

DILG RD XIII  
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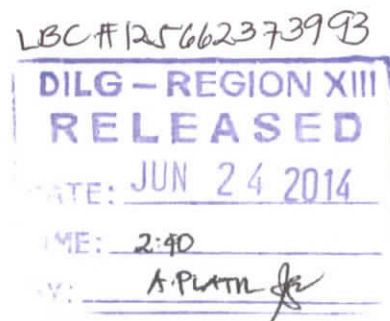
Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**  
**REGION XIII (CARAGA REGION)**  
1559 Matimco Bldg., Km. 4, Libertad, Butuan City  
Telefax Nos. (085) 342-2134 / 815-1229  
website: caraga.dilg.gov.ph; email address: dilgxiii@yahoo.com



DILG-13 OPINION NO. 010-2014

June 16, 2014

HON. MAURO A. LAD  
HON. MARCELITA S. RECTA  
Sangguniang Barangay Members  
San Vicente, Bislig City  
Surigao del Sur



*Dear Hon. Lad and Hon. Recta:*

This refers to your letter seeking opinion relative to the provision of Section 393 (a) of RA 7160 (The Local Government Code of 1991) and the denial of Surigao del Sur State University – Main Campus, Tandag City, Surigao del Sur of granting the same benefit on the ground that the general average grade of your children (Walter M. Lad, Venus S. Recta, and Girley S. Recta) did not meet the cut-off average required by the university.

You then posed the following query and argument and we quote:

1. *“What we are claiming is a privilege or a benefit, and not a scholarship;*
2. *There is no provision in the Local Government Code that there should be a cutoff grade for the beneficiaries and if there is, as maybe set by the school or governing body, this level supposes that such provision cannot amend the provision of the Local Government Code of 1991 unless the same is amended by an act of Congress;*
3. *We presume that the budget for educational privileges for Barangay Officials is already included in the General Appropriations Acts for Government Colleges or Universities.”*

We would like to answer your query in one discussion.

It is actually Section 393 (b) (4) of the Local Government Code of 1991 which provides, *to wit*:

*"Sec. 393. Benefits of Barangay Officials.*

*.xxx*

*(b) The punong barangay, the sangguniang barangay members, the barangay treasurer, and the barangay secretary shall also:*

*.xxx*

*(4) Be exempted during their incumbency from paying tuition and matriculation fees for their legitimate dependent children attending state colleges or universities. He may likewise avail of such educational benefits in a state college or university located within the province or city to which the barangay belongs; and xxx"*(Emphasis supplied)

In implementing the same provision of law, the Commission on Higher Education issued CHED Memorandum Order (CMO) No. 30 s 2005 revoking CHED Order No. 62 s 1997 and allowed the respective Governing Boards of State Universities and Colleges to be the implementing agencies of Sections 393 (4) and 434 of the Local Government Code. Further, CHED Resolution No. 220-2007 dated March 26, 2007, reiterated its stand to allow the state universities and colleges to determine their own guidelines on the implementation of the educational benefits of barangay and SK officials provided in the Local Government Code.

Subsequently, CHED Memorandum Order (CMO) No. 15 Series of 2009 provided for the Guidelines Implementing the Study Grant Program for Barangay Officials and their Legitimate Children Dependents to Implement Section 393, Paragraph 4 of the Local Government Code, the Inclusion of the Sangguniang Kabataan Officials for the Study Grant Per Section 434 of the Same Code, amending CHED Order No. 62, S. 1997. This CMO listed

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required documents to be submitted by the legitimate children dependents of barangay officials in order to avail of the assistance or grant, conditions of assistance and the termination of grant which stated among others that the grant shall be terminated when the grantee is dropped or "blacklisted" from the roll by the SUC where enrolled due to disciplinary problem or scholastic deficiency.

While the Commission on Higher Education stood relentless in its stand in imposing additional requirements and conditions in availing of the benefit granted to barangay officials, the Department of the Interior and Local Government has likewise been consistent in its answer to the same recurring issue regarding the proper interpretation of the above-quoted provision in DILG Opinion No. 08 Series of 2009 dated February 12, 2009 and DILG Opinion No. 116 S. 2010 dated July 12, 2010. (*Copies of Opinions are hereto attached for your easy reference*).

The mentioned opinions emphasized that "it is already sufficient that the legitimate dependent children can show proof that they are the legitimate dependent children of these barangay officials."

This apparent conflict as to the correct interpretation and implementation between the agencies tasked to implement Sections 393 (b) (4) and 434 of the Local Government Code has not gone unnoticed. No less than then Senator Benigno Aquino III of the 14<sup>th</sup> Congress of the Republic of the Philippines, now His Excellency Benigno Aquino III, President of the Republic of the Philippines, himself introduced P.S. Res. No. 975 entitled "Resolution Directing the Committee on Local Government to Investigate in Aid of Legislation, the Implementation of Section 393 (b) (4) and Section 434 of Republic Act No. 7160 'The Local Government Code' on the Exemption of Certain Barangay Officials and their Legitimate Children and Sangguniang Kabataan Officials from the Payment of Tuition and Matriculation Fees from State Colleges and Universities".


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In this light, while we do our share of representing your sentiment to the President, it is suggested that this matter be likewise brought before the Liga ng mga Barangay for them to make strong representation with the President Benigno Simeon C. Aquino III for CHED to reconsider its position.

We hope that the foregoing sufficiently addressed your concerns. This opinion is rendered without prejudice to the decisions that competent higher authorities and the courts may subsequently decree.

Thank you and God bless!

Very truly yours,

  
LILIBETH A. FAMACION, CESO IV  
Regional Director

enc/s: *DILG Opinion No. 08 Series of 2009*  
*DILG Opinion No. 116 S. 2010*

cc: *Mr. Pedrito P. Alacaba*  
*Provincial Director-DILG*  
*DILG – Surigao del Sur*

*Ms. Olivia P. Bagasbas*  
*City Local Government Operations Officer*  
*Bislig City, Surigao del Sur*