



Republic of the Philippines
Province of Ilocos Norte
MUNICIPALITY OF NUEVA ERA

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE SPECIAL SESSION OF THE SANGGUNIANG BAYAN OF NUEVA ERA, ILOCOS NORTE, HELD AT THE SESSION HALL ON JANUARY 24, 2020 AT 9:00 O'CLOCK IN THE MORNING, FRIDAY.

PRESENT:

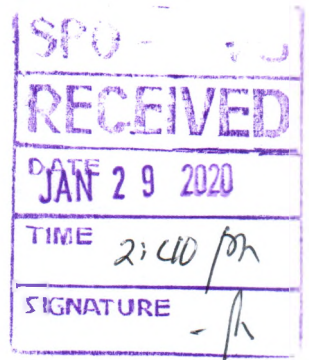
HON. CAROLINE A. GARVIDA
HON. CATHERINE A. NAIRA
HON. OSIAS O. BUENO
HON. JERRY D. ALEJANDRO
HON. BENABEL A. LALUGAN
HON. ROGER O. ARZADON
HON. AGRIFINA T. DUMLAO
HON. PETRONIO H. RIQUELMAN JR.
HON. EDWIN B. YAGIN
HON. AUSTINE MARK A. VALERA
HON. FRANCISCO T. RAMBAUD

Vice Mayor & Presiding Officer
Sangguniang Bayan Member

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Pederasyon ng Sangguniang Kabataan Pres.
Liga ng mga Barangay President

ABSENT: NONE



MUNICIPAL ORDINANCE NO. 2020-27

AN ORDINANCE PROMOTING A DRUG-FREE WORKPLACE IN THE MUNICIPAL GOVERNMENT OF NUEVA ERA, ILOCOS NORTE AND PROVIDING PENALTIES FOR VIOLATION THEREOF..

BE IT ORDAINED by the Sangguniang Bayan of the Municipality of Nueva Era, Ilocos Norte by virtue of the powers vested in law, in session duly assembled that:

SECTION 1. Title. This ordinance shall be known as the **"MUNICIPAL GOVERNMENT OF NUEVA ERA, ILOCOS NORTE DRUG-FREE WORKPLACE ORDINANCE."**

SECTION 2. PURPOSE, SCOPE AND COVERAGE. This ordinance shall be implemented for a drug-free workplace that is to ensure the maintenance of a safe and healthy work environment free from the use of dangerous drugs, and free from other related activities as prescribed by Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

To ensure effective and efficient service free from hazards of drug use in the work place, this ordinance shall subject all officials and employees in the office of the Municipal Government of Nueva Era, Ilocos Norte regardless of rank, employment status or salaries and shall cover all stages of employment, to a random mandatory drug test as a condition for retention in government service as prescribed by the Civil Service Commission Memorandum Circular No. 13, series of 2017.

This ordinance shall cover also the contract of service or job order employees. However, in their contract shall reflect a drug use policy clause.

SECTION 3. DEFINITION OF TERMS. As used in this ordinance:

Authorized Drug Test – testing done by any government forensic laboratories or by any of the drug testing laboratories accredited and monitored by the DOH to safeguard the quality of test results.

Challenged Test – a drug test conducted as a result of a challenge filed by an official or employee who tested positive for drug use in a confirmatory test.

Chronic Use/Drug Dependent – a person identified for using drug/other substances (mind altering or not) without medical need in an amount large enough or over a period long enough to threaten the quality of life or health and safety of the user or others.

Confirmatory test – shall mean an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test : it refers to the second or further analytical procedure to more accurately determine the presence of dangerous drugs in a specimen;

Dangerous Drugs – include those identified and listed in RA No. 9165 and its annexes subject to any reclassification, addition or removal of any drug from said list by the Dangerous Drugs Board, in accordance with Section 93 of RA No. 9165.

Drug Dependency Examination – refers to the examination conducted by an accredited physician to evaluate the extent of drug abuse of a person and to determine whether he/she is a drug dependent or not, which includes history taking, intake interview, determination of the criteria for drug dependency. Mental and physical status and the detection of dangerous drugs in body specimen through laboratory procedures.

Experimenter – a person whose drug use began through exploration with limited exposure and no development of regular use or any related harm;

“for Cause : or “Probable Cause” Drug Test – Drug testing required when there is a “probable cause” or “reasonable ground” to believe that a person is using or is under the influence of dangerous drugs;

Occasional User – a person who indulges in drug use to create or enhance experience in any social setting.

Random Drug Test – subjection of personnel for drug testing as selected following no specific pattern without prior notice information.

