



Republic of the Philippines
Supreme Court
 Manila

EN BANC

QUEZON CITY PTCA G.R. No. 188720
FEDERATION, INC.,
 Petitioner,

Present:

SERENO, C.J.,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 BRION,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PEREZ,
 MENDOZA,*
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,** and
 CAGUIOA, JJ.

-versus-

DEPARTMENT OF EDUCATION,
 represented by **SECRETARY**
JESLI A. LAPUS,
 Respondent.

Promulgated:
 February 23, 2016

J. P. Langan - Jr.

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DECISION

LEONEN, J.:

This resolves a Petition for Certiorari and Prohibition¹ praying that

* On leave.

** No part.

¹ The Petition was filed under Rule 65 of the 1997 Rules of Civil Procedure.

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respondent Department of Education's Department Order No. 54, Series of 2009 (Department Order) be nullified for being unconstitutional and contrary to law, and that a writ of prohibition permanently enjoining the Department of Education and all persons acting on its behalf from enforcing the assailed Department Order be issued.²

The Petition also prays that, in the interim, a temporary restraining order and/or writ of preliminary injunction be issued, restraining the enforcement of the Department Order.

On June 1, 2009, the Department of Education, through Former Secretary Jesli A. Lapus, issued Department Order No. 54, Series of 2009³ entitled Revised Guidelines Governing Parents-Teachers Associations (PTAs) at the School Level.

The Department of Education explained the reasons for the issuance of the Department Order as follows:

The Department Order sought to address the limitations of the guidelines set forth in D.O. No. 23, s. 2003 and was issued in response to increasing reports of malpractices by officers or members of PTAs, such as, but not limited to (1) officers absconding with contributions and membership fees; (2) non-disclosure of the status of funds and non-submission of financial statements; and (3) misuse of funds.⁴ (Citations omitted)

The Department Order is divided into 11 articles: (I) General Policy;⁵ (II) Organization of PTAs at the School Level;⁶ (III) General Assembly;⁷ (IV) Board of Directors and Officers;⁸ (V) Recognition and Monitoring of PTAs;⁹ (VI) Privileges of Recognized PTAs;¹⁰ (VII) Activities;¹¹ (VIII) Financial Matters;¹² (IX) Prohibited Activities and Sanctions;¹³ (X) Transitory Provision;¹⁴ and (XI) Repealing Clause.¹⁵

More specifically, the Department Order provides for:

² *Rollo*, pp. 7–24.

³ *Id.* at 25–33.

⁴ *Id.* at 142, Respondent's Memorandum.

⁵ *Id.* at 25.

⁶ *Id.* at 26.

⁷ *Id.* at 26–27.

⁸ *Id.* at 27–28.

⁹ *Id.* at 28–29.

¹⁰ *Id.* at 29.

¹¹ *Id.* at 30.

¹² *Id.* at 30–32.

¹³ *Id.* at 32–33.

¹⁴ *Id.* at 33.

¹⁵ *Id.*

(1) The approval of the school head as a prerequisite for PTAs to be organized:

II. Organization of PTAs at the School Level

....

2. Within fifteen (15) days from the start of the school year the Homeroom Adviser and the Parents/Guardians shall organize the Homeroom PTA with the approval of the School Head.¹⁶

(2) The terms of office and manner of election of a PTA’s board of directors:

II. Organization of PTAs at the School Level

....

3. The elected presidents of the Homeroom PTAs and their respective Homeroom Advisers shall elect the Board of Directors within thirty (30) days from the start of the school year. The Board of Directors shall immediately elect from among themselves the executive officers of the PTA on the same day of their election to the Board.¹⁷

....

IV. Board of Directors and Officers

1. The administration of the affairs and management of activities of the PTA is vested [in] the Board of Directors and its officers in accordance with these guidelines or their respective Constitution and By-Laws, if any, which shall adhere to the following:

....

e. The term of office of the Board of Directors and its Officers shall be one (1) year from the date of election. In no case shall a PTA Board Director serve for more than two (2) consecutive terms;¹⁸

(3) The cessation of recognition of existing parents-teachers community associations (PTCAs) and of their federations effective school year 2009–2010. The Department Order gave them until June 30, 2009 to dissolve, wind up their activities, submit financial reports, and turn over all

¹⁶ Id. at 26.
¹⁷ Id.
¹⁸ Id. at 27.

documents to school heads and schools division superintendents:

X. Transitory Provision

Existing and duly recognized PTCAs and its [sic] Federations shall no longer be given recognition effective School Year 2009-2010. They shall cease operation at the end of School Year 2008-2009 and given until June 30, 2009 to dissolve, wind up their activities, submit their financial reports and turn-over all documents to the School Heads and Schools Division Superintendents, respectively.¹⁹

Petitioner Quezon City PTCA Federation filed the present Petition in the belief that the above-quoted provisions undermine the independence of PTAs and PTCAs, effectively amend the constitutions and by-laws of existing PTAs and PTCAs, and violate its constitutional rights to organize and to due process, as well as other existing laws.²⁰

On November 17, 2009, the Department of Education filed its Comment,²¹ and on February 9, 2010, Quezon City PTCA Federation filed its Reply.²²

In the Resolution²³ dated January 8, 2013, this court gave due course to the Petition and required the parties to submit their memoranda. Quezon City PTCA Federation complied on March 22, 2013,²⁴ and the Department of Education on May 15, 2013.²⁵

For resolution is the central issue of whether the Department of Education acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing Department Order No. 54, Series of 2009. Subsumed under this issue are:

First, whether the issuance of the Department Order was a valid exercise of the Department of Education's rule-making powers:

- (a) Whether the Department Order contravenes any of the laws providing for the creation and organization of parent-teacher associations;

¹⁹ Id. at 33.

²⁰ Id. at 7-24.

²¹ Id. at 53-79.

²² Id. at 104-109.

²³ Id. at 116.

²⁴ Id. at 121-135.

²⁵ Id. at 141-160.

- (b) Whether Department Order is invalid and ineffective as no public consultations were (supposedly) held before its adoption, and/or as it was not published by the Department of Education; and

Second, whether the assailed provisions of the Department Order (i.e., Article II (2) and (3), Article IV (1)(e), and Article X) undermine the organizational independence of parent-teacher associations.

Apart from these, the Department of Education assails the filing of this Petition as being violative of the principle of hierarchy of courts.

We sustain the position of the Department of Education. The present Petition was filed in violation of the principle of hierarchy of courts. Department Order No. 54, Series of 2009 was validly issued by the Secretary of Education pursuant to his statutorily vested rule-making power and pursuant to the purposes for which the organization of parent-teacher associations is mandated by statute. Likewise, there was no fatal procedural lapse in the adoption of Department Order No. 54, Series of 2009.

I

The Department of Education correctly points out that the present Petition was filed in violation of the principle of hierarchy of courts. On this score alone, the Petition should be dismissed.

It is true that petitions for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure fall under the original jurisdiction of this court. However, this is also true of regional trial courts and the Court of Appeals.

“[T]his Court will not entertain a direct invocation of its jurisdiction unless the redress desired cannot be obtained in the appropriate lower courts, and exceptional and compelling circumstances justify the resort to the extraordinary remedy of a writ of certiorari.”²⁶ Indeed, “concurrence [of jurisdiction] does not allow unrestricted freedom of choice of the court forum. A direct invocation of the Supreme Court’s original jurisdiction to issue this writ should be allowed only when there are special and important reasons, clearly and specifically set out in the petition.”²⁷

²⁶ *First United Constructors Corporation v. Poro Point Management Corporation*, 596 Phil. 334, 342 (2009) [Per J. Nachura, Third Division].

²⁷ *Id.*, citing *Page-Tenorio v. Tenorio*, 486 Phil. 160 (2004) [Per J. Chico-Nazario, Second Division].

In Vergara v. Suelto:²⁸

The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy that courts and lawyers must strictly observe.²⁹

Petitioner argues that the present Petition justifies direct recourse to this court “considering the pervasive effect of the assailed Department Order to all the different PTCAs or PTAs across the country and in order to avoid multiple suits that would only serve to further clog the court’s dockets.”³⁰

This reason fails to impress.

That the effects of the Department Order extend throughout the country is a concern that can be addressed by recourse to the Court of Appeals. Its territorial jurisdiction, much like this court’s, also extends throughout the country. Moreover, the Court of Appeals is well-equipped to render reliable, reasonable, and well-grounded judgments in cases averring grave abuse of discretion amounting to lack or excess of jurisdiction. Recourse to the Court of Appeals is not a futile exercise that results to nothing more than the clogging of court dockets.

II

Citing Article III, Section 8,³¹ Article II, Section 23,³² and Article XIII, Sections 15³³ and 16³⁴ of the 1987 Constitution, petitioner asserts that

²⁸ 240 Phil. 719 (1987) [Per J. Narvasa, First Division].

