

Republic of the Philippines

OFFICE OF THE OMBUDSMAN

Ombudsman Building, Agham Road, National Government Center,
North Triangle, Diliman, Quezon City 1128, Philippines

OFFICE CIRCULAR NO. 34

Series of 2010.

**“A Policy Prohibiting Smoking Within the Premises of the
Office of the Ombudsman and the Implementation of a
Smoking Cessation Program for Affected Employees”**

WHEREAS, Article II, Section 15 of the 1987 Philippine Constitution states that the State shall protect and promote the right to health of the people and instill health consciousness among them.

WHEREAS, Article II, Section 16 of the 1987 Philippine Constitution states that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

WHEREAS, Article II, Section 13 of the 1987 Philippine Constitution states that the State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being.

WHEREAS, Article II, Section 14 of the 1987 Philippine Constitution states that the State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions.

WHEREAS, Republic Act No. 8749, otherwise known as the *Philippine Clean Air Act of 1999*, prohibits smoking inside public buildings, or in enclosed public places, or in any enclosed area outside of one's private residence, private place of work or any duly designated smoking area. Violators of the smoking ban shall be punished with six (6) months and one (1) day to one (1) year imprisonment or a fine of ten thousand pesos (P 10,000.00).

WHEREAS, Republic Act No. 9211, otherwise known as the *Tobacco Regulation Act of 2003*, prohibits smoking in public places. Violators of the smoking ban shall be punished with a fine ranging from Five Hundred Pesos (P 500.00) to not more than Ten Thousand Pesos (P 10,000.00), depending on how many times the offense is committed.

WHEREAS, Memorandum Circular No. 17, Series of 2009 of the Civil Service Commission promulgates a 100% smoke-free policy and a smoking prohibition in all government premises, buildings and grounds in order to ensure a healthy and productive workforce.

WHEREAS, the Republic of the Philippines is a signatory to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC).

WHEREAS, Article 8 of the WHO FCTC provides that the State shall adopt and implement effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places. One of the agreed principles as embodied in the *Implementing Guidelines of Article 8 of WHO FCTC* is the total elimination of smoking and tobacco smoke in a particular environment in order to create a 100% smoke free environment.

WHEREAS, local governments where our offices are located have passed ordinances which prohibit smoking in public places, such as Quezon City Ordinance No. SP-1515, S-2005 and Davao City Ordinance No. 043-02.

WHEREAS, based on studies by the Department of Health, eighty percent (80%) of current smokers want to quit but did not know where and who to approach for assistance, thus, necessitating a need for the implementation of a smoking cessation program.

WHEREFORE, in consideration of these premises, this Office Order is hereby issued.

1. *Policy Statement.* Smoking is ABSOLUTELY prohibited within the premises of the Office of the Ombudsman.

2. *Definition of terms.*

2.1. Smoking refers to the act of lighting and/or puffing of any lighted cigarette, cigar, or any other form, kind, type of tobacco product. This includes the act of possessing or carrying a lighted cigarette or other tobacco products, whether or not it is being inhaled or smoked.

2.2. Premises shall include, but not limited to, office buildings, rooms, yard, grounds, compound, parking areas, garden, vehicles and the like of the Office of the Ombudsman notwithstanding that the said structures or areas are owned by other agencies of the national government or privately-owned but leased by the Office of the Ombudsman for use by its sectoral/area/regional offices.

3. *Medical Support Program for Smokers.* The Medical and Dental Clinic is hereby directed to immediately implement an education campaign, either in written or oral form, for all employees of the Office of the Ombudsman relative to the negative effects of smoking and the positive effects of smoking restrictions in public places. It is also directed to immediately implement a "Smoking Cessation Program", or a similar program, for employees desirous of quitting smoking, in coordination with the Department of Health and its allied agencies. The program shall provide for medical, psychiatric and counseling support to employee-participants.

4. *Posting of Warning Signs and removal of ashtrays or any receptacle made for dispensing cigarette, cigar or any tobacco product refuse.* Building Administrators/Supervisors are immediately directed to post "no smoking" signages in conspicuous places and "This is a Smoke-free Zone" in the entrance gates. They are also directed to remove ashtrays or any receptacle made for dispensing cigarette, cigar or any tobacco product refuse.

