

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 6449



Introduced by Honorable Mark O. Go

EXPLANATORY NOTE

The Commission on Higher Education (CHED) was created through R.A. 7722 or the Higher Education Act of 1994 as part of the policy decision of Congress to separate responsibilities and mandates over basic, higher and technical-vocational education across three agencies of government. This major shift in education policy was a product of a long series of education reviews and recommendations carried out through the Monroe Commission (1925), Economic Survey Committee by the Bureau of Education (1927), Quezon Education Survey (1935), UNESCO (1949), Swanson survey (1967), and the Congressional Commission on Education in 1991.

Under R.A. 7722, CHED was mandated to perform policy making, regulatory, and developmental functions over all public and private higher education institutions. As created, the Commission was not envisioned to have implementation functions. Its functions were anchored on the Constitutional mandate to protect, foster and promote the right of all citizens to affordable quality education at all levels; ensure that education shall be accessible to all; advance learning and research; develop responsible and effective leadership; develop high-level and middle-level professionals, and the enrichment of our historical and cultural heritage.

The higher educational landscape has changed significantly since 1994. The internationalization of higher education, outcomes-based education, quality assurance, giant strides in information technology, ASEAN integration, the Fourth Industrial revolution, transnational education, the expansion of secondary education through the K-12 program, and Universal Access to Quality Higher Education (UAQTE) law require a Commission that will steer and assist higher education institutions to maximize these international and regional opportunities.

In addition to these global and regional developments, the Philippine Congress has passed numerous laws that increase implementation mandates for the CHED, such as:

1. R.A. 10650 or the Open Distance Learning Act
2. R.A. 11448 or the Transnational Higher Education Law
3. R.A. 10968 or An Act Institutionalizing the Philippine Qualifications Framework
4. R.A. 11053 or the Anti Hazing law of 2018
5. R.A. 11180 or An Act Requiring Higher Education Institutions to Report Participation and Program Support Expenditures in All College Athletic Programs

6. R.A. 11261 or An Act Waiving Government Fees and Charges in the Issuance of Documents Required in the Application for Employment of First Time Jobseekers
7. R.A. 1313 or An Act Defining Gender-Based Sexual Harassment in Streets, Public Spaces, Online, Workplaces, and Educational or Training Institutions, Providing Protective Measures and Prescribing Penalties Therefor
8. R.A. 11393 or An Act Authorizing Higher Education Curriculum Development and Graduate Training in Advanced Energy and Green Building Technologies, and Appropriating Funds Therefor
9. R.A. 11396 or An Act Requiring State Universities and Colleges (SUCs) to Prepare and Implement a Land Use Development and Infrastructure Plan that Shall Include the Construction of Dormitories for Students and Housing Sites for Employees
10. RA 11292 or An Act Providing for the Magna Carta for the Poor
11. RA 10931 or the Universal Access to Quality Tertiary Education Law

This bill strengthens the Commission by:

1. Incorporating all the added mandates created by laws passed by Congress since 1994 in a single document
2. Expanding its mandate to cover sports development, supervision and regulation of higher education programs offered by local universities and colleges (LUCs); developing common standards for accrediting agencies; internationalization of higher education institutions, establishment of a national registry for academic information and mobility; and strengthening quality assurance
3. Giving the Commission quasi-judicial powers to strengthen its capability to establish and enforce educational policies and standards
4. Creating new offices in CHED that will carry out its added mandates
5. Increasing its manpower complement to ensure successful execution of all its functions that include recently added mandates.

To ensure that CHED can execute all the added mandates efficiently and effectively and at the same time undertake the vital role of modernizing Philippine higher education to keep pace with all the international and regional advancements, the approval of this bill is earnestly sought.



