

Republic of the Philippines
Office of the President
COMMISSION ON HIGHER EDUCATION
Office of the Executive Director
Office of Programs and Standards Development

POSITION PAPER

I
ON THE PROPOSED USE OF *FILIPINO* IN TEACHING THE
GENERAL EDUCATION (GE) COURSES

II
ON THE PROPOSED ADDITION OF FILIPINO AS A CORE
COURSE

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Before this Honorable Office is a Conference/Consultation on two issues:

1. the proposed use of Filipino in teaching the General Education (GE) courses
2. the proposed addition of Filipino as a core course

On the medium of instruction, this Honorable Office is presenting three possibilities:

1. Teach at least nine (9) GE units (3 courses) in Filipino.
2. In addition to the Rizal Course, teach at least twelve (12) units of GE core courses in Filipino (15 units in all or 5 courses).
3. Leave the decision on the medium of instruction to the higher education institute (HEI)

On the addition of Filipino subject(s) to the core courses, this Honorable Office is presenting four possibilities:

1. Add three (3) units of Filipino subject on language, culture, and Filipino identity as a GE core course.

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2. Teach Purposive Communication, three (3) units in English and three (3) units in Filipino, equivalent to a total of six (6) units.
3. Add nine (9) units of Filipino subjects as GE core courses.
4. Do not add Filipino subjects to the GE core courses.

This position paper deals only with the legal aspects of these proposals, and will leave to other professionals the educational, pedagogical, cultural, and other aspects.

As to the first issue, we believe that it is not within the power of the Commission on Higher Education (CHED) to mandate a medium of instruction to be used in our colleges and universities.

As to the second issue, we believe that it is too late in the day to change again the General Education Curriculum (GEC) even as we concede that under Section 13 of Republic Act No. 7722, the CHED is empowered to add/subtract subjects to it. To change the GEC now will be arbitrary, capricious and a grave abuse of discretion.

Imposing a medium of instruction in higher education institutes is a violation of academic freedom.

Section 5(2) of Article XIV of the 1987 Constitution clearly states that “[a]cademic freedom shall be enjoyed in all institutions of higher learning.” In the case of *Sweezy v. New Hampshire*, 354 U.S. 234 (1957), cited in the case of *Ateneo de Manila University et al. v. Hon. Capulong*, G.R. No. 99327, May 27, 1993, the essential freedoms subsumed under the term “academic freedom” include the following: (1) who may teach; (2) **what may be taught**; (3) **how it shall be taught**; and (4) who may be admitted to study.

In a long line of cases⁴, the Supreme Court has recognized the academic freedom of higher education institutes. As early as the 1935 Constitution, academic freedom has been recognized, albeit only for universities established by the State (then only the University of the Philippines). In the 1973 Constitution, however, all institutions of higher learning were guaranteed academic freedom. “Academic freedom”, the term as it evolved to describe the emerging rights related to intellectual liberty, has traditionally been associated with freedom of thought, speech, expression and the press; in other words, with the right of individuals in university communities, such as professors, researchers and administrators, to investigate, pursue, discuss and, in the immortal words of Socrates, “to

⁴ *Ateneo de Manila University et al. v. Hon. Capulong*, G.R. No. 99327, May 27, 1993; *Garcia v. Faculty Admission Committee*, G.R. No. 40779, November 28, 1975; *Tangonon vs. Pano, et al.*, G.R. No. L-45157, June 27, 1985; *Villar v. Technological Institute of the Philippines*, G.R. No. 69198, April 17, 1985; *University of the Philippines Board of Regents v. Ligot-Telan*, 227 SCRA 342; *Licup v. University of San Carlos*, 178 SCRA 637

follow the argument wherever it may lead,” free from internal and external interference or pressure.⁵

Unlike schools of basic education which are under the supervision of the Department of Education (DepEd), and schools for technical and vocation education which are under the supervision of the Technical Education and Skills Development Authority (TESDA), colleges and universities are guaranteed academic freedom. Academic freedom includes, among other things, the right of the institution to determine for itself what to teach (curriculum), as well as how to teach it (including what medium of instruction to use).

Nowhere in the charter of the CHED (R.A. No. 7722) can one find it empowered to impose a medium of instruction, and rightfully so, because such would be a violation of the academic freedom of higher education institutions. The law itself is very clear in Section 13:

SEC. 13. Guarantee of Academic Freedom. – Nothing in this Act shall be construed as limiting the academic freedom of universities and colleges. In particular, **no abridgment of curricular freedom of the individual educational institutions by the Commission shall be made except for: (a) minimum unit requirements for specific academic programs; (b) general education distribution requirements as may be determined by the Commission; and (c) specific professional subjects as may be stipulated by the various licensing entities.** No academic or curricular restriction shall be made upon private educational institutions which are not required for chartered state colleges and universities. (emphases supplied)

Thus, outside of these three (3) exceptions, the CHED is powerless. None of these three (3) exceptions can be interpreted by any stretch of imagination to include the power to impose a medium of instruction.

