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DEPARTMENT OF EDUCATION
Region X - Northern Mindanao

DIVISION OF MALAYBALAY CITY

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December 17, 2013

DIVISION MEMORANDUM

No. SS7 s. 2013

GUIDELINES ON THE PROTECTION OF CHILDREN DURING ARMED CONFLICT

TO: Education Program Supervisors
Public Schools District Supervisors
Public and Private Secondary School Heads
Public and Private Elementary School Heads
This Division

1. Per DepED Memorandum No. 221, s. 2013, this Office disseminates the herein National and International Laws and Agreements re Guidelines on the Protection of Children during Armed Conflict for information and guidance which is self explanatory.
2. Immediate dissemination of this Memorandum is desired.

[Signature]
EDILBERTO L. OPLENARIA
Schools Division Superintendent



Republic of the Philippines
Department of Education

13 DEC 2013

DepEd MEMORANDUM
No. **221**, s. 2013

GUIDELINES ON THE PROTECTION OF CHILDREN DURING ARMED CONFLICT

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services, Centers and Heads of Units
Regional Directors
Schools Division Superintendents
Heads, Public and Private Elementary and Secondary Schools
All Others Concerned

1. Pursuant to and in compliance with the following national and international laws and agreements, the Department of Education (DepEd) issues this Memorandum to protect the rights of children even during armed conflict:

- a. **Section 3, Article XV of the 1987 Constitution** mandates the State to defend the right of children to assistance and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;
- b. **Republic Act No. 7610, also known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act***, provides that a comprehensive program shall be formulated to protect children against any form of abuse which endangers child survival and normal development and declares children as zones of peace and provides for the monitoring and reporting of children in situations of armed conflict;
- c. **Republic Act No. 9851, also known as the *Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity***, includes as crimes against International Humanitarian Law the conscripting, enlisting or recruiting of children under the age of fifteen (15) into the national armed forces and children under the age of eighteen (18) years into an armed force or group other than the national armed forces, and using them to participate actively in hostilities;
- d. **Executive Order No. 138, dated August 2, 2013, entitled Amending Executive Order (EO) No. 56, s. 2001, and Adopting the Comprehensive Program Framework for Children in Armed Conflict, Strengthening the Council for the Welfare of Children (CWC) and for other purposes;**
- e. **United Nations Conventions on the Rights of the Child (UNCRC) and its Optional Protocol on the Involvement of Children in Armed Conflict** which prohibit the recruitment of children in armed conflict and call for feasible measures to ensure the protection and care of children who are affected by armed conflict;

- f. **United Nations Security Council (UNSC) Resolution Nos. 1539, s. 2004 and 1612 s. 2005**, request State Parties to develop and implement Action Plans on the recruitment and use of minors and mandates the establishment of the Monitoring and Reporting Mechanism (MRM) on Grave Child Rights Violations in Situations of Armed Conflict;
- g. **UN Security Council Resolution Nos. 1882, s. 2009 and 1998 s. 2011** call upon State Parties to take decisive and immediate action against abuses committed against children in situations of armed conflict and call for the integration of post-conflict recovery and reconstruction planning, programs and strategies.

2. In view of the aforementioned national and international laws and agreements, the Armed Forces of the Philippines (AFP) issued the enclosed Guidelines in the Conduct of their Activities Inside or Within a School or a Hospital.

3. The said Guidelines will serve as a guide for all members of the AFP before they can conduct their activities inside the premises of public elementary and secondary schools to ensure that rights of the children are not violated.

4. The school principals who will receive written requests for the conduct of AFP activities in their respective schools shall forward the requests to the division office (DO) for the information and approval of the schools division superintendent (SDS) concerned and provide a copy of the written request to the regional office (RO) and the Office of the Undersecretary for Legal and Legislative Affairs for monitoring purposes.

5. After the conduct of the AFP activity, the school principal shall submit a report to the DO, copy furnished the RO and the Office of Undersecretary for Legal and Legislative Affairs to validate whether such activity was conducted peacefully or not.

6. In case of violations of the enclosed AFP Guidelines, the school principal shall report the same to the DO, copy furnished the RO and the Office of Undersecretary for Legal and Legislative Affairs.

