Republika ng Pilipinas

Komisyon ng Karapatang Pantao

(Commission on Human Rights)

POSITION PAPER

ON

HOUSE BILL NO. 7866

"AN ACT MANDATING ALL PUBLIC AND PRIVATE SCHOOLS TO REQUIRE THEIR STUDENTS IN THE ELEMENTARY, SECONDARY AND TERTIARY LEVELS TO UNDERGO A YEARLY DRUG TEST AS A PREREQUISITE FOR ENROLLMENT AND PROVIDING PENALTIES FOR VIOLATION THEREOF"

Introduced by Honorable Raul M. Gonzalez

This is a Position Paper of the Commission on Human Rights on House Bill No. 7866 introduced by Honorable Raul M. Gonzalez to require drug tests for all students in the elementary, secondary and tertiary levels.

The main objective of the bill is to save the country from scourge of drug addiction. The bill also provides that failure to undergo drug test will be justifiable cause for refusal of the enrollment or discharge

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of the students from any school. The bill penalizes any official, teacher, or employee of any school who enrolls the children without undergoing drug test with six (6) months of imprisonment or fine of **Twenty Thousand Pesos (P20,000.00)** to **Thirty Thousand Pesos (P30,000.00)** or both. A higher penalty is imposed for the director or the principal of the school.

The Commission on Human Rights makes these following comments from view point of human rights instruments and the Philippine Constitution.

Article 13, sec. (1) of the International Covenant on Social and Cultural Rights reads:

> *"The State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons*

to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace."

Likewise, **Article 28 of the Convention on the Rights of the Child** reads:

"State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) *Make primary education compulsory and available free to all;*

(b) *Encourage the development of different forms of secondary education, including general and vocational education,*

make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) *Make higher education accessible to all on the basis of capacity by every appropriate means;*

(d) *Make educational and vocational information and guidance available and accessible to all children;*

(e) *Take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

Implementing the aforesaid bill is Article XIV, sec. (1) of the **Philippine Constitution** which reads:

"The State shall protect and promote the rights of all citizens to quality education

institutions shall conform to such minimum standards as may be laid down by the State."

In principle, the objective of the bill is a valid exercise of the police power of the State. There are some objectionable provisions however in the proposed bill. A mandatory drug tests for all students enrolling in schools and a yearly drug test for the higher grades might be so onerous and time consuming considering the big number of student population in public schools. It might entail an enormous cost for the government.

It is suggested that instead of a mandatory drug test for all students, the school physician concerned shall be required to subject for drug tests only those who are suspected of drug addiction upon observation of the teachers in charge. In public schools which do not have regular school physicians, the provincial or municipal health officer, or any government physician in the community should conduct examination of students found to be suspected as drug addicts. The physicians concerned shall recommend that those found to be drug addicted for rehabilitation before enrolment.

at all levels and shall take appropriate steps to make such education accessible to all."

The proposed bill may in one way restrict the right of children to enroll in any school for their education. However, said right is not altogether absolute. The said right may be subject to regulation pursuant to the police power of the State. Drug addiction is a growing menace to society which the State must address right away. It is generally known that drug incidents are increasing in the school population.

The regulation by the state on the right to education is provided in **Article 13, par. 4 of the International Covenant on Economic, Social and Cultural Rights** which reads:

"No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such

It is further suggested also that the drug tests shall not entail any cost to the students. It is also recommended that in lieu of the penal provisions in the bill, the teacher, school principal, director or head of any school should be administratively charged for any violation of the law.

December 23, 1999, Quezon City.

AURORA P. NAVARRETE-RECIÑA
Chairperson

NASSER A. MARUHOMSALIC
Commissioner

MERCEDES V. C. TANTINBERG
Commissioner

VICENTE P. SIBULO
Commissioner

I agree to a mandatory drug test to all to avoid discrimination and graft & corruption provided that the test is for free!

JOKER R. COQUIA
Commissioner

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