



MC No. 07, s. 2008

**MEMORANDUM CIRCULAR**

**TO :** ALL HEADS OF ALL BRANCHES, SUBDIVISIONS,  
INSTRUMENTALITIES AND AGENCIES OF THE  
GOVERNMENT, INCLUDING GOVERNMENT-OWNED OR  
CONTROLLED CORPORATIONS

**SUBJECT :** Republic Act 9416 and its Implementing Rules and Regulations

Republic Act 9416, otherwise known as “An Act Declaring as Unlawful Any Form of Cheating in the Civil Service Examination, Unauthorized Use and Possession of CSC Examination-Related Materials, and Granting the Commission Exclusive Jurisdiction Over the Cases including those Committed by Private Individuals” was signed into law by President Gloria Macapagal-Arroyo on March 25, 2007. Pursuant to its Section 10, the Civil Service Commission has promulgated the attached Implementing Rules and Regulations of the said Act.

The Law and its Implementing Rules and Regulations were published in the Philippine Star on March 30, 2008, and took effect on April 14, 2008 or fifteen (15) days after their complete publication.

Heads of Departments and Agencies are enjoined to comply strictly with the provisions of the law and its implementing rules and regulations.

  
**CESAR D. BUENAFLOR**  
Acting Chairman

24 April 2008

*Erpo/mlgr/lqc/x45*  
MC IRR of RA 9416



**Re: IMPLEMENTING RULES AND REGULATIONS  
Republic Act No. 9416**

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**RESOLUTION NO. 080209**

**WHEREAS**, the proliferation of examination irregularity cases as a result of cheating remains to be a persisting predicament of the Commission and continuously undermining the sanctity and integrity of civil service examination;

**WHEREAS**, the enactment into law of Republic Act No. 9416 is a landmark legislation declared unlawful and penalizes any form of cheating in civil service examination;

**WHEREAS**, Section 1 of Republic Act No. 9416 expressly declares that all forms of cheating in civil service examinations including those committed by private individuals shall be immediately and effectively addressed. The public service should not be a haven for "misfits and cheats";

**WHEREAS**, Section 10 of the same law expressly grants to the Civil Service Commission the power to promulgate the rules and regulations necessary to carry out the provisions of the law;

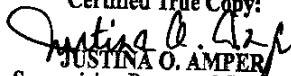
**NOW, THEREFORE**, the Commission hereby adopts and promulgates the following implementing rules and regulations:

**RULE 1  
PRELIMINARY PROVISIONS**

Section 1. **Title.** These Rules shall be known and cited as the "*Implementing Rules and Regulations of RA 9416.*"

Section 2. **Declaration of Policy.** Public office is a public trust. As such, it is hereby declared the policy of the State to ensure that honesty, integrity and merit and fitness principle be always the measure of entry into the public service. Thus, all forms of cheating in civil service examinations including those committed by private individuals shall be immediately and effectively addressed. The public service should not be a haven for "misfits and cheats."

Section 3. **Coverage.** These Rules shall cover administrative cases pertaining to acts or omissions by government officials, employees and private persons, including the officers or authorized representatives of juridical entities, as defined and declared unlawful under RA 9416. The criminal aspect of RA 9416, however, shall be governed by the Rules on Criminal Procedure.

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Section 4. **Manner of Construction.** These Rules shall be liberally construed in order to promote just and expeditious resolution and disposition of cases.

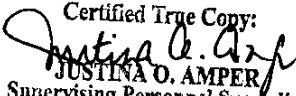
Section 5. **Applicability of the Rules of Court.** The Rules of Court shall be suppletorily applicable.

Section 6. **Technical Rules in Administrative Investigation.** Administrative investigation conducted under these Rules shall not strictly adhere to the technical rules of procedure and evidence applicable in judicial proceedings.

## RULE 2 GENERAL PROVISIONS

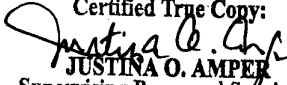
Section 1. **Definition of Terms.** For purposes of these Rules, the following terms shall mean:

