



ITD

Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

**IMPLEMENTING GUIDELINES ON
THE PROHIBITION ON TRANSFER,
PROMOTION, EXTENSION, OR
RECALL OF OFFICERS OR
MEMBERS OF THE FOREIGN
SERVICE CORPS IN RELATION TO
THE 09 MAY 2022 NATIONAL AND
LOCAL ELECTIONS.**

ABAS, S.M., Chairman
GUANZON, M.R.A.V., Commissioner
INTING, S.B., Commissioner
CASQUEJO, M.S., Commissioner
KHO, A.T.K.J., Commissioner
FEROLINO-AMPOLOQUIO, A.P.,
Commissioner

Promulgated:

March 10, 2021

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RESOLUTION NO. 10701

WHEREAS, the last paragraph of Section 35 of the **OVERSEAS VOTING ACT OF 2013¹**, hereinafter referred to as "OVA of 2013", contains a prohibition against the transfer, promotion, extension, recall or movement of members or officers of the foreign service corps for a certain period, specifically:

"SEC. 35. Security Measures to Safeguard the Secrecy and Sanctity of Ballots. --- x x x

No officer or member of the foreign service corps, including those belonging to attached agencies shall be transferred, promoted, extended, recalled or otherwise moved from his current post or position one (1) year before and three (3) months after the day of elections, except upon the approval of the Commission.";

WHEREAS, Section 36.6 of the same law, reiterates the same prohibition by penalizing the public officer or employee responsible for committing the prohibited act, to wit:

"Sec. 36. Prohibited Acts. - In addition to the prohibited acts provided by law, it shall be unlawful:

x x x

36.6. For any public officer or employee to cause the transfer, promotion, extension, recall of any member of the foreign service

¹ Republic Act No. 9189, as amended by Republic Act No. 10590.

corps, including members of the attached agencies, or otherwise cause the movement of any such member from the current post or position one (1) year before and three (3) months after the day of elections, without securing the prior approval of the Commission.”;

WHEREAS, the Office of Overseas Voting (OFOV), created by virtue of Section 30 of the OVA of 2013, is specifically tasked to oversee and supervise the effective implementation of the said law;

IN VIEW OF THE FOREGOING, the Commission *En Banc*, by virtue of the powers vested in it by the Constitution, the **OMNIBUS ELECTION CODE** as amended², the **OVERSEAS VOTING ACT OF 2013**, and other pertinent election laws, rules and regulations, hereby **RESOLVED** to **PROMULGATE** the following rules to implement the provisions cited in the perambulatory clauses of this Resolution:

SECTION 1. Definition of Terms. – As used in this Resolution, the following terms are defined and understood as thus:

- a. **Commissioner-in-Charge or “CIC”** shall refer to the Member of the Commission *En Banc* duly designated to oversee the operations of the Office for Overseas Voting (OFOV).
- b. **Commission** or **“COMELEC”** refers to the Commission on Elections.
- c. **Extension** refers to the extension of service for the purpose of completing the requisite years of government service under the GSIS law, or the extension of service of members of the foreign service corps abroad to address exigencies of public service.
- d. **Members or Officers of the Foreign Service Corps (FSC)** shall refer to chiefs of mission, career ministers, foreign service officers (FSO), foreign service staff officers (FSSO), foreign service staff employees, of the Department of Foreign Affairs (DFA) who are assigned to serve in Posts abroad and in the home office, as well as regular and service attachés from other Philippine government agencies, such as, but not limited to, the following:
 - (1) Philippine Representatives to Permanent Missions of the United Nations in New York and Geneva;

² Batas Pambansa Bilang 881, as amended.

