



Republic of the Philippines
BATANGAS STATE UNIVERSITY

Batangas City

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Office of the University President

Memorandum Order No. **260-e**

Series of 2021

TO : ALL CONCERNED

THRU : VICE PRESIDENTS AND CHANCELLORS

**SUBJECT : COMPLIANCE WITH NON-DISCRIMINATION LAWS,
RULES AND REGULATIONS IN THE ACCESS OF THE
BATSTATEU EDUCATION**

DATE : 08 JANUARY 2021

In preparation for the student admission for Academic Year (AY 2021-2022) starting 12 January 2021 to 28 February 2021, all offices are hereby directed to comply with all laws, rules, and regulations relative to the above mentioned subject matter in all their operations and/or services. Said laws, rules, and regulations include, but are not limited to the following:

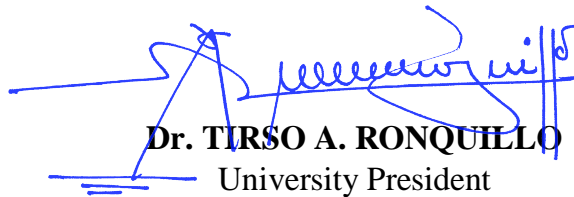
1. Republic Act 10931 or the Universal Access to Quality Education Act, especially Section 4 which mandates free higher education in State Universities and Colleges (SUCs);
2. Republic Act 7277 or the Magna Carta for Disabled Persons, especially Chapter II (Education) thereof;
3. Republic Act 9710 or the Magna Carta of Women, especially the provisions relating to *Equal Access and Elimination of Discrimination in Education, Scholarships, and Training* (Section 13);
4. Republic Act 8371 or the Indigenous Peoples' Rights Act of 1997, especially Section 21 thereof which mandates *Equal Protection and Non-discrimination of ICCs/IPs*;
5. Commission on Higher Education (CHED) Memorandum Order No. 09, s. 2013 or the Enhanced Policies and Guidelines on Student Affairs and Services, especially the policy on assuring that education should be accessible to all;

6. CHED Memorandum from the Chairperson dated 16 August 2016 or the Strengthening the Protection of Religious Rights of Students in Higher Education Institutions (HEIs); and
7. All other laws, rules, and regulations which assures access of anyone to quality education regardless of color, religion, sex, gender identity or expression, ethnicity, age, physical conditions or other characteristics protected by law.

The Vice President for Academic Affairs, in coordination with the Chancellors, shall assure compliance with the foregoing laws, rules, and regulation.

Attached are the cited laws, rules, and regulations for ready reference.

For information and compliance.



Dr. TIRSO A. RONQUILLO
University President

*cc: Office of the University and Board Secretary
Records Management Office, Central Administration*

S. No. 1304
H. No. 5633

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
First Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth day of July, two thousand sixteen.

—■—
[REPUBLIC ACT NO. 10931]

AN ACT PROMOTING UNIVERSAL ACCESS TO QUALITY TERTIARY EDUCATION BY PROVIDING FOR FREE TUITION AND OTHER SCHOOL FEES IN STATE UNIVERSITIES AND COLLEGES, LOCAL UNIVERSITIES AND COLLEGES AND STATE-RUN TECHNICAL-VOCATIONAL INSTITUTIONS, ESTABLISHING THE TERTIARY EDUCATION SUBSIDY AND STUDENT LOAN PROGRAM, STRENGTHENING THE UNIFIED STUDENT FINANCIAL ASSISTANCE SYSTEM FOR TERTIARY EDUCATION, AND APPROPRIATING FUNDS THEREFOR

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* — This Act shall be known as the "Universal Access to Quality Tertiary Education Act".

SEC. 2. *Declaration of Policy.* – It is hereby declared that quality education is an inalienable right of all Filipinos and it is the policy of the State to protect and promote the rights of all students to quality education at all levels. Therefore, the State shall take appropriate steps to make such education accessible to all.

Likewise, the State hereby recognizes the complementary roles of public and private higher education institutions and technical-vocational institutions in the educational system and the invaluable contribution that the private tertiary schools have made and will make to education. For these intents, the State shall:

(a) Provide adequate funding and such other mechanisms to increase the participation rate among all socioeconomic classes in tertiary education;

(b) Provide all Filipinos with equal opportunity to quality tertiary education in both the private and public educational institutions;

(c) Give priority to students who are academically able and who come from poor families;

(d) Ensure the optimized utilization of government resources in education;

(e) Provide adequate guidance and incentives in channelling young Filipinos in their career choices and towards the proper development and utilization of human resources; and

(f) Recognize the complementary roles of public and private institutions in tertiary educational system.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Cost of Tertiary Education* refers to (1) tuition and other school fees, (2) educational expenses and (3) the cost of living allowance;

(b) *Graduate courses* refer to higher education programs leading to a certificate, diploma, master's or doctorate degrees, as may be authorized and recognized by the Commission on Higher Education (CHED);

(c) *Higher education* refers to the stage of formal education, or its equivalent, requiring completion of secondary education and covering programs of study leading to bachelor and advanced degrees, including associate degrees;

(d) *Higher Education Institution (HEI)* refers to an education institution authorized and recognized by the CHED to offer bachelor's degree or graduate courses;

(e) *Local universities and colleges (LUCs)* refer to CHED-accredited public HEIs established by local government units (LGUs) through an enabling ordinance, financially supported by the LGU concerned, and compliant with the policies, standards and guidelines of the CHED;

(f) *National Household Targeting System for Poverty Reduction (NHTS-PR) or Listahanan 2.0* refers to the information management of the Department of Social Welfare and Development (DSWD) that identifies who and where the poor are in the country. The system makes available to national government agencies and other social protection stakeholders a database of poor families as reference in identifying potential beneficiaries of social protection programs;

(g) *Other education-related expenses* refer to expenses related to the education of a student such as books, school supplies, uniforms, reproduction of materials, electronic devices necessary for education and other fees such as for practical teaching devices, student publication, yearbook, insurance, and student trust funds;

(h) *Other school fees* refer to fees charged by HEIs and technical-vocational institutions which cover other necessary costs supportive of instruction, specifically the following: library fees, computer fees, laboratory fees, school ID fees, athletic fees, admission fees, development fees, guidance fees, handbook fees, entrance fees, registration fees, medical and dental fees, cultural fees and other similar or related fees;

(i) *Private higher education institution* refers to a HEI not owned and controlled by the government or its instrumentalities;

(j) *Private technical-vocational institution* refers to post-secondary technical-vocational institution run by the private sector offering programs registered with the Technical Education and Skills Development Authority (TESDA);

(k) *Qualified student* refers to any student who possesses all the qualifications under Sections 4 and 5 and none of the disqualifications under Section 6 hereof;

(l) *State-run technical-vocational institutions* refer to technical-vocational institutions operated by the TESDA or LGUs: *Provided*, That in the latter case, the same should be accredited by the TESDA;

(m) *State universities and colleges (SUCs)* refer to public HEIs established by national laws which are financed and maintained by the national government and are governed by their respective independent boards of trustees or regents;

(n) *Student loan program for tertiary education* refers to a loan program established under Section 8 of this Act;

(o) *Technical-Vocational Education and Training (TVET)* refers to the education process designed at post-secondary and lower tertiary levels, officially recognized as nondegree programs aimed at preparing technicians, paraprofessionals and other categories of middle-level workers by providing them with a broad range of general education, theoretical, scientific and technological studies, and related job skills training;

(p) *Technical-Vocational Institutions (TVIs)* refer to learning institutions offering post-secondary TVET;

(q) *Tertiary education* refers to the stage of education following the secondary cycle which covers post-secondary nondegree diploma, TVET, and higher education programs, including graduate education;

(r) *Tertiary education subsidy (TES)* refers to a subsidy established under Section 7 of this Act;

(s) *Tuition fees* refer to fees or school charges for the subjects or course enrolled in by a tertiary education student;

(t) *Undergraduate courses* refer to any program leading to a degree as may be authorized and recognized by the CHED; and

(u) *Unified Student Financial Assistance System for Tertiary Education (UniFAST)* refers to the harmonized, state-run and administered system of higher education and technical-vocational scholarships, grants-in-aid, student loans, and other modalities of student financial assistance program under Republic Act No. 10687.

SEC. 4. *Free Higher Education in SUCs and LUCs.* – All Filipino students who are either currently enrolled at the time of the effectivity of this Act, or shall enroll at any time thereafter, in courses in pursuance of a bachelor's degree, certificate degree, or any comparable undergraduate degree in any SUC and LUC shall be exempt from paying tuition and other school fees for units enrolled in: *Provided*, That they pass the entrance examination and other admission and retention requirements of the SUCs and LUCs: *Provided, further*, That all SUCs and LUCs shall create a mechanism to enable students with the financial capacity to pay for their education in the SUC and LUC to voluntarily opt out of the tuition and other school fees subsidy or make a contribution to the school. SUCs and LUCs must report the tuition payments and contributions collected from these students to the CHED: *Provided, finally*, That the amount required to implement the free tuition and other school fees in SUCs and LUCs shall be determined by the respective governing boards of SUCs and LUCs based on the projected number of enrollees for each academic year, which shall be the primary factor in computing the annual proposed budget of SUCs and, in the case of LUCs, the CHED for such purpose. This shall in turn serve as the baseline during the preparation of the annual National Expenditure Program (NEP) by the Department of Budget and Management (DBM).

SEC. 5. *Free TVET in Post-Secondary TVIs.* – All Filipino students who are currently enrolled at the time of the effectivity of this Act, or shall enroll at any time thereafter, in any post-secondary TVET leading to nondegree certificate or diploma programs offered by any state-run TVI under the TESDA shall be exempt from paying tuition and other school fees; *Provided,* That all state-run TVIs shall create a mechanism to enable students with the financial capacity to pay for their education in the TVI to voluntarily opt out of the tuition and other school fees subsidy or make a contribution to the TVI. TVIs must report the tuition payments and contributions collected from these students.

The amount required to implement the free tuition and other school fees in state-run TVIs shall be determined by the governing board of the TESDA based on the projected number of enrollees for each course, which shall be the primary factor in computing for the annual proposed budget of the TESDA for such purpose. This shall in turn serve as the baseline during the preparation of the annual NEP by the DBM.

SEC. 6. *Exceptions to Free Tertiary Education.* – The following students are ineligible to avail of the free tertiary education:

(a) In SUCs and LUCs:

(1) Students who have already attained a bachelor's degree or comparable undergraduate degree from any HEI, whether public or private;

(2) Students who fail to comply with the admission and retention policies of the SUC or LUC;

(3) Students who fail to complete their bachelor's degree or comparable undergraduate degree within a year after the period prescribed in their program; and

(b) In State-Run TVIs:

(1) Students who have obtained a bachelor's degree, as well as those who have received a certificate or diploma for a technical-vocational course equivalent to at least National Certificate III and above;

(2) Students who fail in any course enrolled in during the course of the program.

Students ineligible to avail of the free tertiary education shall be charged the tuition and other school fees, as determined by the respective boards of the SUCs and LUCs, and in the case of the state-run TVIs, to be determined by the TESDA.

SEC. 7. *TES for Filipino Students.* – To support the cost of tertiary education or any part or portion thereof, a TES is hereby established for all Filipino students who shall enroll in undergraduate post-secondary programs of SUCs, LUCs, private HEIs and all TVIs. The TES shall be administered by the UniFAST Board and the amount necessary to fund the TES shall be included in the budgets of the CHED and the TESDA; *Provided,* That prioritization shall be given to students in the following order: (a) students who are part of households included in the *Listahanan 2.0*, ranked according to the estimated per capita household income; and (b) students not part of the *Listahanan 2.0*, ranked according to estimated per capita household income based on submitted documentation of proof of income to be determined by the UniFAST Board; *Provided, further,* That such prioritization shall not apply to Filipino students in cities and municipalities with no existing SUC or LUC campus.

The TES may, among others, and to support the cost of tertiary education or any part or portion thereof, cover the following:

(a) Tuition and other school fees in private HEIs, and private or LGU-operated TVIs, which shall be equivalent to the tuition and other school fees of the nearest SUC or state-run TVI in their respective areas;

(b) An allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer or laptop, and other education-related expenses:

(c) An allowance for room and board costs incurred by the student;

(d) For a student with a disability, an allowance for expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred; and

(e) For a student in a program requiring professional license or certification, the one (1)-time cost of obtaining the first professional credentials or qualifications, which may include the following: application fees, notarial fees, review classes fees, insurance premium fees and documentation fees: *Provided*, That the amount of subsidy shall be based on the guidelines set forth by the UniFAST Board and on the annual budgetary appropriation for this purpose.

SEC. 8. *Student Loan Program for Tertiary Education.*

– To support further the cost of tertiary education or any part or portion thereof, a student loan program for tertiary education is hereby likewise established for all Filipino students who shall enroll in a SUC, LUC, private HEI and TVET program in all TVIs registered under the TESDA. The loan program shall be administered by the UniFAST Board and the amount necessary to fund the program shall be included in the budgets of the CHED and the TESDA: *Provided*, That the UniFAST may offer short-term or long-term loans: *Provided, further*, That those who availed of the loan during their undergraduate degree may still avail of another cycle of student loan for their pursuit of graduate studies, including medicine and law after they have fully paid the previously availed loan: *Provided, furthermore*, That those who did not avail of the loan program during their undergraduate studies may avail of it to pursue graduate studies including medicine and law: *Provided, finally*, That those who did not avail of the loan

program during their undergraduate studies may avail of the loan program for their review expenses for licensure examinations administered by the Professional Regulation Commission (PRC).

Repayment shall be effected by incorporating a portion of the loan amount or a percentage thereof in the employee's monthly Social Security System (SSS) or Government Service Insurance System (GSIS) contribution, as the case may be, based on a reasonable schedule of repayment and interest rates, as may be formulated by the UniFAST Board.

Payment of the loan amount will commence once the beneficiary secures any gainful employment with compensation, remuneration or earnings that reaches the Compulsory Repayment Threshold (CRT). For purposes of this Act, the CRT shall be set and reviewed by the UniFAST Board, and adjusted when necessary.

The UniFAST Board, in consultation with relevant agencies, shall formulate loan repayment guidelines for loan beneficiaries whose earnings are not covered by the GSIS or the SSS programs, including those of overseas Filipino workers (OFWs), emigrants, and self-employed persons and professionals (SEPs).

SEC. 9. *Requirements for SUCs and LUCs.* – SUCs and LUCs are hereby mandated to:

(a) Establish a learner information system in accordance with the guidelines to be developed by the CHED in order to facilitate the tracking of students and their performance;

(b) Submit relevant information as determined by the CHED on school quality and performance; and

(c) Formulate and submit to the CHED and to the Joint Congressional Oversight Committee on Universal Access to Tertiary Education created under Section 17 of this Act, a detailed SUC development plan updated every ten (10) years.

which shall include plans for facilities and infrastructure development and expansion.

SEC. 10. *Quality Standards for SUC and LUC Budgets, TES and Student Loan Programs.* – The CHED and the TESDA shall ensure quality standards in the review and consequent endorsement of the budget of the SUCs, LUCs and state-run TVIs, respectively. The detailed design of the TES and student loan programs shall also be subject to similar quality indicators defined by the UniFAST Board.

SEC. 11. *Prohibited Act.* – Upon effectivity of this Act, it shall be unlawful for any person, SUC, LUC and state-run TVI to collect tuition and other school fees from qualified students: *Provided*, That this section shall not apply to collections from students who voluntarily opt out of the tuition and other school fees subsidy or make a contribution to the school.

SEC. 12. *Penalties.* – A violation of the prohibited act under Section 11 of this Act shall be meted a penalty of imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than Twenty thousand pesos (P20,000.00) but not more than One hundred thousand pesos (P100,000.00), or both, at the discretion of the court. In case of a university, college or any other juridical entity, the penalty shall be imposed on the president, treasurer or the officer or person responsible for the violation.

SEC. 13. *Expansion of the UniFAST Board.* – The UniFAST Board shall be expanded to include the following:

(a) President of the Philippine Association of State Universities and Colleges as Member;

(b) Chairman of the Coordinating Council of Private Educational Associations as Member;

(c) President of the Association of Local Colleges and Universities as Member;

(d) President of the GSIS as a nonvoting Member; and

(e) President of the SSS as a nonvoting Member.

The UniFAST Board is authorized to establish an enhanced organizational structure, staff development and incentives and such other administrative measures needed for the efficient discharge of tasks and commensurate to the level and scope of its responsibilities. It may tap the expertise and management services of eligible service providers subject to the appropriate guidelines promulgated by the UniFAST Board.

SEC. 14. *Reporting Requirements.* – All SUCs, LUCs and state-run TVIs shall submit to the CHED and the TESDA, respectively, within five (5) days after the last day of late registration for each semester, a report detailing the names of students eligible for the free tuition and other school fees in their institutions.

SEC. 15. *Appropriations.* – The amounts necessary to carry out the provisions of this Act, specifically Sections 4, 5, 7 and 8 shall be included in the annual General Appropriations Act (GAA) and shall be appropriated under SUCs, CHED and TESDA in accordance with the provisions of this Act: *Provided*, That an amount equivalent to not more than three percent (3%) of the TES and student loan program for tertiary education provided under this Act may be used as administrative cost under the UniFAST.

SEC. 16. *Other Sources of Funds.* – The national government is hereby authorized to prioritize funding this measure in negotiating and utilizing long-term deeply concessional official development assistance (ODA). Other sources of funds such as grants, donations, collections, and other forms of assistance from local and foreign donors or other public or private entities, and other private domestic and international sources may be tapped and facilitated by the UniFAST Board to support the programs under this Act, subject to the regular auditing guidelines and procedures:

Provided, That in case of donations from foreign sources, acceptance thereof shall be subject to existing government rules and regulations.

SEC. 17. *Joint Congressional Oversight Committee on Universal Access to Tertiary Education.* – There is hereby created a Joint Congressional Oversight Committee to oversee, monitor and evaluate the implementation of this Act.

The Oversight Committee shall be composed of five (5) members each from the Senate and from the House of Representatives, and shall include the following: Chairperson of the Senate Committee on Education, Arts and Culture; Chairperson of the House Committee on Higher and Technical Education; Chairperson of the Senate Committee on Finance; Chairperson of the House Committee on Appropriations; and three (3) members each to be chosen from the membership of the Senate Committee on Education, Arts and Culture and the House Committee on Higher and Technical Education by the Senate President and the House Speaker, respectively, with at least one (1) member each from the minority in the House of Representatives and in the Senate. Funding for the expenses of the Committee shall be taken from the appropriations of both the Senate and the House of Representatives.

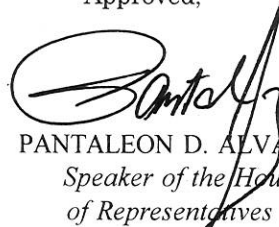
SEC. 18. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the UniFAST Board, in consultation with the CHED, the TESDA, and other relevant stakeholders in higher and technical education, shall promulgate the implementing rules and regulations necessary to ensure the efficient and effective implementation of this Act: *Provided*, That the failure of the Board to promulgate the said rules and regulations shall not prevent or delay the effectivity and implementation of this Act in accordance with Section 21 hereof.


