



VALDEROSA, Leopoldo Robert Jr. W.
Re: Clarification on the Eligibility Requirement
for the positions of Schools Division
Superintendent and Assistant Schools
Division Superintendent in the Autonomous
Region of Muslim Mindanao (ARMM)
(NDC-2015-04042)

Number: 1501439
Promulgated: 02 DEC 2015

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RESOLUTION

Leopoldo Roberto W. Valderosa, Jr., Director IV, Civil Service Commission – Autonomous Region in Muslim Mindanao (CSC-ARMM), Cotabato City, seeks guidance from the Commission relative to the decisions of the Supreme Court in the case of Normillah Sumigay R. Pangandaman vs. Grace R. Belgado-Saqueton, CA-G.R. SP No. 023-94 and Atty. Anacleto B. Buena vs. Dr. Sangcad D. Benito, G.R. No. 181760 dated October 14, 2014, which involve the issue of Third Level Eligibility requirement for the positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM.

In his Letter dated February 25, 2015, Director IV Valderosa averred, as follows:

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“We are forwarding the attached letter of Atty. Laisa M. Alamia, Executive Secretary of the Regional Governor – Autonomous Region in Muslim Mindanao regarding the case of Normillah Sumigay R. Pangandaman vs. Grace R. Belgado-Saqueton, CPA in her capacity as the CSC ARMM Director which case is docketed as CA-G.R. SP No. 023-94.

“We are also providing the Supreme Court EN BANC decision of the Benito vs. Buena case for your reference.”

On March 18, 2015, the Commission received another Letter¹ from Dir. Valderosa, requesting opinion on the Supreme Court (SC) decision of the case of Atty. Anacleto B. Buena, Jr. vs. Dr. Sangcad D. Benito, G.R. No. 181760 dated October 14, 2014, involving Third Level Eligibility of Assistant Schools Superintendent in the ARMM.

Pertinent portions of the Supreme Court Decision on the case of **Buena vs. Benito (G.R. No. 181760)** dated **October 14, 2014** read, in part, as follows:

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¹ Dated March 18, 2015 and docketed by the OLA Records as O-2015-03030

“Under the civil service law, positions in the Career Executive Service are: ‘Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service, and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President’.

“In the exercise of its legal mandate, the Career Executive Service Board issued Resolution No. 945 dated June 14, 2011, where it set the following criteria to determine whether a position belongs to the Career Executive Service:

- ‘1. The position is career;*
- ‘2. The position is above division chief; and*
- ‘3. The position entails performance of executive and managerial functions.’*

“Aside from satisfying the criteria set by the Career Executive Service Board, the holder of the position must also be a presidential appointee.

“Applying these principles in this case, we rule that the position of Assistant Schools Division Superintendent belongs to the Career Executive Service.

“The position of Assistant Schools Division Superintendent is a career position. Appointment to the position is based on merit and fitness and gives the appointee an opportunity for advancement to higher career positions, such as Schools Division Superintendent. If permanently appointed, the appointee is guaranteed security of tenure.

“The position is above Division Chief. An Assistant Schools Division Superintendent has a salary grade of 25.

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“In fact, the law recognizes that the position of Assistant Schools Division Superintendent belongs to the Career Executive Service. Section 7 of Republic Act No. 9155 explicitly provides that an appointee to the position must be a career executive service officer xxx.

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In Osea v. Malaya², this Supreme Court took judicial notice of the Career Executive Service Board’s Memorandum Circular No. 21, Series of 1994, where the Board identified the position of Assistant Schools Division Superintendent as a Career Executive Service position³.

² 425 Phil. 920 (2002) [Per J. Ynares-Santiago, En Banc]

³ Id. at 925.



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"It is settled, therefore, that the position of Assistant Schools Division Superintendent belongs to the Career Executive Service. The appointee to the position must be career executive service eligible.

"Permanent appointment to positions in the Career Executive Service presupposes that the appointee has passed the Career Executive Service examinations. In this case, respondent Dr. Benito does not possess the required career executive service eligibility. He, therefore, cannot be appointed to the position of Assistant Schools Division Superintendent in a permanent capacity. The Civil Service Commission cannot be compelled to attest to the permanent appointment of respondent Dr. Benito.