MARK O. GO

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AN ACT
STRENGTHENING THE COMMISSION ON HIGHER EDUCATION,
REVISING FOR THE PURPOSE REPUBLIC ACT NO. 7722, OTHERWISE KNOWN
AS THE “HIGHER EDUCATION ACT OF 1994”

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

SECTION 1. *Short Title.* - This Act shall be known as the “*Revised Higher Education Act of 2020.*”

SEC. 2. *Declaration of Policy.* - The State shall protect, foster and promote the right of all citizens to affordable quality education at all levels and shall take appropriate steps to ensure that education shall be accessible to all. The State shall likewise ensure and protect academic freedom and shall promote its exercise and observance for the continuing intellectual growth, the advancement of learning and research, the development of responsible and effective leadership, the education of high-level professionals, and the enrichment of our historical and cultural heritage.

State-supported institutions of higher learning shall gear their programs to national, regional or local development plans. Finally, all institutions of higher learning shall exemplify through their physical and natural surroundings the dignity and beauty of, as well as their pride in, the intellectual and scholarly life.

SEC. 3. *Definition of Terms.* – As used in this Act:

a) *Commission en banc* refers to the policy-making body of the Commission on Higher Education composed of the chairperson and commissioners exercising their power and functions under the mandates prescribed by this Act;

b) *Foreign higher education institutions* refer to a foreign-owned and duly recognized higher education institutions abiding by a prescribed system of education duly registered in a country other than the Philippines;

c) *Higher education institution (HEI)* refers to an educational institution, whether private or public, undertaking operations of higher education programs recognized by the Commission on Higher Education;

d) *Local universities and colleges* refer to public HEIs established and financially supported by their respective local governments; and

e) *State universities and colleges* refer to public HEIs with independent and separate governing boards created and established by law.

SEC. 4. *Commission on Higher Education.* – In pursuance of the abovementioned policies, the Commission on Higher Education, hereinafter referred to as the Commission, created under Republic Act (RA) No. 7722, otherwise known as the “*Higher Education Act of 1994*,” shall continue in the exercise of its powers and functions in accordance with the provisions of this Act.

The Commission is independent and separate from the Department of Education and attached to the Office of the President for administrative purposes only. Its coverage shall be both public and private HEIs as well as degree-granting programs in all post-secondary educational institutions, public and private, except those under the jurisdiction of the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM) as provided in Republic Act No. 11054.

The Commission has authority on all matters concerning the reasonable supervision and regulation of HEIs, including foreign HEIs, which operate under Philippine laws.

SEC. 5. *Composition of the Commission.* - The Commission is composed of five (5) full-time members. The President of the Philippines shall appoint a chairperson of the Commission and four (4) commissioners, who shall be holders of earned doctorate degrees, defined as Level 8 in the Philippine Qualifications Framework, from a reputable HEI recognized by the Commission, who have been actively engaged in higher education for at least ten (10) years, and must not have been candidates for any elective positions in the national or local election immediately preceding their appointment. They must be academicians known for their high degree of professionalism and integrity and have distinguished themselves as authorities in their chosen fields of learning. The members of the Commission shall belong to different academic specializations.

The chairperson shall act as the chief executive officer of the Commission.

The President of the Philippines shall also appoint three (3) deputy commissioners who must have the same qualifications as the commissioners. The Deputy Commissioners shall be responsible for (1) Standards and Quality Assurance; (2) Administration and Finance; and (3) Planning and Grants Administration.

In no case shall any or all of the commissioners or deputy commissioners appoint representatives to act on their behalf.

SEC. 6. *Term of Office.* - The President shall appoint the full-time chairperson, commissioners, and deputy commissioners for a term of four (4) years, without prejudice to one (1) reappointment.

The chairperson, commissioners, and deputy commissioners shall hold office until their successors shall have been appointed and qualified. In case a member of the Commission fails to complete a term, the successor shall be appointed by the President of the Philippines for a full four-year term without prejudice to one (1) reappointment. In case of a re-appointee, time served in an acting or hold-over capacity shall be counted as part of the new four-year term.