SEC. 19. *Separability Clause.* – Should any part of this Act be declared unconstitutional or invalid, the other parts or provisions hereof not affected thereby shall continue to be in full force and effect.

SEC. 20. *Repealing Clause.* – All laws, executive orders, presidential decrees, implementing rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.


SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.


Approved,


PANTALEON D. ALVAREZ
*Speaker of the House
of Representatives*


AQUILINO "KOKO" PIMENTEL III
President of the Senate

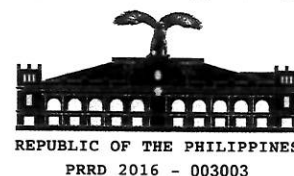
This Act which is a consolidation of Senate Bill No. 1304 and House Bill No. 5633 was finally passed by the Senate and the House of Representatives on May 30, 2017 and May 29, 2017, respectively.


CESAR STRAIT PAREJA
*Secretary General
House of Representatives*


LUTGARDO B. BARBO
Secretary of the Senate

Approved: AUG 03 2017


RODRIGO ROA DUTERTE
President of the Philippines



REPUBLIC ACT NO. 7277

AN ACT PROVIDING FOR THE REHABILITATION, SELF-DEVELOPMENT AND SELF-RELIANCE OF DISABLED PERSONS AND THEIR INTEGRATION INTO THE MAINSTREAM OF SOCIETY AND FOR OTHER PURPOSES.

TITLE I
GENERAL PROVISIONS

CHAPTER I
BASIC PRINCIPLE

Section 1. Title. — This Act shall be known and cited as the "*Magna Carta for Disabled Persons.*"

Sec. 2. Declaration of Policy — The grant of the rights and privileges for disabled persons shall be guided by the following principles:

(a) Disabled persons are part of Philippine society, thus the State shall give full support to the improvement of the total well-being of disabled persons and their integration into the mainstream of society. Toward this end, the State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons. It shall develop their skills and potentials to enable them to compete favorably for available opportunities.

(b) Disabled persons have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone — the family, community and all government and nongovernment organizations. Disabled persons' rights must never be perceived as welfare services by the Government.

(c) The rehabilitation of the disabled persons shall be the concern of the Government in order to foster their capacity to attain a more meaningful, productive and satisfying life. To reach out to a greater number of disabled persons, the rehabilitation services and benefits shall be expanded beyond the traditional urban-based centers to community based programs, that will ensure full participation of different sectors as supported by national and local government agencies.

(d) The State also recognizes the role of the private sector in promoting the welfare of disabled persons and shall encourage partnership in programs that address their needs and concerns.

(e) To facilitate integration of disabled persons into the mainstream of society, the State shall advocate for and encourage respect for disabled persons. The State shall exert all

efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to disabled persons.

Sec. 3. Coverage. — This Act shall cover all disabled persons and, to the extent herein provided, departments, offices and agencies of the National Government or nongovernment organizations involved in the attainment of the objectives of this Act.

Sec. 4. Definition of Terms. — For purposes of this Act, these terms are defined as follows:

(a) Disabled persons are those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

(b) Impairment is any loss, diminution or aberration of psychological, physiological, or anatomical structure or function;

(c) Disability shall mean 1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; 2) a record of such an impairment; or 3) being regarded as having such an impairment;

(d) Handicap refers to a disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the function or activity, that is considered normal given the age and sex of the individual;

(e) Rehabilitation is an integrated approach to physical, social, cultural, spiritual, educational and vocational measures that create conditions for the individual to attain the highest possible level of functional ability;

(f) Social Barriers refer to the characteristics of institutions, whether legal, economic, cultural, recreational or other, any human group, community, or society which limit the fullest possible participation of disabled persons in the life of the group. Social barriers include negative attitudes which tend to single out and exclude disabled persons and which distort roles and inter-personal relationships;

(g) Auxiliary Aids and Services include:

(1) qualified interpreters or other effective methods of delivering materials to individuals with hearing impairments;

(2) qualified readers, taped tests, or other effective methods of delivering materials to individuals with visual impairments;

(3) acquisition or modification of equipment or devices; and

(4) other similar services and actions or all types of aids and services that facilitate the learning process of people with mental disability.

(h) Reasonable Accommodation include 1) improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and 2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provision of auxiliary aids and services, and other similar accommodations for disabled persons;

(i) Sheltered Employment refers to the provision of productive work for disabled persons through workshops providing special facilities, income-producing projects or homework schemes with a view to giving them the opportunity to earn a living thus enabling them to acquire a working capacity required in open industry;

(j) Auxiliary Social Services are the supportive activities in the delivery of social services to the marginalized sectors of society;

(k) Marginalized Disabled Persons refer to disabled persons who lack access to rehabilitative services and opportunities to be able to participate fully in socioeconomic activities and who have no means of livelihood and whose incomes fall below the poverty threshold;

(l) Qualified Individual with a Disability shall mean an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. However, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job;

(m) Readily Achievable means a goal can be easily attained and carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include —

(1) the nature and cost of the action;

(2) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(3) the overall financial resources of the covered entity with respect to the number of its employees; the number, type and location of its facilities; and

(4) the type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity; the geographic separateness,

administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(n) Public Transportation means transportation by air, land and sea that provides the public with general or special service on a regular and continuing basis;

(o) Covered Entity means an employer, employment agency, labor organization or joint-labor management committee; and

(p) Commerce shall be taken to mean as travel, trade, traffic, commerce, transportation, or communication among the provinces or between any foreign country or any territory or possession and any province.

TITLE II RIGHTS AND PRIVILEGES OF DISABLED PERSONS

CHAPTER I EMPLOYMENT

Sec. 5. Equal Opportunity for Employment. — No disable person shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able bodied person.

Five percent (5%) of all casual emergency and contractual positions in the Departments of Social Welfare and Development; Health; Education, Culture and Sports; and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.

Sec. 6. Sheltered Employment — If suitable employment for disabled persons cannot be found through open employment as provided in the immediately preceding Section, the State shall endeavor to provide it by means of sheltered employment. In the placement of disabled persons in sheltered employment, it shall accord due regard to the individual qualities, vocational goals and inclinations to ensure a good working atmosphere and efficient production.

Sec. 7. Apprenticeship. — Subject to the provisions of the Labor Code as amended, disabled persons shall be eligible as apprentices or learners: Provided, That their handicap is not as much as to effectively impede the performance of job operations in the particular occupation for which they are hired; Provided, further, That after the lapse of the period of apprenticeship, if found satisfactory in the job performance, they shall be eligible for employment.

Sec. 8. Incentives for Employers. — (a) To encourage the active participation of the private sector in promoting the welfare of disabled persons and to ensure gainful employment for qualified disabled persons, adequate incentives shall be provided to private entities which employ disabled persons.

(b) Private entities that employ disabled persons who meet the required skills or qualifications, either as regular employee, apprentice or learner, shall be entitled to an additional deduction, from their gross income, equivalent to twenty-five percent (25%) of the total amount paid as salaries and wages to disabled persons: Provided, however, That such entities present proof as certified by the Department of Labor and Employment that disabled persons are under their employ: Provided, further, That the disabled employee is accredited with the Department of Labor and Employment and the Department of Health as to his disability, skills and qualifications.

(c) Private entities that improve or modify their physical facilities in order to provide reasonable accommodation for disabled persons shall also be entitled to an additional deduction from their net taxable income, equivalent to fifty percent (50%) of the direct costs of the improvements or modifications. This Section, however, does not apply to improvements or modifications of facilities required under Batas Pambansa Bilang 344.

Sec. 9. Vocational Rehabilitation. — Consistent with the principle of equal opportunity for disabled workers and workers in general, the State shall take appropriate vocational rehabilitation measures that shall serve to develop the skills and potentials of disabled persons and enable them to compete favorably for available productive and remunerative employment opportunities in the labor market.

The State shall also take measures to ensure the provision of vocational rehabilitation and livelihood services for disabled persons in the rural areas. In addition, it shall promote cooperation and coordination between the government and nongovernmental organizations and other private entities engaged in vocational rehabilitation activities.

The Department of Social Welfare and Development shall design and implement training programs that will provide disabled persons with vocational skills to enable them to engage in livelihood activities or obtain gainful employment. The Department of Labor and Employment shall likewise design and conduct training programs geared towards providing disabled persons with skills for livelihood.

Sec. 10. Vocational Guidance and Counseling. — The Department of Social and Welfare and Development, shall implement measures providing and evaluating vocational guidance and counseling to enable disabled persons to secure, retain and advance in employment. It shall ensure the availability and training of counselors and other suitably qualified staff responsible for the vocational guidance and counseling of disabled persons.

Sec. 11. Implementing Rules and Regulations. — The Department of Labor and Employment shall in coordination with the Department of Social Welfare and Development (DSWD) and National Council for the Welfare of the Disabled Persons (NCWDP) shall promulgate the rules and regulations necessary to implement the provisions under this Chapter.

CHAPTER II EDUCATION

Sec. 12. Access to Quality Education. — The State shall ensure that disabled persons are provided with access to quality education and ample opportunities to develop their skills. It shall take appropriate steps to make such education accessible to all disabled persons. It shall be unlawful for any learning institution to deny a disabled person admission to any course it offers by reason of handicap or disability.

The State shall take into consideration the special requirements of disabled persons in the formulation of educational policies and programs. It shall encourage learning institutions to take into account the special needs of disabled persons with respect to the use of school facilities, class schedules, physical education requirements, and other pertinent consideration.

The State shall also promote the provision by learning institutions, especially higher learning institutions of auxiliary services that will facilitate the learning process for disabled persons.

Sec. 13. Assistance to Disabled Students. — The State shall provide financial assistance to economically marginalized but deserving disabled students pursuing post secondary or tertiary education. Such assistance may be in the form of scholarship grants, student loan programs, subsidies, and other incentives to qualified disabled students in both public and private schools. At least five percent (5%) of the allocation for the Private Education Student Financial Assistance Program created by virtue of R.A. 6725 shall be set aside for disabled students pursuing vocational or technical and degree courses.

Sec. 14. Special Education. — The State shall establish, maintain and support complete, adequate and integrated system of special education for the visually impaired, hearing impaired, mentally retarded persons and other types of exceptional children in all regions of the country. Toward this end, the Department of Education, Culture and Sports shall establish, special education classes in public schools in cities, or municipalities. It shall also establish, where viable, Braille and Record Libraries in provinces, cities or municipalities.

The National Government shall allocate funds necessary for the effective implementation of the special education program nationwide. Local government units may likewise appropriate counterpart funds to supplement national funds.

Sec. 15. Vocational or Technical and Other Training Programs. — The State shall provide disabled persons with training in civics, vocational efficiency, sports and physical fitness, and other skills. The Department of Education, Culture and Sports shall establish in at least one government-owned vocational and technical school in every province a special vocational and technical training program for disabled persons. It shall develop and implement sports and physical fitness programs specifically designed for disabled persons taking into consideration the nature of their handicap.

Sec. 16. Non-Formal Education. — The State shall develop non-formal education programs intended for the total human development of disabled persons. It shall provide adequate resources for non-formal education programs and projects that cater to the special needs of disabled persons.

Sec. 17. State Universities and Colleges. — If viable and needed, the State University or State College in each region or province shall be responsible for (a) the development of material appliances and technical aids for disabled persons; (b) the development of training materials for vocational rehabilitation and special education instructions; (c) the research on special problems, particularly of the visually-impaired, hearing-impaired, speech-impaired, and orthopedically-impaired students, mentally retarded, and multi-handicapped and others, and the elimination of social barriers and discrimination against disabled persons; and (d) inclusion of the Special Education for Disabled (SPED) course in the curriculum.

The National Government shall provide these state universities and colleges with necessary special facilities for visually-impaired, hearing-impaired, speech-impaired, and orthopedically-impaired students. It shall likewise allocate the necessary funds in support of the above.

CHAPTER III HEALTH

Sec. 18. National Health Program. — The Department of Health in coordination with the National Council for the Welfare of Disabled Persons, shall institute a national health program which shall aim to attain the following:

- (a) prevention of disability, whether occurring prenatally or postnatally;
- (b) recognition and early diagnosis of disability; and
- (c) early rehabilitation of the disabled.

Sec. 19. Rehabilitation Centers. — The Department of Health shall establish medical rehabilitation centers in government provincial hospitals, and shall include in its annual appropriation the necessary funds for the operation of such centers.

The Department of Health shall formulate and implement a program to enable marginalized disabled persons to avail of free rehabilitation services in government hospitals.

Sec. 20. Health Services. — The State shall protect and promote the right to health of disabled persons and shall adopt an integrated and comprehensive approach to their health development which shall make essential health services available to them at affordable cost.

The National Government shall provide an integrated health service for disabled persons which shall include, but not limited to, the following:

(a) prevention of disability through immunization, nutrition, environmental protection and preservation, and genetic counseling; and early detection of disability and timely intervention to arrest disabling condition; and

(b) medical treatment and rehabilitation.

The Department of Health shall field medical personnel specializing in the treatment and rehabilitation of disabled persons to provincial hospitals and, when viable, to municipal health centers. It shall also train its field health personnel in the provision of medical attention to disabled persons. It shall further ensure that its field health units have the necessary capabilities to fit prosthetic and orthotic appliances on disabled persons.

CHAPTER IV AUXILIARY SOCIAL SERVICES

Sec. 21. Auxiliary Social Services. — The State shall ensure that marginalized persons are provided with the necessary auxiliary services that will restore their social functioning and participation in community affairs. Towards this end, the Department of Social Welfare and Development shall develop and implement programs on auxiliary social services that respond to the needs of marginalized disabled persons. The components of such a program shall be as follows:

(a) assistance in the acquisition of prosthetic devices and medical intervention of specialty services;

(b) provision of specialized training activities designed to improve functional limitations of disabled persons related to communication skills;

(c) development among disabled persons of a positive self-image through the provision of counseling, orientation and mobility and strengthening daily living capability;

(d) provision of family care services geared towards developing the capability of families to respond to the needs of the disabled members of the family;

(e) provision of substitute family care services and the facilities therefor for abandoned, neglected, abused and unattached disabled persons who need custodial care;

(f) provision of after care and follow-up services for the continued rehabilitation in a community-based setting of disabled persons who were released from residential care or rehabilitation centers; and

(g) provision of day care services for disabled children of pre-school age.

CHAPTER V TELECOMMUNICATIONS

Sec. 22. Broadcast Media. — Television stations shall be encouraged to provide a sign—language inset or subtitles in at least one (1) newscast program a day and special programs covering events of national significance.

Sec. 23. Telephone Services. — All telephone companies shall be encouraged to install special telephone devices or units for the hearing-impaired and ensure that they are commercially available to enable them to communicate through the telephone system.

Sec. 24. Free Postal Charges for the Disabled. — Postal charges shall be free on the following:

(a) articles and literatures like books and periodicals, orthopedic and other devices, and teaching aids for the use of the disabled sent by mail within the Philippines and abroad; and

(b) aids and orthopedic devices for the disabled sent by abroad by mail for repair:

Provided, That the aforesaid items are for personal purposes only: Provided, further, That the disabled person is a marginalized disabled as certified by the Social Welfare and Development Office of the local government unit concerned or the Department of Social Welfare and Development.

CHAPTER VI ACCESSIBILITY

Sec. 25. Barrier-Free Environment. — The State shall ensure the attainment of a barrier-free environment that will enable disabled persons to have access in public and private buildings and establishments and such other places mentioned in Batas Pambansa Bilang 344, otherwise known as the "Accessibility Law".

The national and local governments shall allocate funds for the provision of architectural facilities or structural features for disabled persons in government buildings and facilities.

Sec. 26. Mobility. — The State shall promote the mobility of disabled persons. Disabled persons shall be allowed to drive motor vehicles, subject to the rules and regulations issued by the Land Transportation Office pertinent to the nature of their disability and the appropriate adaptations or modifications made on such vehicles.

Sec. 27. Access to Public Transport Facilities. — The Department of Social Welfare and Development shall develop a program to assist marginalized disabled persons gain access in the use of public transport facilities. Such assistance may be in the form of subsidized transportation fare.

The said department shall also allocate such funds as may be necessary for the effective implementation of the public transport program for the disabled persons.

The "Accessibility Law", as amended, shall be made suppletory to this Act.

Sec. 28. Implementing Rules and Regulations. — The Department of Transportation and Communications shall formulate the rules and regulations necessary to implement the provisions of this Chapter.

CHAPTER VII POLITICAL AND CIVIL RIGHTS

Sec. 29. System of Voting. — Disabled persons shall be allowed to be assisted by a person of his choice in voting in the national or local elections. The person thus chosen shall prepare the ballot for the disabled voter inside the voting booth. The person assisting shall bind himself in a formal document under oath to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him. Violation of this provision shall constitute an election offense. Polling places should be made accessible to disabled persons during national or local elections.

Sec. 30. Right to Assemble. — Consistent with the provisions of the Constitution, the State shall recognize the right of disabled persons to participate in processions, rallies, parades, demonstrations, public meetings, and assemblages or other forms of mass or concerned action held in public.

Sec. 31. Right to Organize. — The State recognizes the right of disabled persons to form organizations or associations that promote their welfare and advance or safeguard their interests. The National Government, through its agencies, instrumentalities and subdivisions, shall assist disabled persons in establishing self-help organizations by providing them with necessary technical and financial assistance.

Concerned government agencies and offices shall establish close linkages with organizations of the disabled persons in order to respond expeditiously to the needs of disabled persons. National line agencies and local government units shall assist disabled persons in setting up specific projects that will be managed like business propositions.

To ensure the active participation of disabled persons in the social and economic development of the country, their organizations shall be encouraged to participate in the planning, organization and management of government programs and projects for disabled persons.

Organizations of disabled persons shall participate in the identification and preparation of programs that shall serve to develop employment opportunities for the disabled persons.

TITLE III
PROHIBITION ON DISCRIMINATION AGAINST DISABLED PERSONS

CHAPTER I
DISCRIMINATION ON EMPLOYMENT

Sec. 32. Discrimination on Employment. — No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. The following constitute acts of discrimination:

(a) Limiting, segregating or classifying a disabled job applicant in such a manner that adversely affects his work opportunities;

(b) Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out a disabled person unless such standards, tests or other selection criteria are shown to be job-related for the position in question and are consistent with business necessity;

(c) Utilizing standards, criteria, or methods of administration that:

(1) have the effect of discrimination on the basis of disability; or

(2) perpetuate the discrimination of others who are subject to common administrative control.

