

[**CESB RESOLUTION NO. 905, October 26, 2010**]

RULES AND PROCEDURES IMPLEMENTING EXECUTIVE ORDER NO. 891, DIRECTING ALL DEPARTMENTS, AGENCIES OF THE NATIONAL GOVERNMENT, AND GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS, TO SUBMIT TO THE CAREER EXECUTIVE SERVICE BOARD FOR ITS ATTESTATION, ALL APPOINTMENTS OR APPOINTEES OCCUPYING CAREER EXECUTIVE SERVICE AND/OR THIRD LEVEL POSITIONS.

WHEREAS, paragraph 2, Article IV, Part III of the Integrated Reorganization Plan (IRP), as amended, mandated the Career Executive Service Board (CESB) as the governing body of the Career Executive Service (CES), to promulgate rules, standards, and procedures on the selection, classification, compensation and career development of members of the CES;

WHEREAS, Section 8 (2), Chapter 2, Subtitle 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 (1) (c), Chapter 2, Subtitle A, Book V of the Administrative Code of 1987 provides that 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, provides that, "the career service shall include positions in the CES; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of the Department Service and other officers of equivalent ranks as may be identified by the CESB, all of whom are appointed by the President";

WHEREAS, It is a basic rule of interpretation that words and phrases used in the statute, in the absence of clear legislative intent to the contrary should be given their plain, ordinary usage or meaning. Word Web English Dictionary and Thesaurus define the word **"cover" as referred to in Section 8 (1) (c) as "include in scope; include as part of something broader"**;

WHEREAS, on the basis of the above definition, it could be deduced that there are other components of the broader Third Level aside from the CES; hence, the Third Level includes positions in the CES which are presidential appointees, and other managerial and executive positions of equivalent rank in the career service that are CES classified, which may not be presidential appointees;

WHEREAS, in the case of **Cuevas vs. Bacal** G.R No. 139382, 6 December 2000, the Supreme Court citing the provisions of Section 5 (c) and (e) of Article IV, Chapter I, Part III of Presidential Decree No. 1 or the Integrated Reorganization Plan dated 24 September 1972 emphasized that the **appointments, assignments, and transfers in the CES are based on their CESO rank**;

WHEREAS, in the case of **Dimayuga vs. Benedicto II**, G.R No. 144153, 16 January 2002, the Supreme Court had the occasion to explain the importance of obtaining the needed eligibility for a position in the CES is the appropriated CESO rank, thus **"(t)he guaranty of security of tenure to members of the career executive service does not extend to the particular positions to which they may be appointed - a concept which is applicable only to first and second-level employees in the civil service -but to the rank which they are appointed by the President";**

WHEREAS, on 10 June 2010, the President of the Philippines, Her Excellency Gloria Macapagal-Arroyo issued Executive Order No. 891, Directing All Departments, Agencies of the National Government, and Government-Owned and/or Controlled Corporations with Original Charters, to Submit to the Career Executive Service Board for its Attestation, All Appointments of Appointees Occupying Career Executive Service and/or Third Level Positions;

WHEREAS, Section 1 of Executive Order 891 provides that"(a)ll departments, agencies of the national government, and government-owned and controlled corporations with original charters are hereby directed to submit to the Career Executive Service Board (CESB) for its attestation, all appointments of appointees occupying Career Executive Service and/ or third level positions";

WHEREAS, Section 2 of Executive Order 891 provides that, "(t)he Career Executive Service (CES) shall be composed of positions in the third level with the following characteristics:

- a. The position is a career position;
- b. The position is above Division Chief level; and
- c. The duties and responsibilities of the position require performance and executive or managerial functions.";

WHEREAS, under the second paragraph of Section 2 *supra*, explicitly declared that, "(t)he third level shall be composed of CES positions as well as those positions occupied by non-presidential appointees that are above Division Chief and are performing executive and manageria functions.";

WHEREAS, Section 3 of E.O. 891 recognized the authority of the CESB under paragraph 2, Article IV, Part III of the Integrated Reorganization Plan (IRP) *supra*, and acknowledged, that, "(t)he CESB shall have the authority to promulgate rules, standards and procedures on the selection, classification, compensation and career development of members of the CES.";

WHEREAS, Section 4 of E.O. 891 provides for an implementation period, thus the directive that, "(t)he submission to the CESB, of all pertinent appointment papers of appointees occupying CES/third level positions in all departments, agencies of the national government, government-owned and/or controlled corporations with original charter, must be completed not later than forty-five (45) days from the date of the signing of this Order.";

WHEREAS, in the case of De la Rea v. Subido, L-26082, March 1, 1968, 22 SCRA 954, the Supreme Court stated that, "to attest implies authority to determine whether the appointment under consideration was made in accordance. with law";

WHEREAS, based on the general principle of law which states that rules and regulations promulgated by administrative agencies in pursuance of the procedure and authority conferred upon them by law, have the force and effect of laws;

WHEREFORE, foregoing premises considered, the Board **RESOLVES**, as it is hereby **RESOLVED**, to adopt and prescribe the following rules and procedures to govern the preparation, submission of, and attestation of all appointments of appointees occupying Career Executive Service and/or Third Level positions;

RULE I

GENERAL POLICIES ON APPOINTMENTS

SECTION 1. The State shall be insure and promote the Constitutional mandate that appointments in the Civil Service shall be made only according to merit and fitness.

