

15 SEP 30 P2:44

SENATE

COMMITTEE REPORT NO. 267

Submitted by the Committee on Education, Arts and Culture on
SEP 30 2015

Re: Senate Bill No. 2975 (Prepared by the Committee)

Recommending its approval in substitution of S. No. 2147

Sponsors: Senator Pia S. Cayetano and Senator Sergio Osmeña III

Mr. President:

The Committee on Education, Arts and Culture to which was primarily referred Senate Bill No. 2147, introduced by Senators Antonio "Sonny" F. Trillanes IV, Pia S. Cayetano and Loren B. Legarda, entitled:

**"AN ACT
RECOGNIZING THE BRITISH SCHOOL MANILA AS AN EDUCATIONAL INSTITUTION OF
INTERNATIONAL CHARACTER, GRANTING CERTAIN PREROGATIVES CONDUCTIVE TO
ITS GROWTH AS SUCH, AND FOR OTHER PURPOSES"**


has considered the same and has the honor to report back to the Senate with the recommendation that the attached bill, S. No. 2975, prepared by the Committee, entitled:


**"AN ACT
RECOGNIZING THE BRITISH SCHOOL MANILA AS AN EDUCATIONAL INSTITUTION OF
INTERNATIONAL CHARACTER, GRANTING CERTAIN PREROGATIVES CONDUCTIVE TO
ITS GROWTH AS SUCH, AND FOR OTHER PURPOSES"**

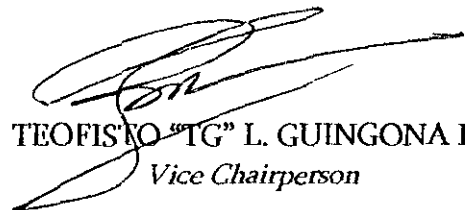
be approved in substitution of S. No. 2147, with Senators Antonio "Sonny" F. Trillanes IV, Pia S. Cayetano and Loren B. Legarda ^{and Sergio Osmeña III} as authors thereof.

* *Pro hac vice* attached hereto is the Report of the Committee and the narrative report on its hearings conducted on 23 February 2015 presided by Senator Pia Cayetano, and on 26 May 2015 and 15 June 2015 presided by Senator Sergio Osmeña III.

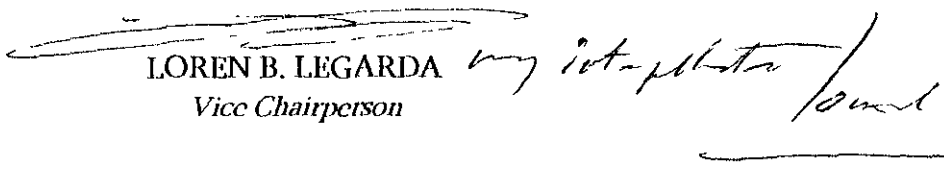
RESPECTFULLY SUBMITTED:


PIA S. CAYETANO
Chairperson


SERGIO OSMEÑA III
Vice Chairperson



TEOFISTO "TG" L. GUINGONA III
Vice Chairperson



LOREN B. LEGARDA *my int-photos / amed*
Vice Chairperson

Members

FRANCIS "CHIZ" G. ESCUDERO

SONNY ANGARA

GRACE POE

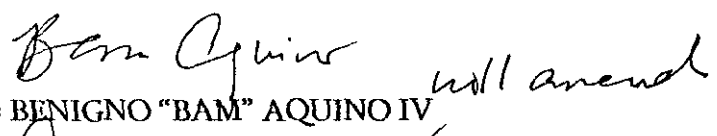
AQUILINO "KOKO" PIMENTEL III



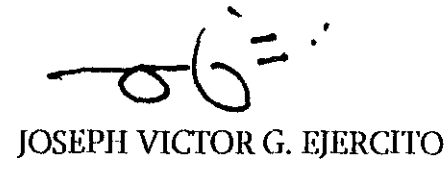
CYNTHIA A. VILLAR

FERDINAND "BONGBONG" R. MARCOS JR.

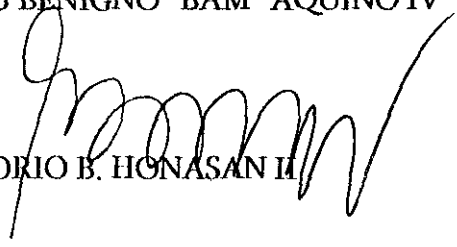
JINGGOY EJERCITO ESTRADA



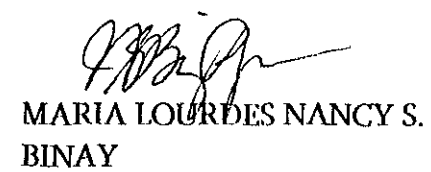
PAOLO BENIGNO "BAM" AQUINO IV *will amend*



JOSEPH VICTOR G. EJERCITO

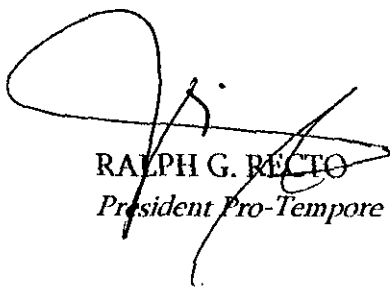


GREGORIO B. HONASAN II



MARIA LOURDES NANCY S.
BINAY

Ex-Officio Members



RALPH G. RECTO
President Pro-Tempore

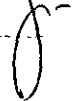
ALAN PETER S. CAYETANO
Majority Leader

JUAN PONCE ENRILE
Minority Leader

HON. FRANKLIN M. DRILON
President
Senate of the Philippines

15 SEP 30 P2:44

SENATE
S.B. No. 2975

RECEIVED BY: 

Prepared by the Committee on Education, Arts and Culture with Senators Antonio "Sonny" Trillanes IV, Pia Cayetano, Loren Legarda and Sergio Osmeña III, as Authors Thereof

"AN ACT RECOGNIZING THE BRITISH SCHOOL MANILA AS AN EDUCATIONAL INSTITUTION OF INTERNATIONAL CHARACTER, GRANTING CERTAIN PREROGATIVES CONDUCIVE TO ITS GROWTH AS SUCH, AND FOR OTHER PURPOSES"

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

1 **SECTION 1. Official Recognition.** - The British School Manila, herein referred to as
2 the "School", operated by the British Education, Inc., is hereby declared and officially
3 recognized as an educational institution of international character authorized to operate
4 educational programs that primarily and principally adhere to universally accepted and
5 recognized educational policies **THROUGH ITS INTERNATIONAL ACCREDITATIONS**
6 **FROM INSTITUTIONS SUCH AS COUNCIL OF INTERNATIONAL SCHOOLS (CIS)**
7 **AND THE INTERNATIONAL BACCALAUREATTE OFFICE (IBO), WHICH CONFER**
8 **INTERNATIONAL RECOGNITION TO STAKEHOLDERS ALL OVER THE WORLD.**
9 **THE SCHOOL SHALL BE SUBJECT TO APPLICABLE LAWS, RULES AND**
10 **REGULATIONS AND OTHER ISSUANCES ISSUED BY THE GOVERNMENT AND**
11 **TO SUCH LIMITATIONS AS THE DEPARTMENT OF EDUCATION (DEPED) MAY**
12 **IMPOSE.**

13 **SEC. 2. MEMBERS OF THE SCHOOL.** - **THE SCHOOL SHALL BE COMPRISED**
14 **OF THE SCHOOL PERSONNEL OR MANAGEMENT, STUDENTS AND THEIR**
15 **PARENTS AND/OR GUARDIANS, WHETHER OF THE PHILIPPINE OR FOREIGN**
16 **NATIONALITY.**

17 **SEC. [2] 3. Governing Body.** - The School shall be governed by **ITS BOARD OF**
18 **TRUSTEES ALSO KNOWN** as the Council of Trustees, herein referred to as the
19 "Council", elected in accordance with **THE CORPORATION CODE OF THE**
20 **PHILIPPINES AND** its corporate charter: **PROVIDED THAT, EIGHTY PERCENT**
21 **(80%) OF ITS TRUSTEES MUST BE RESIDENTS OF THE PHILIPPINES AND**