Refusal – physically evading, escaping, refusing or making self-unavailable;

Rehabilitation- a dynamic process including aftercare and follow-up treatment detected towards the physical, emotional, physiochological, vocational, social and spiritual change of a drug dependent to enable him/her to live without dangerous drugs, enjoy the fullest life compatible to his/her capabilities and potentials, and become a law abiding and productive member of the community.

Screening test – shall mean a rapid test performed to establish potential/presumptive positive result; it refers to the immunoassay test to eliminate a negative specimen i.e. one without the presence of dangerous drugs from further consideration and to identify the presumptively positive specimen that requires confirmatory test.

Workplace – a place where work is usually performed. For this purpose, it shall mean all the offices of the municipal government.

SECTION 4. CREATION OF A DRUG-FREE WORKPLACE COMMITTEE:

4.1. A Drug-Free Workplace Committee shall be composed of the following:

- 4.1.1 Municipal Mayor or his representative
- 4.1.2 Vice Chairman of the Municipal Anti-Drug Abuse Council (MADAC)
- 4.1.3 Municipal Health Officer or his representative
- 4.1.4 The Head or representative from Department of Health
- 4.1.5 Human Resource Management Officer or his representative

4.2. The Committee shall undertake the following duties and responsibilities.

- 4.2.1 To formulate and put in place the Municipality's drug testing program in accordance with the pertinent provisions of RA No. 9165 and this ordinance.
- 4.2.2. To oversee the formulation and implementation of drug abuse policy in the agency.



- 4.2.3. Initiate continuing education and awareness program for the employees; and
- 4.2.4. Initiate and adopt value formation, family enhancement and such other related and relevant programs.

SECTION 5. GUIDELINES IN THE CONDUCT OF AUTHORIZED DRUG TEST.

The guidelines in the conduct of the authorized drug testing are as follows:

- 5.1. Drug testing shall be done by any government forensic laboratory or any of the local Drug testing laboratories accredited and monitored by the DOH to safeguard the quality test results. For this purpose, the municipal government may enter into agreement with government drug testing laboratories.
- 5.2. The drug testing shall employ among others, two (2) testing methods:
 - a. The screening drug test which will determine the positive result as well as the type of drug used; and
 - b. The confirmatory drug test which will confirm a positive screening test.
- 5.3. All information related to drug testing or the identification of persons as users of drugs shall be treated by the municipality as confidential unless otherwise required by law, overriding public health and safety concerns, or authorized in writing by the person in question.
- 5.4. The drug test result and/or the Drug Test Certificate shall be attached to the 201 file of the employee. All drug test results and records must strictly be held confidential as provided for under the pertinent provisions of RA 9165. The Drug test certificate is good for one (1) year and could be used for other purposes.

SECTION 6. TESTING WHEN MANDATORY. Mandatory drug test shall be conducted in the following cases.

- 6.1. Pre-employment (drug testing shall remain a requirement for initial entry to government service for appointive public officials and employees. Any applicant found positive for drug use shall be denied entry to government service);
- 6.2. Persons in high risk/decision making positions;
- 6.3. Past history of drug use;
- 6.4. Involvement in accidents;
- 6.5. Discovery of dangerous drugs paraphernalia;
- 6.6. Detention by police/filing of charge in court for drug related cases;
- 6.7. As a requirement for promotion; and
- 6.8. Employees reporting to work after undergoing rehabilitation in treatment and rehabilitation center;

SECTION 7. TESTING FOR "PROBABLE CAUSE" OR "REASONABLE GROUND".

Random drug test shall be conducted when there is a reasonable ground to believe that the certain official or employee is using illegal drugs based on the following indicators, e.g.);

- 7.1. Attendance – frequent unauthorized absences, repeated tardiness, truancy from the job;
- 7.2. Personal Appearance – slurred speech, bloodshot eyes, drastic change in appearance, and other alarming change in physical attributes.
- 7.3. Mental Factor – Hot-headedness, irritability, increased difficulty in handling assignments and other drastic change in physical attributes;
- 7.4. General Performance – missed deadlines, low productivity, increased wattage, public complaints, frequent accidents, carelessness and other drastic decrease in work productivity;
- 7.5. Peer Relations – isolation, frequent quarrels with officemates, heavy borrowing, frequent mood swings and other relevant change in social relations.

SECTION 8. PROCEDURE IN THE CONDUCT OF THE RANDOM DRUG TEST IN THE WORKPLACE.



