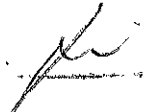


10 JUL 13 2A:19

SENATE

S.B. No. 1435

RECEIVED BY 

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to guarantee students their right to quality education, freedom, welfare services, among others and to protect them from discrimination, in accordance with the rights and freedoms accorded by the 1987 Constitution and international human rights agreements.

Section 13, Article 11 of the 1987 Constitution gives due recognition to the role of the youth in nation-building and while Section 17, Article 11 provides that the State shall give priority to education, among others, to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development. Likewise, international agreements such as the International Convention on Civil and Political Rights, International Convention on Economic and Social Rights, the Universal Declaration on Human Rights, International Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, obligate the country to protect and promote the rights and welfare of the Filipino studentry.

Recognizing that education is a right and as such it can only be exercised and enjoyed fully in a climate where the rights and welfare of students and young Filipinos are promoted and protected, this proposed measure enumerates the following rights and freedoms of the students:

- a. Right against discrimination;
- b. Right to competent instruction and relevant quality education;
- d. Right to organize;
- e. Right to establish a student council/government;
- f. Right to publish a student newspaper;
- g. Right to adequate welfare services;
- h. Right to be represented in the highest policy-making body of the school;
- j. Right to access to information;
- k. Right to freedom of expression;
- l. Right to academic freedom;
- m. Right to due process;
- n. Right against illegal searches and seizures; and
- o. Right to privacy.

The Department of Education (DepEd), the Commission on Higher Education (CHED), and the Technical Education and Skills Development Authority (TESDA) are bestowed with necessary powers to investigate and impose administrative sanctions on schools that violate the rights stipulated in the bill. Effective remedies are also given to students for violations of their rights.

Students are important components in society, not only because of their potential role as leaders of the country, but because of their role as catalysts for development and effective change. They have taken and are continuously taking proactive participation in the pursuit of social equality, democracy and justice. We should therefore ensure that their rights and welfare are promoted and guaranteed.


In view of the foregoing, the passage of this significant piece of legislation is earnestly sought.



LOREN LEGARDA
Senator

10 JUL 13 PM 1:19

SENATE
S.B. No. 1435

RECEIVED BY: 

Introduced by Senator Loren Legarda

**AN ACT PROVIDING FOR A NATIONAL POLICY
ON STUDENTS' RIGHTS AND WELFARE**

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 "Students' Rights and Welfare Act of 2010".

SECTION 2. Declaration of Policy. - The State:

- (a) In accordance with several international human rights agreements, including the International Convention on Civil and Political Rights, International Convention on Economic and Social Rights, the Universal Declaration on Human Rights, International Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, declares its commitment to protect and promote the rights and welfare of Filipino students;
- (b) Recognizes that education is a right and as such it can only be exercised and enjoyed fully in a climate where the rights and welfare of students and young Filipinos are promoted and protected;
- (c) Acknowledges that education is an important institution in ensuring that all Filipinos are able to participate fully in nation-building and the society and in inculcating patriotism and nationalism, critical and creative thinking, and values necessary to promote civil liberties, human rights and fundamental freedoms;
- (d) Affirms that students have the right to meaningful participation in decision-making processes inside and outside educational institutions, especially in the crafting and formulation of policies affecting students, and the promotion of this right is an integral part of the nation's democratic processes;
- (e) Affirms that the fundamental right to expression of students, and such right shall be unabridged and autonomous from the influences of educational institutions;
- (f) Affirms the students' right to organize, which encompasses the right to establish student organizations, student unions, and student councils and governments.

SECTION 3. *Definition of Terms.* As used in this Act the following shall mean:

- (a) *Student* - any person enrolled in the secondary, post secondary tertiary, graduate and post graduate levels, including those enrolled in vocational and technical education.
- (b) *School* - any private, public or government-run and funded academic educational institution offering any or all courses in the above-mentioned levels.
- (c) *School campus* - the totality of all contiguous or proximate buildings, grounds, and other facilities designated by the school authorities as areas or facilities for the use of their students.
- (d) *Governing Board* - the highest policy making body of the school such as the Board of Directors, Trustees or Regents.
- (e) *Student Council or Government* - the body representing the whole student population in one school or school campus whose officers are annually elected at large by the whole student population pursuant to its charter or constitution. This definition shall include student councils or governments at the level of colleges, campuses, etc.
- (f) *Council of Leaders* - the body composed of the heads of various student organizations chaired by the President or Chairperson of the Student Council or by any student duly elected by the student organizations.
- (g) *Tuition* - the fee representing direct costs of instruction, training and other related activities, and the use of school facilities. The term other school fees refers to fees which cover other necessary costs supportive of instruction, including but not limited to medical and dental, athletic, library, laboratory, and NSTP fees.