²⁹ Id. at 732–733.

³⁰ *Rollo*, p. 9.

³¹ CONST, art. III, sec. 8 provides:

SECTION 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

³² CONST, art. II, sec. 23 provides:

SECTION 23. The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.

³³ CONST, art. XIII, sec. 15 provides:

SECTION 15. The State shall respect the role of independent people’s organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests

PTCAs are “independent voluntary organization[s]”³⁵ “enjoying constitutional protection.”³⁶

It adds that, pursuant to Section 8(1)³⁷ of Batas Pambansa Blg. 232, otherwise known as the Education Act of 1982, and Article 77³⁸ of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, the PTCA “promotes and protects the welfare of . . . students all over the country and . . . serve[s] as a forum for parents and the community to have an active role in the efficient implementation of the . . . programs of the school [sic].”³⁹

Petitioner assails the Department Order as an inordinate exercise of the Department of Education’s rule-making power. It claims that the Department Order contradicts the provisions of the Education Act of 1982 and of the Child and Youth Welfare Code, the statutes that provide for the creation of PTAs. It also alleges that the Department Order was issued without prior consultation and publication, contrary to the requirements for regulations issued by administrative agencies.

Noting that the Department Order lends recognition only to PTAs and not to PTCAs, petitioner assails the Department Order as being contrary to the purposes of Republic Act No. 9155,⁴⁰ otherwise known as the Governance of Basic Education Act of 2001, and of Republic Act No.

and aspirations through peaceful and lawful means.

People’s organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

³⁴ CONST, art. XIII, sec. 16 provides:

SECTION 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

³⁵ *Rollo*, p. 124, Petitioner’s Memorandum.

³⁶ *Id.* at 125.

³⁷ Batas Blg. 232 (1982), sec. 8 provides:

Section 8. Rights of Parents. – In addition to other rights under existing laws, all parents who have children enrolled in a school have the following rights:

1. The right to organize by themselves and/or with teachers for the purpose of providing a forum for the discussion of matters relating to the total school program, and for ensuring the full cooperation of parents and teachers in the formulation and efficient implementation of such programs.

³⁸ CHILD & YOUTH WELFARE CODE, art. 77 provides:

Article 77. Parent-Teacher Associations. – Every elementary and secondary school shall organize a parent-teacher association for the purpose of providing a forum for the discussion of problems and their solutions, relating to the total school program, and for insuring the full cooperation of parents in the efficient implementation of such program. All parents who have children enrolled in a school are encouraged to be active members of its PTA, and to comply with whatever obligations and responsibilities such membership entails.

Parent-Teacher Association all over the country shall aid the municipal and other local authorities and school officials in the enforcement of juvenile delinquency control measures, and in the implementation of programs and activities to promote child welfare.

³⁹ *Rollo*, pp. 124–125.

⁴⁰ Rep. Act No. 9155 (2001), sec. 3(d) provides:

Section 3. Purposes and Objectives. – The purposes and objectives of this Act are:

. . . .

(d) To ensure that schools and learning centers receive the kind of focused attention they deserve and that educational programs, projects and services *take into account the interests of all members of the community*[.]

8980,⁴¹ otherwise known as the Early Childhood Care and Development Act.

Petitioner further claims that Article II (2) of the Department Order, which provides for the organization of the Homeroom PTA *with the approval of the School Head*, infringes upon the independence of PTCAs and PTAs. It asserts that this provision gives “unbridled discretion [to the school head] to disapprove the organization of a PTA.”⁴² Petitioner likewise assails the Department Order’s provisions on the terms of office of PTA officers as being violative of the right to due process.⁴³

III

The three powers of government—executive, legislative, and judicial—have been generally viewed as non-delegable. However, in recognition of the exigencies that contemporary governance must address, our legal system has recognized the validity of “subordinate legislation,” or the rule-making power of agencies tasked with the administration of government. In *Eastern Shipping Lines v. Philippine Overseas Employment Administration*:⁴⁴

The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the

⁴¹ Rep. Act No. 8980 (2000), sec. 7 provides:

Section 7. Implementing Arrangements and Operational Structures. – The implementation of the National ECCD System shall be the joint responsibility of the national government agencies, local government units, nongovernment organizations, and private organizations that are accredited to deliver the services or to provide training and technical assistance.

(a) Responsibilities of the National Government - National government agencies shall be responsible for developing policies and programs, providing technical assistance and support to the ECCD service providers in consultation with coordinating committees at the provincial, city/municipal, and barangay levels, as provided for in Section 8 of this Act, and monitoring of ECCD service benefits and outcomes. The Department of Social Welfare and Development (DSWD), the Department of Education, Culture and Sports (DECS), the Department of Health (DOH), the Department of the Interior and Local Government (DILG), the Department of Labor and Employment (DOLE), the Department of Agriculture (DA), the Department of Justice (DOJ), the National Economic and Development Authority (NEDA), and the National Nutrition Council (NNC) shall jointly prepare annual ECCD for work plans that will coordinate their respective technical assistance and support for the National ECCD Program. They shall consolidate existing program implementing guidelines that ensure consistency in integrated service delivery within the National ECCD System.

(1) The DECS shall promote the National ECCD Program in schools. ECCD programs in public schools shall be under the joint responsibility of their respective school principal/school-head and **parents-teachers-community association (PTCA)** within the standards set forth in the National ECCD System and under the guidance of the City/ Municipal ECCD Coordinating Committee for the effective and equitable delivery of ECCD services. It shall also make available existing facilities of public elementary schools for ECCD classes.

(2) Public and private pre-schools shall be registered by the Provincial or City ECCD Coordinating Committee upon the recommendation of the respective division office of the DECS. NGO-initiated, community, church, home, and workplace-based service providers shall be registered upon the recommendation of the provincial/city social welfare and development office. These public and private ECCD service providers shall operate within the standards set forth in the National ECCD System and under the guidance of the City/Municipal ECCD Coordinating Committee for the effective delivery of ECCD services.

⁴² *Rollo*, p. 126.

⁴³ *Id.* at 128.

⁴⁴ 248 Phil. 762 (1988) [Per J. Cruz, First Division].

case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This has led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.

The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.

The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the “power of subordinate legislation.”

With this power, administrative bodies may implement the broad policies laid down in a statute by “filling in” the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law.⁴⁵

Administrative agencies, however, are not given unfettered power to promulgate rules. As noted in *Gerochi v. Department of Energy*,⁴⁶ two requisites must be satisfied in order that rules issued by administrative agencies may be considered valid: the completeness test and the sufficient standard test:

In the face of the increasing complexity of modern life, delegation of legislative power to various specialized administrative agencies is allowed as an exception to this principle. Given the volume and variety of interactions in today’s society, it is doubtful if the legislature can promulgate laws that will deal adequately with and respond promptly to the minutiae of everyday life. Hence, the need to delegate to administrative bodies – the principal agencies tasked to execute laws in their specialized fields – the authority to promulgate rules and regulations to implement a given statute and effectuate its policies. *All that is*

⁴⁵ Id. at 772–773.

⁴⁶ 554 Phil. 563 (2007) [Per J. Nachura, En Banc].

*required for the valid exercise of this power of subordinate legislation is that the regulation be germane to the objects and purposes of the law and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law. These requirements are denominated as the **completeness test** and the **sufficient standard test**.*⁴⁷ (Emphasis supplied)

Further, in *ABAKADA GURO Party List v. Purisima*.⁴⁸

Two tests determine the validity of delegation of legislative power: (1) the completeness test and (2) the sufficient standard test. A law is complete when it sets forth therein the policy to be executed, carried out or implemented by the delegate. It lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy and identify the conditions under which it is to be implemented.⁴⁹ (Citations omitted)

In addition to the substantive requisites of the completeness test and the sufficient standard test, the Administrative Code of 1987 (Administrative Code) requires the filing of rules adopted by administrative agencies with the University of the Philippines Law Center. Generally, rules filed with the University of the Philippines Law Center become effective 15 days after filing. Chapter 2 of Book VII of the Administrative Code provides:

CHAPTER 2 Rules and Regulations

SECTION 3. Filing.—(1) Every agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from that date shall not thereafter be the basis of any sanction against any party or persons.

- (2) The records officer of the agency, or his equivalent functionary, shall carry out the requirements of this section under pain of disciplinary action.
- (3) A permanent register of all rules shall be kept by the issuing agency and shall be open to public inspection.

SECTION 4. Effectivity.—In addition to other rule-making requirements provided by law not inconsistent with this Book, each rule shall become effective fifteen (15) days from the date of filing as above provided unless a different date is fixed by law, or specified in the rule in cases of imminent danger to public health, safety and welfare, the existence of which must be expressed in a statement accompanying the rule. The

⁴⁷ Id. at 584–585.

