



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila


OCA CIRCULAR NO. 107-2016

TO : THE COURT OF APPEALS, THE SANDIGANBAYAN, THE COURT OF TAX APPEALS, THE REGIONAL TRIAL COURTS, THE SHARI'A DISTRICT COURTS, THE METROPOLITAN TRIAL COURTS, THE MUNICIPAL TRIAL COURTS IN CITIES, THE MUNICIPAL TRIAL COURTS, THE MUNICIPAL CIRCUIT TRIAL COURTS AND THE SHARI'A CIRCUIT COURTS

SUBJECT: JOINT COMELEC-CSC ADVISORY ON ELECTIONEERING & PARTISAN POLITICAL ACTIVITIES

Appended herein as Annex "A", for the **information, guidance and strict compliance** of all justices, judges, officials and personnel of the Judiciary, is Resolution No. 1600298 dated 29 March 2016 of the Civil Service Commission (CSC) adopting the Commission on Elections (COMELEC) and CSC Joint Circular No. 001, Series of 2016 dated 29 March 2016 (*Re: Joint COMELEC-CSC Advisory on Electioneering & Partisan Political Activities*).

06 May 2016


JOSE MIDAS P. MARQUEZ
Court Administrator


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CSC
Republic of the Philippines
CIVIL SERVICE COMMISSION
Para sa taum BAYAN

Re: **ADVISORY ON ELECTIONEERING
AND PARTISAN POLITICAL ACTIVITY**

Number: **1600298**

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Promulgated: **29 MAR 2016**

RESOLUTION

WHEREAS, the 1987 Philippine Constitution mandates that “no officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political activity”;

WHEREAS, this constitutional injunction against electioneering and conduct of partisan political activity by civil servants is implemented by Executive Order No. 292 (or the Administrative Code of 1987), particularly Section 55, Chapter 7, Title I, Book V thereof, which provides:

“Section 55. Political Activity. - No officer or employe in the Civil Service including members of the Armed Forces, shall engage directly or indirectly in any partisan political activity or take part in any election except to vote nor shall he use his official authority or influence to coerce the political activity of any other person or body. Nothing herein provided shall be understood to prevent any officer or employee from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports: Provided, That public officers and employees holding political offices may take part in political and electoral activities but it shall be unlawful for them to solicit contributions from their subordinates or subject them to any of the acts involving subordinates prohibited in the Election Code.”

WHEREAS, the same prohibition is found in Republic Act No. 7160 or the Local Government Code of 1991. Similarly, the Omnibus Election Code, as amended, echoes the ban against any electioneering and partisan political activity of government officials and employees, and considers the commission thereof as an election offense punishable by law;

WHEREAS, this prohibitory norm aims (1) to ensure that civil servants shall remain focused on the efficient administration of the affairs of the government; (2) to do away with the spoils system which is anathema to the meritocracy principle that is at the heart of the Philippine civil service system; and (3) to shield officers and employees from the vagaries of politics;

Certified True Copy:


SEYMOUR R. PAJARES
Chief Personnel Specialist

In a R.A.C.E. to Serve: Responsive, Accessible, Courteous and Efficient
Commission Secretary & Liaison Office

WHEREFORE, due to numerous inquiries about the governing rules and regulations concerning the ban on electioneering and partisan political activity in the wake of the forthcoming electoral exercise, and in keeping with the constitutional mandate to ensure a civil service insulated from political partisanship, the Civil Service Commission hereby resolves to adopt the attached "Joint COMELEC-CSC Advisory on Electioneering and Partisan Political Activity."

The Commission further resolves to cause the publication of said Joint Circular in a newspaper of general circulation to ensure its broadest dissemination.

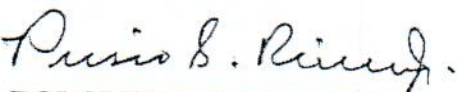
Quezon City.