(d) Providing less compensation, such as salary, wage or other forms of remuneration and fringe benefits, to a qualified disabled employee, by reason of his disability, than the amount to which a non-disabled person performing the same work is entitled;

(e) Favoring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;

(f) Re-assigning or transferring a disabled employee to a job or position he cannot perform by reason of his disability;

(g) Dismissing or terminating the services of a disabled employee by reason of his disability unless the employer can prove that he impairs the satisfactory performance of the work involved to the prejudice of the business entity: Provided, however, That the employer first sought to provide reasonable accommodations for disabled persons;

(h) Failing to select or administer in the most effective manner employment tests which accurately reflect the skills, aptitude or other factor of the disabled applicant or

employee that such tests purports to measure, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and

(i) Excluding disabled persons from membership in labor unions or similar organizations.

Sec. 33. Employment Entrance Examination. — Upon an offer of employment, a disabled applicant may be subjected to medical examination, on the following occasions:

(a) all entering employees are subjected to such an examination regardless of disability;

(b) information obtained during the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record; Provided, however, That:

(1) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employees and necessary accommodations;

(2) first aid and safety personnel may be informed, when appropriate, if the disability may require emergency treatment;

(3) government officials investigating compliance with this Act shall be provided relevant information on request; and

(4) the results of such examination are used only in accordance with this Act.

CHAPTER II DISCRIMINATION ON TRANSPORTATION

Sec. 34. Public Transportation. — It shall be considered discrimination for the franchisees or operators and personnel of sea, land, and air transportation facilities to charge higher fare or to refuse to convey a passenger, his orthopedic devices, personal effects, and merchandise by reason of his disability.

CHAPTER III DISCRIMINATION ON THE USE OF PUBLIC ACCOMMODATIONS AND SERVICES

Sec. 35. Public Accommodations and Services. — For purposes of this Chapter, public accommodations and services shall include the following:

(a) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five (5) rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(b) a restaurant, bar, or other establishment serving food or drink;

(c) a motion picture, theater, concert hall, stadium, or other place of exhibition or entertainment;

(d) an auditorium, convention center, lecture hall, or other place of public gathering;

(e) a bakery, grocery store, hardware store, shopping center, or other sales or rental establishment;

(f) a bank, barber shop, beauty shop, travel service, funeral parlor, gas station, office of a lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;

(g) a terminal, depot, or other station used for specified public transportation;

(h) a museum, gallery, library or other place of public display or collection;

(i) a park, zoo, amusement park, or other place of recreation;

(j) a nursery, elementary, secondary, undergraduate, or post-graduate private school, or other place of education;

(k) a gymnasium, health spa, bowling alley, golf course; or

(l) other place of exercise or recreation.

Sec. 36. Discrimination on the Use of Public Accommodations. — (a) No disabled person shall be discriminated on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. The following constitute acts of discrimination:

(1) denying a disabled person, directly or through contractual, licensing, or other arrangement, the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity by reason of his disability;

(2) affording a disabled person, on the basis of his disability, directly or through contractual, licensing, or other arrangement, with the opportunity to participate in or benefit from a good service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other able-bodied persons; and

(3) providing a disabled person, on the basis of his disability, directly or through contractual, licensing, or other arrangement, with a good, service, facility, advantage, privilege, or accommodation that is different or separate form that provided to other able-bodied persons unless such action is necessary to provide the disabled person with a good, service, facility, advantage, privilege, or accommodation, or other opportunity that is as effective as that provided to others;

For purposes of this Section, the term "individuals or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(b) Integrated Settings — Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to individual with a disability in the most integrated setting appropriate to the needs of the individual.

(c) Opportunity to Participate — Notwithstanding the existence of separate or different programs or activities provided in accordance with this Section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(d) Association — It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, advantages, privileges, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(e) Prohibitions — For purposes of this Section, the following shall be considered as discriminatory:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class or individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, or accommodations being offered;

(2) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the goods, facilities, services, privileges, advantages, or accommodations;

(3) failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in undue burden;

(4) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, where such removal is readily achievable; and

(5) where an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

Sec. 37. Use of Government Recreational or Sports Centers Free of Charge. — Recreational or sports centers owned or operated by the Government shall be used, free of charge, by marginalized disabled persons during their social, sports or recreational activities.

Sec. 38. Implementing Rules and Regulations. — The Department of Public Works and Highways shall formulate the rules and regulations necessary to implement the provisions of this Chapter.

TITLE IV FINAL PROVISIONS

Sec. 39. Housing Program. — The National Government shall take into consideration in its national shelter program the special housing requirements of disabled persons.

Sec. 40. Role of National Agencies and Local Government Units. — Local government units shall promote the establishment of organizations of disabled persons in their respective territorial jurisdictions. National agencies and local government units may enter into joint ventures with organizations or associations of disabled persons to explore livelihood opportunities and other undertakings that shall enhance the health, physical fitness and the economic and social well-being of disabled persons.

Sec. 41. Support From Nongovernment Organizations. — Nongovernment organizations or private volunteer organizations dedicated to the purpose of promoting and enhancing the welfare of disabled persons shall, as they, are hereby encouraged, become partners of the Government in the implementation of vocational rehabilitation measures and other related programs and projects. Accordingly, their participation in the implementation of said measures, programs and projects is to be extended all possible support by the Government.

The Government shall sponsor a volunteer service program which shall harness the involvement of private individuals in the provision of assistance to disabled persons.

Sec. 42. Tax Incentives. — (a) Any donation, bequest, subsidy or financial aid which may be made to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be exempt from the donor's tax subject to the provisions of Section 94 of the National Internal Revenue Code (NIRC), as amended and shall be allowed as deductions from the donor's gross income for purposes of computing the taxable income subject to the provisions of Section 29 (h) of the Code.

(b) Donations from foreign countries shall be exempt from taxes and duties on importation subject to the provisions of Section 105 of the Tariff and Customs Code of the Philippines, as amended, Section 103 of the NIRC, as amended and other relevant laws and international agreements.

(c) Local manufacturing or technical aids and appliances used by disabled persons shall be considered as a preferred area of investment subject to the provisions of Executive

Order No. 226 otherwise known as the "Omnibus Investments Code of 1987" and, as such, shall enjoy the rights, privileges and incentives as provided in said Code such as, but not limited, to the following:

- (1) repatriation of investments;
- (2) remittance of earnings;
- (3) remittance of payments on foreign contracts;
- (4) freedom from expropriations;
- (5) freedom from requisition of investment;
- (6) income tax holiday;
- (7) additional deduction for labor expense;
- (8) tax and duty exemption on imported capital equipment;
- (9) tax credit on domestic capital equipment;
- (10) exemption from contractor's tax;
- (11) simplification of customs procedures;
- (12) unrestricted use of consigned equipment;
- (13) employment of foreign nationals;
- (14) tax credit for taxes and duties on raw materials;
- (15) access to bonded manufacturing/traded warehouse system;
- (16) exemption from taxes and duties on imported spare parts; and
- (17) exemption from wharfage dues and any export tax, duty, impost and fee.

Sec. 43. Continuity Clause. — Should any department or agency tasked with the enforcement or formulation of rules and regulations and guidelines for implementation of any provision of this Act is abolished, merged with another department or agency or modified, such shall not affect the enforcement or formulation of rules, regulations and guidelines for implementation of this Act to the effect that —

(a) In case of abolition, the department or agency established to replace the abolished department or agency shall take-over the functions under this Act of the abolished department or agency.

(b) In case the department or agency tasked with the enforcement or formulation of rules, regulations and guidelines for implementation of this Act is merged with another department or agency, the former shall continue the functions under this Act of the merged department or agency.

(c) In case of modification, the department or agency modified shall continue the functions under this Act of the department or agency that has undergone the modification.

Sec. 44. Enforcement by the Secretary of Justice. —

(a) Denial of Right

(1) Duty to Investigate — the Secretary of Justice shall investigate alleged violations of this Act, and shall undertake periodic reviews of compliance of covered entities under this Act.

(b) Potential Violations — If the Secretary of Justice has reasonable cause to believe that —

(1) any person or group of persons is engaged in a pattern or practice of discrimination under this Act; or

(2) any person or group or persons has been discriminated against under this Act and such discrimination raises an issue of general public importance, the Secretary of Justice may commence a legal action in any appropriate court.

Sec. 45. Authority of Court. — The court may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this Act:

(a) granting temporary, preliminary or permanent relief;

(b) providing an auxiliary aid or service, modification of policy, practice or procedure, or alternative method; and

(c) making facilities readily accessible to and usable by individuals with disabilities.

Sec. 46. Penal Clause. — (a) Any person who violates any provision of this Act shall suffer the following penalties:

(1) for the first violation, a fine of not less than Fifty thousand pesos (P50,000.00) but not exceeding One hundred thousand pesos (P100,000.00) or imprisonment of not less than six (6) months but not more than two (2) years, or both at the discretion of the court; and

(2) for any subsequent violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not exceeding Two hundred thousand pesos

(P200,000.00) or imprisonment for not less than two (2) years but not more than six (6) years, or both at the discretion of the court.

(b) Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six (6) months or a fine of not less than Five thousand pesos (P5,000.00), but not more than Fifty thousand pesos (P50,000.00), or both, at the discretion of the court.

(c) If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefor.

(d) If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.

Sec. 47. Appropriations. — The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Sec. 48. Separability Clause. — Should any provisions of this Act be found unconstitutional by a court of law, such provisions shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of this Act.

Sec. 49. Repealing Clause. — All laws, presidential decrees, executive orders and rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 50. Effectivity. — This Act shall take effect fifteen (15) days after its publication in any two (2) newspapers of general circulation.

Approved: March 24, 1992

Republic of the Philippines

Congress of the Philippines

Metro Manila

Fourteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eight day of July, two thousand eight.



[REPUBLIC ACT NO. 9710]

AN ACT PROVIDING FOR THE MAGNA CARTA OF WOMEN

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER 1 GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as “The Magna Carta of Women”.

SEC. 2. *Declaration of Policy.* - Recognizing that the economic, political, and sociocultural realities affect women’s current condition, the State affirms the role of women in nation building and ensures the substantive equality of women and men. It shall promote empowerment of women and pursue equal opportunities for women and men and ensure equal access to resources and to development results and outcome. Further, the State realizes that equality of men and women entails the abolition of the unequal structures

and practices that perpetuate discrimination and inequality. To realize this, the State shall endeavor to develop plans, policies, programs, measures, and mechanisms to address discrimination and inequality in the economic, political, social, and cultural life of women and men.

The State condemns discrimination against women in all its forms and pursues by all appropriate means and without delay the policy of eliminating discrimination against women in keeping with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international instruments consistent with Philippine law. The State shall accord women the rights, protection, and opportunities available to every member of society.

The State affirms women's rights as human rights and shall intensify its efforts to fulfill its duties under international and domestic law to recognize, respect, protect, fulfill, and promote all human rights and fundamental freedoms of women, especially marginalized women, in the economic, social, political, cultural, and other fields without distinction or discrimination on account of class, age, sex, gender, language, ethnicity, religion, ideology, disability, education, and status.

The State shall provide the necessary mechanisms to enforce women's rights and adopt and undertake all legal measures necessary to foster and promote the equal opportunity for women to participate in and contribute to the development of the political, economic, social, and cultural realms. The State, in ensuring the full integration of women's concerns in the mainstream of development, shall provide ample opportunities to enhance and develop their skills, acquire productive employment and contribute to their families and communities to the fullest of their capabilities.

In pursuance of this policy, the State reaffirms the right of women in all sectors to participate in policy formulation, planning, organization, implementation, management, monitoring, and evaluation of all programs, projects, and services. It shall support policies, researches, technology, and training programs and other support services such as financing, production, and marketing to encourage active participation of women in national development.

SEC. 3. *Principles of Human Rights of Women.* – Human rights are universal and inalienable. All people in the world are entitled to them.

The universality of human rights is encompassed in the words of Article 1 of the Universal Declaration of Human Rights, which states that all human beings are free and equal in dignity and rights.

Human rights are indivisible. Human rights are inherent to the dignity of every human being whether they relate to civil, cultural, economic, political, or social issues.

Human rights are interdependent and interrelated. The fulfillment of one right often depends, wholly or in part, upon the fulfillment of others.

All individuals are equal as human beings by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of ethnicity, gender, age, language, sexual orientation, race, color, religion, political, or other opinion, national, social, or geographical origin, disability, property, birth, or other status as established by human rights standards.

All people have the rights to participate in and access information relating to the decision-making processes that affect their lives and well-being. Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous peoples, and other identified groups.

States and other duty-bearers are answerable for the observance of human rights. They have to comply with the legal norms and standards enshrined in international human rights instruments in accordance with the Philippine Constitution. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

CHAPTER II DEFENITION OF TERMS

SEC. 4. *Definitions.* – For purposes of this Act, the following terms shall mean:

(a) “Women Empowerment” refers to the provision, availability, and accessibility of opportunities, services, and observance of human rights which enable women to actively participate and contribute to the political, economic, social, and cultural development of the nation as well as those

which shall provide them equal access to ownership, management, and control of production, and of material and informational resources and benefits in the family, community, and society.

(b) “Discrimination Against Women” refers to any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.

It includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges.

A measure or practice of general application is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges; or women, more than men, are shown to have suffered the greater adverse effects of those measures or practices.

Provided, finally, That discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty, or religion shall be considered discrimination against women under this Act.

(c) “Marginalization” refers to a condition where a whole category of people is excluded from useful and meaningful participation in political, economic, social, and cultural life.

(d) “Marginalized” refers to the basic, disadvantaged, or vulnerable persons or groups who are mostly living in poverty and have little or no access to land and other resources, basic social and economic services such as health care, education, water and sanitation, employment and livelihood opportunities, housing, social security, physical infrastructure, and the justice system.

These include, but are not limited to, women in the following sectors and groups:

(1) “Small Farmers and Rural Workers” refers to those who are engaged directly or indirectly in small farms and forests areas, workers in commercial farms and plantations, whether paid or unpaid, regular or season-bound. These shall include, but are not limited to, (a) small farmers who own or are still amortizing for lands that is not more than three (3) hectares, tenants, leaseholders, and stewards; and (b) rural workers who are either wage earners, self-employed, unpaid family workers directly and personally engaged in agriculture, small-scale mining, handicrafts, and other related farm and off-farm activities;

(2) “Fisherfolk” refers to those directly or indirectly engaged in taking, culturing, or processing fishery or aquatic resources. These include, but are not to be limited to, women engaged in fishing in municipal waters, coastal and marine areas, women workers in commercial fishing and aquaculture, vendors and processors of fish and coastal products, and subsistence producers such as shell-gatherers, managers, and producers of mangrove resources, and other related producers;

(3) “Urban Poor” refers to those residing in urban and urbanizable slum or blighted areas, with or without the benefit of security of abode, where the income of the head of the family cannot afford in a sustained manner to provide for the family’s basic needs of food, health, education, housing, and other essentials in life;

(4) “Workers in the Formal Economy” refers to those who are employed by any person acting directly or indirectly in the interest of an employer in relation to an employee and shall include the government and all its branches, subdivisions, and instrumentalities, all government-owned and controlled corporations and institutions, as well as nonprofit private institutions or organizations;

(5) “Workers in the Informal Economy” refers to self-employed, occasionally or personally hired, subcontracted, paid and unpaid family workers in household incorporated and unincorporated enterprises, including home workers, micro-entrepreneurs and producers, and operators of sari-sari stores and all other categories who suffer from violation of workers’ rights;

(6) “Migrant Workers” refers to Filipinos who are to be engaged, are engaged, or have been engaged in a remunerated activity in a State of which they are not legal residents, whether documented or undocumented;

(7) “Indigenous Peoples” refers to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition, and other distinctive cultural traits, or who have, through resistance to political, social, and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. They shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural, and political institutions, but who may have been displaced from their traditional domains as defined under Section 3(h), Chapter II of Republic Act No. 8371, otherwise known as “The Indigenous Peoples Rights Act of 1997” (IPRA of 1997);

(8) “Moro” refers to native peoples who have historically inhabited Mindanao, Palawan, and Sulu, and who are largely of the Islamic faith;

(9) “Children” refers to those who are below eighteen (18) years of age or over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition;

(10) “Senior Citizens” refers to those sixty (60) years of age and above;

(11) “Persons with Disabilities” refers to those who are suffering from restriction or different abilities, as a result of a mental, physical, or sensory impairment to perform an activity in the manner or within the range considered normal for a human being; and

(12) “Solo Parents” refers to those who fall under the category of a solo parent defined under Republic Act No. 8972, otherwise known as the “Solo Parents Welfare Act of 2000”.

(e) “Substantive Equality” refers to the full and equal enjoyment of rights and freedoms contemplated under this Act. It encompasses de jure and de facto equality and also equality in outcomes.

(f) “Gender Equality” refers to the principle asserting the equality of men and women and their right to enjoy equal conditions realizing their full human potentials to contribute to and benefit from the results of development, and with the State recognizing that all human beings are free and equal in dignity and rights.

(g) “Gender Equity” refers to the policies, instruments, programs, services, and actions that address the disadvantaged position of women in society by providing preferential treatment and affirmative action. Such temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discriminatory but shall in no way entail as a consequence the maintenance of unequal or separate standards. These measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

(h) “Gender and Development (GAD)” refers to the development perspective and process that are participatory and empowering, equitable, sustainable, free from violence, respectful of human rights, supportive of self-determination and actualization of human potentials. It seeks to achieve gender equality as a fundamental value that should be reflected in development choices; seeks to transform society’s social, economic, and political structures and questions the validity of the gender roles they ascribed to women and men; contends that women are active agents of development and not just passive recipients of development assistance; and stresses the need of women to organize themselves and participate in political processes to strengthen their legal rights.

(i) “Gender Mainstreaming” refers to the strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring, and evaluation of policies and programs in all political, economic, and societal spheres so that women and men benefit equally and inequality is not perpetuated. It is the process of assessing the implications for women and men of any planned action, including legislation, policies, or programs in all areas and at all levels.

(j) “Temporary Special Measures” refers to a variety of legislative, executive, administrative, and regulatory instruments, policies, and practices aimed at accelerating this de facto equality of women in specific areas. These measures shall not be considered discriminatory but shall in no way entail as a consequence the maintenance of unequal or separate standards. They shall be discontinued when their objectives have been achieved.

(k) “Violence Against Women” refers to any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. It shall be understood to encompass, but not limited to, the following:

(1) Physical, sexual, psychological, and economic violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;

(2) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women, and prostitution; and

(3) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs.

It also includes acts of violence against women as defined in Republic Acts No. 9208 and 9262.

(l) “Women in the Military” refers to women employed in the military, both in the major and technical services, who are performing combat and/or noncombat functions, providing security to the State, and protecting the people from various forms of threat. It also includes women trainees in all military training institutions.

(m) “Social Protection” refers to policies and programs that seek to reduce poverty and vulnerability to risks and enhance the social status and rights of all women, especially the marginalized by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people’s capacity to manage risk. Its components are labor market programs, social insurance, social welfare, and social safety nets.

