



MC No. 12, s. 2011

MEMORANDUM CIRCULAR

TO : ALL HEADS OF LOCAL GOVERNMENT UNITS

SUBJECT : Revised Guidelines on the Determination of Positions in the Local Government Units as Primarily Confidential

Pursuant to CSC Resolution No. 1100187 dated February 01, 2011, the Commission hereby adopts the following guidelines/policies on the declaration of positions in the local government units as primarily confidential:

1. Positions in the Offices of the Provincial Governor, Provincial Vice Governor, City/Municipal Mayor/Vice Mayor or, *Sangguniang Panlalawigan/Panlungsod/ Bayan* as found in the organizational structure of the local government unit, the duties and responsibilities of which imply not only confidence in the aptitude of the appointees but primarily close intimacy which insures freedom of discussion, delegation and reporting without embarrassment or freedom from misgivings or betrayals of personal trust are hereby declared/confirmed as primarily confidential positions. These positions may be given the following titles:
 - Executive Assistant I
 - Executive Assistant II
 - Executive Assistant III
 - Executive Assistant IV
 - Executive Assistant V
 - Private Secretary I
 - Private Secretary II
 - Security Agent I
 - Security Agent II
 - Security Officer I
 - Security Officer II
 - Security Officer III
 - Security Officer IV
 - Security Officer V
 - Personal Driver/Chauffer

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2. Positions in the Offices of the Provincial Governor, Provincial Vice Governor, City/Municipal Mayor/Vice Mayor or, *Sangguniang Panlalawigan/Panlungsod/ Bayan* with position titles belonging to the career service, the duties of which do **not** require the highest degree of trust and confidence as shown in the description of duties and responsibilities, but were classified as primarily confidential under MC No. 22, s. 2007, shall be **reverted to their career service classification**.

The co-terminous incumbents may, at the discretion of the appointing authority, however, be reappointed to said reverted positions under permanent status if found qualified and subject to compliance with the requirements set forth under existing Civil Service Law and rules.

Examples: Administrative Officer (Human Resource Management Officer)
Administrative Officer (Records Officer)
Administrative Officer (Supply Officer)
Administrative Assistant (Clerk)
Administrative Aide (Utility Worker)
Local Legislative Staff Employee

3. Positions bearing generic career service titles the functions of which, as shown in the description of duties and responsibilities, require the highest degree of trust and confidence and are in close proximity with the Provincial Governor, Provincial Vice Governor, City/Municipal Mayor/Vice Mayor and Members of the *Sangguniang Panlalawigan/Panlungsod/Bayan* and were classified as primarily confidential under CSC MC No. 22, s. 2007 shall be **retitled** to reflect the actual duties and responsibilities of the positions. These positions shall not be given titles pertaining to career service positions. Incumbents of said positions shall be issued appointments to the re-titled positions under co-terminous status.

Examples: Administrative Aide with parenthetical title (Driver) to **Driver (Governor/ Vice-Governor/ Mayor/ Vice-Mayor)**
Administrative Assistant with parenthetical title (Secretary) to **Private Secretary**
Administrative Officer to **Executive Assistant**

4. Appointments to Administrator, Legal Officer and Information Officer positions in municipalities, cities and provinces, all of which are co-terminous with the appointing authority, shall comply with the qualification standards¹ and concurrence by the concerned *Sanggunian*², otherwise, they will be disapproved.

¹ Title 5, Article 10, Sec. 480; Title 5, Article 11, Sec. 481; and Title 5, Article 16, Sec. 486, Book III of RA 7160


² Title 2, Chapter 2 Sec. 443(d); Title 3, Chapter 2, Sec. 454(d); and Title 4, Chapter 2, Sec. 463(d) Book III of RA 7160

5. The reversal or re-titling of positions as provided in these guidelines shall be covered by a *Sanggunian Panlalawigan/Panlungsod/Bayan* Resolution, a copy of which shall be submitted to CSC Regional and Field Offices.
6. Future requests for declaration as primarily confidential of positions not covered under this issuance shall be submitted to the Commission for evaluation and approval.

