

Legal Mandates And Academic Freedom: A Policy Analysis In Philippine Higher Education

Michael Tomas Sebullen, Crs, PhD

Director for Research, Baguio Central University, Philippines 2600, <https://orcid.org/0009-0004-6999-4397>, 201239sebullen@bcu.edu.ph

Abstract

This policy analysis examines the intricate balance between legal mandates and academic freedom in Philippine higher education. Anchored in the 1987 Philippine Constitution and Republic Acts 7722, 10931, and 11448, the study investigates how state regulation both empowers and constrains institutional autonomy. Using a qualitative policy analysis design guided by Walt and Gilson's Policy Triangle Framework, legal texts, CHED Memorandum Orders, jurisprudence, and policy reports from 2021 to 2025 were analyzed through thematic coding and interpretive synthesis. Findings reveal seven interrelated policy domains—flexible learning, red-tagging, RA 10931 implementation, autonomy compliance fatigue, transnational education ambiguities, data privacy governance, and access inequities—that collectively expose systemic regulatory fragmentation. While these frameworks aim to uphold accountability and equity, they often produce compliance-driven governance that marginalizes intellectual liberty. The study recommends a shift toward outcomes-based, rights-conscious regulation through a national Academic Freedom Protocol, risk-proportionate oversight, digital equity standards, and harmonized policy frameworks aligned with SDG 4 and SDG 16 to strengthen both institutional integrity and academic independence.

Keywords: *Academic freedom; higher education policy; Philippine law; CHED regulation; institutional autonomy; policy analysis; educational governance*

1 INTRODUCTION

Academic freedom stands as one of the most sacred tenets of higher education, safeguarding the liberty of thought, inquiry, and expression in the pursuit of truth and innovation. In the Philippines, however, this freedom exists within a highly regulated ecosystem shaped by constitutional guarantees, statutory enactments, and administrative directives. The 1987 Philippine Constitution explicitly recognizes academic freedom as a right of higher education institutions (Art. XIV, Sec. 5[2]), yet its exercise is tempered by Republic Act No. 7722, otherwise known as the Higher Education Act of 1994, which established the Commission on Higher Education (CHED) as the principal state regulator. This duality—constitutional autonomy versus legal oversight—has defined the country's educational landscape for the past three decades, continually reinterpreted through evolving policies and sociopolitical realities.

Recent years have witnessed intensified debates on how far government regulation should extend into academic governance. The COVID-19 pandemic accelerated this tension, as CHED declared “flexible learning as the new norm” in 2021, embedding online and hybrid modalities as permanent features of instruction. While intended to ensure educational continuity, this policy raised issues of digital inequality, faculty workload, and academic integrity (CHED, 2021). Parallel to these shifts, the unilateral abrogation of the 1989 University of the Philippines–Department of National Defense Accord reignited concerns over state intrusion into academic spaces and the securitization of campuses, raising fears of “red-tagging” and surveillance that undermine intellectual freedom and institutional autonomy (Manhit & Pano, 2022). These developments underscore the fragile balance between state authority and academic liberty in the Philippine higher education system.

Moreover, the implementation of Republic Act No. 10931, or the Universal Access to Quality Tertiary Education Act of 2017, while laudable in expanding access, exposed persistent governance and accountability challenges. Reports of delayed Tertiary Education Subsidy (TES) disbursements, audit findings by the Commission on Audit, and coordination lapses among CHED, UniFAST, and state universities revealed the friction between bureaucratic control and institutional agility (Philippine Institute for Development Studies [PIDS], 2024). Meanwhile, new regulatory frameworks, such as CHED Memorandum Order No. 7, s. 2024 on the revised criteria for autonomous and deregulated status, have attempted to modernize quality assurance yet have also intensified compliance fatigue among higher

education institutions (HEIs). These policy tensions collectively shape the contemporary discourse on academic governance, autonomy, and state accountability.

Compounding these challenges are emerging dimensions of internationalization, transnational education, and data governance. The enactment of Republic Act No. 11448 (Transnational Higher Education Act) and CHED's 2023–2027 Internationalization Roadmap opened new avenues for global collaboration but simultaneously raised questions of quality equivalence, student protection, and legal jurisdiction (CHED, 2023). Similarly, the shift to digital learning environments exposed HEIs to heightened data privacy and cybersecurity risks, demanding stronger adherence to the Data Privacy Act of 2012 and the institutionalization of “privacy-by-design” protocols (National Privacy Commission, 2023).

