



Department of Education
Region X- Northern Mindanao
DIVISION OF MALAYBALAY CITY



DIVISION MEMORANDUM

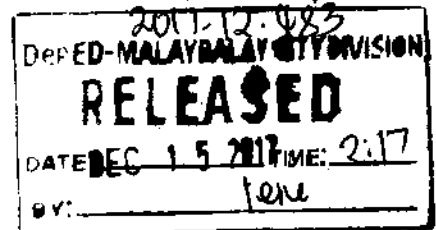
No. 687 s. 2017

TO : Chief Education Supervisors and staff- CID and SGOD
Public Schools District Supervisor
Elementary and Secondary School Heads Concerned
All Others Concerned

FROM : 
EDILBERTO L. OPLENARIA, CESO VI
Schools Division Superintendent

DATE : December 8, 2017

SUBJECT : **DISSEMINATION OF DEPED MEMORANDUM NO. 197, S. 2017 RE:
REITERATION OF THE POLICIES ON PROTECTION AGAINST TOBACCO
INDUSTRY INTERFERENCE IN THE DEPARTMENT PURSUANT TO DEPED
ORDER NOS. 48, S. 2016 AND 6, S. 2012, AND CSC-DOH JMC 2010-01**



1. Pursuant to DepEd Memorandum No. 197, s. 2017 dated December 4, 2017 re: Reiteration of the Policies on Protection against Tobacco Industry Interference in the Department Pursuant to DepEd Order Nos. 48, s. 2016 entitled Policy and Guidelines on Comprehensive Tobacco Control; and DO 6, s. 2012 entitled Guidelines on the Adoption and Implementation of Public Health Policies on Tobacco Control and Protection Against Tobacco Industry Interference; and Civil Service Commission (CSC)-Department of Health (DOH) Joint Memorandum Circular (JMC) 2010-01 entitled Protection of the Bureaucracy against Tobacco Industry Interference, the field is reminded of the policy of the Department on the protection against Tobacco Industry interference. The enclosed CSC-DOH JMC 2010-01 provide for the prohibited acts and administrative sanctions on Tobacco Industry interference.
2. Immediate dissemination and compliance of DepEd Memorandum No. 197, s. 2017 is highly desired.

Encl.:
As stated

Copy Furnished:
Records Unit
SGOD-School Health Section

TO BE POSTED IN THE DIVISION WEBSITE



Republic of the Philippines
Department of Education

04 DEC 2017

DepEd MEMORANDUM
No. **197**, s. 2017

**REITERATION OF THE POLICIES ON PROTECTION AGAINST TOBACCO INDUSTRY
INTERFERENCE IN THE DEPARTMENT PURSUANT TO DEPED ORDER
NOS. 48, S. 2016 AND 6, S. 2012, AND CSC-DOH JMC 2010-01**

To: Undersecretaries
Assistant Secretaries
Bureau and Service Directors
Regional Directors
Schools Division Superintendents
Public Elementary and Secondary School Heads
All Others Concerned

1. The Tobacco Industry Interference Index Philippine Report 2017 showed that *"there has been no decrease in so-called Corporate Social Responsibility (CSR) activities by the tobacco industry or its groups."* The report cited that they *"engaged in several activities such as school feeding, donations to police stations and schools."*
2. The Department of Education (DepEd) reiterates the policies on the protection against tobacco industry interference in the Department to ensure the strict implementation of DepEd Order (DO) No. 48, s. 2016 entitled Policy and Guidelines on Comprehensive Tobacco Control; DO 6, s. 2012 entitled Guidelines on the Adoption and Implementation of Public Health Policies on Tobacco Control and Protection Against Tobacco Industry Interference; and Civil Service Commission (CSC)-Department of Health (DOH) Joint Memorandum Circular (JMC) 2010-01 entitled Protection of the Bureaucracy Against Tobacco Industry Interference.
3. Tobacco Industry refers to organizations, entities, associations, and individuals who work for and in behalf of the tobacco industry, such as, but not limited, to tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, from groups and /or organizations, including, but not limited to lawyers, scientists, and lobbyists who work to further the interests of the tobacco industry.
4. Tobacco Industry Interference refers to the broad array of tactics and strategies utilized by the tobacco industry to influence or interfere with the setting and implementation of tobacco control policies.

