NATIONAL ADMINISTRATIVE REGISTER · SEPTEMBER 9, 1997

REVISED RULES ON ADMINISTRATIVE PROCEEDINGS

NFA SOP NO. SS-LG06, September 09, 1997

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These Revised Rules on Administrative Proceedings are hereby adopted and prescribed for the information, guidance and compliance of all concerned.

I

Objective

To come up with an updated, consistent and just basis for speedy investigation and resolution of administrative cases against NFA officials and employees.

IIScope

This shall cover the administrative offenses classified into grave, less grave and light; application of penalties; functional responsibilities of concerned offices; and procedures followed from the filing of a complaint up to the filing of an appeal.

III

Bases

1. P.D. 4 as amended.

2. Omnibus Rules, Implementing Book V of EO 292

IV

Implementing Guidelines

A. General Provisions

1. JURISDICTION — The Administrator is the disciplining authority. As such, he shall have the authority to initiate preliminary investigations, file formal charges and conduct formal investigations and decide matters involving disciplinary action against officials and employees under his jurisdiction.

The Administrator may entrust the conduct of formal investigation of administrative cases to the Regional Managers or other officials with the issuance of Special Order, who shall then make the necessary report and recommendation to him within the period prescribed under these rules.

2. DUE PROCESS— No official or employee of the NFA shall be suspended or dismissed or otherwise penalized except for cause as provided by law and after due process.

3. COMPLAINT — No complaint against an official or employee shall be given due course, unless the same is subscribed and sworn to by the complainant. No action shall be taken on an anonymous complaint unless there is

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obvious truth or merit to the allegations set forth in the anonymous complaint.

4. DEFINITION OF TERMS

4.1 Administrative Discipline — an administrative tool designed as a control in inducing employees to conform to established rules. It generates in public officers and employees the development of moral values, skills and attitude for their effective participation in the institutional process of government. The imposition of penalties is not to punish but to correct.

4.2 Aggravating Circumstances — refer to those circumstances present in the commission of an offense charged that increase the penalty to be imposed.

4.3 Mitigating Circumstances — refer to those circumstances which if present in the commission of the offense charged, or utilized therein, do not entirely free the respondent from administrative liability, but merely serve to re duce the penalty to be imposed.

4.4 Analogous Circumstances — refer to those circumstances similar to any of the mitigating or aggravating circumstances that reduce or increase the penalty to be imposed.

4.5 Due Process of Law — is that which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. It requires notice and opportunity to be heard before judgment is rendered. In administrative cases, the right to due process entitles the respondent:

a) To be informed of the charges against him as well as the evidence in support thereof;

b)To avail of the services of a counsel:

c) To answer the charge and submit evidence in his behalf:

d) To be afforded a formal investigation, if he so elects:

e) In case a formal investigation is held, to confront his accuser and witnesses;

f) To require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena and subpoena duces tecum:

g) To receive a copy of the decision in its complete form.

4.6 Anonymous Complaint — a complaint that is unsigned or even if signed, the person whose name appearing as complainant denies making such complaint or the identity of the signatory cannot be determined. It shall not, merit a fact-finding investigation unless there is obvious truth to such complaint.

4.7 Complaint — a written specification of charge.

4.8 Prima Facie — evidence of fact which, in law, is sufficient to establish the fact; self-evident.

4.9 Formal Charge — a written specification of charge or charges signed by the disciplining authority. It need not be sworn to.

4.10 Preliminary Investigation — a fact-finding investigation to determine if a prima facie case exists or if there is a valid justification of the complained action or inaction of an official or employee.

4.11 Formal Investigation — the conduct of the actual hearing wherein the parties are allowed to submit their evidence in support of their claims and defenses and to cross-examine the other party and his witnesses.

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4.12 Prosecution — the means adopted to bring a supposed offender to justice and punishment after due process of law has been fully observed.

4-13 Subpoena — is a process directed to a person requiring him to attend and testify in an investigation.

4.14 Subpoena duces tecum — is a process directed to a person requiring him to attend an investigation and to bring with him any books, documents, or other things under his control,

4.15 Exoneration — the clearing from blame or guilt of the respondent employee for the charges filed against him.

4.16 Inefficiency— implies negligence, incompetence, ignorance and carelessness.

4.17 Motu Propio — on one's initiative.

4.18 Habituality — a condition of having been previously charged and found guilty of an administrative offense and again charged and found guilty of similar or another administrative offense.