After the mandatory drug testing of all municipal officials and employees, subsequent random testing shall be periodically conducted in an interval not to exceed two (2) years. The frequency of subsequent random drug test shall be prescribed by the Committee. Random testing may be done without prior notice of the date and venue of the drug test and shall include, either all or a certain number of employees, the means of selection shall remain confidential that is to be chosen by the Drug-free workplace committee. The Committee shall formulate a random selection process procedure for this purpose.

The following procedure shall apply in case of random drug testing.

8.1 The Drug-free workplace committee will notify the randomly selected officials and employees to go for a urine test to the Municipal Health Office/or any drug testing laboratory that the municipal government had entered into agreement, who in turn, will accompany them to the place where the test will be conducted.

8.2. The selected official or employee must immediately report for the drug test.

8.3. The test shall only be conducted by any government Drug Testing Laboratory or by any drug testing laboratory duly authorized and accredited by the Department of Health (DOH) for the screening test, which shall be conducted in the following manner:

8.3.1. The selected officials/employees will fill up and sign the consent and chain of custody form issued to them.

8.3.2. The urine specimen bottles must be properly labeled to contain the name, ID number, employment, position, date and the time when the urine sample was taken.

8.3.3. The taking of specimen samples for screening test must be done in an area where manipulation (e.g. adding of water) is not possible.

8.3.4. The urine specimen sample found positive in the screening test must be properly labeled and must be kept separately from the samples that tested negative for dangerous drugs.

8.3.5. The urine specimen sample found positive shall be submitted for confirmatory testing to a laboratory having the confirmatory capability using the urine sample within the same day.

8.3.6. After the confirmatory test, the same urine sample must be kept for the purpose of challenging the result.

8.3.7. After the test is conducted a drug test result shall be issued by the drug testing laboratory directly to the Office of the Municipal Mayor or his duly authorized representative and not to the person so tested. The same result must be signed by the authorized signatory of the laboratory, the officials/employees concerned and a witness.

SECTION 9, ACTION ON NEGATIVE RESULTS. For a drug test yield a negative result for the official or employee tested, no further action is needed.

SECTION 10. PROCEDURE IN HANDLING A POSITIVE RESULT AFTER CONFIRMATORY TEST. For a drug test yield a positive result for the official or employee tested, the following procedure shall apply:

10.1. Upon discovery that a urine sample is tested positive for dangerous drugs after confirmatory test, such result shall immediately be made known to the Chairman of the Drug-free workplace Committee and the Office of the Municipal Mayor or his duly authorized representative.

10.2. After receipt of such information, the same shall be made known to the employee.

10.3. The Drug-free Workplace Committee or the Office of the Municipal Mayor shall then take the appropriate action in accordance with this ordinance in the succeeding sections.

SECTION 11. INTERVENTIONS

11.1. Officials and employees who are found positive of dangerous drugs at the first instance after the challenge test, or after positive drug test result from a confirmatory test should the concerned official or employee fail to challenge the said result, shall undergo a Drug



Dependency Examination conducted by the DOH or by any medical practitioner accredited by the DOH to conduct said examination and shall be subjected to the following treatment and rehabilitation program:

11.1.2. Experimenter – Outpatient, guidance counseling for six (6) months.

11.1.2. Occasional User – Outpatient, guidance counseling and regular monthly drug testing for six (6) months which shall be at the personal expense of official or employee concerned.

11.1.3. Chronic User/Drug Dependent – Mandatory continuous treatment and rehabilitation for a minimum period of six (6) months in a government rehabilitation center, or through a community rehabilitation program sanctioned under the rules of the Dangerous Drugs Board.

11.2. An official or employee found to be an Experimenter shall shoulder the expenses of his/her guidance counseling. The same rule shall also apply to an employee found to be an Occasional User, who shall undergo the guidance counseling and regular monthly drug testing. Time spent for counseling and monthly drug testing, if done during office hour, shall be charged against the official or employee's leave credits. For this purpose, the official or employee's leave credits shall be utilized and when exhausted, vacation leave credits may be utilized for the purpose. If all leave credits are used, absence shall be on leave without pay.

As proof of successful completion of the intervention program, an employee assessed as an Experimenter or Occasional user shall secure a certification of completion issued by his/her attending guidance counselor.

11.3. An official or employee found to be Chronic User/Drug Dependent, based on the results of the Drug Dependency Examination, and who will undergo a mandatory rehabilitation program for a minimum of six (6) months shall be considered on sick leave for the entire period of his/her rehabilitation. When the concerned official or employee's sick leave is exhausted, his/her vacation leave credits may be utilized for the purpose. If all leave credits are used, his/her absence shall be on leave without pay.

