

Civil Service Protection Act

Legislative History

- 1.Promulgated by the Presidential Decree on October 16, 1996
- 2.Amended on May 28, 2003
- 3.Amended on December 23, 2015
- 5.Amended on June 14,2017

Chapter I General Provision

Article 1

This Act is enacted to protect the rights and interests of civil servants. The matters with no applicable provisions in this Act shall be governed by other relevant laws.

Article 2

The rights and interests of civil servants, including but not limited to civil servants' status, position grade and rank, pay, working conditions, management measures and other related protection affairs, shall be governed by this Act.

Article 3

Civil servants as referred to in this Act refer to the paid and full-time personnel legally appointed by lawful government agencies (institutions) and public schools according to civil service appointment laws.

Article 4

The petition for deliberation, appeal, and re-appeal procedures stipulated in this Act shall be applicable to the remedy of rights and interests of civil servants.

The deliberation cases or re-appeal cases filed by civil servants (hereinafter referred to as "Protection Cases") shall be reviewed by the Civil Service Protection and Training Commission (hereinafter referred to as "CSPTC").

The regulations to review the Protection Cases shall be promulgated by the Examination Yuan.

Article 5

The decision made by the CSPTC with respect to the Protection Cases shall not be less favorable to the interests of the civil servants to the extent that the petitioner or re-appellant is expressly unwilling to accept.

Article 6

Government agencies shall not adopt any administrative action, unreasonable management or working conditions measures which are unfavorable to civil servants who file for remedies pursuant to this Act.

In the event of the Protection Cases filed by civil servants and subsequently revoked by the CSPTC decision, within 3 years from the next date of receipt of the decision the agencies where the civil servants serve shall not reject their new job transfers lawfully proposed by other government agencies.

Article 7

Any person reviewing a Protection Case shall withdraw from the cases in any of the following circumstances:

1. Where his/her spouse, former spouse, any of his/her relatives by blood within the fourth degree or relative by marriage within the third degree, head of a family or members of the family, or any person having previously such relationship with him/her, is a civil servant filing the Protection Case;
2. Where he/she participated in handling or appealing procedures of any administrative action, management measures or working conditions;
3. Where he/she is or was an agent or assistant of the party filing the Protection Case;
4. He/she was a witness or expert witness in the Protection Case;
5. Where he/she has legal interest in the Protection Case.

The withdrawal in the preceding paragraph shall apply mutatis mutandis to the person assisting the handling of the Protection Case.

Anyone in the preceding two paragraphs having knowledge of obligation to, but fail to, withdraw himself/herself in reviewing the protection Cases shall be referred for discipline pursuant to relevant laws and regulations.

The withdrawal restriction in Subparagraph 2 of Paragraph 1 shall not be applicable to any relevant government agency's deputy holding the CSPTC commissionership concurrently. However, he/she shall not have voting rights in the decision of the Protection Case involving his/her government agency.

The petitioner or re-appellant may submit to the CSPTC a pleading stating the reasons to request for withdrawal.

Article 8

During the period of reviewing the Protection Cases, the personnel may be appointed to investigate relevant documents and interview relevant persons through the resolution of the CSPTC.

The investigated government agencies and the interviewed personnel shall provide with necessary assistance. The appointed personnel shall submit the report about the

investigation result to the CSPTC.

Chapter II Substantive Protection

Article 9

The status of civil servants shall be protected and shall not be deprived unless otherwise provided by laws. The preceding protection shall also apply to a claim arising from his/her status.

Article 9-1

A civil servant shall not be suspended from office unless otherwise provided by laws. During the period of suspension, suspension without pay, or leave without pay, a civil servant still retains his/her civil servant status but may not perform his/her official duty.

Article 10

A civil servant who is lawfully suspended may apply for reinstatement within 3 months from the elimination of suspension reasons. The government agency where he/she serves or its superior agency shall allow his/her reinstatement unless otherwise provided by laws and, within 30 days of receipt of his/her application, shall notify him/her to reinstate.

While the civil servant is reinstated according to the preceding paragraph, the government agency where he/she serves or its superior agency shall allow him/her to resume his/her original position, assign him/her other position equivalent to his/her original position, or another position with equivalent rank, grade and pay. In the event of failure to reinstate, the transfer shall be processed according to the Civil Service Employment Act and the Civil Service Pay Act.

While the civil servant who is lawfully suspended fails to apply for reinstatement within 3 months from the elimination of suspension reasons, the personnel unit of the government agency where he/she serves or its superior agency shall be responsible for investigation and notification. The civil servant's failure to apply for reinstatement within 30 days from receipt of investigation and notification notice may be deemed to resign unless there are causes not attributed to him/her.

Article 11

While a civil servant is suspended as a punishment and the original administrative action with respect to suspension is revoked, the agency where he/she served or its superior agency shall allow his/her reinstatement and, in which case Paragraph 2 of

the preceding Article shall apply mutatis mutandis, unless otherwise provided by laws. The civil servant in the preceding paragraph shall still be deemed being suspended prior to reporting for reinstatement.

The civil servant being reinstated pursuant to Paragraph 1 shall report for duty within 30 days from receipt of reinstatement order and regain all the rights and benefits afterwards. In the event of the civil servant's failure to report within required period, he/she may be deemed to resign unless there is an approved extension of report period or there are causes not attributed to him/her.

Article 11-1

While the causes for leave without pay cease to exist or its period ends, Article 10 shall apply mutatis mutandis to matters related to reinstatement, unless otherwise provided by laws.

