



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management  
Malacañang, Manila

LEGAL OPINION NO. L-B-2001-08

**SUBJECT : Local Government Budgeting - Appropriations**

**ISSUE :** Whether or not a Municipality is empowered under the Local Government Code (LGC) of 1991 to establish the College Education Loan Fund (CELF) and appropriate funds therefor.

**FACTS :** The Municipality of Loon, Bohol, requested for opinion on the legality of creating a CELF and appropriating local funds therefor. The proposed Ordinance No. 07-2001 covering the same as sponsored by Kagawad Clovis L. Nazareno, Chairperson of the Committee on Finance, Budget, and Appropriation, has the following salient features:

The CELF shall be created, the purpose of which is to lend money to qualified college students to finance their educational expenses such as tuition and other regular school fees. The phrase, "Qualified College Students" is defined as a currently enrolled college student, resident of Loon and studying in Bohol, and certified by the Barangay Captain of the barangay wherein he or she is residing as belonging to the lower 50 % income bracket in the locality. Qualified College Students can borrow from the Fund in an amount not exceeding P5,000.00 to pay for their tuition and other school fees. The loan shall be paid in full or on installment basis within six (6) months from the date of its availment without interest.

**OPINION :** The Sangguniang Bayan may establish the CELF.

The following arguments support this position:

- (1) Section 16 of the LGC of 1991 provides that *every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of general welfare.*

The CELF is clearly intended for the promotion of the general welfare of the constituents of the Municipal Government of Loon since its primordial goal is to alleviate the plight of the poor but deserving college students of the said LGU.

- (2) The proposed ordinance may also be considered as a valid exercise of police power under the general welfare clause. In the case of *Binay v. Domingo* (201 SCRA 508), the Supreme Court (SC) upheld the validity of the grant by the City of Makati of burial assistance to the bereaved families of Makati whose gross family income does not exceed P2,000. The SC further explained that:

*"The care of the poor is generally recognized as a public duty. The support for the poor has long been an accepted exercise of police power in the promotion of the common good.*

*"There is no violation of the equal protection clause in classifying paupers as subject of legislation. Paupers may reasonably be classified. Different groups may receive varying treatments. Precious to the hearts of the legislators, down to our local councilor, is the welfare of the paupers. Thus, statutes have been passed giving rights and benefits to the disabled, emancipating the tenant-farmer from the bondage of the soil, housing the urban poor, etc.*

*"Resolution No. 60, re-enacted Resolution No. 243, of the Municipality of Makati is a paragon of the continuing program of our government towards social justice. The Burial Assistance Program is a relief of pauperism, though not complete x x x."*

In the same spirit as the doctrine enunciated in the aforesaid *Binay Case*, the CELF loan assistance to the needy students of the Municipality of Loon is geared towards social justice.

Relatedly, it has been an established policy on the matter of the review of the annual and supplemental budgets of LGUs in line with the principle of local autonomy, that the DBM shall confine the review of Appropriation Ordinances within the contents of the budget, that is, for purposes of ensuring that the appropriations are within the estimates of income and determining compliance with the budgetary requirements and limitations provided under R.A. No. 7160, unless the same is in violation of the other provisions of the LGC and other applicable laws.

**REFERENCE:** Memorandum of the Secretary dated 29 October 2001 to DBM RO-VII

*Recommended:*

  
**JANET B. ABUEL**  
Director, LLS

*Approved:*

  
**EMILIA T. BONCODIN**  
Secretary