

MACATANGAY, Myrna V.

Re: Clarification; Coverage of CSC
Resolution No. 01-0988

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RESOLUTION NO. 011310

Atty. Myrna V. Macatangay, Director III, Civil Service Commission – National Capital Region (CSC – NCR), Quezon City, requests clarification on the coverage of CSC Resolution No. 01-0988 dated June 4, 2001, which prescribed the guidelines in the processing of appointments issued by outgoing local chief executives.

The request reads, in part, as follows:

“In this regard and to guide us further on our action, may we be clarified on whether appointments issued by outgoing local officials, and made effective, during the election ban but with corresponding exemption from the Commission on Elections, are among those contemplated for disapproval under the said Resolution.”

Pertinent to the foregoing is **Section 261(g), Article XII of The Omnibus Election Code of the Philippines**^[1], which provides:

"Section 261. Prohibited Acts. - The following shall be guilty of an election offense:

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"(g). Appointment of new employees, creation of new positions, promotion, or giving salary increases. - During the period of forty-five days before a 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 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 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."

Under the aforesaid provision, the appointment of new employees, creation of new positions, promotion, or giving of salary increases are prohibited acts during the forty (40) days before a regular election and thirty (30) days before a special election except upon prior authority of the Commission on Elections (COMELEC). The COMELEC may grant said authority if 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 is not filled in a

manner that may influence the election. With the said COMELEC exemption, the local chief executive concerned would have the authority to issue appointment/s, among other things, during the COMELEC ban.

On the other hand, Number 2 of CSC Resolution No. 01-0988 provides:

"2. All appointments issued by outgoing local chief executives in any local government unit under any of the following circumstances are to be disapproved:

"a) All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, except in cases of renewal and reinstatement, regardless of status, which are issued BEFORE the prohibited period on the issuance of appointments as provided for under the election law and rules, and made effective DURING or AFTER the same period, regardless of the date of receipt by the Commission, including its Regional or Field Offices, of said appointments or the Report of Personnel Actions (ROPA), as the case may be;

"b) All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, except in cases of renewal and reinstatement, regardless of status, which are issued DURING the prohibited period on the issuance of appointments as provided for under the election law and rules, and made effective DURING or AFTER the same period, regardless of the date of receipt by the Commission, including its Regional or Field Offices, of said appointments or the Report of Personnel Actions (ROPA), as the case may be;"

It must be underscored that the above-quoted provision covers situations involving the issuance of appointments by heads of agency and/ or offices during the COMELEC ban. Hence, although it is not expressly stated therein, the exception provided under 261(g), *supra.*, of the Omnibus Election Code must perforce be deemed written in the said provision. As such, let it be clarified that appointments issued by outgoing local chief executives during the election ban, which are made effective during the same period, if authorized pursuant to an exemption issued by the COMELEC, is NOT covered by the above-cited provision of CSC Resolution No. 01-0988. This must be so considering that the COMELEC, in issuing the aforesaid exemption, must have been satisfied "*that the position to be filled up is essential to the proper functioning of the office or agency concerned*". The foregoing notwithstanding, the Regional Offices and/or Field Offices, this Commission, must still determine whether the appointee is qualified and/or other pertinent laws on the matter have been complied with.

WHEREFORE, the Commission hereby clarifies that appointments issued by outgoing local chief executives during the election ban, which are made effective during the same period, if authorized pursuant to an exemption issued by the COMELEC, is not covered by CSC Resolution No. 01-0988. Nevertheless, the Regional Offices and/or Field Offices, this Commission, must still determine whether the PSB has been convened and the appointee is otherwise qualified for the position and/or other pertinent laws on the matter have been complied with.

Quezon City, **AUG 03 2001**

Signed
JOSE F. ERESTAIN, JR.
Commissioner

Signed
KARINA CONSTANTINO-DAVID
Chairman

Signed
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

Signed
ARIEL G. RONQUILLO
Director III

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[\[1\]](#) Batas Pambansa Blg. 881, as amended.