5. Pursuant to DO Nos. 48, s. 2016; 6, s. 2012; and CSC-DOH JMC 2010-01, the following acts are hereby prohibited and shall be penalized in administrative proceedings as Grave or Simple Misconduct depending on the gravity of the act and its consequences, under existing laws, rules, and regulations, namely:

- a. Unjustified refusal by persons concerned to report tobacco control policy violations, including so-called tobacco industry Corporate Social Responsibility (CSR) activities in schools or provide any related information that would facilitate enforcement of policies on the protection against tobacco industry interference;
- b. Having unnecessary interaction with the tobacco industry;
- c. Failure to conduct a necessary transaction with the tobacco industry in a public and transparent manner;
- d. Unjustified refusal by persons concerned to correct any perception of partnership with the tobacco industry;
- e. Extending preferential treatment to the tobacco industry;
- f. Accepting gifts, donations, and sponsorships directly and indirectly from the tobacco industry, including those that may be coursed through DepEd stakeholders, partners, or third parties in the guise of CSR projects;
- g. Failure to disclose any financial interest in the tobacco;
- h. Accepting any favors analogous to those mentioned above—such as having any conflict of interest with the tobacco industry;
- i. Failure to disclose engagement in any occupational activity within the tobacco industry or any intention to engage in the same to past and current superiors; and
- j. Any analogous or similar acts.

6. To address cases related to the above, concerned school and DepEd authorities shall follow the Civil Service Commission's Guide for Resolving/Filing Cases of Tobacco Industry Interference in the Bureaucracy (Enclosure No. 1).

7. Pursuant to DO 48, s. 2016, the central, regional, and schools division offices, and schools shall include a provision in all Memoranda of Agreement entered into with donors and partners stating full commitment of all parties concerned to tobacco control implementation and stipulating that said donor or partner does not represent the interests of or receive funding from the tobacco industry (Enclosure No. 2).

8. Immediate dissemination of this Memorandum is desired.


LEONOR MAGTOLIS BRIONES
Secretary

Encls: As stated

References: DepEd Order: (Nos. 48, s. 2016 and 6, s. 2012)

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

HEALTH EDUCATION

POLICY

SCHOOLS



**GUIDE FOR
Resolving/Filing
Cases of Tobacco
Industry Interference
in the Bureaucracy**

FOREWORD

In response to the tobacco epidemic, the Philippines has taken big steps to forward its agenda in setting and implementing public health policies. A big leap was made when the country became a party to the World Health Organization-Framework Convention on Tobacco Control in 2005. Article 5.3 of the Convention requires all parties to protect their tobacco control policies from the commercial and other vested interests of the tobacco industry.

As the central human resource institution of the Philippine bureaucracy, the Civil Service Commission partnered with the Department of Health to issue the Joint Memorandum Circular No. 2010-01 (JMC) entitled "Protection of the Bureaucracy Against Tobacco Industry Interference". The JMC upholds the integrity in the public service by insulating government agencies involved in the implementation of tobacco control policies from the interest of the tobacco industry. It limits the government's interaction with the tobacco industry only to that which is necessary for the purpose of regulation, control, and supervision of the industry. Government officials and employees can be held accountable when violation of the JMC is committed.

This Guide was developed specifically to facilitate initiation and resolution of cases involving violations of the JMC and the CSC Memorandum Circular No. 17, s. 2009 (Smoking Prohibition Based on the 100% Smoke Free Environment Policy). It intends to assist the CSC Regional Offices, the Office of the Ombudsman, Sandiganbayan, Office of the President and heads of government agencies/disciplining authorities who will act on violations subject to their respective jurisdictions. It is envisioned that the Guide will not just serve as reference for the action officers, but will also encourage the public to file complaints as necessary to fully enforce the tobacco control policies.

