

**BASIC : LETTER DATED MAY 04, 2009, FROM MR. FIDEL T. MAGNO,
OFFICER-IN-CHARGE OF THE DEPARTMENT OF
MANPOWER DEVELOPMENT AND PLACEMENT OF THE
CITY OF CEBU**

2nd Indorsement
May 6, 2009

Respectfully returned to Dr. Patricio Gabuya, City Director, DILG Cebu City Office, the herein basic communication from Mr. Fidel Magno, Officer-in-Charge of DMDP of the City of Cebu, requesting legal opinion whether the Acting Mayor can issue appointments to the beneficiaries of Cebu City's Special Program for the Employment of Students (SPES) prior to the end of the 30 working days from the time of the Mayor's first day of absence or temporary incapacity.

In reply thereto, DILG Central Office had the occasion to respond to a similar query under DILG Legal Opinion No. 23 S2001, dated April 16, 2001. Therein it was held that while the law provides that the Vice Mayor as Acting Mayor can appoint, suspend or dismiss employees only when the period of temporary incapacity exceeds thirty (30) working days (Section 46(a), RA 7160), such power can already be exercised even before the lapse of the said thirty (30)-working day period if it is apparent from the beginning that the temporary incapacity of the local chief executive would exceed thirty working days.

PEDRO A. NOVAL, JR.
Regional Director

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