



Republic of the Philippines
Department of Education

18 JAN 2013

DepEd MEMORANDUM
No. **10**, s. 2013

DISSEMINATION OF COMELEC RESOLUTION NO. 9581 DATED DECEMBER 18, 2012

(In the Matter of Enforcing the Prohibitions Against Appointment or Hiring of New Employees, Creating or Filling of New Positions, Giving Any Salary Increase or Transferring or Detailing Any Officer or Employee in the Civil Service and Suspension of Elective Local Officials, in Connection with the May 13, 2013 Automated Synchronized National, Local and ARMM Regional Elections)

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

1. For the information and guidance of all concerned, enclosed is a copy of Commission on Elections (COMELEC) Resolution No. 9581 entitled *In the Matter of Enforcing the Prohibitions Against Appointment or Hiring of New Employees, Creating or Filling of New Positions, Giving Any Salary Increase or Transferring or Detailing any Officer or Employee in the Civil Service and Suspension of Elective Local Officials, in Connection with the May 13, 2013 Automated Synchronized National, Local and ARMM Regional Elections* which is self-explanatory.

2. Immediate dissemination of this Memorandum is desired.


BR. ARMIN A. LUISTRO FSC
Secretary

Encl.: As stated

Reference: N o n e

To be indicated in the Perpetual Index
under the following subjects:

ELECTION
EMPLOYEES
LEGISLATION

OFFICIALS
SALARY
TRANSFER



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
MANILA

Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

IN THE MATTER OF ENFORCING THE PROHIBITIONS AGAINST APPOINTMENT OR HIRING OF NEW EMPLOYEES, CREATING OR FILLING OF NEW POSITIONS, GIVING ANY SALARY INCREASE OR TRANSFERRING OR DETAILING ANY OFFICER OR EMPLOYEE IN THE CIVIL SERVICE AND SUSPENSION OF ELECTIVE LOCAL OFFICIALS, IN CONNECTION WITH THE MAY 13, 2013 AUTOMATED SYNCHRONIZED NATIONAL, LOCAL AND ARMM REGIONAL ELECTIONS.

Brillantes, Sixto Jr., S.,
Sarmiento, Rene V.,
Tagle, Lucenito N.,
Velasco, Armando C.,
Yusoph, Elias R.,
Lim, Christian Robert S.,
Padaca, Maria Gracia Cielo, M.

Chairman
Commissioner
Commissioner
Commissioner
Commissioner
Commissioner

Promulgated: December 18, 2012

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RESOLUTION NO. 9581

WHEREAS, the Omnibus Election Code of the Philippines provides:

"SEC. 261. Prohibited Acts - The following shall be guilty of an election offense:

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"g) Appointment of new employees, creation of new position, promotion, or giving salary increases - During the period of forty five (45) days before regular election and thirty days before a special election. (1) any head, official or 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 positions, except upon prior authority of the Commission. The Commission shall not grant the 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 exception to the foregoing provisions, a new employee may be appointed in case of urgent need: Provided, however, That notice of the appointment shall be given to the Commission within three (3) 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 corporations.

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

xxx xxx xxx
"(x) Suspension of elective provincial, city, municipal or barangay officer - The provisions of law to the contrary notwithstanding during the election period, any public official who suspends, without prior approval of the Commission, any elective provincial, city, municipal or barangay officer, unless said suspension will be for purposes of applying the Anti-Graft and Corrupt Practices Act in relation to the suspension and removal of elective officials; in which case the provision of this section shall be inapplicable."

WHEREAS, to enforce effectively the foregoing provisions, there is a need to promulgate the necessary rules for the guidance of all concerned:

NOW, THEREFORE, the Commission on Elections, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, and other election laws, **RESOLVES**, as it hereby **RESOLVED** to promulgate, the following rules to implement the provision of Section 261, subsections (g), (h) and (x) of the Omnibus Election Code:

SECTION 1. Prohibited acts.