CHAPTER III

DUTIES RELATED TO THE HUMAN RIGHTS OF WOMEN

The State, private sector, society in general, and all individuals shall contribute to the recognition, respect, and promotion of the rights of women defined and guaranteed under this Act.

SEC. 5. The State as the Primary Duty-Bearer. – The State, as the primary duty-bearer, shall:

- (a) Refrain from discriminating against women and violating their rights;
- (b) Protect women against discrimination and from violation of their rights by private corporations, entities, and individuals; and
- (c) Promote and fulfill the rights of women in all spheres, including their rights to substantive equality and non-discrimination.

The State shall fulfill these duties through law, policy, regulatory instruments, administrative guidelines, and other appropriate measures, including temporary special measures.

Recognizing the interrelation of the human rights of women, the State shall take measures and establish mechanisms to promote the coherent and integrated implementation and enforcement of this Act and related laws, policies, or other measures to effectively stop discrimination against and advance the rights of women.

The State shall keep abreast with and be guided by progressive developments in human rights of women under international law and design of policies, laws, and other measures to promote the objectives of this Act.

SEC. 6. Duties of the State Agencies and Instrumentalities. – These duties of the State shall extend to all state agencies, offices, and instrumentalities at all levels and government-owned and controlled corporations, subject to the Constitution and pertinent laws, policies, or administrative guidelines that define specific duties of state agencies and entities concerned.

SEC. 7. Suppletory Effect. – This chapter shall be deemed integrated into and be suppletory to other provisions of this Act, particularly those that guarantee specific rights to women and define specific roles and require specific conduct of state organs.

CHAPTER IV RIGHTS AND EMPOWERMENT

SEC. 8. *Human Rights of Women.* – All rights in the Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines, in consonance with Philippine law, shall be rights of woman under this Act to be enjoyed without discrimination.

SEC. 9. *Protection from Violence.* – The State shall ensure that all women shall be protected from all forms of violence as provided for in existing laws. Agencies of government shall give priority to the defense and protection of women against gender-based offenses and help women attain justice and healing.

Towards this end, measures to prosecute and reform offenders shall likewise be pursued.

(a) Within the next five (5) years, there shall be an incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal services, and social work services availed of by women who are victims of gender-related offenses until fifty percent (50%) of the personnel thereof shall be women.

(b) Women shall have the right to protection and security in situations of armed conflict and militarization. Towards this end, they shall be protected from all forms of gender-based violence, particularly rape and other forms of sexual abuse, and all forms of violence in situations of armed conflict. The State shall observe international standards for the protection of civilian population in circumstances of emergency and armed conflict. It shall not force women, especially indigenous people, to abandon their lands, territories, and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

(c) All government personnel involved in the protection and defense of women against gender-based violence shall undergo a mandatory training on human rights and gender sensitivity pursuant to this Act.

(d) All local government units shall establish a Violence Against Women's Desk in every barangay to ensure that violence against women cases are fully addressed in a gender-responsive manner.

SEC. 10. *Women Affected by Disasters, Calamities, and Other Crisis Situations.* – Women have the right to protection and security in times of disasters, calamities, and other crisis situations especially in all phases of relief, recovery, rehabilitation, and construction efforts. The State shall provide for immediate humanitarian assistance, allocation of resources, and early resettlement, if necessary. It shall also address the particular needs of women from a gender perspective to ensure their full protection from sexual exploitation and other sexual and gender-based violence committed against them. Responses to disaster situations shall include the provision of services, such as psychosocial support, livelihood support, education, psychological health, and comprehensive health services, including protection during pregnancy.

SEC. 11. *Participating and Representation.* – The State shall undertake temporary special measures to accelerate the participation and equitable representation of women in all spheres of society particularly in the decision-making and policy-making processes in government and private entities to fully realize their role as agents and beneficiaries of development. The State shall institute the following affirmative action mechanisms so that women can participate meaningfully in the formulation, implementation, and evaluation of policies, plans, and programs for national, regional, and local development:

(a) Empowerment within the Civil Service. – Within the next five (5) years, the number of women in third (3rd) level positions in government shall be incrementally increased to achieve a fifty-fifty (50-50) gender balance;

(b) Development Councils and Planning Bodies. – To ensure the participation of women in all levels of development planning and program implementation, at least forty percent (40%) of membership of all development councils from the regional, provincial, city, municipal, and barangay levels shall be composed of women;

(c) Other Policy and Decision-Making Bodies. – Women’s groups shall also be represented in international, national, and local special and decision-making bodies;

(d) International Bodies. – The State shall take all appropriate measures to ensure the opportunity of women, on equal terms with men and without any discrimination to represent their government at the international level and to participate in the work of international organizations:

(e) Integration of Women in Political Parties. – The State shall provide incentives to political parties with women’s agenda. It shall likewise encourage the integration of women in their leadership hierarchy internal policy-making structures, appointive, and electoral nominating processes; and

(f) Private Sector. – The State shall take measures to encourage women leadership in the private sector in the form of incentives.

SEC. 12. *Equal Treatment Before the Law.* – The State shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the effectivity of this Act.

SEC. 13. *Equal Access and Elimination of Discrimination in Education, Scholarships, and Training.* – (a) The State shall ensure that gender stereotypes and images in educational materials and curricula are adequately and appropriately revised. Gender-sensitive language shall be used at all times. Capacity-building on gender and development (GAD), peace and human rights, education for teachers, and all those involved in the education sector shall be pursued toward this end. Partnerships between and among players of the education sector, including the private sector, churches, and faith groups shall be encouraged.

(b) Enrollment of women in nontraditional skills training in vocational and tertiary levels shall be encouraged.

(c) Expulsion and non-readmission of women faculty due to pregnancy outside of marriage shall be outlawed. No school shall turn out or refuse admission to a female student solely on the account of her having contracted pregnancy outside of marriage during her term in school.

SEC. 14. *Women in Sports.* – The State shall develop, establish, and strengthen programs for the participating of women and girl-children in competitive and noncompetitive sports as a means to achieve excellence, promote physical and social well-being, eliminate gender-role stereotyping, and provide equal access to the full benefits of development for all persons regardless of sex, gender identity, and other similar factors.

For this purpose, all sports-related organizations shall create guidelines that will establish and integrate affirmative action as a strategy and gender

equality as a framework in planning and implementing their policies, budgets, programs, and activities relating to the participation of women and girls in sports.

The State will also provide material and nonmaterial incentives to local government units, media organizations, and the private sector for promoting, training, and preparing women and girls for participation in competitive and noncompetitive sports, especially in local and international events, including, but not limited to, the Palarong Pambansa, Southeast Asian Games, Asian Games, and the Olympics.

No sports event or tournament will offer or award a different sports prize, with respect to its amount or value, to women and men winners in the same sports category: Provided, That the said tournament, contest, race, match, event, or game is open to both sexes: Provided, further, That the sports event or tournament is divided into male or female divisions.

The State shall also ensure the safety and well-being of all women and girls participating in sports, especially, but not limited to, trainees, reserve members, members, coaches, and mentors of national sports teams, whether in studying, training, or performance phases, by providing them comprehensive health and medical insurance coverage, as well as integrated medical, nutritional, and healthcare services.

Schools, colleges, universities, or any other learning institution shall take into account its total women student population in granting athletic scholarship. There shall be a pro rata representation of women in the athletic scholarship program based on the percentage of women in the whole student population.

SEC. 15. *Women in the Military.* – The State shall pursue appropriate measures to eliminate discrimination of women in the military, police, and other similar services, including revising or abolishing policies and practices that restrict women from availing of both combat and noncombat training that are open to men, or from taking on functions other than administrative tasks, such as engaging in combat, security-related, or field operations. Women in the military shall be accorded the same promotional privileges and opportunities as men, including pay increases, additional remunerations and benefits, and awards based on their competency and quality of performance. Towards this end, the State shall ensure that the personal of women shall always be respected.

Women in the military, police, and other similar services shall be provided with the same right to employment as men on equal conditions. Equally, they shall be accorded the same capacity as men to act in and enter into contracts, including marriage.

Further, women in the military, police, and other similar services shall be entitled to leave benefits such as maternity leave, as provided for by existing laws.

SEC. 16. *Nondiscriminatory and Nonderogatory Portrayal of Women in Media and Film.* – The State shall formulate policies and programs for the advancement of women in collaboration with government and nongovernment media-related organizations. It shall likewise endeavor to raise the consciousness of the general public in recognizing the dignity of women and the role and contribution of women in the family, community, and the society through the strategic use of mass media.

For this purpose, the State shall ensure allocation of space, airtime, and resources, strengthen programming, production, and image-making that appropriately present women’s needs, issues, and concerns in all forms of media, communication, information dissemination, and advertising.

The State, in cooperation with all schools of journalism, information, and communication, as well as the national media federations and associations, shall require all media organizations and corporations to integrate into their human resource development components regular training on gender equality and gender-based discrimination create and use gender equality guidelines in all aspects of management, training, production, information, dissemination, communication, and programming; and convene a gender equality committee that will promote gender mainstreaming as a framework and affirmative action as a strategy, and monitor and evaluate the implementation of gender equality guidelines.

SEC. 17. *Women’s Right to Health.* – (a) Comprehensive Health Services. – The State shall, at all times, provide for a comprehensive, culture-sensitive, and gender-responsive health services and programs covering all stages of a woman’s life cycle and which addresses the major causes of women’s mortality and morbidity: Provided, That in the provision for comprehensive health services, due respect shall be accorded to women’s religious convictions, the rights of the spouses to found a family in accordance with their religious convictions, and the demands of responsible parenthood, and the right of women to protection from hazardous drugs, devices, interventions, and substances.

Access to the following services shall be ensured:

- (1) Maternal care to include pre-and post-natal services to address pregnancy and infant health and nutrition;
- (2) Promotion of breastfeeding;
- (3) Responsible, ethical, legal, safe, and effective methods of family planning;
- (4) Family and State collaboration in youth sexuality education and health services without prejudice to the primary right and duty of parents to educate their children;
- (5) Prevention and management of reproductive tract infections, including sexually transmitted diseases, HIV, and AIDS;
- (6) Prevention and management of reproductive tract cancers like breast and cervical cancers, and other gynecological conditions and disorders;
- (7) Prevention of abortion and management of pregnancy-related complications;
- (8) In cases of violence against women and children, women and children victims and survivors shall be provided with comprehensive health services that include psychosocial, therapeutic, medical, and legal interventions and assistance towards healing, recovery, and empowerment;
- (9) Prevention and management of infertility and sexual dysfunction pursuant to ethical norms and medical standards;
- (10) Care of the elderly women beyond their child-bearing years; and
- (11) Management, treatment, and intervention of mental health problems of woman and girls.

In addition, healthy lifestyle activities are encouraged and promoted through programs and projects as strategies in the prevention of diseases.

(b) Comprehensive Health Information and Education. – The State shall provide women in all sectors with appropriate, timely, complete, and

accurate information and education of all the above-stated aspects of women's health in government education and training programs, with due regard to the following:

- (1) The natural and primary right and duty of parents in the rearing of the youth and the development of moral character and the right of children to be brought up in an atmosphere of morality and rectitude for the enrichment and strengthening of character;
- (2) The formation of a person's sexuality that affirms human dignity; and
- (3) Ethical, legal, safe, and effective family planning methods including fertility awareness.

SEC. 18. *Special Leave Benefits for Women.* – A woman employee having rendered continuous aggregate employment service of at least six (6) months for the last twelve (12) months shall be entitled to a special leave benefit of two (2) months with full pay based on her gross monthly compensation following surgery caused by gynecological disorders.

SEC. 19. *Equal Rights in All Matters Relating to Marriage and Family Relations.* – The State shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and shall ensure:

- (a) the same rights to enter into and leave marriages or common law relationships referred to under the Family Code without prejudice to personal or religious beliefs;
- (b) the same rights to choose freely a spouse and to enter into marriage only with their free and full consent. The betrothal and the marriage of a child shall have no legal effect;
- (c) the joint decision on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (d) the same personal rights between spouses or common law spouses including the right to choose freely a profession and an occupation;
- (e) the same rights for both spouses or common law spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property;

(f) the same rights to properties and resources, whether titled or not, and inheritance, whether formal or customary; and

(g) women shall have equal rights with men to acquire change, or retain their nationality. The State shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. Various statutes of other countries concerning dual citizenship that may be enjoyed equally by women and men shall likewise be considered.

Customary laws shall be respected: Provided, however, That they do not discriminate against, women.

CHAPTER V RIGHTS AND EMPOWERMENT OF MARGINALIZED SECTORS

Women in marginalized sectors are hereby guaranteed all civil, political, social, and economic rights recognized, promoted, and protected under existing laws including, but not limited to, the Indigenous Peoples Rights Act, the Urban Development and Housing Act, the Comprehensive Agrarian Reform Law, the Fisheries Code, the Labor Code, the Migrant Workers Act, the Solo Parents Welfare Act, and the Social Reform and Poverty Alleviation Act.

SEC. 20. Food Security and Productive Resources. – The State recognizes the contribution of women to food production and shall ensure its sustainability and sufficiency with the active participation of women. Towards this end, the State shall guarantee, at all times, the availability in the market of safe and health-giving food to satisfy the dietary needs of the population, giving particular attention to the specific needs of poor girl-children and marginalized women, especially pregnant and lactating mothers and their young children. To further address this, the state shall ensure:

(a) *Right to Food.* – The State shall guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, the physical and economic accessibility for everyone to adequate food that is culturally acceptable and free from unsafe substances and culturally accepted, and the accurate and substantial information to the availability of food, including the right to full, accurate, and truthful information

about safe and health-giving foods and how to produce and have regular easy access to them;

(b) *Right to Resources for Food Production.* – The State shall guarantee women a vital role in food production by giving priority to their rights to land, credit, and infrastructure support, technical training, and technological and marketing assistance. The State shall promote women-friendly technology as a high priority activity in agriculture and shall promote the right to adequate food by proactively engaging in activities intended to strengthen access to, utilization of, and receipt of accurate and substantial information on resources and means to ensure women’s livelihood, including food security:

(1) Equal status shall be given to women and men, whether married or not, in the titling of the land and issuance of stewardship contracts and patents;

(2) Equal treatment shall be given to women and men beneficiaries of the agrarian reform program, wherein the vested right of a woman agrarian reform beneficiary is defined by a woman’s relationship to tillage, i.e., her direct and indirect contribution to the development of the land;

(3) Customary rights of women to the land, including access to and control of the fruits and benefits, shall be recognized in circumstances where private ownership is not possible, such as ancestral domain claims;

(4) Information and assistance in claiming rights to the land shall be made available to women at all times;

(5) Equal rights to women to the enjoyment, use, and management of land, water, and other natural resources within their communities or ancestral domains;

(6) Equal access to the use and management of fisheries and aquatic resources, and all the rights and benefits accruing to stakeholders in the fishing industry;

(7) Equal status shall be given to woman and men in the issuance of stewardship or lease agreements and other fishery rights that may be granted for the use and management of coastal and aquatic resources. In the same manner, women’s organizations shall be

given equal treatment as with other marginalized fishers organizations in the issuance of stewardship or lease agreements or other fishery rights for the use and management of such coastal and aquatic resources which may include providing supports to women-engaged coastal resources;

(8) There shall be no discrimination against women in the deputization of fish wardens;

(9) Women-friendly and sustainable agriculture technology shall be designed based on accessibility and viability in consultation with women's organizations;

(10) Access to small farmer-based and controlled seeds production and distribution shall be ensured and protected;

(11) Indigenous practices of women in seed storage and cultivation shall be recognized, encouraged, and protected;

(12) Equal rights shall be given to women to be members of farmers' organizations to ensure wider access to and control of the means of production;

(13) Provide opportunities for empowering women fishers to be involved in the control and management, not only of the catch and production of aquamarine resources but also, to engage in entrepreneurial activities which will add value to production and marketing ventures; and

(14) Provide economic opportunities for the indigenous women, particularly access to market for their produce.

In the enforcement of the foregoing, the requirements of law shall be observed at all times.

SEC. 21. *Right to Housing.* – The State shall develop housing programs for women that are localized, simple, accessible, with potable water, and electricity, secure, with viable employment opportunities and affordable amortization. In this regard, the State consult women and involve them in community planning and development, especially in matters pertaining to land use, zoning, and relocation.

SEC. 22. *Right to Decent Work.* – The State shall progressively realize and ensure decent work standards for women that involve the creation of jobs of acceptable quality in conditions of freedom, equity, security, and human dignity.

(a) Decent work involves opportunities for work that are productive and fairly remunerative as family living wage, security in the workplace, and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize, participate in the decisions that affect their lives, and equality of opportunity and treatment for all women and men.

(b) The State shall further ensure:

(1) Support services and gears to protect them from occupational and health hazards taking into account women’s maternal functions;

(2) Support services that will enable women to balance their family obligations and work responsibilities including, but not limited to, the establishment of day care centers and breast-feeding stations at the workplace, and providing maternity leave pursuant to the Labor Code and other pertinent laws;

(3) Membership in unions regardless of status of employment and place of employment; and

(4) Respect for the observance of indigenous peoples’ cultural practices even in the workplace.

(c) In recognition of the temporary nature of overseas work, the State shall exert all efforts to address the causes of out-migration by developing local employment and other economic opportunities for women and by introducing measures to curb violence and forced and involuntary displacement of local women. The State shall ensure the protection and promotion of the rights and welfare of migrant women regardless of their work status, and protect them against discrimination in wages, conditions of work, and employment opportunities in host countries.

SEC. 23. *Right to Livelihood, Credit, Capital, and Technology.* – The State shall ensure that women are provided with the following:

(a) Equal access to formal sources of credit and capital;

(b) Equal share to the produce of farms and aquatic resources;
and

(c) Employment opportunities for returning women migrant workers taking into account their skills and qualifications. Corollarily, the State shall also promote skills and entrepreneurship development of returning women migrant workers.

SEC. 24. *Right to Education and Training.* – The State shall ensure the following:

(a) Women migrant workers have the opportunity to undergo skills training, if they so desire, before taking on a foreign job, and possible retraining upon return to the country;

(b) Gender-sensitive training and seminars; and

(c) Equal opportunities in scholarships based on merit and fitness especially to those interested in research and development aimed towards women-friendly farm technology.

SEC. 25. *Right to Representation and Participation.* – The State shall ensure women’s participation in policy-making or decision-making bodies in the regional, national, and international levels. It shall also ensure the participation of grassroots women leaders in decision and policy-making bodies in their respective sectors including, but not limited to, the Presidential Agrarian Reform Council (PARC) and its local counterparts; community-based resource management bodies or mechanisms on forest management and stewardship; the National Fisheries and Aquatic Resources Management Council (NFARMC) and its local counterparts; the National Commission on Indigenous People; the Presidential Commission for the Urban Poor; the National Anti-Poverty Commission; and, where applicable, the local housing boards.

SEC. 26. *Right to Information.* – Access to information regarding policies on women, including programs, projects, and funding outlays that affect them, shall be ensured.

