

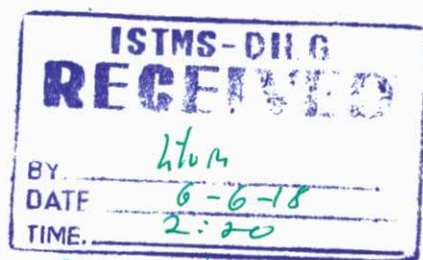
ISTMS



Republic of the Philippines

DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

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2018-06-05-007

DILG OPINION NO. 31

S. 2018

06 JUN 2018

DIR. ANTHONY C. NUYDA, CESO III  
Regional Director, DILG Regional Office 6  
6 Pepita Aquino St., Fort San Pedro,  
Iloilo City, 5000

Dear Dir. Nuyda:

This is in reference to your Memorandum dated 24 May 2018 requesting this level's opinion relative to the following queries, viz:

1. *Who will assume the Office of the SK Chairperson who died before June 30, 2018? The elected SK Chairperson was duly proclaimed and has completed the SK Mandatory Training but died on 24 May 2018.*
2. *Who shall represent as SK Chairman of Barangay 5 after the death of the elected and proclaimed SK Chairperson?*
3. *Is the highest ranking SK member authorized to attend? If ever he is authorized, is he allowed to vote and be voted upon?*

Since the issues herein are interrelated, we shall thresh the same in one discussion.

Based on the representation made by your level, as stated in the letter of MLGOO Janeth Norella, Mr. Carl Virgil S. Abiera was proclaimed SK Chairperson of Barangay 5, San Jose de Buenavista, Antique. He was able to attend the SK Mandatory Training on 22 May 2018. However, he was declared dead on 24 May 2018 around 6:40 in the evening.

From the foregoing facts, this level opines that the rule on succession under Section 19 (a) of RA No. 10742 otherwise known as the "*Sangguniang Kabataan Reform Act of 2015*" is applicable. In the said law, it is unambiguous that death is one of the causes of permanent vacancy in the SK. It also mandates that SK member who obtained the highest number of votes in the election immediately preceding to assume the office of the chairperson. Section 19 (a) provides:

*SEC. 19. Succession and Filling up of Vacancies. – (a) In case a Sangguniang Kabataan chairperson refuses to assume office, fails to qualify, voluntarily resigns, dies, is permanently incapacitated, is removed from office,*

*the Sangguniang Kabataan member who obtained the highest number of votes in the election immediately preceding shall assume the office of the chairperson for the unexpired portion of his or her term. In case said member refuses to assume the position or fails to qualify, the Sangguniang Kabataan member obtaining the next highest number of votes shall assume the position of the chairperson for the unexpired portion of the term.*

To bolster said position, this Department is consistent in its opinion that when it is an established fact, like in this case, that a candidate was already proclaimed winner before he died, such proclamation would only mean that he acquired a plurality of the votes lawfully cast sufficient to elect him to said position. *"The fact of having a plurality of votes lawfully cast is what confers the title to the office, xxx."* (Mechem, note 2 at 130, cited in De Leon, H. Jr. Law on Public Offices and Election Law, 1990 Edition, p.374)<sup>1</sup>

In the other cases (like Barangay officials) where the assumption of office of elected officials is at the noon of June 30 and the election of the federation officers will follow thereafter, we construe that the rule on succession will automatically apply in June 30 also. However, in the case of SK Elections wherein the SK officials are required to take an oath of office, attend the Mandatory Training and elect their Federation officials even before they assume office, it is this level's position that in cases of permanent vacancy in the office of the SK Chairperson, it is a logical interpretation that Section 19 (a) of RA 10742 will be applicable, that is, the Sangguniang Kabataan Member who obtained the highest number of votes (first ranking) shall succeed as SK Chairperson. This is to prevent the situation wherein the barangay will have no official representative in the SK Federation for reason beyond their control.

Verily, since we applied the rule on succession under Section 19 (a) of RA 10742, it follows that the said SK official can vote and be voted upon in the SK Federation Election.

We hope we have addressed your concern accordingly.

Very truly yours,  
BY AUTHORITY OF THE SECRETARY:

MARTIN B. DIÑO  
Undersecretary

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<sup>1</sup> DILG Opinion No. 24 s, 2016, 04 October 2016