



MC No. 05, s. 2022

MEMORANDUM CIRCULAR

- TO :** ALL HEADS OF CONSTITUTIONAL BODIES; DEPARTMENTS, BUREAUS, AND AGENCIES OF THE NATIONAL GOVERNMENT; LOCAL GOVERNMENT UNITS; GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS; AND STATE UNIVERSITIES AND COLLEGES
- SUBJECT :** Guidelines on the Implementation of the Personnel Policies and Options for Affected Personnel Pursuant to Executive Order No. 138, s. 2021

Pursuant to **CSC Resolution No. 2200162** promulgated on **26 January 2022**, the Commission adopts the following Guidelines in the Implementation of the Personnel Policies and Options for Affected Personnel Pursuant to E.O. No. 138, s. 2021:

1.0 Purpose

These guidelines are promulgated to complement the Department of Budget and Management and the Department of Interior and Local Government (DBM-DILG) Joint Memorandum Circular (JMC) No. 2021-3 dated 13 September 2021 re: *Guidelines on the Implementation of Personnel Policies and Options Pursuant to Executive Order (E.O.) No. 138, s. 2021 Directing the Full Devolution of Certain Functions of the Executive Branch to the Local Governments.*

Specifically, these guidelines aim to ensure proper implementation of the options granted to affected personnel due to the full devolution of certain functions of the Executive Branch to the local government units pursuant to E.O. No. 138, s. 2021.

2.0 Scope and Coverage

These guidelines shall cover the agencies of affected personnel in the Executive Branch, which include the National Government Agencies (NGAs) and Government-Owned or -Controlled Corporations (GOCCs) with original charters, during the implementation of E.O. No. 138, s. 2021.

Bawat Kawani, Lingkod Bayani

3.0 General Policies

- 3.1 Affected personnel with permanent appointments who opt to transfer pursuant to Section 12 of E.O. No. 138 shall have security of tenure unless they opt to retire or be separated from the service.
- 3.2 The parent agency with DBM-approved Devolution Transition Plan (DTP) shall provide the CSC with the necessary information or data in the implementation of full devolution, i.e., the list of affected personnel whose positions will be transferred within the agency or to other agencies, and the list of affected personnel with permanent appointments who opted to retire or separate from the service.
- 3.3 The *transfer* contemplated under E.O. No. 138 and its implementing rules and guidelines refers to *transfer of position item* of the affected personnel with permanent appointment within the same agency or from one agency to another, which carries along the budget for said position.

The implementation of the said provisions does not involve the usual transfer or the filling of existing vacant position as provided and defined in the 2017 Omnibus Rules on Appointments and Other Human Resource Actions (ORAOHRA), as amended.

For this purpose, transfer under the said provisions shall be exempt from the publication and posting requirements as well as the Human Resource Merit Promotion Selection Board (HRMPSB) screening requirements pursuant to 2017 ORAOHRA, as amended.

However, transfer under the said provisions is covered by the prohibition under Section 261 (h) of the Omnibus Election Code and rules promulgated by the Commission on Elections (COMELEC) during the election period. Nevertheless, an exemption from said prohibition can be requested by the agency from the COMELEC.

- 3.4 Affected personnel occupying medical/allied-medical items in the Department of Health (DOH) and other agencies may apply for transfer to a DOH-supervised hospital.
- 3.5 The position of the affected personnel who opts to transfer within the agency or other government agencies in the Executive Branch, shall be considered coterminous with the incumbent (CTI) and shall be abolished once he/she is reappointed/promoted to another position, transfers, retires, resigns, or is separated from the service.