Article 11-2

While a civil servant is lawfully suspended without pay, Article 10 shall apply mutatis mutandis to matters related to reinstatement, unless otherwise provided by laws.

Article 12

Where an agency has been abolished or restructured or its business has been contracted, for those civil servants with examination passed or qualification confirmed status who remain in office, its superior agency or the agency taking over its business shall deal with their job transfer or assignment and, if necessary, provide them with counseling and training at first, unless otherwise provided by laws.

Where the transfer or assignment takes place pursuant to the preceding paragraph, the rank and grade of the new position shall be equivalent to the original unless he/she voluntarily accepts a lower rank position. In case of being transferred or assigned to a lower grade, but within the same rank, job as a result of the lack of appropriate position, the provisions related to position appointment in the Civil Servant Employment Law and the Civil Service Pay Act shall apply.

Article 12-1

The resignation of a civil servant shall be tendered in writing. The government agency where he/she serves or its superior agency shall not reject his/her resignation unless there is a tendency of national security endangerment or otherwise provided by laws.

The government agency where he/she serves or its superior agency shall make its decision within 30 days after receipt of the written resignation. Where there is no decision after 30 days, it may be deemed approved and becomes valid the day after 30

days. In the event of the civil servant designating a certain date for resignation after the aforesaid 30 days, such a date prevails.

Article 13

The confirmed assessment of position rank and grade for a civil servant shall be protected and shall not be altered unless in accordance with law.

Article 14

The confirmed assessment of pay grade for a civil servant shall be protected, and shall not be lowered or reduced unless in accordance with law.

Article 15

The statutory allowance based upon the position classification and nature and working location of a civil servant shall not be altered unless in accordance with law.

Article 16

The superior or superintendent of a civil servant shall neither assign him/her any unlawful job nor force him/her to perform any illegal duty by assaulting, intimidating or other improper ways.

Article 17

A civil servant is obliged to obey the order given by his/her superior within the scope of their supervision and to notify the superior in case that, if he/she thinks, the order is unlawful. The civil servant is obligated to obey the order in case the superior thinks it does not violate any law and it is given to him/her in signed writing. Thus, the subsequent responsibility shall be born by the superior. However, the civil servant is not obligated to obey the order in case it violates any criminal law.

While the order is not given by the superior in signed writing in the preceding paragraph, the civil servant may require it given in signed writing. The order will be deemed as a withdrawal in case the superior refuses to give it in signed writing upon the request of the civil servant.

Article 18

Government agencies shall provide a civil servant with machines, tools and equipments as well as a good working environment necessary for performing duties.

Article 19

The safety for a civil servant to perform duties shall be ensured. Government agencies

shall provide with safety and sanitary measures a civil servant to perform duties. Their relevant regulations shall be jointly promulgated by the Examination Yuan and the Executive Yuan.

Article 20

Where a civil servant performs duties, the on-site superior may suspend the execution of the duties under the circumstance that, in his/her judgment, there has been danger occurred or there is a clear tendency of danger.

Article 21

A civil servant whose life, body or health is injured because of the defects of safety and sanitary measures provided by a government agency may claim for compensation according to the State Compensation Law.

The solatium shall be given to a civil servant accidentally injured, disabled, or died due to performing duties. However, no or reduced solatium may be given in the event that the civil servant's intentionality or gross negligence is a contributing factor.

The regulation with respect to solatium award in the preceding paragraph shall be promulgated jointly by the Examination Yuan and the Executive Yuan.

Article 22

While a civil servant is involved in a lawsuit for performing duties in accordance with laws, the government agency he/she serves shall assist in retaining lawyers to defend him/her and providing legal aid.

If the lawsuit in the preceding paragraph is caused by the intentionality or gross negligence of the civil servant, there shall be no assistance. If the agency where he/she serves has paid for lawyer's fee, it shall claim for reimbursement against him/her.

The regulation with respect to the assistance to a civil servant involved in a lawsuit in Paragraph 1 shall be promulgated jointly by the Examination Yuan and the Executive Yuan.

Article 23

Where a civil servant is required to perform duties not within regular office hours, the government agency he/she serves shall provide him/her with overtime payment, days off, reward or other equivalent compensation.

Article 24

A civil servant paying necessary out-of-pocket expenses for performing duties may claim for reimbursement against the government agency he/she serves.

Article 24-1

The statute of limitations for the following property right claims derived from public law by a civil servant are:

1. 10 years:

- (1) solatium for being accidentally injured, disabled, or died due to performing duties;
- (2) government legal assistance fee due to performing duties.

2. 2 years:

- (1) general health examination fee approved by the government agency he/she serves;
- (2) over-time pay approved by the government agency he/she serves;
- (3) necessary out-of-pocket expenses due to performing duties.

Chapter III Petition for Deliberation Procedure

Article 25

A civil servant may petition for deliberation pursuant to this Act against an administrative action, taken by the agency he/she serves or the Personnel Management Authority(hereinafter referred to as "the original action agency"),which, he/she thinks unlawful or obviously illegitimate and causes the infringement of his/her rights or interests. A civil servant who is not currently in office but claims for the damages based upon his/her original civil servant's status has the same petition right.

The inheritors of a deceased civil servant may petition for deliberation pursuant to this Act when their property right derived from public law based upon the deceased civil servant's status is infringed upon.

Article 26

A civil servant whose rights or interests are encroached upon by the inaction or denial of the original action agency to his/her lawful application within the statutory period may file a petition for deliberation to require an administrative action or an administrative action with certain substances.

