree, so your options will be restricted.

**What if I have limited teaching experience?**

With TEFL qualifications or equivalent & less than one years experience. If you have a degree, some host schools still will accept you.

<http://www.AbroadChina.org>

### **FACT:**

“Those in search of language teaching positions in universities and institutions of higher learning should have a good grasp of their native languages and literature and should have **at least three years’ language teaching experience**. They should be able to speak their native language in standard pronunciation and intonation.” (1994, Guide for Foreign Experts Working in China, State Bureau of Foreign Experts, republished in 1998 and 2002)

“1. Who can be considered foreign experts working in China ?

Foreign experts who are invited to work in China can be divided into the following:

1. Foreign educational, scientific, cultural and medical experts.

These refer to those experts who are employed by the Chinese schools and other educational establishments in such fields as publication, medicine, scientific research, culture and art, and sports. They should hold bachelor's degrees and have more than two years of experience.” *SAFEA GUIDE FOR FOREIGN EXPERTS WORKING IN CHINA* Zheng Huaisheng Chen Yangjin EDITOR- IN - CHIEF

### **COMMENT:**

Clearly the government of China has established guidelines, although modest, for teaching English as a foreign/second language in China. Those who advertise to the contrary appear to be in violation of both the advertising law of China (false and misleading statements) and the Foreign Expert guidelines (providing unqualified “teachers” to work in China). When we sent emails to two of the above advertisers suggesting they were in violation of the advertising law of China, we received email replies laden with virus. One of the above name domains is now abandoned and available for sale.

Recruiting high school graduates with no teacher training or experience to teach EFL/ESL in China demeans both the teaching profession and the EFL/ESL specialization. It also cheats the people of China who think they are getting competent teachers.

During a spot check of <http://www.tefl.com> done on 1/20/04, it was discovered that there were thirty-one (31) current China recruiting ads. Thirty (30) of these ads required little or no teaching experience, including ads by **American Educational Services (AES), Zhimalin Modern English School, Tuha Foreign Language School, Times Language Training Center, Western Language Center, Nolan School, English First (EF), Singapore Institute of Commerce, The UK Education Company Ltd, English Campus, Saxoncourt, Bridging Consulting co.(Beijing)ltd, US-China Cultural & Education Association, David Hawk English School, GET English Academy, Taiyuan Mercan School, Merschina, excel-world language school, Interlingua School, Broad Media Culture & Education Training Centre, Century Talents Foreign Languages School, Middlesex University - East Asia Regional Office, Wil-English, Canada Cambridge Education Center, and Bridge International Education.**

Ninety-nine percent (99%) of the China teaching ads at <http://www.tefl.com> state that little or no teaching experience is required. This web site is by far the biggest offender when it comes to misstating the qualifications to teach EFL/ESL in China. It also appears to cater to language mills that are more interested in profit than providing a quality education through qualified teachers.

## 2) TEACHING AND LIVING ENVIRONMENT

### OR CAMPUS DESCRIPTION:

#### FICTION:

Xinyang Agricultural College, Henan Province

- a. Lying at the foot of Mt. Xianshan ... overlooked by Mt. Jigongshan ....
- b. Transportation is favorably advantageous ....
- c. The campus is credited with amazingly natural scenery ....
- d. Small paths wind through green trees in which all kinds of birds are chirping merrily ....
- e. Bordering on Shihe river ....
- f. The college boasts two highly equipped experiment buildings that accommodate key laboratories and research centers like Computer and Network Teaching and Research Center, Rice and Breeding Research Institute, Tea Research Institute, Aquaculture Research Institute, Lawn Engineering Research Institute, Microorganism And Appliance Research Institute, Foodstuff Processing Research Institute, and etc. Additionally, the college has High-tech Aquacultural Breeding Experiment Base, Tea Experimental Base, Fishery Farm, Orchards, Foodstuff Processing Plant and Chicken Farm.
- g. encourage comprehensive cooperation with universities or institutes at home and abroad on the basis of mutual trust and benefit
- h. Modern library in collection of 300,000 books and magazines.

#### FACT:

- a. Both mountains are at least a one hour drive away
- b. The closest airport is a three hour drive to the north or to the south
- c. There is absolutely no natural scenery on the campus. Everything has been placed on the campus by man.
- d. There is one single winding path less than 100 meters long and the only birds chirping are the ones in cages on the foreign teacher's porch.
- e. The river is at least one-half mile away and there is a slum between the campus and the river.

- f. These facilities simply do not exist.
- g. There are no such relationships in existence with any university abroad.
- h. The library does not contain a single English book, magazine, film, DVD, or Music video. Absolutely no English library resources for teaching or entertainment.

### **COMMENT:**

The above advertisement appeared on-line in late January, 2004. When we notified ChinaTefl.com of the false content of the ad, they expressed what appeared to be genuine concern, while admitting that they had never verified any of the advertisement's content.. However, the false ad remained on-line for some extended period. We also found several other ChinaTefl ads which contained false descriptions of other schools, including pictures of buildings that were planned but did not yet exist. This is a particularly despicable deception because teachers who are oceans away make employment decisions based, in part, upon these campus descriptions. This is the environment they chose to live and teach in for one year. They must agree to a contract before any personal inspection of the campus or living quarters is possible.