SEC. 7. *Rank and Emoluments.* - The chairperson, commissioners, and deputy commissioners have the equivalent rank of a Department Secretary, Undersecretary, and Assistant Secretary, respectively. They are entitled to receive the compensation and other emoluments corresponding to those of a Secretary, Undersecretary, and Assistant Secretary, respectively, and shall be subject to the same disqualifications. Consistent with the provisions of Executive Order No. 292, otherwise known as the "*Revised Administrative Code of 1987*," they are allowed to receive honoraria and other benefits, subject to existing rules and regulations prescribed by the Commission on Audit.

SEC. 8. *Powers and Functions of the Commission.* - The Commission shall exercise the following powers and functions:

a) Formulate a roadmap for Philippine higher education, setting the general directions for educational policies and standards and ensure the development of a Philippine higher education that is accessible, equitable and producing locally responsive, innovative, and globally competitive graduates and lifelong learners;

b) Formulate, recommend, and implement development plans, policies, priorities, and programs on higher education and research consistent with national and regional development goals, international human resource requirements, and address job mismatch between education and industry requirements;

c) Broaden access to quality higher education through programs and services, particularly for the disadvantaged students, such as indigenous peoples, poor and deserving students, and students from depressed areas;

d) Direct the development and reform of higher education towards world class standards, harmonization with the ASEAN education plan, and international conventions and agreements;

e) Enable the development of non-traditional higher education programs and delivery modes including but not limited to distance education, ladderized education, and the Expanded Tertiary Education Equivalency and Accreditation Program or ETEEAP provided for by R.A. 10650 or the Open Distance Learning Act and applicable Executive Orders and issuances;

f) Facilitate the development of sports development and wellness programs in HEIs to produce globally competitive students-athletes in coordination with the Philippine Sports Commission;

g) Set minimum quality assurance standards and guidelines for programs and institutions, as well as a governance framework for higher education institutions, including local universities and colleges (LUCs), and accrediting agencies as recommended by panels of experts in the field and enforce the same;

h) Review, monitor and evaluate curricula and other academic programs of HEIs *vis a vis* their performances in various government board examinations and certifications;

i) Identify, support and develop centers of excellence in program areas needed for the development of world-class scholarship, including provision for faculty academic development in HEIs, nation building and national development;

j) Accelerate the establishment of transnational higher education programs, the internationalization of higher education in the country and the development of transnational higher education sector consistent with RA 11448, otherwise known as the "*Transnational Higher Education Act*;"

k) Exercise quasi-judicial powers in the pursuit of the mandate of the Commission;

l) Develop and enforce a system of program compliance and impose necessary sanctions for cause provided by law and only after due process such as imposition of fines or penalties, downgrading to permit status, nonrecognition of accreditation, termination by closure or phase-out of higher education programs, or cessation of operations of public and private HEIs, including local universities and colleges (LUCs) which are not in compliance with the prescribed minimum policies, standards and guidelines (PSGs) set by this Commission or international conventions, whenever applicable: *Provided*, That no restraining orders or injunctions shall be issued upon Commission actions in the exercise of its quasi-judicial functions, except by the appellate courts after proper proceedings: *Provided, further*, That the welfare of students, faculty, and employees are given due consideration: *Provided, finally*, That the exercise of quasi-judicial power shall include the issuance of subpoena, summons, and initiation of contempt proceedings against recalcitrant parties under its jurisdiction;

m) Review, evaluate and recommend to the Department of Budget and Management based on higher education sector priorities and standards, the budgets of state universities and colleges (SUCs) and coordinate with the Department of Budget and Management the issuance of general guidelines on the use of their income;

n) Set standards, policies and guidelines for the creation of new higher education institution as well as the conversion or elevation of schools to institutions of higher learning, subject to budgetary limitations and the number of institutions of higher learning in the province or region where creation, conversion or elevation is sought to be made;

o) Develop and implement standards and systems on reclassification, promotion and professional development of personnel in SUCs in coordination with the Department of Budget and Management and the Civil Service Commission;

p) Support HEIs in the implementation of the Philippine National Qualifications Framework for higher education in coordination with the Department of Education, Technical

Education and Skills Development Authority and other appropriate government agencies consistent with RA 10968, otherwise known as the "*PQF Act*,"