A. During the election period from **January 13, 2013 to June 12, 2013**, no public official shall, except upon prior written authority of the Commission:

1. Make or cause any transfer or detail whatsoever of any officer or employee in the civil service, including public school teachers. "Transfer" as used in this provision shall be construed as any personnel movement from one government agency to another or from one department, division, geographical unit or subdivision of a government agency to another with or without the issuance of an appointment.
2. Suspend any elective provincial, city, municipal or barangay officer, unless the suspension will be for purposes of applying the "Anti-Graft and Corrupt Practices Act" in relation to the suspension and removal of elective officials.

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B. Beginning March 29, 2013 until May 13, 2013

1. No head or appointing officer of any national or local government office, agency or instrumentality, including government-owned or controlled corporations, shall, except upon prior authority of the Commission:
 - a. Appoint or hire any new employee, whether permanent, provisional, temporary, substitute or casual; or
 - b. Create and fill any new position.
2. No government official shall promote or give any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporations.

SECTION 2. Request for authority of the Commission on transfer or detail; Where and How to file.

A. Requests for authority to make or cause any transfer or detail shall be in writing, indicating the (1) office and place to which the officer or employee is proposed to be transferred or detailed or otherwise moved; and (2) stating the reasons therefor:

B. Said request shall be filed with:

1. The Law Department –

Requests for authority to make or cause any transfer or detail of any officer or employee in the civil service shall be filed with the Law Department, when:

- a. The official station is in the central/main offices of national agencies and government-owned or controlled corporations;
- b. It involves Regional Directors, Assistant Regional Directors or positions of similar rank, Philippine National Police Provincial/District Directors or Commanders, Officers of the Armed Forces of the Philippines with the rank of major or equivalent rank, and/or holding positions of battalion commanders or higher, Provincial Treasurers and Schools Division Superintendents, irrespective of

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their official stations and government employees with official stations in the field offices including the National Capital Region; and

c. The transfer or detail is inter-regional.

1. With the Regional Election Director -

Requests for transfer or detail involving City/Municipal Treasurers and Assistant Superintendents, irrespective of their official stations and government employees with official stations in the field offices including the National Capital Region shall be filed with the corresponding offices of the Regional Election Directors where the employee/s sought to be transferred or detailed is stationed.

SECTION 3. Request for authority of the Commission to appoint or hire new employees; Where and How to file.

A. Requests for authority to appoint or hire new employees shall be in writing stating all the necessary data and reasons for the same.

B. Said request shall be filed with:

1. The Law Department -

Requests for authority to appoint or hire new employees in the central or main offices of national government agencies and government-owned and controlled corporations.

2. The Regional Election Director -

Similar requests shall be submitted to the Office of the Regional Election Director of the region where the vacancy exists.

SECTION 4. Request for authority of the Commission to create and fill new positions: Where and How to file.

A. Requests for authority to create and fill new positions shall be submitted in writing to the Law Department of the Commission.

B. The Commission shall not grant the authority unless it is satisfied that the position to be filled is essential to the proper functioning of

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the office or agency concerned and that the filling up of such position shall not in any manner influence the results of the elections.

SECTION 5. Request for authority of the Commission to suspend an elective provincial, city, municipal or barangay officer applying the Anti-Graft and Corrupt Practices Act: Where and How to file. - Requests for authority to suspend an elective provincial, city, municipal or barangay officer shall be submitted to the Law Department of the Commission, supported by a copy of a formal complaint executed under oath and containing the specific charges therefor.

SECTION 6. Procedure on the requests for authority of the Commission.

- A. The Law Department shall submit all requests received by it, together with its recommendation, to the Commission for approval or disapproval.
- B. The Regional Election Director shall approve or disapprove all requests received by him and submit a report on the requests acted upon by him to the Law Department, within seventy-two (72) hours from his action thereon, by the fastest means of communication. Provided that, all actions of the Regional Election Directors granting the requests for exemptions from the coverage of the ban herein involved are subject to review by the Commission and shall remain valid and effective, unless otherwise rescinded or nullified by the Commission.

