

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
16<sup>th</sup> Congress  
First Regular Session  
Committee in Higher and Technical Education  
Quezon City

House Bill No. 695

CATHOLIC EDUCATIONAL  
ASSOCIATION OF THE  
PHILIPPINES (CEAP),

*Petitioner,*

IN RE: HOUSE RESOLUTION NO. 695, "RESOLUTION DIRECTING THE COMMITTEE ON HIGHER AND TECHNICAL EDUCATION TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED PLAN OF HIGHER EDUCATION INSTITUTIONS TO REVISE THE SCHOOL CALENDAR STARTING ACADEMIC YEAR 2014-2015" introduced by *Rep. Roman to. Romulo.*

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**POSITION PAPER**

Petitioner Catholic Educational Association of the Philippines or "CEAP" is the national association of Catholic educational institutions in the Philippines. Founded in 1941, it now has 1,252 members, which include universities and colleges offering academic and continuing education programs that are at par with foreign schools in the USA and Europe. Majority of its members numbering

around 700 are mission schools offering basic education to the country's poor and the marginalized.

CEAP is a voluntary organization which operates through regional educational associations located in the 16 regions of the country. It represents the interest of Catholic educational institutions in national and international fora, fosters unity of action with other organizations in educational matters, and assists members, particularly those in mission areas, to achieve common and specific aims.<sup>1</sup>

The main thrust of this Position Paper is to reiterate that the plan of several autonomous and deregulated higher education institutions (HEIs) to shift to an academic calendar that opens in September or any month beyond August is within the purview of the relevant provisions of the Manual of Regulations for Higher Education Institutions (MORPHEI) and does not violate Republic Act 7797.

In the last hearing of this Committee on the matter of House Resolution 695, the Commission on Higher Education (CHED) intimated the creation of a high level technical working group (TWG) to discuss the matter of shifting the academic calendar of HEIs. With this development, we defer to the wisdom of the CHED and the TWG on whether or not to prescribe a new academic calendar. After all, this is the function of CHED as provided under Section 78 of the MORPHEI subject to applications for change under Section 79, *supra*.

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<sup>1</sup> Ceap.org.ph

While we defer to the decision of CHED to prescribe academic calendar to HEIs in general, we do not subscribe to the view that a change in academic calendar, if allowed, shall be subject to the limitations provided under Republic Act 7797.

The CHED states:

"The CHED allows higher education institutions to change their academic calendars as long as these are in accordance with the law. Republic Act 7797, Section 3 states that *"The school year shall start on the first Monday of June but not later than the last day of August."* The proposed shift of the academic calendar of some higher education institutions does not violate the existing law. Further, a decision to change the academic calendar is a valid exercise by a school, college, or university of its institutional academic freedom which is guaranteed under our Constitution."

Republic Act No. 7797 only applies to basic education (RA 7797) to the exclusion of public and private higher education institutions (HEIs) which are under the jurisdiction of CHED.

R.A. 7797, otherwise known as *"An Act To Lengthen the School Calendar from Two Hundred (200) Days To Not More Than Two Hundred Twenty (220) Class Days"*, which was approved on 25 August 1994, only applies to basic education to the exclusion of public and private



higher education institutions which are under the jurisdiction of the CHED.

Section 4 of R.A. 7797 clearly provides that the Secretary of Education, Culture and Sports is empowered to issue rules and regulations to implement the said law:

**“Sec. 4. Issuance of Rules and Regulations. — The Secretary of Education, Culture and Sports shall issue, within ninety (90) days after the approval of this Act, the necessary rules and regulations to implement this Act and ensure that the total class days prescribed in this Act shall be devoted to the attainment of learning objectives.”**

Notably, the Commission on Higher Education or “CHED” was established on 18 May 1994 through Republic Act No. 7722, otherwise known as the “Higher Education Act of 1994”. It covers both public and private higher education institutions as well as degree-granting programs in all post-secondary educational institutions in the country. With the establishment of CHED, it is the clear intention of the legislature to place HEIs under the exclusive administration and supervision of CHED as the governing body for tertiary and graduate education.

In fact, Section 3 of the RA 7722 provides that CHED is independent and separate from DECS:

**“SEC. 3. Creation of the Commission on Higher Education — In pursuance of the abovementioned policies, the Commission on Higher Education is hereby created, hereinafter referred to as the Commission.**

The Commission shall be independent and separate from the Department of Education, Culture and Sports (DECS), and attached to the Office of the President for administrative purposes only. Its coverage shall be both public and private institutions of higher education as well as degree-granting programs in all post-secondary education institutions, public and private."

Evidently, R.A. 7797 and R.A. 7722 were deliberated and passed on the same Congress in 1994. If the legislators clearly intended for the HEIs to be under the coverage of R.A. 7797, or that R.A. 7797 will be part and parcel of R.A. 7722, they could have been considered in the two bills that eventually became laws. However, the case is otherwise which shows the clear intention to exclude HEIs within the ambit of R.A. 7797.

**CHED Memorandum Order No. 40 Series of 2008, otherwise known as Manual of Regulations for Private Higher Education of 2008 ("MORPHEI"), was issued pursuant to a valid delegation of legislative power.**

Section 8n of R.A. 7722 authorizes CHED to issues rules and regulations to carry out its objectives and purposes:

"SEC. 8. Powers and Functions of the Commission. -

The Commission shall have the following powers and functions:

8n. promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objectives of this Act."

Pursuant to its rule-making power, CHED issued the MORPHEI which provides the policy on School Calendar.

"*Section 78. School Calendar.* The Commission shall issue the standard school calendar for every academic year applicable to higher education institutions not later than January of the preceding academic year.

