

Republika ng Pilipinas
(Republic of the Philippines)
MINISTERI NG EDUKASYON, KULTURA AT ESPORTE
(MINISTRY OF EDUCATION, CULTURE AND SPORTS)
Manila

September 23, 1985

MECS MEMORANDUM
No. 13, s. 1985

✓ VIOLATIONS OF CIVIL SERVICE REGULATIONS
ON STRIKES AND ABSENCES

To: Bureau Directors
Regional Directors
Cultural Agency Directors
Chief of Service and Heads of Units/Centers
Schools Superintendents
Vocational School Superintendents/Administrators
Presidents of State Colleges and Universities
Chiefs of Divisions

1. The following procedure should be automatically adopted for the implementation of MECS Orders Nos. 9 and 10, s. 1985, as amplified by letters of the Civil Service Commission dated June 26, 1985 and September 9, 1985, copies inclosed.

2. Ministry personnel who go on strike, including defined forms of mass action, which result in their failure to teach or perform duly assigned functions, shall be automatically considered as absent and reported as such. Accordingly, their compensation shall be correspondingly reduced for such absences in accordance with existing procedures.

3. Persons who go on strike shall be replaced as soon as it is feasible to do so under Civil Service Regulations. Among others, the following shall be promptly issued termination notices when they go on strike: (a) non-eligibles, (b) substitutes (c) teachers declared as excess, and (d) all others whose appointments are not permanent and which do not carry a stated term. Administrative charges shall be instituted against notorious offenders and violators of civil service regulations, and the appropriate notices shall be issued, observing civil service regulations.

4. Applicants for teaching positions shall be processed in order to allow the hiring of qualified replacements to take over the duties of persons listed in No. 2 above with minimum disruption of class schedules.

(SGD.) JAIMS C. LAYA
Minister

Incls:
As stated

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PCS,

ences: MECS Orders: (Nos. 9 and 10, s. 1955)

ement: 1-2-3-4 (D.O. 1-76)

be indicated in the Perpetual Index
under the following subjects:

CLASSES
LEAVES
OFFICIALS
RULES & REGULATIONS
SALARY
SERVICE
TEACHERS

(Inclosure to MECS Memorandum No. 143, s. 1935)

Republika ng Pilipinas
KOMISYON NG SERBIYO CIVIL
(Civil Service Commission)
Lungsod ng Quezon

LAYA, Jaime
Re: Filling up of positions
of teachers on mass
leave of absence
x - - - - - x

June 26, 1935

The Honorable
Minister of Education,
Culture and Sports
M a n i l a

S i r :

You request advice that "... in the event teachers continue such actions as going on mass leave or refusing to teach, can the Ministry take the following emergency actions as exceptions to existing Civil Service Rules or employment:

- "a. Serve notices to striking or non-reporting teachers that they will be replaced by substitutes if they do not report on a date to be specified.
- "b. Appoint applicants on a substitute basis to take the place of teachers who refuse to return to classes
- "c. Hire on an honorarium or part-time basis graduate students of teacher-training colleges?"

Teachers who are on mass leave of absence, apparently without filing the necessary applications for leave of absence, are considered on A-COL and hence, may be dropped from the service for abandonment of duty, if they absent themselves without official leave for more than one month pursuant to Resolution 81-738 of this Commission. This is without prejudice to the filing of administrative disciplinary action against them

should they seek reinstatement in the government service. Under these circumstances, the positions of the absenting teachers may be filled by substitutionary service by other qualified teachers, or in the absence thereof, graduate students from teacher-training colleges may be hired as substitutes on honorarium or parttime basis.

Please be guided accordingly.