4.19 Incompetence — lack of necessary qualification or fitness for the work. It manifests tack of adequate ability and fitness for that satisfactory performance of official duties by reason of the officer's vice or vicious habits. This refers to any physical, moral or intellectual quality, the lack of which substantially incapacitates one from performing the duties of an office.

4.20 Conduct Prejudicial to the Best Interest of the Service — a highly improper act, deficiency in prudence, discretion and judgment that tends to undermine people's faith and confidence in the government. It need not be connected with the performance of duty.

4-21 Disloyalty — is failure to resist a rebellion by all means under one's power, or continuing to discharge the duties of one's office under the control of the rebels or the acceptance of an appointment to an office under them.

4.22 Disgraceful and Immoral Conduct — an act that violates the basic norms of decency and morality and is repulsive to normal standards of decency, morality and decorum. It is willful, flagrant, or shameless, and shows a moral indifference to the opinion of the good and respectable members of the community.

4.23 Dishonesty— an absence of integrity, a disposition to betray, cheat, deceive or defraud, bad faith. It is a concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duties.

4.24 Falsification of Official Documents — is a misrepresentation certifying that a thing, fact or condition is true when it is not. Falsification is the commission of a deliberate falsehood with intent to deceive.

4.25 Insubordination — is failure to comply with lawful instructions of a superior officer or with standing office regulations.

4.26 Misconduct — includes such acts as amount to a breach of good faith and right action implicitly required of all officers, it is a transgression of some established and definite rule of action more particularly unlawful behavior or gross negligence by a public officer. It implies wrongful intention and not a mere error in judgment.

The word "grave" means important, weighty, momentous, not trifling. For grave misconduct to exist, there must be a reliable evidence showing that the acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules. Grave misconduct is flagrantly or shamefully wrong or improper conduct.

4.27 Act Involving Moral Turpitude — an act of baseness, vileness, or depravity in the private and social duties which a man owes his fellowman or to society in general, contrary to the accepted and customary rule of right and

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duty between men or conduct contrary to justice, honesty, and modesty or good morals. It implies something immoral in itself regardless of the fact that it is punishable by law or not.

4.28 Neglect of Duty — a simplification of the phrase "neglect in the performance of official duty" It is the omission or refusal, without sufficient excuse, to perform an act or duty, which is the officer's legal obligation to perform.

4.29 Nepotism — any appointment made in favor of a relative of the appointing or recommending authority or of persons exercising immediate supervision over him. The word "relative" refers to one related to the appointing or recommending official within the third degree of consanguinity or affinity.

4.30 Notoriously Undesirable — a condition of being the object of wide or general attention for something reprehensible or scandalous. It requires a formal charge or complaint and that it should be for dishonesty, incompetence or other kinds of misconduct

4.31 Oppression — an act of cruelty, severity, unlawful exaction, domination or excessive use of authority. It is the exercise of unlawful power or other means in depriving an individual of his liberty or property against his will.

4.32 Partisan Political Activity — is an act designed to promote the election or defeat of a particular candidate or candidates to a public office. It is an active participation in a political campaign.

4.33 Relevant Evidence — is an evidence having any value in reason as tending to prove a fact in issue

4.34 Summons — a notice to a respondent to answer a formal charge or sworn complaint.

4.35 Docket — a calendar of cases awaiting judicial or quasi-judicial action

4.36 Docketing — designation of a specific case reference number in the Record of Cases with the Department of Legal Affairs.

B. Procedures and Grounds for Disciplinary Actions

These procedures shall cover administrative offenses classified into grave, less grave and light, application of penalties, functional responsibilities and procedures to be followed from filing of the complaint to the filing of the appeal. The classification of offenses is presented in Annex A.

1. PRELIMINARY INVESTIGATIONS

1 1 A preliminary investigation may be conducted upon receipt of a written complaint or moto propio when it comes to the knowledge of the officer ordering it that an administrative offense is probably committed and the preliminary investigation is necessary to determine if a prima facie case exists or if there is justifiable reason for the action or inac-tion of the official or employee.

