



AUG 10 2016

DIVISION MEMORANDUM

No. 432, S. 2016

**MUST READ DECISION ON THE CASE OF ANINAG, JEFFREY M.
(RE: GRAVE MISCONDUCT)**

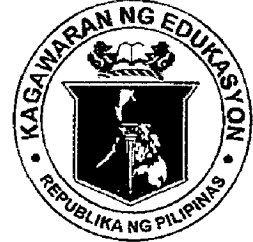
To: Assistant Superintendents
Education Program Supervisors/Coordinators
Public Schools District Supervisors/OIC's/Caretakers
Public Elementary and Secondary School Heads

1. Attached is Regional Memorandum No. 458, s. 2016 dated July 26, 2016, entitled, "Must Read Decision on the Case of Aninag, Jeffrey M. (Re: Grave Misconduct) for the information of all concerned.
2. Immediate and wide dissemination of this Memorandum is directed.


RHEA MARIA ANGTUD, ED.D., CESO VI
Schools Division Superintendent



REPUBLIKA NG PILIPINAS
REPUBLIC OF THE PHILIPPINES
KAGAWARAN NG EDUKASYON
DEPARTMENT OF EDUCATION
REHIYON VII, GITNANG VISAYAS
REGION VII, CENTRAL VISAYAS
Sudlon, Lahug, Cebu City




REGIONAL MEMORANDUM
NO. 0458, s. 201

1 JUL 26 2016

**MUST-READ DECISION ON THE CASE OF ANINAG, JEFFREY M.
(RE: GRAVE MISCONDUCT)**

To: Schools Division Superintendents
Officers-in-Charge of Regular Divisions

1. Attached is Memorandum No. DM-LA-201-0176 dated June 13, 2016 from Atty. Alberto T. Muyot, Undesecretary for Legal and Legislative Affairs entitled, "Must-Read Decision on the Case of Aninag, Jeffrey M. (Re: Grave Misconduct)".
2. For details, refer to the attached Memorandum.
3. Immediate dissemination of and compliance with this Memorandum is directed.


JULIET A. JERUTA
Director III
Officer-in-Charge

JAJ/jbm

Office of the Director (ORDir), Tel. Nos.: (032) 231-1433; 231-1309; 414-7399; 414-7325; Office of the Assistant Director, Tel. No.: (032) 255-4542
Field Technical Assistance Division (FTAD), Tel. Nos.: (032) 414-7324 Curriculum Learning Management Division (CLMD), Tel. Nos.: (032) 414-7323
Quality Assurance Division (QAD), Tel. Nos.: (032) 231-1071 Human Resource Development Division (HRDD), Tel. No.: (032) 255-5239
Education Support Services Division (ESSD), Tel. No.: (032) 254-7062 Planning, Policy and Research Division (PPRD), Tel. Nos.: (032) 233-9030;
414-7065 Administrative Division, Tel. Nos.: (032) 414-7326; 414-4367; 414-7366; 414-7322; 414-4367
Finance Division, Tel. Nos.: (032) 256-2375; 253-8061; 414-7321

"EFA 2015: Karapatan ng Lahat, Pananagutan ng Lahat"



Republic of the Philippines
Department of Education

Department of Education
 Region - Central Visayas
RECORDED
 By: _____ Date: 19 JUL 2016
 RD2016-2221

**Office of the Undersecretary
 for Legal and Legislative Affairs**

MEMORANDUM

DM-LA-2016- 0176

TO : ALL REGIONAL DIRECTORS

FROM : ATTY. ALBERTO T. MUYOT
 Undersecretary
 Legal and Legislative Affairs

**SUBJECT : MUST-READ DECISION ON THE CASE OF ANINAG,
 JEFFREY M. (RE: GRAVE MISCONDUCT)**

DATE : 13 June 2016

The Civil Service Commission passed Office Memorandum No. 27, s. 2016, dated April 13, 2016, advising all CSC Regional and Field Offices to disseminate copies of the Decision on the case of ANINAG, Jeffrey M., CSC Decision No.15-0908, dated December 23, 2015, to all school heads within their respective jurisdiction for their guidance and information. Attached is a copy of the said O.M. No. 27, s. 2016.