The period in the preceding paragraph not expressly stipulated in any other laws is 2 months from the agency's receipt of the application.

Article 27

In case that the period within which petition may be filed as informed by the original action agency is erroneous, the agency shall make a correction by way of a notice, and the statutory period therefore shall be calculated from the next day after the correction notice is served.

In case that the notification of petition period is not served or the erroneous notification is served without correction causing petitioner's delay, the petition is deemed legally filed if filed within 1 year from the next day of the written notice of the original agency action served.

Article 28

The identification of the original action agency shall depend on who issued the action notice at the time the action took place. However, if the administrative action is taken by the supervised agency ex officio and commands the inferior agency to execute, the supervised agency shall be the original action agency.

Article 29

While the original action agency has been abolished or restructured, the agency taking over its duty shall be deemed as the original action agency.

Article 30

A petition shall be filed within 30 days from the next day after the date which administrative action is served.

The period in the preceding paragraph shall be calculated from the original action agency's receipt date of the written petition pleading.

If a petitioner erroneously files a petition with an agency other than the original action agency, the date which the agency received the petition at the first place shall be deemed as the date for filing the petition.

Article 31

If a petitioner fails to file a petition within the period stipulated in the preceding Article as a result of act of god or other causes not attributed to her/him, he/she may request in writing, describing the reasons, the CSPTC for recovery within 10 days after the reasons were eliminated. However, it is not allowed to do so while the petition period has expired for more than 1 year.

One who requests for recovery shall take petition action required within the original period at the same time.

Article 32

If a petitioner resides outside the area where the original action agency locates, the traveling period shall be added when calculating the statutory period unless there is a representative for the petitioner residing in the area where the original action agency locates and the representative may take petition action required during the period.

The regulation with respect to the traveling period stipulated in the preceding paragraph shall be promulgated by the CSPTC.

Article 33

Unless otherwise provided by this Act, the Administrative Procedure Act shall apply *mutatis mutandis* to the matters related to date and period.

Article 34

Anyone who could have undertaken obligation independently via conducting legal affairs has the capacity to petition for deliberation.

Anyone without capacity to petition for deliberation shall be represented by his/her legal representative.

Matters concerning the legal representation in a deliberation case shall be subject to the Civil Law.

Article 35

If multiple parties jointly file petition for deliberation against an administrative action based upon the same kind of factual ground, they may select no more than three representatives. If no representative is selected, the CSPTC may notify them to select within a specific period. In the event of their failure to select any representative(s) within required period, the CSPTC may select the representative(s) *ex officio*.

Article 36

The selection, replacement or variation of the representative(s) shall not take effect unless the CSPTC is informed and provided with proof of document.

Article 37

Once the representative(s) is designated or assigned, the representative(s) will conduct a petition on behalf of all petitioners. However, the withdrawal of the petition is prohibited except for written consent(s) from all petitioners.

While there is more than one representative, any representative may independently conduct a petition on behalf of all petitioners.

The representing right of the representative(s) shall not be diminished due to the death, lack of capacity to conduct petition of other joint petitioners or the replacement of other petitioner's legal representative(s).

Article 38

A petitioner may authorize a person who is familiar with law or has legal expertise as

agent. There are no more than three agents retained for each petitioner. The agent shall present the Power of Attorney to the CSPTC when he/she initially undertakes petition representation.

When the CSPTC regards the petition agent improper, it may prohibit the agency and notify the petitioner in writing.

The replacement, variation or dismissal of the agent(s) shall not take effect unless the CSPTC is notified in writing.

While the authorization is ceased by the agent, she/he shall continue to undertake necessary conduct to protect the rights or interests of the petitioner within 15 days after the intent to cease the authorization is expressed.

Article 39

A petition agent may take all petition actions as authorized in a deliberation case. However, a special authorization is required to withdraw a petition for deliberation case.

While there are more than one petition agents, each may represent the petitioner independently.

An agent may still represent the petitioner independently in spite of the agent authorization against the rule stipulated in the preceding paragraph.

A petition agent's statement of facts shall not take effect while the petitioner appears in person to revoke or correct it immediately.

The authorization of the petition agent shall not be extinguished due to the petitioner's death, bankruptcy or lack of the legal capacity for petition.

Article 40

A petitioner or his/her agent may be accompanied by an assistant to the place assigned by the CSPTC on the specific date with CSPTC's permission.

If necessary, the CSPTC may also order the petitioner or his/her agent to be accompanied by an assistant to the assigned place.

The CSPTC may cease the permission or prohibit the continuation of assistance while the assistant as stipulated in the preceding two paragraphs is deemed improper by the CSPTC.

The statement made by the assistant appeared will be regarded as the same as made by the petitioner or his/her agent, while the statement is not revoked or corrected by aforesaid parties immediately.

Article 41

The document(s) concerning a deliberation case shall be bound into file(s) by and

under custody of the CSPTC.

In reviewing a deliberation case, the CSPTC shall assign staff member to produce a deliberation record attached to the file which may be supplemented with audio and video records. While the deliberation is processed via oral argument, the key points of the argument shall be produced and bound as an attachment of the deliberation record.

Article 42

A petitioner or his/her agent may apply with the CSPTC for viewing, citing, photocopying or photographing documents in the files or for hand written copies, copies, citation of the documents by paying fees in advance. However, the application is limited to the extent necessary for protecting his/her legal interests.

