

Republika ng Filipinas
(Republic of the Philippines)
KAGAWARAN NG EDUKASYON, KULTURA AT ISPORTS
(DEPARTMENT OF EDUCATION, CULTURE AND SPORTS)
Maynila

January 16, 1989

DECS O R D E R
No. 6, s. 1989

GUIDELINES AND PROCEDURES ON THE SITE REQUIREMENTS
FOR THE CONSTRUCTION OF SCHOOL BUILDINGS
AND OTHER SCHOOL FACILITIES

To: Undersecretaries
Assistant Secretaries
Bureau Directors/Cultural Agency Directors
Regional Directors
Schools Superintendents
Chiefs of Services and Heads of Units/Centers
Presidents, State Colleges and Universities
Vocational School Superintendents/Administrators

In order to comply with administrative provisions of existing laws and issuances and to avoid legal and administrative complications affecting school sites and school facilities, the following guidelines are hereby adopted:

1. The Department reiterates its established policy that any permanent construction of any nature shall be made only on sites, wherein the ownership or use thereof, is clearly established. For this purpose,
 - a. In undertaking constructions of school buildings and other school facilities, site preference shall be given to DECS titled property duly registered with the Registry of Deeds.
 - b. In case the property is registered in the name of a municipality/city, DECS should acquire a perpetual right of use through a gratuitous (without consideration) Contract of Lease with the municipality or Memorandum of Agreement defining in clear terms the conditions relative to its use, the control and supervision of the school site, particularly the ownership of the building or facility so constructed. The contract of lease must be registered with the Registry of Deeds and duly annotated as a memorandum on the certificate of title.
 - c. If the proposed school site is presently used for school site purposes without any adverse party-claimant, appropriate steps to ascertain the

probable basis of DECS' title should first be taken before any further construction is undertaken. The results of the verification together with the complete records regarding the site should be forwarded to the Office of the Undersecretary for Legal Affairs for appropriate legal attention and action.

- d. If the proposed site is privately owned, the appropriate documentation attesting to any inchoate right of DECS on the proposed site should be firmly established, and until the available transfer documents are available, no construction shall be initiated until clearance is first secured from the Office of the Undersecretary for Legal Affairs. For this purpose, the pertinent transfer documents, if any, including proofs of ownership should be forwarded together with the request for clearance. Any transfer document should at least bear proof of registration with the Register of Deeds of the province or city where the land is located, and appropriate memorandum thereof is annotated on the back of the certificate of title.
- e. In the case where the proposed site has been acquired by DECS through sale but the transfer title in favor of DECS has not been issued, the Deed of Absolute Sale, evidencing the sale should be registered with the Registry of Deeds of the province or city where the land is located, and appropriate memorandum thereof is annotated on the back of the certificate of title. If the reason for non-transfer is due to lack of the subdivision plan segregating the conveyed area from the main portion of the property, steps to have a subdivision-survey should be taken. Expenses for this purpose are hereby authorized to be disbursed from the funds of the Region.
- f. As regards transfer by reason of a Deed of Donation, this must be duly accepted either on the donation paper or in a separate document by the Department Secretary or his representative, provided the same does not impose any onerous condition or burden on the Department, and must be duly registered with the Registry of Deeds and the appropriate memorandum thereof is annotated on the back of the certificate of title.

Provided, that in no case shall any construction of a school building or other school facility be effected on lease property owned by a private person, natural or juridical, except as regards local government.

2. All school sites, whether used for elementary or high school purposes, must be under the administration, supervision and control of the Department of Education, Culture and Sports. These functions shall devolve upon the Schools Superintendent.

3. The applicable provisions of the Revised Administrative Act, as amended, and/or the 1988 Administrative Code, and the DECS Service Manual are hereby incorporated as integral parts of this Order, by way of reference.

4. Strict compliance is hereby enjoined.

(SGD.) LOURDES R. QUISUMBING
Secretary

Incl.:

As stated

Reference:

DECS Order: No. 116, s. 1987

Allotment: 1-2-3--(M.O. 1-87)

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

BUILDINGS
POLICY
RULES & REGULATIONS
SCHOOLS
SITE

(Inclosure to DECS Order No. 6, s. 1989)

ADMINISTRATIVE CODE OF 1988
(Excerpts)

CHAPTER 12 - Public Contracts and Conveyances

Sec. 47. Contracts and Conveyances. - Contracts or conveyances may be executed for and in behalf of the Government or of any of its branches, subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations, whenever demanded by the exigency or exigencies of the service and as long as the same are not prohibited by law.

Sec. 48. Official Authority to Convey Real Property. - Whenever real property of the Government is authorized by law, to be conveyed, the deed of conveyance shall be executed in behalf of the Government by the following:

(1) For property belonging to and titled in the name of the Republic of the Philippines, by the President, unless the authority therefor is expressly vested by law in another officer.

(2) For property belonging to the Republic of the Philippines but titled in the name of any political subdivision or of any corporate agency or instrumentality, by the executive head of the agency or instrumentality.

Sec. 49. Authority to Convey Other Property. - Whenever property other than real is authorized to be conveyed, the contract or deed shall be executed by the head of the agency with the approval of the department head. Where the operations of the agency regularly involve the sale or other disposition of personal property, the deed shall be executed by any officer or employee expressly authorized for that purpose.

Sec. 50. Conveyance of National Government Property to Local Governments. - When the real property belonging to the National Government is needed for school purposes, or other official use by any local government, the President shall authorize its transfer, and the department head or other authority concerned shall execute in favor of the local government the necessary deed of conveyance by way of gift, sale, exchange, or otherwise, and upon such terms as shall be for the interest of the parties concerned. Nothing herein provided shall be deemed to authorize the conveyance of unreserved public land, friar land or any real property held by the Government in trust or for a special purpose defined by law.

Sec. 51. Execution of Contracts. - (1) Contracts in behalf of the Republic of the Philippines shall be executed by the President unless authority therefor is expressly vested by law or by him in any other public officer.

(2) Contracts in behalf of the political subdivisions and corporate agencies or instrumentalities shall be approved by their respective governing boards or councils and executed by their respective heads.

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Sec. 57. Conveyances and Contracts to which the Government is a Party. - Any deed, instrument or contract conveying the title to real estate or to any other property the value of which does not exceed fifty million pesos (P50,000,000) awarded through public bidding, and five million pesos (P5,000,000) awarded through negotiation, shall be executed and signed by the respective Secretary on behalf of the Government of the Philippines. Where, the value of the property exceeds the aforesaid ceilings, such deed, instrument or contract shall be executed and signed by the President of the Philippines on behalf of the Government.

x x x

Chapter 4 - Powers of Eminent Domain, Escheat, Land Reservation and Recovery of Ill-gotten Wealth

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Sec. 12. Power of Eminent Domain. - The President shall determine when it is necessary or advantageous to exercise the power of eminent domain in behalf of the National Government, and direct the Solicitor General, whenever he deems the action advisable, to institute expropriation proceedings in the proper court.

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Sec. 14. Power to Reserve Lands of the Public and Private Domain of the Government. - (1) The President shall have the power to reserve for settlement or public use, and for specific public purposes, any of the lands of the public domain, the use of which is not otherwise directed by law. The reserved land shall thereafter remain subject to the specific public purpose indicated until otherwise provided by law or proclamation.

(2) He shall also have the power to reserve from sale or other disposition and for specific public uses or purposes, any land belonging to the private domain of the Government, or any of the Friar lands, the use of which is not otherwise directed by law, and thereafter such land shall be used for the purposes specified by such proclamation until otherwise provided by law.