⁴⁸ 584 Phil. 246 (2008) [Per J. Corona, En Banc].

⁴⁹ Id. at 272.

agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

SECTION 5. Publication and Recording.—The University of the Philippines Law Center shall:

- (1) Publish a quarterly bulletin setting forth the text of rules filed with it during the preceding quarter; and
- (2) Keep an up-to-date codification of all rules thus published and remaining in effect, together with a complete index and appropriate tables.

SECTION 6. Omission of Some Rules.—(1) The University of the Philippines Law Center may omit from the bulletin or the codification any rule if its publication would be unduly cumbersome, expensive or otherwise inexpedient, but copies of that rule shall be made available on application to the agency which adopted it, and the bulletin shall contain a notice stating the general subject matter of the omitted rule and new copies thereof may be obtained.

- (2) Every rule establishing an offense or defining an act which, pursuant to law is punishable as a crime or subject to a penalty shall in all cases be published in full text.

SECTION 7. Distribution of Bulletin and Codified Rules.—The University of the Philippines Law Center shall furnish one (1) free copy each of every issue of the bulletin and of the codified rules or supplements to the Office of the President, Congress, all appellate courts and the National Library. The bulletin and the codified rules shall be made available free of charge to such public officers or agencies as the Congress may select, and to other persons at a price sufficient to cover publication and mailing or distribution costs.

SECTION 8. Judicial Notice.—The court shall take judicial notice of the certified copy of each rule duly filed or as published in the bulletin or the codified rules.

SECTION 9. Public Participation.—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

- (2) In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.
- (3) In case of opposition, the rules on contested cases shall be observed.

IV

The Education Act of 1982 vested in the then Ministry of Education,

Culture and Sports⁵⁰ “[t]he administration of the education system and . . . the supervision and regulation of educational institutions.”⁵¹ Section 70 of the Education Act of 1982 vested rule-making authority in the Minister of Education who, under Section 55⁵² of the same statute, was the head of the Ministry:

Section 70. Rule-making Authority. – The Minister of Education, Culture and Sports charged with the administration and enforcement of this Act, shall promulgate the necessary implementing rules and regulations.

Apart from the Education Act of 1982, Book IV, Chapter 2 of the Administrative Code provides for the rule-making power of the secretaries heading the departments that comprise the executive branch of government:

SECTION 7. Powers and Functions of the Secretary.—The Secretary shall:

....

- (4) Promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for proper execution of the laws relative thereto. These issuances shall not prescribe penalties for their violation, except when expressly authorized by law;

V

It was pursuant to this rule-making authority that Former Secretary of Education Jesli A. Lapus promulgated Department Order No. 54, Series of 2009. As its title denotes, the Department Order provided revised guidelines

⁵⁰ The Ministry of Education, Culture and Sports was renamed as the Department of Education, or DepEd, through Rep. Act No. 9155.

⁵¹ Batas Blg. 232 (1982), sec. 54 provides:
Section 54. Declaration of Policy. – The administration of the education system and, pursuant to the provisions of the Constitution, the supervision and regulation of educational institutions are hereby vested in the Ministry of Education, Culture and Sports, without prejudice to the provisions of the charter of any state college and university.

⁵² Batas Blg. 232 (1982), sec. 55 provides:
Section 55. Organization. – The Ministry shall be headed by the Minister of Education, Culture and Sports who shall be assisted by one or more Deputy Ministers.
The organization of the Ministry shall consist of (a) the Ministry Proper composed of the immediate Office of the Minister, and the Services of the Ministry, (b) the Board of Higher Education, which is hereby established, (c) the Bureau of Elementary Education, the Bureau of Secondary Education, the Bureau of Higher Education, the Bureau of Technical and Vocational Education, and the Bureau of Continuing Education, which are hereby established, (d) Regional offices and field offices, (e) the National Scholarship Center and such other agencies as are now or may be established pursuant to law, and (f) the cultural agencies, namely: the National Library, the National Historical Institute, the National Museum, and the Institute of National Language. Such of the above offices as are created or authorized to be established under this provision, shall be organized and staffed and shall function, subject to the approval of the President, upon recommendation of the Minister of Education, Culture and Sports in consultation with the Presidential Commission on Reorganization.

governing PTAs at the school-level.

The Department Order does not exist in a vacuum. As underscored by the Department of Education, the Department Order was issued “in response to increasing reports of malpractices by officers or members of PTAs.”⁵³ Among these “malpractices” are those noted in a resolution adopted by the “Regional Education Supervisors in-charge of THE [sic] Student Government Program (SGP), selected Teachers-Advisers and the Officers of the National Federation of Supreme Student Governments (NFSSG)”⁵⁴ during a conference held from February 4 to 8, 2008. This same resolution formally sought to “review and [revise] the Guidelines Governing PTAs/PTCAs at the School Level as contained in DepED Order No. 23, s. 2003.”⁵⁵ The malpractices noted were:

PTA/PICA officers absconding with the [sic] contributions and membership fees;

Non-remittance or turn-over of collected funds in the name of organizations such as SSG funds, STEP funds, School Publication fee and the like;

Misuse of funds by re-channeling the amounts collected to other activities and projects not within the intended purpose;

Non-deposit of funds in reputable banks;

Non-disclosure of the status of the funds collected and non-submission of financial statements;

Fraudulent disbursements of funds due to the absence of resolutions, vouchers and official receipts; and,

Un-liquidated cash advances of PICA officers[.]⁵⁶

Thus, the Department Order rationalized the mechanism for the organizing and granting of official recognition to PTAs. Its first to seventh articles read:

I. General Policy

1. Every elementary and secondary school shall organize a Parents-Teachers Association (PTA) for the purpose of providing a forum for the discussion of issues and their solutions related to the total school program and to ensure the full cooperation of parents in the efficient implementation of such program.

⁵³ *Rollo*, p. 144.

⁵⁴ *Id.* at 96.

⁵⁵ *Id.*

⁵⁶ *Id.* at 96–97.

Every PTA shall provide mechanisms to ensure proper coordination with the members of the community, provide an avenue for discussing relevant concerns and provide assistance and support to the school for the promotion of their common interest. Standing committees may be created within the PTA organization to coordinate with community members. Regular fora may be conducted with local government units, civic organizations and other stakeholders to foster unity and cooperation.

2. As an organization operating in the school, the PTA shall adhere to all existing policies and implementing guidelines issued or hereinafter may be issued by the Department of Education.

The PTA shall serve as support group and as a significant partner of the school whose relationship shall be defined by cooperative and open dialogue to promote the welfare of the students.

II. Organization of PTAs at the School Level

1. Membership in a PTA is limited to parents, or in their absence the guardian, of duly enrolled students, and teachers in a given school.

For this purpose, a guardian is hereby defined as any of the following: a) an individual authorized by the biological parents to whom the care and custody of the student has been entrusted; b) a relative of the student within the fourth degree of consanguinity or affinity provided that said relative has the care and custody over the child; c) an individual appointed by a competent court as the legal guardian of the student; or d) in case of an orphan, the individual/institution who has the care and custody of the student.

A teacher-member refers to homeroom advisers, subject teachers, and non-teaching personnel.

2. Within fifteen (15) days from the start of the school year the Homeroom Adviser and the Parents/Guardians shall organize the Homeroom PTA with the approval of the School Head.
3. The elected presidents of the Homeroom PTAs and their respective Homeroom Advisers shall elect the Board of Directors within thirty (30) days from the start of the school year. The Board of Directors shall immediately elect from among themselves the executive officers of the PTA on the same day of their election to the Board.
4. The official name of the PTA shall bear the name of the school (example: Parents-Teachers Association of Rizal High School or Rizal High School Parents-Teachers

Association).

5. For representation in the Local School Board and other purposes, the schools' PTAs within a municipality or city or province shall federate and select from among the elected Presidents their respective officers. The president-elect shall sit as representative of the Federation to the said Local School Board.

III. General Assembly

1. The General Assembly shall be composed of all parents of enrolled students of the school, Board of Directors and Officers of the PTA, School Head, Homeroom Advisers, Subject Teachers, and Non-Teaching Personnel.
2. The General Assembly shall be convened by the PTA Board of Directors immediately after the PTA has been organized. The General Assembly shall be convened as may be necessary but in no case less than twice a year. The Board shall coordinate with the School Head as to time, venue and other details of the General Assembly.
3. The General Assembly shall be a venue for presentation and discussion of the PTA's programs, projects, financial statements, reports and other matters.
4. The General Assembly may invite or consult with other members of the community such as local government officials and civic organizations to solicit their support or active participation in school activities.