The "no smoking" signages shall be posted and displayed prominently in the government vehicles, stairwells, elevators, entrances, exits and other conspicuous places in the buildings, grounds, premises of the Office of the Ombudsman. The "no smoking" signage shall be at least 8 x 16 inches in size and the International No Smoking Symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a

red bar across it) shall occupy no less than 70% of said signage. The remaining lower 30% of the signage shall show the following warning:

STRICTLY NO SMOKING
FINE up to P10,000.00
under R.A. 8749 and R.A. 9211

5. *Penalties.* Criminal and administrative actions shall be taken against those who violate the smoking ban.

Violators shall be charged under Republic Act No. 8749 and/or Republic Act No. 9211 and its implementing rules and regulations, where applicable.

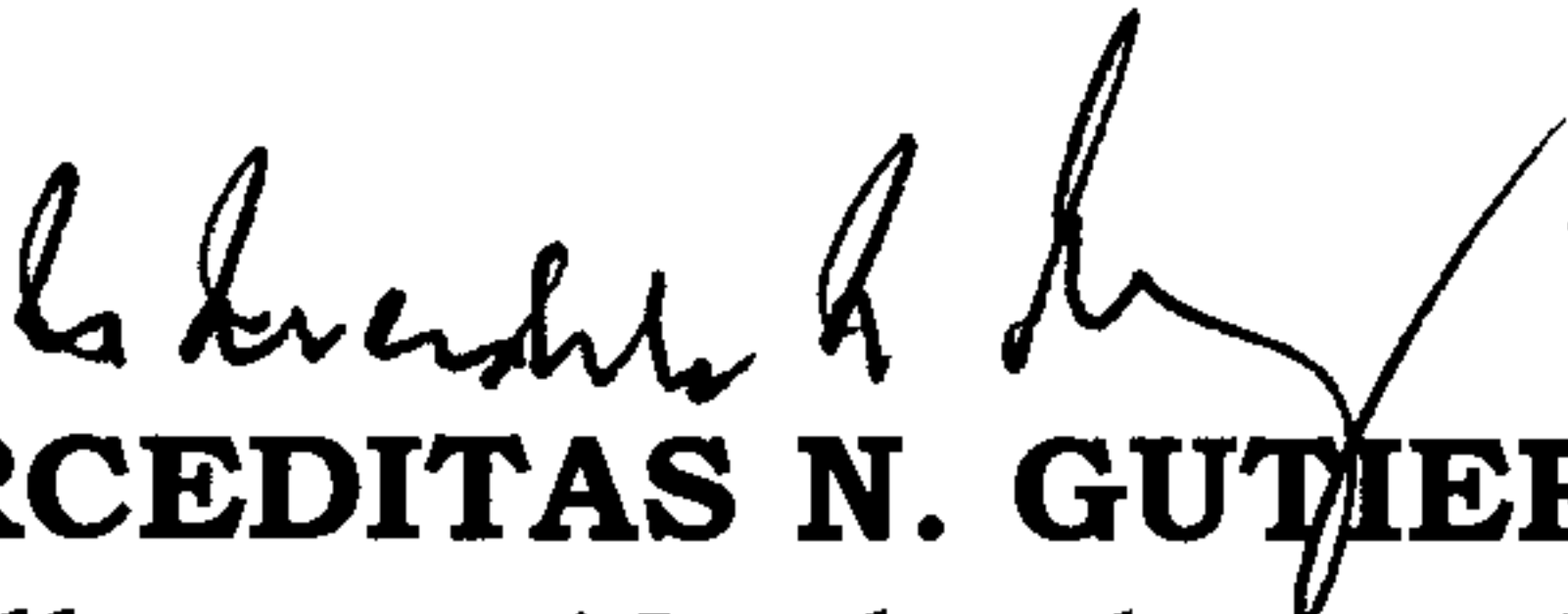
Violators shall also be charged with *Violation of Reasonable Office Rules and Regulations* under the *Omnibus Rules of Book V of Executive Order No. 292*, among other applicable offenses therein.

To prevent further commission of the act herein penalized, an employee of the Office of the Ombudsman may join the Smoking Cessation Program provided by the Office.

Appropriate criminal and administrative charges shall likewise be filed against public employees who are not employed with the Office of the Ombudsman.

6. *Enforcement.* All heads of offices shall strictly implement this policy and immediately prohibit smoking among their employees and the general public in their respective premises.

7. *Effectivity.* This Office Circular shall take effect immediately, except for the penal provisions which shall take effect ten (10) days after publication in the bulletin boards or in the Office of the Ombudsman website, whichever is earlier. It shall remain valid until revoked or amended. All previous issuances inconsistent herewith are hereby revoked and/or modified accordingly.


MA. MERCEDITAS N. GUTIERREZ
Tanodbayan (Ombudsman)

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