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RULES OF PROCEDURE IN THE ADMINISTRATIVE INVESTIGATION OF GSIS OFFICIALS AND EMPLOYEES

GSIS RESOLUTION NO. 155, June 29, 2004

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RESOLVED: That in order to prevent or deter the commission of administrative offenses, properly administer the investigation and disposition of administrative cases involving GSIS personnel and expedite the prosecution and resolution of such cases, to APPROVE the proposed Policy and Procedural Guidelines on the Rules of Procedure in the Administrative Investigation of GSIS Officials and Employees which has been passed upon by the Management Committee in its meeting held on June 7, 2004, a copy of which is hereto attached and made part of this Resolution by reference.

All existing policies and procedural guidelines which are inconsistent with this PPG are modified, superseded, or repealed accordingly.

This PPG shall take effect immediately.

Adopted: 29 June 2004

POLICY AND PROCEDURAL GUIDELINES NO. 178-04

RULES OF PROCEDURE IN ADMINISTRATIVE INVESTIGATIONS
OF GSIS EMPLOYEES AND OFFICIALS

I. BACKGROUND/RATIONÁLE

Section 1, Article XI of our Constitution provides that, “public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”

To ensure that public officers and employees obey these constitutional duties, the system of merit and awards to promote responsiveness, productivity, honesty, and courtesy in public service must be accompanied by effective and prompt means of determining the truth in administrative cases so that the guilty is punished, the innocent is exonerated.

This PPG is adopted to inform GSIS employees and officials of the manner and procedure of determining the truth in administrative investigations.

II. OBJECTIVES

A. To provide clear guidelines in administrative investigations that GSIS officials and employees can easily understand and follow;

B. To help ensure the prompt determination of the truth in administrative investigations;

C. To inform GSIS officials and employees of the consequences of administrative offenses and, thus, deter them

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from committing administrative offenses; and

D. To properly administer the investigation and resolution of administrative cases in the GSIS, in accordance with existing rules and procedures.

III. POLICIES

A. Coverage

This PPG shall apply to all regular and permanent employees and officials of the GSIS.

This PPG shall not apply to cases of sexual harassment, which are governed by PPG No. 165-02 dated 16 May 2002.

B. Basic Principles

Administrative investigations involving personnel of the GSIS shall be governed by the following basic principles that are cited in decisions of the Supreme Court and Civil Service Commission:

1. The proceedings in administrative cases involving the enforcement of discipline are similar to judicial proceedings, but the rules of procedure are not as strict, rigid, formal, and technical as those observed in the courts;

2. The purpose of an administrative investigation is to ascertain the truth;

3. The acts of the investigator in an administrative case should not be measured with the same yardstick as that used for a judge in a court of law;

4. In administrative cases, the basic and essential requirements of due process, fairness, equity, and reasonableness are observed;

5. Decisions in administrative cases must be based on substantial evidence, which is defined as "such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion"; and

6. Administrative investigations, being summary in nature, must be completed promptly.

C. Classification of Offenses

Administrative offenses with their corresponding penalties are classified into grave, less grave or light depending on their gravity, depravity of the offender, and effects of the offense on government service.

D. Administrative Offenses and Their Penalties

The following are the administrative offenses and their corresponding penalties:

OFFENSES

P E N A L T Y

1st Offense

2nd Offense

3rd Offense

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I. GRAVE OFFENSES

a. Dishonesty

Dismissal

b. Gross Neglect of Duty

Dismissal

c. Grave Misconduct

Dismissal

d. Being Notoriously Undesirable

Dismissal

e. Conviction of a crime involving moral turpitude

Dismissal

f. Falsification of official document

Dismissal

g. Physical or mental incapacity or disability due to immoral or vicious habits

Dismissal

h. Engaging directly or indirectly in partisan political activities by one holding non-political office

Dismissal

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

Dismissal

j. Contracting loans of money or other property from persons with whom the office of the employee has business relations

