



Department of Education
Region X- Northern Mindanao
DIVISION OF MALAYBALAY CITY
Purok 6, Casisang, Malaybalay City



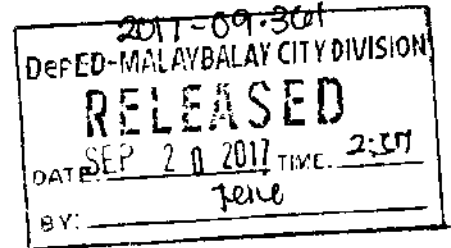
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DIVISION ADVISORY

To : Chief Education Supervisors & Staff- SGOD & CID
Public and Private Elementary and Secondary School Heads
All Others Concerned

From : 
EDILBERTO L. OPLENARIA, CESO VI
Schools Division Superintendent

Date : September 20, 2017



Subject: **DISSEMINATION OF COMMISSION ON ELECTIONS EN BANC RESOLUTION NO. 10195**

1. The field is hereby informed on the Commission on Election (COMELEC) Resolution No. 10195 re: **Postponement of the 2017 Barangay and Sangguniang Kabataan Elections in the entirety of Mindanao** in view of the declaration of Martial Law as affirmed and approved by the Supreme Court on July 4, 2017.
2. This resolution is subject to the following conditions:
 - (1) The Commission shall immediately conduct the Barangay and Sangguniang Kabataan Elections not later than thirty (30) days from cessations of the cause of postponement of elections; and
 - (2) In the event Congress enacts or passes a law for the postponement of the Barangay and Sangguniang Kabataan Elections, this said law shall take precedence.
3. For widest dissemination.

Enclosed: As stated
Copy furnished: Records Section

TO BE POSTED IN THE WEBSITE



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
 INTRAMUROS, MANILA

OFFICE OF THE DIRECTOR OF
 ELECTIONS AND SUFFRAGE AFFAIRS DEPARTMENT
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SUSPENSION OF ALL ACTIVITIES IN CONNECTION WITH THE OCTOBER 23, 2017, BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS IN MINDANAO, IN RELATION TO E.M. NO. 17 - 003 (BRGY).

- BAUTISTA, J. Andres D.** - Chairman
- LIM, Christian Robert S.** - Commissioner
- PARREÑO, Al A.** - Commissioner
- GUIA, Luie Tito F.** - Commissioner
- LIM, Arthur D.** - Commissioner
- QUANZON, Ma. Rowena Amelia V.** - Commissioner
- ABAS, Sheriff M.** - Commissioner

x x

Promulgated: September 13, 2017

[Handwritten Signature]

RESOLUTION NO. 10195

WHEREAS, Martial Law (Proclamation No. 216) was declared in Mindanao on **May 23, 2017**, due to the peace and order situation in Marawi City, Lanao del Sur;

WHEREAS, in view of the declaration of Martial Law which was affirmed and approved by the Supreme Court on July 04, 2017 and the *Resolution of Both Houses No. 11, Extending Until 31 December 2017 Proclamation No. 216, Series of 2017, Entitled "Declaring A State Of Martial Law And Suspending The Privilege Of The Writ Of Habeas Corpus In The Whole of Mindanao"*, the Commission *En Banc*, decided to conduct a public hearing with stakeholders on **August 15, 2017, 2:00 P.M.**, at C.M. Recto St., Marco Polo Davao Hotel, Davao City, based on the Order dated August 02, 2017 issued by the Commission *En Banc*, in relation to **E.M. No. 17- 003 (BRGY)**, entitled **"IN THE MATTER OF THE CONDUCT OF A PUBLIC HEARING ON WHETHER OR NOT TO POSTPONE THE 23 OCTOBER 2017 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS (BSKE) IN THE WHOLE OF MINDANAO"**.

WHEREAS, on **September 05, 2017**, the Commission *En Banc* promulgated a Resolution on E.M. No. 17 -003 (BRGY), the dispositive portion of which reads:

"WHEREFORE, all the foregoing premises considered, the Commission **RESOLVES** to **POSTPONE** the 2017 Barangay and Sangguniang Kabataan Elections in the entirety of Mindanao, subject to the following conditions:

- (1) *The Commission shall immediately conduct the Barangay and Sangguniang Kabataan Elections not later than thirty (30) days from cessation of the cause of postponement of elections;*

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 MALAYALAY CITY DIVISION
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and

(2) In the event Congress enacts or passes a law providing for the postponement of the Barangay and Sangguniang Kabataan Elections, this said law shall take precedence."

