



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
Francisco Gold Condominium II, EDSA cor. Mapagmahal St.,  
Diliman, Quezon City

**OFFICE OF THE UNDERSECRETARY FOR LOCAL GOVERNMENT**

LEGAL OPINION NO. 105 S. 2007

16 November 2007

**MR. FERMIN ROLLIE Z. SILANG**  
Chairman of the Board  
Ilijan Community Development Foundation, Inc.  
Barangay Ilijan, Batangas City

Dear Mr. Silang:

This pertains to your letter requesting for legal opinion on whether or not the Local School Board of Batangas City can appropriate funds for the school supplies of public elementary students.

Before answering your query, allow us first to explain the nature of the Special Education Fund (SEF) and the procedure and manner by which the same is to be spent.

Under Section 235 of the Local Government Code, a city may levy and collect an annual tax of one percent (1%) on the assessed value of real property, which shall be in addition to the basic real property tax. The proceeds thereof shall exclusively accrue to the Special Education Fund of the city.

Corollarily, Section 309 of the Local Government Code provides that there shall be maintained in every city treasury a Special Education Fund, which shall consist of the respective share of the city in the proceeds of additional tax on real property to be appropriated for purposes prescribed in Section 272 of the Local Government Code.

Said Section 272 of the Code, on the other hand, provides that the proceeds from the additional one (1%) percent tax on real property accruing to the Special Education Fund shall be allocated for

the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development, as determined and approved by the Local School Board.

Relative thereto, Article 363 of the Implementing Rules and Regulations of the Local Government Code provides that the proceeds of the additional 1% percent real property tax accruing to special education fund shall be allocated as determined and approved by the Local School Board concerned only for the following purposes: (1) operation and maintenance of public schools; (2) construction and repair of school buildings, facilities and equipment; (3) educational research; (4) purchase of books and periodicals; and (5) sports development.

As can be gleaned from the foregoing provisions of the Local Government Code and its Implementing Rules and Regulations, the Special Educational Fund can only be appropriated and allocated for purposes prescribed under Section 272 of the Local Government Code and Article 363 of the Implementing Rules and Regulations of the Local Government Code. Any deviation from the purposes prescribed for by law under which the SEF proceeds can be appropriated and disposed would constitute malversation of public funds or technical malversation of public funds, as the case may be.

In reply now to your query, we are of the view that the Special Educational Fund can be appropriated for the purchase of schools supplies of public elementary students provided that it falls under the category of "books and periodicals" and that it has been predetermined and approved by the Local School Board.

Hope we have guided you accordingly.

Very truly yours,

  
**AUSTERE A. PANADERO**  
Undersecretary 

Encl: a/s

Legal:28:43/La

cc: Director Roberto C. Abejero  
DILG Region IV-A  
FTI Complex, Taguig City