

GUIDE TO APPLY FOR CENTRE AUTHORISATION IN SPAIN

The process for a private education centre authorisation in Spain is very complex whether it is a Spanish or a British school. There are 17 autonomous regions (CCAA) with delegated authorities in education.

This guide is created following a report from education legal advisors Fernando Lopez Tapia and Jose Antonio Poveda and is written as a guide for education promoters to understand the Spanish authorisation system and all the elements involved. It cannot be considered a step-by-step guide and will most likely have inaccuracies with local procedures as each CCAA has local and different regulation. The British Council takes no responsibility if any of the steps or information in this guide is not accurate.

A TWOFOLD AUTHORISATION SYSTEM

The procedure for authorising a Spanish school is twofold:

1. The educational authorisation, handled by the educational authorities.
2. Authorisation (a permit) to construct the building or to carry out renovation works necessary for the facilities to accommodate a school, handled by the local authority (town or city council)

Any school that provides non-university education under the general educational system must have specific authorisation from the education authority (Regional Ministry of Education) and the corresponding licences to open and operate the properties used for that activity, such authorisation being granted by the local authorities on verification that the proposal complies with the Building Code and with the regulations pertaining to land-use planning, the environment, hygiene and fire safety.

Legislation

LODE (Ley orgánica de Educación): *“The opening and operation of private schools that provide an education, regardless of whether such education falls under the general or special systems, shall be subject to administrative authorisation. Authorisation shall be granted provided the minimum requirements laid down in Article 14 of this law are met. These schools shall have full academic authority. Authorisation shall be withdrawn when schools cease to satisfy these requirements.”*

The minimum requirements shall relate to the academic qualifications of the teaching staff, the teacher–pupil ratio, the educational and sport facilities and the number of pupils.”

[Royal Decree 332/1992](#) applies to matters that fall under the management of the Ministry of Education and to any autonomous communities that do not have their own specific regulations. Autonomous communities that have their own regulations follow the outline of Royal Decree 332/92, except Catalonia and Madrid, which have included noteworthy aspects in their regulations that are discussed later in this report. For British schools, the requirements are those that apply for an independent school in the UK, unless there are no explicit requirements when Spanish requirements would apply ([RD 806/93](#)).

Education authorisation

Under Spain's devolved powers over education, private school authorisation procedures are handled by the autonomous community where the school is located.

a. Voluntary preliminary phase.

Before beginning the authorisation procedure, the proprietor of a school can initiate a preliminary review phase by submitting a report summarising the proposal, specifying the education to be provided, the number of pupils, the location and the facilities so as to verify the proposal's viability.

The relevant authority will communicate the result of the review within two months, or it can hold a meeting with the interested party to explain the findings.

b. Opening of administrative proceedings.

Proceedings begin when the interested party submits an application to the Regional Minister of Education. The application must include the following information:

- Natural or legal person founding the school
- Proposed name
- Geographic location of the school
- Education for which authorisation is being requested
- Number of intended units and pupils
- Statement or declaration that the person founding the school is not in any of the situations set out in Article 3 of Royal Decree 332/92.
- Construction documents for the proposed works or, where appropriate, drawings of the existing facilities. The legal deed that entitles the proprietor of the school to use the property in question shall also be provided.

- timetables during which education is provided and the facility usage rate (the latter is for vocational education and training programmes). Not required in all CCAA.

Foreign centres must include certification stating that the centre meets the standards/requirements of the country which qualification it will offer ([RD 806/93](#)).

c) Mandatory report from the education authority.

After the application and submitted documentation have been reviewed, the education authority issues a mandatory report evaluating whether the facilities described in the proposal comply with the minimum requirements. In the case of the Autonomous Community of Madrid, a favourable report results in direct authorisation to open and operate.