SECTION 4. *Right against discrimination in educational institutions* - No student shall be denied admission, expelled from an educational institution, punished with disciplinary action, including mandatory counseling, or denied welfare services, scholarships and other privileges on the basis of his/her physical handicap, socioeconomic status, political and religious beliefs, sexual orientation, or membership in student organizations. Pregnant students, certified reformed drug abusers, and students with HIV/ AIDS shall not be discriminated against.

SECTION 5. *Right to competent instruction and relevant quality education.* - Every student shall have the right to competent instruction and quality education relevant to his/her personal and cultural development and that of the nation. To achieve this goal, schools and educational institutions are required to enforce a written evaluation of the performance of teachers by students at the end of the school term.

SECTION 6. *Right to organize.* - The right of students to form, assist, or join organizations, alliances, or federations within their physical, intellectual, moral, cultural, civic, spiritual, and political interests shall not be abridged. Provided, that these groups are not formed for purposes of committing criminal acts or for committing acts in contravention of the Constitution and the laws of the country.

The Office of Student Affairs of schools, colleges and universities, in coordination with the student council or government, shall take charge of the accreditation of student organizations. The guidelines for accreditation of student organizations shall be formulated by the student council and the heads of all student organizations.

The Office of Student Affairs shall have the mandate to implement the guidelines and mediate in conflicts emerging from the accreditation process as well as internal disputes of these youth/student groups. Accreditation of student organizations shall be granted upon the submission of a formal letter of application for accreditation, constitution, list of activities, and list of officers. The Office of Student Affairs may impose sanctions on inactive organizations.

The Office of Student Affairs shall coordinate on and off campus activities of student organizations.

The school administration shall endeavor to provide, free of charge, a hall or building to house the offices of student organizations within the premises of the school. Furthermore, whenever possible, the school administration shall allow student organizations to use school facilities free of charge;

Acts that impair the right of students to organize, such as the following, are prohibited:

1. Signing of waivers or similar documents that use membership to any organization as a basis for admission to or expulsion from schools, including the imposition of disciplinary actions;
2. Imposition of unreasonable requirements on student organizations seeking recognition;
3. Discriminatory policies in the assignment of school facilities and in granting other privileges to student organizations;
4. Excessive charges for the use of school facilities;
5. Excessive fees imposed by student organizations to members, and;
6. Imposition of unnecessary requirements for admission and continued membership to a student organization including, but not limited to, hazing or other acts prohibited under RA 8049, or the Anti-hazing law.

SECTION 7. *Right to establish a student council or government.* -

(a) There shall be one (1) university student council or government for each school, college, or university campus that shall be recognized by the schools, colleges and universities concerned. It shall have its own set of officers elected in annual popular elections.

(b) There shall be a Constitution or Charter of the Student Council or Government crafted by the head or representatives of all student organizations in a school and ratified by a two-thirds (2/3) vote by the student body that shall lay down the organization, functions, and responsibilities of the student council or government. Representation for unorganized students shall be ensured for the crafting of the draft constitution or charter.

(c) Every student council or government shall have the right to determine its policies and programs on student activities, subject to the Student Council or Government charter or constitution as well as their respective school rules and regulations. Provided, that the latter do not infringe on basic rights and freedoms of students; Provided further that all these rules and regulations should conform to the laws of the country and the 1987 Constitution.

(d) There shall be an independent Commission on Elections for Students (COMELEC) that shall oversee the honest, orderly, and peaceful conduct of election of officers of the

student council or government. The COMELEC for Students shall be chosen from a list of nominees provided by the heads of student organizations. The school must provide sufficient funds to the COMELEC to ensure that it is able to function.