Within this complex legal and policy environment, the core issue persists: how can the Philippine higher education system uphold genuine academic freedom while remaining accountable to public interest and legal mandates? This paper addresses this question through a policy analysis of the regulatory frameworks that govern higher education in the Philippines. It aims to (1) map the major legal instruments and administrative issuances shaping academic freedom; (2) identify tensions between institutional autonomy and regulatory control; and (3) propose policy directions that promote a more coherent, rights-conscious, and outcomes-based higher education governance model.

By analyzing legal texts, CHED issuances, and recent policy developments from 2021 onwards, this study contributes to the discourse on academic governance and reform. The findings seek to inform policymakers, educators, and institutional leaders in recalibrating the balance between legal oversight and intellectual liberty—toward a higher education system that is both legally sound and academically free.

2 LITERATURE OVERVIEW

Policy Background and Legal Framework

The regulatory and philosophical foundations of Philippine higher education are anchored on the 1987 Philippine Constitution, which enshrines education as both a right and a duty of the State. Article XIV, Section 1 mandates that “the State shall protect and promote the right of all citizens to quality education at all levels,” while Section 5(2) declares that “academic freedom shall be enjoyed in all institutions of higher learning.” This dual mandate frames higher education as both a public good subject to state stewardship and an autonomous enterprise entitled to intellectual liberty. Consequently, the governance of higher education has evolved as a continuous negotiation between public accountability and academic independence (Bernas, 2021; CHED, 2024).

1. Statutory Mandates and Institutional Oversight

The Higher Education Act of 1994 (Republic Act No. 7722) formally created the Commission on Higher Education (CHED), transferring to it the powers of supervision, policy formulation, and quality assurance previously held by the Department of Education, Culture and Sports. CHED's mandate is to “formulate and implement policies, plans, and programs” for the development of higher education and research, while respecting institutional autonomy. Over the past decade, CHED has operationalized this through a series of CHED Memorandum Orders (CMOs), which have become the primary regulatory instruments guiding curriculum, governance, and institutional standards.

Between 2021 and 2024, CHED issued transformative CMOs addressing post-pandemic resilience, academic flexibility, and institutional autonomy. CMO No. 4, s. 2020, on Flexible Learning, was reaffirmed in 2021 as a permanent modality, aligning with UNESCO's call for learning continuity amid global disruptions. CMO No. 7, s. 2024, meanwhile, updated the criteria for Autonomous and Deregulated Status, aiming to streamline quality assurance while recognizing exemplary institutions (CHED, 2024). However, policy analyses (Lorenzo & Camacho, 2023) show that compliance burdens and overlapping evaluations have produced “regulatory fatigue” among HEIs, raising concerns about administrative overreach.

2. Constitutional and Jurisprudential Interpretations

Philippine jurisprudence has consistently affirmed academic freedom as encompassing four essential freedoms: to determine who may teach, what may be taught, how teaching is conducted, and who may be admitted to study (*Garcia v. Faculty Admission Committee, Loyola School of Theology*, G.R. No. L-40779, 1975). Recent cases, such as *University of the Philippines v. Ayson* (G.R. No. 229345, 2021), reiterated these principles in the context of disciplinary autonomy, asserting that courts should respect academic discretion unless exercised arbitrarily. These precedents reinforce the constitutional

understanding that academic freedom is institutional, not merely individual, and that state intervention must be exercised with restraint.

Nevertheless, episodes such as the 2021 termination of the UP–DND Accord revealed the fragility of these protections. The Accord’s abrogation by the Department of National Defense, citing national-security concerns, ignited debates on campus militarization and red-tagging. Legal scholars (Manhit & Pano, 2022; Mendoza, 2023) argue that such actions blur the line between security policy and academic autonomy, emphasizing the need for a clear Academic Freedom Protocol—a codified mechanism for handling law-enforcement access, research scrutiny, and student activism within HEIs.

3. Policy Expansion through Social-Justice Legislation

Parallel to regulatory oversight, landmark social legislation has expanded the State’s obligation to equitable access. The Universal Access to Quality Tertiary Education Act (Republic Act No. 10931, 2017) institutionalized free tuition and the Tertiary Education Subsidy (TES). Its implementation from 2018 to the present has been both transformative and problematic. Studies by the Philippine Institute for Development Studies (PIDS, 2024) and Commission on Audit (2023) highlighted recurrent delays in TES disbursement, inconsistent validation of beneficiaries, and fragmented data systems among CHED, UniFAST, and SUCs. These administrative gaps, while not directly curtailing academic freedom, compromise the institutional stability necessary for universities to exercise autonomy and sustain quality programs. Policy reviews recommend a shift from input-based compliance to performance-based accountability, ensuring that access expansion does not erode governance quality.