IV. Board of Directors and Officers

1. The administration of the affairs and management of activities of the PTA is vested [in] the Board of Directors and its officers in accordance with these guidelines or their respective Constitution and By-Laws, if any, which shall adhere to the following:
 - a. The Board of Directors shall be composed of fifteen (15) members who shall elect from among themselves the association's executive officers; namely: President, Vice-President, Secretary, Treasurer, Auditor, or other equivalent positions, who shall oversee the day-to-day activities of the associations;
 - b. Parent-members shall comprise two-thirds (2/3) and teacher-members one-third (1/3) of the Board of Directors;
 - c. A teacher-member cannot hold any position in the PTA except as a member of the Board of Directors or as Secretary;

- d. The School Head shall not serve as a member of the Board of Directors but as adviser to the PTA;
- e. The term of office of the Board of Directors and its Officers shall be one (1) year from the date of election. In no case shall a PTA Board Director serve for more than two (2) consecutive terms;
- f. In case of vacancy in the Board of Directors as a result of expulsion, resignation or death, the vacancy shall be filled, for the unexpired term of the office, by a majority vote of the Board of Directors from among the Presidents of Homeroom PTAs in a special meeting called for such purpose.
- g. Among the committees that may be formed to handle specific activities of the PTAs are:
 - a) Committee on Finance;
 - b) Committee on Programs and Projects;
 - c) Audit Committee;
 - d) Election Committee;
 - e) Grievance Committee;
 - f) Ways and Means Committee;
 - g) Committee on External and Community Affairs;
- h. The heads of the committees shall preferably come from the Board of Directors, Homeroom Presidents and Homeroom Advisers; and
- i. The PTA may or may not be incorporated with the Securities and Exchange Commission (SEC). If incorporated, the registered entity shall, as far as practicable, be used in the organization of the PTA by the elected Board of Directors. In any event, the formal notification by the elected Board of Directors outlined below and the issuance of the Certificate of Recognition by the School Head shall be the operative act to recognize the PTA.

V. Recognition and Monitoring of PTAs

- 1. There shall be only one PTA that will operate in a school which shall be recognized by the School Head upon formal notification in writing by the elected Board of Directors. The recognition shall be valid for one year from the date of election.
- 2. Together with the formal notification in writing, the elected Board of Directors shall submit Oaths of Office of the Board of Directors and Officers (Enclosure No. 1) including a list of directors and officers.

3. A Division PTA Affairs Committee shall be created in the Division Office to be composed of the following:
 - Chairperson - Schools Division Superintendent
 - Members - Assistant Schools Division Superintendent
 - Division Administrative Officer
 - Division Education Supervisor (In-Charge of PTA)
 - Division PESPA President (Elementary) or Division NAPSSHI President (Secondary)
 - President of the Division Federation of PTA
 - President of the Division Federation of SSG
4. The Division PTA Affairs Committee shall monitor the activities of the PTAs and their compliance with reports and other requirements, arbitrate disputes and settle matters that may be submitted to it for resolution especially on PTA representation issue.

VI. Privileges of Recognized PTAs

1. A PTA is authorized to collect voluntary contributions from parents/ guardian-members once it has been duly recognized and given a Certificate of Recognition by the School Head (Enclosure No. 2). Such collections, however, shall be subject to pertinent issuances of the DepED and/or existing pertinent ordinances of the local government unit concerned, if any.
2. In addition, a duly recognized PTA shall have the following privileges:
 - a. The use of any available space within the school premises as its office or headquarters, provided, that costs pertinent to electricity, water and other utilities shall be for the account of the PTA; provided however, that should the school need such space, the PTA shall so vacate the space immediately. The maintenance and improvement of the office shall be in accordance with the School Improvement Plan.

The DepED may allow the PTA to construct a building or structure within the school premises for its office, provided however, that the PTA shall donate such building or structure and other permanent fixtures to the school. Any improvement made on such building, structure or fixture that cannot be removed from such building or structure

without causing damage thereto shall be deemed the property of the school. A written agreement shall be executed before the improvement or construction. A Deed of Donation shall also be executed by and between the PTA and the school immediately after the completion of the improvement or construction;

- b. Representation in the School Governing Council;
- c. Authorization to undertake fund-raising activities to support the school's academic and co-curricular programs, projects and activities subject to pertinent DepED guidelines;
- d. Participation in the school's inspection and acceptance committee and as an observer in the school's procurement activities subject to the provisions of R.A. No. 9184; and
- e. Collaboration in relevant school activities.

VII. Activities

All PTA activities within the school premises or which involve the school, its personnel or students shall be with prior consultation and approval of the School Head.⁵⁷

Moreover, the Department Order provides measures “to ensure transparency and accountability in the safekeeping and utilization of funds[.] . . . [S]tringent measures were introduced to eliminate the increasing number of reported incidents wherein officers of PTAs take undue advantage of their positions.”⁵⁸ Specifically, Article VIII (on financial matters) of the Department Order provides for a detailed policy and conditions on collections of contributions, safekeeping of funds, financial reporting, and other measures for transparency and accountability:

VIII. Financial Matters

1. Policy on Collection of Contributions

Cognizant of the need of an organization for adequate funds to sustain its operations, a duly recognized PTA may collect voluntary financial contributions from members and outside sources to enable it to fund and sustain its operation and the implementation of its programs and projects exclusively for the benefit of the students and

⁵⁷ Id. at 25–30.

⁵⁸ Id. at 145.

the school where it operates. The PTA's programs and projects shall be in line with the School Improvement Plan (SIP).

Such collections shall be made by the PTA subject to the following conditions:

- a. The contributions should be a reasonable amount as may be determined by the PTA Board of Directors;
- b. Non-payment of the contributions by the parent member shall not be a basis for non-admission or non-issuance of clearance(s) to the child by the school concerned;
- c. The contributions shall be collected by the PTA Treasurer on a per parent-member basis regardless of the number of their children in school;
- d. No collection of PTA contributions shall be done during the enrollment period; and
- e. No teacher or any school personnel shall be involved in such collection activities.

If collection of the School Publications Fee, Supreme Student Government (SSG) Developmental Fund and other club membership fees and contributions is coursed through the PTA as requested by the concerned organization, the amount collected shall be remitted immediately to the school, SSG or other student organizations concerned on the day it was collected. The pertinent organization shall deposit the funds with a reputable bank on the next banking day under the organization's account. No service fee shall be charged against any student organization by the PTA.

Non-compliance or any violation of the aforementioned conditions shall be a ground for the cancellation of the PTA's recognition and/or the filing of appropriate charges as the case may be.

2. Safekeeping of Funds

All collections of contributions or proceeds of fundraising activities shall be deposited in a reputable banking institution as determined by the Board of Directors. The PTA's Treasurer or a duly authorized representative shall undertake the collection and shall issue official receipts/acknowledgement receipts.

In no case shall any school official or personnel be entrusted with the safekeeping and disbursement of collections made by the PTA. All disbursements of funds shall be in accordance with generally accepted accounting

and auditing rules and regulations.

All disbursements shall be accompanied by appropriate resolutions indicating thereof the purposes for which such disbursements are made.

No cash advances shall be allowed without valid liquidation of previous cash advances.

3. Financial Statement Report

The books of accounts and other financial records of the PTA shall be made available for inspection by the School Head and/or the Division PTA Affairs Committee at any time.

An Annual Financial Statement signed jointly by the PTA President, Treasurer and Auditor shall be submitted to the School Head not later than thirty (30) days after the last day of classes. Such financial statement shall be audited by an external and independent auditor, posted in the PTA Bulletin Board, and presented to the General Assembly during the next school year.

The PTA shall also submit to the School Head not later than November 30, a mid-school year financial statement report ending October 30 duly audited and signed by the members of the PTA's audit committee.

Failure to submit such financial statement report shall be a ground for the cancellation of the recognition of the PTA by the Division PTA Affairs Committee upon the recommendation of the School Head.

4. Transparency and Accountability

For purposes of transparency and accountability, all documents pertaining to the operations of the PTA shall be open to public examination.

PTA[s] are required to install a PTA Bulletin Board outside of its office where announcements, approved resolutions, required reports and financial statements shall be posted.⁵⁹

Article IX of the Department Order's details the acts and practices in which PTAs are prohibited from engaging. It also stipulates the cancellation of a PTA's recognition as a consequence of engaging in prohibited activities:

IX. Prohibited Activities and Sanctions

1. PTAs are prohibited from:

⁵⁹ Id. at 30–32.