**All higher education institutions shall begin classes in June.**

The calendar requirements are as follows:

(1) The academic year for collegiate courses shall consist of not less than thirty-six (36) weeks, eighteen (18) weeks a semester or its equivalent of normally six (6) days each week, exclusive of approved vacations and inclusive of legal and special holidays and days for special activities. In any case, the total number of days on which regular school sessions are held shall not be less than two hundred (200) or one hundred (100) each semester, exclusive of all holidays and registration days, and class days suspended due to natural or man-made causes.

(2) The summer term for collegiate courses shall consist of the number of hours per unit as prescribed by the Commission.

The standard period of every subject is one hour. A one-hour lecture or recitation each week or a total of not less than seventeen hours in a semester, shall be equivalent to one unit of college credit. Two or three hours of laboratory work, drafting, shop or fieldwork



shall be equivalent to one hour of classroom lecture or recitation work.

Higher education institutions opting to adopt school calendar or school term other than herein specified shall seek prior approval from the Commission.”

The HEIs may, however, apply for change in school calendar. Section 79 of the MORPHEI provides:

*“Section 79. Change in School Calendar. Any change in the prescribed school calendar shall require the approval of the Commission. The application shall be filed with the Regional Office concerned not later than fifteen (15) days before the opening of the school term. In case of exchange or substitution of school days for school holidays, no prior approval is required, provided, that the prescribed school calendar requirement is maintained, and provided further, that the Regional Office concerned is informed at least one (1) week prior to the substitution.”*

CHED subsequently issued CHED Memorandum Order No. 1 series of 2011, or the Guidelines on Adoption of School Calendar, *“in order to encourage innovation and exercise of academic freedom among institutions of higher learning (HEIs)”* giving them the flexibility to establish their own academic calendars and set their opening days. The CMO provided guidelines in the number of lecture and recitation hours in a term per unit of college credit for

HEIs adopting semestral system; summer, trimestral, or quarterly terms; and other modes of delivery.

Notably, CHED cognizant of academic freedom of HEIs, there was never any mention in CMO No. 1, series of 2011, on the restriction of adopting a school opening not earlier than June or beyond August.

Autonomous and deregulated HEIs are given more leeway in changing their academic calendar pursuant to their benefits as such. Section 49 of the MORPHEI states:

**"x x x d. Privilege to determine and prescribe their curricular programs to achieve global competence.** In case of curricular revisions, for record purposes, the private higher education institutions should inform the CHED Central Office at least one semester prior to the start of the intended academic year the revised curriculum shall be implemented. The revised curriculums shall be applicable only to the entering students of the specified academic year."

Again, significantly, in all these provisions of the MORPHEI relevant to School Calendar and of changing the same, there was no such limitation on the opening of classes not beyond August and opening earlier than June if so allowed by CHED as a matter of exception or privilege for autonomous HEIs. Simply put, the CHED allows changing of opening of classes subject to the guidelines set in the MORPHEI and CMO 1, series of 2011, and not RA 7797.



It is now well-settled that delegation of legislative power to various specialized administrative agencies, CHED in this case, is allowed in the face of increasing complexity of modern life. Given the volume and variety of interactions involving the members of today's society, it is doubtful if the legislature can promulgate laws dealing with the minutiae aspects of everyday life. Hence, the need to delegate to administrative bodies, as the principal agencies tasked to execute laws with respect to their specialized fields, the authority to promulgate rules and regulations to implement a given statute and effectuate its policies.<sup>2</sup>

Relevantly, in a plethora of cases, the Supreme Court has consistently ruled that administrative issuances have the force and effect of law. In *Eastern Shipping Lines v. POEA*,<sup>3</sup> the Supreme Court held that the rules made pursuant to a valid delegated legislative power have the force and effect of law:

"The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."

With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have

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<sup>2</sup> *Equi-Asia Placement, Inc. v. Department of Foreign Affairs, et al.* G.R. No. 152214, 19 September 2006.

<sup>3</sup> 166 SCRA 533 (1988).

the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law.

Likewise, in a fairly recent case of *Mirasol v. Department of Public Works and Highways and Toll Regulatory Board*,<sup>4</sup> the Supreme Court held:

"We now discuss the constitutionality of AO 1. Administrative issuances have the force and effect of law. They benefit from the same presumption of validity and constitutionality enjoyed by statutes. These two precepts place a heavy burden upon any party assailing governmental regulations. The burden of proving unconstitutionality rests on such party. The burden becomes heavier when the police power is at issue."<sup>5</sup>

All told, MORPHEI is issued pursuant to a valid delegation of legislative power under R.A. 7722 and thus, have the force and effect of law.

It is therefore CEAP's position that the provision under R.A. 7797 that *mandates school opening on the first Monday of June but not later than the last day of August* does not apply to HEIs because there is no such limitation provided under MORPHEI. Consequently, the opening of classes in September for several autonomous HEIs will not result to a violation of R.A. 7797.

<sup>4</sup> G.R. No. 158793, 8 June 2006.

<sup>5</sup> Emphasis and underscoring supplied.

HEIs and basic education institutions do not stand on equal footing in so far as State regulation or control. HEIs are guaranteed academic freedom by the Constitution, no less, while basic education institutions are accorded reasonable regulation and supervision. The CHED, in all its previous issuances, recognizes the changing of academic calendar and school opening as valid exercise of academic freedom and in fact prescribed guidelines in its exercise. It is now ineludible that R.A. 7797 applies only to basic education.

WHEREFORE, premises considered it is most respectfully prayed that the foregoing Position Paper be admitted and noted for the best possible disposition of House Resolution 695.

Respectfully Submitted.

12 March 2014.

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