The said Decision was considered a **Must-Read** Decision during the November 24, 2015 Commission Meeting.

The Commission deemed it as must-read for the guidance of all school teachers and heads/principals as they are charged with the supervision and care of students. As teachers and heads/principals, their profession carries the utmost responsibility of setting a good example. Thus, an act of grave misconduct through sexual harassment is beyond the decency and the morality expected of teachers and heads/principals.


CERTIFIED TRUE COPY

Rose Marie D. Moscoso
ROSE MARIE D. MOSCOSO
 Administrative Officer V
 Records Division-DepEd Central Office



In view of the commitment of the Department of Education to respect, protect, and promote child rights, you are hereby advised to disseminate copies of CSC Decision No.15-0908 to all Schools Division Superintendants, legal officers and school heads within your respective jurisdiction for their guidance and information. Attached is a copy of a version of said Decision where the real names of the victim, her classmate, the school and/or any other information tending to establish or compromise their identities are withheld pursuant to the Supreme Court Decision in the case of People of the Philippines vs. Cabalquinto (G.R. No. 167693, 19 September 2006, 502 SCRA 419). As of today, the same version may now be viewed or downloaded from the CSC website, specifically through the following link: http://www.csc.gov.ph/phocadownload//MustRead/2015/MustRead_D150908.pdf

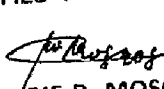
For compliance.


ATTY. ALBERTO T. MUYOT
Undersecretary

Encls.:

CSC O.M. No. 27, s. 2016

CSC Decision No. 15-0908 dated December 23, 2015

CERTIFIED TRUE COPY
 7/19/16
ROSE MARIE D. MOSCOSO
Administrative Officer V
Records Division-DepEd Central Office

RECEIVED BY: *Skid*DATE/TIME: 5/5/16 1:20 pmO.M. No. 27 s. 2016

OFFICE MEMORANDUM

TO : ALL CSC REGIONAL AND FIELD OFFICES

SUBJECT : Must-Read Case of ANINAG, Jeffrey M.
(Re: Grave Misconduct)

The case of ANINAG, Jeffrey M. promulgated on December 23, 2015 was considered a *Must-Read* Decision during the November 24, 2015 Commission Meeting.

The Commission deemed it *must-read* for the guidance of all school teachers and heads/principals being in charge with the supervision and care of students. As teachers and heads/principals, their profession carries utmost responsibility of setting good example. Thus, an act of grave misconduct through sexual harassment is beyond the decency and the morality expected of teachers and heads/principals.

In view of the foregoing, you are advised to disseminate copies of the said CSC Decision No. 15-0908 to all school heads within your respective jurisdiction for their guidance and information. Attached is a copy of a version of said Decision where, the real names of the victim, her classmate, the school and/or any other information tending to establish or compromise their identities are withheld pursuant to the Supreme Court in the case of **People of the Philippines vs. Cabalquinto (G.R. No. 167693, 19 September 2006, 502 SCRA 419)**. The revised version is provided for purposes of publication and dissemination only. The original of said Decision is on file with the Commission Secretariat and Liaison Office (CSLO).

For strict compliance.

Alicia
ALICIA dela ROSA-BALA
Chairperson

Encl:

CSC Decision No. 15-0908 dated December 23, 2015

OLAS/Y56/mpm/16-ush
MEMO to CSCROs (ANINAG case)

13 APR 2016

In a R.A.C.E. to Serve: Responsive, Accessible, Courteous and Effective Public Service



ANINAG, Jeffrey M.
Re: Grave Misconduct
(Appeal)
(D-2015-08018)

Number: 150908

Promulgated: 23 Dec 2015

x-----x

DECISION

Jeffrey M. Aninag, Teacher, xxx National High School, Valenzuela City, appeals from the Resolution dated March 17, 2015 of the Department of Education (DepEd), Pasig City, affirming with modification the Resolution dated April 02, 2013 and Order dated June 06, 2013 of the Regional Director, DepEd-National Capital Region (DepEd-NCR) finding Aninag guilty of Grave Misconduct and modifying the penalty imposed upon him from one (1) year suspension to dismissal from the service.

