



FEB 14 2011

DepEd MEMORANDUM
No. **41**, s. 2011

DISSEMINATION OF COMELEC RESOLUTION NO. 9123

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Regional Directors
Schools Division/City Superintendents
Heads, Public Elementary and Secondary Schools
All Others Concerned

1. For the information and guidance of all concerned, enclosed is a copy of COMELEC Resolution No. 9123 dated January 20, 2011 entitled "*Deputation of Certain Departments under the Executive Branch, Government-Owned and Controlled Corporations and Financial Institutions in Connection with the March 12, 2011 Special Elections in Certain Precincts in the Provinces of Mt. Province, Basilan, Sulu and Tawi-Tawi.*"
2. Immediate dissemination of this Memorandum is desired.



BR. ARMIN A. LUISTRO FSC
Secretary

Encl.:
As stated
Reference:
None
To be indicated in the Perpetual Index
under the following subjects:

BUREAUS & OFFICES
ELECTIONS
LEGISLATIONS
OFFICIALS

D-MCR/DM-Dissemination of COMELEC Resolution No. 9123
01-31-11



(Enclosure to DepEd Memorandum No. 41, s. 2011)



COMMISSION ON ELECTION
OFFICE OF THE EXECUTIVE DIRECTOR
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Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

DEPUTATION OF CERTAIN DEPARTMENTS UNDER THE EXECUTIVE BRANCH, GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS AND FINANCIAL INSTITUTIONS IN CONNECTION WITH THE MARCH 12, 2011 SPECIAL ELECTIONS IN CERTAIN PRECINCTS IN THE PROVINCES OF MT. PROVINCE, BASILAN, SULU AND TAWI-TAWI.

BRILLANTES, Sixto, Jr. S.,
SARMIENTO, Rene V.,
FERRER, Nicodemo T.,
TAGLE, Lucenito N.,
VELASCO, Armando C.,
YUSOPH, Elias R.,
LARRAZABAL, Gregorio Y.,

Chairman
Commissioner
Commissioner
Commissioner
Commissioner
Commissioner

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PROMULGATED: January 20, 2011

RESOLUTION No. 9123

WHEREAS, pursuant to the Constitution, the Omnibus Election Code, Republic Act 9164, and other election laws, the Commission on Elections (Commission) may deputize certain departments under the Executive Branch, Government-Owned-and-Controlled Corporations (GOCCs) and Financial Institutions in connection with the March 12, 2011 Special Elections in certain precincts in the Provinces of Mt. Province, Basilan, Sulu and Tawi-Tawi.

NOW, THEREFORE, the Commission on Elections, has **RESOLVED**, as it hereby **RESOLVES** to deputize, the following departments under the executive branch, government-owned and controlled corporations and financial institutions, and to perform specific duties relative to the conduct of the elections, as follows:

I. THE DEPARTMENT OF EDUCATION

The Department of Education (DepEd) is hereby deputized to comply with and enforce all orders and instructions of the Commission relative to the election duties and functions of public school teachers in connection with the Special Elections in certain precincts in the Provinces of Mt. Province, Basilan, Sulu and Tawi-Tawi, and perform such other measures as are necessary including the use of all public school buildings designated as polling places/ centers.

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Where it is necessary to constitute new or additional BEI, preference for appointment shall be given to public school teachers who efficiently served in the October 25, 2010 Barangay and Sangguniang Kabataan Elections, and who are registered voters of the municipality;

II. THE DEPARTMENT OF FINANCE

The Department of Finance (DoF) is hereby deputized to enforce and ensure that during the election period from **February 10, 2011 to March 22, 2011:**

The Municipal Treasurers in Paracelis, Mt. Province, Sumisip, Basilan, Indanan, Sulu and Sapa-Sapa, Tawi-Tawi, shall:

- a. Remain in their present assignments and not be transferred or detailed, whether temporarily or permanently, to another province, city or municipality, except upon prior written authority of the Commission;
- b. Not be allowed to go on leave of absence from office during the period starting two weeks before and two weeks after special election except upon prior written approval of the Commission. They shall at all times assign responsible employees in their offices to receive telegrams and instructions from the Commission relative to election matters to insure immediate action thereon; and
- c. Not designate temporary or casual employee as Officer-in-Charge of the Office of the Treasurer.
- d. Under the direct orders and supervision of the EO, preserve, take custody and storage of election forms, ballot boxes, paraphernalia, supplies and materials entrusted to them and prevent any loss, destruction, impairment or damage thereto.
- e. In the discharge of their duties as deputies of the Commission, the City/ Municipal Treasurers shall not be subject to the command, control or orders of the city/ municipal mayors or other local executive officials. In this respect, it shall be unlawful for the city/ municipal mayors or local executive officials to intervene or interfere in the discharge by these deputies of their duties in connection with the elections
- f. Keep a record of the quantity and serial numbers, if any, of official ballots, and ballot boxes allocated for distribution to the various precincts in their respective jurisdiction, and furnish legible copies of such record to the candidates, the EO and the Election Records and Statistics Department (ERSD), Commission on Elections, Manila, immediately after distribution.
- g. Distribute in the presence of watchers, if available, the official ballots, ballot box, and other election paraphernalia, to the BEI not earlier than the first hour on election day. However, the Commission, upon request by the EO, and upon the recommendation by the Deputy Executive Director for Operations, may authorize the Municipal Treasurers, to

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distribute the election forms, materials, supplies and other paraphernalia, at an earlier time and with written notice to the candidates and political parties, for reasons such as, but not limited to, distance and weather condition in the locality and difficulty of transportation, number of precincts in a city or municipality, and prevailing peace and order;

The BEI shall issue the proper receipt stating clearly the date of receipt, the number of sets and the corresponding quantity and serial numbers of the official ballots, ballot boxes, and other accountable forms and supplies.

- h. Submit the accomplished Certificate of Receipt of Official Ballots and Other Forms and Supplies to the EO within five days after election day; and;
- i. Submit to the EO an official report on ballot boxes which were not returned to him by the BEI immediately after its adjournment. The ERSID shall be furnished with a copy of said report.

The said Municipal Treasurers are hereby designated for the purpose herein provided as Deputies under the direct and immediate supervision of the Commission in their respective provinces, cities and municipalities.

III. THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

The Department of Transportation and Communications (DOTC) is hereby deputized to perform the following duties and functions:

- a. Circularize to all owners and operators of land and air transportation facilities and telecommunications services, holders of certificates of public convenience, franchises or other forms of authorization, that the following provisions under the Omnibus Election Code are election offenses:
 1. Sec. 89, which prohibits any candidate, political party or organization or any person from giving or accepting transportation, free of charge, directly or indirectly during the five (5) hours before and after a public meeting, on the day preceding the election and on election day;
 2. Sec. 95, which prohibits contributions for partisan political activity given directly or indirectly by natural or juridical persons operating a public utility; or by natural or juridical persons who hold contracts or subcontracts to supply the government or any of its agencies, subdivisions or instrumentalities with goods or services or to perform construction or other work; or by natural or juridical persons who have been granted franchise, incentives, exemptions, or allocations or similar privileges or concessions by the government or any of its agencies, subdivisions or instrumentalities including government-owned or controlled corporations; or by natural or juridical persons who within

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one year prior to the date of the election have been granted loans or other accommodations in excess of P 100,000.00 by the government or any of its agencies, subdivisions or instrumentalities including government-owned or controlled corporations;

3. Sec. 97, which makes it unlawful for any person or organization, whether civic or religious, to directly or indirectly solicit and/ or accept from any candidate for public office or from his campaign manager, agent or representative, or any person acting in their behalf, any gift, food, transportations, contribution or donation in cash or in kind from the commencement of the election period up to and including election day;
 4. Sec. 261 (o), which prohibits the use under any guise whatsoever, directly or indirectly of any printing press, radio or television station or audio-visual equipment operated by the government or by its subdivisions, instrumentalities, agencies or instrumentalities, including government-owned or controlled corporations, or any equipment, facility, apparatus, paraphernalia or vehicle owned by the government or by its political subdivisions, agencies or instrumentalities, including government-owned or controlled corporations or by the Armed Forces of the Philippines for any election campaign or for any partisan political activity; and
 5. Sec. 261 (dd), which penalizes any operator or employee of a public utility or transportation company operating under a certificate of public convenience who refuses to carry official election mail matters free of charge during the election period.
- b. Direct its agents to apprehend violators of the aforesaid provisions of the Omnibus Election Code and refer such violations to the Commission, through the Regional Election Director or Provincial Election Supervisor, for proper action;
 - c. Require all transportation companies engaged in the operation of transportation facilities to report within thirty (30) days following the day of the election. the use, rental or hiring of their facilities by any candidate, political party, coalition of political parties, or groups or organizations in connection with the election campaign, including the amount paid for such use, rental or hiring, which report shall be submitted to the Regional Election Director of Region II, who in turn shall submit the same to the Law Department, Commission on Elections, Manila, for the purpose of proper accounting and monitoring of expenses under Secs. 100 and 101, respectively, in relation to Sec. 112 of the Omnibus Election Code; and

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- d. Perform such other duties and functions which the Commission may prescribe from time to time.

