



REPUBLIKA NG PILIPINAS
REPUBLIC OF THE PHILIPPINES
KAGAWARAN NG EDUKASYON, KULTURA AT ISPORTS
DEPARTMENT OF EDUCATION, CULTURE AND SPORTS
DECS Complex, Meralco Avenue
Pasig City, Philippines



*Sama-Sama
sa DECS*

*Tanggapan ng Kalihim
Office of the Secretary*

October 13, 1997

DECS ORDER
No. 78, s. 1997

**GUIDELINES FOR ELECTION-RELATED ADMINISTRATIVE
COMPLAINTS**

**To: The Undersecretary and
Assistant Secretary for Legal Affairs
The Chief of Attorneys of the
DECS Legal Division
The Regional Directors
The Division Superintendents**

1. In his policy statement made early in 1995, the DECS Secretary announced that all election-related offenses or violations allegedly committed by DECS official or employee while in the performance of their election duties as deputized COMELEC officials shall be investigated immediately in his capacity as the ultimate disciplining authority of the DECS through a designated Investigating Committee on Election-Related Cases, and, if found guilty, will punished with sanctions or penalties provided by law. Secs. 17(b) and 7(5), Book IV, Chap. 2, Rev. Adm. Code of 1987; see Secs. 37 to 43, PD 807).

2. It has been observed, however, that after each election, whether for national, local, Sangguniang Kabataan or barangay officials, many administrative complaints of election-related offenses or violations were filed with this Office against DECS officials and employees by defeated candidates, accusing the former for incompetence, dishonesty, misconduct, corrupt practices, etc. in the performance of their deputized election duties, involving registration of voters, shifting of precincts, voting procedures, misappreciation and felonious computation in the counting of ballots and votes therein, and many other irregularities or frands- - all of which complaints, by reading the allegations therein, are readily recognizable as retaliatory, vindictive, sour-graping and misance complaints.

3. Nevertheless, the authority to conduct preliminary investigations and/or to resolve administrative complaints of election-related offenses or violations against any DECS official or employee is not the sole prerogative of the DECS Secretary, but likewise the Constitution and other pertinent laws confer concurrent jurisdiction upon the Ombudsman and the COMELEC.

4. Pursuant to subtitle B, Sections 2 and 3, Title II, Book V of the Rev. Adm. Code of 1986 and Rep. Act. 6770, the Ombudsman has the concurrent authority and jurisdiction to try and resolve administrative complaints against government officials "in any form or manner", which include election-related offenses or violations, and its decision, which is appealable only by certiorari to the Supreme Court, shall be enforced, after said decisions shall have become final and executory, by the government agencies or offices concerned to which the respondent official or employee belong to.

However, if the Ombudsman considers the administrative complaints as falling within those exemptions from its assuming jurisdiction and decides either to dismiss the administrative complaint or to turn over the same to the DECS (see Sec. 20 of Rep. Act No. 6770), then the DECS shall take cognizance of such administrative complaint for election-related offenses or violations only if filed separately or anew before the DECS which shall proceed to investigate and resolve the said case pursuant to law and the procedure outlined in these Guidelines.

5. Under the Constitution and the election laws, which have broadened the powers and functions of the COMELEC as the enforcer and administrator of election laws, and pursuant to the ruling of the Supreme Court in the case of Tan vs. COMELEC, G.R. No. 11209, October 4, 1994 (237 SCRA 353), the COMELEC has likewise the authority and jurisdiction to conduct preliminary investigation of all election-related offenses or violations allegedly committed by any DECS official or employee and, if a probable cause is established from such preliminary investigations, the COMELEC shall recommend to the corresponding authority, the DECS Secretary for instance, to take appropriate action against the respondent DECS official or employee in accordance with law.

6. Henceforth, all administrative complaints of election-related offenses or violations filed or pending with this Office shall be subject to the following conditions and/or actions:

- a) All such complaints filed with this Office, DECS Regional Offices and Division Offices shall be under oath or verified before a notary public or any authorized subscribing officer;
- b) Proof of service of a copy of such complaint upon the respondent DECS official or employee shall be submitted or indicated/attached to the last page of the said complaint;
- c) All such complaints shall contain a certification under oath that complainant has not filed any complaint or commenced any proceeding involving the same cause of action or issues before any court or quasi-judicial tribunal or that such complaint or proceeding is pending or has been resolved by the court or quasi-judicial tribunal.