- a. Interfering in the academic and administrative management and operations of the school, and of the DepED, in general;
 - b. Engaging in any partisan political activity within school premises;
 - c. Operating a canteen/school supplies store, or being a concessionaire thereof inside the school or nearby premises, or offering these services to the school as its client either directly or indirectly;
 - d. Selling insurance, pre-need plans or similar schemes or programs to students and/ or their parents; and
 - e. Such other acts or circumstances analogous to the foregoing.
2. PTA Officers and members of the Board of Directors are prohibited from collecting salaries, honoraria, emoluments or other forms of compensation from any of the funds collected or received by the PTA.
 3. PTAs shall have no right to disburse, or charge any fees as service fees or percentages against the amount collected pertinent to the School Publication Fee, Supreme Student Government (SSG) Developmental Fund and other club membership fees and contributions.
 4. In no case shall a PTA or any of its officers or members of the Board of Directors call upon students and teachers for purposes of investigation or disciplinary action.
 5. The recognition of any PTA shall be cancelled by the Division PTA Affairs Committee upon the recommendation of the School Head concerned for any violation of the above-mentioned prohibited activities and these Guidelines.

Thereafter, the School Head may call for a special election to replace the Board of Directors of the PTA whose recognition was cancelled. Criminal, civil and/or administrative actions may be taken against any member or officer of the Board of the PTA who may appear responsible for failure to submit the necessary annual financial statements or for failure to account the funds of the PTA.⁶⁰

Consistent with rationalizing the mechanism for granting official recognition to PTAs, Article X of the Department Order provides for the following transitory provision:

⁶⁰ Id. at 32–33.

X. Transitory Provision

Existing and duly recognized PTCAs and its Federations shall no longer be given recognition effective School Year 2009-2010. They shall cease operation at the end of School Year 2008–2009 and given until June 30, 2009 to dissolve, wind up their activities, submit their financial reports and turn-over all documents to the School Heads and Schools Division Superintendents, respectively.⁶¹

Petitioner insists that the Department Order is an invalid exercise of the rule-making power delegated to the Secretary of Education as it supposedly disregards PTAs' and PTCAs' purposes, not only as partners of the Department of Education in the implementation of programs, but also as a watchdog against "abuses, mismanagement, inefficiency[,] and excesses of public officials within the public school system."⁶² Petitioner also assails the Department Order's limitation of official recognition to PTAs, and no longer to PTCAs, as being contrary to law.

VI

Petitioner is in error for asserting that the assailed Department Order is contrary to the statutes it aims to put into effect as it fails to put PTCAs on the same footing as PTAs.

Article 77 of the Child and Youth Welfare Code provides for the organization and purposes of PTAs:

Article 77. Parent-Teacher Associations. – Every elementary and secondary school shall organize a parent-teacher association *for the purpose of providing a forum for the discussion of problems and their solutions, relating to the total school program, and for insuring the full cooperation of parents in the efficient implementation of such program.* All parents who have children enrolled in a school are encouraged to be active members of its PTA, and to comply with whatever obligations and responsibilities such membership entails.

Parent-Teacher Association[s] all over the country *shall aid the municipal and other local authorities and school officials in the enforcement of juvenile delinquency control measures, and in the implementation of programs and activities to promote child welfare.* (Emphasis supplied)

The Education Act of 1982, a statute adopted subsequent to the Child and Youth Welfare Code, expressly recognizes the right of parents to organize by themselves and/or with teachers:

⁶¹ Id. at 33.

⁶² Id. at 125.

Section 8. Rights of Parents. – In addition to other rights under existing laws, all parents who have children enrolled in a school have the following rights:

1. The right to organize by themselves and/or with teachers *for the purpose of providing a forum for the discussion of matters relating to the total school program, and for ensuring the full cooperation of parents and teachers in the formulation and efficient implementation of such programs.*
2. The right to access to any official record directly relating to the children who are under their parental responsibility. (Emphasis supplied)

As is evident from the Child and Youth Welfare Code's use of the word "shall," it is mandatory for PTAs to be organized in elementary and secondary schools. As against this, the Child and Youth Welfare Code is silent on the creation of PTCAs. The Education Act of 1982 is equally silent on this. Hence, while the creation and/or organization of PTAs are statutorily mandated, the same could not be said of PTCAs.

However, petitioner argues differently. In support of its position, it cites Republic Act No. 9155, otherwise known as the Basic Education Act of 2001, more specifically its Section 3(d), on its purposes and objectives:

Section 3. Purposes and Objectives. - The purposes and objectives of this Act are:

....

- (d) To ensure that schools and learning centers receive the kind of focused attention they deserve and that educational programs, projects and services take into account the interests of all members of the community[.]

Petitioner also cites Republic Act No. 8980, otherwise known as the Early Childhood Care and Development Act. More specifically, petitioner cites Section 7(a)(1) on implementing arrangements and operational structures:

Sec. 7. *Implementing Arrangements and Operational Structures.* – The implementation of the National [Early Childhood Care and Development or] ECCD System shall be the joint responsibility of the national government agencies, local government units, nongovernment organizations, and private organizations that are accredited to deliver the services or to provide training and technical assistance.

- (a) *Responsibilities of the National Government* – National government agencies shall be responsible for developing policies and programs, providing technical assistance and support to the

ECCD service providers in consultation with coordinating committees at the provincial, city/municipal, and barangay levels, as provided for in Section 8 of this Act, and monitoring of ECCD service benefits and outcomes. The Department of Social Welfare and Development (DSWD), the Department of Education, Culture and Sports (DECS), the Department of Health (DOH), the Department of the Interior and Local Government (DILG), the Department of Labor and Employment (DOLE), the Department of Agriculture (DA), the Department of Justice (DOJ), the National Economic and Development Authority (NEDA), and the National Nutrition Council (NNC) shall jointly prepare annual ECCD for work plans that will coordinate their respective technical assistance and support for the National ECCD Program. They shall consolidate existing program implementing guidelines that ensure consistency in integrated service delivery within the National ECCD System.

(1) The DECS shall promote the National ECCD Program in schools. ECCD programs in public schools shall be under the joint responsibility of their respective school principal/school-head and parents-teachers-community association (PTCA) within the standards set forth in the National ECCD System and under the guidance of the City/Municipal ECCD Coordinating Committee for the effective and equitable delivery of ECCD services. It shall also make available existing facilities of public elementary schools for ECCD classes.

Neither Republic Act No. 9155 nor Republic Act No. 8980 supports petitioner's contentions that PTCAs should stand on the same footing as PTAs and that their existence is statutorily mandated.

Republic Act No. 9155 does not even mention or otherwise refer to PTCAs. All it does is exhort that the interest of all members of the community should be taken into account in the administration of the country's basic education system. The Department Order does not run afoul of this. On the contrary, the Department Order specifically provides for PTAs' collaboration with members of the community:

I. General Policy

1. Every elementary and secondary school shall organize a Parents-Teachers Association (PTA) for the purpose of providing a forum for the discussion of issues and their solutions related to the total school program and to ensure the full cooperation of parents in the efficient implementation of such program.

Every PTA shall provide mechanisms to ensure proper coordination with the members of the community, provide an avenue for discussing relevant concerns and provide assistance and support to the school for the promotion of

their common interest. Standing committees may be created within the PTA organization to coordinate with community members. Regular fora may be conducted with local government units, civic organizations and other stakeholders to foster unity and cooperation.⁶³ (Emphasis supplied)

Republic Act No. 8980 does mention PTCAs, but this is only in the specific context of the National Early Childhood Care and Development (ECCD) System. The ECCD System “refers to the full range of . . . programs that provide for the basic holistic needs of young children *from birth to age six (6)*.”⁶⁴ It is not even an education program and does not involve the age range of students—elementary to high school—that is relevant to the Department Order. In any case, an isolated and passing mention does not equate to a mandate.

Petitioner’s invocation of Republic Act Nos. 9155 and 8980 only serve to muddle the issues by entreating considerations that are irrelevant to the purposes of the statute (i.e., the Child and Youth Welfare Code) that actually pertains to and requires the organization of PTAs.

From the previously quoted provisions of the Child and Youth Welfare Code and the Education Act of 1982, the purposes for which the organization of PTAs is mandated are clear. First, a PTA is to be a forum for discussion. Second, a PTA exists to ensure the full cooperation of parents in the implementation of school programs. The assailed Department Order serves these purposes.

By ensuring fiscal transparency and accountability, and by providing the basic framework for organization and official recognition, the Department Order ensures that PTAs exist and function in a manner that remains consistent with the articulated purposes of PTAs under the Child and Youth Welfare Code and the Education Act of 1982. A framework for organization ensures that PTAs are properly organized and are both adequately representative of and limited only to those interests that are appropriate to the education of children in elementary and high school. Measures for fiscal transparency and accountability ensure that PTAs are not

⁶³ Id. at 25.

