



## **NATIONAL COMMISSION FOR CULTURE AND THE ARTS**

*Excerpts from the Minutes of the Regular Commission Meeting held on  
October 10, 2013, NCCA, Intramuros, Manila and  
Confirmed at the Regular Commission Meeting held on  
November 12, 2013, NCCA, Intramuros, Manila*

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### ***3.3 Qualification Requirements of the Executive Director of the National Commission for Culture and the Arts***

The Chairman welcomed Atty. Maria Antonette V. Allones, Executive Director of the Career Executive Board (CES) Board who was invited as resource person on matters concerning the qualification requirements and status of the Executive Director position.

ED Almosara said that in view of the anticipated vacancy of the Executive Director (ED) position, there are matters that need to be clarified as to whether it is a third level position, a Presidential appointee or appointed by the Board of Commissioners. Thus, she deemed it proper to invite the Atty. Allones in the Board meeting for a consultation.

She proceeded to report on the Secretariat's consultations with Atty. Allones and ED Azucena Isleta of Civil Service Commission's (CSC) Office of Policy and Standards. During the consultation, it was clarified that as far as the CSC is concerned, the ED is a third level position and is supposed to be appointed by the President.

ED Almosara impressed upon the need to resolve the various issues and concerns regarding the position for the benefit of the Commission in general because other agencies are also affected. She cited the case of other agencies where the EDs' terms of office are co-terminus with the appointing authorities while others have fixed terms. She expressed appreciation to the presence of Atty. Allones who was invited to give clarification and full understanding of the case of the NCCA ED.

The Chairman noted that the NCCA charter is silent as regards the appointment of the ED but the IRR stipulates that the ED is appointed by the Board of Commissioners.

In the course of the discussion and consultation with Atty. Allones, the following opinion/recommendations were made by the CES Board Executive Director:

- 1) The NCCA charter itself did not provide or specify who will appoint the Executive Director (ED) and the Deputy Executive Director (DED). The IRR that was subsequently promulgated is the document that specify that the NCCA Board of Commissioners will nominate and appoint the ED. The basic principle in Administrative Law is when the law does not provide the appointing authority, the default is that the appointing authority is the President. Of all the presidential powers, the most eminent is the power of appointment.

When the law, charter or constitution do not specify who the appointing authority is, the automatic authority is the President. The matter was vetted with the Office of the President (OP) and said office agrees for a fact that the President should be appointing the ED and DED of the NCCA whose salary grades are SG-28 and SG-27 respectively.

- 2) On whether the IRR can provide something that is absent in the law [pertaining to Section 36 "*Appointment of the Executive Director*"]. It is basic in Statutory law that the IRR are meant to implement what the law has provided for, such that when it is not in the law, one cannot add to it and neither diminish or be silent in the IRR. Definitely, one cannot add to what the law has not provided for.
- 3) The NCCA ED and DED are *Presidential Appointee* positions. They perform managerial functions and are also career officials which means that they do not have fixed terms and are not co-terminus with the appointing authority. The ED and DED positions are automatically considered as career executive service positions by virtue of long running decisions of the Supreme Court.
- 4) The minimum qualification standard with respect to the ED and DED is at least CESO eligibility. The technical and professional competencies may be prescribed by the Commission as it has the full prerogative to prescribe standards higher than the minimum requirements. e.g. *amount of experience in culture and arts agencies or institutions/organizations*
- 5) If a potential appointee or candidate does not possess CESO eligibility, he could still be recommended for appointment to the position. The appointment will take the nature of an acting capacity, meaning it is temporary, and therefore the appointee will not possess tenure until the eligibility is obtained. He can work on his eligibility while in the position. The rule says that a person has one year to work on his eligibility, subject to renewal for another 12 months. However, the practice is for as long as there is no qualified candidate who can be appointed to the position, the person is not replaced following the concept of *de facto office*.
- 6) As a requirement of the OP, the Commission should create a Search Committee within the NCCA that would actually process the nominations/applications. However if the recommendation of the NCCA is not affirmed by the President, he has the prerogative to give his own candidate.
- 7) Ideally, the Commission should send its recommendation of three names to the Search Committee of the OP, following the traditional rule of three in the appointment process. The NCCA's preference should be indicated in the letter.
- 8) In view of the anticipated vacancy of the ED position due to the mandatory retirement of the incumbent ED [by December 21], the search process could commence and the position can be declared open now. Government agencies are encouraged to come up with a succession program.
- 9) The Board of Commissioners can designate an OIC-ED but an Acting ED should be appointed by the President.





- 10) Posting of vacancy is not required for third level positions. Presidential appointees are attested by the Commission.

The Chairman thanked Atty. Allones for the clarification on the status and qualification requirements of the NCCA Executive Director position.

On the query of Comm. Manalo as regards additional requirements, the Chairman said that according to Atty. Allones, the NCCA has the prerogative to prescribe standards higher than the minimum requirements.