### **3) SALARY CLAIMS:**

#### **FICTION:**

The following chart is the Chinese government recommended pay scale for EFL/ESL teachers.

<b>Realistic salaries [depending on province and city] for China</b>	<b>RMB Month</b>
1st Degree, without bona fide teaching experience:	<b>3,500 to 4,500</b>
1st Degree with ESL, TESOL or other qualifications	<b>4,000 to 5,500</b>
Post Graduate, Masters [Education], MBA etc.	<b>4,500 to 6,500</b>
Experienced, Qualified Teachers of European ethnic origin	<b>4,500 to 7,500</b>
PhD, Experienced IT Post Graduates, etc.	<b>5,500 to 10,000</b>

[http://www.china-tesol.com/Salary\\_Range\\_for\\_foreign\\_teach/salary\\_range\\_for\\_foreign\\_teach.html](http://www.china-tesol.com/Salary_Range_for_foreign_teach/salary_range_for_foreign_teach.html)

#### **FACT:**

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Few, if any schools follow the above government recommendations. The regulations also state that the minimum salary for a foreign expert “teaching at an approved school” is 2,200 RMB. No tax is payable on FE salary up to and including 4,000 RMB per month.

### **FICTION:**

The compensation package you will receive is one of the best in China, comparable to most local universities. ...All of our teachers are native English speakers. ...To teach successfully in China, you must be a native English speaker with a university degree.  
<http://www.delter.com/toppage1.htm>

### **FACT:**

The Delter compensation package is in the mid-range of university salary packages and is hardly the best. Further, Delter regularly employs teachers from Rumania, Russia, etc. who speak English as a second language. And, Delter has hired at least one teacher who only had a high school diploma.

### **FICTION:**

China has a low salary system. Even our local professors only receive 1500--3000 per month and a teacher is paid 700--1500 China Yuan. With 3000 Yuan you can live happy but you shouldn't expect to live in luxury.

<http://www.bucklandgroup.org/sub/salay.htm>

Chinese teacher salaries range from 800 to 1200 RMB per month, and on this salary most teachers support their family in a reasonable manner and enjoy a comfortable [local] lifestyle.  
[http://www.china-tesol.com/Salary\\_Range\\_for\\_foreign\\_teach/salary\\_range\\_for\\_foreign\\_teach.html](http://www.china-tesol.com/Salary_Range_for_foreign_teach/salary_range_for_foreign_teach.html)

### **FACT:**

The average per capita income in Shanghai during 2003 was approximately 8,500 rmb. ChinaDaily (print Edition) 2/21/04 and Shanghai Daily 3/26/04.

Chinese university professors make closer to 30,000 – 50,000 rmb per month, not including lecture tour fees. <http://www.ncit.edu.cn/english/Vacancies/Advanced%20Professionals.htm>

Teachers paid 700 rmb per month are usually from two income families with established homes and local support systems.

### **COMMENT:**

Unless the foreign teacher wants to live out of a suitcase in a hotel room setting, there are many

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expenses associated with creating a homey atmosphere in your living quarters. Foreigners are also routinely charged more for many items and do not know how to live a cheaper (local) lifestyle. This local teacher salary comparison is in widespread use throughout the EFL/ESL recruiting industry. It is extremely misleading.

#### **4. CONCLUSION:**

Commercial web sites advertising for teachers to teach EFL/ESL in China need to voluntarily bring their advertisements into conformity with the advertising laws of China not only to be law abiding, but to reduce the stress and strain of disappointment foreign teachers experience as a result of reliance on the deceptive claims of the false advertisements.

Teachers victimized by the unscrupulous advertisement need to be pro-active and report the illegal activity to the local prosecutor's office, along with a copy of this article, since many prosecutors are unaware of the extent and seriousness of this matter.

Prosecutors need to actively engage in prosecution of those in violation of the advertising laws of China, not only to protect the integrity of the laws and society of China, but to protect the unsuspecting victimized foreign teacher and to protect the quality of education delivered to the people of China.

**FICTION:** China annually recruits 100,000 "Foreign Experts" (FE) to teach English as a Second Language (ESL) ([www.Chinatefl.com](http://www.Chinatefl.com)) with an accompanying 10 billion Yuan price tag. (ChinaDaily, Hong Kong Edition, October 9, 2002.) According to one Internet recruiting web site there are 150,000 foreign ESL teachers working in China ([www.AbroadChina.com](http://www.AbroadChina.com)). The People's Daily (1/23/02, "English Language Training Profitable Industry in China") reports that in 2001 the industry made a 700 million yuan (US\$8,700,000) profit in Beijing alone.

**FACT:** "In 2003, there were approximately 250,000 foreign experts "lawfully engaged in China", with approximately 50,000 being employed as "Teachers" in institutes of learning in all provinces, autonomous regions and municipalities, except Tibet. (SAFEA Changsha Forum for Foreign Expert Organizations, October 2003). There are 55 International organizations authorized by SAFEA to recruit teachers for Chinese schools. Less than 20,000 schools, from a total of 584,000 (2001), are approved to employ foreign teachers." (Source: SAFEA)

Affirmative action must be taken to protect the foreign teachers from unscrupulous recruiters and to protect the integrity of China's EFL/ESL program.

