

**MARGARICO-CASQUEJO, Lilibeth S.**  
**Re: Request for a Ruling; Publication**  
**Of Anticipated Vacant Positions**

x-----x

**RESOLUTION NO. 002777**

Lilibeth S. Margarico-Casquejo, Legal Officer II, Bureau of Local Government Finance, Region No. XI, Davao City, seeks a ruling from the Commission relative to the publication requirement of anticipated vacant positons in the government service.

In her letter-query, Casquejo narrates the following:

"Last year, there were two (2) vacant positions in our Office, namely; Local Treasury Operations Officer IV and Local Assessment Operations Officer IV, both salary grade 22. The former vacant position was published in the Philippine Daily Fiscalizer on October 20, 1999, and the latter was published earlier. Fortunately, these positions were filled up by promotion just recently that is, sometime in August, 2000.

"Presently, the positions vacated by those two (2) employees, who were promoted to the aforesaid positions in August of this year, remain vacant, namely, Local Operations Officer III and Local Assessment Operations Officer III, both with salary grade 18. But the fact is, there was already an advanced publication made on December 2 and 3, 1999, when these positions (LTOO III and LAOO III) were not yet legally vacant, including the other lower positions.

"I am bringing this to your attention, precisely because this is against the civil service law, rules and regulations, and I would like to take hold of a copy of your opinion on this matter for reference of our office."

In fine, the issue to be addressed on this query is whether positions published as vacant while the same are still being occupied and are yet to be vacated is a substantial compliance with the publication requirement under Republic Act No. 7041.

Pertinent to the instant query is CSC Memorandum Circular No. 40, s. 1998 particularly Rule IX, Section 1 and 4 which provide, in part, as follows:

"Sec. I. Vacant positions in the career service shall be published in accordance with the provisions of RA 7041 and its implementing guidelines. x x x.

x x x

"Sec. 4. In case of chain promotion, anticipated vacancies may be published simultaneously with the existing vacant positions/s."

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"Sec. 4. In case of chain promotion, anticipated vacancies may be published simultaneously with the existing vacant position/s."

The publication of the positions of LTOO III and LAOO III made in anticipation of the vacancies therein was by reason of the chain promotion which is allowed by CSC Memorandum Circular No. 40, s. 1998.

The Commission holds that the anticipated promotion of the occupant of a particular position technically renders the position vacant. Hence, the said vacancy must be published pursuant to R.A. No. 7041. In this regard, the publication of the anticipated vacancies may be made either simultaneously or separately with the existing vacant positions.

It is worthy to note that the publication of the existing vacant positions, although not made simultaneously with the anticipated vacancies, does not render said publication ineffective. The import of the civil service law respecting the simultaneous publication of the existing and anticipated vacant positions is merely directory but not mandatory. Hence, the publication of anticipated vacancies may be made separately. What is important is that the existing and anticipated vacancies are published in view of the chain promotions.

WHEREFORE, the Commission hereby holds and so rules that the publication of the positions of Local Treasury Operations Officer III and Local Assessment Operations Officer III while the same are still occupied was valid and effective as they were part of chain promotions.

Quezon City, DEC 13 2000

**(SGD.) JOSE F. ERESTAIN, JR.**

Commissioner

**(SGD.) CORAZON ALMA G. DE LEON**

Chairman

**(SGD.) J. WALDEMAR V. VALMORES**

Commissioner

Attested by:

**(SGD.) ARIEL G. RONQUILLO**

Director II

*Jfe/rad66*

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