Pertinent portions of the assailed Resolution dated March 17, 2015 of the DepEd read, as follows:

xxx

"Respondent Jeffrey M. Aninag committed the offense of Grave Misconduct by sexually abusing a student named AAA.

"Under the Revised Schedule of Penalties of the Civil Service Commission, the penalty for Grave Misconduct for the first offense is Dismissal from the Service.

"WHEREFORE, premises considered, the herein appeal is hereby DISMISSED for lack of merit. However, the penalty of one (1) year suspension from the service is hereby MODIFIED accordingly. Instead, the penalty of DISMISSAL FROM THE SERVICE is hereby imposed upon respondent Jeffrey M. Aninag. The Regional Director, DepEd National Capital Region, is hereby directed to inform this Office of the effectivity date of the dismissal from the service of respondent Jeffrey M. Aninag."

Aninag, on the other hand, in his appeal, relied on the following grounds, to wit:

xxx

"I. THE HONORABLE DEPARTMENT SECRETARY COMMITTED ERROR IN AFFIRMING THE DECISION OF THE REGIONAL DIRECTOR (DepEd-NCR) DESPITE VIOLATION OF APPELLANT'S RIGHT TO DUE PROCESS AS THERE WAS SERIOUS FLAW IN THE CREATION OF THE INVESTIGATING COMMITTEE;

Nota Bene: The real name of the victim and her classmate, the school and/or any other information tending to establish or compromise their identities are withheld in this Decision. The name of the victim and her classmate appear herein as AAA and BBB, respectively. The name of the school appears as xxx National High School. This is in line with the ruling of the Supreme Court in *People of the Philippines v. Cabalquinto* (G. R. No. 167693, 19 September 2006, 502 SCRA 419).

In a Race to Serve: Responsive, Accessible, Courteous and Effective Public Service

- "II. THE HONORABLE DEPARTMENT SECRETARY ERRED IN HOLDING THAT THE INVESTIGATING COMMITTEE THAT CONDUCTED THE FORMAL INVESTIGATION WAS LEGALLY CONSTITUTED AND HAS COMPETENT JURISDICTION;
- "III. THE HONORABLE DEPARTMENT SECRETARY ERRED IN AFFIRMING THE DECISION AND FINDINGS OF THE REGIONAL DIRECTOR (DepEd-NCR) DESPITE THE FACT THAT THE FORMAL INVESTIGATION AND ALL PROCEEDINGS SUBSEQUENT THERETO ARE NULL AND VOID;
- "IV. THE HONORABLE DEPARTMENT SECRETARY ERRED IN ISSUING THE APPEALED RESOLUTION (MARCH 17, 2015) WITHOUT EXPRESSING CLEARLY AND DISTINCTLY THE FACTS, THE RULES AND LAWS ON WHICH THE SAME IS BASED;
- "V. THE HONORABLE DEPARTMENT SECRETARY COMMITTED GRAVE ERROR IN AFFIRMING THE DECISION OF THE REGIONAL DIRECTOR WHICH HAS NO LEGAL BASIS, ANCHORED ON FINDINGS OF FACTS WHICH ARE BASED ON ERRONEOUS AND INCOMPLETE RECORD, LACK OF IMPARTIALITY OF THE INVESTIGATING BODY AGAINST APPELLANT AND DENIAL OF THE RIGHT TO DUE PROCESS OF APPELLANT."

Records show that sometime in September 2010, at around 3:00 in the afternoon, Aninag requested AAA to help him on something and directed her to the school's clinic. AAA heeded Aninag's request and while the two (2) were inside said clinic, Aninag sexually harassed AAA by grabbing and kissing her, even to the extent of showing his genitalia. In another occasion, sometime in January 2011, when AAA was about to go inside the stockroom to borrow some books, Aninag invited her inside and, right there and then, touched her private parts and then seduced her to perform sexual communication with him.