#### **POST-PUBLICATION EVENTS:**

At the request of or with the permission of the webmasters, this article has been posted on 22 commercial Internet job recruitment web sites and chat boards. It was even posted on a web site emanating out of Spain.

<http://www.a-estrada.org/wwwboard/messages/65.html>

## **CONTROVERSY AND THREATS OF LAWSUITS**

This article has created a firestorm of controversy best reflected by quoting the comments and letters posted on various Internet web site chat boards.

**<http://www.esljunction.com/jobs/viewtopic.php?t=1146&sid=1c5fceb0b59251289557949aa232c3c>**

<p>admin Site Admin</p>  <p>Joined: 06 Apr 2003 Posts: 33</p>	<p>Posted: Tue Feb 17, 2004 12:51 am    Post subject:</p> <p>From: TEFL Professional Network Ltd. To: Esljunction.com</p> <p>Dear Mr. Saunders,</p> <p>We refer to the posting on your site here: <a href="http://esljunction.com/jobs/viewtopic.php?t=1146">http://esljunction.com/jobs/viewtopic.php?t=1146</a>.</p> <p>We have taken advice about this article which we believe is often factually wrong, damaging, misleading and libelous to the extent it has caused us and will continue to cause us damage.</p> <p>We are advised that you are liable (along with the authors) for that damage.</p> <p>As background to the above, we are not subject to the laws of China as people access our site (and our e-mails) on the express understanding and agreement that to do so is under English (and thereby EU) law.</p> <p>That said, it does concern us greatly if any employers are using our service to behave in a way that we might consider unfair or improper. <a href="http://www.a-estrada.org/wwwboard/messages/65.html">http://www.a-estrada.org/wwwboard/messages/65.html</a>We will be reminding employers of their obligations in this respect. We regret we cannot discuss this aspect further with you due to our own obligations of confidentiality in our contract with them and under the Data Protection Act.</p> <p>You will, presumably have a "take down" procedure for offending articles and we will be obliged for your confirmation that this article will be removed and similar articles by the authors will be carefully scrutinised before posting is allowed.</p> <p>Yours sincerely,  David McDowall</p> <p>Is it the man that makes the stereotype or the stereotype that makes the man?</p>
<p>Back to top</p>	<p> <a href="#">profile</a>  <a href="#">pm</a>  <a href="#">email</a></p>
<p>admin Site Admin</p>  <p>Joined: 06 Apr 2003 Posts: 33</p>	<p>Posted: Tue Feb 17, 2004 12:52 am    Post subject:</p> <p>From: M. Wolff To: esljunction.com</p> <p>Lawsuit threatened.</p> <p>Mr. David McDowall of TEFL Professional Network Ltd. Has sent out a letter claiming that the article <a href="#">HINA EFL/ESL JOBS: A Case of False Advertising?</a> is defamatory and demands that it be removed from the internet.</p> <p>Please note that the letter is not from legal counsel. I sincerely doubt that any respectable legal counsel would send such a false letter.</p> <p>Mr. McDowall's letter is itself a false accusation against the authors and accuses them of improper professional conduct in their academic research and writing. This constitutes defamation per se and is actionable against both Mr. McDowall and his employer</p>

Truth is a defense and absolute truth is an absolute defense. Everything in our article is absolutely true. Mr. McDowall is threatening spurious litigation. The authors are prepared to defend. The authors are confident that Mr. McDowall and his employer are counting on web sites to eliminate the article without any fight because he would lose in a court battle.

The authors certainly understand if any web site removes or edits the article under this litigation threat. This will simply constitute evidence that Mr. McDowall and his employer have interfered with the authors pursuit of their academic profession and have interfered with the prospective economic advantage of the effected web sites. In any legal action by the authors against Mr. McDowall and his employer, they will not have to prove any monetary damages because Mr. McDowall's letter is defamation per se which does not require proof of monetary damages.

I am confident that this letter adequately explains the author's position regarding this inappropriate threat of litigation.

Sincerely,

Martin Wolff

Is it the man that makes the stereotype or the stereotype that makes the man?

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**admin**  
Site Admin



Joined: 06 Apr 2003  
Posts: 33

Posted: Tue Feb 17, 2004 12:54 am Post subject:



From: M. Wolff  
To: Mr. McDowall:

Mr. McDowall:

Let me save you and your legal counsel some money in research and investigation. My co-author and I are residents of Shanghai, China. Proper jurisdiction for your lawsuit is the Shanghai Municipal Court system. Just send me an email and we will meet your legal counsel to accept service of process. Of course, we will also expect your counsel to accept service of our countersuit against you and your employer. This may in fact be required by the local court rules.

You may have to initiate numerous suits to obtain proper jurisdiction over all of the web sites involved. Some are in the UK, some in the U.S. and others are in China. Sooner or later you will have to subject your claims to the Chinese court where you will not fare well at all. I believe that the local court will have little sympathy for someone claiming to be economically injured from conduct contrary to Chinese interests.

The authors will give deposition testimony and evidence to support any web site you may sue.

We will then hold a press conference and what your company is doing to degrade English education in China will be spread over the pages of the local media and more people will know about your activities.