1. **Answer Data File** – refers to the electronic examination record in the custody of the CSC that stores the answers made by the examinee in a particular Civil Service Examination and other relevant information about the examinee.
2. **Application Form** – refers to the document prescribed by the CSC to be used by the applicant in registering for a particular Civil Service Examination as defined under these Rules. This contains the data supplied under oath by the applicant such as: Name, Date and Place of Birth, Complete Mailing Address, Civil Status, Sex, Citizenship, Age, Education, Present Employment, and other important information. It also includes the picture submitted by the applicant.
3. **Answer Sheet** – refers to the document prescribed by the CSC to be used by examinees during a Paper-and-Pencil Test mode of examination to reflect their answers. This also shows the Examinee Number, Title of Examination, Date of Examination, Place of Examination, Examinee’s Date of Birth, and the time the examinee started and finished the examination.
4. **Certificate of Eligibility (CoE)** – refers to the security document issued by the CSC to a person showing that he/she is included in the register of eligibles for having been granted an eligibility by the Commission.
5. **Cheating** – refers to any act or omission before, during or after any Civil Service Examination that will directly or indirectly undermine the sanctity and integrity of the examination, such as, but not limited to, the following:
  - a. Impersonation;
  - b. Use of “codigo” or “crib sheets”;
  - c. Employing a “poste”;

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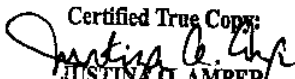


- d. Tampering with the examination records;
  - e. Collusion of whatever nature between examinees and examination personnel;
  - f. Examinee number switching;
  - g. Possession and/or use of fake certificate of eligibility; and
  - h. Such other acts of similar nature which facilitate the passing of examination including those committed by review centers or entities offering refresher courses or tutorials.
6. *Cheats* – shall include all persons or review centers or entities offering refresher courses or tutorials, who directly or indirectly commit the act or acts of cheating.
7. *Civil Service Commission*- herein referred to as CSC.
8. *Civil Service Commission Regional Office (CSCRO)* – refers to any of the sixteen (16) regional offices of the CSC.
9. *Commission* – refers to the collegial body of the Civil Service Commission composed of a Chairman and two Commissioners.
10. *Civil Service (CS) Examination* –refers to all examination being administered by the CSC or those administered by other agencies in coordination with or through the assistance of the CSC.
11. *Codigo or Crib Sheet* – refers to any material or devise in the possession of examinee containing codes, in any form, representing answers to test items.
12. *Examination Record* – refers to any document, in any form, in the custody of the CSC, such as, but not limited to, the following: Master List, Examinees Attendance Sheet, Picture-Seat Plan, Answer Data File, Answer Sheet and examination reports, containing relevant and necessary information, such as, but not limited to, the following: type of examination, date and place of examination, personal circumstances of an examinee, examinee number, pictures of examinees, answers and general rating, used in connection with Civil Service Examination as defined herein.
13. *Examination-Related Material* – refers to any material in the custody of the CSC, in any form, which is used by the CSC in the conduct of Civil Service Examinations. These shall include, but are not limited, to the following: computer or electronic program files and data, test items, answer sheets and test booklets or a part or portion thereof.

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14. *Master List* – refers to the document in the custody of the CSC, containing the list of Passed and Failed examinees in a particular examination. It contains the Date of Examination, Date of Release, Examinee's important data such as Sequence Number, School Code, Examinee Number, Name, Address, Place of Birth, Date of Birth, Rating, and its corresponding Result/Remarks and such other relevant information.
15. *Impersonation* – refers to an act of assuming the identity of another person, in whatever manner, with the end purpose of taking any Civil Service Examination.
16. *Picture-Seat Plan* – refers to an examination document in the custody of the CSC, showing the actual seating arrangement of examinees in an examination room. It shows the examinee's picture, examinee number, sex, date of birth, signature, name, thumb print and other relevant information.
17. *"Poste"* – refers to a person inside or outside of the examination room who may or may not be a registered examinee but who provides examinees with answers or "*codigo*" or "crib sheets" or such other assistance to enhance an examinee's chances of passing.
18. *Private Individuals* – those persons who are not yet considered government employees as well as those former government employees who had been separated from the service. These shall also cover individuals who are hired by government agencies based on job orders or contracts of service, where no employment relationship subsists between these individuals and the hiring agencies.
19. *Review Centers* – shall refer to entities, created or established formally or informally, by an individual or a group of individuals, to provide, conduct, specialize and/or assist individuals (students, professionals, employees) or group of individuals through tutorial programs and/or review classes or review programs, seminars/training programs, and advance subject/course orientation, intensive and comprehensive test preparation, familiarity with scope of tests through simulation activities and provision of documents or review materials and proficiency enhancement, with or without the assurance of passing or high possibility of passing the Civil Service Examination.
20. *Statistically Improbable Result* – refers to an unreliable examination result as determined by the CSC based on any of the following conditions: (a) when in a particular examination room registers unusually high percentage of passing (b) when there is an identified pair or there are pairs of examinees that have high clustering of responses or where there are high answer similarities in both correct and incorrect answers of paired examinees, and (c) based on the evaluation of examination record and other circumstances as may be ascertained by the Commission, there is wide discrepancy in an examinee's performance between his/her current and previous test results.

