



**OMNIBUS RESOLUTION EXPRESSING
GRAVE CONCERN ON PERSONNEL
ACTIONS IN VIOLATION OF CESB AND
CSC LAWS, RULES AND REGULATIONS**

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Resolution No. 619

WHEREAS, in her speech on January 22, 2001 at the Flag Raising Rites in Malacañang entitled: "Let Us Work Together in Building the Nation," President Gloria Macapagal-Arroyo emphasized, among others, the three (3) pillars of good governance, namely: **1.) A sound, moral foundation; 2.) A philosophy of transparency; and, 3.) An ethic of effective implementation**, which all government workers should uphold. The President also recalled her father's advice, "**respect the bureaucracy, respect the civil service**" which she committed to ". . .bring to the Office of the President and Malacañang;"

WHEREAS, a Career Executive Service (CES) has been created under the Integrated Reorganization Plan (IRP) approved by Presidential Decree No. 1, as amended, to form a continuing pool of well-selected and development oriented career administrators who shall provide competent and faithful service;

WHEREAS, as explained by the Commission on Reorganization, the creation of the CES is intended to prevent the filling-up of higher administrative positions on considerations other than merit and demonstrated competence. i.e., that senior administrators shall be carefully selected on the basis of high qualifications and competence, skilled in both techniques and processes of management;

WHEREAS, the above considerations are clearly intended to professionalize the third level executives of the bureaucracy thereby writing finis' to the pernicious practice of the "spoils system" of the past;

WHEREAS, Part III, Article IV of the IRP created the Career Executive Service Board (CESB) to serve as the governing body of the CES with the power to promulgate rules, standards and procedures on selection, classification, compensation and career development of members of the CES;

WHEREAS, Book V, Title I A, Chapter 2, Sections 6, 7, and 9 of the Administrative Code of 1987 provides that the civil service, which embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned and controlled-corporations with original charters, is classified into **career service** which is characterized by entrance based on **merit and fitness, opportunity for advancement to higher career positions, and security of tenure** and **non-career service**, that is

characterized by entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and tenure which is limited to a period specified by law, or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made;

WHEREAS, Book V, Title I A, Chapter 2, Section 3 of the same Code provides that the **Career Executive Service** covers the positions of Undersecretary, Assistant Secretary, Bureau Directors, Assistant Bureau Directors, Regional Directors, Assistant Regional Directors, Chief of Department Service and other officers of equivalent rank as may be identified by the CESB, all of whom are appointed by the President;

WHEREAS, under Office of the President (OP) Memorandum Circular No. 796 dated January 17, 1975, a ranking structure as recommended by the CESB, was approved establishing CESO ranks I to V corresponding to the positions above referred to;

WHEREAS, under OP Memorandum Order No. 372 dated July 3, 1991, the ranking structure was modified by adding CESO rank VI and prescribing the Salary Grade corresponding to each rank;

WHEREAS, under a policy previously implemented by the Board, CES eligibles were automatically recommended for appointment to ranks appropriate to their respective positions, which policy was cited by the Supreme Court in the case of Secretary of Justice v. Bacal, G.R. No. 139382, dated December 6, 2000 as basis for security of tenure in the CES;

WHEREAS, the automatic grant of CESO rank gave rise to inequities among members of the CES who rose from the CESO ranks as against the lateral entry of political protégées who immediately got their ranks by virtue of their positions despite lack of adequate managerial preparations therefor;

WHEREAS, under policy reforms initiated by the Board, CESB Resolution No. 453 s. 2002 was promulgated dissociating original and promotional appointments to CESO ranks from appointment to CES positions whereby irrespective of the CES position held by its incumbent, original appointment to CESO rank shall initially be at CESO rank VI and that promotional appointment in CESO ranks, irrespective of CES position held, shall be on the basis of broad levels of responsibility; personal qualifications; and, demonstrated competence;

WHEREAS, in CESB Resolution No. 548 s. 2004, the Board adopted a policy that in lieu of security of tenure based on CESO ranks, the attainment of CES eligibility by an incumbent of a CES position is sufficient to enjoy security of tenure in the CES, in conformity with the pertinent policies of the Civil Service Commission for third level qualified incumbents;

WHEREAS, concomitant to the security of tenure of CES members, Part III, Article IV 5 e of the IRP provides that, "members of the CES may be reassigned or transferred from one position to another provided that such reassignment or transfer is made in the interest of public service and involves no reduction in rank or salary x x x;"

WHEREAS, Book V, Subtitle A, Chapter 5, Section 27 (2) of the Administrative Code of 1987, provides that: in the absence of appropriate eligibles and it becomes necessary in the public interest to fill a vacancy, a **temporary appointment** shall be issued to a person who meets all the requirements for the position to which he is being appointed except the appropriate civil service eligibility. However, such **temporary appointment shall not exceed twelve (12) months**, but the appointee may be replaced sooner if a qualified civil service eligible becomes available;

WHEREAS, under the IRP mandate that appointment to appropriate classes of position in the Career Executive Service shall be made by the President from a list of career executive eligibles recommended by the Board and in accordance with the above-cited provision of the Code, CESB Resolution No. 408 s. 2002 was promulgated wherein appointment and/or promotion to CES positions shall be in accordance with the following policy:

