

NATIONAL COMMISSION ON INDIGENOUS PEOPLES

NCIP Administrative Order No. 001, s. 2009

National Guidelines for the Mandatory Representation of Indigenous Peoples in Local Legislative Councils

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The following guidelines are promulgated to set up the processes and mechanisms for the mandatory representation of Indigenous Peoples in local legislative councils pursuant to Section 16 of Republic Act 8371 (RA 8371), otherwise known as the Indigenous Peoples Rights Act of 1997.

Title I. Preliminary Provisions

SECTION 1. Title. This guidelines shall be known as the “National Guidelines for the Mandatory Representation of Indigenous Peoples in Local Legislative Councils,” also referred herein as Policy Guidelines.

SECTION 2. Statutory Basis. Section 10, Article II of the 1987 Philippine Constitution provides that the State shall promote social justice in all phases of national development. Section 17, Article XIV of the 1987 Philippine Constitution also provides that the State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

To carry out these State policies, Section 16 of RA 8371 provides that the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

In addition, Section 6, Part I, Rule IV of the National Commission on Indigenous Peoples (NCIP) Administrative Order No. 1, Series of 1998, or the Implementing Rules and Regulations (IRR) of RA 8371 provides that the ICCs/IPs shall be provided mandatory representation in all policymaking bodies and in local legislative councils. ICCs/IPs representation shall be proportionate to their population, and shall have the same privileges as the regular members of the legislative bodies and/or policy making bodies.

ICCs/IPs representatives shall be qualified and chosen by their own communities in accordance with a process to be determined by them. In consultation with ICCs/IPs, the NCIP in close coordination with the Department of the Interior and Local Governments (DILG) shall come up with appropriate measures to ensure the full participation of ICCs/IPs in matters affecting their development. Such measures shall also include the provision of technical assistance to develop the ICC/IP representative’s knowledge of traditional socio-political systems, customary laws, justice system and skills in interfacing with non-IP governance and policy making.

SECTION 3. Declaration of Policy. Pursuant to the provisions of international and national policy instruments, it is the policy of the NCIP to:

- a. Promote and protect the political, civil, economic, social and cultural rights of ICCs/IPs through participation in the Government and in the conduct of public affairs as provided in Paragraph c,

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);

- b. Ensure the fulfillment of the ICCs/IPs right to full participation in the political, economic, social and cultural life of the state as provided in Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as the right to participate in decision-making through their chosen representatives as provided in Article 18 of the same instrument;
- c. Enhance State recognition and promotion of the rights of ICCs/IPs within the framework of national unity and development as expressed in Section 22, Article II of the 1987 Philippine Constitution; and,
- d. Adopt, coordinate and enforce the provision of Section 16 of RA 8371 on the mandatory representation of IPs/ICCs in local legislative councils and policymaking bodies.

SECTION 4. Operating Principles. In the implementation of this guidelines, the following principles shall be observed:

- a. **Primacy of customary laws and practices.** Customary laws and practices shall prevail upon mainstream mechanisms in the manner of selecting the mandatory representatives to the local legislative councils of the ICCs/IPs. Moreover, customary laws and practices shall be used primarily to resolve disputes in the selection process.
- b. **Consensus Building** refers to the process of arriving at a decision by the ICCs/IPs on issues and concerns affecting them by employing their own traditional decision-making processes.
- c. **Inclusivity and full participation.** The NCIP shall ensure that all ICCs/IPs residing within the political jurisdiction of a given Local Government Unit (LGU) shall actively participate in the selection process.
- d. **Representation of the collective interests and aspirations of IPs/ICCs.** The IP mandatory representative to the legislative council shall represent the general concerns and welfare of all the ICCs/IPs in a given LGU.
- e. **Sustainability of the Indigenous Peoples Consultative Body.** The ICCs/IPs mandatory representative shall provide support in sustaining the constitution and operations of the Indigenous Peoples Consultative Body (IPCB) at his/her level of representation, either at the barangay, municipal, city, or provincial level.
- f. **Capacity building.** The skills and capacities of IP mandatory representatives to engage effectively and efficiently in mainstream governance as well as to preserve and exercise their traditional political structures in their respective communities shall be enhanced through culture sensitive training modules, taking into primary consideration the cultural diversities of the ICCs/IPs, to be developed and regularly implemented by the NCIP in partnership with the Department of the Interior and Local Governments (DILG) and concerned LGUs, other government agencies/offices and the civil society.
- g. **Gender equity and sectoral representation.** ICC/IP women and youth shall enjoy equal rights and opportunities in the selection process as provided in Section 26 and 27 of RA 8371.

SECTION 5. Coverage. All ICCs/IPs residing within the ancestral domains and/or resettled communities within the political jurisdiction or boundaries of concerned LGUs may be represented in the local legislative councils of the LGUs exercising jurisdiction over the area. However, in cases where an ancestral domain or resettled community is overlapped by two (2) or more political boundaries of LGUs, only the members of the ICCs/IPs whose residence are covered by the concerned LGU may take part in the selection of IPs mandatory representative for the said LGU.