We will also implead the Chinese Government under a 3rd party cross-complaint and demand that they pursue an injunction against your company. Once you attempt to utilize the Chinese courts, you will be subject to such an injunction.

Well, we look forward to this litigation and have prepared our legal team.

What follows is a copy of a notice we have posted on the web.

Sincerely,

Martin Wolff

Is it the man that makes the stereotype or the stereotype that makes the man?

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**admin**  
Site Admin



Joined: 06 Apr 2003  
Posts: 33

Posted: Tue Feb 17, 2004 12:59 am Post subject:



Is it the man that makes the stereotype or the stereotype that makes the man?

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**admin**  
Site Admin



Joined: 06 Apr  
2003  
Posts: 33

Posted: Tue Feb 17, 2004 4:33 pm Post subject:

[quote](#)

From M.Wolff  
To: esljunction.comDear Webmasters:

Goliath has flexed his muscles and threatened war. The giant tefl.com has challenged Dr. Niu Qiang and Dr. Martin Wolff, as well as all web sites publishing their paper, "China EFL/ESL Jobs: A Case of False Advertising."

Goliath has threatened expensive and time consuming litigation to stop the continuing publication of an article that is factually true but embarrassing to them. TEFL.com could have simply changed its advertising policy and prohibited the type of offending ad of which the article complains. However, a current glance at the TEFL.com web site reflects no change in their operating policy.

There are 22 web sites hosting the article. Two have deleted the article in its entirety. (One web site substituted a story about the article and its withdrawal, which is far more damaging to tefl.com than the original article. The other explains that the article was withdrawn due to the threatened litigation.)

Two web sites have edited the material of which tefl.com was heard to complain.

The remainder of the web sites, including the government owned China Daily forum, have apparently decided to stand their ground.

We applaud all of you. Each of you is a "David" under threat from "Goliath."

We are prepared for litigation but honestly believe that none will be forthcoming. tefl.com dare not come into the Chinese court with their claims and to sue the authors they must use the hinese courts.

It would be so much easier for tefl.com to simply advise its advertisers that ads which do not reflect the requirements of Chinese law will not be accepted. That would be the simple end of the matter. We would even add an addendum to the article praising tefl.com for their responsive and responsible resolution of this matter.

We are also advised that one web site has deleted all references to tefl.com and will not accept any more ads which are inconsistent with the Chinese law. Another web site has started deleting existing and refusing to accept any new ads that appear to violate Chinese law. We also applaud your actions in this regard. It not only shows your fierce independence, it also shows your social morality and desire to assist in enhancing the teaching profession generally and the China situation specifically. YOU MAKE A DIFFERENCE!

After all, this is not about us or them, but it is about trying to improve the quality of teaching EFL in China.

Two web sites have asked tefl.com for a letter from its legal counsel explaining the exact nature of the defamatory material in the subject article. To date there has been no response. That is not altogether surprising since I maintain that they have never received a bona fide legal opinion concerning the article.

I want to assure all of you that I for one can not and will not be intimidated when I am absolutely positive that I am right. And on this one, I AM ABSOLUTELY RIGHT!

Eah of you must chose the path you will walk in life. Sincerely, I am impressed with your response to "Goliath." It is so welcome to see so many "Davids." On this path, you walk in good company.

With warm regards,  
Martin Wolff

Is it the man that makes the stereotype or the stereotype that makes the man?

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**admin**  
Site Admin



Joined: 06 Apr  
2003  
Posts: 33

Posted: Tue Feb 17, 2004 4:56 pm Post subject:


[quote](#)

Hello Mr. McDowall, questions of jurisdiction seem to be somewhat elusive in regards to the internet, in so far as that youare subject to the laws in which location the information is published or where the information is stored. ESLJUNCTION.COM is not liable for already published materials and if you believe that this material is seen to be a case for liable. (as you so put it!) Then you should attempt to sue those who published it. So therefore I believe that


any such comments deemed by me to be liable will be dealt with swiftly by me. trust me i will not tolerate any such remarks by those wishing to incriminate this website.

Gregory James Patrick Murray  
Bcom/Laws

<http://bogglesworld.com/phpbb/phpBB2/viewtopic.php?t=11643&sid=0f9bec2f473ec499441b1af607dce997>