Thus, on February 16, 2011, AAA filed a Letter-Complaint addressed to the xxx National High School's Division Superintendent. Said complaint was received by the school's division office, and then transmitted, together with her sworn statement, to the Women and Child Protection Desk of the Valenzuela City Police. In said complaint, AAA accused Aninag of committing Acts of Lasciviousness pursuant to Republic Act No. 7610 (Special Protection of Children Against Abuse, Exploitation and Discrimination Act).

Subsequently, AAA was joined by some teachers in her school who filed their respective complaint against Aninag before the School Principal. The School Principal forwarded their complaint to the School Division Superintendent, who in turn, forwarded their complaint to the Office of the Regional Director, DepEd National Capital Region.

On August 8, 2011 Aninag filed his Counter-Affidavit, denying vehemently and categorically the accusations filed against him, and positing that a previous rape case filed against him was eventually dismissed. By reason of said previous case, his co-teachers were convinced that he is a scoundrel, recidivist, and habitual offender, as he sexually harassed one AAA.

Based on said affidavits, the Regional Office conducted its preliminary investigation and, after finding a *prima facie* case, issued a Formal Charge for Grave Misconduct against Aninag on November 17, 2011.

Anent the Formal Charge, the case was initially captioned with the teachers as the complaining parties, thus:

xxx

"ARLENE MANQUIZ, ET AL,
Complainants,

-versus-

ADM. CASE No. NCR 2011-064
For: Grave Misconduct

"JEFFREY ANINAG,
Respondent,"

However, on February 13, 2012, complainants filed a motion for the amendment of the caption of the case, that the complainants be changed to AAA who was referred to as the real complainant. On February 14, 2012, the Regional Office granted said motion, and the caption of the case was then amended accordingly. Thus, the amended caption reads, as follows:

xxx

"AAA,
Complainant,

-versus-

ADM. CASE No. NCR 2011-064
For: Grave Misconduct

"JEFFREY ANINAG,
Respondent,"

On the other hand, the Formal Charge, thus, reads:

xxx

"That in September 2010 at around 3:00 o'clock in the afternoon while the student named AAA was about to go home, you call and asked for help to do something in the School Clinic. When the two of you were inside the clinic, you suddenly closed the door, grabbed

and kissed her and when she fought back and asked you to stop, you even opened your zipper and show her your reproductive organ. The following day, you came up to her and said, 'If you tell any person about what happened yesterday, I will have you killed.' This kind of incident happened again sometime in January 2011 at the school's stockroom, where books are being borrowed. While the student AAA and her classmate name BBB was about to borrow books from said stockroom, you invited her inside and right then and there, you touched her private parts and seduced her in having sex with you.

"And that, in the presence of the four (4) Head Teacher, the Guidance Counselor, the Level Chairman, the Adviser and a Subject Teacher, you admitted having a sexual relationship with one of your students."

After the formal investigation, the DepEd National Capital Region issued its Resolution dated April 2, 2013 finding Aninag guilty, as charged. Pertinent portions of said Decision, thus, reads, as follows:

xxx

"The Respondent's alibi of going to Camella Homes to pay his monthly amortization cannot be given serious consideration by this Office. He failed to prove physical impossibility that the defense of alibi requires in order to merit serious consideration. The Investigating Committee established that the Respondent has significant fondness to female students and engaging-relationship with them. Further, in a conference held at the school's Guidance Office sometime in February 2011. Respondent admitted that he has sexual relationship with one of his female students. He admitted the same in the presence of four (4) Head Teachers, the School Guidance Counsellor, the Adviser of the students affected, and a Subject teacher.

"Denial and alibi cannot be given greater evidentiary value than the testimonies of credible witnesses who testify on affirmative matters. Respondent's denial cannot be given weight over the positive testimony of the complainant and the witnesses.

xxx

"Misconduct is defined as a transgression of some established or definite rule of action. More particularly, it is an unlawful behavior by the public officer. In grave misconduct, the element of clear intent to violate the law or flagrant disregard of an established rule must be manifest. Unmistakably, the acts committed by the respondent-teacher against his student is a flagrant transgression of established rule. It is also a violation of the Code of Ethics for Professional Teachers for he failed to maintain a dignified personality which could serve as a role model worthy of emulation by learners, peers and all others.