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21. *Unauthorized Source* – refers to any person or entity who is not authorized by the Commission to possess examination-related materials. The term shall include test administrators and examination personnel who went beyond their authority in the handling of examination-related materials and examination records.

Section 2. *Jurisdiction*. The Civil Service Commission and its Regional Offices shall exercise exclusive jurisdiction to investigate and decide over administrative cases pertaining to cheating as defined under these Rules. This jurisdiction shall cover government officials and employees as well as private individuals.

Section 3. *Venue*. Any administrative action undertaken pursuant to the provisions of RA 9416 may be instituted in the Regional Offices of the Civil Service Commission provided the cheating was committed or discovered within their jurisdiction without prejudice to the Commission's authority to assume jurisdiction.

Section 4. *Authority to Administer Oath*. The hearing officer or any person in charge of the investigation, as authorized by the Commission or its Regional Offices, may administer oath to parties or witnesses under investigation or inquiry.

Section 5. *Issuance of Subpoena*. The hearing officer or the person in-charge of the investigation, as may be authorized by the Commission or its Regional Offices, may issue *subpoena ad testificandum* to compel the attendance of witnesses and *subpoena duces tecum* for the production of documents or things pertinent to the investigation and inquiry.

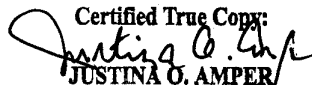
Section 6. *Institution of Criminal Action*. The Civil Service Commission, through its authorized officers, shall file a criminal complaint before the proper forum pursuant to the Rules on Criminal Procedure and the Omnibus Guidelines in the Conduct of Examination.

### RULE 3

#### DETERMINATION OF STATISTICALLY IMPROBABLE RESULTS

Section 1. *Review of Examination Results and Record*. The CSC, through the Examination, Recruitment and Placement Office (ERPO), shall, as a matter of procedure, conduct a review of individual examination results to determine if a particular room registers unusually high percentage of passing or there are high answer similarities between and among paired examinees as well as incidence of wide discrepancy in the current and previous examination results of an examinee. It shall identify the examinee/s involved.

Section 2. *Conditions for Statistically Improbable Results*. With reference to the Omnibus Guidelines on the Administration of Civil Service Examinations, any of the following shall be the conditions necessary for the determination of statistically improbable results:

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- a) If there is a clustering of responses (either right or wrong) of at least 50% of the passers in the same room in at least 90% of the total number of scored items.
- b) If there is a clustering of responses (either right or wrong) of at least 90% of the passers in the same room in at least 50% of the total number of scored items.
- c) If there is a clustering of responses (either right or wrong) of at least 50% of the passers in the same room in less than 90% of the total number of scored items but the standard deviation (SD) of the room is at least 50% lower than that of the testing center.
- d) The existence of identified pair or pairs of passers seated close to each other with lopsided clustering of incorrect responses in at least 30% of the total number of scored items.
- e) The existence of identified pair or pairs of passers with lopsided clustering of correct and incorrect responses in at least 75% of the total number of scored items.

Section 3. **Evaluation of Examination Results.** The ERPO shall forward the list of identified examinee/s to the concerned CSCROs according to the venue of the examination.

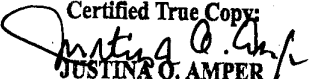
The CSCRO shall thereafter evaluate the examination record of the examinee/s, including circumstances attendant before, during and immediately after the conduct of the examination. It shall submit its report and recommendation to the Commission, thru the ERPO within fifteen (15) days from the termination of the evaluation.

Section 4. **Declaration of Statistically Improbable Result.** The Commission, upon recommendation of the ERPO, shall declare an examination result statistically improbable as defined in Item 17, Section 1 of Rule 2, and shall be a *prima facie* evidence of cheating.

Section 5. **Action on Declared Statistically Improbable Result.** Upon declaration by the Commission of a statistically improbable result, the concerned CSCRO or authorized officers shall take the appropriate actions pursuant to the provisions of these Rules to determine the administrative liability, if any, of government officials and employees or private individuals.

**RULE 4  
PROCEDURE AGAINST GOVERNMENT OFFICIALS AND EMPLOYEES  
AND PRIVATE INDIVIDUALS**

Section 1. **Applicability of Rules on Administrative Cases.** The existing rules on administrative cases in the civil service including its amendments and revisions, shall be applied in the investigation, prosecution and adjudication of administrative cases of cheating, as defined under RA 9416, involving government officials and employees as well as private individuals.

