



## **DOLE-DEPED-TESDA-CHED JOINT GUIDELINES ON THE IMPLEMENTATION OF THE LABOR AND MANAGEMENT COMPONENT OF REPUBLIC ACT NO. 10533 (ENHANCED BASIC EDUCATION ACT OF 2013)**

Pursuant to Section 31 of the Implementing Rules and Regulations (IRR) of Republic Act No. 10533 (the "Enhanced Basic Education Act of 2013"), approved on September 4, 2013 and which took effect on September 24, 2013, the Department of Labor and Employment (DOLE), Department of Education (DepEd), Technical Education and Skills Development Authority (TESDA), and Commission on Higher Education (CHED) hereby issue the following guidelines (hereinafter referred to as "Guidelines").

**Section 1. Policy.** Under Article XIII, Section 3 of the 1987 Philippine Constitution, it is the policy of the State to:

1. afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all;
2. guarantee the rights of all workers to self-organizations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law;
3. promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace; and
4. regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

### **Section 2. Definition of Terms.**

1. **Higher Education Institution (HEI)** – refers to an educational institution, private or public, undertaking operations of higher education programs with an organized group of students pursuing defined

studies in higher education, receiving instructions from teachers, usually located in a building or group of buildings in a particular site specifically intended for educational purposes.

2. **Personnel** – refers to the person, singly or collectively, working in a higher education institution, as defined in the Manual of Regulations for Private Higher Education (MORPHE).
  - a. **Academic Personnel** – refers to those who are formally engaged in actual teaching or in research assignments, either on full-time or part-time basis.
    - i. **Full-time faculty or academic personnel** – refers to one who meets all the following requirements:
      1. possesses at least the minimum academic qualifications prescribed under the MORPHE for all academic personnel without prejudice to the full-time status acquired prior to the issuance of the DOLE-DECS-CHED-TESDA Order No. 1, dated February 7, 1996;
      2. paid monthly or hourly, based on the regular teaching loads as provided for in the policies, rules and standards of the CHED and the HEI;
      3. devotes not less than eight (8) hours of work a day to the HEI;
      4. has no other remunerative occupation elsewhere requiring regular hours of work, except when permitted by the HEI; and
      5. is not teaching full-time in any other HEI.
    - ii. **Part-time faculty or academic personnel** – refers to a faculty or academic personnel who do not meet the qualifications for full-time faculty or academic personnel.
  - b. **Academic Support Personnel** – refers to those who perform certain prescribed academic functions directly supportive of teaching, such as registrars, librarians, guidance counselors, researchers, and other persons performing similar functions including institution officials responsible for academic matters and affairs.



- c. **Non-Academic Personnel** – refers to the rank-and-file employees of the institution engaged in administrative functions and maintenance of a higher education institution.
3. **Transition Period** – shall be reckoned from the date of the approval of the IRR of RA 10533 until the end of School Year 2021-2022.

**Section 3. Guiding Principles.** This Guidelines is hereby issued to ensure the sustainability of private and public educational institutions; to protect the rights, interests, and welfare of teaching and non-teaching personnel; and to optimize employment retention or to prevent, to the extent possible, displacement of faculty and non-academic personnel in private and public HEIs during the transition from the existing ten (10) years basic education cycle to the enhanced basic education program or K to 12.

All teaching and non-teaching personnel in both private and public educational institutions, who shall be affected by the implementation of the enhanced basic education program, shall be afforded full protection of their rights, welfare, and benefits as provided by law and existing Collective Agreements including their right to security of tenure, and separation benefits, if applicable.

On the other hand, the right of private HEIs to reasonable returns on investments, expansion and growth subject to the overarching limitations under the Labor Code, is likewise recognized.

As an exercise of institutional academic freedom and management's inherent right to establish high standards of competency and efficiency for its faculty members in order to achieve and maintain academic excellence, educational institutions have the right to regulate all aspects of employment, such as hiring, the freedom to prescribe work assignments, working methods, process to be followed, regulation regarding transfer of employees, supervision of their work, lay-off and discipline, and dismissal and recall of workers. But the exercise of this right must be in keeping with good faith and not be used as a pretext for defeating the rights of employees under the laws and applicable contracts.