"WHEREFORE, premised on the foregoing, the respondent is hereby found guilty as charged. However, this being his first offense on record and for humanitarian consideration, he is hereby meted the penalty of ONE (1)

YEAR SUSPENSION from the service, with stern warning that repetition of the same offense shall be dealt with severely. x x x"

On May 24, 2013, Aninag moved for the consideration of said Decision. However, on June 6, 2013 the DepEd-NCR denied his motion for lack of merit and ordered the implementation of the April 2, 2013 Decision.

On July 10, 2013, further appealed the April 02, 2013 Decision and the June 6, 2013 Order of the DepEd-NCR before the Secretary of DepEd, Pasig City.

On March 17, 2015, the DepEd Secretary dismissed Aninag's appeal for lack merit. It affirmed the finding of guilt against Aninag for Grave Misconduct and further modified the penalty of one (1) year suspension to dismissal from the service. Aninag filed a motion for reconsideration but the same was denied in DepEd Resolution dated June 26, 2015.

Hence, the instant appeal.

The issue to be resolved is whether the appeal is meritorious.

The Commission rules in the negative.

A perusal of the records will show that Aninag did not question nor raise the issue of the composition of the Formal Investigation Committee until the promulgation of the decision of the Regional Director. Neither was said issue raised in his Motion for Reconsideration assailing the Decision dated April 02, 2013 of the Regional Director.

The assailed DepEd's Resolution discussed that:

xxx

"As to the composition of Formal Investigating Committee, this Office finds compliance with Section 9 of RA 4670 and Section 21 (a) of DepEd Order No. 49, s. 2006, which shall be composed of the following:

- '1. The School's Division Superintendent of his/her duly authorized representative, who must have at least the rank of a Division Supervisor where the teacher belongs as the Chairman;*
- '2. A representative of the local or in its absence, any existing provincial or national teachers organization; and*
- '3. A Supervisor of the Division, the last two to be designated by the disciplinary authority.'*

"In the present case, the Formal Investigating Committee is composed of the following:

'Chairman: Dr. Benjamin Samson, Education Program Supervisor;

*'Members: Dr. Leilanie M. Mendoza, Education Program Supervisor;
Ms. Nueva, President, Secondary School Teacher's Association.'*

"The Chairman and Members of the Formal Investigating Committee were designated by the Regional Director, a disciplining authority, pursuant to Section 2 of DepEd Order No. 49, s. 2006 in relation to Section 1 thereof. Hence, the Formal Investigating Committee was legally constituted and has competent jurisdiction to hear the case and all its proceedings were valid and in order."

As to the merits of the case, Aninag clearly demonstrated an unlawful behavior brought about by sexually harassing AAA in at least two (2) occasions simply offering the excuse of alibi and mere denial thereof. Such actuations of the appellant truly deserve serious attention as these are irregular, unlawful and beyond decency and norms expected from a high school teacher. There were clear transgressions of established and definite rule of action on his part. His immoral and threatening acts are without doubt unbecoming of a teacher. As a teacher, he is considered under the law as a second parent to students in the school and, thus, would naturally commit to provide special protection and assistance to them.

In CSC Resolution No. 98-1432 dated July 10, 1998 (ARTECHE, Jesusita), the Commission stated, thus:

xxx

"Misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence of the public officer. Also the word misconduct implies a wrongful intention, and not a mere error of judgement. If the transgression is done with deliberate intent or in complete disregard of established rules, it becomes Grave Misconduct. Otherwise, it is only Simple Misconduct." (Emphasis supplied)

The Commission finds appellant's wrongful acts as deliberate and in complete disregard of established rules. As a teacher, he is charged with the supervision and care of his students. His profession carries with it the utmost responsibility of setting good example. Apparently, Aninag failed in this obligation.