Dismissal

k. 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 affected 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

l. Nepotism

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Dismissal

m. Disloyalty to the Republic of the Philippines and to the Filipino people

Dismissal

n. Oppression Suspension from 6 months and 1 day to 1 year

Dismissal

o. Disgraceful and immoral conduct Suspension from 6 months and 1 day to 1 year

Dismissal

p. Inefficiency and incompetence in the performance of official duties Suspension from 6 months and 1 day to 1 year

Dismissal

q. Frequent unauthorized absences and tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular hours

Suspension from 6 months and 1 day to 1 year

Dismissal

r. Refusal to perform official duty

Suspension from 6 months and 1 day to 1 year

Dismissal

s. Gross insubordination

Suspension from 6 months and 1 day to 1 year

Dismissal

t. Conduct prejudicial to the best interest of the service

Suspension from 6 months and 1 day to 1 year

Dismissal

u. Directly or indirectly having financial interest in any transaction requiring the approval of his office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something

Suspension from 6 months and 1 day to 1 year

Dismissal

v. 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 from 6 months and 1 day to 1 year

Dismissal

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

Suspension from 6 months and 1 day to 1 year

Dismissal

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

Suspension from 6 months and 1 day to 1 year

Dismissal

y. 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 from 6 months and 1 day to 1 year

Dismissal

II. LESS GRAVE OFFENSES

a. Simple Neglect of Duty

Suspension from 1 month and 1 day to 6 months

Dismissal

b. Simple Misconduct

Suspension from 1 month and 1 day to 6 months

Dismissal

c. Gross Discourtesy in the course of official duties

Suspension from 1 month and 1 day to 6 months

d. Violation of existing Civil Service Law and rules of serious nature

Suspension from 1 month and 1 day to 6 months

Dismissal

e. Insubordination

Suspension from 1 month and 1 day to 6 months

Dismissal

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f. Habitual Drunkenness

Suspension from 1 month and 1 day to 6 months

Dismissal

g. Unfair discrimination in rendering public service due to party affiliation or preference

Suspension from 1 month and 1 day to 6 months

Dismissal

h. Failure to file sworn statement of assets and liabilities and net Worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under 18 years of age living in their households

Suspension from 1 month and 1 day to 6 months

Dismissal

i. 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 shareholdings or interest in the private business enterprises within sixty (60) days from the 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 hereinabove provided, reckoned from the date when the conflict of interest had arisen.

Suspension from 1 month and 1 day to 6 months

Dismissal

III. LIGHT OFFENSES

a. Discourtesy in the course of official

Reprimand

Suspension from 1 to 30 days

Dismissal

b. Improper or unauthorized solicitation of contributions from subordinate employees

Reprimand

Suspension from 1 to 30 days

Dismissal

c. Violation of reasonable office rule and regulations

Reprimand

Suspension from 1 to 30 days

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Dismissal

d. Frequent unauthorized tardiness (Habitual Tardiness)

Reprimand

Suspension from 1 to 30 days

Dismissal

e. Gambling prohibited by law

Reprimand

Suspension from 1 to 30 days

Dismissal

f. Refusal to render overtime service

Reprimand

Suspension from 1 to 30 days

Dismissal

g. Disgraceful, immoral or dishonest conduct prior to entering the service

Reprimand

Suspension from 1 to 30 days

Dismissal

h. Borrowing of money by superior of officer from subordinates

Reprimand

Suspension from 1 to 30 days

Dismissal

i. Lending money at usurious rates of interest

Reprimand

Suspension from 1 to 30 days

Dismissal

j. Willful failure to pay just debts or willful failure to pay taxes due to the government

The term "just debts" shall apply only to:

1. Claims adjudicated by a court of law, or
2. Claims, the existence and justness of which are admitted by the debtor

Reprimand

Suspension from 1 to 30 days

Dismissal

k. Lobbying for personal interest or gain in legislative halls and offices without authority

Reprimand

Suspension from 1 to 30 days

Dismissal

l. 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 from 1 to 30 days

Dismissal

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

Reprimand

Suspension from 1 to 30 days

Dismissal

n. 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 from 1 to 30 days

Dismissal

o. 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 from 1 to 30 days

Dismissal

p. Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation; Provided, that such practice will not conflict with his official functions

Reprimand

Suspension from 1 to 30 days

Dismissal

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q. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations

Reprimand

Suspension from 1 to 30 days

Dismissal

The penalties of transfer and demotion may be imposed subject to the discretion of the PGM.