NOW THEREFORE, the Commission, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code and other election laws, **RESOLVED**, as it hereby **RESOLVES** to:

1. **SUSPEND** all activities in Mindanao, in connection with the October 23, 2017 Barangay and Sangguniang Kabataan Elections; and
2. **DIRECT** all concerned COMELEC officials and personnel in Mindanao, to preserve and maintain all documents, forms, and supplies in their custody, pertaining to the October 23, 2017 Barangay and Sangguniang Kabataan Elections, until ordered otherwise by the Commission *En Banc*.

Let the Office of the Deputy Executive Director for Operations and the Education and Information Department, implement this Resolution.

The Education and Information Department shall cause the publication of this Resolution in two (2) newspapers of general circulation in the Philippines.

SO ORDERED.


J. ANDRES D. BAUTISTA
Chairman


CHRISTIAN ROBERT S. LIM
Commissioner


AL A. PARRERO
Commissioner


LUE TITO F. GUIA
Commissioner


ARTHUR D. LIM
Commissioner

On leave

MA. ROWENA AMELIA V. GUANZON
Commissioner


SHERIFF M. ABAS
Commissioner



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

EN BANC

IN THE MATTER OF
WHETHER OR NOT TO
POSTPONE THE 23 OCTOBER
2017 BARANGAY AND
SANGGUNIANG KABATAAN
ELECTIONS (BSKE) IN
MINDANAO

E.M. No. 17-003(BRGY)

x ----- x

NOTICE

- 1. THE EDUCATION AND INFORMATION DEPARTMENT
This Commission

GREETINGS:

Attached is a copy of the RESOLUTION of the Commission EN BANC
in the above-entitled case promulgated on September 05, 2017.

Manila, September 05, 2017.

FOR THE COMMISSION:

ABIGAIL JUSTINE M. CUARESMA-LILAGAN
Acting Clerk of the Commission

Handwritten signature and date: A. D. 9/5/17



Republic of the Philippines
COMMISSION ON ELECTIONS
 Intramuros, Manila

EN BANC

**IN THE MATTER OF
 WHETHER OR NOT TO
 POSTPONE THE 23
 OCTOBER 2017 BARANGAY
 AND SANGGUNIANG
 KABATAAN ELECTIONS
 (BSKE) IN MINDANAO**

EM No. 17-003 (BRGY)

Present:

Bautista, J.A.D., *Chairman*
 Lim, C.R.S., *Commissioner*
 Parreño, A.A., *Commissioner*
 Guia, L.T.F., *Commissioner*
 Lim, A.D., *Commissioner*
 Guanzon, M.R.A.V., *Commissioner*
 Abas, S.M., *Commissioner*

Promulgated:

SEP 05 2017

x-----x

RESOLUTION

The *raison d'être* of the Commission on Elections is to conduct and administer elections. In doing so, the Commission is equally tasked to ensure that any elections so held are "free, orderly and honest".¹ That any electoral exercise must be free, orderly, and honest is further emphasized by the 1987 Constitution, which added the words "peaceful" and "credible"² to describe what kind of elections it aspires the nation to have.

¹ Section 5, BATA PAMBANSA BLG. 881, as amended (Omnibus Election Code of the Philippines, 03 December 1985). See also Section 5, Article XII-C, 1973 CONSTITUTION.

² Section 4, Article IX-C. See also Section 1, REPUBLIC ACT NO. 8436 (An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, providing funds therefor and for other purposes, 22 December 1997), as amended by REPUBLIC ACT NO. 9369 (An Act Amending Republic Act No. 8436, entitled 'An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises', to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, amending for the purpose Batas Pambansa Blg. 881, as amended, Republic Act No. 7166 and other related elections laws, providing funds therefor and for other purposes, 23 January 2007).

EM No. 17-003 (BRGY)
 In Re: Postponement of 2017 BSKE in Mindanao

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 En Banc Resolution

On 23 May 2017, President Rodrigo R. Duterte issued Proclamation No. 216 placing the entirety of Mindanao under martial law, on account of lawless violence and rebellion for a period of 60 days.³ On 29 May 2017 and 31 May 2017, a majority of both the Senate⁴ and the House of Representatives,⁵ respectively, decided not to revoke the declaration of Martial Law.

The imposition of martial law in Mindanao was thereafter challenged before the Supreme Court in the consolidated cases of *Lagman, et al. vs. Medialdea, et al., Cullamat, et al. vs. Duterte, et al.*, and *Mohamad, et al. vs. Medialdea, et al.*⁶ The Supreme Court, on 04 July 2017, upheld the imposition of martial law and dismissed the petitions questioning the same.