1 **FORTY PERCENT (40%) OF WHICH MUST BE RESERVED FOR FILIPINOS:**
2 **PROVIDED, FURTHER, THAT THE DEPARTMENT OF EDUCATION SHALL**
3 **DETERMINE THE QUALIFICATIONS OF THE TRUSTEES.**

4 SEC. [3] 4. Grant of Prerogatives. - To enable the School to continue carrying out its
5 educational program, improve its standard of instruction and meet the special needs of
6 [the foreign temporary resident] **ITS SCHOOL** community for quality education, it shall:

7 (a) accept applicants for admission, regardless of nationality, in accordance with its
8 own eligibility standards and rules for admission and grade placement{;};
9 **PROVIDED, THAT THE SCHOOL SHALL NOT GIVE LESS PRIORITY TO THE**
10 **CITIZENS OF THE PHILIPPINES, AS ITS HOST COUNTRY BY ENSURING**
11 **THAT NO SINGLE ALIEN NATIONALITY SHALL CONSIST MORE THAN**
12 **THIRTY PERCENT (30%) OF THE ENTIRE STUDENT POPULATION IN A**
13 **GIVEN SCHOOL YEAR, AS STATED IN THE RECORDS OF THE SCHOOL;**

14 (b) be managed and administered by a Head of School, who shall possess the
15 qualifications prescribed by the Council **AND SUBJECT TO THE APPROVAL**
16 **OF THE SECRETARY OF THE DEPARTMENT OF EDUCATION;**

17 (c) upon [consultation with]**THE APPROVAL OF** the Secretary of the Department of
18 Education (DepEd):

19 I. determine its own curriculum;

20 II. **ENDEAVOR TO PROMOTE INTERNATIONAL FRIENDSHIP,**
21 **GOODWILL AND UNDERSTANDING AMONG ITS STUDENTS AS**
22 **WELL AS AMONG MEMBERS OF THE FOREIGN AND EDUCATIONAL**
23 **COMMUNITY AND CITIZENS OF THE PHILIPPINES;**

24 III. **ESTABLISH ITS** calendar of studies and work schedule **TO MAXIMIZE**
25 **EFFICIENCY AND MAINTAIN, ENHANCE, IMPROVE AND PROMOTE**
26 **THE QUALITY OF EDUCATION OR INSTRUCTION IT HAS ADOPTED**
27 **FOR THE BENEFIT OF ITS STUDENTS;**

28 IV. [and] teach whatever language or languages it may deem proper;

V. [and determine] **IMPOSE REASONABLE** [the] amount of fees and assessments [which may be reasonably imposed upon its students,] **IN ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT OF EDUCATION** [to maintain or conform to the School's standard of education];

1 (d) [maintain] **UPHOLD** standards of education compatible, **IF NOT SUPERIOR** with
2 those obtaining in similar schools of [generally] recognized **INTERNATIONAL**
3 standing; and

4 **(E) ENGAGE AND SUPPORT THE HOST COUNTRY THROUGH MEANINGFUL**
5 **AND REFLECTIVE SERVICE AND PROVIDE AN ATMOSPHERE THAT**
6 **CREATES DEEP UNDERSTANDING OF CURRENT ISSUES WITHIN THE**
7 **CULTURAL CONTEXT; AND**

8 [(e)] **(F)** employ [its own] **QUALIFIED** teaching and management personnel
9 selected by the Council either locally or abroad, from the Philippines or other
10 nationalities, **IN ACCORDANCE WITH THE QUALIFICATION STANDARDS**
11 **PROVIDED BY THE DEPARTMENT OF EDUCATION: PROVIDED, THAT FAIR**
12 **WAGES AND EQUAL REMUNERATION FOR WORK OF EQUAL VALUE**
13 **WITHOUT DISTINCTION FROM FILIPINO OR FOREIGN HIRED SHALL BE**
14 **IMPLEMENTED. S[s]uch foreign personnel ARE [being] exempt from laws that**
15 **impose nationality restrictions on control and administration of educational**
16 **institutions, except laws that have been or will be enacted for the protection of**
17 **employees: Provided, That such exception shall not extend to their liability from**
18 **income taxes.**

19 **SEC. 5. SUPERVISION AND REGULATION OF THE DEPED-**
20 **NOTWITHSTANDING THE RECOGNITION AND PREROGATIVES GRANTED**
21 **UNDER THIS ACT, BRITISH SCHOOL MANILA SHALL BE UNDER THE**
22 **SUPERVISION AND REGULATION OF THE DEPED AND SHALL ADHERE TO**
23 **BASIC LAWS, AND RULES AND REGULATIONS OF THE DEPED GOVERNING**
24 **INTERNATIONAL OR FOREIGN SCHOOLS.**

25
26 **SEC. [4] 6. Implementing Rules AND REGULATIONS.- WITHIN NINETY (90)**
27 **DAYS AFTER THE EFFECTIVITY OF THIS ACT, The DepEd Secretary OR HIS**
28 **REPRESENTATIVE, SCHOOL'S ADMINISTRATION, REPRESENTATIVES FROM**
29 **THE SCHOOL PARENTS AND REPRESENTATIVE FROM PRIVATE EDUCATIONAL**

1 **ASSOCIATIONS IN COORDINATION WITH THE OTHER GOVERNMENT AGENCIES**
2 **CONCERNED** shall issue such rules as may be necessary to carry out the provisions of
3 this Act.

4 SEC. [5] 7. Severability **CLAUSE** - If any clause, sentence, paragraph or part of this
5 Act is subsequently declared unconstitutional, the validity of the remaining provisions
6 hereof shall remain in full force and effect.

7 **SEC. 8. REPEALING CLAUSE - ALL LAWS, DECREES, ORDERS, RULES OR**
8 **REGULATIONS, OR PARTS THEREOF, INCONSISTENT WITH THIS DECREE ARE**
9 **HEREBY REPEALED OR MODIFIED ACCORDINGLY.**

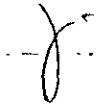
10 SEC. [6] 9. Effectivity **CLAUSE** - This Act shall take effect [immediately upon its
11 approval] **FIFTEEN (15) DAYS AFTER ITS PUBLICATION IN THE OFFICIAL**
12 **GAZETTE AND IN A NEWSPAPER OF GENERAL CIRCULATION.**

13 Approved,

Senate
Office of the Secretary

Republic of the Philippines
CONGRESS OF THE PHILIPPINES
SENATE
Pasay City

15 SEP 30 P2:45

RECEIVED BY 

COMMITTEE ON EDUCATION, ARTS AND CULTURE

NARRATIVE REPORT

RE: SENATE BILL NO. 2147- AN ACT RECOGNIZING THE BRITISH SCHOOL MANILA AS AN EDUCATIONAL INSTITUTION OF INTERNATIONAL CHARACTER, GRANTING CERTAIN PREROGATIVES CONDUCIVE TO ITS GROWTH AS SUCH, AND FOR OTHER PURPOSES

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I. INTRODUCTION

British School Manila (BSM) was established in 1976 and is presently operating under a Memorandum of Understanding (MOU) with the Department of Education (DepEd) dated November 23, 2011.

BSM is being operated by British Educational, Inc. (BEI), a registered non-stock and non-profit corporation, which is exempt from taxes and duties. Its grants, endowments, donations or contributions used actually, directly, and exclusively for educational purposes are exempt from tax.¹ Its educational services duly accredited with the DepEd are exempt from Value-added tax (VAT).²

The Bureau of Internal Revenue (BIR) accords tax exempt status to corporations by way of confirmatory BIR rulings or certificates of tax exemption issued after BIR's due evaluation of their submitted documents.³

BSM has a pending application with the BIR for the issuance of said ruling or certificate of tax exemption. The BIR required BSM to obtain, among other general documentary requirements, a certificate of government recognition/permit/accreditation to operate as an educational institution from the DepEd.⁴

The DepEd directed BSM to obtain from the Senate a "legislative franchise" since unlike other international schools,⁵ which were established by law, BSM has been operating in the Philippines only by virtue of a Memorandum of Understanding (MOU) with the DepEd, which has been renewed three (3) times.⁶

¹ Section 4, Article XIV, 1987 Constitution.