7. Further, school heads (SHs) or any teaching or non-teaching school personnel who have any information on incidents of Grave Child Rights Violations (GCRVs) committed by any person in the context of armed conflict shall report the same to the Council for the Welfare of Children (CWC) MRRS hotline nos.: 0915-722-5993/0927-436-1436 or through email address: mrrs@cwcc.gov.ph within 24 hours from the time the incident happened/occured, copy furnished the RO and the **Office of the Undersecretary for Legal and Legislative Affairs**. The report shall indicate the following data/information:

- a. Source of Data
Name of Reporting Party:
Agency:
- b. Event Information
Source of Information:
Date and Time of Incident:
Location:
No. of Children Affected:
 No. of Girls:
 No. of Boys:
Name/s and Age of Affected Children:
Name of Armed Group or Forces Involved:
- c. Short Description of the incident

8. For purposes of this Memorandum, the GCRVs refer to crimes against children in the context of armed conflict, that constitute flagrant violations of their human rights and have severe consequences on their lives. These can be committed by any person or group who are parties of the conflict. These crimes include, but not limited to, the following:

- a. Killing or maiming of children;
- b. Recruitment or use of children in armed conflict;
- c. Rape and other forms of sexual violence against children;
- d. Abduction of children;
- e. Attacks against schools or hospitals; and
- f. Denial of humanitarian access to children.

9. Immediate dissemination of this Memorandum is desired.


BR. ARMIN A. LUISTRO FSC
Secretary

Encl.:

As stated

Reference:

DepEd Memorandum: No. 157, s. 2013

To be indicated in the Perpetual Index
under the following subjects:

LEGISLATIONS
POLICY
PUPILS
REPORTS
SAFETY EDUCATION
SCHOOLS
STUDENTS

(Enclosure to DepEd Memorandum No. 221, s. 2013)

GENERAL HEADQUARTERS
ARMED FORCES OF THE PHILIPPINES
Cmap General Emilio Aguinaldo, Quezon City

PCRD/OTAG

15 July 2013

LETTER DIRECTIVE

NUMBER 25

**SUBJECT: GUIDELINES IN THE CONDUCT OF AFP ACTIVITIES INSIDE
OR WITHIN THE PREMISES OF A SCHOOL OR A HOSPITAL**

TO: All Concerned

1. References

- a. IPSP "BAYANIHAN" (21 December 2010);
- b. Rules of Engagement for IPSP "BAYANIHAN" (08 March 2011);
- c. Republic Act Number 7610 – An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes (17 June 1992);
- d. Republic Act Number 9851 – An Act Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity, Organizing Jurisdiction, Designating Special Courts, and for Related Purposes (11 December 2009);
- e. Republic Act Number 9745 – An Act Penalizing Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment and Prescribing Penalties Therefor (10 November 2009);
- f. International Humanitarian Law
- g. Geneva Conventions (12 August 1943), and Additional Protocols I and II (08 June 1977)
- h. Convention on the Rights of the Child (20 November 1989/02 September 1990), and Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (25 May 2000/12 February 2002); and
- i. United Nations Security Council (UNSC) Resolutions 1612 (2005) and 1882 (2009).

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 cont'n:

2. Purpose

This Directive prescribes the policies and guidelines in the conduct of any and all AFP activities, independently or in coordination with government and/or non-government entities, inside or within the premises of a school or hospital in order to prevent the occurrence of the six (6) Grave Child Rights Violations or Grave Violations Against Children During Armed Conflict pursuant to and in compliance with United Nations Security Council (UNSC) Resolutions 1612 (2005) and 1882 (2009), more specifically the violations known as "Attacks on Schools and Hospitals"

3. Definition of Terms

- a. Armed Group – Refers to an armed non-State actor or non-State entity engaged in armed conflict against the State or engaged in armed violence, against the State and its government forces or against other non-State armed groups/actors/entities.
- b. Child – Refers to a person below eighteen (18) years of age, or one who is eighteen (18) or over but is unable to fully take care of one's self from abuse, neglect, cruelty, exploitation, or discrimination because of physical or mental disability or condition.
- c. Children in Situations of Armed Conflict or CSAC – Refers to all Children Involved in Armed Conflict or CIAC; Children Affected by Armed Conflict or CAAC; and Internally Displaced Children or IDC; as defined below:
 - 1) Children involved in Armed Conflict or CIAC – Refers to children who are either forcibly, compulsory recruited, or who voluntarily joined in any governmental armed forces or any armed group in any capacity to participate directly in armed hostilities as combatants or as fighters, or take support roles such as but not limited to scouting, spying, sabotaging, acting as decoys, assisting in checkpoints, being couriers, messengers porters, or cooks, and being used for sexual purposes.
 - 2) Children Affected by Armed Conflict or CAAC – Refers to all children population experiencing or have experienced armed conflict.
 - 3) Internally Displaced Children or IDC – Refers to children, whether separated or together with their families, who have

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effects of armed conflict.