(e) There shall a fee to be collected from students to finance the operations of the student council or government, the amount of which shall be determined by the student council or government in consultation with the student body. Provided, these fees are reasonable and not excessive, taking into consideration the students' capacity to pay. The school administration shall facilitate the collection of the student council or government fee and shall turn over the collected amount to the student council or government within fifteen (15) days after the start of the semester or school period. The student council or government shall issue to the student body a financial report at the end of its term. A proposal to increase the student council or government fee shall require a vote of simple majority of the student council as well as a vote of simple majority by the whole student body.

(f) No policy restricting the right of student councils or governments to join federations or alliances of student councils or governments shall be imposed by the school administration.

SECTION 8. *Right to publish a student newspaper and other similar publications.* -

(a) In accordance with RA 7079 or the Campus Journalism Act of 1991, students shall have the right to publish student newspaper and other similar publications.

(b) The editorial staff of the student paper shall be comprised of students. No person who is not a member of the publication shall determine its content. The role of the faculty adviser in the student paper shall be limited to technical assistance.

(c) The selection of the student Editor-in-Chief and the members of the editorial board shall be conducted annually through a fair and competitive examination to be administered by an impartial Board of Judges, which shall be comprised of professional journalists, representatives from the faculty and the student body.

(d) Ethics in journalism shall be observed by the editorial staff. It shall be the responsibility of the editorial staff to ensure that the student paper is not used for purposes contrary to law.

(e) Unless sooner removed for cause and with due process, the Editor-in-Chief and editorial staff shall be assured of security of tenure for the duration of his/her prescribed term;

(f) The student publication shall be financially autonomous from the school administration. A fee for student publication shall be collected from students and shall be held in trust by the school administration. No policy shall be imposed by the school administration to hamper the access of the editorial board to the student publication fund, subject to existing regulation in the disbursement of funds. The school administration shall also be prohibited from using the aforementioned fund. At the end of each term, the editorial board shall publish a financial statement of the funds used.

SECTION 9. *Right to adequate welfare services and academic facilities.* - Denial of access to adequate welfare services and academic facilities shall be prohibited. These

services and facilities shall include:

- (a) Free annual physical check-up to the students;
- (b) Legal assistance in cases involving the exercise and enjoyment of rights and freedoms stipulated under this Act;
- (c) Counseling;
- (d) Adequate laboratory, library, research, recreation and physical education facilities;
- (e) Communications system to ensure that students are promptly notified of letters and other relevant information, and;
- (f) Adequate, safe and clean housing facilities, such as dormitories, for students inside campuses. In case the school has no in-campus dormitories or housing facilities, the school administration and the student council or government shall be required to accredit out-of-campus dormitories. Students shall be encouraged to stay in the accredited dormitories.

SECTION 10. *Representation in the school's highest policy-making body.* - There shall be a student representative in the highest policy-making body of the school. He or she shall be chosen through a selection process formulated and crafted by the student council and government and shall have the same rights as that of the regular members of the same body. Provided, however, that his or her financial privileges shall be limited to the actual expenses incurred in attending meetings of the aforementioned body. Provided, further, that the aforementioned student representative is prohibited from taking any other position in public offices or student council or government.

SECTION 11. *Right to information.* - The right of students to information on matters affecting their welfare shall be recognized. Therefore, students shall have access to the school's official acts, transactions or decisions relating to students' rights and welfare subject only to reasonable regulations.

SECTION 12. *Right to freedom of expression.* - (a) Students shall have the right to freely express their views and opinions. They shall have the right to peaceably assemble and petition the government and school authorities for the redress of their grievances. No school regulation shall be imposed violating or abridging the student's right to peaceful assembly.

(b) Student shall have access to print and broadcast media in their information activities. They shall also have the right to print, circulate and/or mount leaflets, newsletters, posters, wall news, petitions and such other materials. School authorities shall ensure the provision of facilities such as bulletin boards for the mounting of the aforementioned materials.

(c) School authorities are required to designate a certain area within school premises where students can express their grievances or organize activities.

