

DSWD OPINION NO. 11 S. 2024

DRN: LS-L-LO-23-12-21844-C

MEMORANDUM

FOR : DIRECTOR JENNIFER M. RIZO
Human Resource Management and Development Service

FROM : THE OFFICER-IN-CHARGE, LEGAL SERVICE¹

SUBJECT : OPINION AND INTERPRETATION OF THE PROVISION ON
THE COVERAGE OF GUIDELINES ON LOCAL NON-
ACADEMIC SPECIALIZED TRAININGS AND OTHER SHORT-
TERM COURSES

DATE : 24 JANUARY 2024

This has reference to your Memorandum² dated 13 November 2023 officially transmitted to and received by the Legal Service on 21 November 2023, requesting for opinion and interpretation of the coverage of **DSWD Memorandum Circular (MC) No. 35, series of 2005** or the "**Guidelines on Local Non-Academic Specialized Trainings and Other Short-Term Courses**"³.

Pertinent portion of the aforesaid Memorandum states that "*x x x the internal guidelines seem to be ambiguous regarding the eligibility of Coterminous employees for specialized training. Hence, the HRMDS would like to seek the opinion and interpretation of the Legal Service regarding the coverage of the guidelines x x x*"

This Level's Opinion:

Upon a careful review of MC No. 35, series of 2005, we submit that pursuant to **Item IV (Coverage)** thereof, non-academic specialized trainings can only be availed of by permanent, contractual and casual employees. The same did not explicitly mention "coterminous employees" in its coverage. Thus:

IV. COVERAGE

x x x

Specialized training can only be availed of by permanent, contractual and casual employees. However, workers under contract of service, shall be allowed trainings conducted in-house or external trainings offered for free. x x x

Nevertheless, let it be stressed that under **Item III (Legal Bases)** of the same MC, **every employee of the government** is entitled to the provision of professional or technical programs for the enhancement of their professional/technical skills and knowledge in the career service.

¹ Special Order No. 6021 dated December 4, 2023

² Annex A - HRMDS Memorandum dated 13 November 2023

³ Annex B

Thus:

III. LEGAL BASES

*The implementing rules of Book V, E.O. 292 on the Civil Service law states under Rule VIII that, "Every official and **employee of the government** is an asset or resource to be valued, developed and utilized in the delivery of basic services to the public. **Hence, the development and retention of a highly competent and professional workforce in the public service shall be the main concern of every department or agency.**"*

x x x

*The implementing rules also provide that each agency shall design, implement, and evaluate in-service training and development programs solely or in coordination with other government agencies and institutions. This includes professional/technical programs which refers to the enhancement of professional/technical skills and knowledge in the career service and employee development programs which aim at maintaining a high level of competence on basic workplace skills among **employees in the career service.**"*

Further, Sections 1 and 17, Rule VIII of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (as of June 1995) provide:

"RULE VIII

Career and Personnel Development

SECTION 1. x x x

*Every department or agency shall therefore establish a continuing program for career and personnel development for **all agency personnel at all levels**, and shall create an environment or work climate conducive to the development of personnel skills, talents and values for better public service.*

x x x

*SECTION 17. In consideration of nominee's acceptance to **local or foreign training/scholarship grant whether in the academic or non-academic program including extension**, he shall serve his office or any other government office or instrumentality thereof as the exigencies of the service may require for the specified period as may be provided under the training contract."*

In relation to the above provision, it bears emphasis that pursuant to **Sections 1 and 2, Rule I** of the same issuance, **the rules pertaining to career and personnel development are applicable to coterminous employees of the government.** Thus:

"RULE I

Coverage and Definition of Terms

*SECTION 1. Except as otherwise provided, these **Rules shall apply to all officers and employees both in the career and non-career service.***

SECTION 2. The terms hereunder shall be construed as follows:

x x x

(m) **Non-career service** is composed of positions expressly declared by law to be in the non-career service; or those whose entrance in the service is characterized by x x x (2) tenure which is limited to a period specified by law, or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project from which purpose employment was made. (Emphasis and underscoring supplied)

It can be gleaned from the foregoing that non-academic specialized trainings may also be availed of by coterminous employees since they are considered employees of the government. This is amplified by the fact that under Section 9, Rule IV of the Civil Service Commission Resolution No. 1800692 or the 2017 Omnibus Rules on Appointments and Other Human Resource Actions (Revised July 2018), coterminous appointment is recognized as an employment status in the civil service.

Thus:

"Rule IV

**EMPLOYMENT STATUS, NATURE OF APPOINTMENT AND OTHER
HUMAN RESOURCE ACTIONS**

Sec. 9. Employment Status. The employment status in the civil service shall be determined by the appointment issued, which can be any of the following:

x x x

d. Coterminous – an appointment issued to a person whose tenure is limited to a period specified by law or whose continuity in the service is based on the trust and confidence of the appointing authority or of the head of the organizational unit where assigned. x x x"

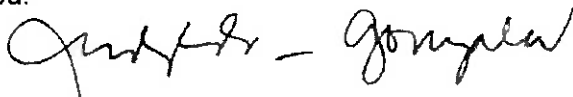
In view of the foregoing premises, the Legal Service submits that **coterminous employees are covered by the provision of non-academic specialized trainings as well as short-term courses since they are treated and considered as employees of the government.**

Further, we recommend that the Human Resource Management and Development Service revisit MC No. 35, series of 2005 and consider the revision of the same by including in its coverage the coterminous employees of the Department.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration.

Thank you.



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JAV/AB/10065