1.2 Aside from the Administrator, the Regional Managers, the Department Managers of the Internal Audit Services (IAS), and the Department for Legal Affairs (DLA) with respect to cases involving IAS officers and employees, and Provincial Managers with respect to cases involving their employees, may order the conduct of preliminary investigation.

1.3 The preliminary investigation shall be conducted by he designated investigator in the following manner;

a) He shall require the complainant to affirm his signature and to swear to the complaint if still unsworn to. Further, he shall require the complainant to submit the affidavits of his witnesses and other documents and real evidence supporting his complaint. Whenever necessary, he shall take the sworn statements of the complainants

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and his witnesses;

b) He shall inform the official or employee of the complaint against him and require him to submit his counter-affidavit as well as those of his witnesses and other documents and real evidence supporting his defense Whenever necessary, he may take the sworn statements of the official or employee and his witnesses; and

c) Whenever necessary to further clarify the issues, the investigator may take the sworn statements of other persons and require the submission of documents or real evidence.

1.4 The investigator snail as such as possible, conclude the preliminary investigation and shall submit his preliminary investigation report to the IAS Dept, Manager/DLA Dept. Manager/Regional Manager/ Provincial Manager, as the case may be, within thirty (30) days from the receipt of the mission order. The report shall include all the evidence gathered and the findings of the investigator.

1 5 The following officials shall further evaluate the investigation report submitted to them and if complete, they shall forward the investigation report with their recommendation within fifteen (15) days from receipt, as follows:

a) Provincial Managers to the Regional Managers;

b) Regional Managers to the Internal Audit Services (IAS) Department Manager;

c) IAS Department Manager to the Administrator; and

d) DLA Department Manager to the Administrator in cases involving IAS officials and employees.

1.6 The IAS Department Manager or the DLA Department Manager, as the case may be, shall submit his recommendation to the Administrator for his consideration and approval.

1.7 The Administrator shall dismiss the case if no prirne facie case is established or if the action or inaction of the official or employee is justified under the circumstances.

2. COMMENCEMENT OF ADMINISTRATIVE CASE AND ANSWER

2.1 Administrative case is commenced against an NFA official or employee by:

a) The Administrator upon docketing of the formal charge (sample format is presented in Annex B); or

b) Any other person upon docketing of a sworn written complaint which is sufficient in form and in substance .

2.2 The formal charge or complaint shall be written in clear, simple and concise language in a systematic manner to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense.

2.3 The formal charge or complaint shall contain;

a) The full name and address of the complainant;

b) The full name and address of the respondent as well as his position and his office of employment;

c) Specification of charges stating therein clearly the acts complained of constituting the offense charged; and

d) A brief statement of relevant and material facts, accompanied by certified true copies of the documentary evidence , if any, and sworn statements covering the testimony of his witnesses.

2.4 After signing, the Administrator shall forward the formal charge to DLA which shall docket it and assign the same to the hearing officer for formal investigation. The hearing officer or the Regional Manager in cases of light offenses committed by the employees in his region shall issue summons (sample format is presented in Annex C)

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to respondent/s.

2.5 Summons shall be served on the respondent together with the formal charge or complaint, sworn statements and documents specified or submitted in support of the formal charge or complaint.

2.6 The summon shall contain a notification that the respondent is given a period of five (5) days to submit his answer to the charges, it shall likewise include an advice that the respondent has the option to eject a formal investigation and that failure to indicate his option to formal inves-tigation in the answer shall be deemed a waiver and the case may be decided based on the pleadings and evidence submitted.

2.7 The withdrawal or recantation by the complaining witness does not necessarily discharge the respondent from any administrative liability. Where there is obvious truth or merit to the charges or complaint, the same should be given due course.

2.8 The answer shall be in writing and under oath. All sworn statements and documents that support the respondent's case shall be submitted with the answer.

2.9 Request for extension of time to file an Answer may be granted only once by the hearing officer and the same shall be for not more than ten (10) days.

2.10 If after the answer, it comes evident that the facts charged do not constitute an offense or that there is a legal excuse or justification of the action or inaction of the official or employee, the hearing officer may, moto propio or upon motion, recommend for the dismissal of the administrative case.

