



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
DILG-NAPOLCOM Center, EDSA corner Quezon Avenue, West Triangle, Quezon City
<http://www.dilg.gov.ph>

DILG OPINION NO. 33

S. 20.18

21 JUN 2018

MR. SERGIO L. DAGOLDOL
Bacahan, Midsalip,
Zamboanga del Sur

Dear Mr. Dagoldol:

This has reference to your letter dated 7 February 2018 addressed to President Rodrigo Roa Duterte relative to your query on whether or not a Punong Barangay (PB) can be appointed/designated as a substitute teacher in Golictop Elementary School under the Department of Education (DepEd) Midsalip District, Zamboanga del Sur.

Foremost, Section 90 of the Local Government Code of 1991 (LGC) governs the "Practice of Profession" of elected officials. It provides:

"(a) All governors, city and municipal mayors are prohibited from practicing their profession or engaging in any other occupation other than the exercise of their functions as local chief executives."

In addition, the Supreme Court in the case of *Catu vs. Rellosa*¹ said:

"While, as already discussed, certain local elective officials (like governors, mayors, provincial board members and councilors) are expressly subjected to a total or partial proscription to practice their profession or engage in any occupation, no such interdiction is made on the punong barangay and the members of the sangguniang barangay. Expressio unius est exclusio alterius. Since they are excluded from any prohibition, the presumption is that they are allowed to practice their profession. And this stands to reason because they are not mandated to serve full time. In fact, the sangguniang barangay is supposed to hold regular sessions only twice a month."

¹ A.C. No. 5738, February 19, 2008

Accordingly, as punong barangay, respondent was not forbidden to practice his profession. However, he should have procured prior permission or authorization from the head of his Department, as required by civil service regulations.²

Based on the above-cited law and jurisprudence, PB is not prohibited to practice his or her profession. However, this provision should be read in conjunction with Section 95 of the LGC which provides that *“No elective or appointive local official or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, xxx”* and Sections 2 and 3, Rule XIII of Civil Service Commission Memorandum Circular No. 40, s. 1998 (CSC MC No. 40, s. 1998), otherwise known as the *Revised Omnibus Rules on Appointments and Other Personnel Action,³ to wit:*

Section 2. No elective official shall be eligible for appointment in any capacity to any public office or position during his tenure.

Section 3. No elective or appointive public officer or employees shall receive additional, double or indirect compensation, unless specifically authorized by law, nor accept without the consent of Congress, any present, emolument, office or title of any kind from any foreign government.

Pensions and gratuities shall not be considered as additional, double or indirect compensation.

Furthermore, while under the LGC, PB is allowed to practice his/her profession, CSC MC No. 40, s. 1998 is explicit that an elective official like, PB Magsayo, is not eligible to be appointed or designated in any capacity to any public office or position in the government during her tenure.

Therefore, PB Magsayo, in this case, should not be allowed to continue her service in the barangay and at the same time employed in DepEd because it falls on the prohibition expressly provided by CSC MC No. 40, s. 1998.

In addition, having two positions in the government will result to compensations in both positions, those are her honorarium as PB and salary as a public school teacher, that will tantamount to additional or double compensation.

² Catu vs. Rellosa, A.C. No. 5738, February 19, 2008

³ CSC MC 40, s. 1998

Foregoing considered, she should have chosen between rendering a service in the barangay or being a school teacher.

We hope that we have addressed your concerns accordingly.

Very truly yours,
BY AUTHORITY OF THE SECRETARY:


MARTIN B. DIÑO
Undersecretary

Copy Furnished:

Dir. Paisal O. Abutazil, CESO III
Regional Director
DILG Region IX

Asec. Jaime Llaguno Mabilin
PCC Code No. GL-JYC-03-08-2018-128
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