- q) Set guidelines for reasonable increases in tuition and other fees in private HEIs, and approve, disapprove or modify applications for increases: *Provided*, That the Commission through its regional offices shall strictly monitor their compliance with the guidelines set for this purpose;
- r) Provide directions and common standards for accrediting agencies;
- s) Conduct mediation, conciliation, settlement meeting or conferences, exercise appellate jurisdiction between HEIs and students, teachers and staff involving academic issues;
- t) Administer the Higher Education Development Trust Fund, as described in Section 14 hereunder, and approve projects funded thereby based on guidelines set by the Commission, which will promote the development of public and private higher education institutions both stock and non-stock;
- u) Chair the governing boards of SUCs and provide direction to these institutions by ensuring that the Commission's policies, standards and guidelines are complied with and fully implemented by them, and review the charters of SUCs including the chairpersonship and membership of their governing bodies and recommend appropriate measures as basis for necessary action;
- v) Establish a national registry for academic information and mobility and other relevant mechanisms for information sharing and dissemination locally or internationally, in coordination with other concerned government agencies;
- w) Promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objectives of this Act; and
- x) Perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth or development of higher education.

SEC. 9. *Quasi-Judicial Powers of the Commission.* - The Commission shall exercise exclusive original jurisdiction over the following:

- a) Fraud or deceit committed in connection with the application for and grant by the Commission of government permits or recognition and other incentives and qualifying procedures;
- b) Failure to comply with conditions or obligations prescribed by the Commission as minimum standards in operating academic courses and programs;
- c) Unauthorized operation of a school or course, or any component thereof, or any violation of the requirement governing advertisements or announcements of educational institutions; and
- d) Other cases and complaints related to the powers and functions of the Commission.

Except for subparagraph (b), complaints and cases shall first be filed with the regional office which has jurisdiction over the area. The regional director shall resolve the case within a reasonable period from the time of submission of the case for resolution, but in no case shall the entire resolution of the case exceed ninety (90) days from filing.

An appeal from the decision of the regional director may be filed with the Office of the Executive Director of the Commission within ten (10) days from the receipt of the decision. The Office of the Executive Director shall rule on the appeal within ninety (90) days from the filing of the appeal.

An appeal from the decision of the Office of the Executive Director may be filed with the Commission *en banc* within ten (10) days from the receipt of the decision. The Commission *en banc* shall resolve the appeal within ninety (90) days from the filing of the appeal.

The decision of the Commission *en banc* shall be executory. An appeal from the decision of the Commission *en banc* may be filed with the Court of Appeals, subject to the period on appeals from administrative quasi-judicial bodies to the Court of Appeals in the Rules of Court.

The Commission shall enjoy the power to coordinate with the Regional Trial Courts. The Regional Trial Courts are prohibited from issuing any injunction against decisions of the Commission in the exercise of its quasi-judicial functions.

Sanctions against an HEI is without prejudice to the interest of the students, teachers and employees who believe in good faith that their institution's operations were in conformity with the standards and guidelines set by the Commission: *Provided, however*, That upon issuance by the Commission of notices to the public regarding an institution's noncompliance with policies and standards of the Commission, including the sanctions imposed on HEIs, the general public shall be bound thereby, and no presumption of good faith shall be enjoyed thereafter by existing or new students, faculty and employees.

SEC. 10. *Secretariat and the Executive Director.* - The Commission shall organize a secretariat which shall be headed by an executive director, subject to the national compensation and position classification plan. It shall fix the secretariat's staffing pattern, determine the duties, qualifications, responsibilities and functions, as well as the compensation scheme for the positions to be created upon the recommendation of the executive director. It shall also prepare and approve its budget.

The executive director must have at least five (5) years administrative or technical experience in the areas of policies and standards development, management, public or private administration and policy, as well as human resource development, among others, with the rank and emoluments of an assistant secretary to be appointed by the President of the Philippines upon the recommendation of the Commission *en banc*;

SEC. 11. *Central Office Operation.* - The Commission shall establish central offices in accordance with the Revised Administrative Code of 1987 and other pertinent laws and issuances to support the fulfillment of the powers and functions of the Commission at the national level. The offices shall be headed by a qualified director and assistant director.