- d. Children Protection – Refers to the measures, structures, and activities that ensure the prevention and response to abuse, neglect, exploitation, and violence affecting children. It includes the promotion of their development and psychological well-being.
- e. False Labeling of Children as Children in Armed Conflict – Refers to the voluntary and intentional act referring to, calling, defining, reporting, or any other form of communication that incorrectly defines children as children involved in armed conflict, when the status or condition of such children is such that they are actually not involved in armed conflict as defined in this Act.
- f. Grave Child Rights Violations or GCRV – Refers to the offenses committed against children that constitute flagrant violations of their human rights and have severe consequences in their lives. These offenses include the following:
 - 1) Killing and Maiming of Children – Killing includes any action that results to the death of one or more children. Maiming, on the other hand, includes any action that results to permanent or debilitating injury, defacing, scarring, and mutilation to one or more children. It should be noted that psychological injuries are not covered under this violation.
 - (a) Killing of Children – May also refer to acts of all kinds in the context of armed conflict that result in the death of one or more children. Among others, they include the death of children as a result of direct targeting or as the indirect result of, among others, the use of landmines, cluster munitions, ERW, and all forms and types of IEDs
 - (b) Maiming of Children – May also refer to acts of all kinds in the context of armed conflict that result in serious serious or permanent disabling injury, scarring defacing, or mutilation of one or more children. It shall cover intentional maiming of children where they are directly targeted, and casual maiming of children as the indirect result of, among others, the use of landmines, cluster munitions, ERW, and all forms and types of IED.

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

- 2) Recruitment and Use of Children – Recruitment includes acts of voluntary, compulsory, or forced conscription or enlistment to any armed force or armed group. The use of children in the context of armed conflict includes the use of minors in any capacity, such as but not limited to: fighters, cooks, porters, messengers, sexual slaves, or spies. This violation also includes cases of “labeling” or “associating” a child with an armed group/force.
- 3) Rape and Grave Sexual Violence of Children – This violation includes acts of sexual violence such as rape, enforced sterilization, forced prostitution, forced marriage, or pregnancy, as well as sexual slavery. Rape refers to the crime of rape as defined under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 of the Anti-Rape Law.
- 4) Abduction of Children – Refers to the unlawful seizure, apprehension, taking in custody, detention, or capture of one or more children either temporarily or permanently by force, threat of force or coercion, or deception for the purpose of any form of exploitation of such children in the situation of armed conflict. Abduction would include kidnapping, hostage-taking, illegal detention, of any child in the context of armed conflict.
- 5) Attacks on Schools and Hospitals – Refers to the occupation without a lawful purpose, shelling, targeting for propaganda in relation to unlawful purposes or purposes contrary to public policy, order, or morals of schools and hospitals; or causing damage to such places, or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of education activities and health services. It also refers to attacks of such places which have been temporarily.
- 6) Denial of Humanitarian Access – involves the intentional barring by physical force or administrative barriers of humanitarian aid supplies, services, and personnel, into and out of an affected area.
 - (a) Humanitarian Access – Refers to the right of vulnerable populations to receive international protection and assistance from an impartial humanitarian relief operation to complement efforts of national authorities. Such action is subject to the consent of the State parties

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

concerned and does not prescribe coercive measures in the event of refusal, however unwarranted.

(b) Humanitarian Assistance – Refers to aid that seeks to save lives and alleviate suffering of a crisis affected population. Humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality, independence and neutrality. Assistance may be divided into three (3) categories: direct assistance, indirect assistance and infrastructure support which have diminishing degrees of contact with the affected population.

g. Hospitals or Health Facilities – Refers to any structure recognized and known by the community as a facility where persons are provided with health care service.

h. School – Refers to any structure, with or without marked visible boundaries, provided that it is recognized and known by the community as a learning space.

4. General Polices/Guidelines

a. AFP units that will conduct any and all activities that are non-combat or non-traditional in nature, such as but not limited to Civil-Military Operations (CMO), inside or within the premises of a school or hospital, must adhere to and undertake the following prior to the holding of such activity(ies):

1) The activity to be conducted must be multi-sector in nature where government and non-government entities, as much as possible CSOs/NGOs/Pos, are to be involved in the planning, preparation, actual conduct, and post-activity stages.