In other CCAA, the education authority carries out the appropriate checks, arranges a hearing for the interested party and submits a motion for resolution. Once authorised, the proprietor must inform the authority of completion of the works and of compliance with the requirements pertaining to the teaching staff. The Regional Ministry of Education will thoroughly check for potential non-compliances. If not corrected, authorisation withdrawal proceedings will be initiated, safeguarding the rights of the affected pupils in the appropriate terms.

e) Granting of authorisation.

The authorisation will include the following:

- Proprietor of the school
- Address, town/city, municipality and province
- Specific name
- Authorised education
- Number of authorised pupils or units.

The authorisation will be effective as of the academic year immediately following the date authorisation is granted.

Municipal Licences to open and operate.

Regardless of the specific procedure for obtaining authorisation as a school, the proprietor of the school must also obtain a licence to open and operate the facilities where the educational activity is to take place. This licence is issued by the local (municipal) authority, as laid down in Law 7/1985 on the rules governing local authorities.

Article 84.3 reads:

“Licences or authorisations granted by other public authorities do not release their holders from having to obtain the corresponding licences from local bodies, respecting in all cases the provisions of the applicable sector-specific laws.”

Article 3.1 of Royal Decree 132/2010 reads as follows:

“All schools providing stage two early childhood education, primary education, compulsory secondary education, upper secondary education and vocational education and training shall comply with the provisions of Organic Law 8/1985 of 3 July 1985 on the right to education and Organic Law 2/2006 on education and the implementing regulations thereof, as well as complying with the provisions of Royal Decree 314/2006 of 17 March 2006 adopting the Building Code.”

The Building Code establishes the technical standards pertaining to structural safety, safety in use, hygiene, noise protection, energy efficiency and fire safety. Verifying compliance with these regulations falls to the local authorities by means of the procedures for granting activity and opening licences.

In Spain, the division of powers between the State, the autonomous communities and local authorities is highly complex. In general, each autonomous community has a land-use law that precisely defines the municipal authorities' jurisdiction regarding this matter.

However, in general there are three distinct phases:

Activity licence: issued by the local council stating for the record that the conditions indicated in the submitted construction documents comply with all the applicable regulations.

Planning permission: issued by the local council authorising the execution of the works indicated in the construction documents. Planning permission often replaces or subsumes the activity licence as evidence of the local council's authorisation of the submitted activity proposal.

Operating licence: once the relevant works have been executed, the interested party notifies the authority of their completion and applies for the definitive licence (operating or opening). By issuing the operating licence the local council states for the record that the interested party may exercise their activity as of the date of issue.

“Pre-start” requirements for British Schools in Spain

There are three common pre-start requirements that must be satisfactorily addressed when opening a British school: land, building and facilities.

3.1. Land.

All land within the territory of the Spanish State is regulated and there are two types of land: rural land and urban land.

Schools cannot be constructed on rural land and only certain types of urban land. Where the construction of schools is permitted, it must comply with certain criteria established by planning instruments and rules, such as floor area ratio, setbacks and height.

The proprietor of a British school may be interested in constructing the school on land where such construction is not permitted. In this case, and depending on the degree of restriction, the proprietor may pursue a change in classification, zoning or construction conditions that, if the rationale for the change is accepted, allows the authorities to reach a more favourable decision. This is one case where a proprietor can request that the BC issue a document on the future location of a British school to support the application submitted to the local authorities.

The BC can issue a document in this regard upon receiving a written and substantiated request from the proprietor. This document shall confirm the proprietor's interest in founding a British school and the willingness of the British Council to examine the application once it has been formalised. Under no circumstances will the document by the British Council act as a guarantor of the proprietor or school application or state that the school to be meets UK standards unless the documentation has already been presented, reviewed and accepted as valid by a UK inspectorate.

3.3. Building.

The proprietor of a British school can intend to construct a new building or use an existing building.

In order to construct a new building, the proprietor must submit the construction documents to the local authorities and apply for the administrative authorisation, approval or certificate of acceptance that is mandatory as per the legislation pertaining to land use (planning permission, activity licences, first occupancy licences, etc.).