The CHED has decided competently on the contents of the new GEC, and it must not amend the said GEC without compelling reasons.

The three (3) exceptions to the abridgement of curricular freedom of the individual educational institutions provided for under Section 13 of R.A. No. 7722 needs to be read in conjunction with Section 8(d) of the same Republic Act, which provision empowers the CHED to enforce minimum standards:

SEC. 8. Powers and Functions of the Commission. – The Commission shall have the following powers and functions:

⁵ Ateneo de Manila University et al. v. Hon. Capulong

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(d) set minimum standards for programs and institutions of higher learning recommended by panels of experts in the field and subject to public hearing, and enforce the same;

xxx

As clearly set in the above-quoted provision, the “minimum standards for programs” must satisfy two (2) criteria before it can be imposed:

1. The minimum standards must be recommended by panels of experts in the field; and
2. The minimum standards must be subject to public hearing.

Any of the possibilities presented regarding the addition of Filipino subject(s) to the core courses other than the maintenance of the status quo would necessarily involve the amendment of the “minimum standards for programs” and must therefore satisfy the two (2) criteria cited above.

The CHED Technical Panel on General Education (TPGE) itself, aware of these two requirements, consulted the CHED Technical Panels and Committees on August 2, 2012, almost a year before CMO No. 30, s. 2013 was issued. A total of 215 participants took part in the day-long consultation, and “[t]he proposed GEC was generally welcomed. No negative opinion or expression was expressed.”

Following the meeting with CHED panels, the TGPE held public consultations with stakeholders from Mindanao on August 31, 2012 (Grand Men Seng Hotel, Davao City), those from the Visayas on September 7, 2012 (Crown Regency Hotel, Cebu City) and those from Luzon on September 14, 2012 (CHED head office). A total of 708 individuals representing 561 HEIs and another 44 individuals not representing HEIs attended the public consultations and accepted the proposed GEC.⁶

It should be noted that the CHED TGPE did not register a single negative comment on the removal of the mandatory status of teaching the Filipino language during the two-month long public consultation on the then-proposed GEC. This ruckus of trying to compel CHED to change its decision only started this year, when the National Commission for Culture and the Arts' National Committee on Language and Translation (NCCA-NCLT) signed a resolution on May 23, 2014, asking the GEC to be revised again, to include nine mandatory units of Filipino for all degrees at the college level.

⁶ Appendix G, CMO No. 20, s. 2013.

CHED did competently and in accordance with law decided on a new GEC when it issued CMO No. 20, series of 2013 last year. The NCCA-NCLT and their cohorts should have participated in the consultations two years ago. For one reason or another, they did not. It is now too late in the day to bully CHED into giving in to their demands.

CHED has the authority to decide which courses to put on the GEC. It can decide which courses to retain, and which courses to remove. It has decided to remove the 9/6 units required Filipino units in the old GEC. The decision to remove the required units was not done arbitrarily or capriciously, but through a thorough public consultation (just because some people did not know about it does not mean it is not thorough). It is too late in the day to change that, and compel CHED to change the GEC again. **For the sake of clear legal order, and the proper respect for the procedure of our institutions, let's move on and realize that the new GEC does not include Filipino in it.** If we compel CHED to include Filipino now, what would stop others pushing their own agenda from mustering enough support to compel CHED to include their pet topic/issue/subject/course in the GEC? A competent governmental body has made a decision, the decision was not done arbitrarily, and it must stick to that decision, unless we want to live in a legal order where competent governmental bodies flip-flop on their decisions.

CMO No. 20, series of 2013 does not violate Section 6, Article XIV of the 1987 Constitution.

In an effort to pressure this Honorable Office to change its decision on the GEC, NCCA-NCLT and their ilk proudly trumpets that CMO No. 20, s. 2013 violate Section 6, Article XIV of the 1987 Constitution, and routinely cite the last portion of the second paragraph thereof to make it appear that there is a legal compulsion for this Honorable Office to mandate the teaching of Filipino in higher education institutions.

Nothing can be further from the truth.

The second paragraph of Section 6, Article XIV actually states: **“Subject to provisions of law and as the Congress may deem appropriate,** the Government shall take steps to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.” (emphases ours)

The “[s]ubject to provisions of law” and “as the Congress may deem appropriate” here obviously refer to laws which modify the taking of steps “to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.” Included among these laws is Republic Act No. 7722, the charter of the Commission on Higher Education. The said law which empowers the CHED

to impose minimum general education requirements did not mandate CHED “to initiate and sustain the use of Filipino.”

The said Constitutional provision should not be understood in isolation, but in relation to other equally important Constitutional provisions, such as the guarantee of academic freedom in Section 5(2) of Article XIV, the very provision whose spirit could be found in Section 13 of Republic Act No. 7722, the charter of the CHED.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that this Honorable Office maintain the current General Education Curriculum (GEC) as defined in CHED Memorandum Order No. 20, series of 2013.

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