On 22 July 2017, both Houses of Congress, in joint session, approved to extend the imposition of Martial Law up to 31 December 2017 for Mindanao.⁷

In light of the extension of martial law and considering that the Barangay and Sangguniang Kabataan Elections ("2017 BSKE") are scheduled on 23 October 2017,⁸ the Commission *En Banc*, on 01 August 2017, issued Minute Resolution No. 17-0406⁹ calling for a public hearing on 15 August 2017 to discuss with stakeholders and all other interested parties the possible postponement of the 2017 BSKE for Mindanao, pursuant to its *motu proprio* power under Section 5 of the Omnibus Election Code ("OEC"):

-
- ³ *Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao* (23 May 2017). See also Proclamation No. 95, series 2016, *Declaring a State of National Emergency on Account of Lawless Violence in Mindanao* (04 September 2016).
- ⁴ P.S. Resolution No. 388, *Resolution Expressing the Sense of the Senate, Supporting [the] Proclamation No. 216 dated May 23, 2017, entitled 'Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao' and Finding No Cause to Revoke the Same* (29 May 2017).
- ⁵ House Resolution No. 1050, *Resolution Expressing the Full Support of the House of Representatives to President Rodrigo Duterte as it Finds No Reason to Revoke Proclamation No. 216, entitled 'Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao'* (29 May 2017).
- ⁶ G.R. Nos. 231658, 231771, and 231774, 04 July 2017.
- ⁷ Resolution of Both Houses No. 11, *Extending Until 31 December 2017 Proclamation No. 216, Series of 2017, Entitled 'Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao'* (22 July 2017).
- ⁸ As synchronized under Section 32, REPUBLIC ACT NO. 10742 (*An Act Establishing Reforms in the Sangguniang Kabataan Creating Enabling Mechanisms for Meaningful Youth Participation in Nation-Building, and for other purposes*, 15 January 2016).
- ⁹ *In the Matter of the Conduct of a Public Hearing on Whether or Not to Postpone the Barangay and Sangguniang Kabataan Elections (BSKE) in Mindanao* (01 August 2017). Records, at pages 01-02.

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In Re: Postponement of 2017 BSKE in Mindanao

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En Banc Resolution

"SECTION 5. *Postponement of election.*—When for any serious cause such as violence, terrorism, loss or destruction of election paraphernalia or records, *force majeure*, and other analogous causes of such a nature that the holding of a free, orderly and honest election should become impossible in any political subdivision, the Commission, *motu proprio* or upon a verified petition by any interested party, and after due notice and hearing, whereby all interested parties are afforded equal opportunity to be heard, shall postpone the election therein to a date which should be reasonably close to the date of the election not held, suspended or which resulted in a failure to elect but not later than thirty days after the cessation of the cause for such postponement or suspension of the election or failure to elect."

Subsequently, an *Order* dated 02 August 2017¹⁰ was issued by the Commission *En Banc*, which not only reiterated the conduct of the public hearing, but also directed the Office of the Clerk of the Commission to notify interested parties and receive any position papers they may file, as well as to comply with the requirements of publication of the *Order*, among others. The *Order* was then published on 03 August 2017 in the *Philippine Star*,¹¹ *Philippine Daily Inquirer*,¹² and *Business Mirror*,¹³ and on 07 August 2017 in the *Business Mirror*,¹⁴ *Manila Bulletin*,¹⁵ and *Philippine Star*.¹⁶

The public hearing was conducted as scheduled on 15 August 2017 in Davao City. After hearing various opinions and views on the matter at hand, all interested parties were given a period of five days from 15 August 2017 within which to file their respective positions on the possible postponement of the 2017 BSKE in Mindanao.

¹⁰ Records, at pages 07-08.

¹¹ *Id.*, at page 44.

¹² *Id.*, at page 45.

¹³ *Id.*, at page 46.

¹⁴ *Id.*, at page 47.

¹⁵ *Id.*, at page 48.

¹⁶ *Id.*, at page 49.