<p><b>Jeremy</b> Junior Member</p> <p>Joined: 28 Jul 2002 Posts: 5</p>	<p>Posted: Fri Jan 23, 2004 5:15 am Post subject:</p> <p>Thank you for your excellent summary of the recruiter situation in China! It will serve as a helpful guide to compare recruiter claims against.</p>	<p> quote</p>
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<p><b>chris</b> Site Admin</p> <p>Joined: 27 Jul 2002 Posts: 553</p>	<p>Posted: Fri Jan 23, 2004 5:42 am Post subject:</p> <p>I agree with Jeremy. It will serve as a good guide to measure recruiters by. As a webmaster that allows Chinese advertisements in the forums it brings up several issues:</p> <p>(1) Our site is commercial. But we do not get paid from recruiters/advertisers. Hence I am left wondering how much the law actually applies to this site. Would I have to pay 'not more than five times (zero)' which is zero.</p> <p>(2) Practically speaking. The Chinese government has little jurisdiction over me or my site. At best they could block this site from China if we didn't comply.</p> <p>(3) <b>Although we are certainly willing to comply with anything that results in higher standards for the ESL industry</b>, it is difficult to verify the claims made by the job posters. <b>However, using this as a good article as a guide, it would be possible to ban some claims such as 'no degree necessary'</b>. Other claims are harder to verify such as:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><b>Quote:</b></p> <p>Xinyang Agricultural College, Henan Province</p> <p>a. Lying at the foot of Mt. Xianshan ... overlooked by Mt. Jigongshan ....</p> <p>b. Transportation is favorably advantageous ....</p> <p>c. The campus is credited with amazingly natural scenery ....</p> <p>d. Small paths wind through green trees in which all kinds of birds are chirping merrily ....</p> </div> <p>To these kinds of claims, I can only say 'buyer beware.' It would be impossible for job boards to verify this. And especially since we don't receive payment for the Chinese job ads, we have no incentive to check up these claims.</p> <p>So I suggest a pragmatic approach for webmasters. The authors suggest several areas where webmasters can take some responsibility. Here is my view for the moment:</p> <p>(i) <b>Qualifications:</b> This issue is black and white. <i>Webmasters should voluntarily comply.</i> If an ad says 'no qualifications', the ad should be deleted or at least marked as being misleading. A flag should be thrown up. (This will become the policy for this website. Although we will try to work in a timely manner. There may be some delay as moderating takes time).</p> <p>(ii) <b>Living conditions:</b> Not the webmasters responsibility as it is impractical for webmasters to verify. That should be left up to the potential employees. Buyer beware.</p> <p>(iii) <b>Salaries:</b> Whether we like it or not, salaries are set by the market. As long as they conform with law, then there is not much we can do about it. It is the teachers responsibility to determine what their market value is. Although, it would be the advertisers' (webmasters') responsibility if the ads were breaking rights guaranteed by law such as minimum wage requirements.</p> <p>All in all, an excellent article.</p>	<p> quote</p>
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**Yoda**  
Senior Member


Posted: Fri Jan 23, 2004 5:56 am Post subject: 

Chris, if you can't verify the claims then why do you let them post at all?  
You Will Be!

Joined: 28 Jul 2002  
Posts: 32  
Location: The Cantina on Planet Tatooine

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**chris**  
Site Admin

Posted: Fri Jan 23, 2004 6:02 am Post subject: 


Yoda, you may have a point. But some responsibility should fall on the heads of the teachers. They should be aware of exaggerated claims in regards to living conditions. They should ask for pictures. This is the age of the digital camera. They should ask for references from other native speakers. This has become the standard here in Korea. Pictures and e-mails from native speakers.

My point is that webmasters should help teachers, when they can, by going after the ads that are clearly in violation. But that the rest of the leg work should be done by the teachers themselves. Living conditions such as 'near' and 'far' are somewhat subjective.

Joined: 27 Jul 2002  
Posts: 553

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**chris**  
Site Admin

Posted: Fri Jan 23, 2004 6:08 am Post subject: 


Further, by not letting people post, we may be doing teachers a disservice. Nothing will inform teachers better of the going market rate for their services than the screams of recruiters and job advertisers. In the absence of this kind of information, it is easier for teachers to get sucked into lower paying positions. I knew a guy who took a job in Korea for 1.6 million last year. A quick glance at ANY job board--no matter how commercial-- would have informed him that the going rate for starting teachers is 1.9 to 2.0 million with the possibility of doing much better.

The same applies for China. A quick glance of the boards should be enough to know that at least 4000 RMB is doable. Some ads offer 3500, but with a clearly visible market, I don't think they will get many takers.

Joined: 27 Jul 2002  
Posts: 553

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**Yeng**  
Guest

Posted: Fri Jan 23, 2004 6:54 am Post subject: False advertising 

Yunan Province regularly offers jobs at 2,200 and gets plenty of takers.

Some people just want to experience Yunan Province, or, they are so close to the drug trade from Viet Nam that the teaching salary is of no import.


The top ten universities offer 3,500 to Ph.D.s and they get plenty of takers for the honor of adding this to the resume when going back home.

Different strokes for different folks.

But look at the ad for 19 year old high school grads. The spelling looks like one of their 19 year old teachers wrote the ad. lol

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**chris**  
Site Admin

Posted: Fri Jan 23, 2004 8:46 am Post subject: 

Hmm. A quick look at the adverts shows a few recruiters guilty as charged. They have been red flagged. To see a sample of a post that was flagged, [check here](#).

Joined: 27 Jul 2002  
Posts: 553

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**Teacher K**

Senior Member

Joined: 28 Jul 2002  
Posts: 11  
Location: Korea

Posted: Fri Jan 23, 2004 8:50 am Post subject:

[quote](#)

Chris,

If you think it worthy of a 'red flag', why not just remove it as Yoda suggests?

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**chris**

Site Admin

Joined: 27 Jul 2002  
Posts: 553

Posted: Sat Jan 24, 2004 1:32 am Post subject: Teacher K

[quote](#)

Some that offend seriously will be removed. I removed two this morning. I'm leaving that one because he doesn't actually say, "You don't need any degree." I do think it is implied by the phrase: As long as you are a native speaker. But in the end, as long as teachers are forewarned, the choice is theirs. Now if he had actually said, "No degree necessary." Then I would have axed it.

