

**Office of the President
of the Philippines
Malacañang**

MEMORANDUM CIRCULAR NO. 123

WHEREAS, in the May 8, 1995 elections, the winning candidates for several local elective offices have not been proclaimed, either totally or partially, due to pre-proclamation controversies, or failure of elections had been declared by the Commission on Elections;

WHEREAS, pursuant to Section 16 of the Electoral Law of 1991 (RA 7166), all pre-proclamation cases pending before the Comelec shall be deemed terminated at the beginning of the term of office involved or at noon of June 30, 1995, without prejudice to the filing of a regular election protest by the aggrieved party;

WHEREAS, the consequential effect of non-proclamation of the winning candidates in all local effective offices in the local government unit effected is the occurrence of temporary vacancies therein;

WHEREAS, existing election laws and the Local Government Code of 1991 (RA 7160) do not contain any provision on cases of this nature;

WHEREAS, to prevent hiatus in and paralyzation of local government operations, there is an urgent need to provide a legal remedy, in conformity with the Constitution and the Administrative Code of 1987 (Executive Order No. 292);

NOW, THEREFORE, I, FIDEL V. RAMOS, by virtue of the powers vested in me by law and the Constitution, do hereby promulgate the following guidelines:

Section 1. No Proclamation. In LGUs where all of the local elective officials have not been proclaimed or where a failure of election had been declared by the Comelec, the President of the Philippines shall designate Officer-In-Charge for the offices of the governor, vice-governor, mayor, vice-mayor and the members of the sanggunihang panlalawigan, sanggunihang panglungsod and sanggunihang bayan. Provided, however, that any and all designees have not been a candidate for any elective position during the recently concluded elections; and, Provided, further, that the OIC-designate possesses all the qualifications and none of the disqualifications prescribed for elective offices.

IN REPLYING, PLEASE CITE:

PFVR Memo# 1950119

1950119

Section 2. Partial Proclamation. In LGUs where the newly elected local officials have partially been proclaimed, the rule on automatic succession prescribed under Chapter 2, Title II, Book I of the Local Government Code of 1991 shall strictly be observed in filling-up any temporary vacancy arising thereby.

Section 3. General Guidelines. (a) The OIC designated pursuant to this Memorandum Circular shall hold office until such time that the duly elected local officials shall have been proclaimed and have qualified.

(b) The designated officers-in-charge of the office of the local chief executive shall perform all the regular duties and responsibilities of their respective offices, as provided for by law, except the following:

- (a) appointment, suspension or dismissal of local government officials and employees;
- (b) creation and filling-up of positions whether regular, contractual or casual;
- (c) reorganization of local government offices;
- (d) solemnization of marriages;
- (e) revision of duly approved local development plans; and
- (f) approval of contracts other than those needed to keep the day-to-day operations going.

(c) The officers-in-charge designated pursuant to this Memorandum Circular shall act with the highest degree of integrity, impartiality and fairness at all times.

Please be guided accordingly.



BY THE PRESIDENT:



RUBEN D. TORRES
Executive Secretary

30 June 1995