² Section 109 (H), Tax Code.

³ Section 30, Tax Code; Revenue Memorandum Order No. (RMO) No. 20-2013, July 22, 2013.

⁴ Section 4(a) of Revenue Memorandum Order No. (RMO) No. 20-2013, July 22, 2013.

⁵ Cebu International School (R.A. No. 9190); Southville International School (R.A. No. 9493); Adventist International Institute of Advanced Studies (P.D. No. 2021); Brent School (P.D. No. 2022); International School (P.D. No. 732); Asian Institute of Management (P.D. No. 639).

⁶ Memorandum of Understanding, May 10, 1976; Memorandum of Understanding, May 31, 2001; Memorandum of Understanding, November 23, 2011 (**Annexes "A" to "C"**).

Senate Bill 2147⁷ filed on February 27, 2014 recognizes BSM as an educational institution of international character. Said bill was referred to the Senate Committee (hereafter referred to as Senate Committee), which conducted a hearing on said bill on February 3, 2015.

Three (3) days later or on February 6, 2015, Liam Madamba, a Senior student of British School Manila (BSM), ended his life by jumping to his death from the 6th floor of a parking building. The incident was being linked to Mrs. Natalie Mann, an IB Coordinator of the BSM who, on February 5, 2015, accused and punished Liam and another student, Issabella Ver, for allegedly having committed plagiarism on the first draft of their Theory of Knowledge (TOK) essays.

The BSM Council of Trustees (COT) organized on March 4, 2015 an Independent Review Panel (IRP) to conduct an inquiry into the school's pastoral care program, its policies, and the events that occurred on the 2nd to 6th of February 2015. The IRP Report was submitted on March 23, 2015 and the IRP Report with an Addendum on March 31, 2015.

The BSM officials are also being implicated for having prematurely exonerated Mrs. Mann from any liability for the incident and for giving her extraordinary support. The COT is also allegedly liable for covering up the liability of BSM and its school officials by tampering with the IRP report which would jeopardize BSM's pending applications with the DepEd and the BIR, and its pending bill with the Senate, which grants BSM international character.

The foregoing allegations of a cover-up and the clamor from some BSM parents who accuse the current BSM management of incompetence prompted the Senate Committee to conduct hearings on said bill to review BSM's application for recognition as an educational institution of international character. With the tragic death of Liam Madamba, the Senate Committee had the duty to ascertain BSM's compliance with the DepEd orders and pertinent rules and regulations, and determine amendments, if any, to relevant laws, the Charters of BSM and other international schools.

⁷ *Senate Bill No. 2147- "An Act Recognizing The British School Manila As An Educational Institution of International Character, Granting Certain Prerogatives Conducive To Its Growth As Such, And For Other Purposes" (Annex "D").*

II. STATEMENT OF FACTS

1. British Education, Inc. (BEI) is a non-stock, non-profit corporation, registered with the Securities and Exchange Commission (SEC), that operates the British School Manila (BSM);
2. Established in 1976, BSM entered into a Memorandum of Understanding (MOU) with the Philippine Government through the Department of Education (DepEd) on May 10, 1976. Said MOU was renewed on May 31, 2007 and on November 23, 2011;
3. On February 27, 2014, Senators Pia Cayetano, Loren Legarda and Antonio "Sonny" Trillanes IV filed Senate Bill No. 2147, which recognizes BSM as an educational institution of international character;
4. On February 3, 2015, the Senate Committee on Education, Arts and Culture conducted its first hearing on the Senate bill;
5. On February 5, 2015, Mrs. Natalie Mann, an International Baccalaureate (IB) Coordinator, accused Liam Madamba and Isabella Ver of plagiarism of a paragraph on the first draft of their Theory of Knowledge (TOK) essays and punished them by requiring both of them to write apology letters⁸ and new TOK essays under timed conditions."⁹
6. On February 6, 2015, Liam jumped to his death and plummeted from the 6th floor of a De la Rosa parking building in Legaspi Village, Makati City;
7. On February 11, 2015, "BSM Concerned Parents" requested Mr. Simon Bewlay, Chairman of the Board of Governors, to form a separate and independent board of inquiry;¹⁰
8. On February 24, 2015, Mr. Bewlay informed the BSM parents of the Council of Trustees' (COT) decision to form an **Independent** Review Panel (IRP);¹¹
9. On March 2, 2015, Mrs. Mann departed the Philippines;
10. On March 4, 2015, the COT formed an Independent Review Panel (IRP) composed of the following: Mr. Edgar Chua as Chairman; Atty. Ulpiano

⁸Apology Letters of Liam Madamba and Issabella Ver (**Annexes "E" to "F"**).

⁹Email of Natalie Mann to Liam Madamba and Issabella Ver, February 5, 2015 (**Annex "G"**).

¹⁰Letter of Concerned Parents, February 11, 2015 (**Annex "H"**).

¹¹Letter of Mr. Simon Bewlay to BSM Parents, February 24, 2015 (**Annex "I"**).

Sarmiento, Atty. Rochelle-Dakanay-Galano, Dr. William Parker and Dr. Steven Dekrey as Members;

11. On the same day, March 4, 2015, Mrs. Mann went on leave from BSM;¹²
12. On March 8, 2015, during the meeting of the Council of Trustees (COT)¹³ and the IRP, the IRP members signed their Appointment Papers¹⁴ and the COT defined the IRP Terms of Reference as follows:
 - (1) To review BSM processes and practices dealing with plagiarism for year 12/13 students and how these are applied; and
 - (2) To review BSM support structures in place for students during the course of the IB diploma programme.
13. On March 20, 2015, Mr. Mann informed the Year 12 and 13 students of Mrs. Mann's resignation and shared her statement on the reason for her resignation;¹⁵
14. On March 23, 2015, the IRP submitted its Report¹⁶ to the COT;
15. During a meeting¹⁷ on March 25, 2015 the COT informed the IRP members that they went beyond the terms of reference and requested them to amend their Report;¹⁸
16. On March 26, 2015, Mr. Mann released the recommendations of the Independent Review Panel (IRP) and BSM's response to each of said recommendations;¹⁹
17. On March 31, 2015, the IRP, submitted to the COT its Report with an Addendum (hereafter referred to as the IRP Report);²⁰
18. On April 13, 2015, Mr. and Mrs. Madamba met with Mr. Simon Mann and Mr. Will Tibbits;²¹

¹² Testimony of Mr. Simon Mann, TSN, May 26, 2015, pp. 28-29;

¹³ Present during the meeting were COT Chairman Trevor Lewis, BOG Chairman Simon Bewlay and the IRP members.

¹⁴ Appointment Papers of IRP Chairman Mr. Edgar Chua, Atty. Sarmiento, Atty. DaKanay-Galano and Dr. Parker, March 8, 2015 (**Annexes "J" to "M"**). The Senate Committee has no appointment letter on file for Dr. Steven Dekrey.

¹⁵ Email of Mr. Mann to Year 12 and 13 students, March 20, 2015 (**Annex "N"**).

¹⁶ Independent Review Panel (IRP) Original Report (**Annex "O"**).

¹⁷ COT Chairman Trevor Lewis, and COT members Mr. Wick Veloso and Mr. Martyn Turner and IRP Chairman Edgar Chua and member Atty. Sarmiento attended the meeting.

¹⁸ Testimony of Mr. Chua, TSN, June 15, 2015; pp. 21-24.

¹⁹ Mr. Mann's Letter to BSM Families regarding the IRP Recommendations (**Annex "P"**).

²⁰ IRP Report with Addendum (**Annex "Q"**).

²¹ Testimony of Mrs. Madamba, TSN, May 26, 2015, p. 42.