SECTION 13. *Academic freedom* - Students' academic freedom shall consist of, but not limited to, the following:

- (a) To conduct research in connection with academic work and to freely discuss and publish their findings and recommendations;
- (b) To conduct inquiry within the campus in curricular and extra-curricular activities;
- (c) To choose a field of study and to pursue the quest for truth; to express their

opinion on any subject of public or general concern which directly or indirectly affects the students of the educational system;

(d) To invite off-campus speakers or resource persons to student-sponsored assemblies, fora, symposia, and other similar activities;

(e) To express contrary interpretations or dissenting opinions inside and outside the classroom;

(f) To participate in the drafting of a new curriculum and in the review or revision of the old;

(g) To participate in the drafting and/or revising of the student handbook which shall include the school rules and regulations, a copy of which shall be furnished the students upon admission to the school; and

(h) To be free from any form of indoctrination leading to imposed ideological hegemony.

SECTION 14. *Right to due process.* - The right to due process of students who are subjected to disciplinary proceedings shall be observed and respected:

(a) He shall have the right to defend himself, to be heard and to present evidence on his behalf before an impartial body.

(b) There shall be an independent Student Disciplinary Board to be composed of one (1) representative from the school administration, two (2) faculty members and two (2) students to conduct investigations into and decide on cases of student violations of disciplinary standards. The member from the administration shall serve for five years, the members from the faculty for three years, and the members from the student body for one year. The faculty and student representatives shall be endorsed by the student council or government. The Student Disciplinary Board shall formulate the guidelines for the imposition of the disciplinary proceedings.

(c) The blacklisting, expulsion, suspension and other such disciplinary sanctions that maybe taken against a student shall not be valid, unless the following rights have been observed and accorded the student:

1) The right to be informed in writing of the nature and cause of the accusation;

2) The right to confront witness against him/her and to have full access to the evidence against him/ her;

3) The right to defend himself/herself and be defended by a representative or counsel of his/her choice, as well as to be given adequate time for the preparation for his/her defense;

4) The right to a hearing before the Student Disciplinary Board;

5) The right against self-incrimination;

6) The right to appeal an adverse decision of the Student Disciplinary Board to the governing board and ultimately to the appropriate education agencies; and

7) The right to confidentiality.

(d) The decision in any disciplinary proceeding must be rendered on the basis of relevant and substantial evidence presented at the hearing, or at the least contained in the record and disclosed to the affected student. The deciding body should, in all controversial questions, render its decision in such a manner that the issues involved and the reasons for any decision rendered are made clear to the student.

(e) Subject to existing laws, a decision on a case or complaint filed before the Student Disciplinary Tribunal shall be resolved within three (3) months after the filing

of such a case or complaint.

(f) The Office of the Guidance Counselor of the respective schools in consultation with the Student Disciplinary Board shall publish on a periodic basis acts that are deemed violative of the school rules and regulations and the corresponding disciplinary sanctions. Provided, that such rules and regulations do not violate the rights guaranteed herein and those protected under the Constitution.

SECTION 15. *Right against illegal searches and seizures.* - except for the following instances, any form of unreasonable search and seizure shall be illegal:

- a) Searches made at the point of ingress and egress by authorized personnel of the school;
- b) Searches and seizure of articles deemed illegal under existing laws falling in plain view of duly authorized personnel;
- c) Searches and seizures of illegal articles which are inadvertently discovered by duly authorized personnel;
- d) Searches made when the student is about to commit, is committing or has just committed a crime or a serious infraction of the school's rules and regulations;
- e) Searches made with a valid search warrant.

Articles seized in violation of the hereinabove rights and those not falling under the exceptions provided above shall not be used as evidence against the student in any disciplinary or criminal action that may be brought against him/ her.

SECTION 16. *Access to school records and issuance of official certificates.* - Every student shall have access to his/ her own school records, the confidentiality of which the school shall maintain. He/She shall have the right to be issued official certificates, diplomas, transcripts of records, grades, transfer credentials and other similar documents within thirty (30) days from the filing of request and accomplishment of all pertinent requirements.

SECTION 17. *Right to privacy.* - The privacy of communication and correspondence of students shall remain inviolable. Documents and communication acquired in violation of the hereinabove rights and those rights provided under law and the Constitution shall not be used as evidence against the student in any disciplinary, civil or criminal action that may be brought against him/ her.

SECTION 18. *Firearms ban.*- The carrying of firearms or explosives in schools or campuses shall be banned.