The local authorities check the proposal's compliance with applicable regulations beforehand and subsequently verify that the works meet the specifications of the construction documents and any changes made to them.

If the building already exists, the proprietor must have sufficient rights to use it as a school. These rights may be of ownership, lease, usufruct, commodatum, rights in rem, etc.

In this respect, the duration of the proprietor's rights to the property may be relevant, as the expiry of a legitimate right implies either the school will be transferred to other facilities or the school will be closed.

3.4. Facilities.

Schools must have a series of facilities: classrooms, workshops, laboratories, physical education and sport facilities, lavatories, teacher offices, administration and management offices, space for parent and pupil associations, etc. As stated previously, Spanish regulations are rather specific when identifying these rooms and determining their floor area.

The United Kingdom establishes facility requirements for United Kingdom schools¹. Therefore, as per the terms of Article 5.1 of Royal Decree 806/93, British schools in Spain are subject to said UK requirements and not those established by the Spanish authorities.

Procedure to register as a foreign school

Article 3.1 of Royal Decree 806/1993 of 28 May 1993 on the arrangements for foreign schools in Spain (BOE 149 of 23/6/1993) classifies foreign schools in Spain that provide formal education equivalent to that compulsory in Spain into the following two categories:

- a) Schools where the education provided is as per a foreign educational system and includes Spanish culture and language and, where appropriate, languages specific to autonomous communities. These centres can accept Spanish and foreign students (Art. 10.2. RD 806/1993). These centres require an educational authorisation.

- a) Schools where the education provided is solely as per a foreign educational system. These schools cannot admit Spanish pupils and do not need an educational authorisation.

Note: The articles on the procedure for entry at the School Registry are not considered a “basic rule” and, accordingly, autonomous communities may establish procedures different to that stipulated in Royal Decree 806/1993.

All foreign schools, regardless of the educational levels or the category of education provided, must be registered at the School Registry overseen by the education authority (Article 7 of Royal Decree 806/1993). Currently there is a registry in each autonomous community and a central registry under the authority of the Ministry of Education.

The registration procedure at the Registry is stipulated in the above-mentioned regulation (Articles 7.5, 14 and 15 of Royal Decree 806/1993) in the following terms:

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720244/Advice_on_standards_for_school_premises.pdf <https://www.gov.uk/national-curriculum> Overseas Schools: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/572360/BSO_standards_23Nov16.pdf

- a) It is initiated by an application from the proprietor that must include the following details:
- a. Proprietor: name, address, legal nature and entry data, fiscal identification number and the details and powers of the representative
 - b. Name of the foreign school
 - c. Geographic location: town/city, province and street address
 - d. Education to be provided
 - e. Number of pupils
 - f. Expected launch date, calculated as of the date of entry at the registry

The following documents must also be submitted:

- a. Certification from the BC that states for the record that the education provided by the school shall be fully valid in the UK and that the school meets the requirements of British legislation for the founding of schools and for the full validity of the education provided by them. The certification must also state whether British regulations include requirements in terms of facilities and their physical characteristics.
- b. Drawings of the buildings where the school is to be located, as well as a description of the facilities and their physical characteristics.
- c. Only if the school is going to teach Spanish culture and languages, and where appropriate, the language specific to the autonomous community, a list of Spanish culture and languages teachers and their respective qualifications.

Attached as **Annex 1** is an application form for entry at the School Registry pursuant to the provisions of Royal Decree 806/1993.

Boarding schools: Legislation y procedure

As there are no regulations and no specific authorisation from the education authority, beyond those specific to schools that also apply to all other centres, jurisdiction and authority over the activity fall exclusively to the local authority (local council) and the statements on this matter in the first section of this report would apply.

Note: this guide has been created following legal advice. The British Council accepts no responsibility should the recommendation procedures above not be accepted by a third country.