⁶⁴ Rep. Act No. 8980, sec. 4(a) provides:

Section 4. Definitions. – For purposes of this Act:

(a) Early Childhood Care and Development (ECCD) System refers to the full range of health, nutrition, early education and social services programs that provide for the basic holistic needs of young children from birth to age six (6), to promote their optimum growth and development. These programs include:

(1) Center-based programs, such as the day care service established under Republic Act No. 6972, public and private pre-schools, kindergarten or school-based programs, community or church-based early childhood education programs initiated by nongovernment organizations or people's organizations, workplace-related child care and education programs, child-minding centers, health centers and stations; and

(2) Home-based programs, such as the neighborhood-based play groups, family day care programs, parent education and home visiting programs.

hampered by pecuniary or proprietary interests that have nothing to do with the effective implementation of school programs. Finally, mechanisms for official recognition ensure that only those associations that organize and conduct themselves in a manner that is consistent with these purposes are privileged with state sanction.

VII

Contrary to petitioner's contentions, the adoption of the Department Order is not tainted with fatal procedural defects.

Petitioner decries the supposed lack of public consultations as being violative of its right to due process.

Notice and hearing are not essential when an administrative agency acts pursuant to its rule-making power. In *Central Bank of the Philippines v. Cloribel*:⁶⁵

Previous notice and hearing, as elements of due process, are constitutionally required for the protection of life or vested property rights, as well as of liberty, when its limitation or loss takes place in consequence of a judicial or quasi-judicial proceeding, generally dependent upon a past act or event which has to be established or ascertained. It is not essential to the validity of general rules or regulations promulgated to govern future conduct of a class of persons or enterprises, unless the law provides otherwise[:]

....

“It is also clear from the authorities that where the function of the administrative body is legislative, notice of hearing is not required by due process of law. See Oppenheimer, *Administrative Law*, 2 Md. L.R. 185, 204, *supra*, where it is said: ‘If the nature of the administrative agency is essentially legislative, the requirements of notice and hearing are not necessary. The validity of a rule of future action which affects a group, if vested rights of liberty or property are not involved, is not determined according to the same rules which apply in the case of the direct application of a policy to a specific individual.’ . . . It is said in 73 C.J.S. *Public Administrative Bodies and Procedure*, sec. 130, pages 452 and 453: Aside from statute, the necessity of notice and hearing in an administrative proceeding depends on the character of the proceeding and the circumstances involved. In so far as generalization is possible in view of the great variety of administrative proceedings, it may be stated as a general rule that notice and hearing are not essential to the validity of

⁶⁵ 150-A Phil. 86 (1972) [Per C.J. Concepcion, En Banc].

administrative action where the administrative body acts in the exercise of executive, administrative, or legislative functions; but where a public administrative body acts in a judicial or quasi-judicial matter, and its acts are particular and immediate rather than general and prospective, the person whose rights or property may be affected by the action is entitled to notice and hearing.”⁶⁶

In any case, petitioner’s claim that no consultations were held is belied by the Department of Education’s detailed recollection of the actions it took before the adoption of the assailed Department Order:

1. On March 1, 2003, pursuant to D.O. No.14, s. 2004, respondent DepEd created a task force to review, revise, or modify D.O. No. 23, s. 2003 (the existing guidelines), in order to address numerous complaints involving PTAs and PTCAs and to resolve disputes relative to the recognition and administration of said associations. *The task force came up with draft guidelines after consultations with parents, teachers and students;*

2. On May 3, 2003, pursuant to D.O. No. 28, s. 2007, the task force was reconstituted to evaluate the draft guidelines prepared by the original task force and to review the provisions of D.O. No. 23;

3. On February 2, 2009, the reconstituted task force, after *soliciting comments, suggestions and recommendations from school heads and presidents of PTAs or PTCAs*, submitted a draft of the “Revised Guidelines governing PTAs/PTCAs at the School Level;”

4. The draft was *submitted for comments and suggestions to the participants to the Third National Federation Supreme Student Governments (NFSSG) Conference* held in February 2009. The participants, composed of regional education supervisors, presidents of regional federations of Supreme Student Governments (SSG), and representatives from the SSG advisers, submitted another set of revised guidelines;

5. The draft was subjected to *further review and consultations*, which resulted in the final draft of D.O. No. 54, s. 2009.⁶⁷ (Emphasis supplied)

Apart from claiming that no consultations were held, petitioner decries the non-publication, by the Department of Education itself, of the assailed Department Order.

This does not invalidate the Department Order. As is evident from the previously quoted provisions of Book VII, Chapter 2 of the Administrative Code, all that is required for the validity of rules promulgated by administrative agencies is the filing of three (3) certified copies with the

⁶⁶ Id. at 101–102, citing *Albert v. Public Service Commission*, 120 A. 2d. 346, 350–351.

⁶⁷ *Rollo*, p. 151.

University of the Philippine Law Center. Within 15 days of filing, administrative rules become effective.⁶⁸

VIII

Pointing to Article II (2) of the assailed Department Order, which calls for the approval of the school head in the organizing of homeroom PTAs, petitioner claims that the Department Order undermines the organizational independence of PTAs. It claims that the assailed Department Order lacks standards or guidelines and effectively gives the school head unbridled discretion to impede the organizing of PTAs.

This is erroneous.

To begin with, and as previously noted, the organizing of PTAs is mandated by statute. Under Article 77 of the Child and Youth Welfare Code, every elementary school and high school is *required* to have a PTA. School heads are bound by this requirement. Moreover, the mandatory nature of organizing PTAs is recognized by the assailed Department Order itself. Article I (1) of the Department Order provides that “[e]very elementary and secondary school *shall* organize a Parents-Teachers Association.”

Likewise, Article I of the assailed Department Order echoes the Child and Youth Welfare Code and the Education Act of 1982 in providing for the purposes and functions of PTAs. In doing so, it lays out the standards that are to guide school heads in deciding on whether official sanction shall be vested in a group seeking recognition as a PTA:

I. General Policy

1. Every elementary and secondary school shall organize a Parents-Teachers Association (PTA) for the *purpose of providing a forum for the discussion of issues and their*

⁶⁸ 1987 ADM. CODE, Book VII, chap. 2 provides:

CHAPTER 2

Rules and Regulations

SECTION 3. Filing.—(1) Every agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from that date shall not thereafter be the basis of any sanction against any party or persons.

(2) The records officer of the agency, or his equivalent functionary, shall carry out the requirements of this section under pain of disciplinary action.

(3) A permanent register of all rules shall be kept by the issuing agency and shall be open to public inspection.

SECTION 4. Effectivity.—In addition to other rule-making requirements provided by law not inconsistent with this Book, each rule shall become effective fifteen (15) days from the date of filing as above provided unless a different date is fixed by law, or specified in the rule in cases of imminent danger to public health, safety and welfare, the existence of which must be expressed in a statement accompanying the rule. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

solutions related to the total school program and to ensure the full cooperation of parents in the efficient implementation of such program.

Every PTA shall provide *mechanisms to ensure proper coordination* with the members of the community, provide an *avenue for discussing relevant concerns and provide assistance and support* to the school for the promotion of their common interest. Standing committees may be created within the PTA organization to coordinate with community members. Regular fora may be conducted with local government units, civic organizations and other stakeholders to foster unity and cooperation.

2. As an organization operating in the school, *the PTA shall adhere to all existing policies and implementing guidelines issued or hereinafter may be issued by the Department of Education.*

The PTA shall serve as *support group and as a significant partner of the school* whose relationship shall be defined by cooperative and open dialogue to promote the welfare of the students.⁶⁹ (Emphasis supplied)

The involvement of school heads is limited to the initial stages of formation of PTAs. Once organized, the school heads hold no power over PTAs as they are limited to acting in an advisory capacity. Article IV (1) (d) of the Department Order categorically provides:

IV. Board of Directors and Officers

1. The administration of the affairs and management of activities of the PTA is vested with the Board of Directors and its officers in accordance with these guidelines or their respective Constitution and By-Laws, if any, which shall adhere to the following:

....

- d. *The School Head shall not serve as a member of the Board of Directors but as adviser to the PTA[.]*⁷⁰ (Emphasis supplied)

Petitioner makes much of how “the assailed Department Order provides that the recognition of the PTCA or any PTA shall be cancelled by the Division PTA Affairs Committee upon the mere recommendation of the School Head. And in case of cancellation of the recognition of the PTA, the School Head is given the power the [sic] call a special election to replace the

⁶⁹ *Rollo*, p. 25.

⁷⁰ *Id.* at 27.

Board of Directors of the PTA whose recognition was cancelled.”⁷¹ It claims that this buttresses its claim that the Department Order 2009 undermines the organizational independence of PTAs.

In the first place, all that a school head has is recommending authority. More importantly, petitioner overlooks the qualifier to the school head’s recommending authority:

IX. Prohibited Activities and Sanctions

....

