

Republika ng Pilipinas
Pambansang Pangasiwaan ng Patubig
(NATIONAL IRRIGATION ADMINISTRATION)
Lungsod ng Quezon

**LABANAN
ANG
KAHIRAPAN**



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OUR REFERENCE:

MC No. 38, s. 2009

MEMORANDUM CIRCULAR

TO: **THE SENIOR DEPUTY ADMINISTRATOR, DEPUTY ADMINISTRATORS,
DEPARTMENT/REGIONAL/OPERATION/PROJECT MANAGERS,
DIVISION MANAGERS AND OTHERS CONCERNED**

SUBJECT: **OMNIBUS POLICY ON THE COVERAGE OF THE CAREER
EXECUTIVE SERVICE**

Enclosed is a copy of Circular No. 3, series of 2009 of the Career Executive Service Board (CESB) embodying the above-cited subject which was approved on 18 May 2009 and adopted on 19 May 2009 through its Resolution No. 799. It carries, among other salient features, that the CES covers managerial and executive positions above division chief level regardless of the appointing authority.

The adoption of said policy is anchored on the recent case promulgated on 29 April 2009 where the Supreme Court upheld the requirement for CES Eligibility albeit, the Petitioner, a non-presidential appointee, was occupying a position classified by the CESB as CES position.

However, Section 7 thereof provides exemption from the coverage in the Career Executive Service whereby an Agency may request the Board that a position be declared a non-CES position if the head of the agency believes that said position does not properly belong in the Career Executive Service.

Be guided accordingly.


CARLOS S. SALAZAR
Administrator

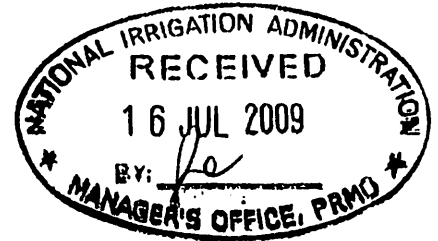
Date: August 14, 2009



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CAREER EXECUTIVE SERVICE BOARD
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**OMNIBUS POLICY ON THE COVERAGE OF
THE CAREER EXECUTIVE SERVICE (CES).**

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Resolution No. 799

WHEREAS, pursuant to paragraph 1, Article IV, Part III of the Integrated Reorganization Plan (IRP), as implemented by Presidential Decree No. 1, as amended, dated September 24, 1972, a Career Executive Service is created to form a continuing pool of well selected and development oriented career administrators who shall provide competent and faithful service;

WHEREAS, under paragraph 2, *ibid.*, the Career Executive Service Board, hereinafter referred to as the Board, is created to serve as the governing body of the Career Executive Service, which shall promulgate rules, standards and procedures on the selection, classification, compensation and career development of members of the Career Executive Service;

WHEREAS, Sec. 8 (2), Chapter 2, Subtitle A, Title I, Book V of the Administrative Code of 1987 provides that "(e)ntrance to the third level shall be prescribed by the Career Executive Service Board";

WHEREAS, Section 8, Chapter 2, Subtitle A, Title I, Book V of the Administrative Code of 1987 provides that classes of positions in the career service shall be grouped into three major levels:

- (a) The first level shall include clerical, trades, crafts, and custodial service positions which involve non-professional or sub-professional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies;
- (b) The second level shall include professional, technical, and scientific positions which involve professional, technical, or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level;
- (c) The third level shall cover positions in the Career Executive Service;

WHEREAS, Section 7 (3), Chapter 2, Subtitle A, Title 1, Book V of the Administrative Code of 1987, expressly provides that the career service shall include positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;

WHEREAS, pursuant to paragraph 5 (c) Article IV, Part III of the IRP which provides that "(a)ppointment to appropriate classes in the Career Executive Service shall be made by the President from a list of career executive (service) eligibles recommended by the Board...", the phrase "all of whom are appointed by the President" does not limit the coverage of the Career Executive Service. Such appointment refers to appointment to ranks in the CES as distinguished from appointment to position;

WHEREAS, the power of the Career Executive Service Board to identify and classify other executive positions as part of the Career Executive Service is recognized by the Supreme Court in the case of HIGC vs. CSC, 220 SCRA 148 G.R. No. 95450 dated March 19, 1993;

WHEREAS, the need to identify and classify other executive positions as part of the Career Executive Service is made more imperative by the fact that Section 8 (b), Chapter 2, Book V of Administrative Code of 1987 limits the supervisory positions in the second level up to Division Chief only, to wit, "(t)he second level shall include professional, technical, and scientific positions which involve professional, technical, and scientific work in a non-supervisory or supervisory capacity requiring at least four years of collegiate work up to Division Chief level.";

✓ **WHEREAS**, a literal adherence to the above limitation in the law will place in limbo, the classification and status of many other executive and managerial positions above the level of Division Chief especially in other offices outside of the regular executive departments including government-owned and controlled corporations where position titles for executive or managerial positions do not follow the position titles identified in the law as CES positions;