19. On April 15, 2015, BSM gave Mr. & Mrs. Madamba a copy of the COT Report;²²
20. On April 17, 2015, the COT Report was released;²³
21. During the week of May 5, 2015, Mr. Chua repudiated the COT Report;²⁴
22. On May 15, 2015, BSM released a letter of the Board of Governors (BOG) addressing among others, the issue of plagiarism and Mrs. Mann;²⁵
23. On May 19, 2015, Mr. Chua was served with a *Subpoena Duces Tecum*²⁶ to produce the full report of the IRP and the supporting documents;
24. On May 20, 2015, Mr. Trevor Lewis was served with a *Subpoena Duces Tecum*²⁷ to produce the full report of the IRP and all supporting documents;
25. On May 21, 2015, Mr. Bewlay was served with a *Subpoena Duces Tecum*²⁸ to produce the full report of the IRP together with all supporting documents;
26. On May 21, 2015, BSM released the original IRP report, which they referred to as the "IRP Original Source Report²⁹" and subsequently the IRP report with Addendum;³⁰
27. On May 21, 2015, Mr. Chua submitted to the Senate Committee on Education, Arts & Culture a copy of the Full Report of the IRP in compliance with the Subpoena;
28. On May 25, 2015, Mr. Bewlay submitted the COT Report and other supporting documents;
29. On May 26, 2015, the Senate Committee on Education, Arts and Culture conducted its second hearing;

²² The COT Report given by BSM to Mr. & Mrs. Madamba was an abridged and edited IRP Report.

²³ Council of Trustees (COT) Report (**Annex "R"**).

²⁴ Testimony of Mr. Edgar Chua, TSN, June 15, 2015, pp. 35-36 and 39; Testimony of Mrs. Madamba, TSN, May 26, 2015, p. 42.

²⁵ Testimony of Mrs. Madamba, TSN, May 26, 2015, pp. 34-35; 40-41; Letter of BSM Board of Governors to BSM Families (**Annex "S"**).

²⁶ Subpoena Duces Tecum to Mr. Edgar Chua, May 19, 2015 (**Annex "T"**).

²⁷ Subpoena Duces Tecum to Mr. Trevor Lewis, May 19, 2015 (**Annex "U"**).

²⁸ Subpoena Duces Tecum to Mr. Simon Bewlay, May 19, 2015 (**Annex "V"**).

²⁹ Testimony of Mrs. Madamba, TSN, May 26, 2015, p. 42.

³⁰ Testimony of Mrs. Gigi Disini, TSN, June 15, 2015, p.96.

30. On June 15, 2015, the Senate Committee on Education, Arts and Culture conducted its third hearing.

III. ISSUES

- A. Did British School Manila (BSM) violate any of the policies or regulations of the Department of Education (DepEd) including Department Order No. 88 (2010 Revised Manual of Regulations for Private Schools in Basic Education) and Department Order No. 40, series of 2012 (Child Protection Policy)?
- B. What is the liability of Mrs. Natalie Mann, if any, for the death of Liam Madamba?
- C. What is the liability of BSM and its officials, if any, for their violations of the DepEd Orders?
- D. What is the liability, if any, of the Council of Trustees (COT) or other school officials for the alleged alterations/changes in the report of the Independent Review Panel (IRP) without the latter's consent?
- E. What amendments, if any, should be made to Senate Bill 2147 recognizing British School Manila (BSM) as an institution of international character and other relevant laws?

IV. DISCUSSION

POSSIBLE LIABILITY OF MRS. NATALIE MANN AND BRITISH SCHOOL MANILA OFFICIALS (BSM) UNDER DEPARTMENT OF EDUCATION (DEPED) ORDERS 88 AND 40

Department Order No. 88 entitled "2010 Revised Manual of Regulations for Private Schools in Basic Education" specifically requires the observance of due process in the imposition of disciplinary sanctions against students.³¹

The minimum standards on procedural due process laid down in *Guzman, et al. vs. National University, et al.*,³² are as follows:

³¹ Sec.188, Department of Education (DepEd) Order No. 88-"2010 Revised Manual of Regulations for Private Schools in Basic Education."

- (1) The student must be informed in writing of the nature and cause of any action against them;
- (2) They shall have the right to answer the charges against them, with the assistance of counsel, if desired;
- (3) They shall have the right to adduce evidence in their behalf;
- (4) The evidence must be considered by the investigating Committee or official designated by the school authority to hear and decide the case.

In addition to the above standards, every student has the right to reasonable and fair treatment as a student and as a person consistent with human dignity,³³ the right to redress of grievances against any wrong or injustice against him/her by any member of the academic community,³⁴ and the right to be assisted by his/her parents and/or counsel in disciplinary proceedings.³⁵

"No disciplinary sanction shall be imposed upon any student except for valid causes as defined in the school rules and regulations and in accordance with due process."³⁶ The school rules on student discipline and sanctions are required to be "clearly specified and defined in writing and made available to the students, or the parents or guardians."³⁷

While the schools are given the power to instill discipline on their students, the punishment imposed should be "commensurate with the nature and gravity of the offense."³⁸ Such power does not give schools the "untrammelled decision to impose a penalty which is not commensurate with the gravity of the misdeed. If the concept of proportionality between the offense committed and the sanctions imposed is not followed, an element of arbitrariness intrudes that would give rise to a due process question."³⁹ In serious offenses, the school officials are required to submit a report of the violation to the school head who may, if warranted, file the appropriate disciplinary action against the erring student.⁴⁰

Mrs. Mann failed to comply with the required procedural due process when she immediately imposed punishment on Liam and Issabella for plagiarism of a paragraph on the first draft of their Theory of Knowledge

³² G.R. No. L-68288, July 11, 1986.

³³ *Supra*, note 31, Sec. 155(b).

³⁴ *Id.* at Sec. 155(f).

³⁵ *Id.* at Sec. 137.

³⁶ *Id.* at Sec.131.

³⁷ *Id.* at Sec. 132.

³⁸ *Id.* at Sec. 135.

³⁹ *De la Salle University, Inc. vs. CA, et al.*, G.R. No.127980, December 19, 2007.

⁴⁰ *Supra*, note 31, at Sec.134.

(TOK) essays on February 5, 2015 after their alleged admission of plagiarism. She required both of them to write apology letters and another TOK essay under timed conditions. There is no BSM policy specifically authorizing the penalties imposed by Mrs. Mann for the alleged plagiarism.

It was her duty to submit a report to the School head and request the presence of their parents in the disciplinary proceedings for the determination of the guilt or innocence of both students to plagiarism. However, Mrs. Mann failed to submit said report to BSM School head, Mr. Mann, and merely discussed the matter with her line manager and head of Key Stage 5, Mr. Brian Platts.⁴¹ No disciplinary proceeding was conducted.

Neither did she inform Liam's parents of his alleged plagiarism due to a purported BSM policy that allows its students, as young adults, to first inform their parents of their transgression.⁴² This BSM policy, however, was not proven. As categorically stated in the IRP Report, there is no policy on "expected level of parent communication and at what point a parent should be notified."⁴³

Mrs. Mann's non-compliance with procedural process is allegedly justified due to the "immediate admission of both Issabella and Liam."⁴⁴ Even assuming there was such an admission, due process should have been observed.

Liam's parents should have immediately been summoned to assist him during his meeting with Mrs. Mann, to ensure that his admission was neither forced nor coerced and that his rights as a student were respected. Liam should have also been given an opportunity to "present evidence, cross examine witnesses, and to appeal the decision to proper authorities, when appropriate."⁴⁵ The right to appeal is important considering that Liam's IB diploma was at stake.

Only after Liam was found guilty in a disciplinary proceeding and after observance of due process, can penalty be meted out by Mrs. Mann. More importantly, the penalty should be appropriate and reasonable. The alleged plagiarism was committed in a paragraph of the first draft of Liam's Theory of Knowledge (TOK) essay. The fact that it was a first draft was clearly indicated in the upper hand corner of Issabella's essay⁴⁶ and the BSM school calendar⁴⁷ posted in its family portal which indicates February 2, 2015 as the

⁴¹ Affidavit of Mrs. Mann, par.6, p.2 (**Annex "W"**),

⁴² *Id.* at par. 16, p. 4.

⁴³ *Supra*, note 20 at Sec. 1.5, p.4,

⁴⁴ *Supra*, note 41 at par. 10, p. 3.

