

Thesis Title	Impact on the Disciplinary Procedure of Civil Servant, Government Teacher and Educational Personnel in the case where the N.C.C. Commission passes a resolution that the allegation has a <i>prima facie</i> case.
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Abstract.

This research has been conducted with a view to present a study on the impact and legal provisions related to an issue where the N.C.C. Commission passes a resolution that the allegation has a *prima facie* case for a disciplinary offence, and an alleged culprit is a civil servant, a government teacher or an education personnel under Thai law. Based on pertinent Thai and foreign existing legislations, academic resources as well as precedent cases ruled by the Administrative Court, the research is set to identify and scrutinize problems of the impacts on an alleged culprit, the superior or the person who has the power to appoint or remove the alleged culprit, the N.C.C. Commission and the Administrative Court proceeding. Importantly, the research also proposes suggestions to rectify Thai law.

The study found that there is no organization in foreign countries having the same characteristics as the N.C.C. Commission. However, the purpose of the N.C.C. Commission's investigation is to find the facts whether the alleged culprit is guilty or not, which is the same objective as police and the disciplinary committee's investigations. However, the proceeding of the N.C.C. Commission is consistent with a disciplinary proceeding and the agency that investigates corruption in other countries.

For instance, the Administrative Court of First Instance made a judgment or order that the administrative act of the N.C.C. Commission shall be revoke but the N.C.C. Commission appealed against a judgment and filed an application to the Administrative Court for a new trial and judgment, claimed that the Commission was subject to the standards and procedures prescribed under the Act on Establishment of Administrative Courts and Administrative Court Procedures B.E. 2542 (1999). A third person who is interested or who may be affected by the

result of the case may file an application to the Administrative Court for a new trial and judgment or for issuing a new order under section 75 of the Act on Establishment of Administrative Courts and Administrative Court Procedures B.E. 2542 (1999).

According to the facts mentioned above, the N.C.C. Commission would seem like to participate in the processing of the court which would be contrary to the Administrative Court's precedence settled that the N.C.C. Commission's finding is only a suggestion and its finding is obviously not an administrative act. Thus, pursuant to Article 42 of an Act on Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999) the allege culprit in this case cannot bring the case against the N.C.C.'s finding to the Administrative Court since the injured person is not aggrieved or injured in consequence of an administrative act.

Furthermore, the N.C.C. Commission was established by the Organic Act on Counter Corruption B.E. 2542 (1999). In accordance with the constitutional concepts, the organic acts are not at the same level as ordinary acts. In order to have power to inspect the malpractice in public office, the N.C.C. Commission is therefore an independence agency which considered as an executive. Thus, it is unnecessary to send the case to another government agency.

There are suggestions to amend Section 92 of the Organic Act on Counter Corruption B.E. 2542 (1999) in order to be consistent with the hierarchy of law and to be able to resolve the problem in administration order issuance process. Firstly, the N.C.C. Commission shall have power to give disciplinary punishment order only on the ground of corruption in public office to civil servant, government teacher, educational personnel and other government officers, and report a resolution to original affiliation agency of the allege culprit. Additionally, the writer has an opinion that Section 93 of the Organic Act on Counter Corruption B.E. 2542 (1999) should be revoke and there should be regulation relating to the appeal against the order and the operation of the filing of administrative cases.

Secondly, Section 92 of the Organic Act on Counter Corruption B.E. 2542 (1999) should be amended by adding the fourth paragraph by states that "In the case relating Section 92 of the Organic Act on Counter Corruption B.E. 2542 (1999), the Administrative Court may summoning the N.C.C. Commission to become a party to a case."

The suggestion of this research shall solve the issues arose from the initiation of a disciplinary action by the N.C.C. Commission which the writer issued as a point in this research.