In the case of Santos vs. National Labor Relations Commission (NLRC), G.R. No. 115795 dated March 06, 1998, the Supreme Court upheld the dismissal of a teacher who had disgraced the teaching profession, ratiocinating thus:

xxx

"It is to state the obvious that schools, next only to the home, wield a weighty influence upon the students, especially during the latter's formative years, for it instills in them the values and mores which shall prepare them to discharge their rightful responsibilities as matures individuals in society. At the vanguard in nurturing their growth are the teachers who are directly charged with rearing and educating them. As such, a teacher serves as a role model for his students. Corollarily, he must not bring the teaching profession into public disrespect or disgrace. For failure to live up to the exacting moral standards demanded by his profession, petitioner Jose Santos was dismissed from his employment on the ground of immorality. We uphold his dismissal.

xxx

"As a teacher, petitioner serves as an example to his pupils, especially during their formative years and stands in loco parentis to them. To stress their importance in our society, teachers are given substitute and special parental authority under our laws.

"Consequently, it is but stating the obvious to assert that teachers must adhere to the exacting standards of morality and decency. x x x.

"Accordingly, teachers must abide by a standard of personal conduct which not only proscribes the commission of immoral acts, but also prohibits behavior creating a suspicion of immorality because of the harmful impression it might have on the students. Likewise, they must observe a high standard of integrity and honesty." (Emphasis supplied)

Based on the afore-cited jurisprudence, a school is considered the heart of formal education. It is where students advance and learn. Its aim is to provide the basic education and instill values for all learners.¹ Hence, the law and society put high regard in learning institutions and demand from those serving in them the highest standard of morality and decency. Indeed, those who fail to live up to these standards deserves accountability with the highest penalty and must perforce be removed therefrom to protect and preserve the institution.

Consequently, in view of these high standard accorded to the teaching profession and to the institution charged with delivering basic education, Aninag should be held liable for Grave Misconduct², and, thus, he should be penalized with dismissal from the service with all its accessory penalties.

As regards the imposition of penalty, Section 46 (A) (3), Rule 10, Revised Rules on Administrative Cases in the Civil Service (RRACCS), provides that Grave Misconduct is a grave offense punishable by dismissal from the service. Further, Section 52 (a), RRACCS,

¹ Section 2, Republic Act No. 9155, August 11, 2001, An Act Instituting a Framework of Governance for Basic Education, Establishing Authority and Accountability, Renaming the Department of Education, Culture and Sports as the Department of Education, and for Other Purposes.

² Section 46 (A) (3), Rule 10, Revised Rules on Administrative Cases in the Civil Service.

provides that the penalty of dismissal from the service shall carry with it the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking Civil Service examination. Nevertheless, such imposition of accessory penalty of forfeiture of retirement benefits submits to the exclusion of Aninag's entitlement to his terminal leave benefits and personal contributions to the GSIS, if any.

WHEREFORE, the appeal of Jeffrey M. Aninag, Teacher, xxx National High School, Valenzuela City, is hereby **DISMISSED**. Accordingly, the Resolution dated March 17, 2015 of the Department of Education (DepEd), Pasig City, affirming with modification the Resolution dated April 02, 2013 and Order dated June 06, 2013 of the Regional Director, DepEd-National Capital Region (DepEd-NCR), finding Aninag guilty of Grave Misconduct and imposing upon him the penalty of dismissal from the service, is **AFFIRMED**. The accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, except terminal/accrued leave benefits and personal contributions to the GSIS, if any; perpetual disqualification from reemployment in the government service and bar from taking the Civil Service examination are likewise imposed.

Copies of this Decision shall be furnished the Commission on Audit-DepEd, and the Government Service Insurance System (GSIS), for their reference and appropriate action.

Quezon City.

ORIGINAL SIGNED
ALICIA dela ROSA-BALA
Chairperson

ORIGINAL SIGNED
ROBERT S. MARTINEZ
Commissioner

ORIGINAL SIGNED
NIEVES L. OSORIO
Commissioner

Attested by:

ORIGINAL SIGNED
DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office