

SUBMITTED TITLE	LEGAL PROBLEMS IN RELATION TO THE DISCIPLINARY ACTION AGAINST THE CIVIL OFFICERS: CASE STUDY IN THE CASE OF THE NATIONAL ANTI-CORRUPTION COMMISSION (NACC) TO POINT OUT THE DISCIPLINARY OFFENCE
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ABSTRACT

According to the act appurtenant to the constitution on the Counter Corruption B.E.2542, provided that The National Anti-Corruption Commission (NACC) to have the power to point out the civil officer's offence, the problems to be studied are as follows:

Legal problem in relation to the power of the National Anti-Corruption Commission (NACC) in pointing out the civil officer's offence, according to the act appurtenant to the constitution on the Counter Corruption B.E.2542, Section 19 does not specify to grant the National Anti-Corruption Commission (NACC) the power to point out the disciplinary offence clearly, for example, taking action in the criminal offence that may have caused the controversy on the legal power to take the disciplinary action in such case. Such problem solution should clearly specify the power of the National Anti-Corruption Commission (NACC) in taking disciplinary action and to be in accordance with the principle of law in order to prevent the controversy involving the power of the National Anti-Corruption Commission (NACC) from being occurred.

The legal problem on the superior who cannot use his discretion in taking disciplinary action against the civil officer in case the offence is pointed out by the National Anti-Corruption Commission (NACC) that the power is granted to the superior to issue the order to take disciplinary action against such civil officer by holding the investigating case of the National Anti-Corruption Commission (NACC) as the case for disciplinary investigation without considering to take disciplinary action again. This has caused the superior is unable to use his discretion in taking disciplinary action as provided in the Civil Officer Regulation Act, B.E.2551. The problem solution is that when the disciplinary offence was pointed out by the National Anti-Corruption Commission (NACC) the power should be granted to the superior to use his discretion in taking the disciplinary action and proceed in accordance with Civil Officer Regulations Act, B.E.2551 as provided.

The legal problem on the consideration of appeal of order to take disciplinary action against the civil officer in case such civil officer was pointed out for the disciplinary offence by the

National Anti-Corruption Commission (NACC) according to the act appurtenant to the constitution on the Counter Corruption, B.E. 2542, the right is granted to the punished civil officer to file the appeal only for the superior's discretion in relation with the punishment order which is different from the appeal as provided by Civil Officer Regulations, B.E. 2551 that permits the appeal can be made in term of the fact, provision of law, process and procedures for taking the disciplinary action. For such problem solution, the agency who has the duty to consider the appeal of disciplinary action order can consider the fact, circumstances as well as to decide on whether or not such order is lawfully given to meet the intent of the Civil Officer Regulations Act, B.E. 2551.

Finally, the problem in relation with the equality in taking the disciplinary action against the civil officer and the judicial officer, judicial officer of the Administrative Court and public prosecutor in which the right to take disciplinary action is different and is considered as the discrimination. It casts some doubt that may have the effect against the equality. It is deemed expedient to determine the punishment in the case of civil officer, judicial officer, judicial officer of Administrative Court and public prosecutor for the equality and the same practice.