



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

MC No. 28 s. 2009

MEMORANDUM CIRCULAR

TO : ALL HEADS OF CONSTITUTIONAL BODIES;
DEPARTMENTS, BUREAUS AND AGENCIES OF THE
NATIONAL GOVERNMENT; LOCAL GOVERNMENT
UNITS; GOVERNMENT OWNED OR CONTROLLED
CORPORATIONS; AND STATE COLLEGES AND
UNIVERSITIES

SUBJECT : New Guidelines in the Processing of Appointments
Issued in Violation of Republic Act 7041 (An Act
Requiring Regular Publication of Existing Vacant
Positions in Government Offices)

The Commission has reviewed its policies and issuances related to the implementation of Republic Act No. 7041 (Publication Law) which mandates the publication and posting of vacant positions in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters, and local government units.

After review, the Commission has noted that these policies and issuances were not in harmony with the basic provisions of RA 7041. As such, it is necessary to issue new guidelines in the processing of appointments:

1. The Civil Service Commission Regional Office (CSCRO) or the Civil Service Commission Field Office (CSCFO) shall check the Certification portion of the appointment (KSS Porma Blg. 33) on publication of the position to be filled was accomplished and duly signed by the authorized Officer.

2. If the appointment failed to comply with the requisite publication, the CSCRO/CSCFO shall:
 - 2.1 Return the appointment to the appointing authority (or agency head, as the case may be) with a Notice that the appointment is declared null and void for having been issued in violation of the Publication Law.
 - 2.2 Furnish the appointee with a copy of the Notice.
 - 2.3 Furnish the concerned Commission on Audit (COA) Regional Office or Field Office with the same Notice for their appropriate action particularly on the salaries/allowances received by the appointee after receipt of the Notice.
3. The appointee whose appointment was declared null and void shall receive compensation for actual services rendered as a *de facto officer* from the time he/she assumed the functions of the position up to the time he/she received a copy of the Notice.
4. The Notice should advise about the following conditions/guidelines:
 - 4.1 In case the appointee is allowed to continue his/her service notwithstanding the receipt of Notice, the appointing authority shall be personally accountable for his/her salaries.
 - 4.2 The publication and posting requirements must be complied within a period of thirty (30) calendar days from receipt of Notice.
 - 4.3 Publication of vacancy may be through the Bulletin of Vacancies in the Civil Service or other modes (e.g. newspaper, website, etc.). The vacancy shall also be posted in three (3) conspicuous places for at least fifteen (15) calendar days for local government agencies or ten (10) calendar days for other government agencies, including government-owned or controlled corporations with original charters.
 - 4.4 After compliance with the publication/posting requirements, the appointing authority may issue an appointment immediately. He/she will not be precluded from appointing the previous appointee provided the appointment process prescribed under the Civil Service rules and regulations was properly observed.
 - 4.5 Penalties for violating R.A. 7041, as enumerated.

5. In case of failure to comply with the publication requirement despite receipt of Notice, the CSCRO/CSCFO shall report this to the Office for Legal Affairs (OLA) who will recommend to the Commission to initiate proceedings for violation of the Publication Law.

All rules, regulations and issuances which are inconsistent herewith are hereby repealed, amended or modified accordingly.

This Memorandum Circular takes effect fifteen (15) days from the publication of CSC Resolution No. 09-0917 dated June 23, 2009 in a newspaper of general circulation.

Quezon City,



RICARDO L. SALUDO
Chairman

August 25, 2009

**Note: CSC Res No. 09-0917 dated June 23, 2009
was published in the Manila Times on August 13, 2009**

*RCL/APE/V6
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**New Guidelines in the Processing of
Appointments Issued in Violation of
Republic Act No. 7041 (An Act
Requiring Regular Publication of
Existing Vacant Positions in
Government Offices)**

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RESOLUTION NO. 090917

WHEREAS, Section 2 of Republic Act No. 7041 (Publication Law) mandates the publication and posting of vacant positions in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters, and local government units;

WHEREAS, Section 6 of Republic Act No. 7041 directs the Civil Service Commission to issue rules and regulations necessary for the effective implementation of the Publication Law;

WHEREAS, the Commission has promulgated several policies and issuances related to the implementation of RA 7041;

WHEREAS, RA 7041 states that the Commission shall not act on appointments issued for positions which were not published;

WHEREFORE, to faithfully implement RA 7041, it is necessary to issue new guidelines in the processing of appointments:

1. The Civil Service Commission Regional Office (CSCRO) or the Civil Service Commission Field Office (CSCFO) shall check if the Certification portion of the appointment (KSS Porma Blg. 33) on publication of the position to be filled was accomplished and duly signed by the authorized Officer.