The official or employee shall undertake the processing of his admission to a rehabilitation center in accordance with the provisions of RA 9165 and existing rules of the Dangerous Drugs Board.

The official or employee concerned shall shoulder the expenses of his her rehabilitation, which shall commence within fifteen (15) days from receipts of Drug Dependency Examination results, to give way to the processing of the necessary clearances. The official or employee concerned shall secure a certificate of completion of his/her rehabilitation program and clearance from his/her attending physician that he/she has been successfully rehabilitated and is now fit to return to work. Said official or employee shall not be allowed to report back to work without first submitting said certification and clearance to the HRMO.

SECTION 12. PENAL CLAUSE.

12.1. Officials and employees found to have used dangerous drugs during the prescribed period of their intervention or rehabilitation shall be charged with the administrative offense of Grave Misconduct.

12.2. Officials and employees who are not issued a certificate of completion (in case of experimenter or occasional user) or a certificate of completion with clearance (in the case of chronic used/drug dependent) shall be charged with the administrative offense of Grave Misconduct.

12.3. Any official or employee who are being tested positive of drug use, shall refuse to undergo treatment or rehabilitation, or fails to complete his/her treatment or rehabilitation program shall be charged with the administrative offense of Grave Misconduct.

The charge of Grave Misconduct shall be grounded on the fact that said employee was tested positive of drug use and not on his/her refusal to undergo or failure to complete his/her treatment.

12.4. Any official or employee who refuses without any valid reason, to submit himself/herself for random mandatory drug testing whichever is applicable, shall be charged with the administrative offense of Gross Insubordination.

12.5. Officials and employees who for the second time have tested positive in a random drug test after completion of his/her treatment and/or rehabilitation program or shall be found to have used dangerous drugs during the prescribe period of intervention or rehabilitation shall be sharged with the administrative offense of Grave Misconduct.

12.6. Any official or employee found to have tampered the result of a drug test or interfered in the conduct of the drug test or in the release of drug test results shall be charged with the administrative offense of Grave Misconduct.

12.7. Officials and employees caught using or peddling drugs shall be charged with the administrative offense of Grave Misconduct without prejudice to the filing of appropriate criminal charges under the RA No. 9165 and other pertinent laws.

12.8. Immediate dismissal after release of confirmatory result for contract of service or job order employees.

SECTION 13. BUDGETARY REQUIREMENTS. Budgetary requirements due for this ordinance shall be chargeable from the Gender and Development (GAD) fund.

However, drug test conducted as a result of a challenge to a positive drug test result from the confirmatory test shall be charged to the personal expense of the concerned official or employee.

SECTION 14. REPEALING CLAUSE. All Ordinances, resolutions and other issuances inconsistent with the provision of this Code are hereby repealed and modified accordingly.

SECTION 15. SEPARABILITY CLAUSE. If for any reason any provision of this Ordinance is declared invalid or unconstitutional by appropriate agency or office, the remaining provisions not affected thereby shall continue in full force and effect.

SECTION 16. EFFECTIVITY CLAUSE. This Ordinance shall take effect upon approval.

APPROVED, this 24th day of January 2020

Voting Profile:

In Favor: Members C. Naira, O. Bueno, J. Alejandro, B Lalugan, R. Arzadon, A. Dumlao
P. Riquelman Jr., E. Yagin, A. Valera and F. Rambaud

Against: N o n e

Abstained: N o n e

ATTESTED:



CAROLINE A. GARVIDA
Vice Mayor & Presiding Officer

CERTIFIED CORRECT:


LILY U. DALAG

Secretary to the Sangguniang Bayan

APPROVED:

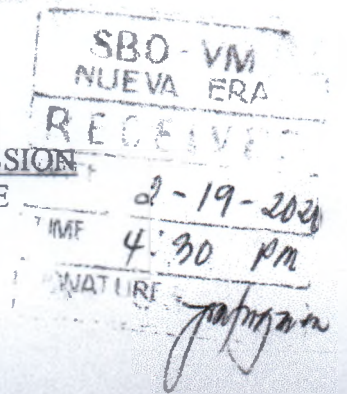

ATTY. ALDRIN R. GARVIDA
Municipal Mayor
JAN 28 2020



THE SANGGUNIANG PANLALAWIGAN OF ILOCOS NORTE
Laoag City, 2900

ELEVENTH SANGGUNIANG PANLALAWIGAN

EXCERPTS FROM THE MINUTES OF THE **28TH** REGULAR SESSION
OF THE SANGGUNIANG PANLALAWIGAN, HELD AT THE
SANGGUNIAN SESSION HALL, PROVINCIAL CAPITOL,
LAOAG CITY, AT 2:38 IN THE AFTERNOON,
TUESDAY, 04 FEBRUARY 2020.