⁴⁵ *Supra*, note 31 at Sec. 155 (f) and at Sec. 138.

⁴⁶ Theory of Knowledge (TOK) Essay of Issabella Ver (**Annex "X"**).

⁴⁷ Screen shot of BSM calendar (**Annex "Y"**).

deadline for the submission of the first draft of the TOK essays. Said essay combined with an extended essay, gives a student a combined total of only three (3) points out of a maximum of forty-five (45) points.⁴⁸

The IRP found the penalty imposed on Liam and Issabella as excessive and non-constructive.⁴⁹ Mr. Platts claimed that plagiarism is considered as a very serious transgression with severe penalties.⁵⁰ The IRP reported, however, that the BSM has no existing policy on how to deal with plagiarism, the procedure on how to ascertain the guilt or innocence of a student⁵¹ and that the school is silent in its directions regarding the reflection process.⁵²

Mr. Mann gratuitously justified the penalty by stating that the apology letter was not meant to create public humiliation or hurt but was merely a reflection process not designed to be punitive.⁵³ He further claimed that "both students were told that the apology letter was for her" only (Mrs. Mann) and remained between her (Mrs. Mann) and the writer of the letter.⁵⁴

According to the IRP, based on its document review and interview, "there was significant confusion over the intended audience for these letters. While the IRP was informed that only the teacher will see the letter, it appeared to the IRP that the students, at least initially, were under the impression that the letters would be sent to the addressees."⁵⁵

A teacher interviewed by the IRP said that they did not intend to read the apology letters at all. This was considered by the IRP as a highly questionable "educational practice" since the usefulness of such an exercise will not be determined and its desired effect will not be ascertained. It further recommended that said practice should be discontinued or modified if it does not promote the intended result.⁵⁶

The IRP talked to one student who said that apology letters written by some students "were sent at some point in the past." The IRP therefore concluded that regardless of the veracity of said student's statement, such heightened anxiety and lent credence to the idea that the letters would also be sent to the addressees.⁵⁷

⁴⁸ *Testimony of Mr. Mann, TSN, May 26, 2015, pp.60-61.*

⁴⁹ *Supra, note 20, p. 5.*

⁵⁰ *Testimony of Mr. Platts, TSN, May 26, 2015, p. 48.*

⁵¹ *Supra, note 20 at Section 1.3 and 1.5, pp. 3-4.*

⁵² *Supra, note 20 at footnote no. 7, p. 6.*

⁵³ *Testimony of Mr. Mann, Transcript of Senate Committee Hearing of May 26, 2015, pages 60-61;*

⁵⁴ *Id. at p. 61;*

⁵⁵ *Supra, note 20 at par. 4, p.6.*

⁵⁶ *Supra, note 20 at footnote no. 7, p. 6.*

⁵⁷ *Id. at footnote no. 8.*

Liam was of the impression that his apology letter would be read by the entire student body and his parents. This was clearly tantamount to “public humiliation, peer humiliation”⁵⁸ or “psychological self-flagellation.”⁵⁹ Mr. Mann acknowledged the “connection between Liam being dealt with at school and the consequences that occurred.”⁶⁰

Mrs. Mann caused Liam mental anguish or emotional suffering which is prohibited under the Department of Education’s (DepEd) Department Order No. 40 or the “Child Protection Policy.” Violence against children which includes psychological violence is defined as “acts or omissions, causing or likely to cause mental or emotional suffering of the child, such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, education or threat of deduction from grade or merit as a form of punishment, and repeated verbal abuse.”⁶¹

Mrs. Mann did not even immediately read Liam’s apology letter.⁶² A reasonably prudent teacher would have done so especially because she threatened him with public humiliation and failure to obtain his IB diploma. Had she read the letter, she would have realized that Liam was in an acute emotional state and required the same if not more attention and comfort than Issabella. She should have informed his parents of the alleged plagiarism and showed them his apology letter. This way, the much needed intervention by his parents and the school officials may have prevented his suicide. Mr. Mann confirmed that Mrs. Mann should have read the letter and added that had he read the letter “he himself would have even gone to the family and discussed how he was feeling and how he could better support him and made sure he would make it through the process, learn from his mistake.”⁶³

Mrs. Mann’s actions on February 5, 2015 had the same effect on both students. Issabella was “visibly upset and in tears.”⁶⁴ “She had suicidal thoughts and was out of character and her mother had to pacify and even slap her to make her go back to her senses.”⁶⁵ All said statements of Mrs. Mann and Mrs. Madamba on her being upset were later denied by Issabella and her parents.⁶⁶

⁵⁸ Senator Osmeña’s statement, TSN, June 15, 2015, p.73.

⁵⁹ Senator Marcos’ statement, TSN, May 26, 2015, p. 66.

⁶⁰ *Id.* at p.30, Testimony of Mr. Mann.

⁶¹ Section 3(m), Department of Education (DepEd) Order No. 40 - DepEd Child Protection Policy, May 14, 2012.

⁶² *Supra*, note 41 at par. 14, p. 4.

⁶³ Testimony of Mr. Mann, TSN, May 26, 2015, pp. 70-74.

⁶⁴ *Supra*, note 41 at par. 14, p.4.

⁶⁵ Testimony of Mrs. Madamba, TSN, May 26, 2015, p. 66.

⁶⁶ Signed Statement of Isabella Ver, February 24, 2015; Letter of Spouses Antonio A. Ver and Margaret Anne G. Ver and Isabella’s statement, June 12, 2015 (**Annexes “Z” and “AA”**).

Mrs. Mann therefore spent some time counselling Isabella and reminded her that she can rectify and move on from her mistake.⁶⁷ Because Liam was "subdued," Mrs. Mann did not do the same thing for Liam.⁶⁸ This proves that the two (2) students were not treated in exactly the same manner⁶⁹ or as described by the IRP, they were "supported differently."⁷⁰

After Liam's death, Mrs. Mann suddenly departed the Philippines on March 2, 2015, without even extending Liam's family the courtesy of personally meeting with them or at the very least explaining to them what transpired last February 5, 2015. She neither immediately informed them of the existence of Liam's apology letter nor gave them a copy of the same. Liam's family deserved more than just an email from Mrs. Mann expressing her condolences.

She failed to exercise the standard of care that a person of ordinary prudence would have done under the same circumstances. This is tantamount to negligence, which is defined as "the failure to use such care as a reasonably prudent and careful person would use under similar circumstances."⁷¹

The right of children to assistance, including special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development is enshrined in our Constitution.⁷² The Department of Education (DepEd) promulgated Department Order No. 40 or the DepEd Child Protection Policy, in line with its "zero tolerance policy for any act of child abuse, exploitation, violence, discrimination, bullying and other forms of abuse" and in conformity with the Convention on the Rights of the Child (CRC).

Among the responsibilities of the school head or administrator is to ensure that the educational institution has effective child protection policies and procedures, monitor its compliance, conduct disciplinary proceedings in cases of offenses committed by students,⁷³ and "to exercise due diligence expected of a good father of a family in the management of the school so as to prevent damage or injury to life or property inside or outside the school campus."⁷⁴ The IRP specifically found lacking policies on "some critical elements on discipline management such as student's rights (including

⁶⁷ *Supra*, note 41 at par. 18, p. 5.

⁶⁸ *Supra*, note 41 at par. 14, p.4.

⁶⁹ *Testimony of Mr. Mann, TSN, May 26, 2015, p. 63.*

⁷⁰ *Supra*, note 20 at par. (e), p 9;

⁷¹ *Black's Law Dictionary, 6th ed., 1990.*

⁷² *Sec.3(2), Art. XV, 1987 Constitution.*

⁷³ *Supra*, note 31 at Sec. 7(F).