SECTION 6. Definition of Terms. For purposes of this Policy Guidelines, the following terms shall mean:

- a. **Indigenous Cultural Communities/Indigenous Peoples** refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits or who have through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.
- b. **Resettled ICCs/IPs** refer to the two groups clarified below:
 - i. **Forcibly resettled ICCs/IPs** – refer to ICCs/IPs who, as a consequence of social, economic, political or other reasons such as displacement due to natural disasters, development aggression and armed conflict, were, against their own free will, resettled outside of their ancestral domains/lands.
 - ii. **Voluntarily resettled ICCs/IPs** – refer to ICCs/IPs who, as a consequence of social, economic, political or other reasons such as search for work opted to resettle or resettled out of their own free will outside of the ancestral domains/lands.
- c. **Ancestral Domains** refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators. It shall refer to all commonly accepted or publicly known ancestral domains of ICCs/IPs whether or not issued with a CADC or a CADT, or whose application for issuance of CADT is still pending before the Commission or is not actually applied for.
- d. **Elders/Leaders** refer to members of ICCs/IPs who are regarded by ICCs/IPs with a certain degree of wisdom, integrity, esteem and dignity, and who are generally relied upon by community members as leaders in the pursuit of community concerns.
- e. **Indigenous Peoples Consultative Body** refers to the consultative body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs as provided in Section 50 of IPRA and NCIP Administrative Order No. 1, Series of 2004, or the “Rules Governing the Indigenous Peoples Consultative Body.”
- f. **Peoples Organization (PO)** refers to any private non-profit voluntary organization of members of a particular ICCs/IPs which is recognized as representative of such ICC/IP.

- g. **Civil Society** refers to the totality of voluntary civic and social organizations and institutions that form the basis of a functioning society. Civil societies are often populated by organizations such as registered charities, development non-governmental organizations, community groups, women's organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalition and advocacy groups.

SECTION 7. Objectives. This guidelines is hereby promulgated for the purpose of setting-up, selecting and capacitating IPs mandatory representatives in local legislative councils. It shall:

- a. Provide and operationalize a mechanism adaptable to the peculiar situations of ICCs/IPs in the different LGUs nationwide;
- b. Ensure state recognition of the exercise of the primacy of customary ways & practices;
- c. Ensure participation of ICC/IP elders/leaders including representatives from the women, youth and children sectors;
- d. Ensure the collective representation of the general interests and aspirations of IPs/ICCs;
- e. Provide a venue for capacity building and empowerment; and
- f. Facilitate the over-all active participation of ICCs/IPs making use of the rights-based approach in governance and development.

TITLE II. THE ICC/IP REPRESENTATIVE

SECTION 8. Powers, Duties, Functions. The powers, duties and functions of IP mandatory representatives shall be the same as that of the regular members of local legislative councils as provided in the Local Government Code of 1991, otherwise known as RA 7160, and other applicable laws. However, IPs mandatory representatives shall focus on the representation of the collective interests of ICCs/IPs; ensure support for the sustained constitution and operations of the IPCB in their respective areas of jurisdiction; and maintain the development and practice of ICCs/IPs traditional leadership titles and structures, justice systems, conflict resolution institutions, and peace building mechanisms and processes that are compatible with the national legal system and with internationally recognized human rights.

SECTION 9. Minimum Qualifications. The following shall be the minimum requirements for one to qualify as ICCs/IPs representative in the local legislative councils:

- a. The IP representative must be a natural born Filipino citizen;
- b. He/She must be a registered voter in the barangay, municipality, city, province, or district where he/she intends to assume office;
- c. He/She must be a bona fide IP by blood or consanguinity, an acknowledged leader of the ICCs/IPs of which he/she is a member, and has continuously engaged in ICCs/IPs undertakings setting up a track record of services for ICCs/IPs in a given LGU as certified by the NCIP;
- d. He/She must be able to read and write; and,
- e. He/She must be knowledgeable of and practices the customary ways of ICCs/IPs of which he/she is a member.

SECTION 10. Disqualifications. Any person suffering from or characterized by any one of the following circumstances shall not be eligible to represent the ICCs/IPs:

- a. Convicted by final judgment by the council of elders of concerned ICCs/IPs for violating their customs and traditions;
- b. Sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- c. Removed from office as a result of administrative case;
- d. Convicted by final judgment for violating the oath of allegiance to the Republic of the Philippines;
- e. Possession of dual citizenship;
- f. Fugitive from justice, inside or outside the country;
- g. Permanent resident in a foreign country or has acquired the right to reside abroad and continues to avail of the same right; and,
- h. Insane or feeble-minded based on the findings of competent authorities.

SECTION 11. Term of and Removal from Office. The term of office of the IPs mandatory representative in the local legislative councils shall be for a period of three (3) years from the date of assumption to office and can be re-indorsed for another term by the ICCs/IPs constituents but in no case shall the representative serve for more than three (3) consecutive terms. For LGUs with more than one (1) ICCs/IPs residing within its jurisdiction, all ICCs/IPs tribes in said LGU may agree on a term-sharing agreement based on population ratio, or on whatever local arrangement they may deem suited and applicable to address the cultural peculiarities in that LGU.