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RULE 5  
CONTEMPT

Section 1. *Indirect Contempt.* The Commission, including its offices exercising investigative and adjudicative powers, and the Regional Directors, may, pursuant to Section 6 paragraph 5 of RA 9416, cite any person for indirect contempt and impose the appropriate penalty under any of the following grounds:

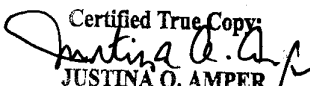
- a. Refusal of any official, employee, or private individual without any valid cause to extend assistance and information necessary in the discharge of its responsibilities under RA 9416;
- b. Disobedience of, or resistance to, a lawful writ, process, order, decision, ruling, summons, command or injunction. Each day of defiance of, or disobedience to, or non-enforcement of a final order, resolution, decision, ruling, injunction or process, shall constitute an indirect contempt of the Commission;
- c. Failure to obey a subpoena *ad testificandum* and/or subpoena *duces tecum* duly served; or
- d. Other grounds analogous to the foregoing.


Section 2. *Applicability of Existing Rules on Contempt.* The rules on contempt provided in Civil Service Commission (CSC) Memorandum Circular No. 42, s. 1990 dated August 22, 1990, as amended by CSC Resolution No. 071245 dated June 22, 2007 shall be applied in cases covered under this Rule.

RULE 6  
ADMINISTRATIVE OFFENSES AND PENALTIES

Section 1. *Offenses.* The following acts or omissions are punishable as serious dishonesty and grave misconduct, to wit:

- a. Cheating *per se*;
- b. Use of *codigo* or "crib sheets";
- c. Impersonation;
- d. Employing a *poste*;
- e. Tampering with examination records;
- f. Collusion;
- g. Examinee number switching;
- h. Possession of fake eligibility;
- i. Use of fake eligibility;
- j. Unauthorized possession of examination-related materials;
- k. Unauthorized use of examination-related materials;

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- l. Unauthorized reproduction of examination-related materials;
- m. Unauthorized dissemination of examination-related materials; and
- n. Other instances analogous to the foregoing

**Section 2. Penalties.**

1. If the offender is a government employee, the penalty of dismissal from the service shall be imposed including all the accessory penalties of:
  - a. Cancellation of eligibility,
  - b. Forfeiture of retirement benefits,
  - c. Bar from taking any Civil Service Examination, and
  - d. Perpetual disqualification from re-entering the government service .
2. If the offender is a private individual, he/she shall be:
  - a. Perpetually barred from entering the government service and
  - b. Perpetually barred from taking any Civil Service Examination.

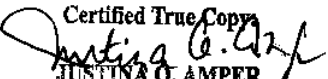
**RULE 7  
IMMUNITY**

**Section 1. Who may Avail of the Immunity.**

- a. Any person who voluntarily gives information pertaining to any act or omission defined and punished under RA 9416 and who is willing to testify;
- b. Any person who has given or promised to give or gave a bribe to a public official or employee, or is an accomplice thereto for the purpose of obtaining for another person a civil service eligibility, and who is willing to testify; and,
- c. Any person who participated or acted in conspiracy with other persons in the commission of cheating or any other act defined under RA 9416 and who is willing to testify.

**Section 2. Conditions for the Grant of Immunity.** The following conditions must concur for the grant of immunity to the above informant or witness:

- a. The information or testimony must refer to acts or omissions defined as cheating under RA 9416;
- b. The information and testimony are necessary for the proper prosecution of the offense/s committed by the respondent public official or employee or of any private individual who conspired with him/her;
- c. Such information and testimony are not yet in the possession of the CSC or any government entity;

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- d. Such information and testimony can be substantially corroborated on their material points;
- e. The informant or witness has not been previously convicted of a crime involving moral turpitude or perjury; and
- f. For the informant or witness contemplated under Item 1 (c), who does not appear to be the most guilty.

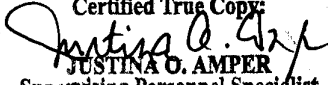
Section 3. *Procedure.*

- a. The informant or witness must file the appropriate application for the grant of immunity accompanied by his/her sworn affidavit-complaint stating the circumstances of the alleged acts or omissions and those of other witnesses, along with pertinent documents, if any, before the CSC or its Regional Office (CSCRO) which has jurisdiction over the place where the alleged acts or omissions were committed or discovered.