2.11 If the respondent fails to answer within the prescribed period, he shall be considered to have waived his right to file an answer and the case may proceed in accordance with Section 4 on Forma! Investigation.

3. PREVENTIVE SUSPENSION

3.1 The Administrator may preventively suspend any sub-ordinate official or employee pending an investigation, if the evidence against him is strong and any of the circum-stances is present:

a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct, neglect in the performance of duty; or

b) there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service; or

c) the respondent's stay in office may prejudice the case against him.

3.1 The Order of Preventive Suspension may issue upon docketing of the formal charge, or anytime thereafter, but before the termination of the case.

3.2 When the administrative case against an official or employee under preventive suspension is not finally decided by the Administrator within the period of 90 days after the date of his preventive suspension, he shall be automatically reinstated in the service. Provided, that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of the delay shall not be included in the counting of the 90 calendar ay period of preventive suspension.

3.3 A preventive suspension shall be lifted by the Administrator when it becomes evident that the reason or reasons for the suspension no longer exist.

3.4 The period within which an official or employee charged s placed under preventive suspension shall not be

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considered part of the actual penalty of suspension imposed upon the employee if found guilty.

3.5 Salaries and other benefits withheld and/or suspended may be returned the respondent only upon exoneration or upon dismissal of the case due to the fact that the respondent has no role in the commission of the offense charged.

4. FORMAL INVESTIGATION

4.1 An official or employee is-deemed to have a pending administrative case upon docketing of the formal charge or sworn complaint.

4.2The responsibilities in the conduct of formal investigation shall be as follows:

a) IAS shall designate qualified officers to prosecute administrative cases;

b) DLA shall conduct the formal investigation. It shall designate hearing officers for the purpose; and

c) The Regional Manager shall be the hearing officer of administrative cases involving light offenses. He shall designate a lawyer-employee to prosecute cases investigated by him; or in the absence of a lawyer, any other officer or employee.

This shall not preclude the Administrator from designating special prosecutors or hearing officers whenever he deems it necessary.

4.3 Where the respondent elects to waive formal investigation and merits of the case can be decided without such investigation, the hearing officer shall submit his investigation report with recommendation, and the Administrator shall render judgment based on the complaint or formal charge, answer and evidence submitted.

4.4 Although a respondent does not request a formal investigation, one shall nevertheless be conducted by the hearing officer when from the allegations of the complaint and the answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation.

4.5 The respondent and the complainant, in administrative cases initiated by a private party, may avail of the services of counsel. The parties may require the attendance of their witnesses and the production of documentary evidence in their favor through the compulsory process of subpoena/subpoena duces tecum.

4.6 The formal investigation shall be conducted for the purpose of ascertaining the truth without necessarily adhering to technical rules applicable in judicial proceedings. It shall be conducted in the most expeditious and inexpensive manner. It shall be free from the rigidity of procedural requirements observed in the court. It shall merely observe fundamental and essential requirements of due process.

4.7 To ensure the speedy disposition of the administrative investigation, the hearing officer shall:

a) Limit the scope of the investigation to ascertaining the truth of the facts in issue without necessarily adhering to the technical rules applicable in judicial proceedings;

b) Prevent respondent and complainant or their lawyers from discussing questions of law during the investigation and require that such arguments be submitted in written form;

Such questions of law must however be resolved by (he Hearing Officer in his report of forma! investigation to the Administrator.

c) Questions of procedure may be resolved by the Hearing Officer after being propounded or later but before

termination of proceedings.

5. CONDUCT OF HEARING

5 1 At the commencement of the formal investigation, the hearing officer, in the exercise of his discretion, may direct the parties to appear for a pre-hearing conference to consider and agree on any of the following:

a) Simplification of issues;

b) Stipulation of facts;

c) Limiting the number of witnesses, and their names;

d) Identification and marking of evidence of the parties;

e) Waiver of objections to admissibility of evidence;

f) Dates of subsequent hearings; and

g) Such other matters as may aid in the prompt and just resolution of the case.

5.2 After the pre-hearing conference, the hearing officer shall prepare the pre-hearing conference order which shall contain a summary of the agreements of the parties, including the facts stipulated.