We hope that the government will be able to promote health, accountability and transparency among all civil servants through the JMC and CSC MC 17; and this is a responsibility which we will continue to pursue.


ALICIA dela ROSA-BALA, CESO I
Chairperson

Prohibitions under the Joint CSC and DoH Memorandum Circular No. 2010-01*

(quoted from Item 3.0 Prohibitions of the CSC-DoH JMC 2010-01)

3.1 Unnecessary Interaction with the Tobacco Industry

Public officials and employees shall interact with the tobacco industry only when strictly necessary for the latter's effective regulation, supervision or control. Transparency in all interactions with the tobacco industry shall be observed. Any necessary interaction with the tobacco industry should be carried out in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from, or on account of, such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, public officials and employees shall act to prevent or correct this perception.

3.2 Preferential Treatment to the Tobacco Industry

Public officials and employees shall serve the public interest and are prohibited from providing incentives, privileges, benefits or exemptions to the tobacco industry, except as otherwise provided by law.

3.3 Accepting Gifts, Donations and Sponsorship

Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity favor, entertainment, loan or anything of monetary value in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office from any person or business related to the tobacco industry.

3.4 Financial Interest in the Tobacco Industry

Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction involving the tobacco industry requiring the approval of their office. In relation to this, public officials and employees shall declare any interest in the tobacco industry in their annual declaration of assets and liabilities.

*Published on July 8, 2010, National Administrative Register

3.5 Accepting Other Favors Analogous to those mentioned above, like, but not limited to the following:

Public officials and employees shall not accept or have any member of his/her family accept employment or recommend any one to any position in any private enterprise connected with the tobacco industry which has a regular or pending official transaction with their agency.

3.6 Conflict of Interest with the Tobacco Industry

Public officials or employees, regardless of status, shall avoid conflicts of interest with the tobacco industry at all times. When a conflict of interest arises, he/she shall resign from his/her position in the tobacco industry within thirty (30) days from his/her assumption of office and/or divest himself/herself of his/her shareholdings or interest within sixty (60) days from assumption.

3.7 Engaging in an Occupational Activity within the Tobacco Industry

Public officials and employees of agencies that have a role in setting and implementing public health policies with respect to tobacco control, shall inform their institutions about any intention to engage in any occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving the service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

Responsibilities of the Head of Agency under the CSC and DoH Joint Memorandum Circular (JMC):

- a. Inform officials and employees of the policy against tobacco industry interference
- b. Amend their Code of Conduct by incorporating the Rules provided for in Annex A of the JMC (or adopt the JMC as an Office policy)

Procedures in Resolving Cases of Tobacco Industry Interference In the Bureaucracy

- A. Violations of the JMC shall be under the jurisdiction of the following:

E. O. 292 states that the Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government owned and controlled corporations with original charters.

1. The secretaries and heads of agencies, and other instrumentalities, provinces, cities and municipalities shall have original jurisdiction over their respective officers and employees;
2. The Civil Service Commission shall have original concurrent jurisdiction.

JMC covers all government officials and employees, regardless of status, in the national or local government including government-owned and controlled corporations, with original charters, state colleges and universities. Although the JMC covers all government officials and employees, the CSC has no disciplinary jurisdiction over the following:

Officials/Employees	Disciplining Authority
Presidential Appointees	Ombudsman, Office of the President
Local elective officials	Ombudsman, Office of the President
Members of constitutional offices, Ombudsman	Congress through Impeachment
Justices of the Supreme Court	Congress through Impeachment
Judges of lower courts and other court personnel	Supreme Court
Members of Congress	Congress

- B. Contents of the complaint

A complaint is a sworn affidavit containing the violation of the JMC and describing the person being complained of.