5. The recognition of any PTA shall be cancelled by the Division PTA Affairs Committee upon the recommendation of the School Head concerned *for any violation of the above-mentioned prohibited activities and these Guidelines.*

Thereafter, the School Head may call for a special election to replace the Board of Directors of the PTA whose recognition was cancelled. Criminal, civil and/or administrative actions may be taken against any member or officer of the Board of the PTA who may appear responsible for failure to submit the necessary annual financial statements or for failure to account the funds of the PTA.⁷² (Emphasis supplied)

It is evident that the recommending authority of the school head is not as “unbridled” as petitioner claims it to be. On the contrary, the assailed Department Order specifically limits a school head’s competence to recommend cancellation of recognition to the instances defined by Article IX as prohibited activities.

IX

Reference to an approving authority in order that an organization may be given official recognition by state organs, and thus vested with the competencies and privileges attendant to such recognition, is by no means unique to PTAs. By way of example, similar processes and requirements are observed and adhered to by organizations seeking recognition as business organizations (e.g., corporations),⁷³ government contractors,⁷⁴ legitimate

⁷¹ Id. at 13.

⁷² Id. at 32–33.

⁷³ CORPORATION CODE, Sec. 17. Grounds when articles of incorporation or amendment may be rejected or disapproved. - The Securities and Exchange Commission may reject the articles of incorporation or disapprove any amendment thereto if the same is not in compliance with the requirements of this Code: Provided, That the Commission shall give the incorporators a reasonable time within which to correct or modify the objectionable portions of the articles or amendment. The following are grounds for such rejection or disapproval:

1. That the articles of incorporation or any amendment thereto is not substantially in accordance

labor organizations,⁷⁵ and political parties participating in the party-list system.⁷⁶

The demarcation of the broad right to form associations vis-à-vis regulations such as registration, requisite approval by defined authorities, and other such formalities is settled in jurisprudence.

with the form prescribed herein;

2. That the purpose or purposes of the corporation are patently unconstitutional, illegal, immoral, or contrary to government rules and regulations;
3. That the Treasurer's Affidavit concerning the amount of capital stock subscribed and/or paid is false;
4. That the percentage of ownership of the capital stock to be owned by citizens of the Philippines has not been complied with as required by existing laws or the Constitution.

No articles of incorporation or amendment to articles of incorporation of banks, banking and quasi-banking institutions, building and loan associations, trust companies and other financial intermediaries, insurance companies, public utilities, educational institutions, and other corporations governed by special laws shall be accepted or approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency to the effect that such articles or amendment is in accordance with law.

⁷⁴ Republic Act No. 9184, Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects.- The BAC or, under special circumstances specified in IRR, its duly designated organic office shall determine the eligibility of prospective bidders for the procurement of Goods and Infrastructure Projects, based on the bidders' compliance with the eligibility requirements within the period set forth in the Invitation to Bid. The eligibility requirements shall provide for fair and equal access to all prospective bidders. The documents submitted in satisfaction of the eligibility requirements shall be made under oath by the prospective bidder or by his duly authorized representative certifying to the correctness of the statements made and the completeness and authenticity of the documents submitted.

A prospective bidder may be allowed to submit his eligibility requirements electronically. However, said bidder shall later on certify under oath as to correctness of the statements made and the completeness and authenticity of the documents submitted.

⁷⁵ LABOR CODE, Article 234.A Requirements of registration. - A federation, national union or industry or trade union center or an independent union shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) In case the applicant is an independent union, the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) Four copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it. (As amended by Batas Pambansa Bilang 130, August 21, 1981 and Section 1, Republic Act No. 9481 which lapsed into law on May 25, 2007 and became effective on June 14, 2007).

⁷⁶ Republic Act No. 7941, Sec. 5. Registration. - Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: provided, that the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than sixty (60) days before election.

In *Philippine Association of Free Labor Unions v. Secretary of Labor*,⁷⁷ this court was confronted with allegations that Section 23⁷⁸ of Republic Act No. 875, otherwise known as the Industrial Peace Act, which spelled out the requirements for registration of labor organizations, “unduly curtail[ed] the freedom of assembly and association guaranteed in the Bill of Rights.”⁷⁹

⁷⁷ 136 Phil. 289 (1969) [Per J. Concepcion, En Banc].

⁷⁸ Rep. Act No. 875, sec. 23 provides:

Section 23. Registration of Labor Organizations. –

(a) There shall be in the Department of Labor a Registrar of Labor Organizations (hereinafter referred to as the Registrar).

It shall be the duty of the Register to act as the representative of the Secretary of Labor in any proceeding under this Act upon any question of the association or representation of employees, to keep and maintain a registry of legitimate labor organizations and of their branches of locals, and to perform such other functions as the Secretary of Labor may prescribe.

(b) Any labor organization, association or union of workers duly organized for the material, intellectual and moral well-being of its members shall acquire legal personality and be entitled to all the rights and privileges granted by law to legitimate labor organizations within thirty days of filing with the office of the Secretary of Labor notice of its due organization and existence and the following documents, together with the amount of five pesos as registration fee, except as provided in paragraph "d" of this section:

(1) A copy of the constitution and by-laws of the organization together with a list of all officers of the association, their addresses and the address of the principal office of the organization;

(2) A sworn statement of all officers of the said organization, association or union to the effect that they are not members of the Communist Party and that they are not members of any organizations which teaches the overthrow of the Government by force or by any illegal or unconstitutional method; and

(3) If the applicant organization has been in existence for one or more years, a copy of its last annual financial report.

(c) If in the opinion of the Department of Labor the applicant organization does not appear to meet the requirements of this Act for registration, the Department shall, after ten days' notice to the applicant organization, association or union, and within thirty days of receipt of the above-mentioned documents, hold a public hearing in the province in which the principal office of the applicant is located at which the applicant organization shall have the right to be represented by attorney and to cross-examine witnesses; and such hearing shall be concluded and a decision announced by the Department within thirty days after the announcement of said hearing; and if after due hearing the Department rules against registration of the applicant, it shall be required that the Department of Labor state specifically what data the applicant has failed to submit as a prerequisite of registration. If the applicant is still denied, it thereafter shall have the right within sixty days of formal denial of registration to appeal to the Court of Appeals, which shall render a decision within thirty days, or to the Supreme Court.

(d) The registration and permit of a legitimate labor organization shall be cancelled by the Department of Labor, if the Department has reason to believe that the labor organization no longer meets one or more of the requirements of paragraph (b) above; or fails to file with the Department of Labor either its financial report within sixty days of the end of its fiscal year or the names of its new officers along with their non-subversive affidavits as outlined in paragraph (b) above within sixty days of their election; however, the Department of Labor shall not order the cancellation of the registration and permit without due notice and hearing, as provided under paragraph (c) above, and the affected labor organization shall have the same right of appeal to the courts as previously provided.

The Department of Labor shall automatically cancel or refuse registration and permit to the labor organization or the unit of a labor organization finally declared under sections five and six of this Act to be a company union as defined by this Act. The restoration or granting of registration and permit shall take place only after the labor organization petitions the Court and the Court declares (1) that full remedial action has been taken and (2) sufficient time has elapsed to counteract the unfair labor practice which resulted in the company union status.

(e) Provisions of Commonwealth Act Numbered Two hundred and thirteen providing for registration, licensing, and cancellation of registration of organizations, associations or unions of labor, as qualified and expanded by the preceding paragraphs of this Act, are hereby amended.

⁷⁹ *Philippine Association of Free Labor Unions v. Secretary of Labor*, 136 Phil. 289, 290 (1969) [Per J. Concepcion, En Banc].

Sustaining the validity of Section 23, this court put to rest any qualms about how registration and approval, as requisites to the acquisition of legal personality and the exercise of rights and privileges that are accorded to an officially recognized organization, are not incompatible with the right to form associations. On the contrary, this court underscored that the establishment of these requirements is a valid exercise of police power as public interest underlies the conduct of associations seeking state recognition:

The theory to the effect that Section 23 of Republic Act No. 875 unduly curtails the freedom of assembly and association guaranteed in the Bill of Rights is devoid of factual basis. The registration prescribed in paragraph (b) of said Section is not a limitation to the right of assembly or association, which may be exercised with or without said registration. The latter is merely a condition sine qua non for the acquisition of legal personality by labor organizations, associations or unions and the possession of the “rights and privileges granted by law to legitimate labor organizations.” The Constitution does not guarantee these rights and privileges, much less said personality, which are mere statutory creations, for the possession and exercise of which registration is required to protect both labor and the public against abuses, fraud, or impostors who pose as organizers, although not truly accredited agents of the union they purport to represent. Such requirement is a valid exercise of the police power, because the activities in which labor organizations, associations and union of workers are engaged affect public interest, which should be protected. Furthermore, the obligation to submit financial statements, as a condition for the non-cancellation of a certificate of registration, is a reasonable regulation for the benefit of the members of the organization, considering that the same generally solicits funds or membership, as well as oftentimes collects, on behalf of its members, huge amounts of money due to them or to the organization.⁸⁰ (Citations omitted)

The right to organize does not equate to the state’s obligation to accord official status to every single association that comes into existence. It is one thing for individuals to galvanize themselves as a collective, but it is another for the group that they formed to not only be formally recognized by the state, but also bedecked with all the benefits and privileges that are attendant to official status. In pursuit of public interest, the state can set reasonable regulations—procedural, formal, and substantive—with which organizations seeking state imprimatur must comply.

