

PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

1. This program safeguards system assessment (PSSA) has been prepared for the Senior High School Support Program (SHSSP), which is proposed for Asian Development Bank (ADB) funding using a results-based lending for programs (RBL) modality. The delivery of school infrastructure under the RBL program may trigger ADB's environment, involuntary resettlement, and indigenous peoples safeguards policies, and curriculum development under the SHSSP may trigger ADB's indigenous peoples safeguard.¹ The PSSA analyzed safeguards systems of the Government of the Philippines and those of the SHSSP executing agency—the Department of Education (DepEd)—to assess them against ADB's safeguards requirements. The Philippines' safeguards system has some good practices, including preparation of mitigation plans for development partner-funded projects and consultations with affected communities. It also fails in some areas to conform with the principles of ADB's Safeguard Policy Statement (2009), and shows a need to strengthen its institutional capacity and human resources. Safeguards-related SHSSP actions have been included in the program action plan (PAP) to help address these issues and will be monitored during the program's implementation.

A. Introduction

2. The PSSA builds on the existing knowledge of ADB, its development partners, concerned government agencies, and ADB staff and consultants who were involved in the preparation of the SHSSP. This PSSA was prepared through (i) document reviews of existing reports, equivalence assessments, and relevant government laws and regulations; (ii) interviews with representatives of government agencies, namely, DepEd and the Department of Public Works and Highways (DPWH); and (iii) site visits.²

B. Summary Program Description

3. The SHSSP will support the establishment and implementation of senior high school (SHS), as part of the government's kindergarten to Grade 12 (K to 12) basic education program. It will cover activities during 2014–2019 in four results areas: (i) upgrading of the quality of DepEd's SHS program, (ii) achieving minimum service standard for school facilities in DepEd SHSs, (iii) developing and implementing an SHS voucher program, and (iv) strengthening basic education management, fiduciary, and safeguards systems. As the executing agency, DepEd will implement the SHSSP through its central, regional, and division offices. A program steering committee will be formed to oversee program implementation, as well as set policy guidelines and strategic directions for the SHSSP.

C. Program Environmental and Social Impacts and Risks

4. **Environment.** The delivery of school infrastructure to achieve minimum service standard for school facilities in DepEd SHSs (results area ii) will likely trigger an environmental assessment. Physical infrastructure development will likely involve delivery of new SHSs, rehabilitation of existing schools, delivery of new buildings and classrooms within existing school

¹ As discussed in ADB's Safeguard Policy Statement (2009).

² DepEd's physical facilities and schools engineering division (PFSED) has an educational physical facilities manual that guides the construction of DepEd educational facilities. Responsibility for school construction has alternated between DepEd and DPWH.

compounds, and upgrading of technical and vocational education and training school infrastructure. These activities could result in moderate adverse environmental impacts, such as short-term construction-related site-specific impacts. In most cases, these impacts can be mitigated through standard operational procedures and good construction management practices. As a result, the program has been classified as category B for environment.

5. **Involuntary resettlement.** Although DepEd has indicated it does not intend to build SHS infrastructure on new land, the same results area may have resettlement impacts since the actual location of new facilities is still being determined and people may be present even on public properties targeted for new construction and may be affected. Due to the relatively small areas needed for these activities, the SHSSP has been classified as category B for involuntary resettlement.

6. **Indigenous peoples.** The upgrading of the quality of DepEd's SHS program and delivering minimum service standard school facilities for SHS—results areas (i) and (ii)—may have impacts on indigenous peoples.³ Their communities will not be specifically targeted under the SHSSP, and no differential impacts are expected. However, enrollments and the actual location of new facilities are not yet known. Thus, the delivery of new facilities in areas inhabited exclusively by indigenous peoples or on ancestral territories cannot be ruled out at this stage, and the program has been classified as category B for indigenous peoples.

