

[OP ADMINISTRATIVE ORDER NO. 30, FEBRUARY 26, 2002, February 26, 2002]

IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION WITHOUT PAY ON RESPONDENT LIDUVINA C. REYES, REGIONAL DIRECTOR, REGION II, COMMISSION ON HIGHER EDUCATION, TUGUEGARAO CITY, FOR VIOLATION OF SECTION 7(b)(1) and (2) OF REPUBLIC ACT NO. 6713

This refers to the unsigned and undated letter-complaint filed with the then Presidential Commission Against Graft and Corruption (PCAGC), now Presidential Anti-Graft Commission (PAGC), by Concerned Heads of Schools in Cagayan, et al. against respondent Liduvina C. Reyes, Regional Director, Region II, Commission on Higher Education (CHED), Tuguegarao City, for alleged various irregularities.

Records show that the complaint being anonymous, the Commission initially conducted a fact-finding investigation. It sent separate letters of inquiry to three (3) private institutions of learning cited in the complaint namely, Saint Louis College of Tuguegarao, St. Paul University and Cagayan Colleges Tuguegarao, all in Tuguegarao City, who submitted their answers as requested.

Findings sufficient basis to commence an administrative investigation against respondent, the Commission issued an Order dated November 9, 1999 requiring respondent Reyes to file her Verified Answer or Counter-Affidavit. Respondent submitted her Answer dated December 13, 1999 and her Position Paper of even date. After the termination of the preliminary conference on February 1, 1999 and the submission of the complainant's case by the Commission's representative as the Nominal Complainant on February 14, 1999, the case was set for hearing on March 24, 1999. During the hearing, respondent, through counsel, decided to forego presentation of any witness and instead rested her case for resolution subject to the submission of her Formal Offer of Evidence and Memorandum.

The complaint against respondent consists of eight (8) charges, but only one (1) thereof was considered by the Commission for lack of evidence.

The charge identified as No. 7 in the complaint, which was considered by the Commission reads, to wit:

"7. She also teaches in the graduate schools of private higher education institutions in Tuguegarao, Cagayan during office hours, and when she is in the office, she reviews masteral and doctoral thesis/dissertation. She teaches at the Cagayan Colleges of Tuguegarao, Saint Paul University in Tuguegarao, and worst in Saint Louis College of Tuguegarao, where she is also the Dean of the Graduate School, which is still applying for permit in CHED central office, Pasig City. This is in direct disobedience of the order of CHED central office that CHED officials/personnel should teach only in accredited programs, not in

programs offered without permit, which is in violation of Batas Pambansa 232. As Dean of Saint Louis College of Tuguegarao, she is receiving double compensation, and there is conflict in interest in her job as Director of CHED Region 02 and Dean of Graduate School in one college in Region 02."

As gathered by the Commission, respondent Reyes had been a part-time professor at the Saint Louis College of Tuguegarao during the school year 1998-1999 and first semester of the school year 1999-2000 and she held classes either on Fridays from 5:30-8:30 P.M. or during Saturdays; that at the Saint Paul University, wherein she likewise taught on a part-time basis, she held graduate classes from 10:00 A.M. until 1:00 P.M. on Saturdays; and that at the Cagayan Colleges of Tuguegarao, she was invited to conduct special lectures during Saturdays or Sundays.

On the questioned deanship of respondent of the Graduate School of the Saint Louis College of Tuguegarao (SLCT), it was found out that she applied for the position on July 22, 1998 and was appointed as such on August 25, 1998. Her term was from September 1, 1998 up to March 31, 1999, but served as Dean of said College until the acceptance of her resignation by the SLCT Board of Trustees effective September 23, 1999.

In respondent's Answer, she averred that she never taught in the graduate school of any private institution in Region II during office hours and also denied reviewing masteral thesis and doctoral dissertations in her office.

Anent her appointment as Dean of the Graduate School of the Saint Louis College of Tuguegarao, she explained that she applied for the position upon receipt of notification from then CHED Chairman Angel Alcala informing her that her Appointment as Regional Director of CHED Region II will no longer be renewed. However, again when notified that CHED officials who were earlier asked to vacate their positions will be restored to their positions, she resigned and was accepted effective September 23, 1999.

On the charge of double compensation, there is no basis therefor, according to respondent, on the ground that she was not technically a CHED personnel at the time she served as Dean of the graduate school; and that the prohibition against double compensation does not apply when the additional compensation is received not from the government or any of its entities.

The Commission presented three (3) issues for resolution of the charge, but only two (2) thereof have actually been resolved, considering that the issue on double compensation was referred to the Commission on Audit. The two (2) issues are:

"(1) Whether or not the teaching activities of respondent Reyes in private institutions of higher learning in Region II is expressly allowed by law or do not conflict with her official functions as Regional Director of CHED of said Region?;

"(2) Whether or not the employment of respondent Reyes as Dean of Graduate School of the Saint Louis College of Tuguegarao constitute a violation of law or rules?"

With respect to the first issue, while respondent admitted the charge of teaching in the private institutions of higher learning, she submitted as her

basis for doing so, certified copy of CHED Resolution No. 40-98, which pertinently reads:

". . . that officials and staff of the Commission on Higher Education (CHED) shall be allowed to have teaching loads, provided, however, that they shall only be allowed to teach graduate and post graduate programs being offered in Government recognized institutions with at least level III accredited programs.

"xxx xxx xxx

". . . that CHED officials and staff shall be required to submit their application for permit to teach to the Office of the Chairman supported by appropriate credentials' (Records, p. 89; Exhibit '4')."

The Commission rejected the CHED Resolution No. 40-98 as a valid excuse and opined, to wit:

"It is the considered view of this Commission that respondent Reyes' teaching activities at the aforementioned private institutions of learning constitute private practice of her profession as a teacher which conflicts with the exercise of her official function as CHED Regional Director of Region II. Moreover, the Commission likewise views CHED Resolution No. 40-98 upon which the herein respondent has anchored her alleged authority to teach as puny and of no moment in the instant case for reasons, among others, that (1) as an administrative issuance of CHED, it cannot certainly be considered to have amended the clear and express provision of Section 7(b)(1) of R.A. No. 6713; and (2) respondent Reyes has not presented any other evidence in support of her alleged authority to teach, e.g., an application to teach and the corresponding approval thereof signed by the CHED Chairman, which, obviously, are requirements under the said CHED Resolution (Exhibit '4').

Regarding the second issue, the Commission said:

"This Commission views as understandable the action of the herein respondent in seeking employment at the Saint Louis College of Tuguegarao which needed her professional services, after she was formally apprised by no less than the then Chairman of the Commission on Higher Education on the non-renewal of her appointment, for which she may not be faulted."

In order to further elucidate on the first issue, Section 7(b)(2) of R.A. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees provides, to wit:

"SECTION 7. Political Acts and Transactions. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) x x x

(b) Outside employment and other activities related thereto. — Public officials