The CSPTC shall not reject the application in the preceding paragraph unless there is the following circumstances:

- 1.The draft of a deliberation decision;
- 2.The documents of a deliberation decision for preparing or deliberating purpose;
- 3.The necessity to keep secret for any third party's legitimate rights or interests; or
- 4.The necessity to keep secret pursuant to other laws or based upon the public interests.

The standard of the fees stipulated in the Paragraph 1 shall be promulgated by the CSPTC.

Article 43

A petition filing for deliberation shall have a petition pleading which specifies the following items and shall be signed by or bear the seal of the petitioner or his/her agent(s):

- 1.The name, date of birth, domicile or place of residence, and National Identification Number or identification document and number of the petitioner. While there is an agent, his/her name, date of birth, occupation, domicile, place of residence or place of office, and National Identification Number or identification document and number;
- 2.The agency where the petitioner serves, rank and grade of his/her position, etc;
- 3.The original action agency;
- 4.The petition claim;
- 5.The facts and reasons;
- 6.The evidence. If in the form of document, its photocopy or a hand written copy shall be appended;
- 7.The date of the administrative action served; and
- 8.The date of filing the petition.

A photocopy of the original administrative action shall be appended for filing a

petition for deliberation.

A petition filed for deliberation pursuant to Paragraph 1 of Article 26 shall identify the agency required to take action and date of application concerning Subparagraph 3 and 7 of Paragraph 1, with a photocopy of the original application, and the receipt certification of the agency being filed with the application.

Article 44

A petitioner shall prepare a petition pleading and file it with the CSPTC for deliberation through the original action agency.

For the petition stipulated in the preceding paragraph, the original action agency shall review the legality and propriety of the original administrative action in advance. If it deems the petition is sustainable, the agency may voluntarily modify or revoke the administrative action and report to the CSPTC.

When the original action agency fails to modify or revoke the original administrative action according to the petitioner's pleading within 20 days from the next day of the receipt of the pleading, the agency shall prepare a written defense and transfer all necessarily related documents to the CSPTC.

While the original action agency provides files and its defense, the agency shall send to the petitioner a copy of the written defense stipulated in the preceding paragraph.

When the petitioner files a deliberation petition with the CSPTC directly, the CSPTC shall deliver a photocopy or duplicate of the petition pleading to the original action agency pursuant to Paragraphs 2-4.

Article 45

If the original action agency fails to do so within the period stipulated in Paragraph 3 of the preceding Article, the CSPTC may, ex officio or by the petitioner's request, notify the original action agency to provide the relevant files within 15 days. In the event of the relevant files not provided within the period, the CSPTC may make a decision directly.

Article 46

While a petitioner has expressed his/her objection against the original administrative action within the period stipulated in Paragraph 1 of Article 30 to the original action agency or the CSPTC, it shall be deemed as filing the petition within the statutory period. However, the petition pleading shall be submitted within 30 days.

Article 47

After filing a petition, the petitioner may withdraw the petition before the deliberation

decision is served. After the withdrawal of the petition, it shall not be allowed to file the same petition.

Article 48

When a petitioner passes away or becomes lack of legal capacity to conduct petition after the filing of the petition, the successor(s) or other person(s) who has the right to succeed the right or interest derived from the original administrative action pursuant to laws may assume the petitioner's procedural right unless the assumption is of no legal interest derived from the deliberation decision or is prohibited by its nature.

In the event of the assumption stipulated in the preceding paragraph, the proof document of the succession right shall be provided to the CSPTC within 30 days from the occurrence of the succession fact.

Article 49

When the CSPTC concludes that the petition pleading fails to comply with the required form and process but amendable, the CSPTC shall notify the petitioner to amend it within 20 days.

Article 50

The decision for a deliberation case is made through document review.

The CSPTC may, if necessary, notify the petitioner or any third party with interest at stake to the designated place to state his/her opinion and to be inquired.

When the petitioner requests for stating his/her opinion with reasonable grounds, he/she shall be given the chance to appear at the designated place to state his/her opinion.

Article 51

The CSPTC may assign the Vice Minister and the Commissioner(s) to hear the opinion of those parties appearing at the designated place pursuant to the preceding Article.

Article 52

If necessary, the CSPTC may, ex officio or by petitioner's request, notify the petitioner or his/her representative, agent or assistant and the staff assigned by the original action agency to conduct oral argument at the designated date and place.

Article 53

The oral argument shall be administered by the Minister or his/her assigned Vice

Minister or the Commissioner.

Article 54

The procedure for oral argument are as follow:

- 1.The Minister or his/her assigned person states the summary of the case;
- 2.The petitioner or his/her agent makes factual and legal statement with respect to the case;
- 3.The original action agency makes factual and legal statement with respect to the case;
- 4.Relevant agency or person makes a statement;
- 5.The petitioner or the original action agency makes another statement or defense against the statement or defense of the opposition party;.
- 6.The CSPTC inquires the petitioner and the original action agency or other relevant persons; and
- 7.The petitioner makes a final statement.

While the content of oral argument is not fully complete, the oral argument may be resumed.

Article 55

A petitioner may present the documentary evidence or other kind of evidence. However, while the CSPTC assigns a peremptory period to present the evidence, the evidence shall be presented in that specific period.

Article 56

If necessary, the CSPTC may, ex officio or by the petitioner's request, command the holder(s) of the document or other items to present them, which the CSPTC may take custody of such document or item.

The CSPTC may review the document or other items under the custody of a civil servant or a government agency.

The civil servant or government agency shall not decline the reviewing in the preceding paragraph unless against the national secrecy.

Article 57

If necessary, the CSPTC may, ex officio, or entrust relevant agency, school, group or expert to, conduct investigation, test or inspection on necessary evidence or items.

The expenses in the preceding paragraph shall born by the CSPTC.

The result of the investigation, test or inspection pursuant to Paragraph 1 shall not be used by the CSPTC as the bases of an unfavorable deliberation decision against the

petitioner unless the petitioner had been given the chance to express her/his opinion. While the petitioner is willing to bear the cost arising from his/her request for the test, investigation or inspection, the CSPTC shall not deny the request without justification. While the result of the test, investigation or inspection in the preceding paragraph is used as the bases of a favorable decision or judgment for the petitioner, he/she may request the CSPTC for reimbursement of necessary expenses within 30 days after the deliberation decision is final and binding.

Article 58

An expert witness shall present his/her opinion via a written statement. The CSPTC, if necessary, may invite the expert witness to explain his/her opinion at the designated place.

While there are more than one expert witness, they may state one common opinion jointly. However, the CSPTC shall make the expert witnesses to state their own opinions separately if they are of different opinions.

While the relevant materials required for conducting the inspection are under the custody of the original action agency or the CSPTC, the CSPTC shall inform and permit the expert witness to use those materials. However, the CSPTC may set limitations on the extent and method for such use.

Article 59

The original action agency shall present all relevant evidences as the bases of the administrative action to the CSPTC.

A petitioner or his/her agent may request for viewing, citing or photocopying the evidence materials in the preceding paragraph. The CSPTC shall not deny the request without justification.

The CSPTC shall specify the date, time, and place for viewing, citing or photocopying the evidence materials in Paragraph 1.

Article 60

While a petitioner has objection(s) to the procedural decision made by the CSPTC during the deliberation procedure, he/she shall file an administrative lawsuit against the procedural decision along with the deliberation decision.

Article 61

Whereas one of the following clauses is met in a deliberation case, the CSPTC shall make a decision of case not entertained:

- 1.A petition pleading is not in compliant with required form and process and not

amendable, or is not amended, if amendable,

after the expiration of a specific period designated to amend by notice;

2.A petition is filed after the expiration of the period stipulated by this Act, or its pleading is not supplemented in the specific period pursuant to the exceptional section of Article 46;

3.A petitioner without legal capacity to conduct petition without the representation of his/her legal representative, provided that a notification to amend has been given but failed to do so after the expiration of the specific period to amend;

4.A petitioner is ineligible for filing the petition;

5.The administrative action is no longer existed;

6.The same petition is repeatedly filed against a conclusive or withdrawn petition; or

7.A petition is filed against the matters beyond the scope of the petition remedies.

While a petitioner has recoverable legal interest arising from the revoking of the administrative action, the CSPTC shall not make a decision of case not entertained even under the circumstance stipulated in Subparagraph 5 of the preceding paragraph.

While a civil servant mistakenly files a petition for deliberation which should be an appeal or re-appeal case in the Subparagraph 7 of Paragraph 1, the CSPTC shall transfer it to the agency with jurisdiction of appeal to handle in accordance with appealing procedure and notify the civil servant, and shall not directly make a decision of case not entertained.

Article 62

The CSPTC may consolidate and review several separate petitions based on the same or the same kind of factual and legal grounds and may make a consolidated decision for those petitions.

Article 63

While a petition is without merits, the CSPTC shall dismiss it by a decision.

Although the original administrative action is made with improper reasoning, the petition shall be dismissed as without merits while there are other reasons to support the original administrative action.

While a deliberation case is related to the autonomous matters of local self-governing body, the CSPTC shall only review the legality of the original administrative action.

Article 64

While a petition is not entertained because it is filed after the expiration of the statutory period, the CSPTC shall specify that the original administrative action is obviously illegal or improper in its reasoning for decision.

Article 65

While a petition is sustainable, the CSPTC shall, within the scope of the objection expressed by the petitioner, either revoke the original administrative action in whole or in part by a deliberation decision, or the CSPTC may, based on the case background, remand it to the original action agency for another administrative action. However, within the scope of the objection expressed by the petitioner, the original action agency shall not take a new action less favorable to the interests of the petitioner.

While the original administrative action is remanded to the original action agency for another administrative action as provided in the preceding paragraph, the CSPTC may directly make a decision to modify the original administrative action in the event that the original action agency fails to do so according to the deliberation decision within the required period and the petitioner re-files a petition.

Article 66

While the CSPTC concludes a petition, filed according to Paragraph 1 of Article 26, is sustainable, it shall specify a period and command the agency that should have taken an administrative action in the first place to take a certain administrative action immediately.

The agency that should have taken an administrative action has taken an administrative action before the CSPTC has made the decision stipulated in the preceding paragraph, the CSPTC shall dismiss the petition as without merits by a decision.

Article 67

After considering the damage suffered by a petitioner, the extent of the compensation, and the method of damage prevention and other relevant circumstances, the CSPTC may dismiss the petition while it concludes that the revocation or modification of the original administrative action is obviously against the public interest, even if the CSPTC also concludes that the original administrative action is unlawful or obviously improper and, the revocation or modification of the administrative action will cause serious damage to the public interest, the CSPTC shall expressly declare the original administrative action is unlawful or obviously improper in the holding of the decision stipulated in the preceding paragraph.

Article 68

While the CSPTC makes the decision stipulated in the preceding paragraph, it may

consider the damage suffered by the petitioner due to the unlawful or obviously improper administrative action and expressly declares in the reasoning of the decision that the original action agency shall negotiate for the compensation agreement with the petitioner.

The agreement stipulated in the preceding paragraph shall have the same effect as the agreement in the State Compensation Law.

Article 69

Within 3 months from the next day of the receipt of the defense from the original action agency, the CSPTC shall make the deliberation decision. The period shall be calculated from the next day after the defense is amended or, if not amended, after the expiration of a specific period designated to amend. While the petition pleading is supplemented within 30 days after the objection expressed by the petitioner, the period shall be calculated from the next day after the pleading is supplemented or, if not supplemented, after the expiration of a specific period designated to supplement. While the petitioner continues to supplement the reasons during the petition deliberation, the period shall be calculated from the next day after the last reason is supplemented.

While a petition is not decided within the period in the preceding paragraph, the period may be extended, provided that the petitioner has been notified. The period may only be extended once with the maximum limitation of 2 months.

Article 70

While a deliberation decision depends on the existence or non-existence of certain legal relations and such relations is pending in a litigation or administrative remedy procedure, the CSPTC may cease the deliberation procedure and immediately notify the petitioner before the legal relations have been confirmed.

While the CSPTC ceases the deliberation procedure stipulated in the preceding paragraph, the period to make the deliberation decision stipulated in the preceding Article shall be recalculated from the next day after the legal relationship has been confirmed.

Article 71

A deliberation decision shall specify the following items:

1. The name, date of birth, the agency where the petitioner serves, title, domicile or place of residence, National Identification Number or identification document and number of the petitioner;
2. The petitioner with a legal agent or a petition agent, his/her name, date of birth,

domicile or place of residence, and National Identification Number or identification document and number;

3.The holding, facts and reasoning. While it is a decision of case not entertained, the facts may be omitted;

4.The agency which makes the decision and its leading officer;

5.Year, month and date.

An official copy of the deliberation decision shall be served to the petitioner and the original action agency within 15 days after the decision is made.

Article 72

While an objection may be expressed in accordance with laws against the deliberation decision of the CSPTC, the deliberation decision shall have an annexed statement of notification that, if there is an objection against the deliberation decision, the right to file for remedy with the judicial agency with jurisdiction shall be exercised in accordance with laws within 2 months from the next day after the decision is served.

While the annexed statement in the preceding paragraph is erroneous, a correction notice shall be served, and the statutory period shall be recalculate from the next day after the correction notice is served.

While the CSPTC fails to enclose in the statement a notification with respect to the remedy period or a notified period is erroneous and not corrected so that the petitioner fails to file for remedy within the period, the remedy shall be deemed as filed within the period stipulated in Paragraph 1 in case such a filing is within 1 year from the date after the deliberation decision is served.

Article 73

While one of the following clauses is met, a petition will not be handled:

- 1.There is no concrete factual contents; or
- 2.There is no real name, the agency where the petitioner serves or place of residence.

Article 74

To serve a person without legal capacity to conduct any petition action, instead, serve his/her legal agent.

While there is more than one legal agent, to serve one agent may do.

Article 75

A service shall be made to a petitioner's agent unless the authorization to receive a service is restricted. However, the service may be made to the petitioner when the CSPTC deems it necessary.

Article 76

The documents for a petition for deliberation case shall be served via the delivery of postal service institutions with the postal service certification for deliberation case indicating domicile, place of residence or office of the petitioner or his/her representative or agent.

While the documents of a deliberation case are not served as stipulated in the preceding paragraph, the CSPTC may send its staff to serve or entrust the original action agency, or the agency where the civil servant serves to serve. A service certification shall be made by the one who carries out the service.

Article 67-69 and Article 71-83 of the Administrative Litigation Procedure Act shall apply mutatis mutandis to the service of the documents of a deliberation case unless otherwise stipulated in the preceding two paragraphs.

Chapter IV Appeal and re-appeal procedure

Article 77

A civil servant may file an appeal and/or re-appeal pursuant to this Act against the management measure or relevant working condition rendered by the agency where he/she serves, which, he/she thinks, is improper and causes the damage to his/her rights or interests.

While a civil servant receives the management measure or relevant working condition rendered by the agency where he/she originally served, after leaving his/her job, he/she may file an appeal and/or re-appeal pursuant to the preceding paragraph.

Article 78

An appeal shall be filed with the agency within 30 days from the next day after the management measure or relevant working condition rendered in the preceding paragraph is served. While a civil servant is not satisfied with the written reply by the agency where he/she serves or served, a re-appeal may be filed with the CSPTC within 30 days from the next day after the service of the reply.

The agency where the civil servant serves or served in the preceding paragraph refers to the agency which is in charge of the management measure or relevant working condition rendered.

Article 79

While a civil servant mistakenly files an appeal which should be a petition for deliberation, the agency with which the appeal is filed shall transfer it to the original

action agency to handle in accordance with the deliberation procedure and notify the civil servant.

While a civil servant mistakenly files with the CSPTC a re-appeal which should be a petition for deliberation, the CSPTC shall transfer it by a letter to the original action agency to handle in accordance with the deliberation procedure and notify the civil servant.