D. Safeguard Policy Principles Triggered

Table 1: Safeguard Policy Principles Triggered

Safeguard Policy Statement Principles	Description
Environment	
Principle 1. Use a screening process for each proposed project, as early as possible, to determine the extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance or potential impacts and risks	Construction could potentially result in adverse impacts to the surrounding environment. An EARF should be prepared for guidance of DepEd, DPWH, and contractors. The EARF should incorporate a procedure for environmental screening against DENR's and ADB's SPS requirements, conduct of environmental assessment for each project, preparation of the IEE, meaningful public consultation, EMP, and a GRM to handle environment-related complaints.
Principle 2. Conduct an environmental assessment for each proposed project	
Principle 4. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements	
Principle 5. Carry out meaningful consultation with affected people and facilitate their informed participation	
Principle 7. Implement the EMP and monitor its effectiveness	
Principle 6. Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	The IEE with EMP provide important guidance to contractors, parents, students, and other stakeholders. The IEE with EMP should be disclosed on the DepEd and ADB websites and provided at DepEd division offices for guidance and to facilitate monitoring by the facilities coordinator.
Principle 9. Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guidelines	Construction may generate solid waste, dust, and wastewater which should be reduced and disposed of appropriately. Construction may result in injuries to workers. Contractors should be required to strictly observe construction
Principle 10. Provide workers with safe and healthy working	

³ The indigenous peoples education policy framework of DepEd provides that organizations and communities representing these people be involved in their areas in preparing content of the SHS curriculum relating to indigenous peoples.

Safeguard Policy Statement Principles	Description
conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize adverse impacts and risks to the H&S of local communities	H&S requirements of DOLE and international best practice. The construction H&S guidelines should be included in the EMP, bid documents, and contract.
Principle 3. Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts	Subproject locations will be determined later, but most will be on existing school campuses and public land. The education facilities manual provides standards and guidance on the construction of facilities and site selection. The EARF will provide for notification on physical and cultural resources and critical habitats that may be affected by any subproject and avoid siting of subprojects in those locations to the extent possible.
Principle 8. Do not implement project activities in areas of critical habitats	
Principle 11. Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment	
Involuntary Resettlement	
Principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of DPs, including a gender analysis, specifically related to resettlement impacts and risks	The delivery of SHS infrastructure to meet MSSs may result in involuntary resettlement impacts. Screening of these activities will be carried out early on to determine the scope of resettlement planning required. For activities with resettlement impacts, continuing meaningful consultations with all AHs will be carried out. Appropriate mitigation measures, compensation, and assistance to restore livelihoods and living standards of all DPs to at least preproject conditions will be put in place.
Principle 2: Carry out meaningful consultations with APs, host communities, and concerned nongovernment organizations	
Principle 3: Improve, or at least restore, the livelihoods of all DPs	
Principle 4: Provide physically and economically displaced persons with needed assistance	
Principle 5: Improve standards of living of displaced poor and other vulnerable groups to at least national minimum standards. In urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	
Principle 6: Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement	Land for delivery of SHS infrastructure may be acquired through negotiated settlement. Full documentation and transparency of negotiated land acquisition process will be ensured for relevant program activities.
Principle 7: Ensure that DPs without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets	Delivery of SHS infrastructure may displace persons without titles or any recognizable legal rights to land. The program will ensure that nontitled holders are compensated for nonland assets at full replacement cost.
Principle 8: Prepare a RP elaborating on DP entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule	The delivery of SHS infrastructure to meet MSSs may result in involuntary resettlement impacts. An RP will be prepared, disclosed, and implemented with compensation payments prior to physical or economic displacement and regularly monitored (internal and external monitoring) for program activities with LAR impacts.
Principle 9: Disclose a draft RP, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to APs and other stakeholders	
Principle 10: Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits	
Principle 11: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the RP under close supervision throughout project implementation	
Principle 12: Monitor and assess resettlement outcomes, impacts on the standards of living of DPs, whether the objectives of the RP have been achieved by taking into account the baseline conditions and the results of resettlement monitoring	
Indigenous Peoples	
Principle 1. Screen early on to determine (i) whether IPs are present in, or have collective attachment to, the project area; and	SHS infrastructure may be delivered within indigenous peoples' ancestral territories or