SECTION 7. When request for authority is not necessary. - Renewal of appointments of temporary, casual, substitute and contractual personnel are not covered by this prohibition and will no longer need prior authority of the Commission.

However, the appointing authority shall furnish the Commission, through its Regional Offices for field positions, and through the Law Department for main office positions, a complete list of employees whose appointments were renewed, indicating their position, item number, salary grade and station.

SECTION 8. Urgent need to appoint new employees. - Where there is urgent need to appoint or hire new employees and such employee has already been appointed or hired without prior authority of the Commission, the requesting office/agency shall notify the Commission in writing, within three (3)

days from the date of the appointment or hiring, stating therein the (1) exact date when the position sought to be filled became vacant, (2) the cause of vacancy, (3) the reason/s for said appointment or hiring and (4) all the necessary data or information regarding the same.

Notification shall be made through the respective offices of the Regional Election Directors in case of field positions, or through the Law Department in case of central or main office positions.

The appointment or hiring of new employees shall be valid, unless the same is found by the Commission: (1) to have been made to influence in any manner the results of the election; (2) to have been issued without the required notice; or (3) that there is no urgent need for the appointment.

The need to fill up a vacant position by a new employee may be considered "urgent" if the position to be filled is essential to the proper functioning of the office or agency concerned and that the same has been vacated either by death, retirement, resignation, promotion or transfer of the regular incumbent; provided, that the appointment is issued within sixty (60) days from occurrence of the vacancy, and that the same cannot be filled by promotion or transfer of insiders within the same period; and provided further, that the position shall not be filled in any manner that may influence the election.

Appointment to a position which has been vacant for more than sixty (60) days shall not be considered urgent and must, therefore, require prior written authority from the Commission or the Regional Election Directors concerned.

SECTION 9. Total ban on promotion, salary increases, grant of privileges. - Promotion or increase of salary, giving of remuneration or privilege to any government official or employee including those in government-owned and controlled corporations, shall be strictly prohibited.

"Promotion" as used in this provision shall mean the advancement of an employee from one position to another with an increase in duties and responsibilities as authorized by law, and usually accompanied by increase in salary. Promotion may be from one department or agency to another or from one organizational unit to another within the same department agency.

SECTION 10. Injunction. - The Civil Service Commission (CSC), including all its field offices is hereby enjoined not to approve the appointment of new employees where no prior written approval of the Commission or its regional offices is presented by the appointing authority concerned or proof that

the required notice within the 3-day reglementary period as provided in Section 3 hereof has been complied with.

The Department of Budget and Management (DBM) and the Commission on Audit (COA), including all their filed offices, shall not release or authorize the release of any appropriation, or pass in audit, payments or expenditures of public funds that may be directly used in violation of the foregoing prohibitions.

All field offices of the CSC are directed to submit immediately to the Commission a written report on any violation of said provisions of the Omnibus Election Code.

SECTION 11. Penalty. - Any violation of the provisions of this Resolution shall constitute an election offense and shall be punishable by Imprisonment of not less than one (1) year but not more than six (6) years, among other penalties provided by law.

SECTION 12. Effectivity. - This resolution shall take effect on the seventh day after its publication in two (2) daily newspapers of general circulation in the Philippines.

SECTION 13. Dissemination. - The Education and Information Department shall cause the publication of this resolution in two (2) daily newspaper of general circulation, give this resolution the widest dissemination and furnish copies thereof to all concerned.

SO ORDERED.


SIXTO S. BRILLANTES, JR.
Chairman


RENE V. SARMIENTO
Commissioner


LUCENITO N. TAGLE
Commissioner


ARMANDO C. VELASCO
Commissioner


ELIAS R. YUSOPH
Commissioner


CHRISTIAN ROBERT S. LIM
Commissioner


MARIA GRACIA CIELO M. PADACA
Commissioner

cc: Chairman
All Commissioners
Executive Director
Deputy Executive Director for Operations
Law Department
Education and Information Department