⁷⁴ *Id. at Sec. 53 (e).*

confidentiality) and due process to defend themselves, discipline philosophy, and expected staff department when administering discipline."⁷⁵

BSM did not promptly conduct its own investigation on the February 5, 2015 incident. It was only after its receipt of the letter of "Concerned Parents" requesting for an independent body to look into the February 5 incident did the COT finally decide to form the IRP, which was done almost three (3) weeks after Liam's suicide. Neither did they place Mrs. Mann under preventive suspension. Instead, BSM gave Mrs. Mann its phenomenal support and prematurely absolved her from any liability for the incident⁷⁶ by stating that she was just responding to the needs of the student⁷⁷ and that she dealt with Liam in the way that they expected her to.⁷⁸

BSM also allowed Mrs. Mann to go on leave of absence to spend more time with her family. It subsequently approved her resignation and simply requested her to execute an Affidavit regarding the incident. She was not required to personally meet with Liam's family so she may explain what happened on February 5, 2015. She was interviewed by the IRP via Skype and not in person because during the IRP investigation she had already departed the Philippines.

And to make the incident even worse, barely a week after Liam died or on February 15, 2015, BSM released a weekly newsletter with guidelines on mental illness, which Mrs. Madamba considered as "veiled insinuations" that Liam had a history of depression or mental illness which she found "very, very hurtful."⁷⁹ Instead of focusing on Liam's family who needed answers as to what happened to Liam on February 5, 2015, the school concentrated on the safety of students in the school. Mr. Mann offered mere apologies if "such were misinterpreted as suggesting that there was an issue with Liam's mental health." He also said that the "non-reading of Liam's letter should have been handled better and there is something more going on than just an apology or reflective exercise."⁸⁰

There was no basis for suggesting that Liam had mental illness since even BSM School Counselor Rod Peñalosa confirmed that Liam was never referred to his guidance and that he was never under his care since he did not display any type of behavior.⁸¹

⁷⁵ *Supra*, note 20 at Sec. 1.5, p. 4.

⁷⁶ *Testimony of Mrs. Madamba, TSN, June 15, 2015, pp. 128-133.*

⁷⁷ *Testimony of Mr. Mann, TSN, May 26, 2015, pp. 60-61.*

⁷⁸ *Id.* at pp. 75-76; *Letter of Board of Governors to BSM Families; (see Annex "S")*

⁷⁹ *Testimony of Mrs. Madamba, TSN, May 26, 2015, pp. 80-81.*

⁸⁰ *Testimony of Mr. Mann, TSN, May 26, 2015, pp.82-83.*

⁸¹ *Testimony of Rod Peñalosa, TSN, May 26, 2015, p.77-79.*

As early as March 27, 2015, Liam's family was asking for a copy of the IRP Report⁸² but was given the runaround by the BSM officials. They were told that there were factual inconsistencies that needed to be "ironed out" first in the Report. They were given a copy of the COT report only on April 17, 2015. As late as May 26, 2015 or the day of the Senate Committee hearing, they were yet to receive a copy of the IRP Report.⁸³

It was alarming how BSM handled the aftermath of Liam's death. BSM intentionally put off meeting with Liam's family and purposely delayed giving Liam's apology letter to his family as evidenced by the email message⁸⁴ of Mr. Bewlay to Mr. Mann, which states that "giving the letter on its own would be "inflammatory" but if given with the Report, the latter would have a "balancing effect." It further stated that "giving only one document would give an impression of "holding back on the releasing of the Report."

Instead of releasing the IRP Report, BSM came up with its own COT Report to shield the school from possible liabilities arising from the negligent acts of its school personnel, and their failure to observe the required diligence of a good father of a family in connection with the February 5, 2015 incident. It did not fully disclose to the BSM Community the existence of the IRP Report but instead released the COT Report purportedly authored by the IRP. Mrs. Feny delos Angeles-Bautista, an educator, observed that there was a sense of panic on the part of the school leadership⁸⁵ to protect its reputation as an international school.

Under Section 189 of the Manual of Regulations for Private Schools or Department Order No. 88, any violation of said Department Order may be penalized with the non-issuance of a favorable recommendation for tax exemption, suspension or revocation of the permit or recognition to operate the school.

REFERRAL OF THE MATTER TO THE INTERNATIONAL BACCALAUREATE OFFICE (IBO) ON ISSUE OF PLAGIARISM

One of the issues raised during the Committee hearing was whether plagiarism can be committed on the first draft of the Theory of Knowledge (TOK) essay. The IRP disclosed in its Report that there was some "reported

⁸² Testimony of Mrs. Madamba, TSN, May 26, 2015, p.41.

⁸³ Id. at p. 42.

⁸⁴ Email of Mr. Simon Bewlay to Mr. Simon Mann inadvertently sent to Mrs. Madamba, April 11, 2015 (**Annex "BB"**).

⁸⁵ Testimony of Mrs. Feny de los Angeles, TSN, 15 June 2015, p. 136.

confusion regarding the role of a draft assignment at BSM and whether students understand that drafts are to be treated as a submitted piece of work.”⁸⁶

BSM and Liam’s family have contrasting views on this point.

During the hearing on May 26, 2015, Atty. Mario Bautista, counsel of BSM, opined that plagiarism can be committed in the first draft of the TOK essay since it is the school which determines whether or not plagiarism occurs within its rules because when the parents bring their child to the school, they submit themselves to the standards, rules, and values of the school.⁸⁷ Mr. Mann validated the actions of Mrs. Mann and Mr. Platts by saying that the same were in accordance with IB regulations.

In stark contrast, Mrs. Madamba who is also a teacher at an IB-accredited international school, believes that the first draft essay is not the final submission and there can be no plagiarism at this level since there is still a final act to be done by the student which is to authenticate his or her work by signing in the cover sheet. She cited IB guidelines on Academic Honesty, series of July 2011, which states that “every candidate must sign a cover sheet for each externally assessed component and all internally assessed components to confirm that his or her work is authentic.”⁸⁸

Hence, there is a need for the IBO to rule on the following issues:

1. If plagiarism may be committed on a first draft of a Theory of Knowledge (TOK) essay or prior to the submission to the IB of a TOK final draft;
2. If Liam Madamba and Issabella Ver committed plagiarism on the first draft of their Theory of Knowledge (TOK) essay;
3. If IB Regulations require that a student write a TOK essay on a new topic selected by the teacher if the said student is determined to have committed plagiarism on the first draft;
4. If IB Regulations require that a student write a new TOK essay under timed conditions if he/she is determined to have committed plagiarism on the first draft.

⁸⁶ *Supra*, note 20 at Sec. 1.4, p. 4.

⁸⁷ *Testimony of Atty. Mario Bautista, TSN, May 26, 2015, p. 55.*

⁸⁸ *Testimony of Mrs. Madamba, TSN, 15 June 15, 2015, page 9.*

POSSIBLE LIABILITY OF THE COUNCIL OF TRUSTEES (COT) AND BRITISH SCHOOL MANILA (BSM) OFFICIALS FOR TAMPERING WITH THE REPORT OF THE INDEPENDENT REVIEW PANEL (IRP)

The Council of Trustees (COT) of British School Manila (BSM) formed an Independent Review Panel (IRP) almost a month after Liam's suicide. While BSM claims that it initiated the formation of the IRP, there was also a letter from "Concerned Parents," specifically requesting BSM to form said independent body.

The IRP was composed of its Chairman, Mr. Edgar Chua, and the following members: Atty. Ulpiano Sarmiento, Atty. Rochelle-Dakanay-Galano, Dr. William Parker and Dr. Steven Dekrey. According to the BSM, the panel was chosen based on "individual and complementary skill sets."⁸⁹

The panel was expected to be independent of the BSM and its Council of Trustees (COT). However, at the very outset, the COT already limited the terms of reference of the IRP to: (1) review BSM processes and practices dealing with plagiarism for year 12/13 students and how these are applied; and (2) to review BSM support structures in place for students during the course of the IB diploma programme. There was no mention of Liam, the February 5, 2015 and February 6, 2015 incidents in the IRP's terms of reference.

The COT, unsatisfied with the findings of the IRP, requested them to revise the IRP Report. Upon the COT's request, the IRP agreed to delete the names of the persons they interviewed on account of privacy and it made some amendments to said report after due consideration of BSM policies subsequently submitted to the IRP. Said changes were incorporated in an Addendum to the IRP Report, which was submitted to the COT on March 31, 2015.