Safeguard Policy Statement Principles	Description
(ii) whether project impacts on IPs are likely	areas exclusively habituated by IPs, in order to
Principle 2. Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on IPs. Give full consideration to options the affected IPs prefer in relation to the provision of project benefits and the design of mitigation measures	meet MSSs for SCR. Incorporation of indigenous peoples aspects in SHS curriculum development and implementation may also impact IPs. For these program activities, culturally appropriate and gender-sensitive screening and social impact assessment, including meaningful consultation and adherence to FPIC requirements, as relevant, will be carried out. The physical displacement of indigenous people will be avoided to the extent possible. Where this is not possible, the active participation of affected IPs in design, implementation, and monitoring and evaluation of management arrangements will be ensured.
Principle 3. Undertake meaningful consultations with affected indigenous peoples communities and concerned indigenous peoples organizations to solicit their participation	
Principle 4. Ascertain the consent of affected indigenous peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of IPs; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of IPs	
Principle 5. Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected indigenous peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared	
Principle 6. Prepare an IPP that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected indigenous peoples communities	An IPP will be prepared, disclosed, implemented, and monitored for program activities with impacts on IPs (e.g. SHS infrastructure delivered within indigenous peoples' ancestral territories or areas exclusively inhabited by indigenous peoples. A MOA will also be prepared, disclosed, implemented, and monitored for activities that require FPIC as IPRA and NCIP administrative orders.
Principle 7. Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner	
Principle 9. Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved	

ADB = Asian Development Bank; AH = affected household; AP = affected person; DENR = Department of Environment and Natural Resources; DepEd = Department of Education; DOLE = Department of Labor and Employment; DP = displaced person; EARF = Environmental Assessment and Review Framework; EMP = environmental management plan; FPIC = free, prior, and informed consent; GRM = grievance redress mechanism; H&S = health and safety; IEE = initial environmental examination; IP = indigenous peoples; IPP = indigenous peoples plan; IPRA = Indigenous Peoples Rights Act of 1997; IR = involuntary resettlement; LAR = land acquisition and resettlement; MOA = memorandum of agreement; MSS = minimum service standard; NCIP = National Commission on Indigenous Peoples; RP = resettlement plan; SCR = student-classroom ratio; SPS = Safeguard Policy Statement (2009).

Note: Principles are based on ADB. 2009. *Safeguard Policy Statement*. Manila. pp. 16–18.

Source: Asian Development Bank.

E. Diagnostic Assessment

1. Assessment Methodology and Resources

7. **Environment.** The diagnostic assessment was carried out by ADB staff and program preparatory technical assistance (TA) consultant through a desk review of existing reports, national policies, and safeguards systems, as well as through meetings and interviews with key personnel of the DepEd central office, selected DepEd division offices, and DPWH. These were used to discuss their current environmental assessment and management systems, the institutional capacity of the DepEd and DPWH, and institutional linkages in the implementation

of the environmental management plan. The program preparatory TA consultant met with staff of the two departments in a number of offices and visited selected sites.⁴ Information about the environmental legal framework, rules, and regulations in the Philippines was obtained from the Department of Environment and Natural Resources. Equivalence assessment reports of Philippine country safeguards system from World Bank- and ADB-supported technical assistance projects were also reviewed.

8. **Involuntary resettlement.** To assess and validate existing land acquisition and resettlement (LAR) safeguards systems and determine potential involuntary resettlement impacts and institutional capacity for safeguards implementation, the program preparatory TA consultants and ADB staff and a staff consultant carried out document reviews of existing relevant laws, policies, and reports on land sector governance and involuntary resettlement in the Philippines.⁵ They also drew on experience from existing projects with LAR impacts.⁶ This was supplemented by meetings and interviews conducted with (i) key personnel of DepEd central office; (ii) the undersecretary of DPWH in charge of the environment and social safeguards office; (iii) the acting director of physical facilities and schools engineering division (PFSED); (iv) the head of the DepEd legal and titling division; and (v) the DepEd undersecretary for legal affairs. The existing LAR legal and regulatory framework was assessed against ADB involuntary resettlement policy principles to identify existing good practice and critical gaps in meeting the applicable Safeguard Policy Statement (SPS) principles. The team also assessed the safeguards system and identified institutional capacity-building needs to propose safeguards-related actions to be applied under the SHSSP.⁷

9. **Indigenous peoples.** The indigenous peoples safeguards diagnostic assessment was carried out by program preparatory TA consultants and ADB staff and a staff consultant through document reviews of existing relevant laws, policies and reports, drawing on consultants' previous experience with indigenous peoples and development projects in the Philippines. This was supplemented by meetings and interviews, including with the program director of the indigenous peoples education office, the indigenous peoples point person for education and the former chairperson of the National Commission on Indigenous Peoples.⁸ Findings were analyzed to determine (i) the program's potential impacts on indigenous peoples, (ii) existing good practice in the indigenous peoples safeguards system, (iii) critical gaps between the existing system and ADB SPS policy principles, (iv) institutional capacity-building needs, and (v) what indigenous peoples safeguards actions needed to be applied under the program.