2. If the appointment failed to comply with the requisite publication, the CSCRO/CSCFO shall:
 - 2.1 Return the appointment to the appointing authority (or agency head, as the case may be) with a Notice that the appointment is declared null and void for having been issued in violation of the Publication Law.
 - 2.2 Furnish the appointee with a copy of the Notice.
 - 2.3 Furnish the concerned Commission on Audit (COA) Regional Office or Field Office with the same Notice for their appropriate action particularly on the salaries/allowances received by the appointee after receipt of the notice.
3. The appointee whose appointment was declared null and void shall receive compensation for actual services rendered as a *de facto officer* from the time he/she assumed the functions of the position up to the time he/she received a copy of the Notice.
4. The Notice should advise about the following conditions/guidelines:
 - 4.1 In case the appointee is allowed to continue his/her service notwithstanding the receipt of Notice, the appointing authority shall be personally accountable for his/her salaries.
 - 4.2 The publication and posting requirements must be complied within a period of thirty (30) calendar days from receipt of Notice.
 - 4.3 Publication of vacancy may be through the Bulletin of Vacancies in the Civil Service or other modes of publication (e.g. newspaper, website, etc.). The vacancy shall also be posted in three (3) conspicuous places of their office for at least fifteen (15) calendar days for local government agencies or ten (10) calendar days for other government agencies, including government-owned or controlled corporations with original charters.
 - 4.4 After compliance with the publication/posting requirements, the appointing authority may issue an appointment immediately. He/she will not be precluded from appointing the previous appointee provided the appointment process prescribed under the Civil Service rules and regulations was properly observed.
 - 4.5 Penalties for violating R.A. 7041, as enumerated.



5. In case of failure to comply with the publication requirement despite receipt of Notice, the CSCRO/CSCFO shall report this to the Office for Legal Affairs (OLA) who will recommend to the Commission to initiate proceedings for violation of the Publication Law.

All rules, regulations and issuances which are inconsistent herewith are hereby repealed, amended or modified accordingly.

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

Quezon City, 23 JUN 2009



RICARDO L. SALUDO
Chairman

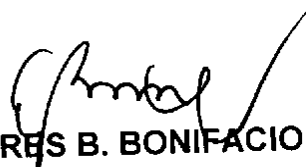


CESAR D. BUENAFLOR
Commissioner



MARY ANN Z. FERNANDEZ-MENDOZA
Commissioner

Attested by:



DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office

**Civil Service Commission Regional Office/
Civil Service Commission Field Office**

Dear _____:

This refers to the appointment of (name of the appointee) as (state the position) under (status of appointment) issued on (date of appointment) and received by this Office on (date of receipt of appointment).

Upon evaluation of the appointment, we noticed that said appointment was issued without compliance with the publication requirement under Republic Act No. 7041 (Publication Law). As such, said appointment is declared null and void and the service of the appointee ceases upon receipt of this Notice. Should Mr/Ms (name of the appointee) be allowed to continue his/her service despite the notice, his/her salary shall be the personal liability of the appointing authority.

You are advised that the publication and posting requirements should be complied with within thirty (30) calendar days from receipt of this Notice. Please be reminded that RA 7041 or the Publication Law is subject to penalties, as follows:

“Sec. 4. Penalties. — (a) Any violation of Sections 2 and/or 3 of this Act and its implementing rules and regulations shall subject the official concerned to public censure without prejudice to the withholding of his salary pending compliance with the requirements as provided in this Act. (b) Any repeated and willful violation of Sections 2 and/or 3 of this Act and its implementing rules and

regulations shall subject the official concerned to criminal prosecution and, upon conviction, suffer the penalty of imprisonment of two (2) years and/or a fine of not less than Five Thousand pesos (P5,000.00) nor more than Ten thousand pesos (P10,000.00), at the discretion of the court."

The publication of the vacancy may be through the Bulletin of Vacancies in the Civil Service or other modes (e.g. newspaper, website, etc.). The vacancy shall also be posted in three (3) conspicuous places for at least (whichever is applicable - 15 calendar days for local government agencies or ten 10 calendar days for other government agencies, including government-owned or controlled corporations with original charters).

After compliance with the publication/posting requirements, you may issue an appointment immediately. You are not precluded from appointing the previous appointee provided the appointment process prescribed under the Civil Service rules and regulations are properly observed.

Failure to comply with the publication requirement despite receipt of this Notice, will constrain us to initiate proceedings for violation of the Publication Law.

For your compliance and appropriate action.

Very truly yours,

- cc: 1. Director _____
Commission on Audit
Regional/Field Office No.
2. Director _____
Department of Budget & Management
Regional Office No.