"The Regional Governor has the power to appoint civil servants in the Autonomous Region in Muslim Mindanao under Article VII, Section 19 of Republic Act No. 9054. In Muslim Mindanao Autonomy Act No. 279 or the ARMM Basic Education Act of 2010, the Regional Assembly set the qualification standards of Assistant Schools Division Superintendents of Divisions of the Department of Education in the Autonomous Region.

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"Nevertheless, when respondent Dr. Benito was appointed Assistant Schools Division Superintendent in 2005, there was yet no regional law providing for the qualifications for the Assistant Schools Division Superintendents of Divisions of the Department of Education in the Autonomous Region. Consequently, the civil service eligibilities required for positions in the national government shall likewise be required for appointments in the Autonomous Region. Article XVI, Section 4 of Republic Act No. 9054 provides:

'SEC. 4. Civil Service Eligibility. – Until the Regional Assembly shall have enacted a civil service law, the civil service eligibilities required by the central government or national government for appointments to public positions shall likewise be required for appointments to government positions in the Regional Government. As may be necessary, the Civil Service Commission shall hold special civil service examinations in the autonomous region. For a period not longer than six (6) years from the approval of this Organic Act, the central government or national government shall endeavor to provide appropriate civil service eligibility to applicants coming from the autonomous region for government positions therein. The minimum qualifications prescribed by law shall, however, be met.'

"All told, respondent Dr. Benito did not possess the required civil service eligibility at the time he was appointed Assistant Schools Division Superintendent. Consequently, he cannot be appointed in a permanent capacity to the position. The Civil Service Commission cannot be compelled



through a writ of mandamus to attest to the permanent appointment of respondent Dr. Benito.” (Underlining supplied)

Records reveal that on December 6, 2006, the Commission issued a Resolution No. 062180 dismissing the appeal of Governor Datu Zaldy Puti Uy Ampatuan of Autonomous Region in Muslim Mindanao (ARMM) and affirming the action taken by CSC-ARMM on June 16, 2006 disapproving the temporary appointment of Normillah Sumingay R. Pangandaman as Schools Division Superintendent of Department of Education (DepEd) – Division I, Davao Del Sur, for failure to meet the experience and eligibility requirements and presence of a qualified eligible available for appointment.

Pertinent portions of the CSC Resolution No. 062180 dated December 6, 2006 read, as follows:

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“Anent the eligibility requirement, while it is true that the Schools Division Superintendent position in the ARMM is not a CES position, the same, however, is a managerial and executive position in the career service which correspondingly requires appropriate eligibility for managerial and executive positions (i.e., Career Executive Service Eligibility [CESE] or a Career Service Executive Eligibility [CSEE]). Records show that Pangandaman only possesses an R.A. 1080 (PBET) eligibility. She does not have a CESE nor a CSEE. Hence, Pangandaman does not meet the eligibility requirement.”

Governor Ampatuan moved for the reconsideration of the said Resolution but it was denied by the Commission in its Resolution No. 070499 dated March 12, 2007. Not satisfied with the resolution of the Commission, Pangandaman filed a petition for review with the Court of Appeals assailing the CSC Resolutions No. 062180 dated December 6, 2006 and No. 070499 dated March 12, 2007. The petition of Pangandaman was docketed as CA-G.R. SP No. 02394-Min.

Records further show that on February 5, 2014, the Court of Appeals issued a Decision denying the petition of Pangandaman. She filed a Motion for Reconsideration but it was denied by the Court of Appeals in its Resolution dated November 24, 2014. Not satisfied with the decision of the Court of Appeals, Pangandaman filed a petition for review with the Supreme Court.

In the meantime, the Commission opted not to take action on the request of Director IV Valderosa relative to the issue of eligibility requirement for the positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM, pending resolution by the Supreme Court on the case of Pangandaman, in accordance with the *sub judice* rule where it restricts comments and disclosures pertaining to pending judicial proceedings.⁴ Further, the Commission decided to consolidate the two (2) letter-requests of

⁴ Lejano vs. People of the Philippines, G.R. No. 17638, People of the Philippines vs. Webb, et al., dated December 14, 2010 (Supplemental Opinion)



Director IV Valderosa as it involves similar issue on the third level eligibility of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM.

