

# *Legal Risks and Preventive Measures for College Students in Entrepreneurship: A Case Study of Jiangsu Province*

Ren Yu

*Jianghai Vocational and Technical College, Yangzhou, Jiangsu, 225101, China*

**Keywords:** College student entrepreneurship; Legal risks; Preventive measures

**Abstract:** College students mainly focus on small and micro enterprises when starting their own businesses. In the process of entrepreneurship, they face many legal risks such as choosing the legal form of the enterprise, leasing, lending, contracts, employment, intellectual property rights, and taxation. These legal risks are complex and directly affect the success or failure of entrepreneurship. The main reasons for these legal risks are: the government's legal assistance mechanism for entrepreneurship is not sound; Lack of legal risk education for entrepreneurship in universities; College student entrepreneurs lack awareness of legal risks in entrepreneurship. Therefore, the government needs to improve the legal assistance mechanism for college student entrepreneurship; Universities need to attach importance to legal education on entrepreneurship for college students; College student entrepreneurs need to strengthen their awareness of legal risks in order to avoid legal risks during the entrepreneurial process and improve the success rate of entrepreneurship.

## **1. Legal risks faced by college students in entrepreneurship**

### (1) The risks faced by enterprises when choosing legal forms

After determining the entrepreneurial project, predicting the sales of products or services, and arranging personnel for the enterprise, entrepreneurs must choose the appropriate legal form of the enterprise. The legal form of enterprises refers to the organizational form of enterprises stipulated by national laws, which refers to the legitimate identity of enterprises in the market environment. The main legal forms of small and micro enterprises include individual businesses, sole proprietorships, partnerships, and limited liability companies. The legal form chosen by entrepreneurs has a direct impact on the enterprise, including the cost of starting and registering the enterprise, the difficulty of starting the enterprise procedures and raising funds, and the style of the enterprise. [1]

Insurance liability, the possibility of finding partners, the decision-making process of the enterprise, the profit and distribution of the enterprise, etc. If the enterprise to be established is relatively small in scale, with fewer investors and funds, a simple and economical legal form of enterprise can be chosen, such as individual businesses and sole proprietorships. Both individual businesses and sole proprietorships are established and operated independently by entrepreneurs, with advantages such as simple establishment procedures, flexible operating methods, and rapid decision-making processes. However, its disadvantages are also very obvious, such as entrepreneurs having to bear unlimited liability for business debts, that is, when they are unable to repay their debts with personal property. If there is insufficient funding and technology for entrepreneurship, but there are like-minded

individuals willing to start a business together, they can choose two legal forms of enterprise: partnership enterprise or limited liability company. Partnership enterprises have no restrictions on registered capital, are easy to register, and have a lower tax burden for entrepreneurs (only requiring personal income tax), making them favored by more entrepreneurial college students. However, the disadvantage is that general partners have to bear unlimited joint and several liability, and differences in opinions among partners can lead to increased decision-making costs for the enterprise.

The current Company Law of our country has abolished the requirement of minimum registered capital for companies and changed the paid in registration system to the subscribed registration system [2], reducing the financial burden for college student entrepreneurs and stimulating their entrepreneurial enthusiasm. However, the regulations and requirements for establishing limited liability companies and joint-stock limited companies are stricter. In addition to imposing corporate income tax on the company, individual income tax is also imposed on shareholders, resulting in a heavier tax burden. College student entrepreneurs, especially those who start their own businesses, generally have cognitive biases, believing that the company is their own and that the company's funds are naturally their own. Although the company has independent legal personality, there is a system in the Company Law to "lift the veil of legal person", which means that shareholders will bear joint and several liability in the event of statutory circumstances. This situation is most common in entrepreneurial practice. If entrepreneurs do not establish a sound financial system, have chaotic accounts, and do not distinguish between public and private, they will face the risk of joint liability for the company's debts. [3]

#### (2) Legal risks faced in enterprise establishment

After choosing the legal form of the enterprise, entrepreneurs need to establish and operate the enterprise in accordance with national laws and regulations, and bear corresponding corporate responsibilities. Newly established enterprises must obtain a business license after being approved and registered by the administrative department for industry and commerce. The general process for industrial and commercial registration of small and micro enterprises is: name pre-approval, approval for establishment registration, obtaining a business license, and engraving a seal. If the above process is not handled properly, it may lead to certain legal risks.

