

[CESB RESOLUTION NO. 799, May 18, 2009]

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

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, Nueve 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. 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: