



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management  
Malacañang, Manila

**LEGAL OPINION NO. N-C-2001-03**

**SUBJECT : National Government Compensation**

**ISSUE :** Whether or not an employee of the Home Development Mutual Fund (HDMF) is entitled to Educational Assistance.

**FACTS :** Ms. Nadia R. Taboy, Accountant IV of the HDMF, sought clarification on the rules for entitlement to Educational Assistance, in the light of the Supreme Court decision in NTA vs. COA, GR No. 119385 dated 05 August 1999, the dispositive portion thereof states:

*'WHEREFORE, the petition is hereby GRANTED, the assailed COA Decision No. 95-100 is SET ASIDE, and the disallowance in question LIFTED. No pronouncement as to costs.*

*SO ORDERED."*

In the said case, the Supreme Court lifted the disallowance made by the COA on the payment of Educational Assistance for CY 1993. As represented, Ms. Nadia R. Taboy joined the HDMF in December 1991. Starting 1992 until 1996 she had received annual Educational Assistance. However, for 1997 onwards, the grant was discontinued to all those hired after July 1, 1989.

**OPINION :** Ms. Nadia R. Taboy is not entitled to receive the annual Educational Assistance.

The continuation of benefits shall apply only to incumbents as of July 1, 1989. The SC decision in the case of NTA vs. COA merely tackled the legal basis for the grant of educational allowance and NOT the

legal basis for the grant of educational allowance and NOT the qualification of the grantees thereof, hence, it cannot be squarely applied in the case at bar as the decision was on a different specific issue.

Further, the provision of Section 12 of Republic Act No. 6758, otherwise known as the Salary Standardization Law, is clear on the subject of additional compensation for incumbents only as of July 1, 1989 as provided below:

***"Section 12. Consolidation of allowances and Compensation.*** – *All allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.*

*Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government."* (Underscoring supplied)

On the other hand, the NTA vs. COA case, at most, underscored the recognition of the qualifications to the grants therein authorized, among others, limiting the same to incumbents as of July 1, 1989, to wit:

*"Accordingly, the Court concludes that under the aforesaid 'catch-all proviso,' the legislative intent is just to include the fringe benefits which are in the nature of allowances and since the benefit under controversy is not in the same category, it is safe to hold that subject educational assistance is not one of the fringe benefits within the contemplation of the first sentence of Section 12 but rather, of the second sentence of Section 12, in relation to Section 17 of R.A. No. 6758, considering that (1) the recipients were incumbents when R.A. No. 6758 took effect on July 1, 1989, (2) were, in fact, receiving the same, at the time, and (3) such additional compensation is distinct and separate from the specific allowances above-listed, as the former is not integrated into the standardized salary rate."* (emphasis supplied)

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**REFERENCE:** Letter dated 03 September 2001 to HDMF

*Recommended:*

  
**JANET B. ABUEL**  
Director, LLS

*Approved:*

  
**EMILIA T. BONCODIN**  
Secretary