Article 80

An appeal shall be filed in writing which specifies the following items and shall be signed by or bear the seal of the appellant or his/her agent(s):

- 1.The name, date of birth, domicile or place of residence, National Identification Number or identification document and number, service agency, title, rank, and grade of the appellant. While there is a agent, his/her name, date of birth, occupation, domicile, place of residence or place of office, and National Identification Number or identification document and number;
- 2.The claims;
- 3.The facts and reasons;
- 4.The evidence;
- 5.The date which the management measures or relevant working condition were served;
- 6.The date of filing.

The stipulation in the preceding paragraph shall apply mutatis mutandis to a re-appeal.

Article 81

The agency where the civil servant serves shall reply in writing with sufficient reasons with respect to the appeal case within 30 days from the next day after the receipt of the appeal pleading. The period may, if necessary, be extended for 20 days, and the appellant shall be notified. In the event of no reply within the period, the appellant may file re-appeal directly.

The reply in writing with respect to the re-appeal decision shall have an annexed statement of notification that if there is an objection against the reply, a re-appeal may be filed with the CSPTC within 30 days.

The re-appeal decision shall be made within 3 months from the next day after the receipt of the re-appeal pleading. The period may, if necessary, be extended for 1 month and the re- appellant shall be notified.

Article 82

Agencies shall provide the CSPTC with the facts, reasons, and handling opinions with

respect to the re-appeal case, inquired by the CSPTC, with all necessary related documents within 20 days.

In the event of no reply by agencies within the period stipulated in the preceding paragraph, the CSPTC may make a decision directly.

Article 83

A re-appeal decision shall specify the following items:

- 1.The name, date of birth, the agency where the re-appellant serves, title, domicile or place of residence, National Identification Number or identification document and number of the re-appellant;
- 2.The re-appellant with a re-appeal agent, the agent's name, date of birth, domicile or place of residence, and National Identification Number or identification document and number;
- 3.The holding, facts and reasoning. While it is a judgment of case not entertained, the facts may be omitted;
- 4.The agency which makes the decision and its leading officer;
- 5.Year, month and date;
- 6.The re-appeal decision by the CSPTC shall have an annexed notification that, based upon the same facts and reasons, no new re-appeal may be filed against the re-appeal decision.

Article 84

The petition for deliberation procedure stipulated in Article 26-42, Paragraph 3 of Article 43, Paragraph 4 of Article 44, Article 46-59, Article 61-68, Paragraph 1 of Article 69, Article 70, Paragraph 2 of Article 71, and Article 73-76 of Chapter 3 shall apply mutatis mutandis to appeal and re-appeal unless otherwise stipulated in this Chapter.

Chapter V Mediation procedure

Article 85

The CSPTC may assign Vice Minister or one to three Commissioner(s) ex officio or by request to mediate during the review of the Protection Cases.

While a protection case is jointly filed by multiple parties, the mediation in the preceding paragraph shall not be processed unless their representative(s) obtain the written consent from all petitioners or re-appellants.

Article 86

The CSPTC shall notify in writing the petitioner, re-appellant, or his/her representative or agent, and the relevant agency to undertake a mediation at the designated place on the designated date.

The agent in the preceding paragraph shall not participate in the mediation unless a certification of the special authorization is submitted.

While a petitioner, re-appellant or his or her representative or agent with special authorization, and relevant agencies fail to appear at the designated place on the designated date without justification, the mediation shall be deemed as unsuccessful. However, the CSPTC may designate another mediation session in case it is of the opinion that the mediation is likely successful.

The process and result of the mediation shall be made on record, either signed by the mediation participants or, if the participant(s) refuses to sign, indicating the facts and reasons.

Article 87

While a Protection Case is successfully mediated, the CSPTC shall make a mediation agreement, specifying the following items, and notify by letter, the petitioner, re-appellant, his or her representative or agent with special authorization, and relevant agencies:

- 1.The name, date of birth, the agency where the petitioner or re-appellant serves, title, domicile or place of residence, National Identification Number, identification document and number of the petitioner or re-appellant;
- 2.The petitioner or re-appellant with a representative or agent with special authorization, the representative's or the agent's name, date of birth, domicile or place of residence, and National Identification Number, identification document and number;
- 3.The name of the Vice Minister and the Commissioner(s) participating in the mediation;
- 4.The subject of mediation;
- 5.The contents of the mediation agreement;
- 6.The place of the mediation agreed;
- 7.The year, month, and date of the agreed mediation.

While a Protection case is successfully mediated, the CSPTC shall terminate its review procedure.

Article 88

While a Protection Case is not successfully mediated, the CSPTC shall directly make a decision pursuant to the deliberation or re-appeal procedure stipulated in this Act.

Chapter VI Execution

Article 89

The enforcement of the original administrative action, any management measure or relevant working condition rendered shall not be suspended by the commencement of any procedure stipulated in this Act.

While the legality of the original administrative action is obviously suspicious, or its execution will cause irreparable damage, and urgent situations exist and there is no necessity of protecting the significant public interest, the CSPTC, the original action agency or the service agency, ex officio or by request, may suspend the execution of the original administrative action, management measures or relevant working condition rendered in whole or in part.

Article 90

While the reason to suspend the execution is eliminated or there is a change of circumstances, the CSPTC, the original action agency or the service agency may, ex officio or by request, revoke the suspension of the execution.

Article 91

While a decision with respect to a Protection Case made by the CSPTC is final, it shall bind all relevant agencies. So is the mediation agreement made by the CSPTC.

The original action agency shall reply to the CSPTC about the handling situation within 2 months from the next day the deliberation decision is final. The period may, if necessary, be extended, provided that the extension period is less than 2 months and the petitioner and the CSPTC are notified.