E. Mitigating, Aggravating, or Alternative Circumstances

In determining the penalties to be imposed, the following mitigating, aggravating, and alternative circumstances that accompany the commission of the offense, shall be considered:

1. Physical illness

2. Good faith

3. No intention to commit so grave a wrong

4. Plea of guilty

5. Taking undue advantage of official position

6. Taking undue advantage of subordinate

7. Undue disclosure of confidential information

8. Use of government property in the commission of the offense

9. Habituality

10. Offense is committed within office hours and within the vicinity of the office or building;

11. Use of fraudulent means to commit or conceal the offense

12. Length of service in the government

13. Education

14. Other analogous circumstances

For these circumstances to be considered in the imposition of the proper penalty, the concerned party must invoke or plead them. In the interest of substantial justice, however, the Hearing Officer may, on his own, consider these circumstances.

F. Manner of Imposing Penalties

When applicable, the penalty may be imposed in the following manner:

1. The minimum of the penalty shall be imposed when only mitigating and no aggravating circumstances are present.

2. The medium of the penalty shall be imposed when no mitigating and aggravating circumstances are present.

3. The maximum of the penalty shall be imposed when only aggravating and no mitigating circumstances are present.

4. When both mitigating and aggravating circumstances are present, paragraph (1) shall be applied when there are more mitigating circumstances; paragraph (2) shall be applied when the circumstances equally offset each other; and paragraph (3) shall be applied where there are more aggravating circumstances.

G. Penalty for the Most Serious Offense

If the Respondent is found guilty of two (2) or more offenses or on two (2) or more counts of the same offense, the penalty to be imposed will be that corresponding to the most serious offense or the number of counts; and the other offenses shall be considered as aggravating circumstances.

H. Duration and Effect of Administrative Penalties

The following rules shall govern the imposition of administrative penalties:

1. When the penalty is dismissal, the Respondent shall be permanently separated from the service, with or without prejudice to criminal or civil liability.

2. When the penalty is transfer and the Respondent fails to comply with the decision within ninety (90) days, he shall be considered resigned. The penalty of transfer may be imposed with the condition that the Respondent shall be barred from holding a position involving property or money responsibility.

3. When the penalty is demotion, the Respondent's rank or salary, or both, may be reduced;

4. When the penalty is suspension, the Respondent shall temporarily stop working for not more than one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the suspension, the Respondent shall not be entitled to all money benefits including leave credits.

When the penalty is fine, its amount shall not be more than the Respondent's salary for six (6) months, at the time the decision becomes final and executory.

5. When the penalty is reprimand or censure there shall be no accessory penalty or temporary stop of Respondent's work.

6. A warning or admonition is not a penalty.

I. Administrative Disabilities/Accessories to Administrative Penalties

Subject to Paragraph J, the following accessory penalties shall be imposed when a Respondent is found guilty:

1. Cancellation of eligibility;

2. Forfeiture of retirement benefits;

3. Disqualification from reinstatement or reemployment;

4. Disqualification for promotion; and

5. Disqualification from taking any civil service examination.

J. Administrative Disabilities Inherent in Certain Penalties

The following rules shall govern in the imposition of accessory penalties:

1. The penalty of dismissal shall include the cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless the decision provides differently.

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2. The penalty of transfer shall include disqualification for promotion for a period of six (6) months from the date the Respondent reports to the new position or station.