- (2) Philippine Representatives of the Philippine Mission to the Association of Southeast Asian Nations (ASEAN) in Jakarta, Indonesia;
 - (3) Officers and employees assigned to the Manila Economic and Cultural Offices (MECO) in Taiwan;
 - (4) Labor attachés of the Philippine Overseas Labor Office (POLOs), Department of Labor and Employment (DOLE);
 - (5) Trade representatives or commercial attachés of the Philippine Foreign Trade Service Corps (FTSC), Department of Trade and Industry (DTI);
 - (6) Defense and Armed Forces attachés, Armed Forces of the Philippines (AFP);
 - (7) Tourism attachés from the Department of Tourism (DOT);
 - (8) Agricultural attaches from the Department of Agriculture (DA); and
 - (9) Police attachés from the Philippine National Police (PNP); and
 - (10) Other officials or employees representing various Philippine government agencies at Philippine Foreign Service Posts or other overseas locations.
- e. ***Office for Overseas Voting or "OFOV"***³ refers to the Office in the Commission on Elections tasked to oversee and supervise the effective implementation of the OVERSEAS VOTING ACT OF 2013.
- f. ***Overseas Voting Secretariat or "OVS"***⁴ refers to the secretariat based at the Department of Foreign Affairs (DFA) home office tasked to assist the OFOV of the COMELEC. The DFA-OVS is also responsible for directing, coordinating, and overseeing the participation of the DFA in the implementation of the OVERSEAS VOTING ACT OF 2013.
- g. ***Promotion*** refers to the advancement of a career employee from one position to another with an increase in duties and responsibilities as authorized by law, and usually accompanied by an increase in salary. Promotion may be from one department or

³ Section 30, OVA of 2013.

⁴ Section 31, *ibid.*

agency to another or from one organizational unit to another within the same department or agency.

- h. *Recall* refers to the return of officers or employees on assignment abroad back to the home office.
- i. *Transfer* is the movement of an employee from one position to another, or from one organizational unit to another in the same department or agency or from one department or agency to another. It may also refer to the movement of personnel from one Post to another pursuant to the Department of Foreign Affairs’ rotation plan as provided in Section 38 of the **PHILIPPINE FOREIGN SERVICE ACT OF 1991**⁵.

SECTION 2. Prohibited Acts and the Duration of the Prohibitions. -
The following prohibited acts, when committed within the periods provided by law, shall be considered election offenses:

PROHIBITED ACTS	DURATION	INCLUSIVE DATES
(a) For any public officer or employee to cause the transfer, promotion, extension, recall of any member of the foreign service corps, including members of the attached agencies, or otherwise cause the movement of any such member from the current post or position. [Sec. 36.6, OVA of 2013]	One (1) year before and three (3) months after the day of elections	09 May 2021 (Sun) to 07 August 2022 (Sun)
(b) Any head, official or appointing officer of a government office, agency or instrumentality, whether national or local, including government-owned or controlled corporations, who appoints or hires any new employee, whether provisional, temporary or casual, or creates and fills any new position. [Sec. 261 (g) (1), OEC, as amended]	Forty-five (45) days before a regular election	25 March 2022 (Fri) to 08 May 2022 (Sun)
(c) Any government official who promotes or gives any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporations.	Forty-five (45) days before a regular election	25 March 2022 (Fri) to 08 May 2022 (Sun)

⁵ Republic Act No. 7157.

<i>[Sec. 261 (g) (2), OEC, as amended]</i>		
(d) Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers. <i>[Sec. 261 (h), OEC, as amended]</i>	Within the election period	09 January 2022 (Sun) to 08 June 2022 (Wed)

SECTION 3. *Exceptions to the Prohibited Acts.* - In recognition of the varying circumstances necessitating movements of personnel to address the exigencies of public service, government agencies may submit written requests to the Commission on Elections for approval of human resource actions or personnel movements falling within the prohibited acts described in Section 2.

SECTION 4. *Scope and Applicability of this Resolution.* - The procedures provided in this Resolution shall be limited to the implementation of the prohibited act described in Section 2 (a), pursuant to Sections 35 and 36.6 of the OVERSEAS VOTING ACT OF 2013, for the purpose of the 2022 National Election. Specifically, this Resolution shall govern if the requests received from other Philippine government agencies meet **all** of the following conditions:

- a. The officers or personnel subject of the promotion, transfer, recall, extension, or movement are members of the foreign service corps;
- b. The personnel movement sought to be implemented is a transfer, promotion, extension, or recall as defined under Section 1 of this Resolution; and
- c. The intended effectivity date of promotion, transfer, recall, or extension of service falls within the fifteen (15)-month duration of the prohibition, or from **09 May 2021 (Sun) to 07 August 2022 (Sun)**.

