

## Public-Private Partnership in Education: A Proposed Senior High School Voucher System

The DepEd is among the government agencies actively involved in Public-Private Partnerships, having recently bid out the construction of school buildings to the private sector. It has also had longer-term success of GASTPE and Educational Service Contracting (ESC), which it implements through the Fund for Assistance to Private Education (FAPE).

The DepEd is now studying the feasibility of a more complex PPP, a voucher system, as a win-win strategy for the implementation of Senior High School (SHS). The proposed voucher system is for Grade 10 graduates entering Grade 11 by SY 2016-2017 when the K-12 Program under the enhanced basic education system (R.A. No. 10533) will be fully implemented. This study and program formulation is being done by the DepEd in close consultation and coordination with private and public higher education institutions through their respective associations and other stakeholders.

The proposed voucher system, among others, aims to lessen the economic impact of the additional two years of senior high school to parents and students, who believe that this educational initiative is in consonance to be at par with the rest of the world. SHS, among others, is intended to provide an option to "shorten" the students' journey towards being gainfully employed compared to if the country is still in the current 10-year basic education program.

Like GASTPE, this voucher system will subsidize the tuition fees of SHS students electing to go to private schools. Partnerships with private schools should reduce the costs of the government in implementing SHS, expand the educational options of parents and students, and lessen the financial impact of approximately 2.2 million Grade 11 and 12 students in 2016-2018. The Preliminary analyses by the DepEd estimates that up to 40%-60% of the total number of students entering senior high school would opt to use the vouchers with private schools. The actual number though, will depend on the individual school choices of students. The per capita cost to the government for this program has not yet been identified, but the subsidy is designed not to exceed the actual per capita costs for public education.

The senior high school voucher system will expand the coverage of the existing Government Assistance to Students, Teachers in Private Education (GASTPE), under R.A. No. 8545, as amended. The GASTPE subsidizes the transfer of public high school students to accredited private high schools, who can no longer be accommodated by the former because of lack of resources (i.e., classrooms, teachers, laboratories, libraries, etc.). At present, the GASTPE subsidy amounts to P10,000/student/year for NCR (P6,500 for outside the NCR). The DepEd transfers the funds to the participating private high schools through the Fund for Assistance to Private Education (FAPE).

For the voucher system, student beneficiaries will be selected based on the following proposed criteria:

- 1) By region
- 2) By family income class (a 70%-80% percentile bracket is being studied as the eligibility cut-off)
- 3) Grade 10 graduates of both public and private schools

The subsidy under this voucher system is anticipated to be significantly higher than that of GASTPE (see above). This voucher system will reduce the demand of resources from the government. And considering that the voucher amount is less than what private high schools allocate for their operating budgets, just like with the GASTPE scheme, they will be allowed to top-up the subsidy to cover their costs as allowed under the GASTPE Law.

Though DepEd has also not decided on how to distribute and implement the vouchers, one option is to pattern it after that of GASTPE which is sourced through FAPE. This can also be an interim solution if DepEd has not decided yet. Another option would be to create an entirely new entity, which would require Congressional approval. In the FAPE situation, the policy and operational oversight of the voucher implementation is still maintained within the ambit of DepEd's authority considering that the DepEd Secretary chairs the Private Education Assistance Committee (PEAC), the policy-making body of FAPE. The implementation of the SHS Voucher System which is projected to be up to SY 2020-2021 only, will likewise reduce additional burden on the administrative capacity of DepEd.

DepEd expects to finalize its voucher policy by the end of the calendar year.

by Dr. Vicente K. Fabella and Mr. Fabian B. Quidales

### Message of the President

With optimism, we all aspire that the K-12 reform may provide graduates with the requisite skills to gain employment armed with no more than high school diplomas. In this scenario, being independent and employed, they could still allot part of their earnings to pursue higher education without burdening their families.

As the reforms build momentum and as stability or a modicum of predictability sets in, the outcomes of the various educational reforms should propel the country into reaching its full potential. How soon or how fast we can be at par or outpace our neighboring countries rests on our persistence and tenacity to carry out the necessary reforms.

As the lead association of COCOPEA, we will need to steer private education towards a common and sustainable future — a future characterized by student success, effective teaching and learning, scholarly and relevant research, community outreach, and other education outcomes aligned to each respective school's mission.

