

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

6 MAR -6 P4:35

SENATE
S. B. No. 2221

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Article 2180 of the Civil Code on quasi-delicts, provides for the obligations that are demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

In particular, paragraph 7 of the said article holds teachers or heads of establishments liable for damages caused by students who remain in their custody. The law provides:

“Teachers or heads of establishment of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.”

Under this paragraph, the basis for the presumption of negligence of the school authorities is that where the parent places the child under the effective authority of the teacher, the latter, and not the parent should be the one answerable for the torts committed while under his custody, for the reason that the parent is not supposed to interfere with the supervision of the teacher while the child is under his custody.

The portion of this paragraph, which must be amended, is the phrase “*teachers or heads of establishment of arts and trade.*” The Supreme Court has interpreted this phrase to mean that where the school is academic rather than technical or vocational in nature, responsibility for the tort committed by the student will attach to the teacher-in-charge of such student, following the first part of the provision. This is the general rule. In the

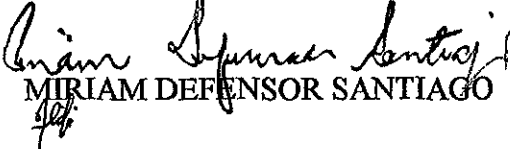
case of establishments of arts and trades, it is the head thereof, and only he, who shall be held liable as an exception to the general rule (*Amadora v. Court of Appeals*, 160 SCRA 315).

The reason for the disparity between the liability of a teacher or a school head was based on the nature of the school. However, this provision of the Civil Code is a relic of the past. The old schools of arts and trades were engaged in the training of artisan apprenticed to their master, who personally and directly instructed them. These masters were the heads of the school. In the present, heads of schools of arts and trade have increased enrollment such direct contact between the school head and the students, is limited.

Thus, there should be no substantial distinction between the academic and the non-academic schools insofar as torts committed by their students are concerned. The same vigilance is expected from the teacher over the students under his control and supervision, whatever the nature of the school where he is teaching. On the other hand, many schools hire teachers as lecturers, who come in only to teach their subjects but do not hold office at the school. In that case, the school head must be responsible for the students who are under the custody of the school. The Family Code, in fact, has taken this into consideration and Article 218 provides:

“The school, its administrators and teachers, or the individual, entity or institution engaged in child care shall have special parental authority and responsibility over the minor child while under their supervision, instruction or custody.”

Hence, to be consistent with current policy, the Civil Code must be amended accordingly.


MIRIAM DEFENSOR SANTIAGO

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AN ACT
AMENDING REPUBLIC ACT NO. 386, ALSO KNOWN AS THE "CIVIL CODE OF
THE PHILIPPINES, ARTICLE 2180"

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

SECTION 1. Article 2180, paragraph 7 of Republic Act 386, is hereby amended
to read as follows:

"Lastly, THE SCHOOL, ITS ADMINISTRATORS AND teachers
[establishments of arts and trades] OR THE INDIVIDUAL, ENTITY OR
INSTITUTION ENGAGED IN CHILD CARE shall be liable for damages caused
by their pupils and students or apprentices, WHILE THEY ARE UNDER THEIR
SUPERVISION, INSTRUCTION, OR [so long as they remain in their] custody."

SECTION 2. *Separability Clause.* — If any provision, or part hereof is held
invalid or unconstitutional, the remainder of the law or the provision not otherwise
affected shall remain valid and subsisting.

SECTION 3. *Repealing Clause.* — Any law, presidential decree or issuance,
executive order, letter of instruction, administrative order, rule or regulation contrary to
or inconsistent with the provisions of this Act is hereby repealed, modified or amended
accordingly.

SECTION 4. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,