ALICIA dela ROSA-BALA
Chairperson

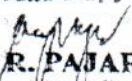

ROBERT S. MARTINEZ
Commissioner


NIEVES L. OSORIO
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office

CERTIFIED TRUE COPY:


SEYMOUR R. PAJARES
Chief Personnel Specialist
Commission Secretariat & Liaison Office



COMMISSION ON ELECTIONS
and
CIVIL SERVICE COMMISSION

Joint Circular No. 001, Series of 2016

TO : All Officers and Employees of the Government of the Republic of the Philippines, including Any of Its Agencies, Subdivisions, and Instrumentalities

SUBJECT : JOINT COMELEC-CSC ADVISORY ON ELECTIONEERING & PARTISAN POLITICAL ACTIVITIES

DATE : 29 MAR 2016

POLICY STATEMENT

1. The Commission on Elections, an independent constitutional commission tasked to enforce and administer all laws and regulations relative to the conduct of Philippine elections, and the Civil Service Commission, an independent constitutional commission that serves as the central personnel agency of the Philippine Government, aim to accomplish the following:
- To ensure that members of the civil service and the armed forces shall remain focused on the efficient discharge of their duties and functions;
 - To do away with the "spoils system" which is anathema to the principles of meritocracy at the heart of the Philippine civil service system and military service; and
 - To shield officers and employees of the civil service and the armed forces from the vagaries of politics.

PURPOSE

- This Joint Circular is issued to advise and remind all officers and employees of the Philippine Government, including any of its agencies, subdivisions, and instrumentalities, of the constitutional, statutory, and other regulatory prohibitions against engaging in any electioneering or partisan political activities.

[Handwritten signature]

CONSTITUTIONAL PROHIBITIONS

3. Article IX(B), Section 2, Paragraph 4 of the 1987 Constitution provides that: "No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign." (Emphases supplied)
4. Also, Article XVI, Section 5, Paragraph 3 of the 1987 Constitution provides that: "The armed forces shall be insulated from partisan politics. No member of the military shall engage, directly or indirectly, in any partisan political activity, except to vote." (Emphases supplied)

STATUTORY PROHIBITIONS

5. Section 261(i) of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code, penalizes as election offenses the electioneering and partisan political activities committed by members of the civil service and the military:

"Intervention of public officers and employees. - Any officer or employee in the civil service, except those holding political offices; any officer, employee, or member of the Armed Forces of the Philippines, or any police force, special forces, home defense forces, barangay self-defense units and all other para-military units that now exist or which may hereafter be organized who, directly or indirectly, intervenes in any election campaign or engages in any partisan political activity, except to vote or to preserve public order, if he is a peace officer." (Emphases supplied)

6. Book V, Title I(A), Chapter 8, Section 55 of Executive Order No. 292, otherwise known as the Administrative Code of 1987, reiterates the said prohibition:

"Political Activity. - No officer or employee in the Civil Service including members of the Armed Forces, shall engage directly or indirectly in any partisan political activity or take part in any election except to vote nor shall he use his official authority or influence to coerce the political activity of any other person or body. Nothing herein provided shall be understood to prevent any officer or employee from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports: Provided, That public officers and employees holding political offices may take part in political and electoral activities but it shall be unlawful for them to solicit contributions from their subordinates or subject them to any of the acts involving subordinates prohibited in the Election Code." (Emphases supplied)

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7. Section 93 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, also reiterates the prohibition:

"Partisan Political Activity. - No local official or employee in the career civil service shall engage **directly or indirectly** in any partisan political activity or take part in any election, initiative, referendum, plebiscite, or recall, except to vote, nor shall he use his official authority or influence to cause the performance of any political activity by any person or body. He may, however, express his views on current issues, or mention the names of certain candidates for public office whom he supports. Elective local officials may take part in partisan political and electoral activities, but it shall be unlawful for them to solicit contributions from their subordinates or subject these subordinates to any of the prohibited acts under the Omnibus Election Code." (Emphases supplied)

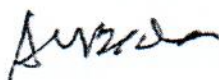
COVERED ACTIVITIES

8. In accordance with Section 1, Paragraph 4 of COMELEC Resolution No. 10049 (promulgated 01 February 2016),¹ an "election campaign" or "partisan political activity" refers to **any act designed to promote the election or defeat of a particular candidate/s or party/ies to public office**, which includes any of the following:
- a) Forming organizations, associations, clubs, committees, or other groups of persons for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate/party;
 - b) Holding political caucuses, conferences, meetings, rallies, parades, or other similar assemblies for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate/party;
 - c) Making speeches, announcements, or commentaries, or holding interviews for or against the election of any candidate or party for public office;
 - d) Publishing, displaying, or distributing campaign literature, or materials designed to support or oppose the election of any candidate or party;
 - e) Directly or indirectly soliciting votes, pledges, or support for or against any candidate or party;
9. CSC Memorandum Circular No. 30 (s. 2009),² citing CSC Memorandum Circular No. 40 (s. 1998),³ adds the following acts to the abovementioned enumeration:

¹ Entitled: "Rules and Regulations Implementing Republic Act No. 9006, otherwise known as the Fair Elections Act, in connection with the 09 May 2016 National and Local Elections."