A complaint is accompanied by the following documentary and testimonial evidence: a) Certified true copies of documentary evidence; b) Affidavits of his/her witness if any; c) Certification or statement of non forum shopping.

- C. Issuance of a Show Cause Order

A show cause order is issued by the proper disciplining authority or his/her authorized representative, indicating the acts or omissions being complained and to apprise the person subject of the complaint. It also requires said officer or employee to provide his/her explanation for the acts or omission complained of.

- D. Conduct of Preliminary Investigation

A preliminary investigation is a proceeding undertaken to determine whether a prima facie case exists to warrant the issuance of a formal charge.

Prima facie evidence is that amount of evidence that is sufficient to establish a given fact, or group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.

If no prima facie case is found, the complaint will be dismissed.

- E. Issuance of a Formal Charge

After finding a prima facie case (evidence good and sufficient on its face), the disciplining authority shall formally charge the person complained of, who shall now be called as a respondent. A formal charge is a written specification of the charges against an employee. It must also contain an

information that he/she may elect to have a formal hearing and that he/she may choose a counsel of his/her choice to assist him/her.

F. Petition for Review

A party may elevate the decision of the Civil Service Commission Regional Office (CSCRO) dismissing the complaint for lack of a prima facie case or where the formal charge issued was for a lower offense, through a petition for review before the Commission within 15 days from receipt of said decision.

G. Conduct of a Formal Hearing, if necessary

A formal investigation shall be conducted by the disciplining authority when: a) The merits of the case cannot be decided judiciously without conducting a formal investigation or, b) when the respondent elects to have one.

H. Promulgation of the Decision

The disciplining authority shall decide the case within thirty (30) days from the receipt of the formal investigation report.

I. Penalty for violation of the JMC

Violation of the JMC may constitute an administrative offense of SIMPLE OR GRAVE MISCONDUCT. Grave offenses are meted with the administrative penalty of Dismissal with accessory penalties. Non-grave offenses are given a penalty of suspension from one month one day to one year and/or fine.

In the case of ARTECHE, Jesuita, CSC Resolution No. 98-1432, dated 10th of July, 1998, the Civil Service Commission defined Grave Misconduct as follows:

Misconduct is defined as a transgression of some established and definite rule of action, more particularly,

unlawful behavior or gross negligence of the public officer. Also the word misconduct implies a wrongful intention, and not a mere error of judgment. If the transgression is done with deliberate intent or in complete disregard of established rules, it becomes Grave Misconduct. Otherwise, it is only Simple Misconduct.

J. Filing of Motion for Reconsideration, if necessary

The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof. The filing of a motion for reconsideration shall stay the execution of the decision sought to be reconsidered.

K. Filing of an Appeal

Decisions of heads of departments, agencies, provinces, cities and municipalities and other instrumentalities may be appealed to the Commission within a period of fifteen (15) days from receipt thereof.

In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission.

Decisions of the Civil Service Commission are appealable to the Court of Appeals under Rule 43 of the Rules of Court. A party desiring to appeal the decision of the Court of Appeals may file an appeal under Rule 45 with the Supreme Court.

The decision of the Commission shall be executory pending appeal.

**Filing of Complaints under the Revised Rules on
Administrative Cases in the Civil Service (RRACCS)**
(quoted pertinent provisions of the RRACCS)

**DISCIPLINARY CASES
Rule 3
COMPLAINT**

Section 10. *Who May Initiate.* – Administrative proceedings may be initiated by the disciplining authority motu proprio or upon complaint of any other person.

Section 11. *Requisites of a Valid Complaint.* – Except when initiated by the disciplining authority or his/her authorized representative, no complaint against a civil service official or employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant. In case initiated by the proper disciplining authority or his/her authorized representative, a show cause order is sufficient.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint in triplicate copies shall be written in a clear, simple and concise language and in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation against him/her and to enable him/her to intelligently prepare his/her defense or answer/comment. However, should there be more than one (1) person complained of, the complainant is required to submit additional copies corresponding to the number of persons complained of.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the person/s complained of as well as his/her/their position/s and office/s

- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and
- e. certification or statement of non-forum shopping.