The Chairperson of the Commission shall appoint such personnel necessary to carry out the objectives, policies and functions of the Commission subject to civil service laws, rules and regulations.

SEC. 12. *Regional Operations.* – The regional offices of the Commission are headed by regional directors with the rank and emoluments of Director IV to be appointed by the President of the Philippines.

The regional offices of the Commission are under the direct control of the Chairperson of the Commission and shall have the following functions:

- a) Implement the programs of the Commission in the regional level which is under their jurisdiction;
- b) Develop and recommend programs for regional and local-level implementation within the policies set by the Commission;
- c) Facilitate implementation of RA 10931, otherwise known as the “*Universal Access to Quality Tertiary Education Act*,” including disbursement of checks; and
- d) Perform such other duties and functions as may be deemed necessary.

The regional director shall sit as a resource person in all board meetings of SUCs in the region where the regional office has jurisdiction, to keep the regional director attuned and updated on the official activities and needs of the concerned SUCs.

There shall be a legal division in each regional office and provincial office, created pursuant to Section 14 of this Act, to ensure the effective action on legal matters in the region and province, with corresponding additional staffing pattern.

SEC. 13. *Provincial Offices.* – The Commission shall establish provincial offices to ensure the implementation of policies and programs across island groups and in far to reach areas. The provincial offices are headed by provincial directors, who shall have the rank and emoluments of a Director III. The provincial offices shall be under the direct control and supervision of their respective regional directors and shall have the following functions:

- a) Implement the policies and programs of the Commission in the provincial office which is under their jurisdiction;
- b) Review and recommend programs for implementation within their localities;
- c) Provide technical assistance to local government units in the governance of local universities and colleges and the implementation of local government-initiated programs within their localities;
- d) Facilitate in the implementation of RA 10931 including disbursement of checks for HEIs which are under their jurisdiction;
- e) Perform such other duties and functions as maybe authorized.

SEC. 14. *Higher Education Development Trust Fund.* - The Higher Education Development Fund established under RA 7722 shall now be known as the Higher Education Development Trust Fund, hereinafter referred to as the Trust Fund. The Trust Fund shall be used exclusively for the strengthening of higher education in all regions of the country.

a) The Government shall continue to contribute to the Trust Fund, as follows:

- 1) The equivalent of forty percent (40%) annual share on the total gross collections of the travel tax;
- 2) The equivalent of thirty percent (30%) share of the annual collections from the Professional Registration Fee; and
- 3) The equivalent of one percent (1%) of the gross sales of the lotto operation of the Philippine Charity Sweepstakes Office (PCSO).

b) Government financing institutions identified and requested by the Commission may contribute to the Trust Fund an amount equivalent to not less than three percent (3%) but not more than five percent (5%) of their unimpaired surplus realized during the immediately preceding year.

c) The Trust Fund shall have a private portion to be raised from donations, gifts, and other conveyances including materials, equipment, properties and services by gratuitous title which are exempt from donor's tax and shall constitute as allowable deduction from the income of the donor for income tax purposes.

d) The Commission has full and exclusive control of the Trust Fund, subject only to existing laws and rules and regulations prescribed by the Commission on Audit.

SEC. 15. *Management and Administration of the Higher Education Development Trust Fund.* - The Trust Fund shall be administered by the Commission. For sound and judicious management of the Trust Fund, the Commission shall appoint a reputable government financial institution as portfolio manager of the Trust Fund, subject to the following conditions.