The service agency shall reply to the CSPTC about the handling situation within 2 months from the next day the re-appeal decision is served. The period may, if necessary, be extended, provided that the extension period is less than 2 months and the re-appellant and the CSPTC are notified.

While a Protection Case is successfully mediated, the original action agency or the service agency shall reply to the CSPTC about the handling situation within 2 months from the next day of the receipt of the mediation agreement.

Article 92

While the original action agency or the service agency fails to handle within the period stipulated in the preceding Article, the CSPTC shall submit evidence to and transfer to the Control Yuan the person with fault to be handled in accordance with

laws. However, while the person with fault is under the junior rank, ninth-grade, the CSPTC shall notify the original action agency or the superior agency of the service agency to handle in accordance with laws.

While the person with fault in the preceding paragraph is the head of the legislative branch, the CSPTC shall fine him/her a sum between NT\$100,000 and NT\$1,000,000 and publish the facts of fault.

The fine prescribed in the preceding paragraph that has not been paid within a specific period upon the notice to do so within such a period shall be subject to compulsory enforcement in accordance with laws.

Article 93

The decisions and their enforcement of the Protection cases shall be periodically published in the Government Communique and publicized on agencies' websites.

Chapter VII Re-consideration

Article 94

While one of the following situations is met, the original action agency, the service agency, the petitioner, or the re-appellant may file for a re-consideration against the final Protection Case decision to the CSPTC, except that the petitioner has already sought for remedy in the judicial agency:

- 1.Application of law is obviously wrong;
- 2.The reasons of the deliberation are obviously inconsistent with the holding;
- 3.The decision agency is not constituted as stipulated by law;
- 4.The Commissioner(s) required to withdraw according to this Act participates in the deliberation decision;
- 5.The Commissioner(s) participating in the decision commits a criminal offense relating to his official duties in connection with the protection case;
- 6.The agent or representative of the deliberation or re-appeal case commits a crime punishable by the Criminal Law in connection with the deliberation or re-appeal, and affects the decision;
- 7.A witness, expert witness or interpreter makes false statements on his/her testimony, expert opinion or interpretation used as the basis of the decision;
- 8.While an evidence used as the base of the decision is forged or fraudulently altered;
- 9.A civil, criminal or administrative litigation decision or an administrative action used as the basis of the decision has been altered according to its later final judgment or administrative action;
- 10.An evidence which was not taken into consideration or may be used as the basis of

the decision is discovered, provided that, if the evidence is considered, there will be a more favorable decision; or

11.A material evidence which may affect the decision has been omitted from consideration by the original decision.

The filing in the preceding paragraph may still be submitted even after the original administrative action, the original management measure, the original working condition rendered, or the original decision has been completely executed.

The stipulations in Subparagraph 5-8 of Paragraph 1 only apply to the final guilty decision, or the halt or discontinuation of the criminal procedure is not attributed to insufficient evidence.

Article 95

A petition for re-consideration shall be filed within a peremptory period of 30 days.

The period in the preceding paragraph shall be calculated from the date when the deliberation or re-appeal decision is final. However, the period to file the petition for re-consideration shall be calculated from the time the ground for re-consideration became known if such ground became known at a later date.

A petition for re-consideration shall not be filed after 5 years from the date of a final deliberation or re-appeal decision.

Article 96

A petition for re-consideration shall be filed with the CSPTC in writing with statement of reasons, its duplicate, and the photocopy of the original decision and evidence.

Article 97

A petition for re-consideration may be withdrawn before the CSPTC makes a decision.

While there is a withdrawal in the preceding paragraph, the petition for re-consideration shall not be filed upon the same reason.

Article 98

The CSPTC shall make a decision of case not entertained if it finds that the procedure to file a petition for a re-consideration is unlawful.

Article 99

While the CSPTC finds a petition for re-consideration is without merits, it shall dismiss it by a decision.

While there is a decision in the preceding paragraph, the petition for re-consideration

shall not be filed upon the same reason.

Article 100

While the CSPTC finds a petition for re-consideration is sustainable, it shall revoke or modify the original deliberation or re-appeal decision.

Article 101

The deliberation procedure stipulated in Chapter 3, the re-appeal procedure stipulated in Chapter 4, and the execution stipulated in Chapter 6 shall apply mutatis mutandis to a petition for re-consideration unless otherwise stipulated in this Chapter.

Chapter VIII Supplementary Provisions

Article 102

This Act shall apply mutatis mutandis to the following personnel:

- 1.The employees of public schools who are appointed but not confirmed in qualification prior to the enforcement of the Act of Governing the Appointment of Educators;
- 2.The personnel remaining in office but not qualified as a civil servant after a private school is converted into a public school;
- 3.The personnel appointed by public enterprises according to laws;
- 4.The personnel legally assigned, engaged, hired, employed, or remained in employment by agencies; or
- 5.The personnel passing the civil servant qualification examinations and participating in the training program, or finishing and passing the training program but not being assigned an official job yet.

The Administrative Appeal Act shall be applicable to the remedy concerning the rights and interests of the personnel passing the civil servant qualification examinations and participating in the training program in Subparagraph 5 of the preceding paragraph, while having objection(s) to to the administrative action taken by the CSPTC.

Article 103

While a protection case was not yet concluded until this Act is amended and takes effect, its remaining procedure shall be concluded in accordance with this Act as amended.

Article 104

This Act shall be effective from the date of promulgation.