1. The CES eligibility conferred by the Career Executive Service Board is a requirement for appointment to and/or promotion of any person to a position in the CES;
2. A CESO or CES eligible shall be given priority in an appointment to a vacant CES position;
3. In exceptional cases where the President or the appropriate appointing authority may appoint a non-CES eligible to a CES position, such appointment shall be temporary in nature and shall not exceed twelve (12) months. Upon appointment to a CES position, a non-CES eligible or non-CESO shall be required to subsequently take the CES eligibility examinations;
4. The President or appropriate appointing authority may issue promotional appointment to a higher CES position, provided, that no CES eligible is available and qualified for such higher CES position as certified by the CESB. **Provided further, that such promotional appointment of a non-CESO shall be temporary in nature and shall not exceed twelve (12) months unless the appointee subsequently acquires CES eligibility and appointed by the President to CES rank;**

WHEREAS, the rule on temporary appointments has been enshrined in several landmark cases decided by the Supreme Court (Achacoso v. Macaraig, G.R. No. 93023 dated March 13, 1993; Pangilinan v. Maglaya, G.R. No. 104216 dated August 20, 1993). The CSC, in MC No. 20 s. 2002 and MC No. 9 s. 2005, reiterated the same rule with the limitation, among others, that only one renewal of a temporary third level appointment shall be allowed; provided there are no qualified applicants actually available and willing to assume the position;

WHEREAS, an inventory conducted by the Board revealed that of the **2,583** CES positions, **2,122** positions are occupied of which only **1,227** or **58%** have third level eligibilities while the remaining **895** or **42%** are filled-up by non-eligibles;

WHEREAS, the Board is alarmed by personnel actions — affecting CESOs and/or third level eligibles — that have transgressed the above laws, rules and regulations thereby undermining the principles of professionalism and meritocracy. Some of these are:

- a. A department undersecretary who was terminated via a thank you letter but subsequently ordered transferred to another department;
- b. A government corporate executive who was eased out and replaced by a non-eligible outsider;
- c. CESOs who were placed on “floating” status;
- d. CESOs who were relieved from their CES positions and replaced by non-eligibles;
- e. CESOs who were relieved from their CES positions and demoted to non-CES positions;
- f. Appointments of non-CESOs/non-eligibles to CES positions despite the availability of CESOs and/or third level eligibles ready and willing to occupy said positions; and,
- g. Creation of excess undersecretary and assistant secretary positions as well as designations of political appointees to career positions which are detrimental to the government and demoralizing to members of the career service;

WHEREAS, the Board views with much concern the apparent politicization of the career service as shown in the letter of the Chair of the OP Search Committee to the Secretary of the DOTC dated January 31, 2006 stating that “. . .a non-CES eligible occupying a CES position is deemed as a political appointee who serves at the pleasure of the President;”

WHEREAS, the above transgressions, among others, have resulted in growing apprehension and demoralization among the members of the CES, which can only further erode the institutional foundations of a professional bureaucracy;

WHEREFORE, foregoing premises considered, the Board **RESOLVES**, as it is hereby **RESOLVED** to express its grave concern on the obvious disregard of pertinent Career Executive Service Board and Civil Service Commission laws, rules and regulations in the above-cited instances: **RESOLVED FURTHER**, that all departments and agencies, in the interest of meritocracy and professionalism in the CES, are hereby enjoined to comply with the above stated rules: **RESOLVED FURTHERMORE**, that:

1. In accordance with Section 2(3), Article IX-B of the 1987 Constitution, no officer or employee of the civil service shall be removed or suspended except for cause provided by law. Thus, security of tenure based on eligibility should be respected;
2. All concerned are reminded and enjoined to comply with the conditions embodied in the rule on the reassignment or transfer of members of the CES namely:
 - a. That such reassignment or transfer is made in the interest of public service;
 - b. That it involves no reduction in rank or salary including such other benefits, allowances and privileges received prior to their reassignment or transfer; and,
 - c. That no member of the CES shall be reassigned or transferred oftener than every two (2) years.
3. A "floating" status accorded a CES member is not within the purview of the rule on reassignment and transfer in the CES. Accordingly, to ensure compliance with the above-quoted rule, reassignment or transfer of CESOs shall be effected only upon the availability of the corresponding position;
4. Non-career officials occupying CES positions are prohibited from exercising control or supervision over regular and career personnel of a department or agency as this practice usually results in protracted disputes in the workplace and demoralization of the latter which are prejudicial to public service;
5. A presidential appointee to a CES position who lacks the appropriate eligibility requirement may only be issued a temporary appointment, which shall not exceed twelve (12) months with only one renewal of said temporary appointment provided that the appointee may be replaced sooner if a qualified third level eligible becomes actually available.
6. Presidential appointees to CES positions who come from the career service but do not have the eligibility required should be clearly appointed with a **temporary status** while appointees not from the career service shall be classified as **coterminous with the appointing authority**; and,
7. Those appointed to third level positions outside the approved Department of Budget and Management plantilla of personnel of a department or agency shall not be classified to be within the coverage of the CES, hence, occupants thereof shall be considered as on a coterminous status of appointment.

RESOLVED FINALLY that copies of this omnibus resolution be furnished to the Office of the President, Civil Service Commission, Commission on Audit, departments/agencies and all organizations of government officials and employees.

APPROVED this 20th day of March 2006 in Quezon City, Philippines.

signed
KARINA CONSTANTINO-DAVID
Chairperson

signed
RAMON F. NIEVA
Vice Chairperson

signed
FERDINAND B. CUI, JR.
Member

signed
GODOFREDO C. DE GUZMAN
Member

signed
EDUARDO T. GONZALEZ
Member

signed
JAIRUS D. PAGUNTALAN
Member

signed
GERARDO A. PLANA
Member

signed
CARINA S. VALERA
Member

Attested by:

signed
BETTINA MARGARITA S. LAYUGAN
Acting Board Secretary