In addition to the aforementioned documentary requirements, if the informant or witness had been formally charged, he/she shall be required to submit a motion for his/her discharge.

- b. If the application for immunity is complete in form and substance, the concerned CSCRO who received the said application, shall summon the informant for a preliminary conference to determine the veracity of the information sought to be investigated, and whether he/she qualifies for the grant.
- c. Within fifteen (15) days from the termination of the preliminary conference, the concerned CSCRO shall submit its fact-finding report and recommendation to the Commission which shall evaluate the application/request for the grant of immunity. If the request is meritorious, the Commission shall issue the appropriate Resolution.
- d. The CSC may summon the informant and his/her witness or witnesses, if any, to a clarificatory conference. Otherwise, the Commission shall resolve the application for the grant of immunity based on the fact-finding report including the pertinent documents on record.
- e. If the Commission denies the application for the grant of immunity, all evidence adduced in support of the application for the grant of immunity, including the motion for discharge, shall be treated with strict confidentiality. They shall likewise be inadmissible in evidence.

All fact-finding or preliminary investigations conducted and all proceedings undertaken in connection therewith shall be strictly confidential to protect the

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reputation of the public official or employee under investigation in the event that the report proves to be unfounded or no *prima facie* case is established.

- f. Upon receipt of a notice of the Commission Resolution granting immunity, the concerned CSCRO shall proceed against the public official or employee or private individual implicated by the whistle-blower in accordance with the pertinent rules as provided herein.
- g. Should the information or testimony given turn out to be false and malicious or made only for the purpose of harassing the public official or employee or private individuals, the immunity shall be cancelled.
- h. The immunity may be availed only once.

**Section 4. *Failure or Refusal to Testify.*** If the whistle-blower fails or refuses to testify or to continue to testify, or testifies falsely or evasively, or violates any condition accompanying such immunity without just cause, as determined by the Commission, his/her immunity shall be cancelled and he/she shall be cited for indirect contempt and/or prosecuted criminally. Moreover, the enjoyment of all benefits under this Rule shall be deemed terminated.

**Section 5. *Retraction of Testimony.*** If the whistle-blower retracts or recants his/her testimony, the immunity is automatically cancelled and the appropriate administrative and criminal charges shall be instituted.

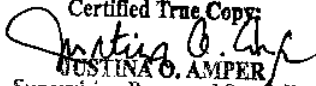
**Section 6. *Benefits Granted.*** The provisions of CSC Resolution No. 021279 dated October 7, 2002 on the frequency of taking the civil service examination shall not apply to the whistle-blower. If it is determined that the informant public official or employee or private individual obtained his/her civil service eligibility through similar anomalous and unlawful means, the Commission shall *motu proprio* revoke said eligibility.


In the event that the whistle-blower's eligibility is cancelled pursuant to these Rules, his/her appointment shall be deemed temporary in status. However, he/she may be granted one renewal of temporary appointment upon its expiration subject to the discretion of the appointing authority.

## RULE 8 MISCELLANEOUS

**Section 1. *Coordination with Government Law Enforcement Agencies.*** The CSC shall coordinate with government law enforcement agencies, particularly, the Philippine National Police (PNP), National Prosecution Service (NPS), Department of Justice (DOJ) and the National Bureau of Investigation (NBI) for the effective implementation of these Rules.

**Section 2. *Separability Clause.*** If any provision or section of this Implementing Rules and Regulations is held invalid, the remaining provisions or sections shall not be affected thereby.

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Section 3. **Repealing Clause.** The Rules on Disqualification Proceedings for Private Individuals Found Involved in Examination Irregularity, the Policy Guidelines on Whistle-blowers' Immunity from Prosecution in Examination Irregularity Cases and all pertinent rules and regulations inconsistent with these Rules are hereby repealed, amended or modified accordingly.

Section 4. **Transitory Provision.** These Rules shall apply to request for the grant of immunity then pending after the effectivity of these Rules.

Section 5. **Effectivity.** This Implementing Rules and Regulations shall take effect after fifteen (15) days from its publication in a newspaper of general circulation.

Quezon City,

JAN 28 2009  
  
KARINA CONSTANTINO-DAVID  
Chairman

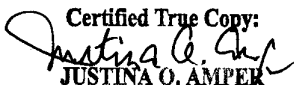
On Leave  
CESAR D. BUENAFLOR  
Commissioner

  
MARY ANN Z. FERNANDEZ-MENDOZA  
Commissioner

Attested by:

  
JUDITH D. CHICANO  
Director IV  
Commission Secretariat and Liaison Office

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