

EXECUTIVE ORDER NO. 492

**TRANSFORMING THE INSTRUCTIONAL MATERIALS CORPORATION
INTO A REGULAR GOVERNMENT AGENCY TO BE KNOWN AS
THE INSTRUCTIONAL MATERIALS DEVELOPMENT CENTER AND
FOR OTHER PURPOSES**

WHEREAS, the Instructional Materials Corporation was created as a government-owned corporation pursuant to Executive Order No. 806, series of 1982, to implement a "financially viable program for the development, production and distribution of textbooks and other materials, both print and non-print, to meet the needs of public elementary and secondary schools;"

WHEREAS, consistent with the Government's Corporate Rationalization Program, the regularization of the Instructional Materials Corporation was finally approved by the President on 24 May 1988 upon the recommendation of the Department of Budget and Management in accordance with the latter's mandate under Executive Order No. 5, series of 1986, and Executive Order No. 165, series of 1987;

WHEREAS, the Secretary of Justice, in Opinion No. 210, series of 1988, states that "the President may, in the implementation of the privatization program of the government, amend or repeal the charters of government-owned or controlled corporations pursuant to her delegated legislative authority under Section 22 of Proclamation No. 50, which remains to be operative until it is amended, repealed or revoked by Congress (Sec. 3, Art. XVIII, Constitution);" and

WHEREAS, the Secretary of Justice, in Opinion No. 43, series of 1990, further states that "the President may amend the charters of GOCCs xxx identified for privatization to effect mergers or consolidations pending final disposition of such GOCCs to the private sector, xxx if such disposition action will enhance the implementation of the privatization program of the government;" that the President may likewise amend the charters of GOCCS recommended for regularization into regular line agencies so as to terminate their corporate existence; and that such "disposition action is also deemed consistent with the government's privatization program in that the regularization of certain GOCCs into regular line agencies would give effect to the government's policy to accord primacy to the private sector in entrepreneurial endeavors and relegate the government to a secondary role;"

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Declaration of Policy. - It is the declared policy of the State to pursue a continuing program to promote and maintain the quality standards in the country's education system. In line with this policy, the establishment of a regular government agency is necessary to implement a financially viable program for the development, production and distribution of textbooks and other instructional materials, both print and non-print, to meet the needs of public elementary and secondary schools.

SEC. 2. Regularization. - The Instructional Materials Corporation is hereby transformed into a regular government agency to be known as the Instructional Materials Development Center, hereinafter referred to as the Center, which shall be attached to the Department of Education, Culture and Sports pursuant to Administrative Order No. 59, series of 1986.

SEC. 3. Purposes and Objectives. - The Center shall have the following purposes and objectives:

- a. Promote the integration and rationalization of the development and production, utilization and distribution of instructional materials, such as textbooks, supplementary and reference books, teaching devices, laboratory and science instruments and audio-visual equipment, to adequately meet the needs of public elementary and secondary schools;
- b. Enhance the maximum utilization of other instructional materials using audio-visual and instructional technology or programmed self-instructional units;
- c. Encourage the development of appropriate textbooks and other instructional materials for the various curricula in public elementary and secondary schools; and
- d. Provide the Department of Education, Culture and Sports the requirements for textbooks and other instructional materials.

SEC. 4. Powers and Functions of the Center. - The Center shall have the following powers and functions:

- a. Conduct operations for which it has been lawfully organized and exercise such powers and perform such acts as are directly or indirectly necessary for the attainment of its purposes and objectives;
- b. Own, lease, mortgage, encumber or otherwise dispose of real and personal property as the attainment of its purposes and objectives.

c. Enter into any obligation or contract essential to the proper administration of its affairs, the conduct of its operations or the accomplishment of its purposes and objectives;

d. Formulate policies and programs necessary for the attainment of its purposes and objectives which are not contrary to law, morals or public interest, and amend or repeal the same whenever necessary;

e. Initiate, formulate and adopt a general plan, based on established policies and priorities for the development, production, utilization and distribution of instructional materials, such as textbooks, supplementary and reference books, teaching devices, laboratory and science instruments and audio-visual equipment, to adequately meet the needs of public elementary and secondary schools;

f. Formulate policy recommendations and standards governing textbooks and instructional materials for the adoption of the Instructional Materials Council;

g. Prepare long and short range instructional materials production and procurement programs indicating the availability, quality and quantity, the capacity of local production units, the production costs and price, and the allocation requirements of the Department of Education, Culture and Sports for instructional materials;

h. Undertake the writing of or commission private individuals or organizations to write textbooks and other instructional materials for the various curricula of public elementary and secondary education;

i. Publish and print or cause the publication and printing by contract the prescribed textbooks and other instructional materials;

j. Distribute and dispose textbooks and other instructional materials produced for the Department of Education, Culture and Sports and sell the surplus to other interested government and private entities at reasonable prices;

k. Engage in warehousing, sales and distribution operations;

l. Charge royalties in accordance with applicable laws on the reprinting of textbooks and other instructional materials produced by the Center, other government entities and the private sector; and

m. Provide the Instructional Materials Council with the necessary technical assistance and support.

