

REPUBLIKA NG PILIPINAS REPUBLIC OF THE PHILIPPINES KAGAWARAN NG EDUKASYON DEPARTMENT OF EDUCATION

DenED

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JAN 12 2004

DepED MEMORANDUM

No.

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s. 2003

DISSEMINATION OF COMELEC RESOLUTION NO. 6456

To: Undersecretaries

Assistant Secretaries Regional Directors Bureau Directors

Schools Division/City Superintendents

District Supervisors

Heads, Public 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. 6456 dated December 10, 2003 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 May 10, 2004 Synchronized National and Local Elections.
- 2. Immediate dissemination of this Memorandum is desired.

EDILBERTO C. DE JESUS Secretary

Encl.:

As stated

Reference:

DepEd Memorandum: No. 461, s. 2003

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

To be indicated in the Perpetual Index

under the following subjects:

APPOINTMENT/EMPLOYMENT/REAPPOINTMENT

EMPLOYEES OFFICIALS

PROMOTION

TRANSFER

SALARY



Republic Of The Philippines COMMISSION ON ELECTIONS Manila

ENFORCEMENT OF THE AGAINST **PROHIBITION** 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 10. 2004 SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS.

PRESENT:

ABALOS, Benjamin S.
TANCANGCO, Łuzviminda G.
JAVIER, Rufino S.B.
LANTION, Ralph C.
SADAIN, Mehol K.
BORRA, Resurreccion Z.
TUASON, Florentino A. Jr.

Chairman Commissioner Commissioner Commissioner Commissioner Commissioner

PROMULGATED:

10 December 2003

RESOLUTION NO. 6456

WHEREAS, Sec. 261 of the Omnibus Election Code of the Philippines provides:

"x x x - The following shall be guilty of an election offense:

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XXX

v v v

"(g) <u>Appointment of new employees, creation of new position, promotion, or giving salary increases</u> – 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 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) <u>Transfer of officers and employees in the civil service</u> 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 <u>election period</u> except upon approval of the Commission. (Underlining subject)

XXX

xxx

XXX

"(x) <u>Suspension of elective, provincial, city, municipal or barangay officer</u>. 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 Ant-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 need to romulgate the necessary rules for the guidance of all concerned:

NOW, THEREFORE, the Commission on Elections, pursuant to the powers ested in it by the Constitution, the Ornnibus Election Code and other election ws. has RESOLVED to promulgate, as it hereby promulgates, the following rules implement the provisions of Section 261, subsections (g), (h) and (x) of the mnibus Election Code:

SECTION 1. <u>Prohibited acts</u> – (a) During the election period from December 15, 2003 until June 9, 2004, no public official shall make or cause any transfer/detail whatsoever of any officer or employee in the civil service, including public school teachers, or suspend elective provincial, city, municipal or barangay official, except upon prior written approval of the Commission. 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.

- (b) Beginning March 26, 2004 until May 10, 2004, no head, official or appointing officer of any national or local government office, agency or instrumentality, including government-owned or controlled corporations, shall: (1) appoint or hire any new employee, whether permanent, provisional, temporary, substitute or casual; or (2) create and fill any new position, except upon prior authority of the Commission.
- (c) Beginning March 26, 2004 until May 10, 2004, 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. Requests for authority of the Commission: How to file: (2.1) Requests for authority to make or cause any transfer or detail of any officer or employee in the civil service with official station in the central/main offices of national agencies and government-owned or controlled corporations, shall be submitted in writing to the Commission through its Law Department indicating; (a) the office and place to which the officer or employee is proposed to be transferred/detailed or otherwise moved; and (b) stating the reasons therefore. Similar requests involving 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, Schools Division Superintendents, and Assistant Superintendents, irrespective of their official stations shall likewise be submitted to the Commission through its Law Department.

Requests 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 Directors where the employee(s) sought to be detailed or transferred is stationed. Whereupon, the Regional Election Director concerned shall submit to the Commission En Banc copy furnished its Personnel Department, for consolidation and submission to the Law Department, by fastest means a report on applications acted upon by him/her within seventy-two (72) hours from his/her action approving or denying the same.