Dr. Vicente K. Fabella



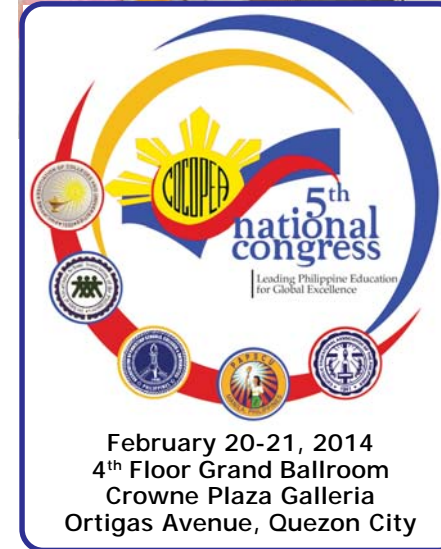
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COCOPEA Turnover Ceremony



February 20-21, 2014  
4<sup>th</sup> Floor Grand Ballroom  
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### PACU Newsletter

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# PACU newsletter

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## K to12 Implementing Rules and Regulations Signed

The Implementing Rules and Regulations (IRR) of Republic Act No. 10533, a.k.a the Enhanced Basic Education Act of 2013, was signed on Sept. 4, 2013 at the Don Rocas Sr. Science-Technology High School in Quezon City.

The IRR, which governs the K-12 basic education program, mandates that students undergo "[K]indergarten and 12 years of basic education (six years of primary education, four years of Junior High School, and two years of Senior High School [SHS]), before heading into higher education." This adds two years to the basic education system in an effort to further prepare students for global standards.

Present at the signing were Department of Education (DepEd) Secretary Armin Luistro, Technical Education and Skills Development Authority (TESDA) Director-General Joel Villanueva, and Commission on Higher Education (CHED) Chairperson Patricia Licuanan.

The IRR has provisions on curriculum, teachers qualifications, Training and continuing professional development, career guidance and counseling advocacy, mandatory evaluation and review, and commitment to international benchmarks.

The IRR also outlines the process of giving assistance to incoming senior high school students from public schools and graduates from private junior high schools. The program, based on RA 8545, was dubbed Expanded Government Assistance for Students and Teachers in Private Schools Act (E-GASTPE), and gives DepEd options to enter into partnerships with private schools and state colleges and universities to absorb senior high school students.

Pursuant to Section 31 of the IRR, the Department of Labor

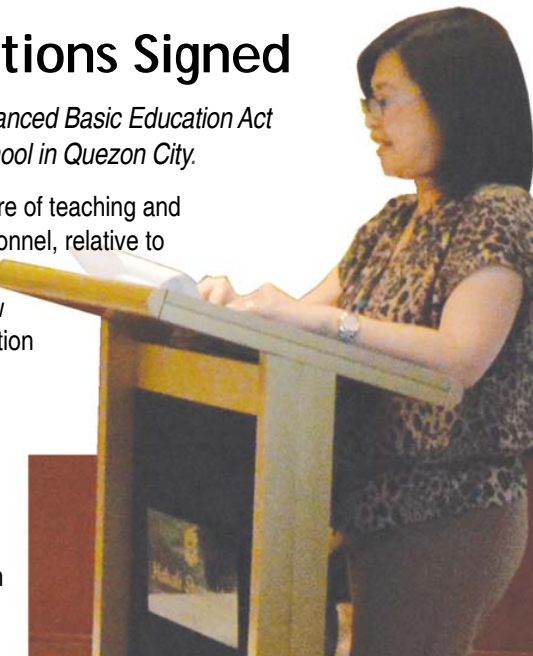


and Employment (DOLE), DepEd, CHED and TESDA are mandated to promulgate a joint administrative issuance that shall ensure the sustainability of private and public educational institutions, and the promotion and protection of the rights,

interests and welfare of teaching and non-teaching personnel, relative to the implementation of the aforesaid law including the transition period.

A Joint Congressional Oversight Committee on the Enhanced Basic Education Program composed of five members each from the Senate and from the House of Representatives, including Chairs of the Committees on Education Arts and Culture, and Finance of both Houses, shall oversee, monitor and evaluate the implementation of the law.

President Benigno Aquino III signed into law the K to 12 program on May 15, 2013.