⁴ DepEd physical facilities and schools engineering division (PFSED), DepEd disaster risk reduction management office; DepEd division office, Pasig City; DepEd division office, Lipa City; Gaudencio Lontok Elementary School; Bulakhin High School; DPWH office of undersecretary Alfredo Tolentino; DPWH environment and social safeguards office; DPWH bureau of construction; and DPWH bureau of design.

⁵ World Bank. 2008. *Philippines Involuntary Resettlement: Policy and Institutional Frameworks, Practices and Challenges*. Discussion papers, East Asia and Pacific Region. Social Development, and Rural Development, Natural Resources and Environment Sectors. Washington DC; Eleazar, F. 2013. *Improving Land Sector Governance in the Philippines: Implementation of Land Governance Assessment Framework*.

⁶ ADB. 2012. *Integrated Natural Resources and Environmental Management Project*. Manila; ADB. 1996. *Cordillera Highland Agricultural Resource Management Project*. Manila (cofinanced by the International Fund for Agricultural Development); ADB. 2008. *Second Cordillera Highland Agricultural Resource Management Project*. Manila (cofinanced by the International Fund for Agricultural Development); World Bank. 2008. *National Roads Improvement and Management Program*. Manila; World Bank. 2010. *Pasig River Rehabilitation Program*. Manila; Millennium Challenge Corporation. 2010. *Secondary National Roads Development Project*. Manila.

⁷ Per the ADB Safeguard Policy Statement (2009).

⁸ GIZ. 2013. *Assessing Free and Prior Informed Consent (FPIC) Implementation in the Philippines*. Manila.

2. Environment Systems Assessment

10. **Environmental assessment.** A comprehensive environmental systems assessment was undertaken to understand the current national environmental impact assessment (EIA) procedures as well as the safeguards practices of the DepEd during the planning and construction of physical facilities. The environmental systems assessment covered (i) environmental policies and regulations in the Philippines, (ii) overview of ADB safeguards requirements, (iii) anticipated environmental impacts and mitigation measures, (iv) management of risks, and (v) capacity improvement. The DepEd has an educational facilities manual (EFM) that was prepared in 2010. It provides guidance and standards, including environmental assessment procedures. The EFM covers the DepEd school mapping exercise that includes environmental mapping to recognize disaster risk reduction measures in school planning. School planning and design also ensure consistency with the requirements of Philippine laws and regulations, including the national building code, sanitation code, national structural code, and occupational safety and health standards. The responsibility for securing the environmental compliance certificate for projects covered by the Philippine environmental impact statement system rests with the PFSED and the contractor. Under current DepEd arrangements, the environmental compliance certificate is secured by the school and facilitated by the contractor along with other permits and clearances, such as those for building, electrical work, and sanitation facilities.

11. **Institutional arrangements.** The PFSED is located at DepEd's central office. It plays the vital role in administering the design and construction of school facilities. The PFSED operates under the office of planning service of the office of the assistant secretary for planning of the DepEd. Because it focuses on construction of school buildings and facilities, the human resource complement is principally engineers and architects with limited knowledge of EIA. The facilities coordinator at the DepEd division office and the school principal supervise contractors and overall project implementation.

12. The DepEd regional and division offices have one facilities coordinator each. They are assigned concurrent with existing assignments as education supervisors or teachers. The PFSED assigns a project engineer from the central office to work with the facilities coordinator. Project implementation arrangements provide a good starting point to incorporate the environmental management plan (EMP) monitoring and reporting during the construction phase of a project by the PFSED project engineer and by the facilities coordinator. However, a full-time environment officer or safeguards focal person is needed to oversee the safeguards implementation of projects implemented by both the DepEd and DPWH. DepEd, contractors, and DPWH will need capacity building on environmental management and ADB's SPS.