Present:

Hon. Cecilia Araneta-Marcos, Vice-Governor,
and Presiding Officer,
Hon. Medeldorf M. Gaoat, Member,
Hon. Domingo C. Ambrocio, Jr., Member,
Hon. Da Vinci M. Crisostomo, Member,
Hon. Rodolfo Christian G. Fariñas III, Member
Hon. Franklin Dante A. Respicio, Member,
Hon. James Paul C. Nalupta, Member,
Hon. Aladine T. Santos, Member,
Hon. Saul Paulo A. Lazo, Member,
Hon. Portia Pamela R. Salenda, Member,
Hon. Donald G. Nicolas, Member,
Hon. Handy T. Lao, PCL-IN, Member,
Hon. Elmer C. Faylogna, ABC-IN, Member,
Hon. Rafael Salvador C. Medina, PPSK-IN, Member.

Absent:

None.

RESOLUTION NO. R2020-0787

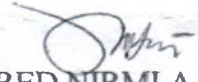
REVIEW OF/ACTION ON ORDINANCE NO. 2020-27
ENACTED BY THE SANGGUNIANG BAYAN OF
NUEVA ERA.

ON MOTION of District Board Member GAOAT, duly seconded, the Body Resolved
that:

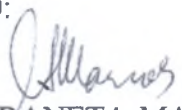
**Ordinance No. 2020-27 be REFERRED to the Committees on DANGEROUS
DRUGS and LAWS, RULES, ETHICS AND PRIVILEGES;**

Copy of this Resolution be furnished to all concerned for their information and guidance.

I HEREBY CERTIFY to the correctness of the above-quoted Resolution.


MILDRED NIRMLA R. LAMOSTE
Provincial Board Secretary

ATTESTED:

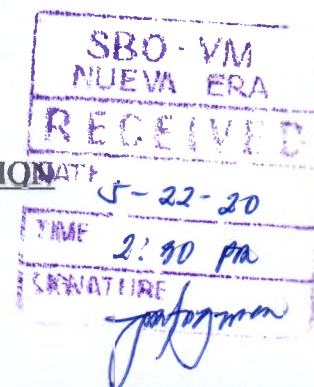

CECILIA ARANETA-MARCOS
Vice-Governor and
Presiding Officer



Republic of the Philippines
THE SANGGUNIANG PANLALAWIGAN OF ILOCOS NORTE
Laoag City, 2900

ELEVENTH SANGGUNIANG PANLALAWIGAN

EXCERPTS FROM THE MINUTES OF THE **38TH** REGULAR SESSION
OF THE SANGGUNIANG PANLALAWIGAN, HELD AT THE
SANGGUNIAN SESSION HALL, PROVINCIAL CAPITOL,
LAOAG CITY, AT 10:36 IN THE MORNING,
MONDAY, 11 MAY 2020.



Present:

Hon. Cecilia Araneta-Marcos, Vice-Governor,
and Presiding Officer,
Hon. Medeldorf M. Gaoat, Member,
Hon. Domingo C. Ambrocio, Jr., Member,
Hon. Da Vinci M. Crisostomo, Member,
Hon. Rodolfo Christian G. Fariñas III, Member,
Hon. Franklin Dante A. Respicio, Member,
Hon. James Paul C. Nalupta, Member,
Hon. Aladine T. Santos, Member,
Hon. Saul Paulo A. Lazo, Member,
Hon. Portia Pamela R. Salenda, Member,
Hon. Donald G. Nicolas, Member,
Hon. Handy T. Lao, PCL-IN, Member,
Hon. Elmer C. Faylogna, ABC-IN, Member,
Hon. Rafael Salvador C. Medina, PPSK-IN, Member.

Absent:

None.

RESOLUTION NO. R2020-3030

REVIEW OF/ACTION ON ORDINANCE NO. 2020-27
ENACTED BY THE SANGGUNIANG BAYAN OF
NUEVA ERA.

ON MOTION of Member LAZO, Chairman, Committee on DANGEROUS DRUGS,
duly seconded, the Body Resolved that:


Ordinance No. 2020-27 be declared **VALID** pursuant to the Recommendation of the
Committees on **DANGEROUS DRUGS** and **LAWS, RULES, ETHICS AND
PRIVILEGES**, a copy of which is being furnished the Sanggunian concerned;

Copy of this Resolution be furnished to all concerned for their information and guidance.

I HEREBY CERTIFY to the correctness of the above-quoted Resolution.


MILDRED NIRMILA R. LAMOSTE
Provincial Board Secretary

ATTESTED:


CECILIA ARANETA-MARCOS
Vice-Governor and
Presiding Officer

MAY 14 2020




Republic of the Philippines
PROVINCE OF ILOCOS NORTE
Laoag City 2900

SPO-025-0

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

JOINT COMMITTEE REPORT

COMMITTEE ON DANGEROUS DRUGS
COMMITTEE ON LAWS, RULES, ETHICS AND PRIVILEGES

SPO- 143
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MAY 04 2020
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THE HONORABLE PRESIDING OFFICER
& MEMBERS OF THE SANGGUNIANG PANLALAWIGAN:

RE: MUNICIPAL ORDINANCE NO. 2020-27 OF THE MUNICIPALITY OF NUEVA ERA- "AN ORDINANCE PROMOTING A DRUG-FREE WORKPLACE IN THE MUNICIPAL GOVERNMENT OF NUEVA ERA, ILOCOS NORTE AND PROVIDING PENALTIES FOR VIOLATION THEREOF."

FINDING/S & OBSERVATION/S:

The Joint Committee hereby adopts the recommendation of the Office of the Legal Services, Province of Ilocos Norte, thus:

This has reference to Municipal Ordinance No. 2020-27 of Nueva Era Ilocos Norte. In the case of SOCIAL JUSTICE SOCIETY (SJS) v. DANGEROUS DRUGS BOARD and PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA), G.R. NO. 157870 dated November 3, 2008, the Court held that the reduced expectation of privacy on the part of the employees, the compelling state concern likely to be met by the search, and the well - defined limits set forth in the law to properly guide authorities in the conduct of the random testing, we hold that the challenged drug test requirement is, under the limited context of the case, reasonable and, *ergo*, constitutional.

In Ople v. Torres,¹ the Court explained that the essence of privacy is the right to be left alone. In context, the right to privacy means the right to be free from unwarranted exploitation of one's person or from intrusion into one's private activities in such a way as to cause humiliation to a person's ordinary sensibilities.² Authorities are agreed though that the right to privacy yields to certain paramount rights of the public and defers to the state's exercise of police power.³

As the warrantless clause of Sec. 2, Art III of the Constitution is couched and as has been held, "reasonableness" is the touchstone of the validity of a government search or intrusion.⁴ And whether a search at issue hews to the reasonableness standard is judged by the balancing of the government - mandated intrusion on the individual's privacy interest against the promotion of some compelling state interest.⁵

The first factor to consider in the matter of reasonableness is the nature of the privacy interest upon which the drug testing, which effects a search within the meaning of Sec. 2, Art. III of the Constitution, intrudes.

Sec. 36 of RA 9165 and its implementing rules and regulations (IRR), as couched, contain provisions specifically directed towards preventing a situation that would unduly

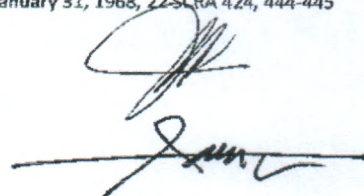
¹ G.R. No. 127685, July 23, 1998, 293 SCRA 141, 169; citing *Morfe v. Mutuc*, No. L-20387, January 31, 1968, 22 SCRA 424, 444-445

² 62 Am. Jur. 2d, Privacy, Sec. 1.

³ 62 Am. Jur. 2d, Privacy, Sec. 17.

⁴ *Vernonia & Board of Education*

⁵ *Vernonia & Board of Education*



embarrass the employees or place them under a humiliating experience. While every officer and employee in a private establishment is under the law deemed forewarned that he or she may be a possible subject of a drug test, nobody is really singled out in advance for drug testing. The goal is to discourage drug use by not telling in advance anyone when and who is to be tested. And as may be observed, Sec. 36(d) of RA 9165 itself prescribes what, in *Ople*, is a narrowing ingredient by providing that the employees concerned shall be subjected to "random drug test as contained in the company's work rules and regulations x x x for purposes of reducing the risk in the work place."

For another, the random drug testing shall be undertaken under conditions calculated to protect as much as possible the employee's privacy and dignity. As to the mechanics of the test, the law specifies that the procedure shall employ two testing methods, i.e., the screening test and the confirmatory test, doubtless to ensure as much as possible the trustworthiness of the results. But the more important consideration lies in the fact that the test shall be conducted by trained professionals in access - controlled laboratories monitored by the Department of Health (DOH) to safeguard against results tampering and to ensure an accurate chain of custody.⁶ In addition, the IRR issued by the DOH provides that access to the drug results shall be on the "need to know" basis;⁷ that the "drug test result and the records shall be [kept] confidential subject to the usual accepted practices to protect the confidentiality of the test results."