2) The activity must not be in the nature that is within the context of armed conflict in order to avoid undue labeling, tagging and branding of persons/groups/organizations, most especially children, teachers, medical/dental professionals, health workers, and/or employees/workers of the school and hospital concerned.

3. Prior to the activity, there must be an expressed and written permission from the:

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

(a) School administration at least the Principal or School Administrator;

(b) Local Government Unit (LGU), such as but not limited to, the Barangay Captain or his/her duly authorized representative from the Barangay Council up to as needed, the Provincial/City/Municipal Local Chief Executive (LCE) or his/her duly authorized representative from the Sangguniang Panlalawigan/Lungsog/Bayan; and

(c) Regional or Provincial or Municipal/City Superintendent/Offices of the Department of Education (if the venue is a school), OR the Regional or Provincial or Municipal/City Offices of the Department of Health (if the venue is a hospital).

4. When requesting for permission, the request from the AFP unit concerned must include:

(a) Description/Type of the activity – What, Where, When, Why/Purpose, Who, and How the activity will be conducted;

(b) Inclusive period of the use of the facility to include the pre-activity, actual activity, post-activity periods of time;

(c) Identification of AFP unit(s) that will be involved and/or will be participating in the activity; and

(d) Designation/identification of the overall Commander or Officer-in-Charge of the activity, to include Points/Modes of Contact for coordination purposes.

5. When the AFP unit is the one being requested by a third party to participate in the said activity, the requesting party should be informed of the above by the Commander of the unit being requested. As such, the AFP unit shall assist and jointly undertake with the requesting party in the undertaking the coordination/permission as stated above.

6. Force protection unit(s) (soldiers who are armed and acting as security for the AFP personnel and for the activity itself) must only be in the proximity of the school and not inside the school. For purposes of proper identification, they must all be in complete/proper uniform.

7. If there is a need for the force protection unit(s)/personnel to be inside the school, due to exigencies of the prevailing security situation and/or activity and/or request, they must be deployed and limited/contained to the pre-identified/pre-approved area within the school (hospital) premises. In this situation, soldiers who are armed must avoid mingling with children,

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

teachers, medical/dental professionals, health workers, and/or employees/workers of the school and hospital concerned.

8. In order to clearly record the conduct of the activity for purposes of documentation, units concerned must undertake photo and video coverage of the activity, hence is highly encouraged.

9. Commanders at the different levels of operational/tactical commands are held responsible in undertaking the above coordination. All actions must be compliant with the Strategic Imperatives of IPSP 'BAYANIHAN'.

10. In cases and/or situations warranting clarification of certain issues or concerns, said Commanders should undertake coordination with Higher Headquarters (Attention: AFP HRO and/or Major Service HRO and/or Unified Command HRO) in order to resolve certain issues and concerns prior to the activity.

b. In the course of traditional activities, such as combat or intelligence operations, AFP units should not and are prevented to undertake the following inside or within the proximity of a school or hospital:

1. Occupy schools/hospitals without a lawful purpose, whether these are for a prolonged or temporary stay, and establish a Command Post (CP), Patrol Base (PB), Temporary Patrol Base (TPB), harbor or rest area and any other combat-/intelligence-related operations.

2. Targeting schools/hospitals or its personnel for propaganda in relation to unlawful purposes or purposes contrary to public policy, order, or morals.

3. Targeting schools/hospitals for direct/indirect fires thereby causing harm or injury to their personnel, most especially children, and/or causing the total or partial physical destruction of such facilities, and/or disruption of education activities and health services. However, when such place(s) is/are illegally occupied by an armed group resulting into hostages and/or illegal occupation for purposes of the conduct of further criminal/illegal acts and/or illegal occupation for the use of said place(s) as a shield/refuge to avoid arrest/capture and/or any other purpose(s) constituting acts of terror or disruption of its normal function and/or resulting further into a graver security concern, AFP units shall undertake such actions, as needed/warranted, in coordination with the PNP and with the approval/consent of the Crisis Management Committee of the LGU. In such situations, actions of the AFP unit(s) should have primordial concern of preventing injuries/deaths to all person(s) most especially children, caught in the situation and other collateral damages. The AFP's ROE shall

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

govern all military actions, hence all Commanders, at the different levels of operationa/tactical commands, should ensure that AFP personnel/units are properly and appropriately briefed on these prior to such actions.