1) Partnership agreements, company articles of association, and other establishment documents must be formulated. College students usually choose partnership enterprises for entrepreneurship. At this time, they need to sign partnership agreements or formulate company articles of association with their partners. Otherwise, it is easy to encounter problems such as unclear investment methods and lack of constraint mechanisms between shareholders or partners. Once differences and conflicts arise between partners, it is difficult to handle, which is not conducive to the stable development of the enterprise. The articles of association are the regulations formulated by a company in accordance with the law, which stipulate the company name, address, registered capital, and business scope.[4]

#### (3) Legal risks faced by enterprises during the operation stage

Legal risks in contract management. Contracts are the bridge and link for enterprises to engage in external transactions, which can avoid the uncertainty of transaction behavior and prevent various legal risks that may be involved in the entrepreneurial process. The contract risks of college student entrepreneurship mainly occur in the following five aspects: firstly, there is a lack of subject qualification review of the contract object before signing the contract, such as whether it has legal person or agent qualifications, professional qualifications, commercial reputation, performance ability, and whether the country has special regulations on the transaction; The second is that the content of the contract violates laws, administrative regulations, social morality, or disrupts social and economic order, harms public interests, resulting in the invalidity of the contract; The third is the legal risk of contract guarantee. Due to lack of understanding of the other party's credit, business situation, and relevant provisions of the Guarantee Law, improper use of guarantee methods such as

guarantee, mortgage, pledge, retention, or deposit, or violation of the principles of equality, voluntariness, fairness, and good faith, setting unreasonable guarantees for others or oneself, which affects the performance of the main contract and puts additional debt burden on the enterprise; The fourth issue is the form of the contract, such as when laws and administrative regulations require written form but oral form is used; The fifth issue is that the contract content is not clearly expressed or there are omissions in major matters. The wording of the contract content should be accurate to avoid ambiguity. For important contract terms, professional lawyers should be consulted for review to prevent potential risks. [5]

Legal risks associated with lending. College students often choose private loans and bank loans due to a lack of entrepreneurial funds. Although the current P2P online loan platforms have to some extent met the funding needs of college students for entrepreneurship, there are risks such as financial privacy leakage, high loan interest rates, and even being trapped by loan platforms due to the non-standard operation of many online loan platforms and insufficient national supervision. [6]

Legal risks associated with housing leasing. Housing leasing also carries certain legal risks, the most common of which is the risk of subletting due to the failure to review the qualifications of the lessor. When college students rent a house, they should first understand whether the lessor has the right to dispose of the house, check the lessor's property ownership certificate, and prevent those without the right to dispose from renting the house without authorization. Secondly, it is necessary to review the agency authority of the agent. If the landlord entrusts others to lease the house, the identity of the agent and the presence of the landlord's authorization letter should be checked before signing the contract.

Legal risks of intellectual property. College students usually choose to start businesses in high-tech fields such as software development or network services, but these areas often face legal risks related to intellectual property. The Intellectual Property Protection Law of our country has clear protection provisions for intellectual property rights. Common infringement behaviors include patent infringement, copyright infringement, and impersonation of registered trademarks, or the inventor's failure to timely apply for and file for enterprise trademark patents and other intellectual property rights, resulting in the inability to use legal weapons to protect their own rights and interests after being infringed by others.

Legal risks associated with corporate employment. The Labor Law and the Labor Contract Law are the main legal basis for adjusting labor legal relationships. Small and micro enterprises also need to establish sound employment management systems, including labor contract management, rest and vacation management, social insurance management, and employee training. In the early stages of entrepreneurship, college students often devote more energy to production, operation, and market development, neglecting the proper handling of labor relations.

## **2. The main reasons why college students face legal risks in entrepreneurship**

(1) The government's legal assistance mechanism for entrepreneurship is not sound

A good entrepreneurial environment is the soil for college students to succeed in entrepreneurship, and the law is an indispensable guarantee. At present, in terms of financial support, administrative services, entrepreneurship education, entrepreneurship park construction, and entrepreneurship guarantee, Jiangsu Province has successively introduced multiple policies to support college student entrepreneurship, making some beneficial explorations for promoting legal support for college student entrepreneurship. For example, the SYB (Start Your Business) training funded by the Human Resources and Social Security Department covers legal knowledge in entrepreneurship; Finance, industry and commerce, taxation, and commerce departments also provide policy and legal education services to small and micro enterprises from time to time. However, overall, the government's legal

assistance mechanism for entrepreneurship is still not sound, and there is insufficient legal risk prevention and social cooperation for entrepreneurship, especially the basic lack of linkage with universities, making it difficult to achieve seamless connection from campus to society. When visiting some universities and entrepreneurship parks in Jiangsu Province, many college student entrepreneurs expressed that they are not clear about the regulations and laws that Jiangsu Province has introduced to protect the legitimate rights and interests of entrepreneurs, and lack relevant entrepreneurial preparations. [7]