3. Involuntary Resettlement

13. **Current involuntary resettlement policy and practice.** Existing laws and regulations govern land acquisition and resettlement in the Philippines, and the government has adopted the resettlement policies of development partners on a project-by-project basis.⁹ Strengths of

⁹ These include the 1987 Constitution of the Republic of the Philippines; the 2007 revised procedural manual for the Department of Environment and Natural Resources (DENR), Administrative Order No. 30, Series Of 2003; DPWH. 2003. *Infrastructure Right of Way Procedural Manual*. Manila; DPWH. 2007. *Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples (LARRIP) Policy*. Manila; the Philippine Civil Code; Executive Order No. 152: Clearing House for Demolition and Eviction; and the Urban Development and Housing Act and its implementing rules and regulations.

the existing system include preparation of resettlement plans for development partner-funded projects,¹⁰ consultation with affected communities, and an aim of providing just compensation for project-affected assets. These existing good practices will be adopted by the SHSSP, although some aspects need strengthening. Critical gaps identified include the lack of a definition of just compensation for private property affected by land acquisition and resettlement. Several government policies prioritize or give precedence to compensation based on Bureau of Internal Revenue zonal value for land, which may not be equivalent to full replacement cost—i.e., the market value of the property without deduction for transaction costs and taxes. The use of market values and upfront payment in compensating owners of properties subject to expropriation is only guaranteed in national infrastructure projects. This creates an uneven application of fairness in compensation (footnote 5). Other types of projects use only assessed values as a basis for compensation and need only pay 15% of the total value to acquire the property (footnote 5).

14. Furthermore, the government has no resettlement policy that would define just compensation for socioeconomic and income losses (i.e., those suffered by small businesses and commercial establishments) arising from public expropriation proceedings. In addition, although procedures for negotiated settlement are provided through the Act to facilitate the acquisition of right-of-way, site or location for national government infrastructure projects and for other purposes (Republic Act 8974), they are silent on transparency. Differences in resettlement practices have also been identified across agencies (footnote 4). Specific to the SHSSP, the PFSED has an EFM that guides the construction of DepEd facilities. However, the EFM does not contain a policy on resettlement. Responsibility for construction of school buildings has alternated between the DepEd and DPWH and is currently with DPWH. While the acting head of the PFSED states that the unit is capable of handling the construction of the new facilities for the K to 12 program, neither she nor the legal department of the DepEd is aware of a DepEd policy on involuntary resettlement.

15. At the local level, DepEd forwards proposals for school construction or expansion to its partner local government units (LGUs). LGUs and the National Housing Authority (NHA) are directly involved in land acquisition. Regardless of whether the required land is LGU-owned or must be acquired, the local chief executive, through a resolution by the local council, enters into a usufruct agreement with DepEd, most often on a perpetual basis. DepEd begins construction once all involuntary resettlement issues have been addressed between affected persons and the LGU–NHA. The safeguards gap-equivalence diagnosis noted partial equivalence between Philippine laws and regulations and ADB’s SPS principles. Critical gaps have been identified. Philippine laws and regulations fail to meet the higher SPS standards in the areas of (i) meaningful consultation across the project cycle; (ii) compensation for affected assets at full replacement cost; (iii) full provision of compensation and other forms of assistance prior to physical or economic displacement; (iv) improvement of standards of living of displaced poor and other vulnerable groups to at least national minimum standards, and provision of appropriate income sources and legal and affordable access to adequate housing; (v) integration of resettled persons with host communities; and (vi) the threshold used to determine

¹⁰ Aside from resettlement plans prepared for ADB-funded projects, resettlement action plans and/or frameworks have been prepared for World Bank-funded projects in the Philippines with involuntary resettlement impacts, including the second national roads improvement project in 2012, the participatory irrigation development project in 2014, and the metro manila water and wastewater improvement project in 2014. Resettlement action plans have also been prepared for Japan International Cooperation Agency-funded projects, including the new Bohol airport construction and sustainable environment protection project in 2012, and the flood risk management for Cagayan de Oro project in 2013.

eligibility of affected households for transitional support and participation in income restoration activities.