**U.S. Education Trade Mission to the Philippines.** PACU President Patricia Bustos-Lagunda introduces the Coordinating Council of Private Educational Associations (COCOPEA) and gives an overview on the Philippine private education sector before the U.S. Education Trade Mission to the Philippines at the Makati Shangri-la in Makati City. Other members of the COCOPEA Briefing Team were Dr. Jose Paulo E. Campos, president of Emilio Aguinaldo College, and Dr. Sergio S. Cao, president of Manila Tiyana Colleges

### An INVITATION to attend the PACU Seminar on

# INNOVATIONS IN K-12 MODELLING:

## New Approaches To Teaching & Learning

28-29 November 2013

Lecture Room, 6th Floor, Jose Rizal University  
Shaw Boulevard, Mandaluyong City



Patricia Bustos-Lagunda

## Message of the President

with excerpts from COCOPEA Inaugural Speech

By this time, PACU would be on its sixth month as Chair of the Coordinating Council of Private Educational Associations (COCOPEA) and will continue to be so for the next two years. As lead association, we have been actively involved in discussions with CHED, TESDA, DepEd, DOLE, the House Committee on Basic Education and Culture, the House Committee on Higher and Technical Education, and the Senate Committee on Education, Arts and Culture on topics such as K-12, Quality Assurance, proposed Special Education Bill, proposed Unified Student Financial Assistance System for Higher and Technical Education (UNIFAST) Bill, among others.

We have participated and continue to join ongoing forums of the Philippine Business for Education (PBED) and the National Competitiveness Council. With the support and assistance of esteemed colleagues in PACU, we are able to take part in various technical working groups tackling the K-12 curriculum, the new General Education curriculum, revised Program Standards and Guidelines (PSGs), Philippine Qualifications Framework (PQF) following the ASEAN Qualifications Reference Framework, CHED Multi-Sectoral Committee on Tuition and Other School Fees and in other numerous consultation meetings of these agencies.

We have also continuously collaborated with Fund for Assistance to Private Education (FAPE) for various program initiatives such as policy research on higher education, strategic planning and capacity building for private education.

In all the discussions that we engage in with the various agencies and organizations, four main issues or themes are apparent and serve as our focus.

The first issue is the K-12 implementation which bodes well for the future of education in the Philippines as it brings us up to par with the rest of the world. The adoption of the K-12 program is important especially with the country's impending integration with the larger ASEAN community to start by the latter part of 2015.

We foresee many problems in the implementation of the K-12 program especially on the labor front with the impending separation from schools/colleges/universities of a number of teachers and non-teaching complements. A significant number of our schools especially HEIs will be adversely affected by the continued decrease in enrolment beginning SY 2016-2017 and 5 to 6 years onwards, and consequently reduced subjects to teach by college faculty.

It is for these reasons, among others, that COCOPEA has voluntarily participated in drafting the guidelines on the implementation of the labor component of the K-12 Implementing Rules and Regulations. The final output being finalized in the Education Industry Tripartite Council led by

DOLE seeks to balance the interests of education stakeholders to include management and labor in carrying out the K-12 reform.

The second issue is the Public-Private Partnership (PPP) in education. A two-way partnership between government and the private sector should be in place to ensure that incoming Grades 11 and 12 students are given, as efficiently as possible, senior high school (SHS) provision by both the public and private school system. The proposed tiered universal voucher system by region and then by income is on the drawing board and PACU has been part of the PPP steering committee.

A widened consultation on the initial SHS voucher system using the initial plans and figures developed is in the offing. What is critical is that this PPP in the form of a voucher system would serve to decongest public schools, mitigate the losses of HEIs during the transition period of K-12 implementation, and stimulate private provision of SHS.

The third issue relates to the developmental role of regulatory bodies. In light of the extraordinary situation brought about by the transition to K-12, where faculty profile and composition will be affected, we would like to urge regulatory and accreditation bodies to adjust the policy on the ratio of regular to probationary or semester-to-semester faculty for the duration of the transition period as it moves towards quality assurance assessments (OBTBQA). Schools will need reasonable assistance, support and consideration in meeting the criterion on faculty during this difficult period. Any policy or reform should withstand some adjustments and adaptations over time without destroying its spirit or intent.