On July 15, 2015, Director IV Valderosa forwarded⁵ the letter-request of Hon. Mujiv S. Hataman, Regional Governor, ARMM, informing the Commission of the Supreme Court decision relative to the case of Normillah Sumigay R. Pangandaman vs. Grace R. Belgado-Saqueton (G.R. No. 210507, February 5, 2014), and requested the implementation of the decision thereof.

The pertinent portions of the Letter-request dated July 7, 2015 of Gov. Hataman read, as follows:

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"This has reference to the case of Normillah Sumigay R. Pangandaman v. Grace R. Belgado-Saqueton, CPA in her capacity as the then CSC-ARMM Director which case is docketed as CA-G.R. SP No. 023-94. It must be recalled that the pivotal issue therein is whether or not Pangandaman is required to possess Career Executive Service eligibility to warrant her permanent appointment to the position of Schools Division Superintendent of the Department of Education-ARMM, Division of Lanao del Sur-I.

"We have received a copy of a Notice from the Third Division of the Supreme Court notifying us that the Court issued a Resolution dated November 24, 2014 which states that, among others, Pangandaman's motion for reconsideration of the Resolution dated February 5, 2014 is denied with finality as no substantial arguments were raised to warrant its reconsideration. In hindsight, in the February 5, 2014 Resolution, the Court denied the petition for Review on Certiorari filed by Pangandaman as it found no reversible error on the assailed Court of Appeals Decision dated September 28, 2012 and Resolution dated November 25, 2013 in CA-G.R. SP No. 02394-Min finding Pangandaman not eligible for the position of Schools Division Superintendent for failure to obtain the required Career Executive Service Eligibility. As borne out by the records, the CSC and the CSC-ARMM have also been furnished with copies of the foregoing resolutions and decision. Attached is a photocopy of the Entry of Judgment certifying that the Resolution of the Supreme Court has become final and executory and has already been recorded in the Book of Entries of Judgments."

Relevant to the request of Director IV Valderosa are **Section 7, Chapter I of R.A. No. 9155⁶** and **Section 11.2 of its Implementing Rules and Regulations** which provide, as follows:

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"SEC. 7. Powers, Duties and Functions – xxx

⁵ Letter dated July 13, 2015

⁶ Governance of Basic Education Act of 2001



"No appointment to the positions of regional directors, assistant regional directors, **schools division superintendents and assistant schools division superintendents shall be made unless the appointee is a career executive service officer who preferably shall have risen from the ranks.**"

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"Section 11.2 Selection and Promotions Board for Third Level Positions. The Secretary of Education shall create a selection and promotions board for the third level positions, which shall formulate and implement a system of promotion for regional directors, assistant regional directors, bureau/center/service directors, schools division superintendents and assistant schools division superintendents. No appointment to the positions of xxx schools division superintendents shall be made unless the appointee is a career service executive officer. Appointees to the positions of assistant schools division superintendent shall either be a Superintendent eligible or a Career Executive Service Officer (CESO). All of these officers preferably shall have risen from the ranks. For the purpose of this rule, the term "Career Executive Officer shall include Career Executive Service Eligible (CESE). (Emphasis supplied)

Further, Section 19, Article VII, Republic Act No. 9054⁷, provides, thus:

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"Section 19. Appointments by Regional Governor. - The Regional Governor shall appoint, in addition to the members of the cabinet and their deputies, the chairmen and members of the commissions and the heads of bureaus of the Regional Government, and those whom he may be authorized by this Organic Act, or by regional law to appoint. The Regional Assembly may, by law, vest the appointment of other officers or officials lower in rank on the heads of departments, agencies, commissions, or boards.

"The powers, functions, responsibilities, and structure of the departments, agencies, bureaus, offices, and instrumentalities of the Regional Government including the corporations owned or controlled by the Regional Government shall be prescribed and defined by the Regional Assembly."

