



**LOCAL WATER UTILITIES ADMINISTRATION**

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MEMORANDUM CIRCULAR NO. 010-10

**TO: ALL WATER DISTRICTS**

**SUBJECT: FOREIGN TRAVEL OF WATER DISTRICT OFFICIALS**

Pursuant to LWUA Resolution 182 series of 2010, foreign travels of Water District Officers and Staff shall be approved subject to the following conditions:

1. Requesting Water District should not be lower than Big Category.
2. Submission of the following documents:
  - a. *Official invitation from the Organization or Institution hosting the international event;*
  - b. *WD Board Resolution authorizing the concerned WD Official/s to attend the said event;*
  - c. *Certificate of Budget Allocation and Availability of WD funds for the purpose, and;*
  - d. *Letter requesting LWUA to approve the Authority to Travel Abroad.*
3. Travel expenses should not exceed 75% of the WD's allocated foreign travel budget.
4. All foreign travels shall be limited to a maximum of two (2) persons per trip.
5. Foreign travel of any Water District official shall be limited to once a year.
6. No foreign travel shall be allowed for Water District Officials who are scheduled to retire or whose appointment shall expire within one (1) year from the completion of the trip.
7. The proposed convention, seminar workshops, conference or training abroad should be relevant to the water industry.
8. No foreign travel shall be allowed for Water Districts in arrears on their LWUA loans or under full or partial LWUA takeover.
9. Foreign travel of LWUA 6<sup>th</sup> Members using Water District funds shall not be allowed.

Requests for Authority to Travel Abroad should be submitted to the LWUA Administrator not later than 45 days before the actual date of travel.

All issuances inconsistent with this circular are hereby repealed, amended, or modified accordingly.

For your information and guidance.

**DANIEL I. LANDINGIN, CEO III / CESO III**  
Administrator

Under the above-quoted law, the prohibition against nepotism covers the appointee who must be related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority. In addition, it expressly applies only to appointments in the career service.

This is different from the rule proscribing the issuance of nepotistic appointment under **Section 59, Chapter 8, Title I-A, Book V of the Administrative Code of 1987 (Executive Order No. 292)** which is limited to the third civil degree of consanguinity or affinity and covered by four situations: between the (1) appointing authority, (2) recommending authority, (3) chief of the bureau or office or (4) the person exercising immediate supervision over the appointee. In the last two mentioned situations, it is immaterial who the appointing or recommending authority is. To constitute a violation of the law, it suffices that an appointment is extended or issued in favor of a relative within the third civil degree of consanguinity or affinity of the chief of the bureau/office, or to the person exercising immediate supervision over the appointee. (**Civil Service Commission vs. Pedro O. Dacoycoy, G.R. No. 135805 dated April 29, 1999; CSC Resolution No. 08-1394 dated July 23, 2008**) The said rule is quoted, hereunder, thus:

*"Section 59. Nepotism - (1) All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited. As used in this Section, the word 'relative' and members of the family referred to are those related within the third degree either of consanguinity or of affinity."*

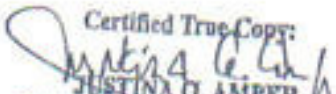
The question now is what law is applicable to the issue raised by Echanez?

Considering that the personnel of a local water district are not part of the plantilla of a city or municipality or province, and the Supreme Court's ruling<sup>1</sup> that a water district is a GOCC, it can be safely concluded that a water district is an entity separate and distinct from a local government unit. In effect, the provision of the Administrative Code of 1987 on nepotism is applicable in resolving the issue at hand.

Under EO 292, the rule against the issuance of nepotistic appointment covers both the career and non-career service and enumerates only the following exceptions: (1) persons employed in a confidential capacity; (b) teachers; (c) physicians; and (d) members of the Armed Forces of the Philippines.

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<sup>1</sup> Davao City Water District, et al. vs. CSC & COA, G.R. Nos. 95237-38 dated September 13, 1991

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 Civil Service Commission

A reading of Section 11<sup>2</sup> of PD 198, as amended, indicates that members of the board have fixed term of office of six (6) years. And under Section 9, Chapter 2, Book V, Title I-A of EO 292, members of boards with fixed terms of office are part of the non-career service. In addition, the Supreme Court<sup>3</sup> has pointedly stated that members of the board of water districts are government employees subject to civil service laws and anti-graft laws.

It appears, therefore, that members of the board of directors of water districts are covered by the operation of the rules on nepotism as they are not among the exceptions to the rule. Definitely, they cannot be considered appointed in a confidential capacity as appointments of this nature are subject to the pleasure of, or are coterminous with, the appointing authority, a clear contradiction of an appointment with fixed term.

In explaining the nature of exceptions to the rule, the Supreme Court in the case of *Balagtas Multi-Purpose Cooperative, Inc., et al. vs. Court of Appeals, et al.* (G.R. No. 159268 dated October 27, 2006), declared, thus:

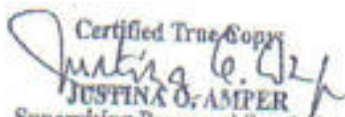
*"An express exception, exemption, or saving clause excludes other exceptions. Express exceptions constitute the only limitations on the operation of a statute and no other exception will be implied. The rule proceeds from the premise that the legislative body would not have made specific enumerations in a statute, if it had the intention not to restrict its meaning and confine its terms to those expressly mentioned.*

*"Consequently, where a general rule is established by a statute with exceptions, the Court will not curtail the former nor add to the latter by implication. Courts may not, in the guise of interpretation, enlarge the scope of a statute and include therein situations not provided nor intended by the lawmakers. Statutes which are plain and specific should be applied without attempted construction and interpretation. Thus, where a provision of law expressly limits its application to certain transactions, it cannot be extended to other transactions by interpretation."*

Considering that the exceptions under the Administrative Code of 1987 are expressed, clear and limited only to four situations and that ". . . exceptions to the rule are to be strictly construed" (*Roberto S. Benedicto, et al. vs. Court of Appeals, et al.*, G.R. No. 125359 dated September 4, 2001), it is logical to argue that, by applying EO

<sup>2</sup> It states: "Section 11. *Term of Office.* - Of the five initial directors of each newly-formed district, two shall be appointed for a maximum term of two years, two for a maximum term of four years, and one for a maximum term of six years. Terms of office of all directors in a given district shall be such that the term of at least one director, but not more than two directors, shall expire on December 31 of each even-numbered year. Regular terms of office after the initial terms shall be for six years commencing on January 1 of odd-numbered years. Directors may be removed for cause only."

<sup>3</sup> *Ranulfo C. Feliciano vs. COA, et al.* (G.R. No. 147402 dated January 14, 2004).

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