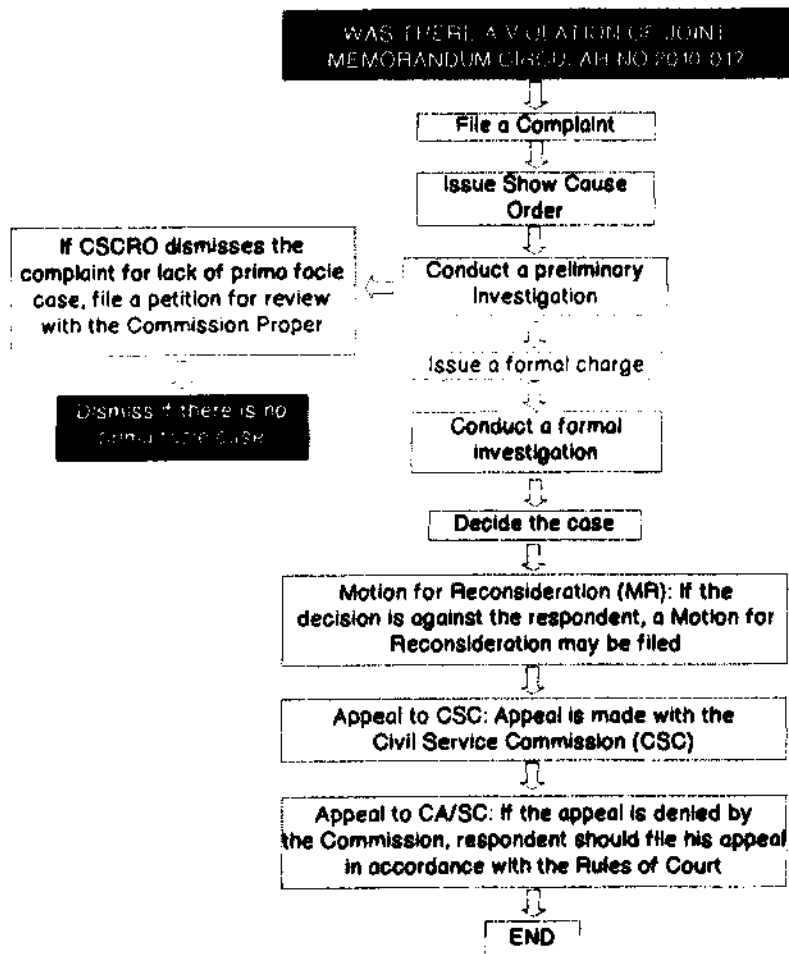
The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the above requirements.

Section 12. *When and Where to File a Complaint.* – Except when otherwise provided for by law, an administrative complaint may be filed at anytime with the Commission or any of its Regional Offices, heads of departments, agencies, provinces, cities, municipalities and other instrumentalities.

Section 13. *Withdrawal of the Complaint.* – The withdrawal of the complaint does not result in its outright dismissal nor discharge the person complained of from any administrative liability. Where there is obvious truth or merit to the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person/s complained of, the same should be given due course.

Section 14. *Action on the Complaint.* – Upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person/s complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of order requiring him/her/their comment/s.

**Flowchart in Resolving
Cases of Tobacco Industry Interference in the Bureaucracy
JOINT MEMORANDUM CIRCULAR NO. 2010-01
(PROTECTION OF THE BUREAUCRACY AGAINST TOBACCO INDUSTRY INTERFERENCE)
and
CSC Memorandum Circular No. 17, s. 2009
(SMOKING PROHIBITION based on the 100% SMOKE-FREE ENVIRONMENT POLICY)**

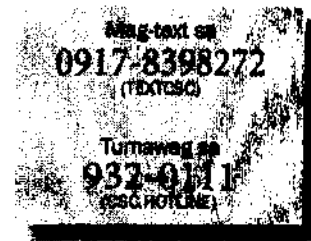


For more information or to report violations, the Civil Service Commission may be reached through TEXTCSC or CSC Hotline.



