



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

IN THE MATTER OF THE
ENFORCEMENT OF THE
PROHIBITION AGAINST
APPOINTMENT OR HIRING OF
NEW EMPLOYEES; CREATION OR
FILLING UP OF NEW POSITIONS;
GIVING SALARY INCREASES;
TRANSFER OR DETAIL OF CIVIL
SERVICE EMPLOYEES; AND
SUSPENSION OF ELECTIVE
LOCAL OFFICIALS IN
CONNECTION WITH THE MAY 09,
2016 NATIONAL AND LOCAL
ELECTIONS

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BAUTISTA, J.A.D., *Chairman*
LIM, C.R.S., *Commissioner*
PARREÑO, A.A., *Commissioner*
GUIA, L.T.F., *Commissioner*
LIM, A.D., *Commissioner*
GUANZON, M.R.A.V., *Commissioner*
ABAS, S.M., *Commissioner*

Promulgated on: December 22, 2015

[Signature]

RESOLUTION No. 10030
[Signature]

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:

RULE I

GENERAL PROVISIONS AND DEFINITION OF TERMS

SECTION 1. Prohibited Acts. - Section 261 of 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 a regular election and thirty (30) 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 position, 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 prior approval of the Commission.

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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 provision of this section shall be inapplicable.

SECTION 2. Definition of Terms. – As used in this Resolution:

- a. *"Appointment"* may be defined as the selection, by the authority vested with the power, of an individual who is to exercise the functions of a given office. When completed, usually with its confirmation, the appointment results in security of tenure for the person chosen unless he is replaceable at pleasure because of the nature of his office.
- b. *"Designation"* connotes merely the imposition by law of additional duties of an incumbent official. It is considered only an acting or temporary appointment, which does not confer security of tenure on the person named.
- c. *"Detail"* is the movement of an employee from one agency to another without the issuance of an appointment and shall be allowed, only for a limited period in the case of employees occupying professional, technical and scientific positions.
- d. *"Giving of remuneration or privilege"* shall include giving of bonuses, other than the mandated 13th month pay and cash gift for government employees, incentives, Representation and Transportation Allowance (RATA) or other form of allowances regularly received, on top of their usual benefits and privileges.
- e. *"Increase of salary"* shall include adjustments in salaries as a result of increase in pay levels or upgrading of positions which do not involve a change in qualification requirements and do not require the issuance of a new appointment.
- f. *"Promotion"* 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.
- g. *"Suspension"* is the temporary forced removal from the exercise of the office. It shall include both suspension as a penalty and preventive suspension.

- h. *"Transfer"* shall be construed as any movement of personnel from one station to another, whether or not in the same office or agency when made or caused during the election period, with or without the issuance of an appointment.

RULE II

APPOINTMENT OF NEW EMPLOYEES, CREATION OF NEW POSITION, PROMOTION, OR GIVING SALARY INCREASES

SECTION 1. Prohibited Acts and Period of Prohibition. - From March 25, 2016 until May 08, 2016:

A. 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:

- i. Appoint or hire any new employee, whether permanent, provisional, temporary, substitute or casual. The appointment referred herein shall not include designation.

- ii. Create and fill any new position.

B. 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 to Appoint Or Hire New Employees; Where and How to File. -

A. Requests for authority to appoint or hire new employees shall be:

- i. in writing;
- ii. stating all information pertinent to the appointment or hiring (*i.e. name of appointee, position, salary grade, etc.*) and the reasons for the same;
- iii. in two (2) original copies; and
- iv. accompanied with soft copy of the request in MS WORD format saved in USB or CD.

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B. *Said request shall be filed with:*

- i. *The Law Department*- Requests for authority to appoint or hire new employees of the central or main offices of national government agencies and government-owned and controlled corporations.
- ii. *The Office of the Regional Election Director*- Requests for authority to appoint or hire new employees in the field or local offices of government agencies and government-owned and controlled corporations in the region where the vacancy exists.

A sample copy of the application for request for exemption from the ban on appointment is hereto attached as *Annex "A"*.

SECTION 3. 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 the office or agency concerned and that the filling up of such position shall not in any manner influence the results of the election.

A sample copy of the application for request for exemption from the ban on creation or filling of new positions is hereto attached as *Annex "B"*.

SECTION 4. 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 the Law Department for main office positions, and through the Office of the Regional Election Director concerned for field positions, a complete list of employees whose appointments were renewed, indicating their position, item number, salary grade and station.