16. **Institutional capacity.** The institutional capacity assessment undertaken identified human resource gaps, particularly for undertaking field surveys and a census during screening and scoping of impacts. However, LGUs, through the Department of Interior and Local Government and the NHA, have existing protocols for involuntary resettlement. The NHA complements the Urban Development and Housing Act of 1992 (Republic Act 7279) with the DPWH's land acquisition, resettlement, rehabilitation, and indigenous peoples policy (LARRIPP) and infrastructure right-of-way involuntary resettlement procedural manual (anchored on RA 8974), which have clear policies on acquisition of public and private land for infrastructure and structures through the preparation of the land acquisition plan and resettlement action plan. Compensation for assets already exists under the LARRIPP through a standard entitlement matrix based on impacts of project activities, along with a grievance mechanism and monitoring system.¹¹ However, gaps have been identified in respect of interpretation of compensation at replacement cost and eligibility for additional entitlements (related to the threshold for identifying severely affected households). The DepEd undersecretary for legal affairs is amenable to using the DPWH's LARRIPP, if required, to provide training on the adoption and implementation of this policy. Given the involuntary resettlement policy, capacity and implementation gaps, the PAP includes actions to ensure that SHSSP activities comply with ADB involuntary resettlement policies in the SPS.

4. Indigenous Peoples

17. **Current indigenous peoples policy and practice.** Government laws and regulations on indigenous people, particularly the Indigenous Peoples Rights Act of 1997 (IPRA), are strong and exceed ADB's SPS requirements in some respects. For instance, ADB policy requires only a collective expression by affected indigenous people through individuals and/or their recognized representatives of broad community support for project activities. It also states that broad community support may exist even if some individuals or groups object to the project activities. The IPRA, on the other hand, requires consensus of all members of the concerned indigenous cultural communities or indigenous peoples. The IPRA also specifies that indigenous people can return to their ancestral territories when they determine the reason for the relocation ceases to exist. The IPRA requires project proponents to prepare and submit to the affected community a written commitment to full disclosure of records and information relevant to the policy, program, project, or activity, and to allow full access to pertinent records, documents, material information, and facilities.

18. These good practices can be adopted by the SHSSP for activities that trigger the indigenous peoples safeguard. In terms of the effects the implementation of the DepEd Kto12 reforms and SHS program might have on indigenous people, the implementing rules and regulations of the Enhanced Basic Education Act of 2013 support inclusiveness through the implementation of programs that address the physical, intellectual, psychosocial, and cultural needs of learners. In 2011, the DepEd secretary issued a department order that created a national indigenous peoples education (IPED) policy framework. The policy builds upon provisions of the Philippine Constitution, the IPRA, and the 2007 UN Declaration on the Rights on Indigenous Peoples that recognize the right of indigenous people to education. In the same

¹¹ The land acquisition plan and resettlement action plan have been in place since 2003, and the LARRIPP since 2007.

year, the Secretary issued a department order that created an indigenous peoples education office (IPSEO) to operationalize the earlier order. In 2013, the secretary's office also issued a department order to establish the implementing guidelines for the allocation and utilization of the department's IPED program support fund. An initial PhP100 million was allocated from the DepEd's budget to constitute the fund. The fund supports implementation of programs, projects, and activities in support of the realization of the national IPED policy framework.

19. **Institutional capacity.** The institutional capacity assessment identified gaps, most of which relate to weaknesses in implementation effectiveness and human resources. In general, National Commission on Indigenous Peoples (NCIP) field personnel lack the technical skills required to adequately perform their functions, and the agency lacks the human resources to undertake field-based investigations.¹² Lack of reliable data may also contribute to poor social assessment. Difficulties have been encountered in implementing free, prior, and informed consent (FPIC) activities, obtaining community consent, disclosing relevant documents, and effectively involving indigenous people in monitoring and evaluation. Other identified weaknesses of the NCIP and government agencies implementing indigenous peoples programs include (i) limited understanding of indigenous cultures and value systems; (ii) some lack of transparency by implementing partners in revealing a project's anticipated negative impacts; and (iii) failure to provide timely and adequate information for indigenous peoples to review memorandums of agreement (MOAs).¹³ In DepEd, the IPSEO oversees implementation of the IPED policy, but primary responsibility for implementation rests with DepEd's regions and divisions. The IPSEO is staffed by four persons and is headed by a national coordinator. Despite having a dedicated secretariat, staff must compete with other programs and projects for the time and attention of field implementers. While the IPED policy of DepEd is proactive, it is a new program and field staff are only beginning to be sensitive toward the needs and rights of indigenous peoples. The PAP recommends concrete actions to address identified gaps.

