

Republika ng Pilipinas
(Republic of the Philippines)
KAGAWARAN NG EDUKASYON, KULTURA AT ISPORTS
(DEPARTMENT OF EDUCATION, CULTURE AND SPORTS)
UL Complex, Pasig, Metro Manila

June 16, 1992

DECS O R D E R
No. 61, s. 1992

DEPARTMENT OF JUSTICE OPINION ON THE APPLICABILITY OF DECS
ORDER NO. 5, S. 1990 TO THE CERTIFIED PUBLIC
ACCOUNTANT LICENSURE EXAMINATION

To: Bureau Directors
Regional Directors
Schools Superintendents
Presidents, State Colleges and Universities
Heads of Private Schools, Colleges and Universities

1. For the information and guidance of all concerned, in-
closed is a copy of Opinion No. 42, s. 1992 of the Department of
Justice relative to the applicability of DECS Order No. 5, s.
1990, Policies and Standards for Accounting Education, to the
Certified Public Accountant licensure examination.
2. Immediate and wide dissemination of this Order is
desired.

(SGD.) ISIDRO D. CARINO
Secretary

Incl.:
As stated

Reference:
DECS Order: (No. 5, s. 1990)

Allotment: 1-2-3-4--(M.O. 1-87)

To be indicated in the Perpetual Index
under the following subjects:

Course of Study, COLLEGIATE
CURRICULUM
EXAMINATIONS
POLICY
SOCIETY or ASSOCIATIONS
STUDENTS
UNIVERSITIES and COLLEGES

Republic of the Philippines
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila



OPINION NO. 12, S. 1992

April 2, 1992

Hon. Hermogenes P. Pobre
Commissioner
Professional Regulation Commission
P. Parades St., corner Morayta Street
Sampaloc, Manila

Sir :

This refers to the request of the Professional Regulation Commission for opinion relative to the applicability of DECS Order No. 5, series of 1990 issued by the Department of Education, Culture and Sports (DECS) which seeks to gradually phase out the Accounting major in the Bachelor of Science in Commerce, Bachelor of Science in Business Administration and Bachelor in Business Administration courses and in its place adopt the new course Bachelor of Science in Accountancy.

It appears that the said gradual phase-out of Accounting major was implemented last school year 1990-1991 and in accordance with the following schedule:

1990 - 1991	-	1st year
1991 - 1992	-	2nd year
1992 - 1993	-	3rd year
1993 - 1994	-	4th year

Thus, by the end of school year 1993 - 1994, the Accounting Major shall have been totally phased-out.

You state that the Commission and the Board of Accountancy are evaluating applications for and conducting the Certified Public Accountant licensure examination and issues will crop up on the applicability of the aforementioned DECS Order No. 5, particularly to those students who will graduate after 1994 in the light of the provisions of subsection (d), Section 10, Article II of Presidential Decree No. 602 (The Revised Accountancy Law), the pertinent provision of which is quoted as follows:

"SECTION 10. Admission Requirements for Examinations. - No person shall be admitted to the examination unless he is:

x x

x x

x x

(d) a holder of the degree of Bachelor of Science in Commerce or its equivalent from any institution of learning recognized by the government in accordance with the provisions of this Decree; and x x x." (emphasis supplied)

It is the position of the Commission as well as that of the Board of Accountancy, that accounting majors who will graduate after 1994, may be denied admission to the examinations, consonant to the above provision of paragraph (d) and recognizing the authority of the DECS to prescribe courses.

Nonetheless, in order to avoid possible problems in the implementation of DECS Order No. 5, you request opinion on the following queries:

1. Whether the DECS can legally phase out, cancel, rescind, or withdraw government recognition granted to a school to offer the accounting major in the Bachelor of Science in Commerce, Bachelor of Science in Business Administration or Bachelor in Business Administration course, and in its place require adoption of the course Bachelor of Science in Accountancy.
2. Whether, under the provisions of P.D. 692 (The Revised Accountancy Law), the Professional Regulation Commission and the Board of Accountancy can deny admission to the CPA examinations of candidates graduating after school year 1993 - 1994, who do not possess the Bachelor of Science in Accountancy degree as provided for in DECS Order No. 5, Series of 1990."

I am constrained to decline rendition of opinion on the first query since the resolution of the issues involved therein would inevitably require an interpretation and/or examination of DECS Order No. 5, issued by the Department of Education, Culture and Sports (DECS), which is the agency authorized to formulate policies and standards for the establishment and operation of the accounting

OPINION NO. 42 S. 1992

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education program. By established precedents, the Secretary of Justice has consistently refrained from expressing his views on matters that fall within the primary jurisdiction of another office (Sec. of Justice Ops. No. 141, s. 1966; No. 39, s. 1966; No. 1, s. 1968; No. 123, s. 1980; No. 194, s. 1976). DECS, in this case, which has the primary task of enforcing and interpreting its own administrative issuances. This rule has evolved not only from practical considerations but also out of respect and deference for the competence and expertise of the office having primary jurisdiction to resolve the matter and for its familiarity with the policy repercussions of the resolution of the questions as well as from a logical recognition of the lawful exercise of an authority conferred by law (*Id.*, No. 1, s. 1983). Besides, this Department has also consistently declined to render opinion on queries involving the application or interpretation of duly issued circulars, regulations or orders of administrative agencies which issued them and whose decisions and actions are not reviewable by the Secretary of Justice, unless for their guidance, the issuing agencies themselves should request the Secretary's opinion on legal questions arising from the implementation of these issuances (Op. No. 160, s. 1988).

We may add, however, that rules and regulations duly issued by an administrative agency, like laws, enjoy the presumption of validity and until set aside or nullified by the courts, they have the force and effect of laws and are binding upon all on whom they operate.

Regarding the second query, it is, as we see it, the intention of the Commission to adopt and implement DECS Order No. 5 and to deny admission to the CPA examinations graduates after school year 1993-1994 who do not possess a Bachelor of Science in Accountancy degree as provided for in said DECS Order No. 5. However, the Commission doubts this contemplated course of action in view of the aforementioned provision of Section 10(d) of P.D. No. 892 which qualifies for admission to the CPA examination any graduate who has a "degree of Bachelor of Science in Commerce or its equivalent from any institution of learning recognized by the Government" (emphasis ours).

We are informed that at present, the Commission and the Board of Accountancy apply certain guidelines in determining what courses or degrees are considered "equivalent" to a Bachelor of Science in Commerce degree which would qualify a candidate for admission to the CPA examinations. Under these guidelines, deemed equivalent courses are courses with major in Accounting, such as the aforementioned Bachelor of Science in Commerce, Bachelor of Science in Business Administration and Bachelor in Business Administration.

Given the validity of DRCS Order No. 5, the effect of the full implementation of said DRCS Order No. 5 after school year 1993-1994 is the ultimate phase-out of the aforesaid courses and the complete adoption of the Bachelor of Science in Accountancy course as the only recognized accounting program. In this eventuality, it would result that the "equivalent" under the law (i.e. Sec. 10[d] of P.D. No. 692, supra) of a Bachelor of Science in Commerce degree would no longer be just any course with major in Accounting, for any such program would by then be inexistent or totally phased out, but the new course Bachelor of Science in Accountancy.

Based on these premises, your second query is answered in the affirmative. However, this is without prejudice to the right of those candidates with Accounting as major who have qualified for, and have taken, the CPA examinations before the full implementation of DRCS Order No. 5, but have failed, to retake the CPA examinations under the same conditions imposed for qualifying in the initial examinations taken.

Very truly yours,

Eduardo G. Montenegro
 EDUARDO G. MONTENEGRO
 Acting Secretary