3. The penalty of demotion shall include disqualification for promotion at the rate of two (2) months for every step; or one (1) month for every range of salary by which he was demoted to, be computed from the date the Respondent reports to the new position or station.

4. The penalty of suspension shall include disqualification for promotion during the period of suspension.

5. The penalty of fine that is equivalent to the salary for a given period shall include disqualification for promotion for twice that period.

6. The penalty of fine shall be paid to the GSIS, computed on the basis of Respondent's salary at the time the decision becomes final and executory.

The payment of fine shall be as follows:

a. Fines shall be paid within one (1) year from the date the decision/resolution becomes final and executory.

b. Fines may be paid in equal monthly installments subject to the following schedule of payment:

(1) Fine equivalent to one (1) month's salary shall be paid in two (2) months;

(2) Fine equivalent to two (2) months' salary shall be paid in four (4) months;

(3) Fine equivalent to three (3) months' salary shall be paid in six (6) months;

(4) Fine equivalent to four (4) months' salary shall be paid in eight (8) months;

(5) Fine equivalent to five (5) months' salary shall be paid in ten (10) months

(6) Fine equivalent to six (6) months' salary shall be paid in twelve (12) months.

7. When the Respondent fails to fully pay the fine within the prescribed period, he shall be deemed to have failed to serve the penalty imposed. He shall, therefore, remain disqualified from promotion until he has fully paid the fine.

8. The penalty of reprimand does not have any accessory penalty.

J. Effect of Exoneration

When the Respondent is exonerated of the charges against him, the following rules shall apply:

1. When the penalty is fine, the amount paid shall be refunded.

2. When the penalty is demotion, he shall be restored to his former position without loss of seniority rights, and he shall be paid salary differentials.

3. When the penalty is transfer, he shall be immediately restored to his former post, unless he decides differently. When there is demotion in rank, salary or status, he shall be restored to his former rank, salary, or status.

4. When the penalty is suspension, he shall be immediately rein-stated to his former post without loss of seniority rights and with payment of back salaries.

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5. When the penalty is dismissal, he shall be immediately reinstated without loss of seniority rights and with payment of back salaries.

Mandatory leave benefits shall not be charged against the Respondent's leave credits.

The Respondent who shall be exonerated by final judgment shall be entitled to the leave credits for the period he had been out of the service.

K. Records of the Case

The complete records of each administrative case against any official or employee of the GSIS shall be filed and deposited with the Records Officer of the Investigation Unit for safekeeping and preservation. File copies of the complaint or charges and the decision and resolution in each case shall be furnished the Human Resources Department for inclusion in the personnel (201) file of the Respondent.

L. Confidentiality of Records

Records of administrative cases are confidential in nature, and any information regarding the charges, allegations, or facts that were established may not be released; and such records may not be made available except to the proper authorities or, upon request, to the parties in interest or their authorized representatives. Except upon express approval of the PGM for each specific instance, the provisions of any law now in force shall not be understood as authorizing or requiring the official publication of the cause for removal of any official or employee of the GSIS in more specific terms than "for the good of the service."

M. Record Book for Cases

All administrative cases against personnel of the GSIS shall be entered and recorded in a Docket Book for Administrative Cases to be kept and maintained by the Investigation Unit.

Numbers shall be assigned to cases in accordance with the order or sequence they were received. Each page of the Docket Book shall be numbered and prepared for recording all the entries of each case. It shall contain a heading or caption of the case and its complete title. Below these shall be entered the date of each paper filed or issued, of each order, resolution, or decision rendered, and of each action taken in the case. Therefore, a page of the Docket Book shall show the history of a case.

N. SUPPLETORY EFFECT

The Uniform Rules on Administrative Cases in the Civil Service (URACCS) and the Rules of Court shall supplement this PPG.

IV. PROCEDURAL GUIDELINES

A. Definitions

1. Fact-finding. It is the gathering and evaluation of evidence and information to determine whether there is sufficient basis to refer a complaint for preliminary investigation.