The IPs mandatory representative can be replaced anytime by the ICCs/IPs who selected him/her to the position in accordance with their local guidelines on recall/removal from office.

SECTION 12. Selection and Assumption to Office. The selection of the particular ICC/IP representative to the local legislative council shall be in accordance with the Local Guideline that the concerned ICCs/IPs shall adopt and promulgate, which considers the cycle of traditional or local activities, and must be compliant to this Administrative Order by containing, at least, the following:

- a. Title;
- b. Definition of Terms;
- c. Selection process which should make a delineation of representation to the levels of the Barangay, Municipality, City and Province;
- d. Qualifications and Disqualifications;
- e. Community Confirmation and Nomination;
- f. Vacancy; Disciplinary Action;
- g. Term of Office; Recall/Removal;
- h. Special Provisions, if any;
- i. amendment; and
- j. Effectivity Clause

For the purpose of ensuring uniformity in the form of the Local Guidelines to be adopted by the concerned ICCs/IPs, the Office of Empowerment and Human Rights (OEHR) shall develop and make available a guide form.

Assumption to Office shall take place as soon as the selection process is formally certified by the concerned NCIP Regional Director, upon recommendation of the Provincial or Community Service Center head, as the case may be, to be in accordance with this Administrative Order, and the person chosen takes the appropriate oath before an authorized officer and informs the appropriate body/ies of his/her assumption.

SECTION 13. Compensation and Benefits. Compensation, benefits and other emoluments of the IP representative shall be the same with that of the regular members of the concerned legislative bodies as prescribed in RA 7160 and other applicable laws.

TITLE III. NATIONAL COMMISSION ON INDIGENOUS PEOPLES

SECTION 14. Responsibilities of NCIP. As the office mandated to ensure that ICCs/IPs are afforded every opportunity, if they choose, to participate in all levels of decision-making, it shall be the responsibility of the NCIP to:

- a. Facilitate the conduct of general assemblies for Information-Education-Consultations (IECs) on this guidelines and other relevant policies and issuances. The activities shall be done in partnership with the DILG, concerned LGUs and the civil society;
- b. Facilitate the conduct of selection process by the ICCs/IPs; and,
- c. Assist in the full documentation of selection proceedings and certify the validity of the documents emanating there from.

SECTION 15. Duties of the Provincial Office/Community Service Center. It shall be the task of the Provincial Office/Community Service Center to:

- a. Assist in the full documentation of the selection proceedings;
- b. Certify that the records and all documents emanating from the proceedings are valid and genuine; and,
- c. Endorse to the Regional Office the selected representative together with the duly certified documents of the proceedings.

SECTION 16. Duties of the Regional Office. It shall be the task of the Regional Office to:

- a. Evaluate the documents and results of the proceedings; if found meritorious, it shall issue a Certificate of Affirmation (COA) to the selected representative. Otherwise, the same shall be returned to the recommending NCIP Field Office with specific instructions for compliance.
- b. Submit to DILG for recognition a copy of its issued COA of selected representative including all documents appurtenant thereto, copy furnished the NCIP Central Office through the Office of Empowerment and Human Rights (OEHR).

TITLE IV. HUMAN RESOURCE DEVELOPMENT

SECTION 17. Capacity Building of IP representatives. A training module shall be developed to enhance the IPs mandatory representatives' capacity to engage in mainstream governance while upholding their knowledge of traditional socio-political systems, customary laws, justice systems and skills in interfacing with non-IP governance and policy-making, which shall be facilitated by the NCIP in partnership with the DILG, LGUs, other institutions of government and the Civil Society.

TITLE V. FINAL PROVISIONS

SECTION 18. Construction and Interpretation. This guidelines shall be construed liberally in favor of the ICCs/IPs.

SECTION 19. Transitory Provisions. For purposes of synchronization, the term of office herein provided shall apply to incumbent IPs mandatory representatives whether in the barangay, municipal, city or provincial sanggunian, the period of which will commence only upon the approval of this guidelines. Hence, all existing Local Guidelines shall be reconstituted and harmonized with the provisions of this guidelines.

SECTION 20. Saving Clause. These Rules will not in any manner adversely affect the rights and benefits already granted to the IPs/ICCs under existing contracts and instruments.

SECTION 21. Repealing Clause. The provisions of all NCIP administrative orders, circulars, special orders, office orders or other issuances inconsistent herewith are hereby repealed or modified accordingly.

SECTION 22. Separability Clause. In case any provision or portion of this guidelines is declared unconstitutional by a competent court, other provisions shall not be affected.

SECTION 23. Effectivity. This guidelines shall take effect fifteen (15) days after its publication in the Official Gazette, or in any two (2) newspapers of general circulation, or upon filing with the University of the Philippines Law Center.

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