F. Safeguard Program Actions

20. Based on the assessment findings summarized in paras. 7–19, safeguard related program actions are proposed in the PAP to address the gaps (paras. 21–24). Progress in implementing these actions will be monitored by ADB during program implementation. The actions are presented in Annex 1.

G. Summary Proposed Safeguard Actions by Issue Area

1. Assessment and Documentation

21. The following key actions are proposed across all three safeguard areas (environment, involuntary resettlement, and indigenous peoples): (i) DepEd should integrate continuing meaningful consultations with affected households, as defined by the SPS,¹⁴ into the

¹² The NCIP is the government institution mandated to administer and implement the Indigenous Peoples Rights Act of 1997. It defines the role and extent of the NCIP's jurisdiction in protecting the rights of indigenous peoples.

¹³ Additional details, including information sources, are in the attached gap-equivalence matrix.

¹⁴ Meaningful consultation, as defined in the ADB SPS, is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of

preparation and implementation of resettlement plans for activities with LAR impacts. (ii) Where relocation is required, resettlement plans should include measures to ensure economic and social integration of resettled persons into their host communities and the extension of project benefits to host communities. (iii) Negotiated land settlements should be monitored and documented by an independent third party. (iv) Assets should be compensated for at full replacement cost, and non-titled holders should be compensated for non-land assets. This should include resettlement assistance that should be provided prior to physical and/or economic displacement.

2. Capacity-building

22. The following key actions are proposed across all three safeguard areas (environment, indigenous peoples, and involuntary resettlement) (i) designate a safeguards unit with an assigned social and environment officer or safeguards focal person; and (ii) build the capacity of relevant field personnel at the division level, including the ability to conduct impact assessment, continue meaningful consultations with affected households (including indigenous people), and disclose safeguards plans.

3. Public Consultation and Disclosure

23. The following key actions are proposed across all three safeguard areas (environment, indigenous peoples, and involuntary resettlement): (i) disclose IPPs and MOAs, where FPIC is required, in a timely and efficient manner; (ii) include disclosure in project reports; (iii) conduct meaningful consultations with affected households during program implementation; and (iv) disclose the IEE, EMP, resettlement plan, IPP, MOA, and all monitoring reports on DepEd website and to all affected households.

4. Grievance Redress Mechanism

24. DepEd should regularize the status of the DepEd text action center to maintain its core function as an independent office to administer the grievance redress mechanism and strengthen the DepEd text action center's capacity to address complaints related to the environment, and grievances related to LAR and indigenous peoples through additional training.

Annex 1: Detailed Safeguards Program Actions

Gap	Proposed Action	Indicator/Targets	Responsibility	Timeframe
Environment				
Lack of environmental staff	Designate a safeguards unit with an assigned social and environment officer or safeguards focal person	Unit designated and safeguards officer/specialist or safeguards focal person appointed at PFSED	PFSED	Within 6 months
Improve environmental assessment and monitoring procedure	Integrate environmental screening, assessment, consultations, preparation of IEE and EMP, environment monitoring, and GRM in project planning	Disclosure of environmental documents on DepEd website	PFSED and consultant	Prior to civil works for each subproject
Improve compliance with Philippine EIS system	Secure ECC/CNC for subprojects	ECC/CNC for each subproject	PFSED	Prior to civil works for each subproject
Lack of knowledge and experience in environmental management	Build capacity in (i) PFSED, (ii) regional/division offices, and schools	Training on EIA and environmental management and EMP implementation	PFSED and consultant	Within 1–2 years
Involuntary Resettlement				
Vague institutional role for involuntary resettlement implementation; need for capacity building in addressing involuntary resettlement concerns	Designate field personnel at LGU level/at DepEd to address social safeguards issues	Focal persons appointed at DepEd/LGU level to address social safeguards issues Roles and responsibilities defined in PID and reflected in program/DepEd staffing complement	Program management office (PMO) and IPSEO	Within 6 months
	Conduct orientation and capacity building of DepEd on involuntary resettlement safeguard program requirements	Staff orientation program conducted at central office, and at regional level, with participation of assigned LGU personnel	PMO	Within 6 months
Need to improve LAR screening and assessment, consultation process, and payment of compensation and assistance to AHs prior to displacement	Conduct safeguards due diligence and report on findings for each activity that involves infrastructure activities	Identification of sites for infrastructure activities includes safeguards due diligence, with the report integrated into program progress report	PMO, DepEd district offices, and LGU	Program duration
	All assets compensated at full replacement cost and non-titled holders compensated for non-land assets, including resettlement assistance provided prior to physical and/or economic displacement	Periodic monitoring reports reflect compensation of assets at full replacement cost and non-titled holders compensated for non-land assets, including resettlement assistance provided prior to physical and/or economic displacement as per approved resettlement plans	DepEd including district offices, PFSED, with NHA and LGU	Program duration Prior to award of civil works
	Provide physically and economically displaced AHs with comparable access to employment and production opportunities, integration into host communities, and transitional assistance, including timely delivery of required civic infrastructure and community services in relocation sites	Comparable access to employment and productive opportunities, integration into host communities, transitional support, and timely delivery of required civic infrastructure and community services in relocation sites provided to displaced AHs, and reflected in periodic monitoring reports	DepEd including DOs, PFSED, LGU	Program duration Prior to award of civil works
Procedures for negotiated settlement are silent on transparency	Negotiated land settlements to be monitored and documented by independent third party	Independent third party engaged Negotiated land settlements documented and	DepEd including DOs, PFSED, LGU	Prior to award of civil works