WHEREAS, to paraphrase Justice Malcolm in the case of Bonifacio Ysip vs. Municipal Council of Cabiao, Nueva Ecija, et al, G.R. No. L-18947, between a strict and literal interpretation of the law and a liberal and reasonable interpretation of the law, the obvious choice would be, the spirit of the law which "giveth life" over the letter of the law which "killeth";

WHEREAS, in the most recent case of Jose Pepito M. Amores vs. Civil Service Commission, et al, G. R. No. 1700093, promulgated on April 29, 2009, the Supreme Court upheld the requirement for CES eligibility and for an incumbent to be appointed to CES rank by the President to complete the official's membership in the CES and be conferred security of tenure – referring to the Petitioner in this case, a non-Presidential Appointee – who was occupying the position of Deputy Director which was classified by the CESB as a CES position ;

NOW THEREFORE, foregoing premises considered, the Board **RESOLVES**, as it is hereby **RESOLVED**, to reiterate and adopt the following policies on the coverage of the Career Executive Service:

1. The Career Executive Service shall be governed by the Career Executive Service Board (CESB).

2. The CES covers managerial and executive positions above division chief level regardless of the appointing authority.
3. The legal mandate to prescribe and administer the CES eligibility examinations as basis for conferment of third level eligibility is solely vested in the CESB.
4. **Positions covered by the Career Executive Service.** The following positions are covered by the Career Executive Service:
 - (a) The Career Executive Service includes the positions of Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director (department-wide and bureau-wide), Assistant Regional Director (department-wide and bureau-wide), and Chief of Department Service;
 - (b) Unless provided herein or otherwise, all other managerial or executive positions in the government, including government-owned or controlled corporations with original charters are embraced within the Career Executive Service provided that they meet the following criteria:
 - i.) the position is a career position;
 - ii.) the position is above division chief level; and,
 - iii.) the duties and responsibilities of the position require the performance of executive or managerial functions.
5. **Positions Excluded from the Coverage of the Career Executive Service.** The following executive and managerial positions are excluded from the coverage of the Career Executive Service:
 - a.) Managerial and executive positions which have fixed term of office as provided for in the charter of the agency or as specified by law;
 - b.) Managerial and executive positions in the non-career service which include the following:
 - i.) Elective officials and their personal or confidential staff;
 - ii.) Secretaries and other officials of cabinet rank who hold their positions at the pleasure of the President and their personal or confidential staff;
 - iii.) Chairman and members of commission and boards with fixed terms of office and their personal or confidential staff;
 - iv.) Contractual personnel or those whose employment in the government is in accordance with a special contract to undertake a specific work or job; and,
 - v.) Emergency and seasonal personnel.

- c. Managerial and executive positions in the national government belonging to the closed career systems which are administered by special bodies such as the Foreign Service, Philippine National Police, State Colleges and Universities unless otherwise provided in their respective charters, the Scientific Career Service and the like.

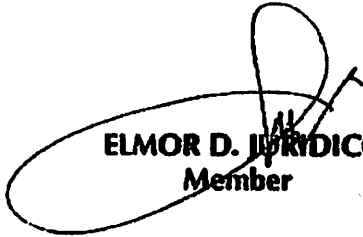
d.) The position of Head Executive Assistant.

6. **Status of Incumbents of Positions Included Under the Coverage of the CES.** Incumbents of positions which are declared to be Career Executive Service positions for the first time pursuant to this Resolution who hold permanent appointments thereto shall remain under permanent status in their respective positions. However, upon promotion, appointment or transfer to other Career Executive Service positions, these Incumbents shall be under temporary status in said other Career Executive Service positions until they qualify.
7. **Exemption from the coverage in the Career Executive Service.** An agency may request the Board that a position be declared a non-CES position if the head of the agency believes that said position does not properly belong in the Career Executive Service. A request for exemption should be filed with Career Executive Service Board accompanied by appropriate justifications. Upon receipt of such request, the Board shall issue a decision on the matter within a reasonable time.
8. **Positions in Local Government Units.** Managerial and executive positions in local government units are, for the meantime, excluded from the coverage of the Career Executive Service.
9. **Repealing Clause.** All circulars, policies, issuances inconsistent herewith are hereby repealed.
10. **Separability Clause.** If any section or part of this resolution shall be held to be invalid, the remaining provisions shall be given full force and effect as if the part held invalid had not been included therein.
11. **Effectivity Clause.** This resolution shall take effect after fifteen (15) days following its publication in the Official Gazette or newspapers of general circulation in the Philippines.

APPROVED on the 18th day of May, 2009 in Pasig City, Philippines and adopted this 19th day of May, 2009 in Pasay City, Philippines.


BERNARDO P. ABESAMIS
Chairperson


MARIA PAZ W. FORONDA
Vice Chairperson


ELMOR D. JURIDICO
Member

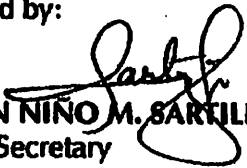
RICARDO L. SALUDO
Member


ROLANDO L. METIN
Member


JAIRUS K. PAGUNTALAN
Member


ANTONIO D. KALAW
Member

Attested by:


GLENN NIÑO M. SARTILLO
Board Secretary