



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
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LEGAL SERVICE

DILG Legal Opinion No. 25, S. 2013
30 JUL 2013

ATTY. JIMMY D. LACEBAL
Sangguniang Secretary
City of Mandaluyong

Dear Atty. Lacebal:

This refers to your 31 May 2013 request for opinion on whether Atty. Ayla V. Alim, City Councilor of Mandaluyong City, may be entitled to her salaries, wages, benefits and other emoluments due and owing to her as a City Councilor during the period of her sabbatical leave for studies abroad for the academic year 2013-2014 in the Young Leaders Program (School of Local Governance) of the National Graduate Institute Policy Studies (GRIPS) which is sponsored by the Japanese Government.

Under Article 77 (b) (1), Rule XIV (Common Provisions for Elective Local Officials) of Administrative Order No. 270, otherwise known as the Rules and Regulations Implementing the Local Government Code of 1991, local elective officials are entitled to the same leave privileges as those enjoyed by local appointive officials, *viz.*:

"ARTICLE 77. Compensation and Benefits.

x x x

(b) Benefits –

(1) Elective local officials shall be entitled to the same leave privileges those enjoyed by appointive local officials, including the cumulation and commutation thereof."

As such, local elective officials shall be governed by the Civil Service Rules on leave, more specifically CSC Memorandum Circular No. 41, s. 1998, as amended by CSC Memorandum Circular No. 14, s. 1999 (hereinafter referred to as the "CSC Rules on Leave") which provides as follows, *viz.*:

"Sec 5. Leave credits of local elective officials. – Local elective officials are entitled to leave privileges effective May 12, 1983 pursuant to Batas Pambansa 337 and Local Government Code of 1991 (RA 7160) said leave credits shall be commutative and cumulative.

x x x

However, this level has noted that sabbatical leave is a benefit of third level government personnel or those occupying positions in the Career Executive Service.

Notably, elective officials are not entitled to sabbatical leave benefits as they are classified under non-career service based on Section 9, Chapter II, Title I, Book V of Executive Order No. 292 viz.:

SECTION 9. Non-Career Service. – The Non-Career Service shall be characterized by (1) entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and (2) tenure which is limited to a period specified by law, or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made.

The Non-Career Service shall include:

(2) Elective officials and their personal or confidential staff;

x x x

Nonetheless, Section 5 in relation to Section 68 of the CSC Rules on Leave provides that officials and employees may be entitled to study leave subject to certain conditions, viz.:

“Section 68. Study Leave. Officials and employees, excluding those in the teaching profession who are covered by different provisions of law, may be entitled to study leave subject to the following conditions:

- a. The study leave is a time-off from work not exceeding six (6) months with pay for the purpose of assisting the qualified officials and employees to prepare for their bar or board examinations or to complete their masteral degree. The leave shall be covered by a contract between the beneficiary and the agency head or his representative.*
- b. The beneficiary for such leave shall be selected based on the following qualification requirements:*
 - 1) The official/employee must have graduated with a bachelor's degree which consequently requires the passing of government bar and board licensure examinations. For*

thesis writing or comprehensive examination, the official/employee must have completed all the academic requirements for a masteral degree.

- 2) *The profession or field of study to be pursued must be relevant to the agency or to all the official duties and responsibilities of the concerned official or employee.*
- 3) *Must be a permanent employee.*
- 4) *Must have rendered at least two years of service with at least very satisfactory performance for the last two rating periods immediately preceding the application.*
- 5) *Must have no pending administrative and criminal charges.*
- 6) *Must not have any current foreign or local scholarship grant.*
- 7) *Must have fulfilled the service obligation of any previous scholarship and training contract.*

x x x

The agency shall formulate its own internal rules on procedure for an equitable and rational availment of this leave by its own officials and employees subject to the general guidelines stated herein."

Based on the foregoing guidelines, a local elective official who has satisfied the qualification requirements may be entitled to a study leave not exceeding six (6) months with pay for purposes of preparing for the bar or board examinations or to complete a masteral degree subject to the approval of the Office of the President under Section 96 (c) of the Local Government Code of 1991, as delegated to the Secretary of the Interior and Local Government by virtue of Administrative Order No. 6, s. 2001, *viz.:*

"Section 1. Delegation of authority.- The authority to approve the following matters is hereby delegated to the Secretary of the Interior and Local Government:

- b. Requests by local government officials for authority to travel abroad when the period of travel extends to more than three (3) months, or during periods of emergency of crisis, or when the travel abroad involves the use of public funds, vested in the President under Section 96 of the Local Government Code of 1991, and such other*