The parties may agree to submit the case for resolution based on the result of the pre-hearing conference without any need for further hearings.

5.3 Hearings shall be conducted for the ultimate purpose of affording the parties the right to cross-examine the witness/es.

5.4 Unless the hearing officer directs otherwise, the order of hearing shall be as follows:

a) The prosecution shall produce its evidence;

b) The respondent shall then produce evidence to support his defense: and

c) The hearing officer may allow either party to present rebuttal evidence;

d) After both parties have presented their evidence, the hearing officer may require the parties to make their oral arguments or to submit their written memoranda or draft decision within a period not exceeding fifteen (15) days.

5 5 Evidence to be presented shall be limited to the statements of the complainant, respondent and their witnesses and documentary or real evidence submitted with the complaint or answer and those submitted and marked during the pre-hearing conference. No other evidence shall be allowed unless the hearing officer deems it necessary and the additional evidence was unavailable at the time of filing of complaint or answer. Further, only evidence which are relevant and material to the issues involved in the case shall be allowed.

5.6 The examination of each witness shall be as follows:

a) Direct examination shall consist of having the witness identify his affidavit or sworn statement and confirm his signature. Such affidavit or sworn statement of the witness shall be considered his direct testimony;

b) Cross-examination shall be limited to the averments of the witness in his direct testimony.

c) Redirect examination or re-cross examination may be allowed by the hearing officer.

The hearing officer may a flow direct and cross examination on relevant and material issues not included in the

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witness affidavit only if interest of justice so requires.

5.7 Testimonial, documentary and real evidence are considered offered in evidence at the time of presentation. The hearing officer may however require the parties to formally offer their evidence.

Exhibits presented by complainant shall be marked by letters (A, B, C, etc.) and those by the respondent by numbers (1, 2, 3, etc.).

5.8 Rebuttal/sur-rebuttal evidence may be presented by way of affidavits or oral testimonies, with leave of the hearing officer with the adverse party/parties being allowed to cross-examine the affiants/witnesses.

6. SCHEDULE OF HEARINGS

6.1 The formal investigation shall be held not earlier that five (5) days nor later than fifteen (15) days from the date of receipt of the respondent's answer. Said investigation shall be finished within 30 days from the filing of charges, unless the period is extended by the Administrator in meritorious cases.

6.2 The hearing officer shall schedule hearing dates of not more than five (5) consecutive days, giving the prosecutor and the respondent/s prior notice.

6.3 The scheduled hearing are intransferable. Postponements may, however, be allowed on meritorious grounds.

In any event, a party shall not be granted more than two (2) postponements. If the ground for postponement is due to illness, the same shall be covered by a medical certificate duly accomplished.

6.4 The Notice of Hearing shall conform with the format provided for in Annex D*.

7. DECISIONS AND PENALTIES

7.1 AH decisions in administrative cases shall be in writing, stating clearly the facts and the law on which it is based and shall be signed and promulgated by the Administrator as the disciplining authority.

7.2 The hearing officer shall submit his report to the Administrator within fifteen (15) days from conclusion or termination of his investigation. The Administrator may adopt, modify or revise the report in his decision. The decision shall be rendered by the Administrator within 30days from the submission of the report.

7.3 The required quantum of evidence to support a decisions substantial. Evidence is substantial when a reasonable mind might accept it as adequate to support a conclusion. It is more than a scintilla. The decision shall be supported by evidence on record.

7.4 In meting punishment, like penalties shall be imposed for like offenses and only one penalty shall be imposed in each case. "Each Case" means one administrative case which may involve one or more charges or counts.

7.5 The Administrator may impose the penalty of removal/ dismissal from the service, forced resignation with or without prejudice to benefits, demotion in rank, suspension for not more than one year without pay, fine in an amount not exceeding six months salary' transfer or reprimand.

7.6 The mitigating circumstances are the following:

a) Physical illness:

b) Good faith:

c) Length of service

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d) Lack of intent to cause damage or loss: and

e) Analogous circumstances.

7.7 The aggravating circumstances are the following:

a) Taking advantage of official position;

b) Taking undue advantage of a subordinate;

c) Undue disclosure of confidential information;

d) Use of government property in the commission of the offense.

e) Habituality;

f) Offense is committed during office hours or within the premises of the workplace;

g) Employment of fraudulent means to commit or conceal the offense; and

h) Analogous circumstances.