**IV. THE PHILIPPINE POSTAL CORPORATION, THE NATIONAL
TELECOMMUNICATIONS COMMISSION,
AND THE TELECOMMUNICATIONS OFFICE**

The Philippine Postal Service Corporation, the National Telecommunications Commission, and the Telecommunications Office are hereby deputized to perform the following functions and duties:

- a. Instruct their respective personnel and the management of all private telecommunications firms to give special preference to, and effect immediate transmission and delivery of messages or telegrams of the Commission, its field personnel and deputies during the election period; and between and among the Commission's field offices, its deputies and other assisting agencies until after the proclamation of the winning candidates in the Special Elections in certain barangays in the Provinces of Mt. Province, Basilan, Sulu and Tawi-Tawi;
- b. Impress upon such personnel and management that non-compliance with the provisions of Sec. 9 of the Omnibus Election Code on preferential transmissions of official mails, messages and telegrams relative to the elections, constitutes an election offense punishable under Sec. 264 of said Code with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage;
- c. Assign sufficient number of personnel to receive, transmit and deliver election messages ten days before election day, on election day, and ten days after election day;
- d. Make operational all its stations during the election period; and
- e. Perform such other duties and functions which the Commission may prescribe from time to time.

V. THE DEPARTMENT OF ENERGY AND ELECTRIC COOPERATIVES

The Department of Energy and electric cooperatives in the local government units concerned are hereby deputized to perform the following:

- a. Provide uninterrupted power supply on the day before and on election day, until the termination conclusion of the canvassing of the election returns and proclamation of the elected officials; and
- b. Perform such other functions that the Commission may prescribe from time to time.

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VI. THE CIVIL SERVICE COMMISSION

The Civil Service Commission (CSC) is hereby deputized to enforce and implement the provision of the Constitution of the Philippines particularly paragraph 4, Section 2 (B), Article IX, which provides that:

"(4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign."

(6) No candidate who has lost in any election shall, within one year after such election, be appointed to any office in the government or any government-owned or controlled-corporations or in any of its subsidiaries."

and the provisions of the Omnibus Election Code, particularly Section 261:

" **Section 261. Prohibited Acts.** – The following shall be guilty of an election offense:

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g.) Appointment or new employees, creation of new position, promotion, or giving salary increases. During the forty five (45) days before a regular election; and thirty days before a special election; (1) any head, official appointing officer of a government office, agency or instrumentality, whether national or local, including government-owned or controlled corporations, who appoints or hires any new employee, whether provisional, temporary or casual, or creates and fills any new position, except upon authority sought unless, it is satisfied that the position to be filled is essential to the proper functioning of the office or agency concerned, and that the position shall not be filled in a manner that may influence the election.

As an exemption to the foregoing provision, a new employee may be appointed in case of urgent need: Provided, however, that notice of the appointment shall be given to the Commission after three days from the date of the appointment. Any appointment or hiring in violation of this provision shall be null and void."

(2) Any government official who promotes, or gives any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporation.

h.) Transfer of officers and employees in the civil service. – Any official who makes or causes transfer or detail of any officer or employee in the civil service including public school teachers, within the election period except upon prior approval of the Commission.

i.) Intervention of public officers and employees. – Any officer or employee in the civil service, except those holding political offices; any officer, employee, or member of the Armed Forces of the Philippines, or any police force, special forces, home defense forces,

barangay self-defense units and all other paramilitary units that now exist or which may hereafter be organized who directly or indirectly, intervenes in any political activity, except to vote to preserve public order, if he is a peace officer."

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and other related provisions of law on the matter.

VII. COMMISSION ON AUDIT

The Commission on Audit (COA), is hereby deputized to enforce and implement the provisions of Section 3 of Republic Act No. 6679, in relation to the provisions of Section 3 Republic Act No. 6679, in relation to the provisions of Sec. 261 (v) and (w), of the Omnibus Election Code, quoted as follows:

" Sec. 3. The construction or maintenance of provincial, city and barangay-funded roads and bridges shall be prohibited for a period of ten (10) days immediately preceding the date of election, the provisions of Section 261 paragraphs (v) and (w) of the Omnibus Election Code to the contrary notwithstanding."