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En Banc Resolution

The Commission *En Banc* notes, in this regard, the submissions of the following persons or organizations containing their respective positions:

PERSON/ORGANIZATION	POSITION
<i>Liga ng mga Barangay sa Pilipinas</i> ¹⁷	Supports postponement with holdover
City Council of Bislig City, Surigao del Sur ¹⁸	No objection to postponement
Philippine National Police ¹⁹	In favor of postponement
<i>Liga ng mga Barangay, Marawi City</i> ²⁰	In favor of postponement
<i>Liga ng mga Barangay sa Pilipinas, National Executive Board</i> ²¹	Supports extension of Martial Law
CARAGA <i>Liga ng mga Barangay</i> ²²	In favor of postponement
President/Leader/Members of the <i>Liga ng mga Barangay, Local Youth Organization, Non-Government Organization, and Civil Society Organization of the Municipality of Poona Piagapo of Lanao del Norte</i> ²³	In favor of postponement

At the crux of the matter is whether the necessity for the imposition of martial law renders it impossible on the part of the Commission to hold free, orderly, honest, peaceful, and credible elections in Mindanao.

Based on all attendant circumstances, including the opinions and views of the interested parties during the hearing and in the respective position papers filed for this purpose, the Commission *En Banc* finds sufficient basis to postpone the 2017 BSKE in all barangays in Mindanao pursuant to Section 5 of the OEC.

All else considered, the factual basis for the imposition of martial law is already binding and conclusive on the part of the Commission.

¹⁷ *Id.*, at pages 64-73.

¹⁸ *Id.*, at pages 74-78.

¹⁹ *Id.*, at pages 79-88.

²⁰ *Id.*, at pages 89-93.

²¹ *Id.*, at pages 94-96.

²² *Id.*, at pages 97-98.

²³ *Id.*, at pages 99-100.

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In Re: Postponement of 2017 BSKE in Mindanao

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Too, the Commission is very much aware of the fact that elections are a matter of national interest. This being the case, it cannot be discounted that there is an imminent possibility of insurgents and rebels using the 2017 BSKE to further their agenda, thereby adding more to the problem at hand. As it is, the Commission will not be a party to aggravate what the imposition of martial law seeks to curtail. Another important point of consideration is that the conduct of elections takes away from the electorate the time and energy that could have been spent for the preparation of those identified as critical areas and the rebuilding or rehabilitation of already affected areas, knowing full well that the Philippine style of elections embraces too much fanfare and brouhaha.

Taking all of these into consideration, the Commission deems it is for the best interest of all citizens in Mindanao that elections be postponed to a later date, or at such a time when the cause for the imposition of martial law has altogether ceased, and the electorate, rather than fear for their lives and security, is free, *in the truest sense of the word*, to undertake such a political exercise.

In postponing the conduct of the 2017 BSKE for the entirety of Mindanao, the Commission, in the manner explained in *Lagman*, admits to the difficulty of placing a geographical limit on the crime of rebellion, and adapts the stance taken by the Supreme Court that the range, extent, or scope of the situation could not be physically measured by metes and bounds so as to isolate only those severely-affected areas, to wit:

"It has been said that the 'gravamen of the crime of rebellion is an armed public uprising against the government;' and that by nature, 'rebellion is x x x a crime of masses or multitudes, involving crowd action, that cannot be confined *a priori*, within predetermined bounds.' We understand this to mean that the precise extent or range of the rebellion could not be measured by exact metes and bounds.

To illustrate: A contingent armed with high-powered firearms publicly assembled in Padre Faura, Ermita, Manila where the Court's compound is situated. They overpowered the guards, entered the Court's premises, and hoisted the ISIS flag. Their motive was

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In Re: Postponement of 2017 BSKE in Mindanao

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political, *i.e.*, they want to remove from the allegiance to the Philippine government a part of the territory of the Philippines, particularly the Court's compound and establish it as an ISIS-territory.

Based on the foregoing illustration, and *vis-à-vis* the nature of the crime of rebellion, could we validly say that the rebellion is confined only within the Court's compound? Definitely not. The possibility that there are other rebels positioned in the nearby buildings or compound of the Philippine General Hospital (PGH) or the Manila Science High School (MSHS) could not be discounted. There is no way of knowing that *all* participants in the rebellion went and stayed inside the Court's compound.

Neither could it be validly argued that the armed contingent positioned in PGH or MSHS is *not* engaged in rebellion because there is no publicity in their acts as, in fact, they were merely lurking inside the compound of PGH and MSHS. However, it must be pointed out that for the crime of rebellion to be consummated, it is *not* required that *all* armed participants should congregate in *one* place, in this case, the Court's compound, and publicly rise in arms against the government for the attainment of their culpable purpose. It suffices that a *portion* of the contingent gathered and formed a mass or a crowd and engaged in an armed public uprising against the government. Similarly, it cannot be validly concluded that the grounds on which the armed public uprising actually took place should be the measure of the extent, scope or range, of the actual rebellion. This is logical since the other rebels positioned in PGH, MSHS, or elsewhere, whose participation did not involve the *publicity* aspect of rebellion, may also be considered as engaging in the crime of rebellion.