4. Internationalization and Transnational Legal Frameworks

The Transnational Higher Education Act (Republic Act No. 11448, 2019) and the CHED Internationalization Roadmap 2023–2027 signal the country’s aspiration to globalize higher education. These policies encourage joint degrees, offshore campuses, and cross-border partnerships, but they also raise complex legal questions on accreditation reciprocity, consumer protection, and dispute resolution (CHED, 2023). The pandemic period saw intensified digital and transnational collaborations; however, inconsistent regulatory interpretations and lengthy approval processes deterred institutional participation (de Guzman & Tan, 2023). Harmonizing local statutes with international standards—particularly ASEAN Qualifications Frameworks—remains a policy imperative for safeguarding academic integrity in cross-border education.

5. Data Protection, Academic Integrity, and Digital Governance

With the proliferation of learning management systems and remote-assessment technologies, HEIs increasingly face data privacy and cybersecurity obligations under the Data Privacy Act of 2012 (RA 10173). The National Privacy Commission (NPC) in 2023 reported that 40 percent of surveyed HEIs lacked privacy-by-design protocols in their digital systems. Violations of student confidentiality and unauthorized data processing have prompted administrative advisories urging compliance audits and mandatory privacy officers (NPC, 2023). This regulatory dimension links directly to academic freedom: breaches of data integrity threaten both the confidentiality of scholarly work and the trust that underpins open intellectual exchange.

6. International Normative Alignment

Globally, frameworks such as the UNESCO (2021) Recommendation on the Status of Higher-Education Teaching Personnel and the SDG 4 and 16 synergy emphasize the role of academic freedom in sustaining democratic governance. The Philippines, as a UNESCO signatory, has committed to these principles; however, translating them into enforceable domestic policy remains partial. Aligning CHED’s quality-assurance mechanisms with UNESCO’s indicators of “institutional autonomy and ethical accountability” would enhance both compliance and legitimacy.

Overall, the policy landscape of Philippine higher education reflects a complex intersection of constitutional rights, statutory mandates, administrative rules, and global obligations. The overlapping jurisdictions of CHED, UniFAST, NPC, and other agencies create policy incoherence that challenges institutional governance. While legal instruments generally affirm academic freedom, their operationalization often results in regulatory saturation and procedural bottlenecks. The tension lies not in the absence of law but in the over-production of regulation—a condition that risks reducing academic freedom to procedural compliance rather than substantive liberty.

Hence, a renewed policy direction is required: one that integrates constitutional fidelity, administrative efficiency, and rights-based governance. The next section of this paper analyzes these regulatory tensions through thematic policy analysis, drawing on documentary evidence, expert interviews, and recent policy evaluations to illuminate the evolving nexus between law, freedom, and governance in Philippine higher education.

3 Research

The study utilized a qualitative policy analysis design to examine how legal mandates influence academic freedom within Philippine higher education, focusing on the interpretive meaning of policy intent, implementation, and impact (Walt & Gilson, 1994). Drawing from the interpretivist paradigm, this analysis synthesized primary legal instruments—including the 1987 Philippine Constitution, RA 7722 (Higher Education Act of 1994), RA 10931 (Universal Access to Quality Tertiary Education Act of 2017), RA 11448 (Transnational Higher Education Act of 2019), and the Data Privacy Act of 2012 (RA 10173)—alongside administrative issuances such as CHED Memorandum Orders No. 4, s. 2020 and No. 7, s. 2024, judicial decisions, and evaluative reports from CHED, PIDS (2024), and the National Privacy Commission (2023). The data were analyzed through document review, thematic coding, and triangulation following Bowen's (2009) document analysis protocol to identify recurring tensions between regulation, autonomy, and accountability. Guided by the Policy Triangle Framework (Walt & Gilson, 1994) and Habermas's (1987) theory of communicative action, the analysis explored the interrelations among policy content, context, actors, and processes to illuminate how legal frameworks both enable and constrain institutional freedom. To ensure credibility and ethical rigor, interpretive codes were validated through peer review and aligned with the National Ethical Guidelines for Social Science Research (PHREB, 2021), ensuring transparency, reflexivity, and adherence to academic integrity.