As administrator of the Trust Fund, the Commission shall prepare the necessary guidelines for its use, subject to the following conditions:

a) No part of the seed capital of the Trust Fund, including earnings thereof, shall be used to underwrite overhead expenses for administration;

b) Unless otherwise stipulated by the private donor, only earnings of private contributions shall be used for administrative expenses;

c) The Commission shall appoint and organize a separate Trust Fund Office to be headed by a director and to be composed of units responsible for resource mobilization, planning and programs, monitoring and evaluation, and finance and administration, among others. Since the Trust Fund comes from contributions from the government and private sector, the Trust Fund Office shall be independent administratively and budgetarily separate from the Commission Secretariat; and

d) The Trust Fund shall be utilized equitably according to regions to strengthen higher education institutions and support priority programs. In no case shall the Trust Fund be utilized for purposes benefiting individuals other than those earmarked for developmental purposes under the guidelines set by the Commission.

SEC. 16. **Technical Panels.** - The Commission shall reconstitute or organize technical panels for different disciplines and academic program areas. They shall assist the Commission in setting standards and evaluating academic programs for regulatory and development purposes. The technical panels are composed of individuals highly recognized in their fields of expertise tasked with the formulation of a roadmap for the development of disciplinal and degree programs; review, revise, and update policies, standards, and guidelines (PSGs) based on the policy direction set by the Commission; and serve as resource persons of the Commission in its various activities.

The technical panels shall serve as advisory or recommendatory bodies for a specific discipline or related program, and whose recommendations are subject to the approval of the Commission *en banc*.

SEC. 17. **Guarantee of Academic Freedom.** - Nothing in this Act shall be construed as limiting the academic freedom of universities and colleges. In particular, no abridgment of curricular freedom of the individual educational institutions by the Commission shall be made except for: (a) minimum unit requirements for specific academic programs; (b) general education distribution requirements as may be determined by the Commission; and (c) specific professional subjects as may be stipulated by the various licensing entities. No academic or curricular restriction shall be made upon private educational institutions which are not required for chartered state colleges and universities.

Both public and private HEIs, including those established by local governments must comply with the mandatory minimum institutional and program standards set by the Commission *en banc*.

SEC. 18. **Guarantee of Religious Freedom.** - No higher education student, faculty, or other members of the academic community shall be prohibited from exercising their right to religious freedom in the HEI or any of its campuses.

SEC. 19. **Accreditation.** - The Commission shall provide incentives to institutions of higher learning, public and private, whose programs are accredited or whose needs are for accreditation purposes.

SEC. 20. **Tax Exemptions.** - Any donation, contribution, bequest, and grant which may be made to the Commission shall constitute as allowable deduction from the income of the donor for income tax purposes and shall be exempt from donor's tax, subject to such conditions as provided under the National Internal Revenue Code, as amended.

SEC. 21. **Authority.** - The Commission shall exercise such authority as may be deemed necessary within its premises or areas of operation to effectively carry out its powers and functions and to attain its objectives: *Provided*, That the Commission may seek the assistance of other government agencies for the proper implementation of this Act.

SEC. 22. *Periodic Review.* – The Commission shall undertake a periodic assessment of its accomplishment, review and update the roadmap of Philippine Higher Education every ten (10) years. The updated roadmap shall be submitted to Congress and the Office of the President for the formulation of new policies necessary for the continuous modernization of higher education.

SEC. 23. *Appropriations.* – The amount necessary for the implementation of this Act shall be charged to the current year's appropriations of the Commission on Higher Education. Thereafter, such amount necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SEC. 24. *Transitory Provisions.* – The incumbent chairperson and commissioners shall serve as chairperson and commissioners respectively under the terms for which they have been appointed without need of new appointments. The incumbent executive director shall likewise serve as executive director without need of a new appointment.

All officers and personnel of the Commission shall continue to perform their duties and responsibilities and receive their corresponding salaries and benefits. The approval of this Act shall not cause any demotion in rank or diminution of salary, benefits and other privileges of the incumbent personnel of the Commission.

SEC. 25. *Separability Clause.* – If any part or provision of this Act is held unconstitutional or invalid, the other provisions or parts hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 26. *Repealing Clause.* – Republic Act No. 7722, otherwise known as the “*Higher Education Act of 1994*,” is hereby repealed. All laws, presidential decrees, executive orders, rules and regulations, or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 27. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,