After receipt of the IRP Report containing the Addendum, however, the COT, without the knowledge and consent of the IRP, made substantial amendments to the report but made it appear that said report was authored by the IRP instead of the COT. Mr. Chua repudiated said Report.⁹⁰

The COT deleted three (3) pages of the 12-page-IRP Report containing the IRP's Further Advise to the COT and the Addendum to the IRP Report.

⁸⁹"BSM Factual Information Regarding Issues related to February 5th and 6th" (Annex "CC").

⁹⁰ Testimony of Mr. Chua, TSN, June 15, 2015, pp.34-37.

While the COT incorporated the deleted portions in the COT Report, it also made revisions on every page of the IRP Report.

Inserted by the COT in the Report was a list of ten (10) documents⁹¹ which the IRP allegedly accepted and noted as additional evidence. The IRP, however, acknowledged having received only seven (7)⁹² of the ten (10) documents. It did not receive three (3) policy documents on behavior, confidentiality and sexual harassment which the COT included in the list.

The COT deleted from the Report references to the February 6, 2015 incident⁹³ because said incident happened outside of BSM and would involve a more in-depth investigation by BSM.⁹⁴ However, the incident of February 6, 2015 was what specifically triggered the formation of the IRP and the preparation of the Report.⁹⁵

The IRP reported that the BSM lacked policies regarding processes in ascertaining the guilt or innocence of a student in case of plagiarism⁹⁶ but this was deleted as well by the COT. The absence of specific practices for dealing with plagiarism was admitted by Mr. Turner during the hearing.⁹⁷

In addition, the IRP also found lacking from BSM its teaching/learning policies to be upheld in determining sanctions,⁹⁸ its criteria when progressive discipline may be applied,⁹⁹ how to deal with plagiarism and other major school offenses except Drug Use.¹⁰⁰ The COT revised the Report by adding that BSM has policies in place for bullying and child protection issues.¹⁰¹ It further claimed that "out-of-school-sanctions applied by the IB are far less tolerant and generally result in severe academic penalties that are beyond the school's ability to moderate in any way."¹⁰² Yet, the BSM failed to support this by submitting IB documents.

The COT set aside the IRP's recommendations that BSM should consider the eligibility of professionals including guidance counselors and form tutors under Philippine laws¹⁰³ and that BSM should formally "articulate" and "generate" policies related to stakeholder relations, particularly faculty to

⁹¹ *Supra*, note 23, p. 2.

⁹² *Supra*, note 20, p. 10.

⁹³ *Id.* at pp. 2 and 8.

⁹⁴ *Testimony of Mr. Mann, TSN, May 26, 2015, pp. 23-24.*

⁹⁵ *Testimony of Mr. Chua, TSN, June 15, 2015, pp. 19-20.*

⁹⁶ *Supra*, note 20 at Sec. 1.3, p. 3.

⁹⁷ *Testimony of Mr. Turner, TSN, June 15, 2015, pp. 53-55.*

⁹⁸ *Supra*, note 20 at Sec. 1.4, p. 4.

⁹⁹ *Id.* at Sec. 1.5, footnote no. 5.

¹⁰⁰ *Id.*

¹⁰¹ *Supra*, note 23, p. 4.

¹⁰² *Id.* at footnote no. 5.

¹⁰³ *Supra*, note 20 at Sec. 2.3, p. 7.

student, to prevent educational malpractices such as favoritism or bullying.”¹⁰⁴

The COT materially changed the IRP’s observation that the school “aggressively” reacted to the February 6, 2015 incident by indicating in the Report that the school’s reaction was “proactive.” The IRP related that a number of stakeholders were of the impression that BSM’s handling of the emergency/crisis especially the communication side to the public was “defensive, stonewalling and insensitive.”¹⁰⁵ The COT changed said impression to “inadequate.”¹⁰⁶ It is important to note that Mr. Mann admitted and apologized for BSM’s stonewalling due to confidentiality issues.¹⁰⁷

For being outside the IRP’s terms of reference and due to BSM’s alleged inability to implement the same,¹⁰⁸ the COT also deleted the following recommendations and advice¹⁰⁹ of the IRP to the BSM to:

- (1) Discontinue operating solely on trust and shared personal values to guide student management and to protect the school and students against aberrant behavior on the part of anyone;
- (2) Make changes to provide the school with a formally reviewed and comprehensive set of expectations related to student management as indicated by the February 6, 2015 events;
- (3) Review its handling of the February 6 event and its crisis management plan;
- (4) Review its oversight procedures for handling situations where a staff or faculty is involved and the subject of a complaint (e.g. 30-day preventive suspension pending investigation) without prejudice to the guilt or innocence of the staff/faculty involved;
- (5) Research students’ profile for dissemination to and reading of relevant faculty prior to any disciplinary action to ensure a good understanding of a student’s background; and
- (6) Consider convening an additional independent investigation of the February 6 incident to determine if involved staff followed school policy and expectations in their spirit.

¹⁰⁴ *Id.* at p. 8.

¹⁰⁵ *Id.* at Sec. 2.4, p. 7.

¹⁰⁶ *Supra*, note 23 at Sec. 2.4, p. 6.

¹⁰⁷ *Testimony of Mr. Mann, TSN, June 15, 2015, pp. 128-133.*

¹⁰⁸ *Id.* at pp. 88-90, *Testimony of Mr. Turner.*

¹⁰⁹ *Supra*, note 20, p. 7.

While the IRP acknowledged that it did not have the mandate and/or capability for an investigation, it included the following common impressions,¹¹⁰ which the COT deleted for being “outside the IRP’s terms of reference”:

- a. the February 5 incident involving Liam Madamba was in some way connected to the school’s finding of plagiarism and the manner in which the school treated it;
- b. The two students in the February 5 incident were supported differently; and
- c. The school should take steps to address the divisions that have manifested recently as a result of the incident.

The COT added in the IRP recommendations a statement that the “school has strong personal and positive school, family relationships but it should work towards a fully shared, cleared, consistent and common understanding of philosophies, practices and policies.”¹¹¹

In the Case Study portion of the IRP, the COT added two introductory paragraphs,¹¹² which according to Mr. Chua¹¹³ were written to “try and provide context to the case study that the IRP came up with” and to make sure that the involved teachers’ points of view were included right at the start.”

The IRP explained that “given the tragic situation, it cannot make a definitive determination one way or another whether both students were given the same message.”¹¹⁴ This was changed by the COT by stating instead that “no definitive determination can be made because of IRP’s inability to speak to both students.”¹¹⁵

¹¹⁰ *Id.* at paragraph [e], p. 9.

¹¹¹ *Supra*, note 23, p. 6.

¹¹² “Once plagiarism by one of the students has been identified by the IB Coordinator she met with her line manager. They viewed the plagiarism as sufficiently serious to potentially be a failing condition for the IP Diploma and then they discussed how to approach this issue. This meeting took place in the Deputy Head’s Office. The consequences agreed included reflection and a sanction. The second student’s plagiarism was later identified and was similar in nature and in the same assignment. The IB Coordinator decided to deal with both students together.”

“In the case of two students on February 5, both students admitted that they had committed plagiarism immediately and prior to any consequences being shared.”

¹¹³ Testimony of Mr. Chua, TSN, June 15, 2015, p. 74.

¹¹⁴ *Supra*, note 20, p.6.

¹¹⁵ *Supra*, note 23, p. 5.

Mr. Turner admitted that the COT made changes in the IRP Report and failed to indicate its proper authorship. He also acknowledged that there is no standard procedure or guidelines observed by BSM in the preparation of the IRP Report.¹¹⁶ He further confirmed that some of the words were changed to make them appropriate for the report's intended audience.¹¹⁷

Mr. Wick Veloso divulged that the COT recommended a separate COT report to be published stating the IRP inconsistencies¹¹⁸ but this was not followed.

The COT blamed the IRP for its alleged refusal to make further changes in the IRP Report since it already considered its work completed or finished. Other reasons advanced for the amendments include factual inconsistencies that needed to be corrected in the report concerning BSM policies, which IRP found lacking but were actually already in place at the BSM¹¹⁹ and that the IRP went beyond the terms of reference.