7.8 Mitigating and aggravating circumstances shall be considered in the imposition of penalties only when pleaded or invoked by the proper parties.

7.9 If the respondent is found guilty of two or more charges or counts, penalty imposed should be that corresponding to the most serious charge or count and the rest may be considered as aggravating circumstance.

7.10 The imposition of the penalty shall be made in accordance with the manner hereinafter detailed, provided the penalty attached to the offense is divisible in the minimum, medium, and maximum, to wit:

a) The minimum of the penalty shall be imposed if only mitigating and no aggravating circumstances are present;

b) The medium of the penalty shall be imposed if no mitigating and aggravating circumstances are present or when both are present they equally offset each other;

c) The maximum of the penalty shall be imposed if only aggravating and no mitigating circumstances are present; and

d) If aggravating and mitigating circumstances are present, the minimum of the penalty shall be applied when there are more mitigating circumstances present; the medium period when the circumstances equally offset each other and the maximum when there are more aggravating circumstances.

7.11 The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for the reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.

7.12 The penalty of forced resignation shall carry with it disqualification for employment in the government service for at least one year. However, it may or may not contain conditions relative to the forfeiture of leave credits and retirement benefits, and the disqualification regarding reemployment in a specific class of position

7.13 The penalty of transfer shall carry with it disqualification for promotion for a period of six (6) months from the date respondent reports for the new position or station.

7.14 The penalty of suspension shall carry with it disqualification for promotion corresponding to the period of suspension.

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7.15 The penalty of demotion shall carry with it disqualification for promotion for a period of six (6) months.

7.16 The penalty of fine shall carry with it disqualification for promotion for a period twice the number of days he was fined.

7.17 A reprimand shall be considered a penally. However, a warning and /or admonition shall not be considered a penalty.

7.18 The penalty of transfer, or demotion, or fine may be imposed instead of suspension from one month and one day to one year except in case of fine which shall not exceed the equivalent of six (6) months salary.

7.19 The penalty of fine may be imposed instead of suspension from one day to one month.

8 PETITIONS FOR RECONSIDERATION OR APPEAL

8.1 A respondent-employee who feels aggrieved by a decision may file a petition for reconsideration with the Administrator within 15 days from receipt of copy of the decision,

8.2 The petition for reconsideration must be based on the following grounds:

a) New evidence has been discovered which materially affects the decision rendered:

b) The decision is not supported by evidence on record; and

c) Errors of law or irregularities have been committed which are prejudicial to the interest of the respondent.

8.3 All decisions which involve executives with rank of a Division Chief or its equivalent rank and higher, and decisions dismissing NFA permanent rank and file employees shall be submitted to the NFA Council for information.

8.4 Subject to the provision of the preceding section, decisions shall be final, unappealable, and executory in case the penalty imposed is suspension for not more than 30 days or fine in an amount not exceeding 30 days salary. Decisions imposing penalties exceeding 30 days suspension or fine in an amount exceeding 30 days salary may be appealed to the Secretary of Department of Agriculture and finally to the Civil Service Commission (CSC) within fifteen (15) days from receipt of a copy of the decision. The same is, however, immediately executory.

8.6 A petition for reconsideration or appeal shall not suspend the execution of the decision except when the penalty is removal in which case the same shall be executory only after confirmation of the Secretary of the Department of Agriculture

8.7 Notice of the appeal shall be filed with the Administrator, who shall forward the records of the case together with the notice of appeal, to the appellate authority within 15 days from filing of the notice of appeal, with his comment, if any.

The notice of appeal shall specifically state the date of the decision appealed from and the date of receipt thereof. Failure to do so may cause the dismissal of the appeal, it shall also specifically set forth clearly the grounds relied upon.

Where a notice of appeal is filed within the reglementary period, the appellant shall submit his appeal memorandum together with the certified true copy of the decision, resolution or order appealed from within ten (10) days from the date said notice is filed. Failure to submit an appeal memorandum with the required copy of decision within the prescribed period, shall be construed as a waiver thereof.