² Entitled: "Reminder to All Government Officials and Employees Holding Non-Political Offices/Positions of the Prohibitions from Engaging Directly or Indirectly in Any Partisan Political Activity."

³ Entitled: "Revised Omnibus Rules on Appointments and Other Personnel Actions."



- a) Being a delegate to any political convention, or a member of any political committee or directorate, or an officer of any political club or other similar political organizations;
 - b) Receiving any contributions for political purposes, either directly or indirectly; and
 - c) Becoming publicly identified with the success or failure of any candidate/s or party/ies.
10. CSC Memorandum Circular No. 09 (s. 1992),⁴ includes the following prohibited acts:

- a) Wearing of t-shirts or pins, caps or any other similar election paraphernalia bearing the names of the candidates or political party except as authorized by the Commission on Elections;
- b) Being a watcher for a political party or candidate during the election;
- c) Consistent presence in political rallies, caucuses of, and continuous companionship with certain political candidates and/or political party in said political activities, causing the employee to be closely identified with such candidate and/or with political party;
- d) Giving personal, financial or other monetary contribution, supplies, equipment and materials for the benefit of a candidate and/or political party;
- e) Utilizing government resources such as personnel including job orders or contract of service hirees, time and properties for political purposes.

11. The following acts are illustrative examples provided by jurisprudence:

- a) Distributing handbills/leaflets;⁵
- b) Attendance at political meetings and caucuses;⁶
- c) Distribution of letters indicating intention to run for public office;⁷

EXCLUDED ACTIVITIES

12. The following acts are deemed excluded from the coverage of electioneering and partisan political activity:

- a) Casting one's vote;⁸
- b) Expressing one's views on current political problems or issues;⁹
- c) Mentioning the names of candidates or parties whom one supports;¹⁰

⁴ Entitled: "Specific Acts Which Public Officers and Employees in the Career and Non-Career Service Not Holding Political Offices Can Do and Not Do Relative to the Prohibition Against Electioneering in Addition To Those Prescribed in M.C. 2 Series of 1992."

⁵ People vs. De Venecia, G.R. No. L-20808, 31 July 1965.

⁶ Trinidad vs. Valle, A.M. No. 2258-CFI, 20 July 1981.

⁷ Vistan vs. Nicolas, A.M. No. MTJ-87-79, 13 September 1991.

⁸ Quinto vs. Commission on Elections, G.R. No. 189698, 22 February 2010.

⁹ Id.

¹⁰ Id. See also People vs. De Venecia, supra.

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- d) Letters (a) to (e) of Paragraph 8 of this Joint Circular, when performed for the purpose of enhancing the chances of aspirants for nomination for candidacy to public office by a political party or coalition;¹¹
- e) Public expressions, opinions, or discussions of probable issues in a forthcoming election, or on attributes of or criticisms against probable candidates to be nominated in a forthcoming political party convention;¹²
- f) Social media functions such as "liking," commenting, "sharing," re-posting, or following a candidate's or party's account,¹³ unless these are resorted to as a means to solicit support for or against a candidate or party during the campaign period.

COVERED PERSONS

13. The following are persons prohibited from engaging in any electioneering or partisan political activities:

- a) Members of the Civil Service in all branches, subdivisions, instrumentalities, and agencies of the Philippine Government, including government-owned-or-controlled corporations with original charters, and state universities and colleges, whether their appointments are permanent, temporary, contractual, or even casual;
- b) Career officers holding political offices in an acting or officer-in-charge (OIC) capacity; and
- c) Uniformed and active members of the Armed Forces of the Philippines and the Philippine National Police.

An employee on leave of absence is still covered by the prohibition on electioneering or partisan political activities.

EXCLUDED PERSONS

14. The following are persons excluded from the coverage of the prohibition against engaging in any electioneering or partisan political activities, for as long as they do not solicit contributions from their subordinates or subject them to any of the acts prohibited in the Omnibus Election Code:¹⁴

- a) The President and Vice President;
- b) Members of the Cabinet;¹⁵
- c) Other elective public officials¹⁶ except barangay officials;
- d) Personal and confidential staff of the abovementioned officials;

¹¹ Omnibus Election Code, Section 79. See also *Señeres vs. Commission on Elections*, G.R. No. 178678, 16 April 2009.

