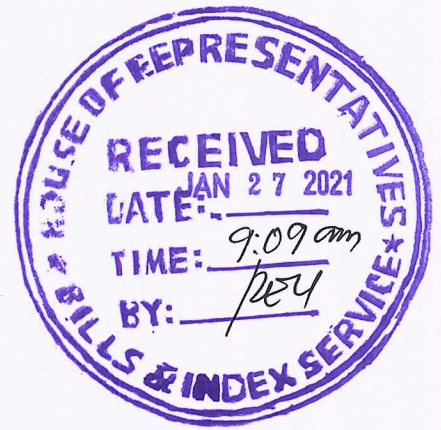


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8544



Introduced by
KABATAAN PARTY-LIST Representative Sarah Jane I. Elago,
ACT TEACHERS PARTY-LIST Representative France L. Castro,
BAYAN MUNA PARTY-LIST Representatives Carlos Isagani T. Zarate,
Ferdinand R. Gaite and Eufemia C. Cullamat,
and GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas

EXPLANATORY NOTE

The University of the Philippines (UP) has always been one of the country's biggest democratic spaces. It has, for decades, been the center of free expression and the right to protest, even more so during this pandemic season. Unfortunately, this has not stopped state armed forces, including the police and military, from coming in and threatening this freedom that UP provides, and it has been made much more manifest with the unilateral abrogation of the 1989 UP-DND Accord on January 18, 2021, after Secretary of Defense Lorenzana's claims of "protecting the youth" from what he says is the clandestine recruitment by members of the New People's Army (NPA) in UP, among others.

The UP-DND Accord was an Agreement entered into on June 30, 1989 between then-UP President Jose Abueva and then-Secretary of National Defense Fidel Ramos, by virtue of which the Armed Forces of the Philippines signified its recognition of the autonomy of the University. The unilateral abrogation of the Accord, which stemmed from the 1982 Soto-Enrile Accord, provided that state armed forces cannot enter into any of the campuses of the University of the Philippines without prior notification to the UP President, the Chancellor of the constituent university, or the Dean of the regional unit concerned, with the exception of hot pursuit and similar occasions of emergency. It further provided that these state armed forces cannot interfere with peaceful protest actions by UP constituents within its premises.

The unilateral decision by the Department of National Defense to terminate this agreement is an affront to both academic freedom and democratic spaces, as this will enable state armed forces to enter the premises of the country's premier university whenever they desire to, potentially sowing fear and establishing a chilling effect on its students and faculty, especially those who voice out their dissent.

It is to be remembered that the Accord was entered into as a result of the arrest of Donato Continente, a staffer of the Philippine Collegian, by the military and police at Vinzons Hall, which took place two weeks prior. The decision by the Department of National Defense, therefore, in the face of the current crackdown against dissent, will compromise the security that students, faculty, and staff alike feel inside the premises of the University.

The DND also has threatened to abrogate the 1990 PUP-DND Accord, also known as the Prudente-Ramos Accord, which affords the students and faculty of the Polytechnic University of the Philippines (PUP) the same protection.

Instead of being abrogated, the protection of these Accords should be extended to all academic institutions in the country. Schools, colleges and universities all around the Philippines should be safe spaces and places where critical thinking and independent thought are given utmost priority, and where students and faculty alike should be given the ability to freely discuss ideas without any fear of persecution.

Thus, the immediate passage of this bill is earnestly sought.



Rep. **SARAH JANE I. ELAGO**

Kabataan Party-List



Rep. **CARLOS ISAGANI T. ZARATE**

Bayan Muna Party-List



Rep. **FRANCE L. CASTRO**

ACT Teachers Party-List



Rep. **FERDINAND R. GAITE**

Bayan Muna Party-List



Rep. **ARLENE D. BROSAS**

Gabriela Women's Party



Rep. **EUFEMIA C. CULLAMAT**

Bayan Muna Party-List

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AN ACT
UPHOLDING THE ACADEMIC FREEDOM OF ALL ACADEMIC INSTITUTIONS,
PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER
PURPOSES

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

SECTION 1. *Short Title.* – This act shall be known as the “Academic Freedom Act of 2021.”

SECTION 2. *Declaration of Principles and State Policies.* – Consistent with the principles enshrined in the 1987 Constitution, particularly those in the Preamble—to build a just and humane society, and the recognition of the vital role of the youth in nation-building—and jurisprudence, it is declared the policy of the State to guarantee academic freedom, which includes the right of the school or college to decide for itself, its aims and objectives, and how best to attain them free from outside coercion or interference.

It is also hereby declared a policy of the State to promote and protect the rights of students, faculty, and staff inside academic institutions to peaceably assemble and protest, and from violations of their fundamental rights and unscrupulous and indiscriminate entry of state armed forces inside their campuses.