SEC. 27. *Social Protection.* –

(a) The Social Security System (SSS) and the Philippine Health Insurance Corporation (PhilHealth) shall support indigenous and community-based social protection schemes.

(b) The State shall institute policies and programs that seek to reduce the poverty and vulnerability to risks and enhance the social status and rights of the marginalized women by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks.

(c) The State shall endeavor to reduce and eventually eliminate transfer costs of remittance from abroad through appropriate bilateral and multilateral agreements. It shall likewise provide access to investment opportunities for remittances in line with national development efforts.

(d) The State shall establish a health insurance program for senior citizens and indigents.

(e) The State shall support women with disabilities on a community-based social protection scheme.

SEC. 28. *Recognition and Preservation of Cultural Identity and Integrity.* – The State shall recognize and respect the rights of Moro and indigenous women to practice, promote, protect, and preserve their own culture, traditions, and institutions and to consider these rights in the formulation and implementation of national policies and programs. To this end, the State shall adopt measures in consultation with the sectors concerned to protect their rights to their indigenous knowledge systems and practices, traditional livelihood, and other manifestations of their cultures and ways of life: Provided, That these cultural systems and practices are not discriminatory to women.

SEC. 29. *Peace and Development.* – The peace process shall be pursued with the following considerations:

(a) Increase the number of women participating in discussions and decision-making in the peace process, including membership in peace panels recognizing women's role in conflict-prevention and peace-making and in indigenous system of conflict resolution;

(b) Ensure the development and inclusion of women's welfare and concerns in the peace agenda in the overall peace strategy and women's participation in the planning, implementation, monitoring, and evaluation of rehabilitation and rebuilding of conflict-affected areas;

(c) The institution of measures to ensure the protection of civilians in conflict-affected communities with special consideration for the specific needs of women and girls;

(d) Include the peace perspective in the education curriculum and other educational undertakings; and

(e) The recognition and support for women's role in conflict-prevention, management, resolution and peacemaking, and in indigenous systems of conflict resolution.

SEC. 30. *Women in Especially Difficult Circumstances.* – For purposes of this Act, “Women in Especially Difficult Circumstances” (WEDC) shall refer to victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, women in detention, victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally. Local government units are therefore mandated to deliver the necessary services and interventions to WEDC under their respective jurisdictions.

SEC. 31. *Services and Interventions.* – WEDC shall be provided with services and interventions as necessary such as, but not limited to, the following:

- (a) Temporary and protective custody;
- (b) Medical and dental services;
- (c) Psychological evaluation;
- (d) Counseling;
- (e) Psychiatric evaluation;
- (f) Legal services;
- (g) Productivity skills capability building;
- (h) Livelihood assistance;
- (i) Job placement;
- (j) Financial assistance; and
- (k) Transportation assistance.

SEC. 32. *Protection of Girl-Children.* – (a) The State shall pursue measures to eliminate all forms of discrimination against girl-children in education, health and nutrition, and skills development.

(b) Girl-children shall be protected from all forms of abuse and exploitation.

(c) Equal access of Moro and indigenous girl-children in the Madaris, schools of living culture and traditions, and the regular schools shall be ensured.

(d) Gender-sensitive curriculum, including legal literacy, books, and curriculum in the Madaris and schools of living culture and traditions shall be developed.

(e) Sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing (including the wearing of hijab), and availability of halal food shall be ensured.)

SEC. 33. *Protection of Senior Citizens.* – The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination. Towards this end, the State shall ensure special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older women.

SEC. 34. Women are entitled to the recognition and protection of their rights defined and guaranteed under this Act including their right to nondiscrimination.

SEC. 35. *Discrimination Against Women is Prohibited.* – Public and private entities and individuals found to have committed discrimination against women shall be subject to the sanctions provided in Section 41 hereof. Violations of other rights of women shall be subject to sanctions under pertinent laws and regulations.

CHAPTER VI INSTITUTIONAL MECHANISMS

SEC. 36. Gender Mainstreaming as a Strategy for Implementing the Magna Carta of Women. – Within a period prescribed in the implementing rules and regulations, the National Commission on the Role of Filipino Women (NCRFW) shall assess its gender mainstreaming program for consistency with the standards under this Act. It shall modify the program accordingly to ensure that it will be an effective strategy for implementing this Act and attaining its objectives.

All departments, including their attached agencies, offices, bureaus, state universities and colleges, government-owned and –controlled corporations, local government units, and other government instrumentalities shall adopt gender mainstreaming as a strategy to promote women’s human rights and eliminate gender discrimination in their systems, structures, policies, programs, processes, and procedures which shall include, but not limited to, the following:

(a) Planning, budgeting, monitoring and evaluation for GAD. GAD programs addressing gender issues and concerns shall be designed and implemented based on the mandate of government agencies and local government units, Republic Act No. 7192, gender equality agenda of the government and other GAD-related legislation, policies, and commitments. The development of GAD programs shall proceed from the conduct of a gender audit of the agency or the local government unit and a gender analysis of its policies, programs, services and the situation of its clientele; the generation and review of sex-disaggregated data; and consultation with gender/women’s rights advocates and agency/women clientele. The cost of implementing GAD programs shall be the agency’s or the local government unit’s GAD budget which shall be at least five percent (5%) of the agency’s or the local government unit’s total budget appropriations.

Pursuant to Republic Act No. 7192, otherwise known as the Women in Development and Nation Building Act, which allocates five percent (5%) to thirty percent (30%) of overseas development assistance to GAD, government agencies receiving official development assistance should ensure the allocation and proper utilization of such funds to gender-responsive programs that complement the government GAD funds and annually report accomplishments thereof to the National Economic and Development Authority (NEDA) and the Philippine Commission on Women (PCW).

The utilization and outcome of the GAD budget shall be annually monitored and evaluated in terms of its success in influencing the gender-responsive implementation of agency programs funded by the remaining ninety-five percent (95%) budget.

The Commission on Audit (COA) shall conduct an annual audit on the use of the GAD budget for the purpose of determining its judicious use and the efficiency, and effectiveness of interventions in addressing gender issues towards the realization of the objectives of the country’s commitments, plans, and policies on women empowerment, gender equality, and GAD. Local government units are also encouraged to develop and pass a GAD Code based on the gender issues and concerns in their respective localities based on consultation with their women constituents and the women’s

empowerment and gender equality agenda of the government. The GAD Code shall also serve as basis for identifying programs, activities, and projects on GAD.

Where needed, temporary gender equity measures shall be provided for in the plans of all departments, including their attached agencies, offices, bureaus, state universities and colleges, government-owned and –controlled corporations, local government units, and other government instrumentalities. To move towards a more sustainable, gender-responsive, and performance-based planning and budgeting, gender issues and concerns shall be integrated in, among others, the following plans:

(1) Macro socioeconomic plans such as the Medium-Term Philippine Development Plan and Medium-Term Philippine Investment Plan;

(2) Annual plans of all departments, including their attached agencies, offices, bureaus, state universities and college, and government-owned and controlled corporations; and

(3) Local plans and agenda such as executive-legislative agenda, comprehensive development plan (CDP), comprehensive land use plan (CLUP), provincial development and physical development and physical framework plan (PDPFP), and annual investment plan.

(b) Creation and/or Strengthening of the GAD Focal Points (GFP). All departments, including their attached agencies, offices, bureaus, states universities and colleges, government-owned and –controlled corporations, local government units, and other government instrumentalities shall establish or strengthen their GAD Focal Point System or similar GAD mechanism to catalyze and accelerate gender mainstreaming within the agency or local government unit.

The GAD Focal Point System shall be composed of the agency head or local chief executive, an executive committee with an Undersecretary (or its equivalent), local government unit official, or office in a strategic decision-making position as Chair; and a technical working group or secretariat which is composed of representatives from various divisions or offices within the agency or local government unit.

The tasks and functions of the members of the GFP shall form part of their regular key result areas and shall be given due consideration in their performance evaluation.

(c) Generation and Maintenance of Gad Database. All departments, including their attached agencies, offices, bureaus-state universities and colleges, government-owned and –controlled corporations, local government units, and other government instrumentalities shall develop and maintain a GAD database containing gender statistics and sex-disaggregated data that have been systematically gathered, regularly updated, and subjected to gender analysis for planning, programming, and policy formulation.

SEC. 37. Gender Focal Point Officer in Philippine Embassies and Consulates. – An officer duly trained on GAD shall be designated as the gender focal point in the consular section of Philippine embassies or consulates. Said officer shall be primarily responsible in handling gender concerns of women migrant workers. Attached agencies shall cooperate in strengthening the Philippine foreign posts’ programs for the delivery of services to women migrant workers.

SEC. 38. National Commission on the Role of Filipino Women (NCRFW). – The National Commission on the Role of Filipino Women (NCRFW) shall be renamed as the Philippine Commission on Women (PCW), the primary policy-making and coordinating body of the women and gender equality concerns under the Office of the President. The PCW shall be the overall monitoring body and oversight to ensure the implementation of this Act. In doing so, the PCW may direct any government agency and instrumentality, as may be necessary to report on the implementation of this Act and for them to immediately respond to the problems brought to their attention in relation to this Act. The PCW shall also lead in ensuring that government agencies are capacitated on the effective implementation of this Act. The chairperson shall likewise report to the President in Cabinet meetings on the implementation of this Act.

To the extent possible, the PCW shall influence the systems, processes, and procedures of the executive legislative, and judicial branches of government vis-à-vis GAD to ensure the implementation of this Act.

To effectively and efficiently undertake and accomplish its functions, the PCW shall revise its structure and staffing pattern with the assistance of the Department of Budget and Management.

SEC. 39. Commission on Human Rights (CHR). – The Commission, acting as the Gender and Development Ombud, consistent with its mandate, shall undertake measures such as the following:

(a) Monitor with the PCW and other state agencies, among others, in developing indicators and guidelines to comply with their duties related to the human rights of women, including their right to nondiscrimination guaranteed under this Act;

(b) Designate one (1) commissioner and/or its Women's Human Rights Center to be primarily responsible for formulating and implementing programs and activities related to the promotion and protection of the human rights of women, including the investigations and complaints of discrimination and violations of their rights brought under this Act and related laws and regulations;

(c) Establish guidelines and mechanisms, among others, that will facilitate access of women to legal remedies under this Act and related laws, and enhance the protection and promotion of the rights of women, especially marginalized women;

(d) Assist in the filing of cases against individuals, agencies, institutions, or establishments that violate the provisions of this Act; and

(e) Recommend to the President of the Philippines or the Civil Service Commission any possible administrative action based on noncompliance or failure to implement the provisions of this Act.

SEC. 40. Monitoring Progress and Implementation and Impact of this Act. – The PCW, in coordination with other state agencies and the CHR, shall submit to Congress regular reports on the progress of the implementation of this Act highlighting the impact thereof on the status and human rights of women: Provided, that the second report shall include an assessment of the effectiveness of this Act and recommend amendments to improve its provisions: Provided, finally, That these reports shall be submitted to Congress every three (3) years or as determined in the implementing rules and regulations.

SEC. 41. Penalties. – Upon finding of the CHR that a department, agency, or instrumentality of government, government-owned and –controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, the sanctions under, administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission and/or the Department of the Interior and Local Government. The person directly responsible for the violation as well as the head of the agency or local chief executive shall be held liable under this Act.

If the violation is committed by a private entity or individual, the person directly responsible for the violation shall be liable to pay damages.

Filing a complaint under this Act shall not preclude the offended party from pursuing other remedies available under the law and to invoke any of the provisions of existing laws especially those recently enacted laws protecting women and children, including the Women in Development and Nation Building Act (Republic Act No. 7192). The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (Republic Act No. 7610), the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877), the Anti-Rape Law of 1997 (Republic Act No. 8353), the Rape Victim Assistance and Protection Act of 1998 (Republic Act No. 8505), the Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208) and the Anti-Violence Against Women and Their Children Act of 2004 (Republic Act No. 9262). If violence has been proven to be perpetrated by agents of the State including, but not limited to, extrajudicial killings, enforced disappearances, torture, and internal displacements, such shall be considered aggravating offenses with corresponding penalties depending on the severity of the offenses.

SEC. 42. *Incentives and Awards.* – There shall be established an incentives and awards systems which shall be administered by a board under such rules and regulations as may be promulgated by the PCW to deserving entities, government agencies, and local government units for their outstanding performance in upholding the rights of women and effective implementation of gender-responsive programs.

SEC. 43. *Funding.* – The initial funding requirements for the implementation of this Act shall be charged against the current appropriations of the agencies concerned. Thereafter, such sums as may be necessary for the implementation of this Act shall be included in the agencies' yearly budgets under the General Appropriations Act.

The State shall prioritize allocation of all available resources to effectively fulfill its obligations specified under this Act. The State agencies' GAD budgets, which shall be at least five percent (5%) of their total budgetary allocation, shall also be utilized for the programs and activities to implement this Act.

SEC. 44. *Implementing Rules and Regulations.* – As the lead agency, the PCW shall, in coordination with the Commission on Human Rights and all concerned government departments and agencies including, as observers, both Houses of Congress through the Committee on Youth, Women and Family Relations (Senate) and the Committee on Women and

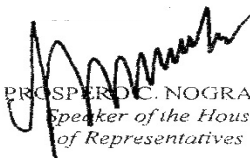
Gender Equality (House of Representatives) and with the participation of representatives from nongovernment organizations (NGOs) and civil society groups with proven track record of involvement and promotion of the rights and welfare of Filipino women and girls identified by the PCW, formulate the implementing rules and regulations (IRR) of this Act within one hundred eighty (180) days after its effectivity.

SEC. 45. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provisions not otherwise affected shall remain valid and subsisting.

SEC. 46. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended accordingly.


SEC. 47. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation


Approved,


PROSPERO C. NOGRALES
*Speaker of the House
of Representatives*


JUAN PONCE ENRILE
President of the Senate

This Act is a consolidation of Senate Bill No. 2396 and House Bill no. 4273 was finally passed by the Senate and the House of Representatives


MARILYN B. BARUA-YAN
*Secretary General
House of Representatives*


EMMA LIRIO-REYES
Secretary of the Senate

Approved: **August 14, 2009**


GLORIA MACAPAGAL-ARROYO
President of the Philippines

O.



PGMA Hologram # **50428**



S. No. 1728
H. No. 9125

Republic of the Philippines
Congress of the Philippines
Metro Manila

Tenth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday the twenty-eighth day of July, nineteen hundred and ninety-seven

REPUBLIC ACT NO. 8371

AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/ INDIGENOUS PEOPLES, CREATING A NATIONAL COMMISSION ON INDIGENOUS PEOPLES, ESTABLISHING IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. Short Title. - This Act shall be known as "The Indigenous Peoples Rights Act of 1997".

SEC. 2. Declaration of State Policies. - The State shall recognize and promote all the rights of Indigenous Cultural Communities/ Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

- a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;
- b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;
- c) The State shall recognize, respect and protect the rights of ICCs/ IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies;

d) The State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure of Human rights and freedoms without distinction or discrimination;

e) The State shall take measures, with the participation of the ICCs/ IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population; and

f) The State recognizes its obligations to respond to the strong expression of the ICCs/IPs for cultural integrity by assuring maximum ICC/IP participation in the direction of education, health, as well as other services of ICCs/IPs, in order to render such services more responsive to the needs and desires of these communities.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration their customs, traditions, values, beliefs interests and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.

CHAPTER II DEFINITION OF TERMS

SEC. 3. Definition of Terms. - For purposes of this Act, the following terms shall mean:

a) Ancestral Domains - Subject to Section 56 hereof, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;

b) Ancestral Lands - Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots;

- c) Certificate of Ancestral Domain Title - refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with this law;
- d) Certificate of Ancestral Lands Title - refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands;
- e) Communal Claims - refer to claims on land, resources and rights thereon; belonging to the whole community within a defined territory;
- f) Customary Laws - refer to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs;
- g) Free and Prior Informed Consent - as used in this Act shall mean the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community;
- h) Indigenous Cultural Communities/Indigenous Peoples - refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;
- i) Indigenous Political Structures - refer to organizational and cultural leadership systems, institutions, relationships, patterns and processes for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holders, or any other tribunal or body of similar nature;
- j) Individual Claims - refer to claims on land and rights thereon which have been devolved to individuals, families and clans including, but not limited to, residential lots, rice terraces or paddies and tree lots;
- k) National Commission on Indigenous Peoples (NCIP) - refers to the office created under his Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of ICCs/IPs;

l) Native Title - refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;

m) Nongovernment Organization - refers to a private, nonprofit voluntary organization that has been organized primarily for the delivery of various services to the ICCs/IPs and has an established track record for effectiveness and acceptability in the community where it serves;

n) People's Organization - refers to a private, nonprofit voluntary organization of members of an ICC/IP which is accepted as representative of such ICCs/IPs;

o) Sustainable Traditional Resource Rights - refer to the rights of ICCs/IPs to sustainably use, manage, protect and conserve a) land, air, water, and minerals; b) plants, animals and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites; and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, beliefs, systems and practices; and

p) Time Immemorial - refers to a period of time when as far back as memory can go, certain ICCs/IPs are known to have occupied, possessed in the concept of owner, and utilized a defined territory devolved to them, by operation of customary law or inherited from their ancestors, in accordance with their customs and traditions.

CHAPTER III RIGHTS TO ANCESTRAL DOMAINS

SEC. 4. Concept of Ancestral Lands/Domains. - Ancestral lands/ domains shall include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the areas which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

SEC. 5. Indigenous Concept of Ownership. - Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.

SEC. 6. Composition of Ancestral Lands/Domains. - Ancestral lands and domains shall consist of all areas generally belonging to ICCs/ IPs as referred under Sec. 3, items (a) and (b) of this Act.

SEC. 7. Rights to Ancestral Domains. - The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

a) Right of Ownership - The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

b) Right to Develop Lands and Natural Resources. - Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;

c) Right to Stay in the Territories. - The right to stay in the territory and not to be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

d) Right in Case of Displacement. - In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support systems: Provided, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: Provided furthermore, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed;

e) Right to Regulate Entry of Migrants. - Right to regulate the entry of migrant settlers and organizations into the domains;

f) Right to Safe and Clean Air and Water. - For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;

g) Right to Claim Parts of Reservations -The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and

h) Right to Resolve Conflict. - Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary.

SEC. 8. Rights to Ancestral Lands. - The right of ownership and possession of the ICCs /IPs to their ancestral lands shall be recognized and protected.

a) Right to transfer land/property. - Such right shall include the right to transfer land or property rights to/among members of the same ICCs/IPs, subject to customary laws and traditions of the community concerned.

b) Right to Redemption. - In cases where it is shown that the transfer of land/property rights by virtue of any agreement or devise, to a nonmember of the concerned ICCs/IPs is tainted by the vitiated consent of the ICCs/IPs, or is transferred for an unconscionable consideration or price, the transferor ICC/IP shall have the right to redeem the same within a period not exceeding fifteen (15) years from the date of transfer.