Comm. Manalo suggested at least a number of years of experience in a cultural agency. He further proposed creating a Search Committee.

In the ensuing discussion, the Board agreed on the following composition of the Search Committee:

Chairman Felipe M. De Leon, Jr. (Chair of the Search Committee)  
Comm.[Sen.] Pia S. Cayetano  
Comm. Albert T. Muyot  
Comm. Virgilio S. Almario  
Comm. Alice A. Pañares  
Comm. Jeremy Robert M. Barns  
Comm. Victorino Mapa Manalo

Comm. Muyot requested Atty. Allones to provide the NCCA the roster of CESO eligibles.

At this point, Comm. Muyot proposed for the approval of the criteria in the selection of the NCCA Executive Director as recommended by ED Almosara. Upon approval of the Board, the criteria should be published and disseminated. The motion was duly seconded by Comm. Almario.

Comm. Muyot suggested that ED Almosara set a date for the posting and deadline for submission of applications. The first meeting of the Search Committee will be for the review and screening of applications and shortlisting of the applicants. Interview of the shortlisted applicants will be conducted in the succeeding meeting.

Atty. Angeles proposed for a resolution adopting the recommendations made by Atty. Allones because the previous selection of the NCCA ED and practice of appointment was based on the opinion of the CES Board. She recalled that in one opinion of the CES Board, a list was given to the NCCA of presidential appointees which did not include the NCCA ED. Said opinion became the basis of the Commission's practice in the selection of the ED and supported by provision in the IRR regarding the appointment of the ED. She recalled that the listing also became the basis of Ms. Malou Jacob's appointment as ED. Should the NCCA adopt the opinion of Atty. Allones, there should be a resolution stating that it overturns the previous practice.

Based on the suggestion of the Legal Counsel, Comm. Muyot put forward a motion that the opinion of the CES Board through its Executive Director be summarized and be made part of the records in relation to the selection of the new ED.



He proposed a second motion to formulate an amendment to Section 36 "*Appointment of the Executive Director*" of the NCCA IRR. The Legal Counsel will phrase the revised provision for submission to the Board for its approval as amendment to the IRR.

The two motions were duly seconded by Comm. Barns.

At this point, Comm. Pañares asked on NCCA's assurance that there would not be any conflicting opinion from the CES Board in the future, as everytime the NCCA consults a CES Board person, a different opinion is rendered.

Atty. Angeles informed the Board that as response to the NCCA inquiry [in 2010], the CES Board gave a list of positions requiring presidential appointment. At the bottom of the letter reply, the CES Board said that since the NCCA ED is not included in the list, the position is not a presidential appointee. She added that Atty. Allones did not prepare the list but she was the signatory of the letter.

Comm. Muyot said that part of the minutes that the Board can approve in the meeting is that prior to submission to the President of the NCCA's nominees, the amendment to the IRR should be approved by the Board. Thus, the matter should be in the agenda of the next meeting.

ED Almosara was requested to set the date of posting of the anticipated vacancy in the NCCA website as well as the deadline for the submission of application.

The Board agreed that the first meeting of the Search Committee will be on November 4, 2013.

Upon learning that the incumbent DED is a CESO Eligible but actually occupied said position with rank of CESO IV, he suggested to appoint her to the CESO IV rank because she is an eligible occupying a CESO IV position.

Comm. Joycie Y. Dorado Alegre, SubCommission on Cultural Communities and Traditional Arts asked if the Chairman should inhibit himself from the Search Committee as said committee would be presenting its recommendation to the Board which is also headed by the Chairman. Comm. Muyot explained that the Search Committee will only undertake the initial screening for the Board. The entire Board will not be appointing the ED but will only recommend to the President.



[U]pon motion made and duly seconded, the majority of the Commission approved and confirmed this *Special Resolution*:

**Resolution No. 2013 – 503**  
**Adopting the Minimum Qualification Requirements for the**  
**Executive Director III Position of the**  
**National Commission for Culture and the Arts**  
**Thereby Superseding Res. 2011-408**

**RESOLVED**, as it is hereby Resolved, To Adopt the Minimum Qualification Requirements for the Executive Director III position of the National Commission for Culture and the Arts, to wit:

Minimum requirements:

- 1) Employment Eligibility
- 2) Professional Civil Service Eligibility

Education

Master's Degree Holder/Third Level Eligibility

CESO; CESE eligibility;

Relevant Training

Minimum of 120 hrs relevant training

Battery of Tests

(Standard tests to be administered by the NCCA HR staff).

IQ & Supervisory Skills

(Tests will give idea on the mental and emotional capacity of the applicant)

Prepared by:

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For the Board:

  
**MYLA T. BUAN**  
Board Secretary

  
**FELIPE M. DE LEON, JR.**  
Chairman