



MC No. 24, s. 2007

MEMORANDUM CIRCULAR

TO : ALL HEADS OF CONSTITUTIONAL BODIES; DEPARTMENTS, BUREAUS AND AGENCIES OF THE NATIONAL GOVERNMENT; GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS; AND STATE UNIVERSITIES AND COLLEGES

SUBJECT : Guidelines in the Declaration of Positions in Government Agencies (excluding LGUs) as Primarily Confidential

Section 12 (9), Chapter 3, Book V of Executive Order No. 292 empowers the Civil Service Commission to declare positions in the Civil Service as may properly be primarily confidential, highly technical, or policy determining.

The Supreme Court, in the case of *Salazar vs. Mathay*², ruled that a position to be primarily confidential denotes not only confidence in the aptitude of the appointee for the duties of the office but primarily close intimacy which ensures freedom of intercourse without embarrassment or freedom from misgivings of betrayals of confidential matters of state.

Positions expressly declared by laws as primarily confidential need not be declared as such by the Commission.

Generally, primarily confidential positions are exempt from qualification standards; therefore there is a need for the CSC's declaration of positions as such to prevent abuse in making appointments to said positions.

However, based on queries and issues raised with the Commission, there seems to be a lack of understanding on what positions may be declared primarily confidential; hence, to avoid ambiguity and confusion in identifying positions that may be declared primarily confidential, the Commission promulgated CSC Resolution No. 071934 adopting the following guidelines in the declaration of positions in government agencies (excluding LGUs) as primarily confidential:

1. For a position to be declared as primarily confidential, it must be sufficiently shown that it is primarily confidential in nature.

A position is primarily confidential in nature when the duties of the said position require "the appointing authority's belief that he can share a close intimate relationship with occupant, which ensures freedom of discussion,

² 73 SCRA 285

without fear of embarrassment or misgivings of possible betrayal of personal trust on confidential matters of state." (Grino vs CSC, 194 SCRA 458)

2. Positions already identified by certain laws or statutes as primarily confidential need not be declared as such by the Commission.
3. Unless otherwise provided by law, the positions of the personal and confidential staff of Department Secretaries and other officials of Cabinet Rank who hold their positions at the pleasure of the President, as well as those of the Chairman and Members of Commissions and Boards with fixed terms of office are primarily confidential.

The positions of personal and confidential staff are marked as such in the DBM-approved Position Allocation List (PAL) of the Offices of the abovementioned officials.

4. Positions other than those of the personal and confidential staff, the nature of the duties of which requires the utmost trust and confidence of the appointing authority or agency head or the officials served, may be declared as primarily confidential upon request from the agency.
5. The positions of Security Officers assigned to provide personal security to appointive officials are likewise declared primarily confidential.
6. Positions which have been declared by the Commission as primarily confidential will remain as such notwithstanding the change in the appointing authority, head of office or officials served. These include primarily confidential staff of Undersecretaries pursuant to CSC Resolution No. 93-023 dated January 7, 1993.
7. In relation to Item 4, the request for declaration of a position as primarily confidential shall be made by the appointing authority or by the head of office. It shall be filed with the Head of the Civil Service Commission Regional Office concerned, who will initially evaluate the request and submit his/her recommendation to the Commission Proper. The request must be accompanied by the following documents:
 - a. Certified copy of the Position Description Form (PDF) indicating the nature of the duties and responsibilities of the position;
 - b. Organizational structure of the requesting agency including the organizational structure of the particular office or unit where the position sought to be declared as primarily confidential belongs in order to ascertain its proximity or closeness to the appointing authority or head of office; and
 - c. DBM-approved Position Allocation List for the unit.

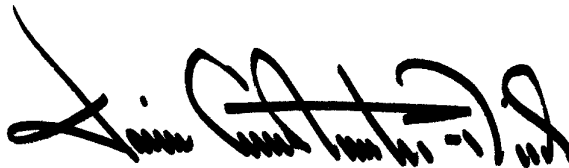
Likewise, in the same Resolution, the Commission has adopted the following:

1. An appointment to a primarily confidential position shall be coterminous in status.

2. The coterminous appointment shall be submitted to the CSC Field Office or Regional Office concerned for attestation/validation together with:
 - a. the pertinent CSC Resolution declaring the position as such for position which falls under Item 4; or
 - b. a certification which states the law or statutes that identifies the position as primarily confidential; or
 - c. a certification that the position falls under Item 5.
3. An appointee holding permanent appointment to a position which is considered primarily confidential by virtue of this Resolution shall retain his/her permanent status. However, once the position is vacated, the succeeding appointment to said position shall be coterminous.

All existing Civil Service Commission issuances which are inconsistent herewith are deemed repealed or modified accordingly.

This Memorandum Circular takes effect fifteen (15) days from the publication of CSC Resolution No. 071934 in a newspaper of general circulation.



