



Tanggapan ng Kalihim
Office of the Secretary

OCT 17 2007

DepED MEMORANDUM

No. 425, s. 2007

DISSEMINATION OF COMELEC RESOLUTION NO. 8319

(Enforcement of the Prohibition Against Appointment or Hiring of New Employees, Creation or Filling Up of New Positions; Giving Salary Increases; Transferring/Detailing Civil Service Employees; and Suspension of Elective Local Officials In Connection with the October 29, 2007 Synchronized *Barangay* and *Sangguniang Kabataan* Elections)

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services/Centers and Heads of Units
Regional Directors
Schools Division Superintendents
District Supervisors
Heads, Public and Private Elementary and Secondary Schools

1. For the information and guidance of all concerned, enclosed is a copy of **Commission on Elections (COMELEC) Resolution No. 8319** dated 08 October 2007 entitled "*Enforcement of the Prohibition Against Appointment or Hiring of New Employees, Creation or Filling Up of New Positions; Giving Salary Increases; Transferring/Detailing Civil Service Employees; and Suspension of Elective Local Officials In Connection with the October 29, 2007 Synchronized Baranggay and Sangguniang Kabataan Elections*".
2. Immediate dissemination of this Memorandum is desired.

RAMON C. BACANI
Undersecretary
Officer-In-Charge

Encl.:

As stated

Reference:

None

Allotment: 1—(D.O. 50-97)

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

ELECTION
EMPLOYEES
OFFICIALS
SALARY
TRANSFER

however, That notice of the appointment shall be given to the Commission within 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 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 prior approval of the Commission. (Underlining supplied)

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“(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 provisions of this section shall be inapplicable.”

WHEREAS, in Section 3 of Resolution No. 8300 re: General Instructions on the Conduct of the October 29, 2007 Synchronized *Barangay* and *Sangguniang Kabataan* Elections, promulgated on September 13, 2007, the Commission on Elections set the election period to commence on September 29, 2007 and to end on November 13, 2007;

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, has **RESOLVED** to promulgate, as it hereby promulgates, the following rules to implement the provisions of Section 261, subsections (g), (h) and (x) of the Omnibus Election Code:

SECTION 1. *Prohibited acts* – (a) During the election period from September 29, 2007 until November 13, 2007, except upon prior written authority of the Commission no public official shall:

1. Make or cause any transfer/detail whatsoever of any officer or employee in the civil service, including public school teachers. “Transfer” as used in the 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.

(b) Beginning September 29, 2007 until October 29, 2007

1. No head, official 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:
 - b.1.a. Appoint or hire any new employee, whether permanent, provisional, temporary, substitute or casual; or
 - b.1.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.

SEC. 2. Requests for authority of the Commission; How to file. - (a)

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

- (1) The official station is in the central/main offices of national agencies and government-owned or controlled corporations;
- (2) 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 City/Municipal Treasurers, Schools Division Superintendents, and Assistant Superintendents, irrespective of their official stations;
- (3) The transfer or detail is inter-regional; and
- (4) It involves employees, irrespective of position and official station, of agencies deputed by the Commission.

Said requests shall indicate: (1) the office and place to which the officer or employee is proposed to be transferred/detailed or otherwise moved; and (2) stating the reasons therefor.

(b) Requests for transfer or detail involving 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 Director where the employee/s sought to be detailed or transferred is stationed.

(c) Requests for authority to appoint or hire new employees, shall be submitted in writing to the Office of the Regional Election Director of the region where the vacancy exists, stating all the necessary data and reasons for the same.

Similar requests involving employees in the central or main offices of national government agencies and government-owned or controlled corporations shall be submitted in writing to the Law Department of the Commission.

(d) Requests for authority to create and fill new positions shall be submitted to the Law Department of the Commission.

The Commission shall not grant the authority 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 filling up of such position shall not in any manner influence the results of the elections.

(e) Renewal of appointments of temporary, casual, substitute and contractual personnel are not covered by this prohibition and therefore 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 positions, item numbers, salary grades and stations.

(f) 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.

(g) The Law Department shall submit all requests received by it, together with its recommendation, to the Commission for approval or disapproval.

(h) 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.

SEC. 3. Urgent need to appoint new employees. – Where there is urgent need to appoint or hire new employees, the same may be allowed without the need for a prior request for authority from the Commission provided that within three (3) days from the date of the appointment or hiring, the Commission 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, shall be notified in writing, stating therein the exact date when the position sought to be filled became vacant, the cause of vacancy, reason/s for said appointment or hiring and all the necessary data or information regarding the same.

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; and (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 position sought to be filled has been vacated either by the 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 a manner that may influence the election.

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

SEC. 4. Total ban on promotion, salary increases, granting privileges. –

Promotion, or giving any increase of salary, remuneration, or privilege to any government official or employee including those in government-owned or controlled corporations, is strictly prohibited without exception whatsoever.

“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 or agency.

SEC. 5. Injunction. – The Civil Service Commission (CSC), including all its field offices, is hereby enjoined not to approve the appointment of new employees from September 29, 2007 to October 29, 2007 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 field 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 or indirectly 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 the said provisions of the Omnibus Election Code.

SEC. 6. 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.

SEC. 7. Effectivity. – This Resolution shall take effect on the seventh (7th) day after its publication in two (2) daily newspapers of general circulation in the Philippines.

SEC. 8. Dissemination. – The Education and Information Department shall cause the publication of this Resolution in two (2) daily newspapers of general circulation, and shall furnish copies thereof to all Departments in the National Government, Constitutional Commissions, Offices, Provincial Governors, City and Municipal Mayors and other government agencies including government-owned or controlled corporations, and all field offices of the Commission.

(Sgd.)RESURRECCION Z. BORRA
Acting Chairman

(Sgd.)FLORENTINO A. TUASON, JR.
Commissioner

(Sgd.)ROMEO A. BRAWNER
Commissioner

(Sgd.)RENE V. SARMIENTO
Commissioner

(Sgd.)NICODEMO T. FERRER
Commissioner