Requests for inter-regional transfers or details shall be filed with the Commission on Elections through its Law Department.

(2.2) Requests for authority to appoint or hire new employees, shall be submitted in writing to the Office of the Regional Election Directors 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 Commission through the Law Department.

(2.3) Requests for authority to create and fill new positions shall be submitted to the Commission through its Law Department.

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 the Personnel Department for main office positions a complete list of employees whose appointments were renewed indicating their position, item number, salary grade and station.

- (2.4) Requests for authority to suspend an elective provincial, city, municipal or barangay officer shall be submitted to the Commission through its Law Department supported by a copy of a formal complaint executed under oath and containing the specific charges therefor.
- (2.5) The Commission or its Regional Election Directors office 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, that the filling up of such position shall not in any manner influence the results of the elections.

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 3. <u>Urgent need to appoint new employees</u> – 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 Regional Election Directors offices, for field positions, or through the Personnel Department for 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. Failure to give notice as herein required shall render the appointment null and void.

The need to fill up a vacant position by a new employee may be considered urgent if the position sought to be filled has been vacated either by the death, retirement, resignation, promotion or transfer of the regular incumbent within sixty (60) days from the issuance of the appointment and the same cannot be filled by promotion or transfer of insiders within the same period. Appointment to a position which 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.

SECTION 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 a personnel movement involving the issuance of an appointment and not by mere designation.

SECTION 5. 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 Election Directors office 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 be used in violation of the foregoing prohibitions.

All field offices of the CSC, including its deputized agencies and citizens arms, are directed to submit immediately to the Commission a written report on any violation of said provisions of the Omnibus Election Code.

SECTION 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.

SECTION 7. Effectivity - This resolution shall take effect on the seventh day after its publication in two (2) newspapers of general circulation.

SECTION 8. <u>Dissemination</u> - 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, Constitutional Commissions, Offices, Provincial Governors, City and Municipal Mayors and government agencies including government-owned or controlled corporations, and all field offices of the Commission.

BENJAMIN S. ABALOS, SR.

LUZVIMINDA G. TANCÁNGCO Commissioner

> RALPH C. LANTION Commissioner

RHEINO & D. JAVIDA Commissioner

OL N. SADAIN Commissioner

RESURRECCION Z. BORRA Commissioner

ORENTING A Commissioner

Annexes:

- Request for authority to transfer or detail employee.
- Request for authority to transler of detail employees.

 Request for authority to hire new employees.

 Report on appointment of new employees.

 Report on Violation(s) of, transfer, detail, promotion, salary increase, etc.

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REQUEST FOR AUTHORITY TO HIRE NEW EMPLOYEES

VACANT
ПЕМ NO.
SALARY
STATION
PROPOSED EMPLOYEE
INTENDED DATE OF ISSUANCE
EFFECTIVITY
REASON FOR HIRING

May 10, 2004 Synchronized Elections. I hereby certify that the foregoing intended personnel action is in accordance with law and is not intended to influence the conduct and/or outcome of the

DA f

SIGNATURE OVER PRINTED NAME OF APPOINTING AUTHORITY

Republic of the Philippines

 -, - -	
	APPOINTING AUTHORITY
301440	GOVERNMENT
PROMOTION	ALL
TRANSFER	ALLEGED/OBSERVED VIOLATIONS
NEW APPT.	VIOLATIONS
APPOINTEE	
POSITION	
STATION	

DATE

SIGNATURE OVER PRINTED NAME OF CSC OFFICIAL

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of the
Philip
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(OFFICE/AGENCY)

REPORT ON URGENT HIRING OF NEW EMPLOYEES

	<u></u>	
•		NEW
		POSITION
		ANNUAL SALARY
		STATION
		REASON FOR VACANCY OF POSITION
		EFFECTIVITY OF VACANCY
		DATE OF ISSUANCE OF APPOINTMENT
		REASON FOR APPOINTMENT

provisions of Comelec Resolution No. _ I hereby certify that the hiring of the abovementioned personnel is urgent as justified by the reasons therefor and that the same is in accordance with the _ dated

DATI

SIGNATURE OVER PRINTED NAME OF APPOINTING AUTHORITY