8.8 Decisions that are appealable are final upon lapse of the period of time to file petition for reconsideration or

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appeal.

B. Miscellaneous Provisions

1. In the computation of the period of time, the first calendar day shall be excluded and the last day included unless it is a Saturday or Sunday or a legal holiday in which case the period shall run until the end of the next working day.

2. The answer, motion of parties, petition for reconsideration or appeal is deemed filed on the date shown by the postmark in the envelop in case is sent by registered mail or on the date of receipt by the proper party in case of personal delivery.

3. An employee charged with an administrative offense is presumed innocent unless proven otherwise. Laws prescribing the grounds for disciplinary action are penal in nature, and should be liberally construed in his favor.

4. An official or employee subject of a complaint or a respondent cannot be compelled in the preliminary and formal investigation to testify against himself. Such refusal shall not be deemed as admission of guilt.

5. The principle of res judicata shall apply in administrative cases. Final judgement on an administrative case shall bar the filling of a new one when the following circumstances are present:

a) Prior final judgement

b) Judgement is rendered by an official having jurisdiction of the subject matter and the parties

c) Judgment must be on the merits

d) Identity of the action as to parties, subject matter and cause of action.

These Rules on Administrative Proceeding supersede SOP No. SS-LG04 issued on February 7, 1995.

Ail rulings and /or issuances inconsistent herewith are hereby superseded.

This SOP shall take effect 15 days after the filing with the University of the Philippines Law Center, certified copies hereof in compliance with Section 3(1) and 4, Chapter 2, Book VI!, Administrative Code of 1987 {BO 292),

Adopted: 09 Sept. 1997

(SGD.) JOEMARI D. GEROCHI
Acting Administrator

ANNEX A

CLASSIFICATION OF OFFENSES

The following are the administrative offenses classified into grave, less grave and light offenses and the corresponding degree of penalties on first, second and third offense.

a. GRAVE OFFENSES

1st offense

2nd offense

3rd offense

a.1 *Dishonesty

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Dismissal

a.2 *Gross Neglect Duty

Dismissal

a.3 *Grave Misconduct

Dismissal

a.4 *Being notoriously undesirable

Dismissal

a.5 *Conviction of a crime involving moral turpitude

Dismissal

a 6 *Falsification of official document

Dismissal

a.7 *Physical or menial incapacity or disability due to vicious habits

Dismissal

a.8 *Engaging directly or indirectly in partisan political activities by one holding non-political office

Dismissal

a.9 *Receiving For personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gif! or other valuable thing is given by any person in the hope of expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws

Dismissal

a.10 *Contracting loans of money or other property from persons with whom the employee has business relations

Dismissal

a 11 *Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be effected by the functions of his office. The propriety or impropriety of the foregoing shall be determined by its value, kinship or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature

Dismissal

a.12 "Disloyalty to the Republic of the Phil, and to Filipino people.

Dismissal

a 13 "Nepotism

Dismissal

a. 14 *Oppression

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Suspension 6mos. &1 day to 1 year

Dismissal

a.15 *Disgraceful S immoral conduct

Suspension 6 mos. & 1 day to 1 year

Dismissal

a.16 "Inefficiency and incompetence in the performance of official duties

Suspension 6 mos. & 1 day to 1 year

Dismissal

a.17 *Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent to unauthorized absences from duty during regular office hours

Suspension 6 mos. & 1 day to 1 year

Dismissal

a 18 *Refusal lo perform official duty

Suspension6 mos. & 1 day to 1 year

Dismissal

a.19 *Gross insubordination

Suspension5 mos. & 1 day to 1 year

Dismissal

a 20 *Conduct grossly prejudicial to the best interest of the service

Suspension 6 mos. & 1 day to 1 year

Dismissal

a.21 **Directly or indirectly having final end malarial interest in any transaction requiring the approval of his office Financial and material interest is defined as precuniary or proprietary interest by which a person will gain or lose something

Suspension 6 mos. & 1 day to 1 year

Dismissal

a.22 **Owning, controlling, managing. or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by his office, unless expressly allowed by law

Suspension 6 mos. & 1 day to 1 year

Dismissal

a 23 **Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation, to 1 year provided that such practice will not conflict with his official functions