SEC. 9. Responsibilities of ICCs/IPs to their Ancestral Domains. -ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:

a) Maintain Ecological Balance. - To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;

b) Restore Denuded Areas. - To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; and

c) Observe Laws. - To observe and comply with the provisions of this Act and the rules and regulations for its effective implementation.

SEC. 10. Unauthorized and Unlawful Intrusion. - Unauthorized and unlawful intrusion upon, or use of any portion of the ancestral domain, or any violation of the rights herein before enumerated, shall be punishable under this law. Furthermore, the Government shall take measures to prevent non-ICCs/IPs from taking advantage of the ICCs/IPs customs or lack of understanding of laws to secure ownership, possession of land belonging to said ICCs/IPs.

SEC. 11. Recognition of Ancestral Domain Rights. - The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/ IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

SEC. 12. Option to Secure Certificate of Title Under Commonwealth Act 141, as amended, or the Land Registration Act 496. - Individual members of cultural communities, with respect to their individually-owned ancestral lands who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since time immemorial or for a period of not less than thirty (30) years immediately preceding the approval of this Act and uncontested by the members of the same ICCs/ IPs shall have the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496.

For this purpose, said individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands.

The option granted under this section shall be exercised within twenty (20) years from the approval of this Act.

CHAPTER IV RIGHT TO SELF-GOVERNANCE AND EMPOWERMENT

SEC. 13. Self-Governance. - The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.

SEC. 14. Support for Autonomous Regions. - The State shall continue to strengthen and support the autonomous regions created under the Constitution as they may require or need. The State shall likewise encourage other ICCs/IPs not included or outside Muslim Mindanao and the Cordilleras to use the form and content of their ways of life as may be compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights.

SEC. 15. Justice System, Conflict Resolution Institutions, and Peace Building Processes. - The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.

SEC. 16. Right to Participate in Decision-Making - ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

SEC. 17. Right to Determine and Decide Priorities for Development. - The ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.

SEC. 18. Tribal Barangays. - The ICCs/IPs living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays.

SEC. 19. Role of Peoples Organizations. - The State shall recognize and respect the role of independent ICCs/IPs organizations to enable the ICCs/IPs to pursue and protect their legitimate and collective interests and aspirations through peaceful and lawful means.

SEC. 20. Means for Development/Empowerment of ICCs/IPs. - The Government shall establish the means for the full development/ empowerment of the ICCs/IPs own institutions and initiatives and, where necessary, provide the resources needed therefor.

CHAPTER V SOCIAL JUSTICE AND HUMAN RIGHTS

SEC. 21. Equal Protection and Non-discrimination of ICCs/IPs. -Consistent with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form of force or coercion against ICCs/IPs shall be dealt with by law.

The State shall ensure that the fundamental human rights and freedoms as enshrined in the Constitution and relevant international instruments are guaranteed also to indigenous women. Towards this end, no provision in this Act shall be interpreted so as to result in the diminution of rights and privileges already recognized and accorded to women under existing laws of general application.

SEC. 22. Rights during Armed Conflict. - ICCs/IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs against their will into the armed forces, and in particular, for use against other ICCs/IPs; nor recruit children of ICCs/ IPs into the armed forces under any circumstance; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

SEC. 23. Freedom from Discrimination and Right to Equal Opportunity and Treatment. - It shall be the right of the ICCs/IPs to be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities for admission to employment, medical and social assistance, safety as well as other occupationally -related benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, including bonded labor and other forms of debt servitude; and equal treatment in employment for men and women, including the protection from sexual harassment.

Towards this end, the State shall, within the framework of national laws and regulations, and in cooperation with the ICCs/IPs concerned, adopt special measures to ensure the effective protection with regard to the recruitment and conditions of employment of persons belonging

to these communities, to the extent that they are not effectively protected by laws applicable to workers in general.

ICCs/IPs shall have the right to association and freedom for all trade union activities and the right to conclude collective bargaining agreements with employers' organizations. They shall likewise have the right not to be subject to working conditions hazardous to their health, particularly through exposure to pesticides and other toxic substances.

SEC. 24. Unlawful Acts Pertaining to Employment. - It shall be unlawful for any person:

a) To discriminate against any ICC/IP with respect to the terms and conditions of employment on account of their descent. Equal remuneration shall be paid to ICC/IP and non-ICC/IP for work of equal value; and

b) To deny any ICC/IP employee any right or benefit herein provided for or to discharge them for the purpose of preventing them from enjoying any of the rights or benefits provided under this Act.

SEC. 25. Basic Services. - The ICCs/IPs have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons. Accordingly, the State shall guarantee the right of ICCs/IPs to government's basic services which shall include, but not limited to, water and electrical facilities, education, health and infrastructure.

SEC. 26. Women. - ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.

The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life. As far as possible, the State shall ensure that indigenous women have access to all services in their own languages.

SEC. 27. Children and Youth. - The State shall recognize the vital role of the children and youth of ICCs/IPs in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. Towards this end, the State shall support all government programs intended for the development and rearing of the children and youth of ICCs/IPs for civic efficiency and establish such mechanisms as may be necessary for the protection of the rights of the indigenous children and youth.

SEC. 28. Integrated System of Education. - The State shall, through the NCIP, provide a complete, adequate and integrated system of education, relevant to the needs of the children and young people of ICCs/ IPs.

CHAPTER VI CULTURAL INTEGRITY

SEC. 29. Protection of Indigenous Culture, Traditions and Institutions. - The State shall respect, recognize and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies.

SEC. 30. Educational Systems. - The State shall provide equal access to various cultural opportunities to the ICCs/IPs through the educational system, public or private cultural entities, scholarships, grants and other incentives without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children/youth shall have the right to all levels and forms of education of the State.

SEC. 31. Recognition of Cultural Diversity. - The State shall endeavor to have the dignity and diversity of the cultures, traditions, histories and aspirations of the ICCs/IPs appropriately reflected in all forms of education, public information and cultural-educational exchange. Consequently, the State shall take effective measures, in consultation with ICCs/IPs concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among ICCs/IPs and all segments of society. Furthermore, the Government shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. The State shall likewise ensure the participation of appropriate indigenous leaders in schools, communities and international cooperative undertakings like festivals, conferences, seminars and workshops to promote and enhance their distinctive heritage and values.

SEC. 32. Community Intellectual Rights. - ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.

SEC. 33. Rights to Religious, Cultural Sites and Ceremonies. - ICCs/IPs shall have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial objects; and, the right to the repatriation of human remains. Accordingly, the State shall take effective measures, in cooperation with the ICCs/IPs concerned to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected. To achieve this purpose, it shall be unlawful to:

- a) Explore, excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and
- b) Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.

SEC. 34. Right to Indigenous Knowledge Systems and Practices and to Develop own Sciences and Technologies. - ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.

SEC. 35. Access to Biological and Genetic Resources. - Access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within ancestral lands and domains of the ICCs/IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community.

SEC. 36. Sustainable Agro-Technical Development. - The State shall recognize the right of ICCs/IPs to a sustainable agro-technological development and shall formulate and implement programs of action for its effective implementation. The State shall likewise promote the big-genetic and resource management systems among the ICCs/IPs shall encourage cooperation among government agencies to ensure the successful sustainable development of ICCs/IPs.

SEC. 37. Funds for Archeological and Historical Sites. - The ICCs/ IPs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artifacts with the financial and technical support of the national government agencies.

CHAPTER VII NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP)

SEC. 38. National Commission on Indigenous Cultural Communities/Indigenous Peoples (NCIP). - To carry out the policies herein set forth, there shall be created the National Commission on ICCs/ IPs (NCIP), which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto.

SEC. 39. Mandate. - The NCIP shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.

SEC. 40. Composition. - The NCIP shall be an independent agency under the Office of the President and shall be composed of seven (7) Commissioners belonging to ICCs/IPs, one (1) of whom shall be the Chairperson. The Commissioners shall be appointed by the President of the Philippines from a list of recommenders submitted by authentic ICCs/ IPs: Provided, That the seven (7) Commissioners shall be appointed specifically from each of the following ethnographic areas: Region I and the Cordilleras, Region II, the rest of Luzon, Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and

Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao: Provided, That at least two (2) of the seven(7) Commissioners shall be women.

SEC. 41. Qualifications, Tenure, Compensation. - The Chairperson and the six (6) Commissioners must be natural born Filipino citizens, bonafide members of ICCs/IPs as certified by his/her tribe, experienced in ethnic affairs and who have worked for at least ten (10) years with an ICC/IP community and/or any government agency involved in ICC/IP, at least 35 years of age at the time of appointment, and must be of proven honesty and integrity: Provided, That at least two (2) of the seven (7) Commissioners shall be members of the Philippine Bar: Provided, farther, the members of the NCIP shall hold office for a period of three (3) years, and may be subject to re-appointment for another term: Provided, furthermore, That no person shall serve for more than two (2) terms. Appointment to any vacancy shall only be for the unexpired term of the predecessor and in no case shall a member be appointed or designated in a temporary or acting capacity: Provided, finally, That the Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.

SEC. 42. Removal from office. - Any member of the NCIP may be removed from office by the President, on his own initiative or upon recommendation by any indigenous community, before the expiration of his term for cause and after complying with due process requirement of law.

SEC. 43. Appointment of Commissioners. - The President shall appoint the seven (7) Commissioners of the NCIP within ninety (90) days from the effectivity of this Act.

SEC. 44. Powers and Functions. - To accomplish its mandate, the NCIP shall have the following powers, jurisdiction and function:

- a) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, through which such assistance may be extended;
- b) To review and assess the conditions of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;
- c) To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;
- d) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;
- e) To issue certificate of ancestral land/domain title;
- f) Subject to existing laws, to enter into contracts, agreements, or arrangement, with government or private agencies or entities as may be necessary to attain the objectives of this Act, and subject to the approval of the President, to obtain loans from government lending institutions and other lending institutions to finance its programs;

g) To negotiate for funds and to accept grants, donations, gifts and/or properties in whatever form and from whatever source, local and international, subject to the approval of the President of the Philippines, for the benefit of ICCs/IPs and administer the same in accordance with the terms thereof; or in the absence of any condition, in such manner consistent with the interest of ICCs/IPs as well as existing laws;

h) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;

i) To convene periodic conventions or assemblies of IPs to review, assess as well as propose policies or plans;

j) To advise the President of the Philippines on all matters relating to the ICCs/IPs and to submit within sixty (60) days after the close of each calendar year, a report of its operations and achievements;

k) To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;

l) To prepare and submit the appropriate budget to the Office of the President;

m) To issue appropriate certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;

n) To decide all appeals from the decisions and acts of all the various offices within the Commission;

o) To promulgate the necessary rules and regulations for the implementation of this Act;

p) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines; and

q) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

SEC. 45. Accessibility and Transparency. - Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decisions, as well as research data used as basis for policy development of the Commission shall be made accessible to the public.

SEC. 46. Offices within the NCIP. - The NCIP shall have the following offices which shall be responsible for the implementation of the policies hereinafter provided:

a) Ancestral Domains Office - The Ancestral Domain Office shall be responsible for the identification, delineation and recognition of ancestral lands/domains. It shall also be responsible for the management of ancestral lands/domains in accordance with a master plan as well as the implementation of the ancestral domain rights of the ICCs/IPs as provided in

Chapter III of this Act. It shall also issue, upon the free and prior informed consent of the ICCs/IPs concerned, certification prior to the grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs or their ancestral domains and to assist the ICCs/IPs in protecting the territorial integrity of all ancestral domains. It shall likewise perform such other functions as the Commission may deem appropriate and necessary;

b) Office on Policy, Planning and Research - The Office on Policy, Planning and Research shall be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/IPs. Such plan shall undergo a process such that every five years, the Commission shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs;

c) Office of Education, Culture and Health - The Office on Culture, Education and Health shall be responsible for the effective implementation of the education, cultural and rented rights as provided in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for ICC/IP beneficiaries in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education. It shall undertake, within the limits of available appropriation, a special program which includes language and vocational training, public health and family assistance program and rented subjects.

It shall also identify ICCs/IPs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health profession.

Towards this end, the NCIP shall deploy a representative in each of the said offices personally perform the foregoing task and who shall receive complaints from the ICCs/IPs and compel action from appropriate agency. It shall also monitor the activities of the National Museum and other similar government agencies generally intended to manage and presence historical and archeological artifacts of the ICCs/IPs and shall be responsible for the implementation of such other functions as the NCIP may deem appropriate and necessary;

d) Office on Socio-Economic Services and Special Concerns. - The Office on Socio-Economic Services and Special Concerns shall serve as the Office through which the NCIP shall coordinate with pertinent government agencies specially charged with the implementation of various basic socio-economic services, policies, plans and programs affecting the ICCs/IPs to ensure that the same are properly and directly enjoyed by them. It shall also be responsible for such other functions as the NCIP may deem appropriate and necessary;

e) Office of Empowerment and Human Rights - The Office of Empowerment and Human Rights shall ensure that indigenous sociopolitical, cultural and economic rights are respected

and recognized. It shall ensure that capacity building mechanisms are instituted and ICCs/IPs are afforded every opportunity, if they so choose, to participate in all levels of decision-making. It shall likewise ensure that the basic human rights, and such other rights as the NCIP may determine, subject to existing laws, rules and regulations, are protected and promoted;

f) Administrative Office - The Administrative Office shall provide the NCIP with economical, efficient and effective services pertaining to personnel, finance, records, equipment, security, supplies and related services. It shall also administer the Ancestral Domains Fund; and

g) Legal Affairs Office- There shall be a Legal Affairs Office which shall advise the NCIP on all legal matters concerning ICCs/IPs and which shall be responsible for providing ICCs/IPs with legal assistance in litigation involving community interest. It shall conduct preliminary investigation on the basis of complaints filed by the ICCs/IPs against a natural or juridical person believed to have violated ICCs/IPs rights. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the NCIP.

SEC. 47. Other Offices. - The NCIP shall have the power to create additional of offices it may deem necessary subject to existing rules and regulations.

SEC. 48. Regional and Field Offices. - Existing regional and field offices shall remain to function under the strengthened organizational structure of the NCIP. Other field offices shall be created wherever appropriate and the staffing pattern thereof shall be determined by the NCIP: Provided, That in provinces where there are ICCs/IPs but without field of offices, the NCIP shall establish field offices in said provinces.

SEC. 49. (office of the Executive Director. - The NCIP shall create the Office of the Executive Director which shall serve as its secretariat. The office shall be headed by an Executive Director who shall be appointed by the President of the Republic of the Philippines upon recommendation of the NCIP on a permanent basis. The staffing pattern of the office shall be determined by the NCIP subject to existing rules and regulations.

SEC. 50. Consultative Body. - A body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs shall be constituted by the NCIP from time to time to advise it on matters relating to the problems, aspirations and interests of the ICCs/IPs.

CHAPTER VIII DELINEATION AND RECOGNITION OF ANCESTRAL DOMAINS

SEC. 51. Delineation and Recognition of Ancestral Domains. -Self-delineation shall be the guiding principle in the identification and delineation of ancestral domains. As such, the ICCs/IPs concerned shall have a decisive role in all the activities pertinent thereto. The Sworn Statement of the Elders as to the scope of the territories and agreements/ pacts made with neighboring ICCs/IPs, if any, will be essential to the determination of these traditional territories. The Government shall take the necessary steps to identify lands which the ICCs/IPs concerned traditionally occupy and guarantee effective protection of their rights of

ownership and possession thereto. Measures shall be taken in appropriate cases to safeguard the right of the ICCs/IPs concerned to land which may no longer be exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities, particularly of ICCs/IPs who are still nomadic and/or shifting cultivators.

SEC. 52. Delineation Process. - The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

a) Ancestral Domains Delineated Prior to this Act.- The provisions hereunder shall not apply to ancestral domains/lands already delineated according to DENR Administrative Order No. 2, series of 1993, nor to ancestral lands and domains delineated under any other community/ancestral domain program prior to the enactment of this law. ICCs/IPs whose ancestral lands/domains were officially delineated prior to the enactment of this law shall have the right to apply for the issuance of a Certificate of Ancestral Domain Title (CADT) over the area without going through the process outlined hereunder;

b) Petition for Delineation. - The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/IPs;

c) Delineation Proper. - The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned;

d) Proof Required. - Proof of Ancestral Domain Claims shall include the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall be any one (I) of the following authentic documents:

- 1) Written accounts of the ICCs/IPs customs and traditions;
- 2) Written accounts of the ICCs/IPs political structure and institution;
- 3) Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
- 4) Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;
- 5) Survey plans and sketch maps;
- 6) Anthropological data;
- 7) Genealogical surveys;
- 8) Pictures and descriptive histories of traditional communal forests and hunting grounds;
- 9) Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and
- 10) Write-ups of names and places derived from the native dialect of the community.

e) Preparation of Maps. - On the basis of such investigation and the findings of fact based thereon, the Ancestral Domains Office shall prepare a perimeter map, complete with technical descriptions, and a description of the natural features and landmarks embraced therein;

f) Report of Investigation and Other Documents. - A complete copy of the preliminary census and a report of investigation, shall be prepared by the Ancestral Domains Office of the NCIP;

g) Notice and Publication. - A copy of each document, including a translation in the native language of the ICCs/IPs concerned shall be posted in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial and regional offices of the NCIP, and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspaper and radio station are not available;

h)Endorsement to NCIP. - Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims among ICCs/IPs on the boundaries of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below.

i) Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies. - The Chairperson of the NCIP shall certify Blat the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified Thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;

j) Issuance of CADT. - ICCs/IPs whose ancestral domains have been officially delineated and determined by the NCIP shall be issued a CADT in the name of the community concerned, containing a list of all dose identified in the census; and

k) Registration of CADTs. - The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands tides before She Register of Deeds in the place where the property is situated.

SEC. 53. Identification, Delineation and Certification of Ancestral

a) The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions;

- b) Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains, may have their claims officially established by filing applications for the identification and delineation of their claims with the Ancestral Domains Office. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively;
- c) Proofs of such claims shall accompany the application form which shall include the testimony under oath of elders of the community and other documents directly or indirectly attesting to the possession or occupation of the areas since time immemorial by the individual or corporate claimants in the concept of owners which shall be any of the authentic documents enumerated under Sec. 52 (d) of this Act, including tax declarations and proofs of payment of taxes;
- d) The Ancestral Domains Office may require from each ancestral claimant the submission of such other documents, Sworn Statements and the like, which in its opinion, may shed light on the veracity of the contents of the application/claim;
- e) Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available;
- f) Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individual or indigenous corporate claimants, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and
- g) The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP, which shall, in turn, evaluate the report submitted. If the NCIP finds such claim meritorious, it shall issue a certificate of ancestral land, declaring and certifying the claim of each individual or corporate (family or clan) claimant over ancestral lands.