4.0 Options of the Affected Personnel

Under Section 12 of E.O. No. 138, s. 2021, the affected personnel with permanent appointment shall have the following options:

4.1 Transfer within the department/agency/GOCC

- a. ***In case of transfer to other units***, the department/agency/GOCC shall issue an appointment to the transferred personnel within thirty (30) calendar days upon receipt of the DBM-approved NOSCA or based on the existing guidelines of the Governance Commission for GOCCs (GCG) pursuant to R.A. No. 10149 or the “GOCC Governance Act of 2011.” Said appointment shall be submitted to the CSC, for attestation/action, within the prescribed period pursuant to CSC rules and regulations.
- b. ***In case of transfer to other offices***, the department/agency/GOCC HRM Office (HRMO) shall coordinate the transfer of the affected personnel with the HRMO of the recipient office, which shall include the turnover of the employment records of the said personnel. Upon receipt of the requisite DTP documents, the recipient Office shall issue an appointment to the transferred personnel in consonance with the preceding item.

4.2 Transfer to other departments/agencies/GOCCs in the Executive Branch

- a. The HRMO of the parent department/agency/GOCC shall coordinate the transfer of the affected personnel with the HRMO of the recipient department/agency/GOCC, which shall include the turnover of employment records of the said employee; and
- b. The recipient department/agency/GOCC shall issue an appointment to the transferred personnel within thirty (30) calendar days from receipt of the requisite DTP documents in consonance with item 4.1.a herein.
- c. In case the proposed transfer is denied by the recipient department/agency/GOCC, the affected personnel shall remain in his/her parent agency. Thus, Item 4.1.a herein shall apply.

4.3 Availment of Retirement/Separation Benefits

- a. Affected personnel with permanent appointments who opted to retire or be separated from the service shall be entitled to retirement benefits and/or separation incentives under existing laws, if

qualified. The HRMO shall assist the affected personnel in processing the payment of retirement/ separation benefits.

- b. The agency shall submit to the CSC-Integrated Records Management Office within fifteen (15) calendar days from receipt of its DBM-approved DTP the list of permanent personnel affected by the full devolution effort and who opted to avail the retirement benefits and/or separation incentives. The said list (Annex G-3 of the DTP submitted by agencies to DBM) shall serve as one of the references of CSC in the attestation of appointments.

5.0 Reemployment

5.1 Affected Personnel with Permanent Appointments

- a. Affected personnel with permanent appointments who retired/separated from the service as a result of the full devolution shall be prohibited from reemployment in any agency of the Executive Branch for a period of five (5) years;
- b. The 5-year prohibited period on reemployment shall not apply to the following:
 - Teaching and medical staff in educational institutions and hospitals, respectively; and
 - Reemployment in the other branches of government, *i.e.* the Legislature, Judiciary, Constitutional Bodies, and in the LGUs.
- c. The reemployment of the retired/separated personnel in the Executive Branch within the prohibited period shall cause the refund of the separation incentives received under Section 13 of E.O. No. 138 on a pro-rated basis subject to the guidelines provided in the DBM-DILG JMC No. 2021-3.
- d. The allowable reemployment of affected personnel after separation from the service with benefits/incentives shall be subject to the qualification requirements, compensation system, and the Merit Selection Plan (MSP) of the hiring agency.

The appointment issued for reemployment shall be submitted by the hiring agency to the CSC for attestation/action within the prescribed period under Civil Service rules and regulations.

5.2 Affected Personnel with Non-Permanent Appointments

- a. Affected personnel with non-permanent appointments, particularly with temporary, casual, contractual, coterminous, or fixed term appointments, may apply to vacant positions in other government

agencies as may be posted in the CSC Job Portal (CSC Bulletin of Vacant Positions in Government) or through other modes, such as agency website, newspaper (local and/or national), and other job search websites.

- b. The reappointment or reemployment of said non-permanent personnel to other government agencies shall be subject to the qualification requirements, compensation system and the CSC-approved MSP of the hiring agency.
- c. The appointment issued for reemployment shall be submitted by the hiring agency to the CSC for attestation/action within the prescribed period under Civil Service rules and regulations.

6.0 Effectivity

The guidelines under CSC Resolution No. 2200162 dated 26 January 2022 shall take effect on 24 April 2022 or after fifteen (15) days from its publication in the Daily Tribune on 8 April 2022.



ATTY. KARLO A. B. NOGRALES
Chairperson

22 April 2022