Failure to comply with any of the above requisites shall be a ground for summary dismissal of the administrative complaint, e.g., non-compliance with requisite Par. (a), pursuant to CSC Resolution No. 953099 issued on May 9, 1995; requisite Par. (b), for lack of initial administrative jurisdiction; and requisite Par. (c), for violation of forum-shopping prohibition.

7. If a similar complaint involving election-related offenses or violations against a DECS official or employee has been filed or pending before the Ombudsman and/or the COMELEC, the administrative complaint for the same cause of action against the same DECS official or employee as filed and/or pending with this Office shall be summarily dismissed without prejudice to refile the same with this Office after the Ombudsman or the COMELEC shall have resolved the aforesaid similar administrative complaint before them.

8. If the Ombudsman shall have rendered a decision or resolution, finding the respondent DECS official or employee guilty of the election-related offense or violation, and imposing the appropriate penalty of either fine, reprimand, suspension or dismissal, the DECS, upon receipt of the aforesaid copy of the

Ombudsman's Decision or Resolution, shall serve or furnish a copy thereof upon the respondent DECS official or employee requiring said respondent to comment thereon.

If no subsequent action shall have been taken by the respondent DECS official or employee by filing a petition for review of the said Decision with the Supreme Court, and the said Ombudsman's Decision or Resolution shall have become final and executory, the DECS shall proceed to implement and enforce the same, as directed by law (see Sections 15(3) and 21, Rep. Act. No. 6770).

9. If the COMELEC shall have rendered its Resolution on the complaint for election-related offense or violation, finding probable cause against the respondent DECS official or employee, the DECS, upon receipt of the copy of the COMELEC's Resolution, which is purely recommendatory in nature, shall motu proprio file the Formal Complaint against the said DECS official or employee, for the commission of the election-related offense or violation as constitutive of the administrative offense of Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, and thereafter serve or furnish the respondent DECS official or employee with copies of the Formal Complaint and the COMELEC's Resolution, requiring the said respondent to comment on the said Formal Complaint and COMELEC's Resolution within ten (10) days from receipt thereof.

After the respondent DECS official or employee shall have filed his Answer/Comment to the Formal Complaint and the COMELEC's Resolution or no such Answer/Comment shall have been filed within the reglamentary period, the DECS, through the designated Investigating Committee on Election-Related Cases, shall proceed to investigate the administrative case and, after receipt of the Report of the said Committee, shall render its judgment or decision, either for conviction or exoneration in accordance with the evidence and the law.

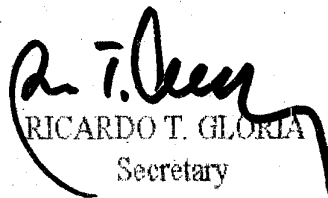
10. All DECS Regional Directors and Division Superintendents are directed to observe strictly the above guidelines in expeditiously investigating and resolving the administrative complaints of election-related offenses or violations filed before their Offices.

In all such administrative cases, they shall render a complete decision or resolution, stating the facts, their findings and conclusion, either adopting the findings or conclusions in the Report of the designated regional or division Investigating Committee or by making his own findings and conclusions on the basis of his own separate appreciation of the evidence on record and the law.

Thereafter, the records of the election-related administrative case, together with the original copy of the Report of the Investigating Committee and the Decision or Resolution of the Regional Director or the Division Superintendent, shall be forwarded to this office within ten (10) days after rendition of their Decision or Resolution, for the review and action of the DECS Secretary, if it so warrants, pursuant to law.

STRICT COMPLIANCE with these Guidelines is expeditiously enjoined.

ISSUED this 9th day of September, 1997, at the DECS Central Office, Pasig City, Metro Manila.


RICARDO T. GLORIA
Secretary

Reference:

DECS Memorandum: No. 360, s. 1997

Allotment: 1 -- (D.O. 50-97)

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