All other prohibited acts enumerated and described under Section 2 (b), (c) and (d) shall be the subject of another Resolution to be promulgated by the Commission at a later date.

SECTION 5. *Procedures for Request for Authority to Transfer, Promote, Extend, Recall or Move Members of the Foreign Service Corps.* - All requests for authority to transfer, promote, extend, recall or extend the service of members of the foreign service corps must:

- a. Be in writing and duly signed by the head of agency or its duly authorized representative;
- b. Include specific details, such as:
 - (i) the names of officers or personnel subject of the request;
 - (ii) the type of personnel movement applicable to the persons on the list (transfer, recall, promotion, or extension);
 - (iii) their current positions or job titles **and** their new positions or titles, in cases of promotion;
 - (iv) their current posts or assignments and the new posts where they are to be assigned or transferred to, in cases of transfers and recall;
 - (v) the length or period covered by the extension of service, if applicable; and
 - (vi) the intended effective date of the transfer, promotion, recall, or extension, as the case may be.
- c. Specify the causes or reasons for the transfer, promotion, recall or extension of service; and
- d. Contain a certification issued by the requesting head of agency or authorized representative attesting to the fact that the officers or personnel subject of the request **are not deputized** by the Commission on Election to perform overseas voting registration or election duties.

SECTION 6. *When to File Requests.* - All written requests must be submitted to the OFOV at least ten (10) working days before the intended effectivity date of the transfer, promotion, extension or recall sought to be approved by the COMELEC.

SECTION 7. *Where and How to File Requests.* - All written requests shall be submitted to the **Office for Overseas Voting (OFOV)** through any of the following means:

- a. ***By courier or postal service.*** - Written requests sent via courier or postal service must be addressed to:

Office for Overseas Voting (OFOV)
Commission on Elections
7th Floor Palacio del Gobernador
Gen. Luna St. cor. A. Soriano Ave.
Intramuros, Manila 1002

- b. *By e-mail.* – Scanned copies of the written requests may also be sent via email to the OFOV's official email address at **overseasvoting@comelec.gov.ph**

SECTION 8. *Requests Involving Officers and Personnel of the Department of Foreign Affairs (DFA) to be Coursed Through the DFA-OVS.*

– Requests for approval of the transfer, promotion, extension or recall of officers or personnel of the Department of Foreign Affairs (DFA) who are members of the foreign service corps shall be coursed through the Overseas Voting Secretariat (OVS) of the DFA.

SECTION 9. *Requests Involving Officers and Personnel of the Other Philippine Government Agencies with Regular and Service Attachés On Assignment Abroad.*

– Requests for approval of the transfer, promotion, extension, recall or movement of regular and service attachés of other Philippine government agencies shall be submitted by their respective government agencies, duly signed by their heads of agencies and/or appointing authorities.

SECTION 10. *Approval of Requests for Authority to Transfer, Promote, Extend, Recall Members of the Foreign Service Corps.* – Upon receipt of the written requests, the Office for Overseas Voting (OFOV) shall evaluate them and submit the corresponding recommendations to the Commissioner-in-Charge (CIC) of the OFOV. The CIC of the OFOV shall then take the appropriate action on the requests.

For this purpose, the Commission *En Banc* hereby delegates its authority to approve the aforementioned requests to the CIC of the OFOV.