Limited public availability of expropriation data. Observed need for EMA	Hire EMA Prepare periodic monitoring reports for activities with physical and/or economic displacement and disclose monitoring reports on DepEd and ADB websites and provide to division offices	included in program monitoring reports EMA hired Periodic external monitoring reports prepared and submitted to DepEd and ADB Monitoring reports disclosed on DepEd and ADB website, provided to division offices	DepEd	Prior to award of civil works
Indigenous Peoples				
Lack of capacity of field offices/staff to conduct indigenous peoples impact screening, social impact assessment, meaningful consultation, and FPIC	Ensure staff assigned have adequate technical skills Fully document FPIC process, consensus-building activities, and community consultations, including dissenting opinions and concerns, and program response. Include in internal and external monitoring reports	Staff orientation program conducted at central office, and at regional level with participation of assigned district and division personnel EMA engaged Periodic internal and external monitoring reports prepared, including documentation of consensus-building activities, community consultations, process of adhering to FPIC requirements	DepEd, IPSEO, in coordination with NCIP	Within 1–2 years Program duration
Capacity building for IPs to effectively participate in M&E is needed	Build capacity of affected IPs to actively participate in monitoring of IPP implementation and outcomes	Participatory M&E procedures included in IPP Participation of IPs in M&E included in periodic monitoring reports	IPSEO, in coordination with NCIP	Together with IPP
Preparation of IPP is not specifically required by law although (i) departmental policies include development of mitigation measures, (ii) MOA that approximates IPP requirements is prepared for projects requiring FPIC; (iii) IPAP is prepared for projects with adverse indigenous peoples impacts	Prepare, implement, and monitor IPP for activities with indigenous peoples impacts. Prepare and implement MOA for activities that trigger FPIC per IPRA and NCIP administrative orders.	IPPs prepared and implemented Periodic monitoring reports reflect IPP implementation and completion	PFSED, IPSEO, in coordination with NCIP and LGU	Program duration
Disclosure of IPP to affected indigenous peoples community	Disclose IPPs and MOAs, where FPIC is required, in a timely and efficient manner. Include disclosure in project reports	Documentation of community consultations where IPPs and MOAs have been formulated and project reports reflect IPP and MOA disclosure	IPSEO with LGU	Program duration

ADB = Asian Development Bank; AH = affected household; AP = affected person; DENR = Department of Environment and Natural Resources; DepEd = Department of Education; DOLE = Department of Labor and Employment; DP = displaced person; EMA = external monitoring agency; EMP = environmental management plan; FPIC = free, prior, and informed consent; GRM = grievance redress mechanism; IEE = initial environmental examination; IPs = indigenous peoples; IPAP = indigenous peoples action plan; IPP = indigenous peoples plan; IPRA = Indigenous Peoples Rights Act; IPSEO = indigenous peoples education office; IR = involuntary resettlement; LAR = land acquisition and resettlement; MOA = memorandum of agreement; MSS = minimum service standard; NCIP = National Commission on Indigenous Peoples; PMO = program management office; RP = resettlement plan; SPS = safeguard policy statement.

Source: Asian Development Bank