Isumbong ang:

- Paninigarilyo sa loob ng tanggapan ng gobyerno (per CSC MC 17, s. 2009)
- Pakikipag-ugnayan ng kawani ng gobyerno sa industriya ng tabako tulad ng pagtanggap ng regalo, pabor, donasyon o sponsorship (per CSC-DOH MC 2010-01)



Para sa karagdagang impormasyon mag-log on sa <http://excell.csc.gov.ph/PMU/smokefree.html> o magpadala ng e-mail sa smokefreereport@

To facilitate the filing of complaints for violation of the JMC and/or CSC MC No. 17, the attached forms may be used, photocopied and be made accessible to the public.

For complaints that fall under the jurisdiction of the CSC, the accomplished complaint form that is duly notarized together with attachments /proof may be mailed directly to the CSC Central Office at the following address:

Office for Legal Affairs
Civil Service Commission
Constitution Hills, Diliman 1126
Quezon City

Developed by the Civil Service Commission - Project Management Unit in coordination with the Office of Commissioner Robert S. Martinez, the Office for Legal Affairs and the Public Assistance and Information Office through the Project: Strengthening the FCTG Article 5.3 implementation in the Philippine Bureaucracy.

In partnership with:



International Union Against
Tuberculosis and Lung Disease
Health solutions for the poor

(Enclosure No. 2 to DepEd Memorandum No. 197, s. 2017)

Provision on No Tobacco Industry Interests by Partners and Donors

In line with the policy enunciated under Joint Memorandum Circular 2010-01 issued by the Civil Service Commission and the Department of Health, and DepEd Order No. 6, s. 2012 and DepEd Order No.48, s. 2016, the Department of Education does not deal with the tobacco industry, or any individual or entity that works to further the interests of the tobacco industry, except to the extent strictly necessary to effectively regulate the tobacco industry and tobacco products.¹

The First/Second Party confirms that he/she/it (as well as all members of its board and senior management) does not knowingly represent or have any affiliation with or receive any support, financial or otherwise, from the tobacco industry and/or those representing its interests, and has not done so in the past year.ⁱⁱ

The First/Second Party hereby undertakes to notify the Department immediately if it or any of its members and senior management discovers that it/he/she represents, is affiliated with, or receives support from the tobacco industry.

For this purpose,

1. Tobacco Industry refers to organizations, entities, associations, and individuals that work for and in behalf of the tobacco industry, such as but not limited to tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and/or organizations, including but not limited to lawyers, scientists, and lobbyists who work to further the interests of the tobacco industry.
2. Interest and affiliation in the tobacco industry means personal, financial or other interest, including but not limited to:
 - a. Having an existing ownership or investment in the tobacco industry;
 - b. Being a member of the Board of Directors, an officer of the corporation, or a partnership in the tobacco industry;
 - c. Receiving any contribution from the tobacco industry.ⁱⁱⁱ

Any violation of this undertaking shall constitute valid and reasonable grounds for the Department to terminate the Agreement with the First/Second Party immediately upon written notice.

¹CSC DOH JMC 2010-01, 3.1 Unnecessary Interaction with Tobacco Industry – Public officials and employees shall interact with the tobacco industry only when strictly necessary for the latter's effective regulation, supervision or control

ⁱⁱECTC Article 5.3, Guidelines, Par 27, 6.4 Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.

ⁱⁱⁱDepEd Policy and Guidelines for Comprehensive Tobacco Control, II. Statement of Policy and Objectives. D. Ensure strict implementation of policies on the protection against tobacco industry interference in the Department.