4. In situations where member(s) of the armed group are lawfully captured/arrested and are brought to a hospital for appropriate medical treatment or attention, and security personnel/armed soldiers are necessary to guard and prevent the escape of said captured/arrested member(s) of the armed group. AFP unit(s) must coordinate with the administration of the said hospital and local PNP stating therein the purpose of the presence of armed personnel, clearly identifying these personnel, and establish the areas where these personnel will be situated. Utmost concern must be exercised so that normal activities of the said hospital is not disrupted/hampered and undue alarm is not caused amongst the other patients, civilians/visitors, medical or dental professions, health workers, employees or workers of the hospital. The period of stay must be only for the duration of the confinement and/or treatment of the member(s) of the armed group in the hospital. As such, a responsible officer must be designated/placed in-charge of the security detail by the Commander of the said AFP unit undetaking the same.

5. Children shall not be the object of an attack and shall be entitled to special respect.

6. Children or persons seventeen (17) years of age or below shall not be recruited or enlisted to become member of the AFP or the CAFGU. They shall not be allowed to take part in the fighting or be used as assistants in checkpoints, or as guides, couriers, porters, cooks or spies.

7. Schools/learning centers, hospitals/health centers and facilities shall not be utilized for military purposes, whether as command posts, rest areas, detachments and supply depots, and the resources of the said school or hospital such as electricity and water shall not be utilized for military purposes, unless otherwise provided under these guidelines. Detachments or patrol bases shall not be erected in the immediate vicinity of schools/learning centers, hospital/health centers and facilities. If there is a prevailing security situation in a specific area where there is a school or hospital, the temporary patrol base shall be erected not less than fifty (50) meters away from said school or hospital.

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

8. Children or persons seventeen (17) years of age or below shall not be called, tagged, labeled or otherwise branded as rebels or insurgents .

9. Military personnel shall not enter schools/learning centers, hospital/health centers and facilities in battle dress attire (BDA) and with firearms displayed, unless it is for a lawful purpose as provided under these guidelines. The conduct of anti-insurgency information campaigns inside schools and hospitals is forbidden. School activities or health services shall not be arbitrarily disrupted, unless there is a clear and imminent danger to the safety of the people therein.

10. School personnel shall not be used as military assets, or for information-gathering or dissemination related to military objectives.

c. The main intent of the above policies/ guidelines is not only to be compliant with the references stated in paragraph 1 above but also to prevent/bring to unnecessary risk and/or endanger all children, teachers, medical/dental professionals, health workers, and/or employees/workers of the school and hospital concerned, and the school or hospital itself.

d. In all situations wherein AFP units are to conduct an activity inside or within the premises of a school or hospitals. Commanders of the unit(s) directly undertaking such activity shall submit an After Activity Report (AAR) no later than fifteen (15) days after the completion of said activity to their immediate Higher Headquarters. A copy of this AAR shall be placed in file for ready information, reference and retrieval, as needed or warranted during complaints/reports of a grave child rights violation, more specifically "attacks on schools or hospitals."

e. Violations, whether deliberate or due to gross negligence, of the above policies and guidelines in the conduct of any and all AFP activities, independently or in coordination with government and/or non-government entities, inside or within the premises of schools or hospitals, shall be appropriately investigated by a duly-constituted Court or Board of Inquiry by this Headquarters or by the Major Services or by the Unified Commands. Those found culpable of violations, whether deliberate or due to gross negligence, shall be dealt with in accordance with the Military Justice System and Articles of War without prejudice to the filing of criminal cases before a civilian court of law.

5. Rescission Clause:

Ltr Dir Nr 25, GHQ, AFP dtd 15 July 2013 (cont'n):

All previous AFP policies and guidelines, or parts thereof, inconsistent with the provisions of the above policies and guidelines are hereby rescinded or modified accordingly.

6. Separability Clause

All provisions of the above policies and guidelines, or parts thereof, that may be found in conflict with provisions of laws and/or new issuances of law and/or policies and guidelines that may later on be prescribed by this Headquarters or the Department of National Defense shall be considered repealed in favor of existing laws and/or future laws, policies and guidelines.

7. Effectivity

This Directive takes effect upon publication.

BY COMMAND OF GENERAL BAUTISTA:

RONALD N. ALBANO

Colonel, PA (MNSA)

The Adjutant General

DISTRIBUTION:

“A”