

**PEREZ, Carmela S.**

**ALFONSO, Larry M.**

Polytechnic University of the Philippines (PUP)

Re: Appointment; SUC President

Age Requirement

X ----- X

## **RESOLUTION No. 990764**

Dr. Carmela S. Perez, an alumna of the Polytechnic University of the Philippines (PUP) and Larry M. Alfonso, Chief, Human Resource Management Office, PUP, request a ruling regarding the appointment of State Universities and College (SUC) President, specifically the PUP President.

In her letter dated October 6, 1998, Dr. Perez asks if the officials and employees, particularly the President of a State University/College (SUC) under Republic Act No. 8292 are covered by the Civil Service Law and Rules. She also asks if there is an age requirement or limit for an appointment as SUC President and whether an individual already out of the service and over sixty-five (65) years of age may be appointed as PUP President.

For this part, Alfonso in his letter dated October 5, 1998 asks whether under Republic Act No. 8292 (An Act providing for the Uniform Composition and Powers of the Governing Board, the Manner of Appointment and Term of Office of the President or Chartered State Universities and Colleges and for Other Purposes) a person over sixty-five (65) years of age is eligible for appointment as a SUC President.

As regards the issue as to whether the SUC President is covered by the Civil Service Law and Rules, officials and employees of SUCs including the SUC President, are embraced by the Civil Service pursuant to Section 2 ( 1 ), Article IX-B of the Constitution of the Philippines as restated in Section 6,

Chapter 2, Title I ( A ), Book V of the Administrative Code of 1987.

With respect to the other issues, they can be summed up as follows: whether or not a person over sixty-five (65) years old may be appointed as SUC President.

Under Section 12, Rule XIII of the Omnibus Rules on Appointments and Other Personnel Actions, "*No person who has reached compulsory retirement age of 65 can be appointed to any position in the government, except to primarily confidential positions, provided that the appointment shall be under temporary status.*"

In CSC Resolution Nos. 96-0326 and 96-2394 (Motion for Reconsideration), this Commission upheld the disapproval of the appointments of Amado Dizon and Arturo Coronel, to the positions of President and Vice-President, respectively, of the City College of Manila since they already reached the compulsory retirement age of 65 at the time of their appointments and that said positions are not personal and confidential staff.

Alfonso, in his letter, however cites Section 6 of RA 8292 and claims that said Act does not set age requirement and thus, there is no intention to bar a person who has reached the age of sixty-five (65) from being appointed as a SUC President. Section 6 of RA 8292 provides, thus:

*"SEC. 6. The Administration. - The administration of the university or college shall be vested in the president of the university or college who shall render full-time service. He shall be appointed by the Board of Regents/Trustees, upon the recommendation of a duly constituted search committee. He shall have a term of four (4) years and shall be eligible for reappointment for another term; Provided, That this provisions shall not adversely affect the terms of the incumbents."*

According to him, what the law sets is a specific age with regard to the extension of the term but not the appointment of a SUC President, as provided under Section 4 thereof, which provides:

*"x) To extend the term of the president of the college or university beyond the age of*

*retirement but not later than the age of seventy (70) whose performance has been unanimously rated as outstanding and upon unanimous recommendation by the search committee for the president of the institution concerned."*

Moreover, he said, RA 8292 being a special law, the compulsory retirement age of 65 in the general law is not an obstacle to the entry appointment of SUC presidents. RA 8292 has specifically repealed contrary and inconsistent laws and other issuance, as provided in Section 17 thereof, to wit:

*SEC. 17. All laws, presidential decrees, executive order, letters or instructions, and state universities' and colleges' charters contrary to or inconsistent with this Act are hereby repealed or amended accordingly."*

Alfonso also contends that even the constitution sets age limit when required as regards the position of the President, Vice-President and the members of the legislature, among others.

This Commission does not share the view of Alfonso.