SEC. 2 Merit and fitness to appointments in the career executive service shall be determined, among other things, by completion of the four-stage screening process promulgated by the CES Board namely:

- a) Written Examination;
- b) Assessment Center;
- c) Validation of on-the-Job Performance; and
- d) Board Interview and comply with such other requirements as may be prescribed by the CESB.

After a successful completion of the four-stage screening process abovementioned, and upon conferment of CES Eligibility and after complying with all other requirements prescribed by the Board, a CES Eligible appointed to a CES position may already qualify for appointment to a Career Executive Service Officer (CESO) rank by the President of the Philippines.

SEC. 3. Any action denoting the movement or progress of personnel in the career executive service shall be known as personnel action such as promotion, transfer, reinstatement, reemployment, detail, reassignment, secondment, demotion and job rotation.

RULE II

COMMON REQUIREMENTS FOR REGULAR APPOINTMENTS

SECTION 1. Appointments to positions in the Career Executive Service and/or Third Level submitted to the Career Executive Service Board (CESB) for attestation should

meet the requirements listed hereunder. Non-compliance with such requirements shall be a ground for non-attestation of said appointments.

- a. **Signature of the Appointing Authority.** The original copy of the appointment must be duly signed and the succeeding two (2) copies thereof at least initialed by the appointing authority.
- b. **Position Title.** The position title indicated in the appointment shall conform with the approved Position Allocation List and should be found in the index of Occupation Service (IOS). The salary grade shall always be indicated after the position title.
- c. **Employment Status.** The employment shall be indicated on the space provided therefor. It may be permanent, provisional, temporary, substitute or co-terminous.
- d. **Date of signing.** The date of signing, which is the date of the issuance of the appointment shall be indicated below the signature and the initials of the appointing authority.
- e. **Nature of Appointment.** The correct nature of appointment shall be indicated on the space provided therefor. The nature of appointment, which may either be original, initial, promotion, transfer, reemployment, reappointment, reinstatement, renewal, change of status or demotion, shall be indicated in the space provided for.
- f. **Third Level Selection Board (TLSB) Evaluation/Screening.** All appointees should be screened and evaluated by the TLSB, if applicable. As proof thereof, a certification signed by the Chairman of the Board at the back of the appointment or alternatively, a copy of the proceedings/minutes of the Board's deliberation shall not be earlier than the date of the final screening/deliberation of the TLSB.

Candidates for the following appointments shall no longer be subject to the screening of the TLSB:

- i. Substitute appointment due to their short duration and emergency nature. However, should the position be filled by regular appointment, candidates for the position should be screened and passed upon by the TLSB.
- ii. Change of status of appointment from temporary to permanent.
- g. **Personal Data Sheet.** The appointee's Personal Data Sheet (CS Form 212, Revised, 1998) which should be properly and completely accomplished by the appointee, shall be attached to the appointment.

SEC. 2. Employment Status in General.

- a. **Permanent-** issued to a person who meets all the minimum qualification requirements of the position to which he is being appointed, including the appropriate eligibility prescribed, in accordance with the provisions of law, rules and standards promulgated in pursuance thereof.

- b. **Temporary-** issued to a person who meets the education, experience and training requirements for the position to which he is being appointed except for the appropriate eligibility but only in the absence of a qualified eligible actually available. The appointment shall not exceed twelve months, reckoned from the date it was issued but the appointee may be replaced sooner if a qualified eligible who is willing to accept the appointment becomes actually available.
- c. **Substitute-** issued when the regular incumbent of a position is temporary unable to perform the duties of his position, as when he is on approved leave of absence or is under suspension or is on scholarship rant or is on secondment. This is effective only until the return of the former incumbent. A substitute appointment is issued only if the leave of absence of the incumbents is at least three (3) months.
- d. **Co-terminous-** issued to a person whose entrance and continuity in the service is based on the trust and confidence of the appointing authority of the head of the organizational unit where assigned, or co-existent with incumbent; or limited by the duration of the project; or co-existent with the period for which an agency or office was created. Specifically, the co-terminous categories of appointments are:
 - a) Co-terminous with the appointing authority.
 - b) Co-terminous with the head of the organizational unit where assigned.
 - c) Co-terminous with the incumbent,
 - d) Co-terminous with the lifespan of the agency.

SEC. 3. Nature of Appointment.—The nature of appointment shall be as follows:

- a. **Original.**—refers to the initial entry into the career service of persons who meet all the requirements of the position.

It is understood that the first six months of service following an original appointment will be probationary in nature and the appointee shall undergo a thorough character investigation. A probationer may be dropped from the service for unsatisfactory conduct or want of capacity anytime before the expiration of the probationary period. Provided that such action is appealable to the Board.

However, if no notice of termination or unsatisfactory conduct is given by the appointing authority to the employee before the expiration of the six-month probationary period, the appointment automatically becomes permanent.

- b. **Initial.**—refers to all other appointments of persons entering the government service for the first time (whether career or non-career) which are not covered by the definition of original appointment.
- c. **Promotion.**—is the advancement of an employee from one position to another with an increase in duties and responsibilities as authorized by law, and usually accompanied by an increase in salary. Promotion may be from one department or agency to another or from one organizational unit to another