Municipal Ordinance No. 2020-27 of Nueva Era, Ilocos Norte, is compliant with the said parameter. FIRST, procedure shall employ two testing methods, i.e., the screening test and the confirmatory test. SECOND, the test shall only be conducted by any government Drug Testing Laboratory duly authorized and accredited by the Department of Health. Lastly, drug test result and the records shall be [kept] confidential subject to the usual accepted practices to protect the confidentiality of the test results.


RECOMMENDATION/S:

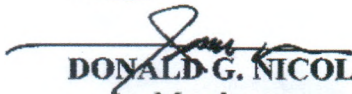
In view of the foregoing findings and observations, the Joint Committee hereby recommends that Ordinance No. 2020-27 of Nueva Era, Ilocos Norte, be declared **VALID**.


Laoag City, April 30, 2020.

COMMITTEE ON DANGEROUS DRUGS


SAUL PAULO A. LAZO
Chairman


DA VINCI M. CRISOSTOMO
Vice-Chairman


DONALD G. NICOLAS
Member


DOMINGO C. AMBROCIO, JR.
Member


MELEDORA M. GAOAT
Member

⁶ Under Sec. 7 [3] of the DOH IRR Governing Licensing and Accreditation of Drug Laboratories, a laboratory is required to use documented chain of custody procedures to maintain control and custody of specimens.

⁷ DOH IRR Governing Licensing and Accreditation of Drug Laboratories, Sec. 7 [10.3] provides that the original copy of the test results form shall be given to the client/donor, copy furnished the DOH and the requesting agency



COMMITTEE ON LAWS, RULES, ETHICS AND PRIVILEGES



DAVINCI M. CRISOSTOMO
Chairman



DONALD G. NICOLAS
Vice-Chairman



FRANKLIN DANTE A. RESPICIO
Member

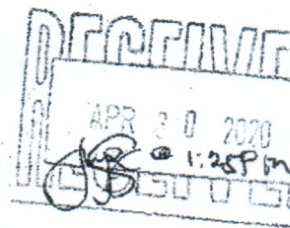


SAUL PAULO A. LAZO
Member



DOMINGO C. AMBROCIO, JR.
Member





Republic of the Philippines
PROVINCE OF ILOCOS NORTE
OFFICE OF LEGAL SERVICES

ATTY. KATHLEEN ANN A. BONADOR-GUMIRAN
Technical Consultant

April 27, 2020

HON. CECILIA ARANETA MARCOS
Vice Governor
Provincial Government of Ilocos Norte

Thru: **HON. SAUL PAULO A. LAZO**

Sir:

This has reference to the Municipal Ordinance No.2020-11-007 of Dingras Ilocos Norte, Municipal Ordinance No. 2020-27 of Nueva Era Ilocos Norte, Municipal Ordinance No. SO2020-005 of Pasuquin Ilocos Norte, Municipal Ordinance No.226-1922 of Pinili Ilocos Norte, Municipal Ordinance No. 2020-05 of San Nicolas Ilocos Norte and Municipal Ordinance No. 2020-11-02 Sarrat Ilocos Norte, Municipal Ordinance No. 2020-01-015 of Piddig Ilocos Norte, Municipal Ordinance No. 11-01-2020 of Badoc, Ilocos Norte, Municipal Ordinance No.2020-02 of Vintar Ilocos Norte and Municipal Ordinance No. 2020-07 of Carasi, Ilocos Norte.

In the case of **SOCIAL JUSTICE SOCIETY (SJS) v. DANGEROUS DRUGS BOARD and PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA)**, G.R. NO. 157870 dated November 3, 2008, the Court held that the reduced expectation of privacy on the part of the employees, **the compelling state concern likely to be met by the search, and the well - defined limits set forth in the law to properly guide authorities in the conduct of the random testing, we hold that the challenged drug test requirement is, under the limited context of the case, reasonable and, ergo, constitutional.**

In Ople v. Torres,¹ the Court explained that the essence of privacy is the right to be left alone. In context, the right to privacy means the right to be free from unwarranted exploitation of one's person or from intrusion into one's private activities in such a way as to cause humiliation to a person's ordinary sensibilities.² Authorities are agreed though that the right to privacy yields to certain paramount rights of the public and defers to the state's exercise of police power.³

As the warrantless clause of Sec. 2, Art III of the Constitution is couched and as has been held, "reasonableness" is the touchstone of the validity of a government search or intrusion.⁴ And **whether a search at issue hews to the**

¹ G.R. No. 127685, July 23, 1998. 293 SCRA 141, 169; citing *Morfe v. Mutuc*, No. 1-20387, January 21, 1988, 22 SCRA 335, 341.

reasonableness standard is judged by the balancing of the government - mandated intrusion on the individual's privacy interest against the promotion of some compelling state interest.⁵

The first factor to consider in the matter of **reasonableness is the nature of the privacy interest** upon which the drug testing, which effects a search within the meaning of Sec. 2, Art. III of the Constitution, intrudes.