SECTION 3. *Definition of Terms.* – The following terms, as defined accordingly, shall be used in this Act:

- (a) *Academic institution* refers to an educational institution—public or private—offering primary, secondary, tertiary, postgraduate, and/ or technical-vocational

education, or to any structure or space, with or without marked visible boundaries, which is either known by the community or recognized by the government as a learning space for children, youth, and professionals;

- (b) *Arbitrary entry* refers to the entry of state armed forces into the premises of higher education institutions without prior notification to the President, Dean, Director or Principal, and to the Student Regent and University Student Council or Government, or their respective officers-in-charge in the event of their absence, and without justification for the same;
- (c) *Constituents* refers to current students, faculty, or staff of all academic institutions;
- (d) *State armed forces* refers to the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), or any other law enforcement agency intending to conduct any police, military, or law enforcement operations in any academic institution;

SECTION 4. *Scope.* – This Act shall primarily provide for the upholding of academic freedom of all academic institutions, and for the protection of the constituents, primarily of the current students, faculty, and staff of all academic institutions, from arbitrary entry of state armed forces into their learning spaces, or school or university premises.

SECTION 5. *Prohibited Acts.* – In order to uphold the academic freedom of all academic institutions and the rights and interests of the constituents, the prohibited acts of state armed forces shall include, but are not limited to, the following:

- (a) Arbitrary entry (including surveillance), or the entry without prior notice to the President, Dean, Director or Principal, and to the Student Regent and Student Council or Government, or their respective officers-in-charge in the event of their absence, and without justification for the same.
- (b) Service of search or arrest warrants without prior notice to the President, Dean, Director, or Principal, and to the Student Regent and Student Council or Government of the academic institution, or their respective officers-in-charge in the event of their absence. The same requirement of notification applies to any oral or written “invitation” for questioning and similar purposes;
- (c) Interference with peaceful protest actions inside the premises of academic institutions, pursuant to Article III, Section 4 of the 1987 Constitution;
- (d) Torture or any kind of violence to be committed on any constituent of the academic institution

- (e) Conducting of fora and all other activities that vilify and red- and terror-tag students, youth organizations, faculty, staff, and all other individuals or groups;
- (f) Entry and/ or establishment of institutionalized or discreet student intelligence networks and their recruitment, and all other forms of human and digital intelligence and surveillance on students, faculty, and staff without court order.

SECTION 6. *Service of Search or Arrest Warrants.* – In case of prior notification, the party serving the warrant shall closely coordinate with the members of the security of the academic institution, who will accompany and assist them in the service of the warrants. Moreover, no service shall be done without the presence of two (2) officials from the academic institution who shall be designated by the President, Dean, Director, Principal or their respective officers-in-charge, as the case may be, and one (1) representative from the students who shall be designated by the Office of the Student Regent, University Student Council or student government.

SECTION 7. *Arrest or Detention.* – The arrest or detention of any constituent anywhere in the Philippines should be immediately reported in writing by the arresting or detention officer to the President, Dean, Director, Principal, or their respective officers-in-charge, as the case may be, and to the student regent, university student council or government, faculty regent or representative, and staff regent or non-academic personnel representative, as the case may be, for their immediate response. The report shall be done not later than twenty-four (24) hours from said arrest or detention.

No constituent shall be subjected to custodial investigation without prior notification to the President, Dean, or their respective officers-in-charge, as the case may be, and to the student regent, university student council or government, faculty regent or representative, and staff regent or non-academic personnel representative and except in the presence of their counsel of choice, or, absent that, a counsel chosen by the President, Dean, Student Regent or school government's representative, or their respective officers-in-charge.

SECTION 8. *Coordination and Monitoring Group.* – A Coordination and Monitoring Group will be created in each academic institution composed of a representative from the Board of Trustees or Directors, a faculty representative, a non-teaching staff representative, a member of the student council, a member of the student publication, a local community representative, the head of the Security department of the campus or their representative, and one (1) representative each from the AFP and the PNP stationed in the area, who will meet once every semester, or as often as necessary, to determine compliance with the provisions of this Act.

Utmost transparency shall be observed by the aforementioned coordination and monitoring group.

The school or university police or security officers shall submit a quarterly report on the security situation of the learning spaces and/ or school or university premises to

the President, Dean, Director or Principal, to the Student Regent and University Student Council or Government, and to the student publication.

SECTION 9. *Penalties.* – The penalties are hereby as follows:

- (a) Any public official or employee, regardless of whether or not he/she holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine equivalent to minimum of twenty-four (24) months' salary, suspension for a minimum of two (2) years, and/ or imprisonment for five (5) years and one day to ten (10) years, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he/ she shall be prosecuted under the latter statute.
- (b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.
- (c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.
- (d) A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Civil Code, as amended, the Revised Penal Code, as amended, or special laws.

SECTION 10. *Implementing Rules and Regulations.* - Within sixty (60) days from the effectivity of this Act, national representatives from the Commission on Higher Education (CHED), Department of Education (DepEd), Technical Education and Skills Development Authority (TESDA), Commission on Human Rights (CHR), Coordinating Council of Private Educational Associations of the Philippines (COCOPEA), Philippine Association of State Universities and Colleges (PASUC), Catholic Educational Association of the Philippines (CEAP), representatives from national unions of student councils, student publications, faculty, staff, and other relevant stakeholders in academic institutions, shall draft and promulgate the implementing rules and regulation necessary to ensure the efficient and effective implementation of this Act: *Provided*, That the failure to draft the said rules and regulations shall not prevent nor delay the effectivity and implementation of this Act.

SECTION 11. *Separability Clause.* - Should any part of this Act be declared unconstitutional or invalid, the other parts or provisions hereof not affected not thereby shall continue to be in full force and effect.

SECTION 12. *Repealing Clause.* - All laws, executive orders, presidential decrees, implementing rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 13. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,