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**guest**

Guest

Posted: Sun Jan 25, 2004 12:38 am Post subject:

[quote](#)

According to the article:

**Quote:**

They should be able to speak their native language in standard pronunciation and intonation

I think that needs some clarification. Most linguists would have issue with the idea that there is a standard (valid) English. Does this mean that any teacher is ok as long as they come from an English speaking country, or is it discriminatory to Auzzies and Kiwis like some other countries ave been.

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**guest of china**

Guest

Posted: Tue Jan 27, 2004 9:43 pm Post subject:

[quote](#)

Niu and Wolff's "Run Amuk" article was, IMO, pretty accurate. They targeted both sides of the ESL in China equation. Foreign vs. Chinese schools' expectations.

In this article, they try to go after the recruiters. Here, I think, they have somewhat misfired. Chris's Point 3 is what caught my attention and triggered my response.

**Quote:**

(3) Although we are certainly willing to comply with anything that results in higher standards for the ESL industry, it is difficult to verify the claims made by the job posters. However, using this as a good article as a guide, it would be possible to ban some claims such as 'no degree necessary'. Other claims are harder to verify such as:....

I went to the site with the the Xinyang Agricultural College job description. the first thing I noticed was that the ad there obviously had been prepared by the school itself. It's obvious to me, and anyone who has been in China for even a short time, and should be obvious to anyone who has done any modicum of "researching" jobs in China.

As Chris mentioned, it would be hard to verify the quotes mentioned in the original post. But I found the "rebuttal" quotes in the False Avertising article to be QUITE selective after reading the original.

I could quote the whole thing, as in how they say the school lies in AN AREA at the foot of said mountains and near said river and how they never make mention of any airport (but do give a good description of the railway system) in the transportation section (third-rate colleges don't worry as much about airports as do, I guess, first-rate "professors") or that the school's ad DOES mention that the campus has a combination of natural scenery and artificial sights

But really, the point is, that this ad was written by the school itself. Every school in China writes such tripe about themselves. In the west, it's called "puffing". In China, it's often called Chinglish and fei hua.

And if you go back to the General Laws cited in the original article, primary responsibility for the content of the advertising rests with the advertiser. I.E. the school itself. (The first two definitions in Article 2 - "Advertisers" and "Advertisements" and Articles 3 and 4.) So why not go after the advertiser. They have primary responsibility for the truthfulness of the ad they submit. Primary responsibility lies with Xinyang if things are as cited in the article.

Also, as to the salary issue, unless I am mistaken, the SAFEA "regulations" are still in place - 2200-4400. But they are what is known as "the other kind of regulations". Give SAFEA a call (not their so-called "Official Providers"). The "second kind" of regulations are merely suggestive. Bring them up with your school and they will tell you so. "If Beijing gives us the money to implement them, we'll be happy to follow them". The Hills are High and the Emperor is Far Away. Every province, every locality sets their own pay and benefits these days. Some recruiting websites will tell you as much. Others won't. As Chris said, Buyer Beware. And I'll add...beware of the school first.

Finally, I agree that, yes, I am tired of hearing the old saw that Chinese teachers make only XXX while we pay foreigners XXXX. However, the article cites a post offering Chinese teachers 30,000 + mega benefits. But this, too, is disingenuous. The typical Chinese college English TEACHER makes far, far less. But the schools do (and they won't tell you this) give added bonuses to said low-paid teachers in the way of lighter schedules (typically 4-8 hours a week) allowing them to do significant outside work to augment their income. So they will probably make as much or more than you. So buyer, ignore that old comparison.

But, the figures cited by the authors in the article (30,000+), are usually offered only to overseas returning Chinese OR westerners who have AUTHENTIC Professor or Asst. Professor "academic credentials" from western universities or well-regarded Chinese universities. That excludes about 98% of the foreign teacher population. It's like comparing bananas and eggs.

Yes, there are problems on all sides of the ESL in China equation. But I found this particular article to have problems, too.

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**Chad**  
Guest

Posted: Fri Jan 30, 2004 11:06 pm Post subject:



If information contained in an ad is not verifiable, isn't that reason enough to exclude it?

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**Guest**

Posted: Thu Feb 12, 2004 10:29 am Post subject: edited



This article has been edited to remove references to specific websites and their practises.

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**Teng**  
New User

Posted: Thu Feb 12, 2004 12:18 pm Post subject:



Joined: 14  
Jan 2004  
Posts: 1

Guest? NOT! More like site administrator chickened out when threatened with a lawsuit. The article was factually true and no lawsuit would be possible but the webmaster decided not to chance it.

The game is called "blind man's bluff." This web site blinked.