Very truly yours,

(Sgd.) JESUS M. BORRERO
Chairman

Republika ng Pilipinas
KOMISYON NG SERBISYO SIBIL
(CIVIL SERVICE COMMISSION)
Lungsod ng Quezon

September 9, 1985

Honorable Jaime G. Laya
Minister, Ministry of Education
Culture, and Sports
M a n i l a

Dear Minister Laya:

This refers to your query whether teachers who go on "strike" by, among others going on mass leaves of absence, reporting but not performing their duties, sending home their students or discouraging them from coming to school, or by demonstrating thru mass actions, demanding certain benefits and/or actions from their superiors or other duly constituted authorities, may be preventively suspended and dismissed from the service.

Section 36 of PD 807 known as the Civil Service Decree of the Philippines provides for the causes of disciplinary action. One of these causes speaks of violation of existing Civil Service Law and Rules. In this connection, Section 28(c) of R.A. 2260 known as the Civil Service Act of 1959, which is still in force, provides:

(c) Limitation on the Right to Strike. - The terms and conditions of employment in the Government, xxx, are governed by law and it is declared to be the policy of the government that the employees therein shall not strike for the purpose of securing changes in their terms and conditions of employment. xxx.

This provision is reiterated in Section 16, Rule XVIII of the Revised Civil Service Rules.

In this connection, a "strike" is defined as a simultaneous cessation or quitting of work by a body of workmen acting in combination for the purpose of coercing their employer to accede to some demand they have made upon him which he has refused." (31 Am J. Rev. ed Lab Sec. 369; Ballentine Law Dictionary, 3rd ed)

Under the Labor Code of the Philippines (PD 442, as amended) Article 266 thereof provides:

"ART. 266. Definition of terms - The term 'strike' shall comprise not only concerted work stoppages, but also slowdowns, mass leaves, sit-downs, attempts to damage, destroy or sabotage plant equipment and facilities, and similar activities."

While the prohibited strike contemplated in Section 28(c) of RA 2260 is limited, that is, for the purpose of securing changes in the terms and conditions of employment, it does not

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follow that if the purpose of the strike is different, the teachers are authorized to perform any of the acts mentioned in the first paragraph heretofore. On the contrary, said acts fall within the purview of causes of disciplinary action (Section 36 (b), PD 807) and preventive suspension (Section 41, PD 907). Thus, teachers who do not report for work through mass leaves, or who report but do not perform their duties, or do certain activities such as demonstrations and meetings which are not in their program of work, or which unduly take them out of their assigned duties, or other acts of similar import, may be charged of neglect in the performance of duty.

Teachers who force other teachers to join them in any of the acts specified in the first paragraph heretofore or similar acts may be charged of coercion or grave misconduct. Teachers who do not report to school but indicate in their time records that they are present, may be charged of dishonesty or grave misconduct.

Teachers who disobey orders of their superiors or other duly constituted authorities requiring them to report for work, may be charged of insubordination. Teachers who make false entries in their time cards may be charged of falsification of official document.

When teachers refuse to hold classes, or discourage or drive away students from their classes thereby causing these students to miss their lessons and the opportunity to learn and exposing them to danger, drugs and other forms of vice, they may be charged of conduct prejudicial to the best interest of the service.

Section 41, PD 907, provides for preventive suspension:

Section 41. Preventive Suspension - The proper disciplining authority may preventively suspend any subordinate officer or employee under his authority pending an investigation, if the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty, or if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service. (underscoring supplied).

It should be emphasized that the last ground for preventive suspension "if there are reasons xxx" means that the respondent is charged of a serious offense and the evidence of guilt is strong.

Under Section 37(b), PD 807, the head of department (Ministry) shall have jurisdiction to investigate and decide disciplinary cases against his subordinate employees. The Schools Division Superintendent concerned may file the sworn

~~complaint against the erring teacher/s~~ with the Minister who, upon finding a prima facie case, shall issue the formal charge. The order of preventive suspension may accompany the formal charge or may be issued pending the investigation of the case.

Under PD 1409, the decision of the Minister is appealable to the Merit Systems Board and finally to the Commission within the period provided for by law.

Very truly yours,

(SGD.) JESUS M. BORRAMEO
Chairman