In the exercise of management prerogative, the following shall be observed:

1. Pursuant to Article 211 (g) of the Labor Code, it is the policy of the State to ensure the participation of workers in decision and policy-making processes affecting their rights, duties, and welfare.
2. Pursuant to Section 13 of the IRR of RA 10533, the DepEd and private educational institutions may hire, as may be relevant to the particular subject, graduates of science, mathematics, statistics, engineering,

music, and other degree courses needed to teach in their specialized subjects in elementary and secondary education with shortages in qualified applicants who have passed the Licensure Examination for Teachers (LET). They shall also include graduates admitted by foundations duly recognized for their expertise in the education sector and who satisfactorily complete the requirements set by these organizations; Provided, That they pass the LET within five (5) years after their date of hiring; Provided, further, That if such graduates are willing to teach in basic education on part-time basis, the provisions of LET shall no longer be required.

- 2.1 Shortages in licensed teachers in private schools shall be determined by the individual schools in consultation with the labor sector. For public schools, the shortage shall be determined by the DepEd.
  - 2.2 Specialized subjects in the secondary level shall be determined in accordance with the curriculum approved by the DepEd.
  - 2.3 Non-licensed teachers hired to teach in their specialized subjects shall be allowed to teach subjects within the discipline of their specialization provided that they acquire their license within five (5) years after their date of hiring. While acquiring their license, their teaching years satisfactorily served shall be considered as part of their probationary period.
  - 2.4 Part-time teachers hired to teach specialized subjects are not required to obtain a license.
3. Graduates of technical-vocational courses may teach in their specialized subjects in the secondary education; Provided, That these graduates possess the necessary certification issued by TESDA; Provided, further, That they undergo appropriate in-service training to be administered by the DepEd or HEIs at the expense of the DepEd. The DepEd shall provide administrative support to private schools for the in-service training of private school teachers on the enhanced basic education curriculum. For this purpose the National Certification shall refer to National TVET Trainer Certificate (NTTC) Level I or higher.
  4. The DepEd and private educational institutions may hire practitioners, with expertise in the specialized learning areas offered by the enhanced basic education curriculum, to teach in the secondary level; Provided, That they teach on part-time basis only. For this purpose, the DepEd, in coordination with the appropriate government agencies, shall determine the necessary qualification standards in hiring these experts.



5. Faculty of HEIs offering secondary education shall be given priority in hiring, provided that the faculty is a holder of a relevant Bachelor's degree, and must have satisfactorily served as a full-time HEI faculty. The same priority shall likewise apply to academic support personnel.

The salary of HEI faculty members affected by the implementation of the enhanced basic education program who have agreed to teach in secondary education, as well as non-teaching personnel who were moved or re-assigned, shall be in accordance with existing salaries and compensation package. In case the compensation is lower than that currently being received as an HEI faculty or non-teaching personnel, the transfer shall be governed by the following:

- a. Individual agreement; or
  - b. Collective Agreement; or
  - c. Such other arrangements as may be allowed by law.
6. In the event that it is impossible for the affected HEI faculty members and academic support personnel to be placed within the institution, they shall be prioritized in hiring in other private and public senior high schools (SHS).

Years of teaching experience in the private HEIs shall be considered in ranking in public schools and vice versa based on the agreed criteria or schemes to be promulgated by the DepEd, Department of Budget and Management (DBM), and Civil Service Commission (CSC), with tripartite partners.

7. Faculty of HEIs may be allowed to teach in their general education or subject specialties in the secondary education; Provided, That the faculty must be a holder of a relevant Bachelor's degree, and must have satisfactorily served as a full-time HEI faculty.
8. Without prejudice to existing collective bargaining agreements or institutional policies, HEI faculty and non-teaching personnel who may not be considered based on the established criteria of the HEI in the secondary level within the same institution, may avail of the retrenchment program pursuant to the provisions of the Labor Code, as amended, or such other remedies as may be provided by law or mutual agreement of the parties.
9. Provided further, that in educational institutions where there is no Collective Agreement or organized labor union, management may adopt policies in consultation with faculty or non-academic clubs or associations in the school consistent and in accordance with the above existing criteria.