SEC. 54. Fraudulent Claims. - The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

SEC. 55. Communal Rights. - Subject to Section 56 hereof, areas within the ancestral domains, whether delineated or not, shall be presumed to be communally held: Provided, That communal rights under this Act shall not be construed as co-ownership as provided in Republic Act. No. 386, otherwise known as the New Civil Code.

SEC. 56. Existing Property Rights Regimes. - Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

SEC. 57. Natural Resources within Ancestral Domains. - The ICCs/ IPs shall have priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years: Provided, That a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation: Provided, finally, That the NCIP may exercise visitorial powers and take appropriate action to safeguard the rights of the ICCs/IPs under the same contract.

SEC. 58. Environmental Considerations. - Ancestral domains or portions thereof, which are found to be necessary for critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by appropriate agencies with the full participation of the ICCs/IPs concerned shall be maintained, managed and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to maintain, develop, protect and conserve such areas with the full and effective assistance of government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas, said decision must be made in writing. The consent of the ICCs/IPs should be arrived at in accordance with its customary laws without prejudice to the basic requirements of existing laws on free and prior informed consent: Provided, That the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with a program for technology transfer: Provided, further, That no ICCs/IPs shall be displaced or relocated for the purpose enumerated under this section without the written consent of the specific persons authorized to give consent.

SEC. 59. Certification Precondition. - All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: Provided, finally, That the ICCs/IPs shall have the

right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

SEC. 60. Exemption from Taxes. - All lands certified to be ancestral domains shall be exempt from real property taxes, special levies, and other forms of exaction except such portion of the ancestral domains as are actually used for large-scale agriculture, commercial forest plantation and residential purposes or upon titling by private persons: Provided, That all exactions shall be used to facilitate the development and improvement of the ancestral domains.

SEC. 61. Temporary Requisition Powers. - Prior to the establishment of an institutional surveying capacity whereby it can effectively fulfill its mandate, but in no case beyond three (3) years after its creation, the NCIP is hereby authorized to request the Department of Environment and Natural Resources (DENR) survey teams as well as other equally capable private survey teams, through a Memorandum of Agreement (MOA), to delineate ancestral domain perimeters. The DENR Secretary shall accommodate any such request within one (1) month of its issuance: Provided, That the Memorandum of Agreement shall stipulate, among others, a provision for technology transfer to the NCIP.

SEC. 62. Resolution of Conflicts. - In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which can not be resolved, the NCIP shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof

SEC. 63. Applicable Laws. - Customary laws, traditions and practices of the ICCs/IPs of the land where the conflict arises shall be applied first with respect to property rights, claims and ownerships, hereditary succession and settlement of land disputes. Any doubt or ambiguity in the application and interpretation of laws shall be resolved in favor of the ICCs/IPs.

SEC. 64. Remedial Measures. - Expropriation may be resorted to in the resolution of conflicts of interest following the principle of the "common good." The NCIP shall take appropriate legal action for the cancellation of officially documented titles which were acquired illegally: Provided, That such procedure shall ensure that the rights of possessors in good faith shall be respected: Provided further, That the action for cancellation shall be initiated within two (2) years from the effectivity of this Act: Provided, finally, that the action for reconveyance shall be within a period of ten (10) years in accordance with existing laws.

CHAPTER IX JURISDICTION AND PROCEDURES FOR ENFORCEMENT OF RIGHTS

SEC. 65. Primacy of Customary Laws and Practices. - When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.

SEC. 66. Jurisdiction of the NCIP. - The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs: Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

SEC. 67. Appeals to the Court of Appeals. - Decisions of the NCIP shall be appealable to the Court of Appeals byway of a petition for review.

SEC. 68. Execution of Decisions, Awards Orders. - Upon expiration of the period herein provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

SEC. 69. Quasi-Judicial Powers of the NCIP. - The NCIP shall have the power and authority:

a) To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Act;

b) To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act;

c) To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and

d) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

SEC. 70. No Restraining Order or Preliminary Injunction. - No inferior court of the Philippines shall have jurisdiction to issue an restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy arising from, necessary to, or interpretation of this Act and other pertinent laws relating to ICCs/IPs and ancestral domains.

CHAPTER X ANCESTRAL DOMAINS FUND

SEC. 71. Ancestral Domains Fund. - There is hereby created a special fund, to be known as the Ancestral Domains Fund, an initial amount of One hundred thirty million pesos (P130,000,000) to cover compensation for expropriated lands, delineation and development of ancestral domains. An amount of Fifty million pesos (P50,000,000) shall be sourced from the gross income of the Philippine Charity Sweepstakes Office (PCSO) from its lotto operation, Ten million pesos (P10,000,000) from the gross receipts of the travel tax of the preceding year, the fund of the Social Reform Council intended for survey and delineation of ancestral lands/domains, and such other source as the government may deem appropriate. Thereafter, such amount shall be included in the annual General Appropriations Act. Foreign as well as local funds which are made available for the ICCs/IPs through the government of the Philippines shall be coursed through the NCIP. The NCIP may also solicit and receive donations, endowments and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision or instrumentality thereof.

CHAPTER XI PENALTIES

SEC. 72. Punishable Acts and Applicable Penalties.- Any person who commits violation of any of the provisions of this Act, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI hereof, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: Provided, That no such penalty shall be cruel, degrading or inhuman punishment: Provided, further, That neither shall the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/IPs to avail of the protection of existing laws. In which case, any person who violates any provision of this Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine of not less than One hundred thousand pesos (P100,000) nor more than Five hundred thousand pesos (P500,000) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay to the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.

SEC. 73. Persons Subject to Punishment. - If the offender is a juridical person, all officers such as, but not limited to, its president, manager, or head of office responsible for their unlawful act shall be criminally liable therefor, in addition to the cancellation of certificates of their registration and/or license: Provided, That if the offender is a public official, the penalty shall include perpetual disqualification to hold public office..

CHAPTER XII MERGER OF THE OFFICE FOR NORTHERN CULTURAL COMMUNITIES (ONCC) AND THE OFFICE FOR SOUTHERN CULTURAL COMMUNIONS (OSCC)

SEC. 74. Merger of ONCC/OSCC. - The Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC), created under Executive Order Nos. 122-B and 122-C respectively, are hereby merged as organic offices of the NCIP and shall continue to function under a revitalized and strengthened structures to achieve the objectives of the NCIP: Provided, That the positions of Staff Directors, Bureau Directors,

Deputy Executive Directors and Executive Directors, except positions of Regional Directors and below, are hereby phased-out upon the effectivity of this Act: Provided, further, That officials of the phased-out offices who may be qualified may apply for reappointment with the NCIP and may be given prior rights in the filling up of the newly created positions of NCIP, subject to the qualifications set by the Placement Committee: Provided, furthermore, That in the case where an indigenous person and a non-indigenous person with similar qualifications apply for the same position, priority shall be given to the former. Officers and employees who are to be phased-out as a result of the merger of their offices shall be entitled to gratuity a rate equivalent to one and a half (1 1/2) months salary for every year of continuous and satisfactory service rendered or the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received. If they are already entitled to retirement or gratuity, they shall have the option to select either such retirement benefits or the gratuity herein provided. Officers and employees who may be reinstated shall refund such retirement benefits or gratuity received: Provided, finally, That absorbed personnel must still meet the qualifications and standards set by the Civil Service and the Placement Committee herein created.

SEC. 75. Transition Period. - The ONCC/OSCC shall have a period of six (6) months from the effectivity of this Act within which to wind up its affairs and to conduct audit of its finances.

SEC. 76. Transfer of Assets/Properties. - All real and personal properties which are vested in, or belonging to, the merged offices as aforestated shall be transferred to the NCIP without further need of conveyance, transfer or assignment and shall be held for the same purpose as they were held by the former offices: Provided, That all contracts, records and documents relating to the operations of the merged offices shall be transferred to the NCIP. All agreements and contracts entered into by the merged offices shall remain in full force and effect unless otherwise terminated, modified or amended by the NCIP.

SEC. 77. Placement Committee. - Subject to rules on government reorganization, a Placement Committee shall be created by the NCIP, in coordination with the Civil Service Commission, which shall assist in the judicious selection and placement of personnel in order that the best qualified and most deserving persons shall be appointed in the reorganized agency. The Placement Committee shall be composed of seven (7) commissioners and an ICCs'/IPs' representative from each of the first and second level employees association in the Offices for Northern and Southern Cultural Communities (ONCC/OSCC), nongovernment organizations (NGOs) who have served the community for at least five (5) years and peoples organizations (POs) with at least five (5) years of existence. They shall be guided by the criteria of retention and appointment to be prepared by the consultative body and by the pertinent provisions of the civil service law.

CHAPTER XIII FINAL PROVISIONS

SEC. 78. Special Provision. - The City of Baguio shall remain to be governed by its Charter and all lands proclaimed as part of its town site reservation shall remain as such until otherwise reclassified by appropriate legislation: Provided, That prior land rights and titles recognized and/or acquired through any judicial, administrative or other processes before the

effectivity of this Act shall remain valid: Provided, further, That this provision shall not apply to any territory which becomes part of the City of Baguio after the effectivity of this Act.

SEC. 79. Appropriations. - The amount necessary to finance the initial implementation of this Act shall be charged against the current year's appropriation of the ONCC and the OSCC. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 80. Implementing Rules and Regulations. - Within sixty (60) days immediately after appointment, the NCIP shall issue the necessary rules and regulations, in consultation with the Committees on National Cultural Communities of the House of Representatives and the Senate, for the effective implementation of this Act.

SEC. 81. Saving Clause. - This Act will not in any manner adversely affect the rights and benefits of the ICCs/IPs under other conventions, recommendations, international treaties, national laws, awards, customs and agreements.

SEC. 82. Separability Clause. - In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

SEC. 83. Repealing Clause. - Presidential Decree No. 410, Executive Order Nos. 122-B and 122-C, and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 84. Effectivity. - This Act shall take effect fifteen (15) days upon its publication in the (official Gazette or in any two (2) newspapers of general circulation.

Approved,

JOSE DE VENECIA, JR.
Speaker of the House of Representatives

ERNESTO M. MACEDA
President of the Senate

This Act, which is a consolidation of Senate Bill No. 1728 and House Bill No. 9125 was finally passed by the Senate and the House of Representatives on October 22, 1997.

ROBERTO P. NAZARENO
Secretary General
House of Representatives

LORENZO E. LEYNES, JR.
Secretary of the Senate

Approved: Oct 29 1997

FIDEL V. RAMOS
President of the Philippines



Republic of the Philippines
OFFICE OF THE PRESIDENT
COMMISSION ON HIGHER EDUCATION



CHED MEMORANDUM ORDER

No. 09

Series of 2013

SUBJECT: ENHANCED POLICIES AND GUIDELINES ON STUDENT AFFAIRS AND SERVICES

In accordance with the pertinent provisions of Republic Act (RA) No. 7722, otherwise known as the "Higher Education Act No. of 1994", Batas Pambansa 232, and Resolution No. 321-2013 of the Commission en banc dated April 8, 2013, the Commission on Higher Education, pursuant to its commitment to the utmost achievement of quality, relevant and efficient higher education in the country, hereby adopted and promulgated the following Enhanced Policies and Guidelines on Student Affairs and Services, which define the scope, procedures, the extent of regulations as well as the mechanics of evaluating student welfare and activities for students enrolled in Higher Education Institutions (HEIs) thus:

**ARTICLE I
GUIDING PRINCIPLES**

- Section 1** The 1987 Philippine Constitution declares that the State shall protect and promote the rights of all Filipino citizens to quality education at all levels and shall take appropriate steps to make education accessible to all.
- Section 2** The State shall establish, maintain and support a complete, adequate, and integrated system of education relevant to the needs of the people and society.

**ARTICLE II
STATEMENT OF POLICIES**

- Section 3** The CHED is mandated to promote quality education; take appropriate steps to ensure that education shall be accessible to all; and ensure and protect academic freedom for the continuing intellectual growth, the advancement of learning and research, the development of responsible and effective leadership, the education of high level professionals, and the enrichment of historical and cultural heritage.
- Section 4** An educational institution seeks to form individuals who can later become productive citizens of the country and the world. Its responsibility is not only confined to the teaching and development of job skills, but also to the acquisition of life skills and values. The individuals produced by the educational institution should be able to contribute positively to the progress of his/her country, and to the upliftment of the human conditions. Student Affairs and Services, therefore, must systematically and deliberately address this end objective of producing citizens suited to the aims of the country and of humanity. Higher Education Institutions must provide a set of student centered activities and services in support of academic instruction intended to facilitate holistic and well rounded student development for active involvement as future responsible citizens and leaders. These shall be collectively known as Student Affairs and Services.

Section 5 The students' enjoyment of their rights shall be balanced by the exercise of accountability and social responsibility, that is, for every right enjoyed, there is a corresponding duty and accountability.

Section 6 The rights of students to "self management" with the exercise of right to self-organize on matters that will advance their welfare and maximize their potentials shall be invaluable.

Section 7 HEIs shall ensure full implementation of these Policies and Guidelines and provide mechanism for its monitoring and evaluation.

**ARTICLE III
OBJECTIVES**

Section 8 This set of guidelines aims to set minimum standards on student affairs and services among Higher Education Institutions (HEIs) in order to:

- 8.1 ensure proper balance between rights of educational institution and student rights;
- 8.2 improve the quality of Student Affairs and Services among Higher Education Institutions;
- 8.3 promote access to quality, relevant, efficient and effective student affairs and services;
- 8.4 support student development and welfare; and
- 8.5 ensure that all Higher Education Institutions provide holistic approach for Student Affairs and Services and comply with the minimum requirements for student affairs and services.

**ARTICLE IV
SCOPE AND COVERAGE**

Section 9 This set of policies, and guidelines shall apply to all Higher Education Institutions both public and private, duly authorized by the Commission on Higher Education and/or their respective Board of Trustees/ Board of Regents (BOT/BOR) in case of public institutions.

**ARTICLE V
STUDENT AFFAIRS AND SERVICES**

Section 10 **Student Affairs and Services (SAS)** - Student Affairs and Services are the services and programs in higher education institutions that are concerned with academic support experiences of students to attain holistic student development. Academic support services are: those that relate to student welfare, student development and those that relate to institutional programs and services. Implementation of these services can be unique to an institution.

- 10.1 Student Welfare Services are basic services and programs needed to ensure and promote the well-being of students.

10.2 Student Development Services refers to the services and programs designed for the exploration, enhancement and development of the student's full potential for personal development, leadership, and social responsibility through various institutional and/or student-initiated activities.

10.3 Institutional Student Programs and Services – refers to the services and programs designed to pro-actively respond to the basic health, food, shelter, and safety concerns of students including students with special needs and disabilities and the school.

**ARTICLE VI
MANAGEMENT AND ADMINISTRATION OF
STUDENT AFFAIRS AND SERVICES**

Section 11 Higher Education Institution must ensure that there is an office to manage the Student affairs and Services.

11.1 The HEI must ensure an adequate number of student services personnel to serve the student population.

11.2 The HEI must ensure that the student services personnel are qualified, and competent.

Section 12 **Student Services Funds** - The HEI must ensure that any Student Affairs and Services fees collected must be judiciously disposed for Student Affairs and Services. There shall be a mechanism to ensure transparency and accountability in the usage of the fund.

**ARTICLE VII
STUDENT WELFARE**

These are basic services that are necessary to serve the well-being of students. These include Information, Orientation and Awareness, Guidance and Counseling, Career and Placement, Economic Enterprise Development, and Student Handbook development.

Section 13 **Information and Orientation Services** – refer to informative activities and materials designed to facilitate student adjustment to life in tertiary/higher education.

13.1 **Information and Orientation Services**

13.1.1 The Institution shall have Information materials on institutional mission, vision and goals, academic, rules and regulations, student conduct and discipline, student programs, services and facilities and such other information necessary for student development and should be made accessible and would be available to all students.

13.1.2 There shall be a regular comprehensive orientation program held for new and continuing students responsive to their needs, including

orientation on the dynamics and nature of persons with disabilities, and relevant laws and policies affecting persons with disabilities.

- 13.1.3 There shall be an organized, updated, and readily available educational, career, and personal/social materials in different accessible formats. Information materials include statutes affecting students such as (a) R.A. 9262 or Anti Violence Against Women and Children Act; b) guidelines on drug abuse prevention and control, c) R.A. 7877 or the Anti-Sexual Harassment Act of 1995, d) HIV AIDS awareness, e) self-care and healthy lifestyles and (f) R.A. 9442, particularly on the provision on public ridicule and vilification against persons with disability.

Section 14 Guidance and Counseling Services

- 14.1 **Guidance Service** – a set of services using an integrated approach to the development of well – functioning individuals primarily by helping them to utilize their potentials to the fullest.
- 14.2 **Counseling** – individual and/or group intervention designed to facilitate positive change in student behavior, feelings, and attitudes.
- 14.2.1 Gender sensitive individual and group counseling shall be provided by a licensed counselor. The acceptable ratio of counselor to student population is at least 1:1,000.
- 14.2.2 A counseling room shall be provided to ensure the privacy and confidentiality of counseling sessions. The records and/or counseling notes are maintained and kept confidential.
- 14.2.3 Appropriate and pro-active intervention programs and strategies may be adopted by HEIs to ensure that every student’s need for guidance and counseling and psycho-social services may be provided in a timely manner.
- 14.3 **Appraisal** – gathering information about students through the use of psychological tests and non-psychometric devices.
- 14.3.1. The Guidance Office shall maintain student’s cumulative records which contain relevant information about the student e.g. family background, test data, disability records, etc. Records shall be appropriate, usable and regularly updated.
- 14.3.2 There shall be provision for a well-planned assessment program for students with appropriate standardized psychological tests administered, scored and interpreted by qualified personnel. The test results are interpreted to students, teachers, and concerned individuals e.g. parents.
- 14.4 **Follow-up** – a systematic monitoring to determine the effectiveness of guidance activities, in general, and placement in particular. C/W

14.4.1 There shall be adequate and appropriate Follow-up and Referral Schemes known to students and concerned parties.

14.5 **Referral** – refers to coordination with multi-disciplinary team of specialists to ensure that special needs of students are met.

Section 15 Career and Job Placement Services – refer to the assistance provided for vocational and occupational fitness and employment.

15.1 The Higher Education Institution shall institute valid appraisal data of students for career and job placement. They shall have continuous follow-up and monitoring of student placement conducted on regular basis.

15.2 The Higher Education Institution shall maintain active networking with school, community, alumni, and other relevant agencies for career and job placement of students.

15.3 Informative materials in accessible formats on career and job opportunities shall be provided and skills development programs shall be made available.

15.4 There shall be regular career seminars and job placement services available for the students.

15.5 There shall be mechanisms to institutionalize the link with industries.

15.6 The students must be informed of the timelines for the concerned HEI's assistance in seeking career and job placement at least until a specified period of time.