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Suspension 6 mos. & 1 day

Dismissal

a.24 ** Disclosing or misusing confidential or classified info officially known to him by reason of his office and not made available to the public, to further his private interests or give undue advantage to anyone, or to prejudice the public interest

Suspension 6 mos. & 1 day to 1 year

Dismissal

a.25 **Obtaining or using any statement filed under the Code of Conduct S Ethical Standards for Public Officials and Employees for any purpose contrary lo morals or public policy or any commercial purpose other than by news and communications media for dissemination to the general public

Suspension 6 mos. & 1 day to I year

Dismissal

b. LESS GRAVE OFFENSES

b.1 *Simple neglect of duty

Suspension1 mo. & 1 day to 6 mos.

Dismissal

b.2 *Simple misconduct

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b 3 *Gross discourtesy in the course of official duties

Suspension mo. & 1 day to 6 mos.

Dismissal

b 4 *Gross violation of existing Civil Service Law and rules of serious nature

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b.5 *Insubordination

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b.6 *Habitual drunkenness

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b.7 **Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his office, unless such recommendation or referral is mandated by(1) law, or (2) international

agreements, commitment and obligation, or as part of the function of his office.

Suspension 1 mo & 1 day to 6 mos.

Dismissal

b.8 **Unfair discrimination in rendering public service due to party affiliation or reference

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b 9 **Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (16) years of age living in their households.

Suspension 1 mo. & 1 day to 6 mos.

Dismissal

b 10 **Failure to resign from his position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself of his of his share-holdings or interest in private business enterprise within sixty (60) days from such assumption of public office when conflict of interest arises1 Provided, however, that for those who are already in the service and a conflict of interest arises, the official or employees must either resign or divest himself of his share-holdings or interest in private business enterprise within sixty (60) days from such assumption of public office when conflict of interest arises: Provided, however, that for those who are already in the service and a conflict of interest arises, the official or employee must either resign or divest himself of said interest within the periods herein-above provided, reckoned from the date when the conflict of interest has arisen.

Suspension1 mo & 1 day to 6 mos.

Dismissal

c LIGHT OFFENSES

c.1 *Discourtesy in the course of official duties.

Reprimand

Suspension 1-30 days

Dismissal

c.2 *Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children

Reprimand

Suspension 1-30 days

Dismissal

c.3 *Violation of reasonable! office rules and regulations

Reprimand

Suspension 1-30 days

Dismissal

c.4 *Gambling prohibited by law

Reprimand

Suspension 1-30 days

Dismissal

C.5 *Refusal to render overtime service

Reprimand

Suspension 1-30 days

Dismissal

c.6 *Disgraceful, immoral or dishonest conduct prior to entering the service

Reprimand

Suspension 1-30 days

Dismissal

c 7 *Borrowing money by superior officers from subordinates

Reprimand

Suspension 7-30 days

Dismissal

c 8 *Lending money at usurious rates of interest

Reprimand

Suspension 1-30 days

Dismissal

c 9 *Willful failure lo pay just debts

Reprimand

Suspension 1-30 days

Dismissal

c 10 *Willful failure to pay taxes due to the government

Reprimand

Suspension 1-30 days

Dismissal

c.11 *Pursuit of private business, vocation or profession without the permission required by Civil Service Rules and regulations

Reprimand

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Suspension 1-30 days

Dismissal

c 12 *Lobbying for personal interest or gain in legislative halls and offices without authority

Reprimand

Suspension 1-30 days

Dismissal

c 13 *Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter cases if there is no prior authority

Reprimand

Suspension 1-30 days

Dismissal

c 14 **Failure to act promptly on letters request within fifteen (15) days from receipt, except as otherwise provided in the rules implementing the Coda of Conduct and Ethical Standards for Public Officials and Employees

Reprimand

Suspension 1-30 days

Dismissal

c 15 -**Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees

Reprimand

Suspension 1-30 days

Dismissal

c 16 **Failure to attend to anyone who wants to avail himself of the services of the office or act promptly and expeditiously on public transactions

Reprimand

Suspension 1-30 days

Dismissal

* Offenses under EO 292

** Offenses under RA 6713

Text Available at Office of the National Administrative register, U.P. Law Complex, Diliman, Quezon city

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