KARINA CONSTANTINO-DAVID
Chairman

December 13, 2007

RCL/DBB/FC/Thrgtd/doin:RES - guidelines prim confi-061507

CSC Resolution No. 07-1934 – published in Malaya on November 28, 2007



Republic of the Philippines
Civil Service Commission

Constitution Hills, Batasang Pambansa Complex, Diliman 1126 Quezon City

100 Years of Service;
Civil Service at Its Best.

Mamamayan Muna

**Guidelines in the Declaration of Positions
in Government Agencies (excluding LGUs)
as Primarily Confidential**

X----- X

RESOLUTION NO. 071934

WHEREAS, Section 12 (2), Chapter 3, Book V of Executive Order No. 292 (The Administrative Code of 1987), empowers the Commission to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws;

WHEREAS, Section 12 (9), Chapter 3 of the same Code empowers the Commission to declare positions in the Civil Service as may properly be primarily confidential, highly technical, or policy determining;

WHEREAS, in the case of *Salazar vs. Mathay*¹, the Supreme Court ruled that a position to be primarily confidential denotes not only confidence in the aptitude of the appointee for the duties of the office but primarily close intimacy which ensures freedom of intercourse without embarrassment or freedom from misgivings of betrayals of confidential matters of state;

WHEREAS, positions expressly declared by laws as primarily confidential need not be declared as such by the Commission;

WHEREAS, generally, primarily confidential positions are exempt from qualification standards, and therefore there is a need for the CSC's declaration of positions as such to prevent abuse in making appointments to said positions;

WHEREAS, based on queries and issues raised with the Commission, there seems to be a lack of understanding on what positions may be declared primarily confidential;

WHEREAS, to avoid ambiguity and confusion in identifying positions that may be declared primarily confidential, the Commission deems it fit to issue guidelines for this purpose;

NOW, THEREFORE, pursuant to its rule-making power vested under the Constitution and the Civil Service Law and rules, the Commission **resolves** to adopt the following guidelines in the declaration of positions in government agencies (excluding LGUs) as primarily confidential:

1. For a position to be declared as primarily confidential, it must be sufficiently shown that it is primarily confidential in nature.

¹ 73 SCRA 285

Certified True Copy:

Justin O. Amador
JUSTINO O. AMADOR
Supervising Personnel Specialist

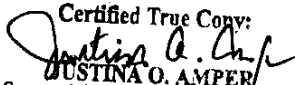
Commission Secretariat and Liaison Office
Civil Service Commission
www.csc.gov.ph


A position is primarily confidential in nature when the duties of the said position require "the appointing authority's belief that he can share a close intimate relationship with occupant, which ensures freedom of discussion, without fear of embarrassment or misgivings of possible betrayal of personal trust on confidential matters of state." (Grino vs CSC, 194 SCRA 458)

2. Positions already identified by certain laws or statutes as primarily confidential need not be declared as such by the Commission.
3. Unless otherwise provided by law, the positions of the personal and confidential staff of Department Secretaries and other officials of Cabinet Rank who hold their positions at the pleasure of the President, as well as those of the Chairman and Members of Commissions and Boards with fixed terms of office are primarily confidential.

The positions of personal and confidential staff are marked as such in the DBM-approved Position Allocation List (PAL) of the Offices of the abovementioned officials.

4. Positions other than those of the personal and confidential staff, the nature of the duties of which requires the utmost trust and confidence of the appointing authority or agency head or the officials served, may be declared as primarily confidential upon request from the agency.
5. The positions of Security Officers assigned to provide personal security to appointive officials are likewise declared primarily confidential.
6. Positions which have been declared by the Commission as primarily confidential will remain as such notwithstanding the change in the appointing authority, head of office or officials served. These include primarily confidential staff of Undersecretaries pursuant to CSC Resolution No. 93-023 dated January 7, 1993.
7. In relation to Item 4, the request for declaration of a position as primarily confidential shall be made by the appointing authority or by the head of office. It shall be filed with the Head of the Civil Service Commission Regional Office concerned, who will initially evaluate the request and submit his/her recommendation to the Commission Proper. The request must be accompanied by the following documents:
 - a. Certified copy of the Position Description Form (PDF) indicating the nature of the duties and responsibilities of the position;
 - b. Organizational structure of the requesting agency including the organizational structure of the particular office or unit where the position sought to be declared as primarily confidential belongs in order to ascertain its proximity or closeness to the appointing authority or head of office; and
 - c. DBM-approved Position Allocation List for the unit.

Certified True Copy:

JUSTINA O. AMPER
Supervising Personnel Specialist
Commission Secretariat and Liaison Office
Civil Service Commission



The Commission further **resolves** to adopt the following:

1. An appointment to a primarily confidential position shall be coterminous in status.
2. The coterminous appointment shall be submitted to the CSC Field Office or Regional Office concerned for attestation/validation together with:
 - a. the pertinent CSC Resolution declaring the position as such for position which falls under Item 4; or
 - b. a certification which states the law or statutes that identifies the position as primarily confidential; or
 - c. a certification that the position falls under Item 5.
3. An appointee holding permanent appointment to a position which is considered primarily confidential by virtue of this Resolution shall retain his/her permanent status. However, once the position is vacated, the succeeding appointment to said position shall be coterminous.

This Resolution repeals/amends existing Civil Service Commission issuances which are inconsistent herewith.

This Resolution takes effect fifteen (15) days after its publication in a newspaper of general circulation.

Let copies of this Resolution be disseminated to all the Civil Service Commission Regional and Field Offices.

Quezon City, **OCT 08 2007**



KARINA CONSTANTINO-DAVID

Chairman

On Leave

CESAR D. BUENAFLOR
Commissioner



MARY ANN Z. FERNANDEZ-MENDOZA
Commissioner

Attested by:



JUDITH D. CHICANO
Director IV

Commission Secretariat and Liaison Office