Section 16 Economic Enterprise Development – refers to those services and programs that would cater to the other economic needs of students such as but not limited to 1) student cooperatives, 2) entrepreneurial, 3) income generating projects, and 4) savings. If in case the HEIs opted to organize cooperative, the same must be recognized/registered with the Cooperative Development Agency (CDA) subject to the existing laws and guidelines of the said Agency.

16.1 The HEI may establish mechanisms to promote and develop student economic enterprises but not limited to academic activities.

Section 17 Student Handbook Development

17.1 There shall be mechanisms to develop the student handbook and updates be made into accessible formats (such as but not limited to electronic, large print, media, braille, and sign language) for dissemination, information, and guidance of students and university stakeholders .

17.2 There shall be mechanisms to archive and retrieve previous student handbooks for purposes of improving the same. ✓

- 17.3 A representative from the student body must be included in the development and revision of student handbook.

**ARTICLE VIII
STUDENT DEVELOPMENT**

These are programs and activities designed for the enhancement and deepening of leadership skills and social responsibility, which include Student Organizations and Activities, Professional organization or societies, special interests, Leadership Training Programs, Student Council/ Government, Student Discipline, Student Publication/ media.

Section 18 Student Activities – supervision, recognition, and monitoring of student organizations and their activities such as leadership programs, student publication, student organizations, sports development, volunteerism, peer helper program, etc.

Section 19 Student Organizations and Activities – refer to the recognition/accreditation, supervision and monitoring of student groups including the evaluation of their activities.

19.1 The Higher Education Institution (HEI) shall have a system of accreditation, re-accreditation, monitoring and evaluation using participatory institutional procedures and processes in recognition of basic rights to organize. Requirements and procedures for recognition/accreditation of student groups shall be widely disseminated.

19.2 The HEI shall provide accredited student organizations adequate office space and other institutional support.

19.3 The Constitution and by laws of student organizations shall provide for and require participation in activities on anti-drug abuse, awareness and drug abuse prevention initiated by Government and Non-government Organizations. There shall be a mechanism to coordinate with the school administration relative to the treatment and rehabilitation of students with drug-related problems.

Section 20 Leadership Training– are programs and opportunities to develop and enhance leadership effectiveness in the personal level and student organizations.

20.1 The HEI shall ensure that leadership training programs are provided and opportunities for interaction with counterparts from other institutions.

Section 21 Student Council/Government – refers to the student body duly organized and elected at large by the students themselves, with due recognition and authority from the HEI, as the students' official representative in matters affecting them.

21.1 The HEI must recognize the right of the students to govern themselves as a student body, to be transparent and accountable to their constituents; and be represented in various for a where the students need to be consulted. ✓

- 21.2 The HEI must ensure transparency in the development/revision of guidelines and procedures for the student council/government.

Section 22 Student Discipline – refers to the judicious implementation of institutional rules and regulations governing student behavior and conduct.

22.1 The HEI shall have gender and disability sensitive rules and regulations formulated in consultation with students and faculty and published in a student manual that is accessible and disseminated to students including students with disabilities, faculty and concurred in by parents. The rules and regulations define appropriate student conduct and prescribe sanctions for misconduct such as but not limited to acts of vandalism, exaggerated utterances, irresponsible and libelous statements and other negative acts of militancy that threaten peace and order and private and public properties inside and outside the HEIs.

22.2 A discipline committee shall be established in all HEIs to ensure due process in dealing with student misconduct.

22.3 There shall be timely mechanisms to address student grievance.

Section 23 Student Publication/Year Book – refers to the official publication/organ/journal/yearbook and such other student oriented print and non-print media of the university and/or college.

23.1 The HEI shall support the establishment and implementation of student publication as provided for in R.A. 7079, otherwise known as “Campus Journalism Act of 1991” and other media forms preferably within the framework of self-management.

23.2 There shall be mechanism to ensure that the provisions under this Act are complied with.

23.3 There shall be mechanism to encourage other media and yearbook production.

ARTICLE IX INSTITUTIONAL STUDENT PROGRAMS AND SERVICES

These are programs and activities offered by the HEIs to facilitate the delivery of essential services to the students that include Admission, Scholarship and Financial Assistance, Food, Health, Security and Safety, Housing and Residential Services, Multi-Faith, Foreign/International Students, services for Students with Special Needs and other programs such as: culture and arts, sports, social and community involvement.

Section 24 Admission Services – refer to services that take care of the processing of students' entrance and requirements.

- 24.1 Requirement and procedures for admission are in place with consideration/reasonable accommodation for those applicants and/or persons with disabilities as stipulated in R.A. 7277.
- 24.2 Stakeholders are properly informed of the guidelines of the HEI.
- 24.3 List of tuition and other school fees and educational visits and field trips must be posted in conspicuous places.

Section 25 Scholarships and Financial Assistance (SFA) - refer to the management, generation and/or allocation of funds for scholarship and financial aid to deserving students.

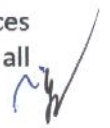
- 25.1 There shall be student scholarships and financial assistance in various forms and accessible modalities available to students with appropriate screening and monitoring procedures, and guidelines understood by applicants and recipients.
- 25.2 There shall be structures to provide access to scholarship and financial assistance instituted. Availability, qualification requirements, and procedures for avilment of scholarships and financial aid should be widely and promptly disseminated in various media.
- 25.3 There shall be mechanisms for HEIs to institutionalize more compassionate policies and guidelines particularly for those students belonging to the vulnerable and/or marginalized sector of our country. The HEIs must provide access on any financial assistance in cases where the stated students can not pay on the particular moment.

Section 26 Food Services – refer to the ensurance of available, adequate, safe and healthful food within the campus and immediate vicinity in accordance with the food, safety and sanitation guidelines of the Department of Health.

- 26.1 The Higher Education Institution shall set the criteria for safety and sanitary conditions and food choices of food outlets within the compound of the institution. They shall coordinate with local government for the safety of food service outside the school premises.
- 26.2 The Higher Education Institution shall periodically inspect food outlets for sanitation and hygiene. The Certificate to Operate should be displayed in a prominent area of the food outlet.

Section 27 Health Services – refer to the provision of primary health care and wellness program.

- 27.1 The Higher Education Institution shall provide primary health care services administered by licensed medical, dental and allied professionals to all students.



- 27.2 There shall be adequate facilities for health care and updated health records including disability records for students with disabilities that are kept and maintained as required by the Department of Health and other related agencies.
- 27.3 There shall be mechanisms to promote healthy lifestyle such as but not limited to healthy diet, physical activities, and no smoking and drinking of alcoholic beverages and substance abuse; and provide healthy environment not only inside the campus but also outside the school premises.
- 27.4 The school shall provide policy and environment to enable the practice of healthy lifestyle.
- 27.5 There shall be compliance with the relevant and existing health and related laws, rules and regulations.

Section 28 Safety and Security Services – refer to the provision of a safe and secure environment and that of the members of the academic community.

- 28.1 There is safe, accessible (for persons with disabilities) and secure environment, buildings and facilities shall comply with government standards. Licensed and competent security personnel shall ensure the safety and security of students and their belongings.
- 28.2 There shall be mechanisms to address disaster risk reduction and management concerns to include persons with disabilities' needs in compliance with R.A. 10121, otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010".
- 28.3 There shall be a regular conduct of earthquake and fire drills involving majority of students and teaching and non-teaching personnel.
- 28.4 There should be a contingency plan for each campus of each HEI in compliance with R.A. 10121.
- 28.5 There shall be an established mechanism for the students to help in crime prevention, safety and security of the concerned HEI.

Section 29 Student Housing and Residential Services – refer to the assistance provided to ensure access to accommodation that is safe and conducive to learning.

- 29.1 The school must provide mechanism, assistance and/or list of acceptable student dormitories and housing facilities that are safe, clean, affordable, accessible to students with disabilities, and conducive to learning.

Section 30 Multi-faith Services – refer to the provision of an environment conducive to free expression of one's religious orientation in accordance with institutional principles and policies.

- 30.1 The HEI shall be encouraged to ensure that the right of religion is respected.
- 30.2 The HEI must provide mechanism for the use of facilities.

Section 31 Foreign/International Students Services – refer to the provision of assistance to address the needs of foreign students.

- 31.1 An integrated service program that caters to the socio-psycho-cultural, academic and non-academic needs should be available to all international students.
- 31.2 The school should provide a liaison officer to assist international students with the government agencies like CHED, Department of Foreign Affairs and Bureau of Immigration.
- 31.3 There shall be a regular submission of the list of foreign students and compliance reports as required by the concerned government agencies.
- 31.4 There must be a Code of Conduct that will govern foreign students while they are inside the country in compliance with prescribed rules and regulations.
- 31.5 Adequate quota between Filipino and Foreign students should be established within the particular HEI considering local and national security in accordance with prescribed rules and regulations.

Section 32 Services for Students with Special Needs and Persons with Disabilities are programs and activities designed to provide equal opportunities to Persons With Disabilities (PWDs), indigenous peoples, solo parents, etc. (academic accommodation for learners with special needs).

- 32.1 The HEI shall ensure that academic accommodation is made available to persons with disabilities and learners with special needs with proper consultation and conference with students with disabilities themselves, together with their teachers, parents/guardian/s, personal assistant/s and other concerned professionals, whenever necessary.
- 32.2 There shall be provisions/programs for life skills training e.g. conflict management and counseling or testing referrals shall be done whenever necessary.
- 32.3 There shall be a regular submission of the list of students with disabilities detailing the intervention programs to the CHEDROs in order to build up the Database of HEIs Accommodating PWDs.

Section 33 Cultural and Arts Programs – refer to the set of activities designed to provide opportunities to develop and enhance talents, abilities and values for appreciation, promotion and conservation of national culture and multi-cultural heritage.

- 33.1 The HEI shall provide opportunities for appreciation of culture and the arts.

- 33.2 There shall be mechanisms to promote Philippine Culture and the Arts in coordination with other government agencies.
- 33.3 The HEI shall provide an Office for Culture and the Arts.

Section 34 Sports Development Programs – are programs designed for physical fitness and wellness of students.

- 34.1 The HEI shall provide opportunities for physical fitness and well-being of students.
- 34.2 There shall be mechanism to promote national, sectoral and cultural sports activities and development in coordination with other agencies. Example: arnis (national), sports for persons with disabilities, and sipa (cultural).
- 34.3. There shall be a regular conduct of sports programs supporting school athletes and the whole studentry.

Section 35 Social and Community Involvement Programs – refer to programs and opportunities designed to develop social awareness, personal internalization and meaningful contribution to nation building.

- 35.1 The HEI shall ensure opportunities for meaningful socio-civic involvement of students which include among others volunteerism, environment protection, etc.
- 35.2 The HEI shall ensure that the students are insured in their field work days.

Section 36 Other Related Programs and Services - refer to those that include other institutional programs that might be established by the institutions.

- 36.1 There shall be appropriate mechanisms established to inform the students and stakeholders regarding the other related programs and services not cited in this CHED Memorandum Order.

**ARTICLE X
RESEARCH ON STUDENT AFFAIRS AND SERVICES**

Section 37 The Higher Education Institution shall be encouraged to conduct research on Student Affairs and Services Programs. The students may be involved in the research.

Section 38 Research results and outputs shall be disseminated and utilized.

**ARTICLE XI
MONITORING AND EVALUATION**

Section 39 Monitoring and Evaluation on Student Affairs and Services – feedback mechanism on the effectiveness of the Student Affairs and Services.

- 39.1 There shall be mechanisms for regular monitoring and evaluation on the implementation of Student Services and submission of reports regarding the same to CHEDROs.
- 39.2 There shall be mechanisms to ensure sustainability of effective programs and submission of reports on student affairs and services to the CHEDROs for the purpose of improving existing policies, guidelines and procedures dealing with student affairs and services.
- 39.3 Evaluation results and outputs shall be disseminated and utilized.
- 39.4 Monitoring and evaluation instruments shall be developed and issued.

**ARTICLE XII
REWARDS AND INCENTIVES**

Section 40 Institutional Rewards on Excellence in Student Affairs and Services

- 40.1 There shall be mechanisms for HEIs to provide incentives and rewards for proper implementation and execution of the Student Affairs and Services.

Section 41 Government and Non Government Incentives

- 41.1 Incentives and rewards shall likewise be awarded to HEIs that properly implemented and executed the Student Affairs and Services.

**ARTICLE XIII
REPEALING CLAUSE**

Section 42 CHED Memorandum Order No. 42 s. 2005 “Implementing Guidelines for the Creation of Student Crime Prevention Councils in all Colleges and Universities” is hereby repealed.

Section 43 All CHED issuances or memorandum orders or parts thereof contrary to or inconsistent with this memorandum order are hereby repealed or modified accordingly.

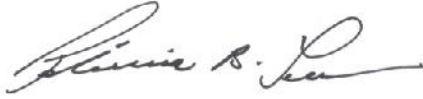
**ARTICLE XIV
TRANSITORY PROVISIONS**

Section 44 Higher Education Institutions operating in the country must comply with the ensuing Guidelines within three years from its issuance. New applicants for higher education

program must strictly adhere to these Enhanced Policies and Guidelines on Students Affairs and Services.

**ARTICLE XV
APPROVAL AND EFFECTIVITY**

Section 45 This set of Policies and Guidelines is hereby approved and shall take effect Academic Year 2013-2014.



PATRICIA B. LICUANAN, Ph. D.
Chairperson

Issued on April 19, 2013.

Enclosure: Appendix A – List of References

List of References

Laws	Short Titles
R.A. 6728	Government Assistance to Students and Teachers in Private Education Act
R.A. 6847	Philippine Sports Commission Act
R.A. 7079	Campus Journalism Act of 1991
R.A. 7277	Magna Carta for Persons with Disabilities
R.A. 7356	Law Creating the National Commission for Culture and the Arts
R.A. 7610	Protection against child abuse, exploitation and discrimination
R.A. 7877	Anti-Sexual Harassment Act of 1995
R.A. 8049	Anti- Hazing Law
R.A. 8749	Clean Air Act of 1999
R.A. 9165	Comprehensive Dangerous Drugs Act of 2002
R.A. 9163	National Service Training Program Act of 2001
R.A. 9211	Anti-smoking law
R.A. 9262	Anti-Violence Against Women and Children Act
R.A. 9418	Volunteerism Act of 2007
R.A. 9442	An Act Amending Republic Act No. 7277, known as the "Magna Carta for Disabled Persons and for Other Purposes"
R.A. 9512	Environmental Awareness and Education Act of 2008
R.A. 9520	Philippine Cooperative Code of 2008
R.A. 10121	Philippine Disaster Risk Reduction and Management Act of 2010
Rules and Regulations	Title
Exec. Order No.	
285 s. 2000	Amending the Guidelines Governing the Entry and Stay of Foreign Students in the Philippines, and the Establishment of an Inter-agency Committee on Foreign Students for the Purpose
CHED Memo Order	
21 s. 2006	Guidelines on Student Affairs and Services Program

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Republic of the Philippines
OFFICE OF THE PRESIDENT
COMMISSION ON HIGHER EDUCATION



MEMORANDUM FROM THE CHAIRPERSON

TO: ALL HIGHER EDUCATION INSTITUTIONS AND PERSONNEL
ALL CHED REGIONAL DIRECTORS

SUBJECT: **STRENGTHENING THE PROTECTION OF RELIGIOUS RIGHTS OF STUDENTS IN HIGHER EDUCATION INSTITUTIONS (HEIs)**

DATE: August 16, 2016

Pursuant to Section 5, Article 3 of 1987 Constitution, that *"no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed"*; with the Implementing Rules and Regulations of Republic Act No. 9710, that the Commission has been tasked to *"ensure sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing (including the wearing of hijab) and availability of halal"*; and with the Commission's mandate under Republic Act (RA) No. 7722, dictates *"that it is the responsibility of the State to protect, foster, and promote the right of all citizens to affordable quality education at all levels, and take appropriate steps to ensure that education shall be accessible to all"*, the Commission seeks to inform all higher education institutions (HEIs), public and private, and all CHED Regional Offices, regarding the **strengthening the protection of religious rights of students in HEIs.**

In view of the foregoing, all HEIs, both public and private, shall undertake the following:

1. Grant utmost respect, protection and consideration to the exercise of student's religious rights in the formulation of their institution's policies, with due consideration given to institutional rules and regulations concerning security, safety and identification;
2. Safeguard that all policies developed will ensure that students, regardless of religious status and affiliations shall have equal access to higher education, including but not limited to scholarships and other grants; and
3. Consistent with the Implementing Rules and Regulations of the Republic Act 9710 or the Magna Carta of Women Act of 2009, *"ensure sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing including the wearing of hijab and availability of halal."*

Immediate dissemination and strict compliance with this Order is desired.

Patricia B. Licuanan, Ph.D.
Chairperson



Republic of the Philippines
OFFICE OF THE PRESIDENT
COMMISSION ON HIGHER EDUCATION



CHED Memorandum Order

No. 47

Series of 2016

Subject: STRENGTHENING THE PROTECTION OF RELIGIOUS RIGHTS OF STUDENTS IN HIGHER EDUCATION INSTITUTIONS

**Article I
Rationale**

The issue on the protection of religious rights of students in Higher Education Institutions (HEIs) (i.e. wearing of clothing in school in line with a student's religious belief) has been a recurring concern. This issue impacts not only the institutional policies, rules and regulations regarding security and identification protocol, but primarily, the constitutional guarantee on the rights of students to freedom of religion.

**Article II
General Policies and Principles**

Pursuant to Section 5, Article 3 of *1987 Constitution*, "(n)o law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed." Further, under the *Implementing Rules and Regulations of Republic Act No. 9710* or the *Magna Carta of Women*, the Commission, together with other government agencies, has been tasked to "(e)nsure sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing (including the wearing of hijab) and availability of halal."

Further, the Commission's mandate under Republic Act (RA) No. 7722 or Higher Education Act of 1994, dictates that "that it is the responsibility of the State to *protect, foster, and promote the right of all citizens to affordable quality education at all levels, and take appropriate steps to ensure that education shall be accessible to all*". In implementing this mandate, the Commission is fully cognizant of the academic freedom granted to HEIs. Nonetheless, the exercise of this academic freedom must not run counter to existing laws and state policies.

Article III Policy Statement

All HEIs, including private HEIs, State Universities and Colleges (SUCs) and Local Universities and Colleges (LUCs) shall undertake the following:

1. Grant utmost respect, protection and consideration to the exercise of student's religious rights in the formulation of their institution's policies, with due consideration given to institutional rules and regulations concerning security, safety and identification;
2. Safeguard that all policies developed will ensure that students, regardless of religious status and affiliations shall have equal access to higher education, including but not limited to scholarships and other grants; and
3. Consistent with the Implementing Rules and Regulations of the Republic Act 9710 or the Magna Carta of Women Act of 2009, "ensure sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing including the wearing of hijab and availability of halal."

Article IV Effectivity

This CMO shall take effect immediately after its issuance.

AUG 16 2016



Patricia B. Licuanan, Ph.D.
Chairperson

References:

CHED Memorandum from the Chair dated August 26, 2008.