In this court’s January 9, 1973 Resolution, *In the Matter of the Integration of the Bar of the Philippines*,⁸¹ this court underscored the importance of the state’s regulation of the collectivity (although hitherto “unorganized and incohesive”⁸²) of those who, by their admission to the bar, are burdened with responsibilities to society, courts, colleagues, and clients.

⁸⁰ Id.

⁸¹ 151 Phil. 132 (1973) [Per Curiam, En Banc].

⁸² Id. at 138.

This court quoted with approval the following statements made by the Commission on Bar Integration:

In all cases where the validity of Bar integration measures has been put in issue, the Courts have upheld their constitutionality.

The judicial pronouncements support this reasoning:

— Courts have inherent power to supervise and regulate the practice of law.

— The practice of law is not a vested right but a privilege; a privilege, moreover, clothed with public interest, because a lawyer owes duties not only to his client, but also to his brethren in the profession, to the courts, and to the nation; and takes part in one of the most important functions of the State, the administration of justice, as an officer of the court.

— Because the practice of law is privilege clothed with public interest, it is far and just that the exercise of that privilege be regulated to assure compliance with the lawyer's public responsibilities[.]⁸³

For the same purpose of protecting and advancing public interest, this court has sustained the validity not only of those requirements relating to the establishment and registration of associations, but also the substantive standards delimiting who may join organizations. This is illustrated in *United Pepsi-Cola Supervisory Union v. Laguesma*,⁸⁴ where this court recognized the validity of the first sentence of Art. 245 of the Labor Code,⁸⁵ which prohibits managerial employees from forming, assisting, or joining labor organizations, in relation to Article III, Section 8 of the 1987 Constitution. Here, this court recognized that a classification distinguishing managerial employees from rank-and-file employees permitted to form and join labor organizations is grounded on identifiable and appreciable differences. Thus, “there is a rational basis for prohibiting managerial employees from forming or joining labor organizations;”⁸⁶ and, “as to [managerial employees] the right of self-organization may be regulated and even abridged.”⁸⁷

Nor is the guarantee of organizational right in Art. III, §8 infringed by a ban against managerial employees forming a union. The right guaranteed in Art. III, §8 is subject to the condition that its exercise should

⁸³ Id. at 137–138.

⁸⁴ 351 Phil. 244 (1998) [Per J. Mendoza, En Banc].

⁸⁵ LABOR CODE, art. 245 provides:

Art. 245. Ineligibility of managerial employees to join any labor organization; right of supervisory employees. Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own.

⁸⁶ *United Pepsi-Cola Supervisory Union v. Laguesma*, 351 Phil. 244, 279 (1998) [Per J. Mendoza, En Banc].

⁸⁷ Id. at 278.

be for purposes “not contrary to law.” In the case of Art. 245, there is a rational basis for prohibiting managerial employees from forming or joining labor organizations. As Justice Davide, Jr., himself a constitutional commissioner, said in his ponencia in *Philips Industrial Development, Inc. v. NLRC*:

In the first place, all these employees, with the exception of the service engineers and the sales force personnel, are confidential employees. Their classification as such is not seriously disputed by PEO-FFW; the five (5) previous CBAs between PIDI and PEO-FFW explicitly considered them as confidential employees. By the very nature of their functions, they assist and act in a confidential capacity to, or have access to confidential matters of, persons who exercise managerial functions in the field of labor relations. As such, the rationale behind the ineligibility of managerial employees to form, assist or joint a labor union equally applies to them.

In *Bulletin Publishing Co., Inc. v. Hon. Augusto Sanchez*, this Court elaborated on this rationale, thus:

“. . . The rationale for this inhibition has been stated to be, because if these managerial employees would belong to or be affiliated with a Union, the latter might not be assured of their loyalty to the Union in view of evident conflict of interests. The Union can also become company-dominated with the presence of managerial employees in Union membership.”

To be sure, the Court in *Philips Industrial* was dealing with the right of confidential employees to organize. But the same reason for denying them the right to organize justifies even more the ban on managerial employees from forming unions. After all, those who qualify as top or middle managers are executives who receive from their employers information that not only is confidential but also is not generally available to the public, or to their competitors, or to other employees. It is hardly necessary to point out that to say that the first sentence of Art. 245 is unconstitutional would be to contradict the decision in that case.⁸⁸

Our educational system demonstrates the integral role of parents. It is a system founded not just on the relationship between students on the one hand and educators or schools on the other, but as much on the participation of parents and guardians. Parents and guardians are foremost in the Education Act of 1982’s enumeration of the “members and elements of the educational community”:

Section 6. Definition and Coverage – “Educational community” refers

⁸⁸ Id. at 279–280, citing *Philips Industrial Development v. NLRC*, G.R. No. 88957, June 25, 1992, 210 SCRA 339, 347–348 [Per J. Davide, Jr., Third Division].

to those persons or groups of persons as such or associated in institutions involved in organized teaching and learning systems.

The members and elements of the educational community are:

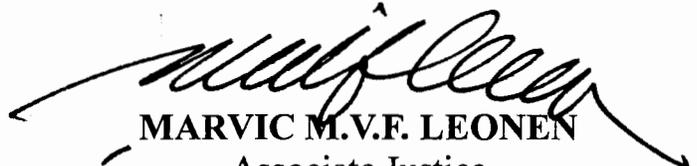
1. "Parents" or guardians or the head of the institution or foster home which has custody of the pupil or student.
2. "Students," or those enrolled in and who regularly attend and educational institution of secondary or higher level of a person engaged in formal study. "Pupils," are those who regularly attend a school of elementary level under the supervision and tutelage of a teacher.
3. "School personnel," or all persons working for an educational institution, which includes the following:
 - a. "Teaching or academic staff," or all persons engaged in actual teaching and/or research assignments, either on full-time or part-time basis, in all levels of the educational system.
 - b. "School administrators," or all persons occupying policy implementing positions having to do with the functions of the school in all levels.
 - c. "Academic non-teaching personnel," or those persons holding some academic qualifications and performing academic functions directly supportive of teaching, such as registrars, librarians, research assistants, research aides, and similar staff.
 - d. "Non-academic personnel," or all other school personnel not falling under the definition and coverage of teaching and academic staff, school administrators and academic non-teaching personnel.
4. "Schools," or institutions recognized by the State which undertake educational operations.

A parent-teacher association is a mechanism for effecting the role of parents (who would otherwise be viewed as outsiders) as an indispensable element of educational communities. Rather than being totally independent of or removed from schools, a parent-teacher association is more aptly considered an adjunct of an educational community having a particular school as its locus. It is an "arm" of the school. Given this view, the importance of regulation vis-à-vis investiture of official status becomes manifest. According a parent-teacher association official status not only enables it to avail itself of benefits and privileges but also establishes upon it

its solemn duty as a pillar of the educational system.

WHEREFORE, in light of the foregoing, the Petition is **DISMISSED.**

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice

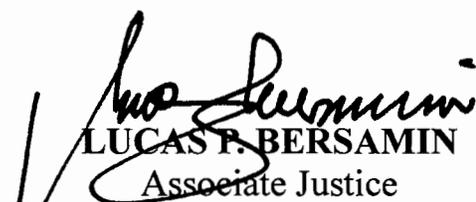

PRESBITERO J. VELASCO, JR.
Associate Justice

*I join the dissent of Justice Brion:
Sesenta Leonardo de Castro*
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

See Dissenting Opinion

ARTURO D. BRION
Associate Justice

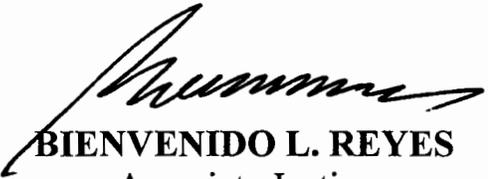

DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

On leave
JOSE CATRAL MENDOZA
Associate Justice

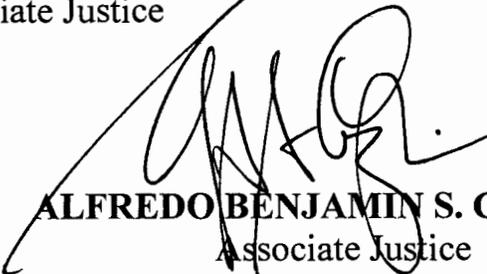


BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

No part
FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.



MARIA LOURDES P. A. SERENO
Chief Justice