The fourth issue focuses on depoliticizing education. We all share the perspective that education needs to be isolated from political activities especially short-term political gains. More importantly, a level playing field must be established following norms and standards that both private and public education providers have to meet. Furthermore, both public and private schools need government support but one that does not impinge on the institution's autonomy in decision making – decisions contingent to achieving quality levels needed by their programs and in assuring sustainability of the institution itself.

Private education needs to be spared from the politics of tuition. This is exactly why there is the presence of public provision, and free market choice in private education. We are hopeful that the passing of a comprehensive UNIFAST Bill will rationalize access to funds for students.

In light of these themes and the challenges posed by these public policy issues, what then should be our direction and where do we lead COCOPEA in the next two years?

Perhaps for now, the immediate concern lies in the implementation of K-12 as it affects all of us in private education. Certainly, COCOPEA can best serve its constituents by facilitating the transition through timely and current information as well as interventions that will aid their institutions strategize and plan for their future.

While a significant number of our members, mostly HEIs, will be adversely affected by K-12, paradoxically, for some basic education providers there will somehow be contemporaneous opportunities for growth from additional years of high school.

continued on page5 ▶



Dean ANTONIO H. ABAD, JR.

## POINT OF INFORMATION

### NEW SUPREME COURT RULING: Probationary employment of teachers on fixed term contracts.

#### Factual Antecedents

Colegio del Santisimo Rosario (CSR) hired Rojo as a high school teacher on probationary bases for the school years 1992-1993, 1993-1994 and 1994-1995.

On April 5, 1995, CSR, through Sr. Zenaida S. Mofada, OP (Mofada), decided not to renew Rojo's

services.

Thus, on July 13, 1995, Rojo filed a Complaint for illegal dismissal. He alleged that since he had served three consecutive school years which is the maximum number of terms allowed for probationary employment, he should be extended permanent employment. Citing paragraph 75 of the 1970 Manual of Regulations for Private Schools (1970 Manual), Rojo asserted that "full-time teachers who have rendered three (3) consecutive years of satisfactory services shall be considered permanent."

On the other hand, CSR argued that Rojo knew that his Teacher's Contract for school year 1994-1995 with CSR would expire on March 31, 1995. Accordingly, Rojo was not dismissed but his probationary contract merely expired and was not renewed.

Rojo won his case before the Labor Arbiter, the National Labor Relations Commission and the Court of Appeals.

In a Petition for Review filed with the Supreme Court, CSR maintains that upon the expiration of the probationary period, both the school and Rojo were free to renew the contract or let it lapse. CSR insists that a teacher hired for three consecutive years as a probationary employee does not automatically become a regular employee upon completion of his third year of probation. It is the positive act of the school – the hiring of the teacher who has just completed three consecutive years of employment on probation for the next school year – that makes the teacher a regular employee of the school.

#### Ruling of the Supreme Court

The Petition is denied.

In *Mercado v. AMA Computer College-Parañaque City, Inc.* (618SCRA218[2010]), the Supreme Court had occasion to rule that cases dealing with employment on probationary status of teaching personnel are not governed solely by the Labor Code as the law is *supplemented*, with respect to the period of probation, by special rules found in the Manual of Regulations for Private Schools (the Manual).

Employment for fixed terms during the teachers' probationary period is an accepted practice in the teaching profession. However,

this scheme "of fixed-term contract is a system that operates during the probationary period and for this reason is subject to Article 281 of the Labor Code," which provides:

**x x x The services of an employee who has been engaged on a probationary bases may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee [Emphasis supplied]**

In *Mercado*, the Court held that "[u]nless this reconciliation is made, the requirements of [Article 281] on probationary status would be fully negated as the school may freely choose not to renew contracts simply because their terms have expired." This will have an unsettling effect in the equilibrium vis-à-vis the relations between labor and management that the Constitution and Labor Code have worked hard to establish.

That teachers on probationary employment also enjoy the protection afforded by Article 281 of the Labor code is supported by Section 93 of the 1992 Manual which provides:

**Sec. 93. Regular or Permanent Status – Those who have served the probationary period shall be made regular or permanent. Full-time teachers who have satisfactorily completed their probationary period shall be considered regular or permanent. (Emphasis supplied)**

The above provision clearly provides that full-time teachers become regular or permanent employees once they have *satisfactorily* completed the probationary period of three school years. The use of the term *satisfactorily* necessarily connotes the requirement for schools to set reasonable standards to be followed by teachers on probationary employment. For how else can one determine if probationary teachers have satisfactorily completed the probationary period if standards therefore are not provided?