¹² *Id.*

¹³ See *Disini vs. Secretary of Justice*, G.R. No. 203335, 11 February 2014.

¹⁴ See CSC Memorandum Circular No. 2 (s. 1992).

¹⁵ *Santos vs. Yatco*, G.R. No. L-16133, 06 November 1959.

¹⁶ *Quinto vs. Commission on Elections*, *supra*.

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e) Members of the reserve corps of the Armed Forces of the Philippines.¹⁷

COVERED PERIOD

15. With reference to COMELEC Resolution No. 9981 (promulgated on 18 August 2015), as amended, the campaign periods vis-à-vis the 09 May 2016 National and Local Elections are as follows:

For President, Vice President, Senators, and Party-List Groups	09 February 2016 to 07 May 2016 ¹⁸ (90 days before Election Day)
For District Representatives and Local Elective Positions	25 March 2016 ¹⁹ to 07 May 2016 (45 days before Election Day)

16. Section 80 of the Omnibus Election Code, which has not yet been repealed,²⁰ provides that "[i]t shall be unlawful for any person, whether or not a voter or candidate, or for any party, or association of persons, to engage in an election campaign or partisan political activity except during the campaign period: *Provided*, That political parties may hold political conventions or meetings to nominate their official candidates within thirty days before the commencement of the campaign period and forty-five days for Presidential and Vice-Presidential election." (Emphases and underscore supplied)

17. Further, the last paragraph of Section 5 of Republic Act No. 7166 provides that "[a]ny election campaign or partisan political activity for or against any candidate outside of the campaign period herein provided is prohibited and shall be considered as an election offense punishable under Section 263 and 264 of the Omnibus Election Code."

IMPOSABLE PENALTIES

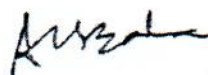
18. Engaging directly or indirectly in partisan political activities by members of the Civil Service is a less grave offense punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first (1st) offense, and dismissal from the service for the second (2nd) offense, under Section 46(D) (10), Rule 10 of CSC Resolution No. 1101502 dated 8 November 2011, otherwise known as the Revised Rules on Administrative Cases in the Civil Service.

¹⁷ Cailles vs. Bonifacio, G.R. No. L-45937, 25 February 1938.

¹⁸ Please note that Section 3 of COMELEC Resolution No. 10049 (promulgated 01 February 2016) prohibits all forms of campaigning on the day before Election Day and Election Day itself.

¹⁹ Please note that Section 3 of COMELEC Resolution No. 10049 also prohibits all forms of campaigning on 25 March 2016, which is Good Friday.

²⁰ Penera vs. Commission on Elections, G.R. No. 181613, 11 September 2009. Here, the Supreme Court held that Section 13 of Republic Act No. 9369 did not repeal Section 80 of the Omnibus Election Code.




- a) Suspension for one (1) day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all monetary benefits, including leave credits.²¹
 - b) The penalty of suspension shall carry with it disqualification from promotion corresponding to the period of suspension.²²
 - c) The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability.²³
 - d) The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations.²⁴
19. To reiterate, Section 261(i) of the Omnibus Election Code penalizes as election offenses the electioneering and partisan political activities committed by members of the civil service and the military. Section 264 provides that “[a]ny person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage.”
20. Erring officers and enlisted personnel of the Armed Forces of the Philippines may be disciplined before the appropriate courts-martial under Commonwealth Act No. 408, as amended, otherwise known as the Articles of War.

INTERNAL POLICIES

21. This Joint Circular is without prejudice to internal policies that have been adopted or may hereinafter be adopted by all covered agencies insofar as they are not inconsistent herewith.

EFFECTIVITY

22. This Joint Circular shall take effect immediately.


J. ANDRES D. BAUTISTA
Chairperson
Commission on Elections


ALICIA dela ROSA-BALA
Chairperson
Civil Service Commission

²¹ Revised Rules on Administrative Cases in the Civil Service, Rule 10, Section 51(c), Paragraph 2.

²² Id., Section 52(c).

²³ Id., Section 51(a).

²⁴ Id., Section 52(a).