#### (2) Lack of legal risk education for innovation and entrepreneurship in universities

In the survey questionnaire, 74% of college students chose "Yes" in the question "Does your school offer entrepreneurship guidance courses or hold entrepreneurship training courses" 2%, indicating that most universities in Jiangsu Province offer entrepreneurship courses for college students with entrepreneurial intentions. In order to further understand the situation of entrepreneurship legal education, the author has set up a question item "What are the main contents of entrepreneurship education you receive in school (multiple choice questions)", with 63% choosing "enterprise conception" 5%, 76% choose "market evaluation" 6%, 43% choose financial management 6%, 39% choose "entrepreneurship policy" 2%, 73% choose "profit plan" 2%, while only 36% choose "legal environment and responsibility" 4%; Only 7% of the respondents chose "Yes" in the question "Does your school offer elective or compulsory courses on legal prevention and control of entrepreneurial risks?" 2%. It can be seen that entrepreneurship legal education in universities in Jiangsu Province is still very weak and urgently needs to be strengthened. [8]

#### (3) Insufficient awareness of legal risks in entrepreneurship among college student entrepreneurs

The 2017 China College Student Entrepreneurship Report shows that college students generally agree that creativity, risk-taking, and alertness are extremely important qualities for entrepreneurs. Therefore, this article chooses "risk-taking" as the observation point. In the questionnaire survey "What are the entrepreneurial risks you may foresee (multiple choice questions)", 73% of respondents choose "market risk" 7%, 86% choose "funding risk" 3%, 33% choose "technical risk" 6%, only 16% choose "legal risk" 5%. [9]After visiting some universities and college student entrepreneurship parks in Jiangsu Province and analyzing the reasons for entrepreneurial failure cases, it was found that many college student entrepreneurs often overlook legal risks and the role of legal professionals in preventing entrepreneurial legal risks when making business decisions, and they themselves lack basic legal knowledge; Some college student entrepreneurs are even driven by profits to engage in illegal business activities.

### 3. Preventive Measures for Legal Risks in College Student Entrepreneurship

(1) The government should improve the legal assistance mechanism for college student entrepreneurship

Entrepreneurship is a systematic project that involves national support and social assistance. Given the current severe employment situation in our country, it is necessary to appropriately increase entrepreneurship and use it to drive employment. Of course, this cannot be achieved without the government's assistance to college students in entrepreneurship. In addition to the Notice on Tax Policies Related to Supporting and Promoting Employment issued by the Ministry of Finance and the National Taxation Bureau, as well as relevant preferential policies, the government also needs to provide support from the following two aspects.

Build a legal risk prevention platform for entrepreneurship based on entrepreneurial projects. The government can fully leverage the guiding role of policies, encourage the establishment of various innovation and entrepreneurship projects, and provide financial support. Using entrepreneurship projects as carriers, it can integrate university resources, human resources, enterprise resources,

judicial resources, and information resources, normalize the work of providing legal risk prevention and overall solutions for university entrepreneurship bases or university student innovation and entrepreneurship, and achieve effective transformation of legal risk prevention from knowledge system to practical content.

Establish a scientific and effective legal risk prevention and control mechanism for entrepreneurship. The government should provide necessary legal services and supervision for college students. At the service level, special activities can be carried out, special funds can be established, legal aid centers and bar associations can be organized to carry out legal publicity, legal aid activities, provide legal consultation and rights protection services for entrepreneurial college students; At the supervisory level, various institutions, functional departments, and industry associations involved in the entrepreneurial process can be organized to provide necessary supervision of the key links in the establishment and operation of enterprises, enabling college students to start businesses in accordance with the law within the legal framework and develop healthily on the track of the rule of law.

(2) Universities should attach importance to legal education on entrepreneurship for college students

The Outline of the National Medium - and Long Term Education Reform and Development Plan (2010-2020) points out that college students have weak abilities to adapt to society, employment, and entrepreneurship, and there is a shortage of innovative, practical, and compound talents. At present, many universities in Jiangsu Province have a biased understanding of the connotation of entrepreneurship education, focusing only on the education of entrepreneurial awareness and steps, and neglecting the implicit function of entrepreneurship education, which is to cultivate scientific worldviews, values, professional views, and entrepreneurial views of college students through educational activities and practices, so that they have professional qualities, ability qualities, and moral cultivation for entrepreneurship, and become a comprehensive and harmonious person. College students cannot start their own businesses without legal knowledge. Universities should explore innovative reforms in legal education based on the needs of entrepreneurship education. In view of this, the following suggestions are proposed.