VIII. DEPARTMENT OF BUDGET AND MANAGEMENT

The Department of Budget and Management (DBM), is hereby deputized to enforce and implement the provisions of Sec. 3 of Republic Act No. 6697, quoted above, in relation to Sec. 261, paragraphs (v) and (w) of the Omnibus Election Code, specifically on the prohibition against release/ expenditures and disbursement of public funds.

X. THE PHILIPPINE INFORMATION AGENCY

The Philippine Information Agency (PIA), is hereby deputized to perform the following duties:

1. Assist the Commission in its education and information campaign on the aforesaid elections;
2. Make available to the Commission its facilities and services of its personnel, as may be necessary to ensure implementation of the programs of activities or operation plans for the Commission's information campaign;
3. Produce such information materials as the Commission may deem necessary to ensure the conduct of free, orderly, honest, peaceful and credible Special Elections in certain barangays in the Provinces of Mt. Province, Tawi-Tawi, Basilan and Sulu; Provided, that in all cases:
 - a. The Agency shall adhere strictly to the policy of the Commission that the education and information campaign must be absolutely impartial, objective and neutral;

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- b. The expenses it may incur as such deputy for the information campaign of the Commission, i.e., production of information materials, shall be for the exclusive account of the Agency; and
 - c. Any information material which the Agency, as such deputy, shall produce upon the direction of the Commission, shall be published/ distributed/ released only upon prior clearance from the Commission to ensure that nothing therein contained shall detract from or violate the policy of impartiality, objectivity and neutrality.
4. Perform such other duties and functions which the Commission may prescribe from time to time.

**XI. GOVERNMENT FINANCIAL INSTITUTIONS,
OTHER GOVERNMENT AGENCIES, AND OTHER
GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS**

The Bangko Sentral ng Pilipinas (BSP), the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (DBP), the Government Service Insurance System (GSIS), the Social Security System (SSS), the Philippine National Oil Company (PNOC), the Department of Agriculture (DA), the Department of Agrarian Reform (DAR), the Department of Environment and Natural Resources (DENR), the National Irrigation Administration (NIA), the National Food Authority (NFA), the National Electrification Administration (NEA), National Printing Office (NPO), Philippine Ports Authority (PPA) and the Population Commission are hereby designated as deputies of the Commission.

As such deputies, they shall place at the disposal of the Commission their land, air and water craft, such as airplanes and helicopters, trucks, jeeps, vans, cars and the like, ships, launches, barges, and speedboats, and communication facilities, as the Commission may need from time to time. Said vehicles shall be used to ferry the personnel of the Commission and of its deputized agencies in the performance of their election duties, and to transport election forms, supplies and materials to their places of destination, particularly in areas with inadequate or without regular means of transportation.

For the above purposes, they shall provide the Commission with a list of available vehicles, together with the pilots/ captains, shipmasters, or drivers assigned to said crafts or vehicles. These crafts or vehicles shall be at the disposal of the Commission immediately and until the end of the election period.

EFFECTIVITY

This resolution shall take on the seventh (7th) day after its publication in at least two (2) daily newspapers of general circulation in the Philippines.

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DISSEMINATION

The Acting Executive Director shall furnish all the above deputized departments, offices, or agencies, through their respective heads, copies of this resolution pertinent to their agencies.

The Education and Information Department shall cause the publication of this resolution in two (2) daily newspapers of general circulation in the Philippines and disseminate this resolution for the information of the public.

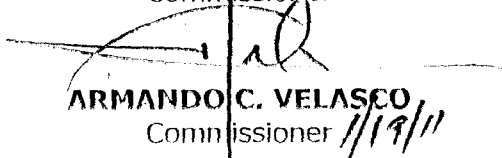
SO ORDERED.


SIXTO S. BRILLANTES, JR.
Chairman


RENE V. SARMIENTO
Commissioner


NICODEMUS T. FERRER
Commissioner


LUCENITO N. TAGLE
Commissioner


ARMANDO C. VELASCO
Commissioner 1/19/11


ELIAS R. YUSOFF
Commissioner

On Official Business
GREGORIO Y. LARRAZABAL
Commissioner