Sec. 36 of RA 9165 and its implementing rules and regulations (IRR), as couched, contain provisions specifically directed towards preventing a situation that would unduly embarrass the employees or place them under a humiliating experience. While every officer and employee in a private establishment is under the law deemed forewarned that he or she may be a possible subject of a drug test, nobody is really singled out in advance for drug testing. The goal is to discourage drug use by not telling in advance anyone when and who is to be tested. And as may be observed, **Sec. 36(d) of RA 9165 itself prescribes what, in *Ople*, is a narrowing ingredient by providing that the employees concerned shall be subjected to "random drug test as contained in the company's work rules and regulations x x x for purposes of reducing the risk in the work place."**

For another, the random drug testing shall be undertaken under conditions calculated to protect as much as possible the employee's privacy and dignity. As to the mechanics of the test, the law specifies that the procedure shall employ two testing methods, i.e., the screening test and the confirmatory test, doubtless to ensure as much as possible the trustworthiness of the results. But the more important consideration lies in the fact that the test shall be conducted by trained professionals in access - controlled laboratories monitored by the Department of Health (DOH) to safeguard against results tampering and to ensure an accurate chain of custody.⁶ In addition, the IRR issued by the DOH provides that access to the drug results shall be on the "need to know" basis;⁷ that the "drug test result and the records shall be [kept] confidential subject to the usual accepted practices to protect the confidentiality of the test results."

Municipal Ordinance No.2020-11-007 of Dingras Ilocos Norte, Municipal Ordinance No. 2020-27 of Nueva Era Ilocos Norte, Municipal Ordinance No. SO2020-005 of Pasuquin Ilocos Norte, Municipal Ordinance No.226-1922 of Pinili Ilocos Norte, Municipal Ordinance No. 2020-05 of San Nicolas Ilocos Norte and Municipal Ordinance No. 2020-11-02 Sarrat Ilocos Norte are compliant with the said parameter. FIRST, procedure shall employ two testing methods, i.e., the screening test and the confirmatory test. SECOND, the test shall only be conducted by any government Drug Testing Laboratory duly authorized and accredited by the Department of Health. Lastly, drug test result and the records shall be [kept] confidential subject to the usual accepted practices to protect the confidentiality of the test results.

It must be observed however that the Municipal Ordinance No. 2020-01-015 of Piddig Ilocos Norte, Municipal Ordinance No. 11-01-2020 of Badoc, Ilocos Norte, Municipal Ordinance No.2020-02 of Vintar Ilocos Norte and Municipal Ordinance No. 2020-07 of Carasi, Ilocos Norte failed to include

⁵ Vernonia & Board of Education

⁶ Under Sec. 7 [3] of the DOH IRR Governing Licensing and Accreditation of Drug Laboratories, a laboratory is required to use documented chain of custody procedures to maintain control and custody of specimens

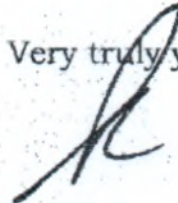
⁷ DOH IRR Governing Licensing and Accreditation of Drug Laboratories. Sec. 7 [10.3] provides that the original copy of the test results form shall be given to the client/donor, copy furnished the DOH and the requesting agency

provision in the said ordinance which guarantees the confidentiality of the test results in violation of Board Regulation 13, Series of 2018 of the Dangerous Drug Board. The intrusion into the employees' privacy should be accompanied by proper safeguards, particularly against embarrassing leakages of test results. Thus, it is a must that provision pertaining to confidentiality must be included.

Notably, the Ordinance does not oblige the Local Chief Executive concerned to report to the prosecuting agencies any information or evidence relating to the violation of the *Comprehensive Dangerous Drugs Act* received as a result of the operation of the drug testing.

Thank you very much.

Very truly yours,

A handwritten signature in black ink, appearing to be a stylized 'R' or 'K' with a long horizontal stroke extending to the right.