The Civil Service Regional and Field Offices are hereby directed to render assistance in the review of the organizational structure and staffing pattern and in the implementation of these guidelines to LGUs under their respective jurisdiction.

All existing issuances of the Commission which are inconsistent herewith are deemed repealed or amended.

This Memorandum Circular takes effect fifteen (15) days from the publication of CSC Resolution No. 1100187 dated February 01, 2011 in a newspaper of general circulation.


FRANCISCO T. DUQUE III
Chairman

30 MAR 2011

Note: CSC Res No. 1100187 dated February 1, 2011 was published in the *Malaya Business Insight* on March 22, 2011.



**Revised Guidelines on the Determination of
Positions in the Local Government Units as
Primarily Confidential**

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Number : 1100187

Promulgated: 01 FEB 2011

RESOLUTION

WHEREAS, Section 3, Article IX (B) of the 1987 Philippine Constitution provides that “[T]he Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. x x x”;

WHEREAS, among the powers of the Commission as provided under Section 12 (2) and (9) Chapter 3, Subtitle A, Title I, Book V of Executive Order No. 292 are the following: (a) “Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws; and (b) “Declare positions in the Civil Service as may properly be primarily confidential, highly technical or policy determining”;

WHEREAS, pursuant to the foregoing provisions, the Commission, in CSC Resolution No. 071813 dated September 10, 2007 (circularized through CSC Memorandum Circular No. 22, s. 2007 and published at the Manila Times on October 20, 2007), declared certain positions in the Offices of the Provincial Governor, Provincial Vice Governor, City/Municipal Mayor/Vice Mayor of Local Government Units (LGUs) as primarily confidential;

WHEREAS, the declaration was prompted by perennial requests received by the Commission from various local government executives especially after every election for the declaration of positions in their respective offices as primarily confidential;

WHEREAS, such wholesale declaration in CSC Resolution No. 071813 spawned widespread reactions from stakeholders such that the Commission had been receiving resolutions/letter-requests from various LGUs appealing for the review, amendment and/or repeal of the said resolution or issuance;

WHEREAS, the Supreme Court in the case of **Civil Service Commission vs. Nita P. Javier (G.R. No. 173264 dated February 22, 2008)**, citing the cases of Civil

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Service Commission, et al. vs. Rafael Salas (274 SCRA 414) and Pinero vs. Hechanova (124 Phil 1022), pointed out that it is the nature of the function of the office which determines whether a position is primarily confidential;

WHEREAS, also the same case of the **Civil Service Commission vs. Nita P. Javier**, the Supreme Court reiterated the “proximity rule” enshrined in the landmark case of **De los Santos vs. Mallare (87 Phil 289)** stating that “*a position is primarily confidential when the nature of the functions of the offices there exists ‘close intimacy’ between the appointee and the appointing power which insures freedom of intercourse without embarrassment or freedom from misgivings of betrayals of personal trust or confidential matters of state.*”

WHEREFORE, in line with the aforementioned jurisprudence and finding merit on the clamor of the local government units, the Commission hereby **RESOLVES** to adopt the following guidelines/policies on the declaration of positions in the local government units as primarily confidential:

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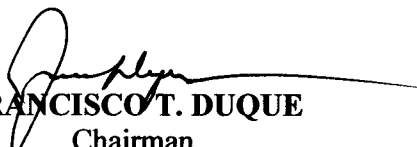
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The Civil Service Regional and Field Offices are hereby directed to render assistance in the review of the organizational structure and staffing pattern and in the implementation of these guidelines to LGUs under their respective jurisdiction.

All existing issuances of the Commission which are inconsistent herewith are deemed repealed or amended accordingly.

This policy shall take effect fifteen days after its publication in a newspaper of general circulation.

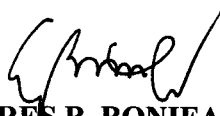
Quezon City,


FRANCISCO T. DUQUE
Chairman


CESAR D. BUENAFLOR
Commissioner


MARY ANN Z. FERNANDEZ-MENDOZA
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office