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<http://bbs.chinadaily.com.cn/forumpost.shtml?toppid=50011>


<http://bbs.chinadaily.com.cn/forumpost.shtml?toppid=43960>

ningdawei

Lawsuit

<p>+ Send message</p>	<p>I have read the aforementioned article on a number of sights and found nothing libelous about it. Simplistic? Yes. Libelous? No.</p> <p>2004-02-15 21:41</p> <p style="text-align: right;"> <b>Reply</b></p>
<p><b>groovyteddy</b></p> <p>+ Send message</p>	<p> <b>You are right</b></p> <p>There is a lot of misleading information posted about jobs. You are providing a public service by warning people about the dangers of false advertising . Things are often not what they seem.</p> <p>Frankly conditions in China are poor for foreign teachers. Salaries are often low and accommodation when provided can be very noisy. Another issue is the rapidly declining value of the RMB against serious currencies such as the Euro and pound meaning Chinese salaries are getting lower and lower in real terms.</p> <p>I wonder how foreign teachers feel when they realise they have signed a contract to work a year in Changchun for example!!!</p> <p>Keep up the good work</p> <p>Seems like your posting has hit the mark.</p> <p>2004-02-18 10:49</p>
<p><b>gunnyspice</b></p> <p>+ Send message</p>	<p> <b>excellent posting</b></p> <p>Thanks. Your posting was very thorough. I hope that those who seek EFL/ESL jobs have the opportunity to read it.</p> <p>2004-01-23 16:45</p> <p style="text-align: right;"> <b>Reply</b></p>
<p><b>alfredo</b></p> <p>+ Send message</p>	<p> <b>Thank you!</b></p> <p>I have copied your article.</p> <p>2004-01-24 22:15</p>

<http://www.educatorsforum.net/phpBB/viewtopic.php?t=488&sid=4b6770e0d7f9b36f4ee1fe67ad640824>

<p><b>admin</b> Site Admin</p> <p>Joined: 11 Apr 2003</p> <p>Posts: 98</p> <p>Location: Holiday, FL U.S.A.</p>	<p><input type="checkbox"/> Posted: Mon Feb 16, 2004 2:46 am    Post subject:</p> <p style="text-align: right;"> <b>quote</b></p>
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Adoption and the Common Law Background

Madison's version of the speech and press clauses, introduced in the House of Representatives on June 8, 1789, provided: "The people shall not be deprived or abridged of their right to

their common good, and to apply to the Government for redress of grievances, shall not be infringed."2 In this form it went to the Senate, which rewrote it to read: "That Congress shall make no law abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and consult for their common good, and to petition the government for a redress of grievances."3 Subsequently, the religion clauses and these clauses were combined by the Senate.4 The final language was agreed upon in conference.

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**admin**  
Site  
Admin

Posted: Mon Feb 16, 2004 2:50 am Post subject:

[quote](#)

U.S. Constitution: First Amendment

Joined:  
11 Apr  
2003  
Posts:  
98  
Location:  
Holiday,  
FL  
U.S.A.

First Amendment - Religion and Expression

Amendment Text | Annotations

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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After the Internet posting of the original article, several web sites removed recruiting ads that failed to comply with the Chinese regulations and at least one web site deleted an entire advice page that was inconsistent with the Chinese regulations. Then new notices started appearing:

## **GOVERNMENT CRACKDOWN ACTION?**

[http://www.englishschoolwatch.org/webboard\\_detail.php?topic\\_id=597](http://www.englishschoolwatch.org/webboard_detail.php?topic_id=597)

Cf. <http://www.beijingportal.com.cn/7838/2004/03/05/207@1923920.htm>

Where it states that Beijing is crackiing down on unregistered UNQUALIFIED teachers. It clearly states that teachers must be/have:

- a) Native speakers (no Germans need apply)
  - b) BA holders (obviously, no 'online' qualifications)
- and
- c) two years experience (checkable)

Although the new directive is only in force now in Beijing, the plans are to spread it across the WHOLE country.

Also take a glance at: <http://www.ebeijing.gov.cn/Jobs/default.htm>

GOODBYE SHANE AND ALL THE OTHER MORONS. CHINA NO LONGER WANTS OR NEEDS YOU!  
BEIJING [2004-03-15, 05:32:00][ID: 597-2877]

<http://www.beijingportal.com.cn/7838/2004/03/05/207@1923920.htm>

### Beijing to Increase Supervision of Unregistered Foreign Teachers

[Beijing Portal](#) 2004-03-05 17:05:51

The Beijing Municipal Education Commission says many Beijing schools and training centers are employing unregistered foreign teachers without its approval.

It stressed that less than seventy elementary and middle schools in Beijing are authorized to employ them.

The Commission says it wants greater supervision of foreign teachers to ensure students receive a high quality education.

Municipal regulations stipulate that only teachers with a university degree and two years of relevant working experience are allowed to teach students in the Chinese capital. Also foreigners who wish to teach English must be native speakers.

Editor Dany

## **BOYCOT TEFL.COM**

TEFL.com's threat to sue webmasters who continued to post this article never materialized and TEFL.com never produced a legal opinion stating why the article was libelous notwithstanding that at least two webmasters stated their willingness to remove the article when such a legal opinion was received.

The threatened lawsuit for defamation against the authors also never materialized. In fact, the threats only provoked an attempted boycott of TEFL.com posted on nine (9) commercial internet job recruitment web sites.