SECTION 11. *Applicability of this Resolution to Requests for Approval of Transfer and Detail under Section 261 (h) of the Omnibus Election Code.* – Considering that Section 261 (h) of the OMNIBUS ELECTION CODE likewise prohibits the transfer or detail of any officer or employee in the civil service within the shorter period of 09 January 2022 (Sun) to 08 June 2022 (Wed) falling within the fifteen (15)-month prohibition period of 09 May 2021 (Sun) to 07 August 2022 (Sun) as provided in Sections 35 and 36.6 of the OVERSEAS VOTING ACT OF 2013, approvals granted by the Commission through the CIC of the OFOV under this Resolution shall constitute the same approval required for the transfer or detail of members of the foreign service corps that are intended to take effect within 09 January 2022 (Sun) to 08 June 2022 (Wed).

For this purpose, the OFOV shall furnish the Law Department of the Commission with copies of approvals granted by the CIC of the OFOV to government agencies with officers or employees that are part of the foreign service corps.

SECTION 12. *Penalties.* – The penalties imposed under Section 264 of the OEC, as amended, shall be imposed on any person found guilty of committing Section 36.6 of the OVERSEAS VOTING ACT OF 2013⁶, which is imprisonment of not less than one (1) year but not more than six (6) years, and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer perpetual disqualification to hold public office and deprivation of the right of suffrage.⁷

SECTION 13. *Implementing Office.* – The Office for Overseas Voting (OFOV) shall primarily be responsible for the implementation of this Resolution. Any reports of possible commission of the prohibited act described in Section 36.6 of the OVA 2013 and this Resolution shall be referred to the Law Department.

SECTION 14. *Notice and Publication.* – The COMELEC Secretary is directed to provide a copy of this Resolution to the Education and Information Department (EID) for publication in the two (2) daily newspapers of general circulation. The Information Technology Department shall likewise be furnished with a copy for posting on the COMELEC website.

SECTION 15. *Dissemination of the Resolution.* – In addition to publication, the Education and Information Department (EID), with the assistance of the Office for Overseas Voting (OFOV), is also directed to furnish copies of this Resolution to government agencies with officials and personnel serving as members of the foreign service corps such as, but not limited to, the following agencies:

- a. Department of Foreign Affairs (DFA);
- b. Department of Labor and Employment (DOLE) and the relevant attached agencies;
- c. Department of Trade and Industry (DTI) and the relevant attached agencies;

⁶ Last paragraph, Section 36, OVA of 2013.


⁷ Section 264, OEC, as amended.


- d. Department of Tourism (DOT);
- e. Department of Agriculture (DA);
- f. Philippine National Police (PNP);
- g. Armed Forces of the Philippines (AFP);
- h. Department of National Defense (DND);
- i. Manila Economic Cultural Office (MECO);
- j. Commission on Filipinos Overseas;
- k. Social Security System (SSS);
- l. Maritime Industry Authority (MARINA);
- m. Philippine Health Insurance Corporation (PhilHealth).

SECTION 16. Effectivity of this Resolution. – This Resolution shall take effect within fifteen (15) days following its publication.

SO ORDERED.


SHERIFF M. ABAS
Chairman


MA. ROWENA AMELIA V. GUANZON
Commissioner


SOCORRO B. INTING
Commissioner


MARLON S. CASQUEJO
Commissioner


ANTONIO T. KHO, JR.
Commissioner


AIMEE P. FEROLINO-AMPOLOQUIO
Commissioner

CERTIFICATION

APPROVED by the Commission *En Banc* on **March 10, 2021** pursuant to COMELEC Resolution No. 10671, promulgated 09 June 2020, entitled "SUPPLEMENTAL RESOLUTION TO COMELEC RESOLUTION NO. 9936 PROMULGATED 15 MARCH 2015 ENTITLED 'RULE ON THE ENACTMENT AND PROMULGATION OF EXECUTIVE OR ADMINISTRATIVE RESOLUTIONS' PROVIDING FOR OTHER FORMAT OF MEETINGS TO INCLUDE ONLINE MEETINGS APPLICABLE IN TIMES OF THE COVID-19 PANDEMIC AND THE IMPOSITION OF COMMUNITY QUARANTINES AND SIMILAR EMERGENCY SITUATIONS."


ATTY. CONSUELO B. DIOLA
Acting COMELEC Secretary