Proceeding from the same illustration, suppose we say that the President, after finding probable cause that there exists actual rebellion and that public safety requires it, declares martial law and suspends the writ of *habeas corpus* in the whole of Metro Manila, could we then

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in Re: Postponement of 2017 BSKE in Mindanao

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say that the territorial coverage of the proclamation is too expansive?

To answer this question, we revert back to the premise that the discretion to determine the territorial scope of martial law lies with the President. The Constitution grants him the prerogative whether to put the entire Philippines or *any* part thereof under martial law. There is no constitutional edict that martial law should be confined only in the particular place where the armed public uprising actually transpired. This is not only practical but also logical. Martial law is an urgent measure since at stake is the nation's territorial sovereignty and survival. As such, the President has to respond quickly. After the rebellion in the Court's compound, he need not wait for another rebellion to be mounted in Quezon City before he could impose martial law thereat. If that is the case, then the President would have to wait until every remote corner in the country is infested with rebels before he could declare martial law in the *entire* Philippines. For sure, this is not the scenario envisioned by the Constitution.

Going back to the illustration above, although the President is not required to impose martial law only within the Court's compound because it is where the armed public uprising actually transpired, he may do so if he sees fit. At the same time, however, he is not precluded from expanding the coverage of martial law beyond the Court's compound. After all, rebellion is not confined within predetermined bounds.

Public safety, which is another component element for the declaration of martial law, 'involves the prevention of and protection from events that could endanger the safety of the general public from significant danger, injury/harm, or damage, such as crimes or disasters.' Public safety is an *abstract* term; it does not take any physical form. Plainly, its range, extent or scope could not be physically measured by metes and bounds."²⁶

²⁶ *Lagman Decision, supra*, note 06, at pages 72-73. Italics in the original. Footnotes omitted.

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In Re. Postponement of 2017 BSKE in Mindanao

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On this score, the Commission therefore finds it reasonable and logical to suspend the elections in the entire of Mindanao. The Commission is well aware that free, orderly, honest, peaceful, and credible elections is the standard by which elections should be conducted and administered. Any less than that is a derogation of the Commission's constitutional duty.

Further, it must be emphasized that pursuant to Section 3 of Republic Act No. 10923,²⁷ all incumbent barangay officials shall remain in office, unless sooner removed or suspended for cause, and until their successors have been duly elected and qualified. Hence, barangay officials shall still remain in office despite the postponement and shall still continue to be the choice of the electorate.

WHEREFORE, all the foregoing premises considered, the Commission **RESOLVES** to **POSTPONE** the 2017 Barangay and Sangguniang Kabataan Elections in the entirety of Mindanao, subject to the following conditions:

- (1) The Commission shall immediately conduct the Barangay and Sangguniang Kabataan Elections not later than thirty (30) days from the cessation of the cause of postponement of elections;

and

- (2) In the event Congress enacts or passes a law providing for the postponement of the Barangay and Sangguniang Kabataan Elections, this said law shall take precedence.

²⁷ An Act to Postpone the October 2016 Barangay and Sangguniang Kabataan Elections, amending for the purpose Republic Act No. 9164, as amended by Republic Act No. 9340 and Republic Act No. 10656, Prescribing Additional Rules Governing the Conduct of Barangay and Sangguniang Kabataan Elections and for other purposes (15 October 2016).

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 In Re: Postponement of 2017 BSKE in Mindanao

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 En Banc Resolution

Let a copy of this Resolution be published in three newspapers of general circulation once a week for two consecutive weeks.

SO ORDERED.


J. ANDRES D. BAUTISTA
 Chairman


CHRISTIAN ROBERT S. LIM
 Commissioner


AL A. PARRENO
 Commissioner


LUE TITO F. GUIA
 Commissioner



ARTHUR D. LIM
 Commissioner

On leave 
MA. ROWENA AMELIA V. GUANZON
 Commissioner


SHERIFF M. ABAS
 Commissioner

CERTIFICATION

I hereby certify that the conclusions in the above resolution were reached in consultation among the members of the Commission before the case was assigned to the writer of the opinion of the Commission (*En Banc*).


J. ANDRES D. BAUTISTA
 Chairman