It is a condition *sine qua non* that before construction or interpretation of a statute, there must be doubt or ambiguity in its language. Where there is no ambiguity in the words of a statute, there is no room for construction.

Incidentally, ambiguity means a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is susceptible of more than one interpretation. **(Agpalo, Statutory Construction, 3<sup>rd</sup> Edition, 1995, pp. 46 citing, among others, Banawa v. Mirano, 97 SCRA 517; Resins, Inc. v. Auditor General, 25 SCRA 754; Guevarra v. Inocentes, 16 SCRA 379)**. Where the law is free from ambiguity, it is not proper to introduce exceptions or conditions where none is provided for considerations of convenience, public welfare, or for any laudable purpose **(University of the Phil. Board of Regents v. Auditor General, G.R. No. 19617 dated October 31, 1969)**. A meaning that does not appear nor is intended or reflected in the very language of the statute cannot be placed therein by construction. Pointedly,

interpolation must be eschewed and avoided. It is improper, in the guise of interpretation, to enlarge the scope of statute and include therein situations not provided nor intended by the lawmakers.

A reading of Section 6 of RA 8292 shows no ambiguity in its provisions. Section 6 simply provides the repository of the administrative functions in the SUC, who is the President, the manner of his appointment and the corresponding term of office. Nothing therein indicates an intention to provide exception from the operation of existing Civil Service Law, particularly in this case Republic Act No. 196, as amended by Republic Act Nos. 660, 728 and 1123 which provide, among other things, that retirement is automatic and compulsory for all government employees reaching sixty-five years of age.

Assuming that construction or interpretation is proper in this instance, the rule would be to reconcile and to harmonize, and to avoid inconsistency and repugnancy, to give the laws a conjoint, not discordant effect. All laws are presumed to be consistent with each other. A law should not be so construed so as to allow the doing of an act which is prohibited by law (**Uy Ha v. City Mayor of Manila, 108 Phil. 400**), nor so interpreted as to afford an opportunity to defeat compliance with its terms, create an inconsistency or contravene the plain words of the law. (**Asturias Sugar Central, Inc. v. Commissioner of Customs, 29 SCRA 617**).

In this connection, Section 6 of RA 8292 should be related to Section 4 of same Act which provides that the Governing Boards of SUCs shall have the power, among others, to extend the term of the president of the college or university beyond the age of retirement but not later than the age of seventy (70) if his/her performance has been unanimously rated as outstanding and upon unanimous recommendation of the institution concerned. It is evident from a reading thereof, that the legislature had no intention to exempt totally the position of SUC President from the operation of the retirement laws and pertinent Civil Service rules and regulations. What it exempts, albeit impliedly, is the extension of the term of the SUC President who has reached the retirement age. This contemplates a situation, taking into account the word "extend", where the SUC President is already holding said position before reaching the retirement age. Consequently, if the Governing Board does not seem fit to extend the term of office of the SUC President who reached the retirement age, the latter must yield to the operation of the retirement laws.

Likewise, we find no application of the rule that the special law shall prevail over the general law. It applies only when the general and the special laws deal with the same subject and there being no clear inconsistencies between them.

Lastly, Alfonso's reliance on the Constitution on the matter of age requirement for certain public office is rather misplaced considering that these age requirements refer to the minimum and not the maximum age limit. Moreover, these age requirements are there in the Constitution because the framers of the Constitution intended as such.

WHEREFORE, this Commission resolves to rule that no person who has reached the compulsory retirement age of sixt-five (65) can be appointed as State Colleges and Universities (SUCs) President for the first time.

Quezon City, April 07, 1999

(Sgd.) **CORAZON ALMA G. DE LEON**  
Chairman

(Sgd.) **THELMA P. GAMINDE**  
Commissioner

Did not Participate  
**JOSE F. ERESTAIN, JR.**  
Commissioner

Attested by:

(Sgd.) **ARIEL G. RONQUILLO**  
Director III