As such, "no vested right to a permanent appointment shall accrue until the employee has completed the prerequisite three-year period necessary for the acquisition of a permanent status. [However, it must be emphasized that] mere rendition of service for three consecutive years does not automatically ripen into a permanent appointment. It is also necessary that the employee be a full-time teacher, and that the services her rendered are satisfactory."

In the same case, the Court has definitively pronounced that "in a situation where the probationary status overlaps with a fixed-term contract *not specifically used for the fixed term it offers*, Article 281 should assume primacy and the fixed-period character of the contract must give way."

An example given of a fixed-term contract *specifically used for the fixed term it offers* is a replacement teacher or a reliever contracted for a period of one year to *temporarily* take the place of a permanent teacher who is on leave. The expiration of the reliever's fixed-term contract does not have probationary status implications as he or she was never employed on probationary basis. This is because his or her employment is for a specific purpose with particular focus on the term. There exists an intent to end his or her employment with the school upon expiration of this term.

However, **for teachers on probationary employment**, in which case a fixed term contract is *not specifically used for the fixed term it offers*, **it is incumbent upon the school to have not only set reasonable standards to be followed by said teachers in determining qualification for regular employment, the same must have also been communicated to the teachers at the start of the probationary period, or at the very least, at the start of the period when they were to be applied.** These terms, *in addition to those expressly provided by the Labor Code*, would serve as the just cause for the termination of the probationary contract. The specific details of this finding of just cause must be communicated to the affected teachers as a matter of due process. Corollarily, **should the teachers not have been apprised of such reasonable standards at the time specified above, they shall be deemed regular employees.**

In *Tamson's Enterprises, Inc. v. Court of Appeals* (660SCRA374[2011]), the Court held that "[t]he law is clear that in all cases of probationary employment, the employer shall [convey] to the employee the standards under which he will qualify as a regular employee at the time of his engagement. Where no standards are made known to the employee at that time, he shall be deemed a regular employee.

In this case, glaringly absent from CSR's evidence are the reasonable standards that Rojo was expected to meet that could have served as proper guidelines for purposes of evaluating his performance. Nowhere in the Teacher's Contract could such standards be found. Neither was it mentioned that the same were ever conveyed to Rojo. Even assuming that Rojo failed to meet the standards set forth by CSR and made known to the former at the time he was engaged as a teacher on probationary on probationary status, still, the termination was flawed for failure to give the required notice to respondent. This is because Book VI, Rule I, Seciton 2 of the IRR of the Labor Code provides:

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**Section 2. Security of Tenure. – (a) In cases of regular employment, the employer shall not terminate the service of an employee except for just or authorized causes as provided by law, and subject to the requirements of due process.**

**(b) The foregoing shall also apply in cases of probationary employment; provided, however, that in such cases, termination of employment due to failure of the employee to qualify in accordance with the standards of the employer made known to the former at the time of engagement may also be a ground for termination of employment.**

x x x x

**(d) In all cases of termination of employment, the following standards of due process shall be substantially observed:**

x x x x

**If the termination is brought about by the completion of a contract or phase thereof, or by failure of an employee to meet the standards of the employer in the case of probationary employment, it shall be sufficient that a written notice is served the employee, within a reasonable time from the effective date of termination. (Emphasis supplied)**

Curiously, despite the absence of standards, Mofada mentioned the existence of alleged performance evaluations in Rojo's case. We are, however, in a quandary as to what could have been the basis of such evaluation, as no evidence were adduced to show the reasonable standards with which Rojo's performance was to be assessed or that he was informed thereof. Notably too, none of the supposed performance evaluations were presented. These flaws violated Rojo's right to due process. As such, his dismissal is, for all intents and purposes, illegal.

As a matter of due process, teachers on probationary employment, just like all probationary employees, have the right to know whether they have met the standards which their performance was evaluated. Should they fail, they also have the right to know the reasons therefore. (Colegio del Santisimo Rosario and Sr. Zenaida S. Mofada, OP. vs. Emmanuel Rojo, G.R. No. 170388, September 04, 2013).