Anexo I: MODELO DE SOLICITUD DE INSCRIPCIÓN EN EL REGISTRO DE CENTROS (not translated as the language in which it should be used is Spanish)

Nota: Se deberá presentar el modelo oficial si existe en la respectiva Comunidad Autónoma.

CENTRO EDUCATIVO BRITÁNICO
REGISTRO DE CENTROS DOCENTES
SOLICITUD DE INSCRIPCIÓN

A LA CONSEJERÍA DE EDUCACIÓN

D./D^a [...], mayor de edad, de nacionalidad [...], de estado civil [...], de profesión [...], provisto/a de DNI número [...], con domicilio a efectos de notificaciones en [...], Provincia de [...], Calle de [...], número [...], en mi calidad de representante legal/apoderado, según acredito con [...], de la entidad denominada [...], constituida en escritura pública otorgada en [...], con fecha [...] ante el Notario D./D^a. [...], con el número [...] de su protocolo, inscrita en el Registro [...], con el número [...], comparezco y como mejor proceda en derecho

DIGO

I. Que la entidad que represento, cuyos datos de identificación han quedado reseñados en el encabezamiento del presente escrito, es promotora del siguiente Centro educativo británico:

- a) Denominación:
- b) Domicilio
 - Localidad:
 - Provincia:
 - C.P.:
 - Plaza/calle y número:
- c) Enseñanzas del sistema educativo británico que va a impartir y número de puestos escolares:

II. Que el Centro educativo británico que represento [*marcar lo que proceda*]:

No va a acoger alumnado de nacionalidad española, salvo en el caso que además de la nacionalidad española posean la nacionalidad británica, por lo que va a impartir exclusivamente el currículo británico.

Va a acoger tanto a alumnos españoles como a alumnos extranjeros, por lo que además del currículo británico, va a impartir el currículo de la lengua y cultura españolas y el de la lengua propia de la Comunidad Autónoma en la que se ubica, si la hubiere, conforme al currículo de las autoridades españolas.

III. Que adjunto a la presente solicitud la siguiente documentación:

a) Certificación expedida por el British Council como representación diplomática acreditada en España en la que consta, fehacientemente, que las enseñanzas tendrán validez oficial plena en el Reino Unido, y que el centro reúne los requisitos a los que se refiere el apartado 1 del artículo 5 del Real Decreto 806/1993 de 28 de mayo.

b) Planos de las edificaciones donde estará ubicado el centro, así como una descripción de sus instalaciones y condiciones materiales.

c) [*Solo para Centros que vayan a impartir estas materias*] Relación de profesores de lengua y cultura españolas, y, en su caso, de la lengua propia de la Comunidad Autónoma, con indicación de sus titulaciones respectivas.

IV. Que el Centro británico que represento previsiblemente se pondrá en funcionamiento a partir del inicio del curso escolar 20../20..

Y en mérito a lo expuesto

[*Centros con currículum británico exclusivamente*]

SOLICITO que presentado este escrito con la documentación que se acompaña se sirva admitirlo y conforme a lo señalado en el artículo 7.1. del Real Decreto 806/1993 de 28 de mayo, tenga por presentada solicitud de inscripción del Centro que represento, como centro docente extranjero, en el Registro de Centros docentes dependiente de esa administración educativa.

[*Centros con currículum británico y con currículum de lengua y cultura españolas y lengua propia de la Comunidad Autónoma*]

SOLICITO que presentado este escrito con la documentación que se acompaña se sirva admitirlo y conforme a lo señalado en el artículo 13.1. del Real Decreto 806/1993 de 28 de mayo, tenga por presentada solicitud de autorización de apertura y funcionamiento del Centro que represento, como centro docente extranjero, y la consiguiente inscripción en el Registro de Centros docentes dependiente de esa administración educativa.

En [...] a [...] de [...] de 20[...]

Fdo.:
D./Dña.

Sello