SECTION 5. Urgent Need to Appoint or Hire New Employees. –

- A. 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:
 - i. exact date when the position sought to be filled became vacant;
 - ii. the cause of vacancy;
 - iii. the reason for said appointment or hiring; and
 - iv. all the necessary data or information regarding the same.
- B. Notification shall be made through the Law Department in case of central or main office positions, or through the respective offices of the Regional Election Directors in case of field positions.
- C. The appointment or hiring of new employees shall be valid, unless the same is found by the Commission:
 - i. to have been made to influence in any manner the results of the election;
 - ii. to have been issued without the required notice; or
 - iii. that there is no urgent need for the appointment.
- D. The need to fill up a vacant position by a new employee may be considered "urgent" if:
 - i. the position to be filled is essential to the proper functioning of the office or agency concerned;
 - ii. the position has been vacated either by death, retirement, resignation, promotion or transfer of the regular incumbent;
 - iii. the appointment is issued within sixty (60) days from occurrence of the vacancy;
 - iv. the vacancy cannot be filled by promotion or transfer of insiders within the same period; and
 - v. the position shall not be filled in any manner that may influence the election.
- E. 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 6. Total Ban on Promotion, Salary Increases, Grant of Privileges. – The promotion or giving of increase of salary or remuneration or privilege to any government official or employee including those in government-owned and controlled corporations, shall be strictly prohibited from March 25, 2016 to May 8, 2016.

SECTION 7. 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 authority 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 5 Rule II 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 used in violation of the foregoing prohibitions.

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

RULE III

TRANSFER OF OFFICERS AND EMPLOYEES IN THE CIVIL SERVICE

SECTION 1. Prohibited Act and Period of Prohibition. - From January 10, 2016 to June 08, 2016, no public official shall, except upon prior written authority of the Commission, make or cause any transfer or detail whatsoever of any officer or employee in the civil service, including public school teachers.

SECTION 2. Request for Authority of the Commission on Transfer or Detail; Where and How to File. – Requests for authority to make or cause any transfer or detail shall be:

- i. in writing;

- ii. indicating the (1) office and place to which the officer or employee is proposed to be transferred or detailed or otherwise moved;
- iii. stating the reasons therefor;
- iv. in two (2) original copies; and
- v. accompanied with the soft copy of the request in MS WORD format and saved in USB or CD form.

SECTION 3. *Filing of Requests with 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. The requests for transfer or detail involve Provincial, City/Municipal Treasurers and Schools Division Superintendents and Assistant Superintendents;
- C. The transfer or detail is inter-regional.

SECTION 4. *Filing of Requests with the Office of the Regional Election Director.* – 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 Office of the Regional Election Director where the employee/s sought to be transferred or detailed is stationed, when:

- A. It involves government officers or employees with official stations in the field offices including the National Capital Region;
- B. All other officers and employees not indicated in Section 3 Rule III hereof.

A sample copy of the application for request for exemption from the ban on transfer is hereto attached as *Annex "C"*.

RULE IV

SUSPENSION OF ELECTIVE PROVINCIAL, CITY, MUNICIPAL OR BARANGAY OFFICER



SECTION 1. Prohibited Acts. - From January 10, 2016 to June 08, 2016, the provisions of law to the contrary notwithstanding, no public official shall, except upon prior written approval of the Commission, suspend any elective provincial, city, municipal or barangay officer.

No prior approval is required if 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.

SECTION 2. Request for Authority of the Commission to Suspend any Elective Provincial, City, Municipal or Barangay Officer, unless Suspension will be for Purposes of 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 certified true copy of a formal complaint executed under oath and containing the specific charges therefor, and a certified true copy of the Decision or Resolution suspending the concerned elective local official.

A sample copy of the application for request for exemption from the ban on suspension is hereto attached as *Annex "D"*.

SECTION 3. When Request for Authority is Not Necessary. - Request for authority to suspend elective local officials shall not be necessary:

- A. if the offense involved is punishable under the "Anti-Graft and Corrupt Practices Act¹"; and
- B. those that were already implemented before the start of the election period but is continuously served during or even after the expiration of the election period.

SECTION 4. Effect of the Onset of the Election Period. - The onset of the election period will not have the effect of lifting any suspension that is already being served.

RULE V

AUTHORITY OF THE CHAIRMAN TO APPROVE/DISAPPROVE REQUESTS AND THE PROCEDURE ON THE REQUEST

¹ Republic Act No. 3019

SECTION 1. Authority of the Chairman to Approve/ Disapprove Recommendations from the Law Department. – The Chairman of the Commission is authorized to approve/disapprove recommendations of the Law Department on requests for exemption from the coverage of the ban involved in this Resolution. Such action by the Chairman shall take effect immediately, subject, however, to confirmation by the Commission *En Banc*.

SECTION 2. Requests for Authority Submitted to the Law Department. – The Law Department shall prepare its recommendation on all requests received by it and submit to the Chairman for approval or disapproval.

SECTION 3. Requests for Authority Submitted to the Office of the Regional Election Director. – The Regional Election Director shall approve or disapprove all requests received by him and submit a report containing a list of all the requests acted upon to the Law Department, at the end of every week, by the fastest available means of communication. It may be sent in PDF format via electronic mail to comelec.law@gmail.com.


A sample copy of the Regional Report is hereto attached as *Annex "E"*.

The Law Department shall submit the actions taken by the Regional Election Directors to the Chairman for consideration.

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 reversed or set aside by the Commission.

RULE VI

GRANT OF AUTHORITY TO CERTAIN GOVERNMENT AGENCIES

SECTION 1. Continuing Authority to Hire and Transfer Government Employees. – For purposes of the May 9, 2016 National and Local Elections, the Commission hereby grants continuing authority to the following government agencies to appoint or hire new employees from March 25, 

2015 to May 8, 2015, and to transfer their officers or employees from January 10, 2015 to June 8, 2015 in view of the nature of their functions:

- A. The President of the Philippines;
- B. Supreme Court of the Philippines, Court of Appeals, Sandiganbayan, Court of Tax Appeals and the lower courts, including the Senate and Presidential Electoral Tribunal;
- C. Philippine National Police (PNP)
- D. Armed Forces of the Philippines (AFP)

SECTION 2. Conditions for the Grant of Continuing Authority. –The grant of continuing authority to the above-enumerated government agencies to appoint or hire new employees and to transfer officers or employees during the election period shall, however, be subject to the following conditions:

- A. that it is essential to the proper functioning of the office and shall not in any manner influence the conduct of the May 9, 2016 National and Local Elections;
- B. that it shall not involve promotion or giving of any increase of salary or remuneration or privilege during the forty-five (45) day period before the May 9, 2016 Elections which is strictly prohibited without any exception whatsoever;
- C. that this authorization shall be prospective in application and without prejudice to the applicable Civil Service Law, rules and regulations on personnel actions/movements; and
- D. that they shall notify in writing the Commission, through the Law Department, as follows:
 - a. **In cases of appointments** – within three (3) days from the date of appointment, stating therein:
 - i. Name of the officer or employee to be appointed or hired;
 - ii. Position of said officer or employee to be appointed or hired;
 - iii. The exact date when the position to be filled became vacant;
 - iv. Cause of the vacancy; and
 - v. All necessary data or information regarding the same.
 - b. **In cases of transfers/details** – within three (3) days from the

date of transfer/detail, stating therein:

- i. The office and place where the officer or employee came from and the office/place to which said officer or employee is transferred, detailed or otherwise moved;
- ii. Justifications or reasons for said transfer or designation; and
- iii. All necessary data or information regarding the same.

RULE VII

GRANT OF AUTHORITY TO OTHER AGENCIES

SECTION 1. *Grant of Continuing Authority to Other Agencies.* -The grant of continuing authority to hire and to transfer its personnel during the election period may be granted to other government agencies not mentioned herein, upon the submission of a written request justifying the reasons therefor, and subject to the approval of the Commission *En Banc*.

SECTION 2. *Authority of the Commission to Enter into Memoranda of Agreements with Other Agencies.* - The Commission may enter into Memoranda of Agreements with other government agencies which may be exempted under this Resolution.

RULE VIII

AUTHORITY OF THE COMMISSION ON ELECTIONS TO APPOINT, FILL-UP POSITIONS AND TRANSFER OR REASSIGN ITS PERSONNEL

SECTION 1. *Basis of Authority.* - There is an essential need to appoint, assign, reassign or transfer personnel of the Commission on Elections in order that it can effectively and efficiently carry out its constitutional mandate to conduct free, orderly, honest, peaceful and credible elections.

SECTION 2. *Exemption.* - the Commission on Elections is hereby exempted from the prohibition to appoint, hire new employees or fill new positions from March 25, 2016 until May 8, 2016 and transfer or assign or reassign its personnel from January 10, 2016 until June 8, 2016.

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RULE IX

COMMON PROVISIONS

SECTION 1. 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 2. Dissemination. - The Education and Information Department shall cause the publication of this resolution in two (2) daily newspapers of general circulation, give this resolution the widest dissemination and furnish copies thereof to all concerned.

SO ORDERED.



J. ANDRES D. BAUTISTA
Chairman



CHRISTIAN ROBERT S. LIM
Commissioner



LUE TITO F. GUIA
Commissioner



MA. ROWENA AMELIA V. GUANZON
Commissioner



AL A. PARRENO
Commissioner



ARTHUR D. LIM
Commissioner



SHERIFF M. ABAS
Commissioner

4