All these were, however, rebutted by Mr. Chua who said that the COT did not get in touch with the IRP, after it submitted the IRP Report with Addendum last March 31, 2015. He explained that the IRP was willing to rectify any mistake, if warranted. In fact, as requested by the COT, the IRP, upon receipt of BSM policies, prepared an addendum to the IRP Report earlier submitted to the BSM last March 23, 2015.¹²⁰

Given that the IRP Report was a product of an independent panel, the COT was not authorized to amend the IRP Report. It neither had the authority to use the IRP report as a mere input to the COT Report nor to falsely mislead the BSM community into believing that the heavily altered report was authored by the IRP instead of the COT. The circumstances surrounding the preparation of the COT Report should have been disclosed in clear and simple language.

¹¹⁶ *Testimony of Mr. Turner, TSN, June 15, 2015, pp. 34,76 and 77.*

¹¹⁷ *Id.*

¹¹⁸ *Testimony of Mr. Turner and Mr. Veloso, TSN, June 15, 2015, pp. 39-42.*

¹¹⁹ *Testimony of Mr. Chua and Mr. Turner, TSN, June 15, 2015, pp. 47-53.*

¹²⁰ *Id.*

AMENDMENTS TO THE CHARTERS OF BRITISH SCHOOL MANILA (BSM) AND OTHER INTERNATIONAL SCHOOLS AND AMENDMENTS TO OTHER RELEVANT LAWS

Unlike other reputable international schools which have legislative franchises, British School of Manila (BSM) is currently operating under a Memorandum of Understanding (MOU) with the Department of Education (DepEd).

BSM's proposed Charter under SBN 2147 and the charters of other international schools should be amended to specifically state that the Department of Education (DepEd) has jurisdiction, supervision, authority and control over international schools. Said schools should strictly adhere to DepEd's policies and Orders, particularly the Manual of Regulations for Private Schools and the Child Protection Policy and incorporate the same in their own school policies.

The present composition of the Council of Trustees (COT) should be reviewed since BSM appointed Mr. Trevor Lewis, a British diplomat, as its Chairman who is at the same time a voting member. He enjoys diplomatic immunities and privileges, which may possibly be invoked by diplomatic officials in inquiries and investigations by Congress and government agencies. Under the Vienna Convention on Diplomatic Relations, said immunity includes immunity from criminal, civil and administrative jurisdiction of the receiving State (in this case, the Philippines) subject to certain exceptions.¹²¹ Mr. Lewis did not attend any of the hearings conducted by the Senate Committee.

Mr. Alan Hearn, Mr. David Gold, Ms. Anne Haslam and Mr. Simon Bewlay are all sitting Governors who admitted that they no longer have children in school but remain members of the Board of Governors.¹²² A review of this matter is also recommended to assure proper representation of BSM parents to address their legitimate and current concerns.

To address the gaps in existing laws and afford more protection to students who are victims of abuse, neglect, cruelty, exploitation, discrimination or bullying and left with no recourse other than to suffer in silence, other laws including *Republic Act No. 7610* or the "*Special Protection of Children Against Abuse, Exploitation And Discrimination Act*" and *Republic Act No. 10627* or the "*Anti-Bullying Act of 2013*" should likewise be amended to expand its coverage by including in its definition of a child those

¹²¹ Article 31 (1), Vienna Convention on Diplomatic Relations, April 18, 1961.

¹²² Testimonies of Mr. Alan Hearn, Mr. David Gold, Ms. Anne Haslam and Mr. Simon Bewlay, TSN, May 26, 2015, pp.12-14.

students above eighteen (18) years of age but still in school to be consistent with the enactment of Republic Act No. 10533 or the Enhanced Basic Education Act of 2013, popularly known as the K to 12 Law, which expands basic education to two (2) more years. The acts of bullying committed by teachers against students should also be included in the coverage.

V. RECOMMENDATIONS

Without prejudice to the right of Liam's family to seek civil and/or other criminal remedies against British School Manila (BSM) and/or its officers:

1. Refer the matter to the Department of Justice (DOJ) to:
 - (i) Determine any criminal or civil liability of Mrs. Natalie Mann in the tragic death of Liam Madamba;
 - (ii) Determine any criminal or civil liability of the British School Manila's (BSM) administrators, teachers, the Board of Governors (BOG) and the Council of Trustees (COT) for the alteration/change of the Report of the Independent Review Panel;
2. Refer the matter to the Department of Education (DepEd) to:
 - (i) Determine whether or not British School Manila (BSM) violated the rules and regulations of the Department of Education including Department Order No. 88 (2010 Revised Manual of Regulations for Private Schools in Basic Education) and Department Order No. 40, s. 2012 (Child Protection Policy) and if they should be sanctioned under Section 189 of the Revised Manual of Regulations;
 - (ii) Adopt educational policies specifically applicable to international schools in the Philippines;
 - (iii) Review the provisions of the Memorandum of Understanding with the Department of Education, Arts & Culture and the proposed Charter of British School Manila (BSM) and submit its recommendations to the Senate Committee on Education, Arts and Culture;
 - (iv) Determine whether the school policies of British School Manila (BSM) are consistent with Philippine laws and if applicable, require British School Manila (BSM) to accordingly amend or revise its policies in conformity with Philippine laws;

3. Refer the matter to the International Baccalaureate Office (IBO) to determine the following:
 - (i) If plagiarism may be committed on a first draft of a Theory of Knowledge (TOK) essay or prior to the submission to the IB of a TOK final draft;
 - (ii) If Liam Madamba and Issabella Ver committed plagiarism on the first draft of their Theory of Knowledge (TOK) essay;
 - (iii) If IB Regulations require that a student write a TOK essay on a new topic selected by the teacher if the said student is determined to have committed plagiarism on the first draft;
 - (iv) If IB Regulations require that a student write a new TOK essay under timed conditions if he/she is determined to have committed plagiarism on the first draft.

4. Refer the matter to the Department of Education (DepEd) and the Securities and Exchange Commission (SEC) to confirm its compliance with pertinent laws including those on foreign ownership limitation for schools in the Philippines.

AFTERWORD: On the Tragic Death of Liam Madamba

Liam Madamba was eighteen (18) years of age and a graduating student at the British School Manila (BSM). He was looking forward to summer and making plans for his future. Liam enjoyed 1950's music, watching movies, reading books, and playing Call of Cthulu with his closest friends. He was at the top of his class, and on his way to a university of his choice. He was on top of the world. He was happy.

All these changed in an instant on February 5, 2015 and Liam leapt to his death the following day from a parking structure in Makati City.

February 5, 2015 began like any other day with its usual routines, but everything would change in a way that would drastically alter the lives of Liam's family forever.

Mrs. Natalie Mann accused Liam of plagiarism of a paragraph in his draft submission of his Theory of Knowledge (TOK) essay. As a punishment, Mrs. Mann instructed Liam to write a letter of apology to the Head of School, his parents, and his classmates. She never explained to him that the letter was

not punitive but was solely intended to force him into reflection about his actions and its consequences. Liam left the school with the impression that the letter he had written would be read by the Head of School, his parents and classmates. He was in a state of despair. Mrs. Mann left Liam's young mind to face his fears alone. Fears she created.

Liam went missing shortly thereafter, to be found early the next morning, Friday, February 6, 2015, sprawled on a sidewalk after jumping off a parking structure.

Death is not an isolated event. It affects everyone around, especially the loved ones. It is permanent. It cannot be undone. It cannot be restored. No apology or compensation will ever make things right.

Liam's family seeks the truth so that they can achieve some measure of peace, light and closure.

We all want the same things for our families. We all want the same things for our children. We all share in the responsibility of shaping the future of our country.

The youth is our future. Liam was young and youthful. He was bursting with energy, enthusiasm, and inquisitiveness. Liam is our legacy and was our future. Now, all that are left are his memories. We will never know the greatness of his mark or the magnitude of the hole his absence has and will create. However, we do know with certainty, that his life and death have an impact. How we respond today will determine the future of our young and chart a course for our future.