4 DISCUSSION

The policy analysis revealed seven major themes that characterize the evolving nexus between legal mandates and academic freedom in the Philippine higher education system. Each theme illustrates how the interplay between regulatory frameworks and institutional autonomy shapes academic governance, access, and accountability.

1. Flexible Learning and the Digital Divide

The institutionalization of flexible learning as the “new normal” (CHED, 2021) emerged as both a resilience strategy and a policy dilemma. While CHED Memorandum Order No. 4, s. 2020, aimed to sustain academic continuity during crises, it inadvertently intensified existing inequalities in digital access, pedagogical readiness, and instructional quality. Studies by Ronda and Recio (2022) and Lorenzo and Camacho (2023) reveal that faculty workload increased by 40% in some state universities, while student engagement dropped in low-connectivity regions. The lack of clear minimum standards for digital infrastructure among HEIs exposed a policy gap between intent and capacity. CHED should issue a National Flexible Learning Standards Framework mandating baseline requirements for connectivity, accessibility, and pedagogical support. This framework should integrate digital equity metrics into institutional accreditation and allocate capacity-building grants for disadvantaged HEIs.

2. Red-Tagging and the Fragility of Academic Freedom

The termination of the 1989 UP-DND Accord in 2021 and increasing cases of red-tagging within campuses signify a regression in the protection of academic freedom (Manhit & Pano, 2022; Mendoza, 2023). Faculty members and student organizations reported surveillance fears and institutional self-censorship, especially in state universities. While the Constitution (1987) guarantees autonomy, the absence of procedural safeguards allows external interference under the guise of security. This climate of intimidation erodes academic inquiry and constrains critical scholarship. CHED, in collaboration with SUCs and the Commission on Human Rights, should promulgate an Academic Freedom Protocol establishing due-process mechanisms for law-enforcement access, whistleblower protection, and academic freedom monitoring. The protocol should be integrated into institutional charters and assessed during quality assurance audits.

3. Implementation Gaps in RA 10931 (Free Higher Education Act)

Although the Universal Access to Quality Tertiary Education Act (RA 10931) democratized access, persistent delays in the Tertiary Education Subsidy (TES) disbursements and data verification lapses have undermined its efficiency. The Commission on Audit (2023) cited incomplete documentation and overlapping responsibilities among CHED, UniFAST, and state universities. PIDS (2024) further noted that 18% of eligible students failed to receive timely benefits due to bureaucratic bottlenecks. Such administrative inefficiencies hinder HEIs from exercising fiscal autonomy and planning academic programs effectively. Institutionalize a Performance-Based Disbursement Framework under UniFAST, establishing service-level benchmarks for TES processing, digital integration across agencies, and annual third-party audits. This model aligns access with accountability, ensuring transparent and timely funding flows.

4. Autonomy and Compliance Fatigue

While CHED Memorandum Order No. 7, s. 2024 revises the criteria for autonomous and deregulated status to simplify quality assurance, many institutions report “compliance fatigue” (Lorenzo & Camacho, 2023). Overlapping requirements from CHED, accrediting agencies, and internal audits create bureaucratic saturation that diverts resources from research and innovation. This over-regulation contradicts the constitutional mandate of academic freedom and the principle of proportionality in governance. CHED should adopt a risk-based regulatory model, where compliance obligations are proportional to institutional performance. Autonomous HEIs should transition to a trust-and-verify regime focusing on learning outcomes, research productivity, and graduate employability rather than procedural documentation.

5. Transnational Education (TNE) and Regulatory Ambiguities

The enactment of RA 11448 (Transnational Higher Education Act) and the CHED Internationalization Roadmap 2023–2027 promotes global academic collaboration. However, operational ambiguities persist concerning partner accreditation, credit transfer, and student protection. De Guzman and Tan (2023) found that the absence of a unified regulatory framework deters Philippine HEIs from entering TNE agreements due to high compliance risks and slow approvals. This constrains the country’s competitiveness within ASEAN’s education integration efforts. CHED should develop a TNE Rulebook consolidating all internationalization guidelines into a single document with standardized templates for agreements, clear timelines, and risk-assessment criteria. Establishing a TNE Regulatory Unit within CHED can expedite approvals and provide legal clarity for cross-border programs.