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Secretary of Education, Culture and Sports as *ex-officio* Chairman, the Administrator of the Center and a representative of the Office of the President to be designated by the President of the Philippines as *ex-officio* members, and two other members who shall be appointed by the President of the Philippines for a term of four (4) years: Provided, That the tenure of the members first appointed shall be as follows: one for four (4) years and the other for two (2) years as fixed in their respective appointments.

The members of the Governing Board shall serve and continue to hold office until their successors shall have been appointed and qualified. Should a member of the Governing Board fail to complete his term, his successor shall be appointed by the President of the Philippines but only for the unexpired portion of the term.

The Governing Board shall be responsible for the formulation and adoption of substantive and operational policies for the guidance and implementation of the management staff of the Center.

The Governing Board shall have the following powers and functions:

a. Formulate policies necessary for the attainment of the purposes and objectives provided in Section 3 hereof and exercise all the powers and functions of the Center prescribed by Section 4 hereof in order to implement such policies and accomplish such purposes and objectives;

b. Adopt and promulgate rules and regulations governing the manner in which the general affairs of the Center are to be exercised and amend, repeal and modify such rules and regulations whenever necessary;

c. Determine the organizational structure of the Center and create, abolish, merge or otherwise reorganize positions therein as may be necessary for the economical, effective and efficient discharge of its functions and responsibilities; subject to the approval of the Department of Budget and Management;

d. Approve, with the concurrence of the Department of Budget and Management, the annual and supplemental budgets submitted to it by the Administrator;

e. Adopt rules and procedures and fix the time and place for holding meetings: Provided, That at least one regular meeting shall be held monthly; and

f. Exercise such other powers and perform such other duties as may be required by law or assigned by the Secretary of Education, Culture and Sports for the efficient and effective implementation of this Executive Order.

The members of the Governing Board, except the Chairman, shall receive per diems as may be authorized for every meeting actually attended and subject to pertinent laws, rules and regulations.

SEC. 6: Management of the Center. - The authority and responsibility for the day-to-day management and direction of the operations and affairs of the Center shall be vested in an Administrator who shall be its chief executive officer. The Administrator shall be assisted by an Assistant Administrator. Both the Administrator and the Assistant Administrator shall be appointed by the President of the Philippines.

The Administrator shall have the following powers and functions:

- a. Execute, administer and implement the policies and measures approved by the Governing Board;
- b. Direct and manage the affairs and operations of the Center;
- c. Submit within thirty (30) days after the close of every calendar year an annual report to the Governing Board and such other reports it may require;
- d. Submit an annual budget and such supplemental budgets as may be necessary to the Governing Board for its consideration and approval;
- e. Represent the Center in all transactions with other offices, agencies and instrumentalities of government and with all persons and other entities, public or private, domestic or foreign;
- f. Appoint, subject to the confirmation of the Governing Board, and discipline for cause in accordance with Civil Service laws, rules and regulations, the Center's officers and personnel below the level of Assistant Administrator;
- g. Delegate in writing authority, as may be necessary, to subordinate officers and personnel of the Center; and
- h. Perform such other duties as may be assigned to him by the Governing Board, which, according to its sound discretion, are necessary for the efficient and effective implementation this Executive Order.

The Assistant Administrator shall have the following powers and functions:

- a. Assist the Administrator in the discharge of his powers and performance of his functions;

c. Discharge such other powers and perform such other functions as may be required by the Administrator or the Governing Board.

SEC. 7. Coordination with the Instructional Materials Council. - The Center shall maintain close liaison and coordination with the Instructional Materials Council and, for this purpose, the Administrator or his duly authorized representative shall be an *ex-officio* member of the said Council.

SEC. 8. Interim Period. - The General Manager of the Instructional Materials Corporation shall be the Officer-in-Charge of the Center while the present members of the Board of Directors shall serve as the temporary Governing Board of the Center pending the formal activation of the Center by the appointment of the Administrator and the members of the Governing Board by the President of the Philippines.

