REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

April 1, 2005

REVENUE MEMORANDUM CIRCULAR NO. 12 - 2005

SUBJECT	:	**Publishing the full text of CESB CIRCULAR NO. 1, Series of 2005 by the Chairperson of Career Executive Service Board entitled Amendment to the Existing Board Policy on Conferment of CES Eligibility to Applicants with Pending Cases.**
TO	:	**All Internal Revenue Officers, Employees and Others Concerned**

For the Information and guidance of all internal revenue officers, employees and other concerned, quoted hereunder is the full text of CESB Circular No. 1, Series 2005 by the Chairperson of Career Executive Service Board entitled Amendment to the Existing Board Policy on Conferment of CES Eligibility to Applicants with Pending Cases.

" Republic of the Philippines
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Circular No. 1
Series of 2005

TO	:	**All Heads of Departments and Agencies of the National Government, Including Government-Owned or Controlled Corporations with Original Charters, and all Officials in the Career Executive Service**
SUBJECT	:	**AMENDMENT TO THE EXISTING BOARD POLICY ON CONFERMENT OF CES ELIGIBILITY TO APPLICANTS WITH PENDING CASES**

Pursuant to CESB Resolution No. 559 s. 2004, the Career Executive Service Board amends in part the Revised Policy on CES Eligibility (CESB Resolution No. 459, series of 2002) specially sections 3, 4 and 5 which treat of the rules on applicants for CES Eligibility with pending criminal and/or administrative cases.

Henceforth, applicants for CES Eligibility with pending criminal and/or administrative cases shall be guided with the policies stated herein as follows:

> **"Section 3. Effect of Pendency of an Administrative Case on Conferment of CES Eligibility.** As a general rule, an applicant, notwithstanding that he/she has a pending administrative case, may be conferred CES Eligibility by the Board upon completion of the four-stage CES Eligibility Examination process.
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> However, in case the pending administrative case of an applicant involves grave offenses of graft and corruption and/or sexual harassment, the Board shall exert effort to manifest to the quasi-judicial body or agency where the administrative complaint is filed, the speedy disposition of the case possibly within six (6) months reckoned from receipt of the written manifestation sent by the Board.
>
> An administrative case is deemed pending when a formal charge has already been filed / instituted by the appropriate disciplining authority.
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> For purposes of this section, administrative cases relating to graft and corruption may include, but are not limited to, the following statutory provisions:

a) Any offense falling under Section 3 of Republic Act. No. 3019 (Anti-Graft and Corrupt Practices Act); and

b) Such other administrative offenses falling within the definition of "graft" and "corruption" provided under Section 5 of this resolution including those provided under Section 52, Rule IV of CSC MC No. 19 s. 1999 (Revised Uniform Rules on Administrative Cases in the Civil Service).

On the other hand, administrative cases relating to sexual harassment are those covered in CSC Resolution No. 01-0940 dated May 21, 2001 (Administrative Disciplinary Rules on Sexual Harassment Cases). It shall be understood, however, that only sexual harassment cases classified as grave offenses are covered by this resolution.

In case the six (6) month period shall lapse without the administrative case being resolved, the Board shall proceed with the conferment of CES Eligibility. The Board, however, reserves the right to cancel the said CES Eligibility should the final judgment carry the penalty of dismissal from the government service.

In case a final resolution has been rendered by the quasi-judicial body or agency within the six (6) month period provided for in the preceding paragraphs of this section finding the applicant guilty of the offense/s charged against him/her, the applicant concerned shall not be conferred CES Eligibility if the penalty involved is dismissal from the government service, or in cases of penalty other than dismissal, until he/she shall have served his/her penalty, notwithstanding the filing of motion for reconsideration or appeal, as the case may be, by the party adversely affected.

Section 4. Effect of Pendency of a Criminal Case on Conferment of CES Eligibility. As a general rule, an applicant with a pending criminal case, shall

be conferred CES Eligibility upon completion of the four-stage CES Eligibility Examination process.

However, as an exception to the rule, an applicant with a pending criminal case shall not be conferred CES eligibility if his/her case falls under any of the following circumstances:

a) The pending criminal case involves graft and corruption and/or sexual harassment;

b) Other criminal offenses whether defined under the Revised Penal Code or Special Laws which carries with it the following imposable penalties:

   1.) Reclusion Temporal or twelve (12) years and one (1) day to twenty (20) years imprisonment or its equivalent;

   2.) Reclusion Perpetua or twenty (20) years and one (1) day to forty (40) years imprisonment or its equivalent; and

   3.) Death.

Criminal offenses relating to graft and corruption are those offenses defined under any of the following statutes:

a.)Section 3 of Republic Act. No. 3019 (Anti-Graft and Corrupt Practices Act);

b.) Title VII (Crimes Committed by Public Officers) of the Revised Penal Code;

c.) R.A. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees; and

d.) Such other criminal offenses provided for under laws including those specified in specials laws,

Provided, that an offense falling under Sec. 4 pars. (b), (c), and (d) of this section shall be considered as related to graft and corruption if it involves acts falling within the definition of "graft" and "corruption" provided for in Section 5 of this resolution.

Criminal offenses related to sexual harassment refer to offenses defined in Republic Act No. 7877 otherwise known as the Anti-Sexual Harassment Act of 1995.

For purposes of this section, an applicant for CES Eligibility shall be considered to have a pending criminal case after a complaint or information has been filed in a court of justice where the case is assigned for trial.

The Board shall order the revocation of the CES Eligibility of one who is found guilty by final judgment in any of the foregoing situations and in cases where the accessory penalty carries with it the perpetual disqualification from holding public office.

Section 5. Definition of Graft and Corruption. The term graft and corruption may be covered by the following definition.

a.) Graft refers to the acquisition of gain or advantage by dishonest, unfair or sordid means, especially through the abuse of his position or influence in politics, business, etc;

b.) Corruption, on the other hand, involves behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them."

CESB Resolution No. 559, series of 2004 (Amending the Existing Board Policy on Conferment of CES Eligibility to Applicants with Pending Cases) was published on January 17, 2005 in Volume 101, Issue No. 3 of the Official Gazette.

In this regard, all concerned are formally notified for their guidance and information.

This circular takes effect immediately.

KARINA CONSTANTINO-DAVID
Chairperson

Attested by:

MARYANN Z. FERNANDEZ MENDOZA, CESO II
Executive Director

PPS2002/Circulars/X4/pending cases "

All revenue officials and employees are joined to give this Circular as wide a publicity as possible.

(Original Signed)
NORMA L. LIPANA
OIC – Deputy Commissioner
Resource Management Group