By strengthening legal awareness and establishing correct entrepreneurial values. Universities should strengthen their comprehensive understanding and in-depth understanding of the connotation of entrepreneurship education, enhance the cultivation of legal concepts for college students in entrepreneurship, cultivate college students into citizens with good legal qualities, cultivate their legal awareness, and thus form the core concept of law supremacy. Universities can make full use of platforms such as the internet and WeChat to strengthen the legal publicity and promotion of entrepreneurship for college students. By releasing the latest legal risk cases and related knowledge on entrepreneurship, college students can realize that the essence of a market economy is the rule of law economy. Only on the path of the rule of law can the ship of entrepreneurship sail further. [10]

(3) College student entrepreneurs should enhance their awareness of legal risks

1) Strengthen awareness of legal risk prevention. Entrepreneurship is an economic activity that can result in a series of legal consequences. College students should adjust their entrepreneurial behavior to meet the requirements of the law; To integrate the operation of enterprises into the track of the rule of law, engage in production and operation or provide services within the scope allowed by law, protect the legitimate rights and interests of oneself and the employees of the enterprise, thereby enhancing the competitiveness of the enterprise and achieving sustainable development.

2) Cultivate legal rationality and legal awareness. College student entrepreneurs have not yet fully matured in their minds, and their consideration of issues is often not rational and comprehensive enough. Therefore, when choosing entrepreneurial partners, it is necessary to conduct a more in-depth and objective examination of their comprehensive situation, rather than simply based on human

relationships; After determining the legal form of the entrepreneurial enterprise, it is necessary to carefully draft legal documents such as the company's articles of association and partner agreements; In the process of enterprise operation, it is necessary to abide by market rules, strengthen integrity awareness and contractual spirit; When facing the temptation of interests, it is important to firmly establish legal awareness and not engage in illegal activities with speculative or lucky mentality.

3) Pay close attention to entrepreneurial policies and regulations. Entrepreneurship is a highly comprehensive and complex management activity led by entrepreneurs, characterized by regional, innovative, and high-risk characteristics. When facing various risks and difficulties in the entrepreneurial process, college student entrepreneurs should strengthen their proactive awareness, closely monitor the relevant policies and regulations in terms of financial support, market access, and administrative management in the entrepreneurial location, so as to use various policy dividends to smoothly overcome the entrepreneurial crisis.

## Acknowledgement

Fund Project: 2021 Jiangsu University "Qing lan Project"; 2020 Jiangsu University Philosophy and Social Science Research Project Ideological and Political Work Special Project "Research on the Value and Application of Rule of Law Thinking in the Field of Ideological and Political Education in Universities" (2020SJB1040)

## References

- [1] Michael's 2017 Employment Report for Chinese College Students, 2018-03-01, <http://www.china-10.com/news/488574.com>.
- [2] Li Tangning: "The full year employment target for 2016 has been exceeded", *Economic Reference News*, January 9, 2017, 3rd edition.
- [3] Xie Renhai: "Research on the Legal Protection Mechanism for College Students' Entrepreneurship from the Perspective of Risk Theory", *Higher Education Management*, Vol. 6, 2017, p. 54.
- [4] Wei Lai and Niu Yupu: "Analysis of Legal Risks and Preventive Measures in Civil and Commercial Entrepreneurship for College Students", *Journal of Shenyang University of Engineering (Social Science Edition)*, 2017, Issue 4, p. 481.
- [5] Wang Yixiao: "Legal Risks and Prevention of Enterprise Financing and Guarantee", 2013-03-09, [http://blog.sina.com.cn/s/blog\\_7993258701lcmh](http://blog.sina.com.cn/s/blog_7993258701lcmh).
- [6] Chen Junyu: "Legal Risk Warning and Prevention of Housing Lease Contracts", 2018-01-24, <http://www.66law.cn/laws/125837.aspx>.
- [7] "Legal Risks and Prevention of Housing Lease Contracts", 2017-08-01, <http://China.findlaw.cn/hetongfa/hetongdedingli/hetongfengxian/1297375.HTML>.
- [8] Su Pei: "2017 Chinese College Student Entrepreneurship Report" Released, 2018-01-08, [http://ex.cssn.cn/gx/xskx/20180108\\_2807418.shtml](http://ex.cssn.cn/gx/xskx/20180108_2807418.shtml).
- [9] Xue Hao, Chen Wanming, Zhang Bing, et al.: "Reflections on Misunderstandings and Countermeasures in Entrepreneurship Education in Universities", *Higher Education Research*, Vol. 2, 2016, p. 75.
- [10] Huang Zhaoxin, Huang Lijun, and Song Zhaohui: "Legal Education for College Students in Entrepreneurship: Necessity, Problems, and Suggestions", *Chinese Higher Education Research*, Vol. 11, 2012, p. 78.