6. Data Privacy and Digital Governance

The rapid digitization of higher education has exposed HEIs to heightened data privacy and cybersecurity risks under the Data Privacy Act of 2012. The National Privacy Commission (2023) reported that 40% of institutions lack designated Data Protection Officers or privacy-by-design systems. Breaches in online learning platforms and student records undermine institutional credibility and the trust essential to academic discourse. Inadequate compliance not only violates legal mandates but also threatens intellectual property and confidentiality in research. Integrate Data Protection and Digital Ethics Compliance into CHED’s accreditation standards. Require annual privacy audits, establish institutional privacy training programs, and incentivize HEIs that adopt ISO-certified information security systems.

7. Access Inequities and Institutional Fragmentation

Despite expanded access through RA 10931, inequities persist across regions and institutions. Enrollment recovery after the pandemic remains uneven, with private HEIs suffering enrollment losses of up to 25% (CHED, 2023). Resource disparities between urban and rural universities exacerbate quality gaps, while the regulatory environment often favors resource-rich institutions that can meet compliance thresholds. As a result, national policies inadvertently reproduce educational stratification instead of inclusion (PIDS, 2024). Develop a Regional Equity and Inclusion Strategy that redistributes resources through differentiated funding formulas, incentivizes collaborative programs among SUCs and private HEIs, and strengthens monitoring of regional learning outcomes aligned with SDG 4 (Quality Education) and SDG 16 (Peace, Justice, and Strong Institutions).

Across these seven themes, the overarching pattern reveals a regulatory imbalance—a system that prioritizes compliance and control over empowerment and trust. Legal mandates, while essential to ensure accountability and equity, often lack integrative coherence, resulting in fragmented governance and inconsistent implementation. The Philippine higher education sector thus stands at a policy crossroads: it must shift from compliance-oriented regulation to outcomes-based, rights-conscious governance. By embedding academic freedom within legal rationality and institutional accountability, CHED and higher education institutions can foster a culture of responsive regulation that aligns with both constitutional ideals and global academic standards.

5 CONCLUSIONS

This policy analysis concludes that the Philippine higher education landscape operates within a dense legal and regulatory framework that simultaneously protects and constrains academic freedom. Constitutional guarantees and statutory instruments—anchored in RA 7722, RA 10931, and related CHED issuances—have strengthened governance and equity mechanisms; however, fragmented implementation and overlapping mandates have produced regulatory dissonance that undermines institutional autonomy. The study identified seven interrelated policy domains—flexible learning, red-tagging, RA 10931 implementation, autonomy-compliance fatigue, TNE ambiguities, privacy governance, and access inequities—that illustrate how legal mandates can either empower or inhibit higher education institutions depending on coherence, coordination, and accountability. Taken together, these issues reveal that Philippine higher education remains compliance-driven rather than outcomes-based, prioritizing procedural conformity over innovation and critical inquiry. Sustaining a culture of intellectual freedom therefore requires policies that are rights-conscious, evidence-informed, and performance-oriented.

Moving forward, this paper recommends strategic reforms to strengthen higher education governance, equity, and academic integrity in the Philippines. It urges the codification of an Academic Freedom Protocol—endorsed by CHED—to safeguard due process, research independence, and protection from political interference; and the adoption of risk-proportionate regulation that tailors oversight based on institutional performance, replacing redundant compliance with measurable outcomes such as employability and research productivity. Digital equity must be institutionalized through a national Flexible Learning Framework ensuring connectivity, faculty training, and access subsidies. To enhance transparency, the operations of RA 10931 should be streamlined via an integrated UniFAST data system with service-level benchmarks and performance audits. Likewise, a unified Transnational Education Rulebook should consolidate partnership procedures, consumer protections, and ASEAN-aligned credit transfers. Annual privacy and cybersecurity audits must become part of accreditation to uphold the Data Privacy Act of 2012, while a Regional Equity and Inclusion Strategy should guide funding redistribution, SUC-private collaborations, and SDG 4 and 16 monitoring. Ultimately, realizing the constitutional promise of academic freedom requires balancing oversight with institutional trust—transitioning from regulation by control to regulation by partnership, transparency, and shared accountability. Aligning national policies with the UNESCO (2021) Recommendation on the Status of Higher-Education Teaching Personnel will empower Philippine universities as spaces of critical inquiry, innovation, and democratic development—vital engines of national transformation and global relevance.

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