The appropriations of the Department of Education, Culture and Sports for the development and production of textbooks and related instructional materials and activities in the current General Appropriations Act, including those already remitted to the Instructional Materials Corporation as advance payments, shall be transferred to the Center as determined by the Department of Budget and Management.

The Center shall have no revolving fund and, except donations, grants, legacies, devises and other similar acquisitions, its income, regardless as to the manner acquired and in whatever form, whether as profits, fees, charges, surcharges, penalties or otherwise, shall form part of the General Fund. The operations of the Center shall be funded under the annual General Appropriations Act.

SEC. 9. Personnel and Organizational Policies. - Upon the regularization of the Instructional Materials Corporation, its officers and employees shall, in a holdover capacity, continue to perform their respective duties and responsibilities and receive their corresponding salaries and benefits unless in the meantime they are separated or retired from the service pursuant to existing laws, rules and regulations.

The Secretary of Education, Culture and Sports, upon the recommendation of the Administrator, shall submit the necessary organizational structure for the Center to the Secretary of Budget and Management within one hundred and twenty (120) days from the approval of this Executive Order: Provided, That incumbents of the Instructional Materials Corporation shall have priority for appointment to the same or comparable positions in the Center: Provided, further, That the said incumbents shall have the option to be considered separated or to retire from the service whenever such option is available to them under existing laws, rules or regulations. Those incumbents of the Instructional Materials

who are separated or who retire from the service shall receive the benefits they may be entitled to under existing laws, rules and regulations.

SEC. 10. Periodic Performance Evaluation. - The Secretary of Education, Culture and Sports shall formulate and enforce a system of appraising and evaluating periodically and objectively the performance of the Center.

SEC. 11. Transfer of Records and Others. - The records, equipment, facilities, choses in action, rights, other assets and personnel of the Instructional Materials Corporation are hereby transferred to the Center for the proper accomplishment of the objectives of this Executive Order. The appropriations and funds of the Corporation, if any, shall revert to the General Fund after reserving the amount necessary to pay the benefits of those separated or retired from the service under Section 9 hereof: Provided, That if the appropriations and funds of the Corporation are not sufficient to pay such benefits, the deficiency shall be satisfied from the savings of the Department of Education, Culture and Sports. Its remaining assets, if any, shall be allocated to the appropriate units of the Government as the Office of the President shall determine or shall otherwise be disposed of in accordance with the Government Auditing Code of the Philippines and other pertinent laws, rules and regulations. Its liabilities, if any, shall be paid in accordance with the provisions of the Civil Code of the Philippines on concurrence and preference of credits.

SEC. 12. Implementing Authority. - The Secretary of Education, Culture and Sports shall promulgate such rules, regulations and other issuances as may be necessary to ensure the efficient and effective implementation of this Executive Order.

SEC. 13. Applicability of References to the Center. - All references to the Instructional Materials Corporation under existing laws, rules and regulations and other administrative issuances, as may still be valid and applicable and insofar as consistent with the provisions of this Executive Order, shall henceforth be deemed as reference to the Center.

SEC. 14. Notice or Consent Requirements. - If any reorganizational change authorized in this Executive Order is of such substance or materiality as to prejudice third persons with rights recognized by law or contract such that notice to or consent of creditors is required to be made or obtained pursuant to any agreement entered into with any such creditors, such notice or consent requirements shall be complied with prior to the implementation of such reorganizational change.

SEC. 15. Separability. - Any portion or provision of this Executive Order that may subsequently be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as

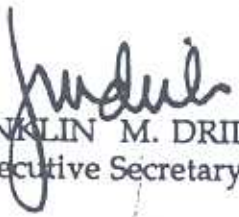
SEC. 16. Repeal. - Executive Order No. 806, series of 1982, and Letter of Instructions Nos. 1462, series of 1985, and 1463, series of 1985, are hereby repealed. All other laws, rules, regulations and other administrative issuances or provisions thereof which are contrary to or inconsistent herewith are hereby repealed or modified accordingly.

SEC. 17. Effectivity. - This Executive Order shall take effect after fifteen (15) days from its publication in a national newspaper of general circulation or in the Official Gazette.

DONE in the City of Manila, this 29th day of November in the year of Our Lord, nineteen hundred and ninety-one.



By the President:



FRANKLIN M. DRILON
Executive Secretary