**<http://www.esljunction.com/jobs/viewtopic.php?t=1201>**

**[&sid=22a7daf7039fcf97b36dcb5a0242c61d](#)**

<p><b>Yeng</b> Guest</p>	<p>Posted: Mon Mar 01, 2004 7:34 pm Post subject:  quote TEFL.com Boycot</p>
	<p>TEFL.com BOYCOT</p>
	<p>In an article titled "China EFL: A Case of False Advertising," (GOOGLE SEARCH) TEFL.com was identified as a web site which carries China EFL/ESL teacher job advertisements which do not comply with the SAFEA regulations for the recruitment of teachers for China.</p>

In response to that article TEFL.com claimed, amongst other things, that it was not subject to the laws of China. (Lawsuit Threatened)

There is an apparent new wrinkle in TEFL.com's China EFL advertising. Rather than demand that advertising comply with Chinese goals, objectives and laws, it appears that TEFL.com will continue to run advertisements which require no prior teaching experience or college degree by simply trying to avoid any liability under Chinese law through placing the following statement on its emails:

"To access this e-mail, our website and our services YOU MUST AGREE that the contents and our relationship are governed by the law of England and Wales. If you do not agree, you are not at liberty to proceed beyond this point. If you do proceed, that is your agreement to this statement."

A spot check of TEFL.com on February 29, 2004 revealed that their China EFL/ESL ads were still not in compliance with the SAFEA Regulations.

A very knowledgeable and well respected British friend, who for obvious reasons does not want to become embroiled in this matter, writes the following commentary:

"As I read the TEFL.com disclaimer, without any knowledge of applicable UK advertising laws, TELF.com, but in the knowledge that the contents of advertisements displayed on their Website may be misleading, and in the [assumed] knowledge that they are aware of existing Chinese Law with respect to "pre-qualifications" required of applicants for teaching positions as Foreign Experts; the disclaimer itself may be in beach of the relevant UK legislation governing the publishing of advertising that is knowingly and substantially untrue. Such a disclaimer [in most Western countries] does not absolve the publisher of responsibility.

If they were to be fair to all concerned, both advertiser AND reader, they would publish the relevant Chinese legislation on their site, in an obvious position, thus allowing the reader and potential applicant the opportunity to make a valued judgment. By not doing so and resorting to legal "gobbly-gook" they are only discrediting themselves and the good name of TEFL, as a consequence."

Another friend writes "I do stand to be corrected on this, but I was always under the impression that under English law advertisements had to be factual and honest. Any untruths were punishable with a hefty fine and possible imprisonment."

To be completely fair to TEFL.com, let us assume, for the sake of argument, that they are not in violation of any law, policy, goal or objective of any country. The fact remains that they are running job advertisements for EFL/ESL teaching positions which claim to require no EFL/ESL training or experience, let alone any regular teacher training or teaching experience. Every professional teacher in the world should be reeling from the sting of this resounding disrespectful slap in the face. TEFL.com reduces the teaching profession to a glorified babysitting job.

Professional teachers everywhere should consider boycotting this web site that shows so much disrespect and contempt for their profession, while milking it for whatever advertising income may be available.

TEFL.com has remained very silent in the face of the web masters' refusal to take down the posted article, the authors' willingness to take the matter to court, and the attempted boycott.

A spot check of [www.tefl.com](http://www.tefl.com) on May 15, 2004 revealed that all but one of the China job ads were in compliance with the laws and regulations of China.

This is a radical departure from their past practices and threats of lawsuits.

This may be a small victory, but a victory for the enhancement of EFL teaching in China none the less.

### **Follow-up letter sent to www.tefl.com**

Dear Mr. McDowall:

We initially posted an article on the internet (January 2004) titled "China EFL: A Case of False Advertising."

Your immediate reaction was to threaten the authors with a lawsuit and to demand that all of the web sites posting the article, and other articles by us, remove them or face a lawsuit as well.

Neither we nor the web sites were intimidated by your threats of lawsuits.

Indeed, we initiated a boycott of your web site.

As part of that boycott we sent a copy of the original article to all China job recruiters utilizing your web site.

The original article noted that there were 31 recruiters advertising China teaching jobs on your web site and only one was in compliance with the laws and regulations of China. We now note that only 26 China ads appear on your web site and a spot check of [www.tefl.com](http://www.tefl.com) on May 15, 2004 revealed that all but one of the China job ads were in compliance with the laws and regulations of China. The one recruiter still not in compliance is EF.

"Candidates must have recognized teaching English as a foreign language certification – Trinity Cert. TESOL, CELTA or equivalent. EFL classroom experience is also desirable, but not essential. In some cases, extensive relevant TEFL experience can be considered in lieu of formal TEFL qualifications. You should be motivated, enthusiastic and open to new experiences.

*Unqualified teachers can take a four-week intensive course which is available monthly in Manchester and Brighton in the UK and in June in Sydney (Au), Toronto (Ca), Miami and Boston in the US. The aim of the course is to give you a practical introduction to EFL teaching and to prepare you for work in EF English First schools. Please visit [www.ef-tefl-training.com](http://www.ef-tefl-training.com) for further details about our subsidised TEFL Courses."*

Is the compliance of the new ads a result of a new policy instituted by [www.tefl.com](http://www.tefl.com)?

Is the reduced number of ads the result of certain recruiters' unwillingness to bring their ads into compliance or is it a result of the fierce competition generated by the proliferation of new recruiting web sites?

We would prefer to believe that [www.tefl.com](http://www.tefl.com) saw the error of its ways and made appropriate amends. We stand to be corrected and await your enlightenment.

Martin Wolff and Niu Qiang