Furthermore, Section 45, Muslim Mindanao Autonomy Act No. 279⁸, provides, thus:

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"Sec. 45. Qualification Standards of Schools Division Superintendent and Assistant Schools Division Superintendent. No person maybe appointed Schools Division Superintendent or Assistant Schools Division Superintendent

⁷ An Act To Strengthen And Expand The Organic Act For The Autonomous Region In Muslim Mindanao, Amending For The Purpose Republic Act No. 6734, Entitled "An Act Providing For The Autonomous Region In Muslim Mindanao," As Amended dated March 31, 2001

⁸ ARMM Basic Education Act of 2010



unless he is natural born citizen of the Philippines; a native inhabitant of the Autonomous Region; a registered voter in any province or city in the region for at least five years prior to his appointment.

“The Schools Division Superintendent shall possess, at the time of his appointment, a qualification standard of at least Masters Degree holder in education; at least one year experience as Assistant Schools Division Superintendent; with relevant trainings; and possesses appropriate civil service eligibility. The Assistant Schools Division Superintendent, at the time of his appointment, shall at least be a Master’s Degree holder; five years of supervisory and administrative experiences; with relevant trainings; and possesses appropriate civil service eligibility.”

“The School Division Superintendent and Assistant School Division Superintendent shall serve not more than five years consecutively in a division and shall be transferred to another division in the region as may be determined by the Regional Secretary.”

Based on the foregoing laws, it is very clear that the positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM are considered third level positions and belong to the Career Executive Service albeit appointed by the Regional Governor of the ARMM and not by the President. Thus, appointees to the positions of Schools Division Superintendent and Assistant Schools Division Superintendent shall either be a Superintendent eligible or a Career Executive Service Officer (CESO) or a Career Executive Service Eligible (CESE) and must meet the other qualification standards provided under Section 45 of the Muslim Mindanao Autonomy Act No. 279.

Moreover, the issue on the eligibility requirement of the positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM has already been resolved by the Supreme Court in the cases of **Normillah Sumigay R. Pangandaman vs. Grace R. Belgado-Saqueton, CA-G.R. SP No. 023-94** and **Atty. Anacleto B. Buena vs. Dr. Sangcad D. Benito, G.R. No. 181760** dated **October 14, 2014**, which states that appointment to the positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM require a Third Level Eligibility as these are considered third level positions.

WHEREFORE, the Commission clarifies that:

1. The positions of Schools Division Superintendent and Assistant Schools Division Superintendent in the national government are considered as belonging to the Career Executive Service. Consequently, these positions require possession of either a Superintendent Eligibility, Career Executive Service Officer (CESO) or Career Executive Service Eligible (CESE) Eligibility.
2. In the ARMM, the positions of Schools Division Superintendent and Assistant Schools Division Superintendent similarly require possession of Superintendent Eligibility, Career Executive Service Officer (CESO) or Career Executive Service Eligible (CESE) Eligibility. For this purpose, the Qualification Standards for the position of Schools Division Superintendent and Assistant Schools Division Superintendent in the ARMM are, as follows:



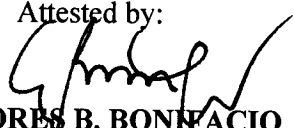
Factors	Qualification Standards of ARMM Schools Division Superintendent pursuant to Muslim Mindanao Autonomy Act No. 279 (ARMM Basic Education Act of 2010)	Qualification Standards of ARMM Assistant Schools Division Superintendent pursuant to Muslim Mindanao Autonomy Act No. 279 (ARMM Basic Education Act of 2010)
Education	Master's Degree	Master's Degree
Experience	One (1) year experience as Assistant Schools Division Superintendent	Five (5) years of supervisory and administrative experience
Training	Relevant trainings	Relevant trainings
Eligibility	Superintendent, Career Executive Service Officer (CESO), Career Executive Service Eligible (CESE)	Superintendent, Career Executive Service Officer (CESO), Career Executive Service Eligible (CESE)
Others	-Natural born citizen of the Philippines; -A native inhabitant of the autonomous Region; and -A registered voter in any province or city in the Region for at least five (5) years prior to his/her appointment	-Natural born citizen of the Philippines; -A native inhabitant of the autonomous Region; and -A registered voter in any province or city in the Region for at least five (5) years prior to his/her appointment

Quezon City.


ROBERT S. MARTINEZ
 Commissioner


ALICIA dela ROSA-BALA
 Chairperson


NIEVES L. OSORIO
 Commissioner

Attested by:

DOLORES B. BONIFACIO
 Director IV
 Commission Secretariat and Liaison Office