10. The DOLE shall issue a clarificatory bulletin with respect to issues on inter and intra-union and exercise of the right to self-organization that may arise during the transition period.
11. Labor disputes arising from the implementation of this Guidelines shall be resolved through conciliation-mediation of the DOLE.

**Section 4. Government Assistance to Affected HEIs and Academic, Academic Support, and Non-Academic Personnel.** The DOLE, together with the DepEd, TESDA, CHED, and other concerned government agencies, shall conduct nationwide region-based profiling of would-be affected Academic, Academic Support, and Non-Academic Personnel (collectively termed as "worker") affected by the implementation of RA 10533. Based on the profiles, the following interventions may be offered:

1. Assistance to Affected HEIs
  - a. E-GASTPE (Expanded Government Assistance to Students and Teachers in Private Education) and other financing arrangements considered in Rule VI of the IRR of RA 10533.
  - b. Facilitation of possible loan assistance from the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), and other government financial institutions.
  - c. Facilitation of possible loan amortizations of HEIs with commercial banks.
2. Assistance to Affected Academic, Academic Support, and Non-Academic Personnel

- a. Wage Employment

For those affected workers who would opt for wage employment, their qualifications based on their profiles shall be processed through job-matching for:

- i. Employment in the same private HEI as a teacher for SHS education (if the HEI has or intends to offer secondary education with SHS).
    - ii. Employment in another private HEI with secondary education.
    - iii. Employment in schools that offer TVET (Technical-Vocational Education and Training) programs.



- iv. Employment in public secondary education schools managed by the DepEd.
- v. Employment in private companies outside the education sector.

b. Re-training or Re-tooling

- i. Consistent with the IRR of RA 10533, for those affected workers who will be absorbed as public SHS teachers, the DepEd shall provide the necessary training. On the other hand, the TESDA shall administer assessment or certification for those who will be trained for TVET in SHS.
- ii. For those affected workers who will be moving out of the education sector, the TESDA shall offer skills re-training or upgrading to develop present qualifications of the workers in order for them to be more job-fit and job-ready for their search of next employment.

c. Livelihood or Entrepreneurship

Affected workers who are found eligible and are willing to venture into livelihood and self-employment programs shall be provided guidance and proper training in order to fully adjust and succeed in their venture. They may avail of the DOLE Adjustment Measure Program (DOLE AMP), a safety net program that provides assistance package and other forms of interventions as a means of helping individuals or workers and companies in coping with economic and social disruptions.

DOLE AMP services include:

- i. Acquisition of productive resources in the form of equipment, raw materials, tools and jigs that can be used by the beneficiaries;
- ii. Trainings, orientations and advisories on entrepreneurship development, business planning, productivity improvement, workers' safety and health, networking and business alliances;
- iii. Assistance in the establishment of common service facility that will respond to the common needs of the beneficiaries and facilitate their access to more productive resources, low-cost inputs, wider market, and higher technology; and

- iv. Advocacy in setting up self-help mechanism for social security.

3. Welfare Assistance

The DOLE, DepEd, TESDA, and CHED shall coordinate and enter into a Memorandum of Agreement (MOA) with the Social Security System (SSS), Home Development Mutual Fund (HDMF), PhilHealth, and other government agencies for the purpose of providing the following assistance or programs:

- a. SSS moratorium on payment of loans and/or condonation of interest;
- b. HDMF suspension on payment of loans, grant of emergency loans and condonation of interest rates;
- c. PhilHealth's Sponsored Program, subsidized either by the:
  - i. National Government
  - ii. Local Government Units
  - iii. Government Hospitals

**Section 5. Effectivity.** This Guidelines shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Manila, Philippines, 30 May 2014.

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