SECTION 19. *School fees and other tariffs.*-

- (a) All involuntary contributions shall be prohibited.
- (b) In releasing documents, academic records, and similar certifications, schools are prohibited from imposing fees beyond the actual cost of reproducing the documents.
- (c) Minimum standards in consultation shall be strictly observed in imposing tuition fee increases. To this end, no tuition or other school fee increase shall be allowed unless the following procedures are observed:

1) Posting of notice of increase in tuition or other school fees in conspicuous locations a year prior to the implementation of the proposed increase. The heads of student organizations and student council or government officers shall also be directly

notified about the proposed increase.

2) At least one public meeting shall be held with the students, heads of student organizations and student council or government officers to discuss the proposed increase. This shall be attended by the President of the school and at least one member of the Governing board. Parents of students shall be allowed to attend the public meetings.

3) All documents pertaining to the proposed increase shall be made available to the student council or government.

4) Prior to the final approval of the proposed increase, the student body shall be allowed to present their position to the Governing Board on the proposed increase.

SECTION 20. *Rules and Regulation.* - the Department of Education (DepEd), TESDA, Commission on Higher Education (CHED), and Commission on Human Rights (CHR), together with the representatives of national student organizations, representatives of school administrations and the National Youth Commission (NYC) shall promulgate the necessary rules and regulations to implement the provisions of this Act with ninety (90) days from the approval of this Act.

SECTION 21. *Administrative sanctions.* -The Department of Education, Commission on Higher Education, and TESDA are hereby vested with powers necessary to investigate and impose administrative penalties to ensure the enforcement of this Act. Any student, student council or government, or national organization of student councils, governments, or organizations, may file complaints before the aforementioned agencies, after exhaustion of remedies in the academic/school level, if available.

The appropriate education agency shall cause the suspension or revocation of the license or permit of any school, college or university found to be guilty of violating rights guaranteed under this Act. A fine of not less than two hundred thousand pesos (P200,000.00) but not more than five hundred thousand pesos (P500,000.00) shall be imposed on any school, college or university found liable for violating this Act.

Upon final judgment, the appropriate education agency may recommend to the Department of Justice the prosecution of any school, college or university before a regular Court for violating the provisions of this Act.

If the offender is a student or a student organization, the school, college or university shall cause, depending on the gravity of the offense, the suspension or expulsion of the offending student and/or the suspension or revocation of the accreditation of the offending organization, including other administrative penalties, subject to the establishment of guidelines to be crafted by the school administration with the student council or government, student organizations and the student body.

SECTION 22. *Penal Provisions.* -

(a) Any person who shall willfully interfere with, restrain or coerce any student in the exercise and enjoyment of rights guaranteed by this Act shall, upon conviction, be punished by a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand (P100,000.00) Pesos or by imprisonment of not less than one (1) year but not more than five (5) years, or both at the discretion of the Court.

(b) If the offender is a juridical person, the penalty shall be imposed upon the President, Treasurer, Secretary or any officer or person responsible for the violation. If the offender is a public officer or employee, the Court shall, in addition to the penalties above, order his or her dismissal from government service.

(c) Refusal of any government official, including those working in state colleges and universities, whose duty includes investigating or acting on any complaint for a violation of this Act to perform his or her duty shall be considered as gross negligence on the part of such official who shall suffer the appropriate penalty under civil service laws, rules and regulations.

(d) Any student whose rights have been violated as stipulated in this Act may file an independent civil case for damages as well as those provisions for violation of constitutional rights under the Civil Code under Article 32 against the offending persons, natural or juridical. He or she shall be exempt from filing fees.

SECTION 23. Oversight. -

(a) The Department of Education, TESDA and Commission on Higher Education shall monitor the implementation of this Act. They shall submit an annual report to the Office of the President and Congress. For this purpose, the aforementioned agencies may avail of the support of national student organizations.

(b) An Oversight Committee is hereby created composed of two (2) members each from the Committee on Basic Education and two (2) members from the Committee on Higher Education of the Senate and House of Representatives, to be constituted and co-chaired by the head of the

committees to evaluate and monitor the implementation of this Act. The Oversight Committee shall automatically consider the reports of the concerned government agencies, student organizations, and student councils and governments.

SECTION 24. Separability Clause. - If any part or provision of this Act is held unconstitutional or invalid, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 25. Repealing Clause.- All laws, decrees, orders, rules, and regulations or other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 26. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in *two* (2) newspapers of general circulation.

Approved,