2. Subject. The official or employee who, during a fact-finding or preliminary investigation, is alleged to have committed an administrative offense or who, on the basis of available evidence, appears to have committed an administrative offense is called Subject.

3. Respondent. After the issuance of a formal charge, the Subject is called Respondent. He remains a Respondent until the decision in the administrative case has become final.

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4. Preliminary investigation. It is the examination and evaluation of evidence to determine whether there is a prima facie case against the concerned officials and employees.

5. Prima facie case. There is a prima facie case when the evidence shows that an administrative offense had been committed, and the Respondent had probably committed the offense.

6. Ex parte. Unless there is a need to clarify facts and issues, preliminary investigation is done ex parte, which means that the presence or appearance of the complainant, the Respondent, and their witnesses is not required.

7. Formal Charge. A formal charge is filed or issued after the existence of a prima facie case is established. It is signed by the PGM for the GSIS, in his capacity as the disciplining authority.

8. Alternative Circumstances. These are circumstances, which must be taken into consideration as aggravating or mitigating according to the nature and effects of the offense and the other conditions attending the commission.

9. Aggravating Circumstances. These are circumstances which, if attendant in the commission of the crime, serve to increase the penalty without, however, exceeding the maximum penalty provided by law for the offense.

10. Mitigating Circumstances. These are circumstances which, if present in the commission of the offense, do not entirely free the actor from liability, but serve only to reduce the penalty.

B. Start of Investigation

The Investigation Unit shall conduct an investigation on the basis of: a complaint filed; a referral or request for investigation from an operating unit; or a directive from the PGM.

A complaint against a GSIS officer or employee shall be given due course only if it is in writing, and signed and sworn to by the complainant.

An anonymous or unsworn complaint shall not be entertained, except when there is obvious truth or merit to the allegations it contains or when it is supported by documentary or direct evidence. In such a situation, the Subject may be required to comment.

The complaint should be written in clear, simple and concise language, and in a systematic manner to properly inform the Subject of the nature and cause of the allegations against him and to enable him to intelligently prepare his defense or answer.

The complaint shall contain the following:

1. Full name and address of the complainant;

2. Full name and address of the Subject, his position and his unit/workplace;

3. A narration of the relevant and material facts, which show the acts or omission attributed to the Subject;

4. Certified true copies of documentary evidence and affidavits of the witnesses, if any; and/or

6. Certification or statement that the same or a similar complaint has not been filed with or referred to any other office, agency, or court.

C. Where to file complaint

An administrative complaint shall be filed with the Investigation Unit, Office of the PGM.

D. Effect of Withdrawal of the Complaint

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The withdrawal of the complaint shall not result in its outright dismissal and shall not discharge the person complained of from any administrative liability. When there is obvious truth or merit to the allegation/s in the complaint or when there is documentary evidence that would tend to prove the guilt of the Subject, the complaint shall be given due course.

E. Evaluation by Investigating Attorney

The Investigating Attorney shall immediately evaluate the complaint, referral, or request he receives. If he receives a complaint, he shall determine if it is sufficient in form and substance. If so, he shall conduct a preliminary investigation by promptly requiring the Subject to submit a counter-affidavit or a sworn comment within three calendar days from receipt.

If the complaint is not sufficient in form and substance, he may recommend that the complaint be dismissed; or when, there are sufficient leads, he may conduct the necessary fact-finding.

In case of directives from the PGM, referrals or requests for investigation from operating units, the Investigating Attorney shall determine if they are meritorious. If so, he shall, within three (3) working days from the receipt of such referral or request, formulate a fact-finding action plan, which shall include the following:

1. Initial determination of the administrative and criminal offenses that may have been committed;

2. The documents and evidence to be obtained and their sources;

3. The witnesses who shall be requested or required to give sworn statements;

4. The manner of securing all the necessary evidence

5. The setting of timetables; and

6. The need for technical assistance.

If a directive or request for investigation is not meritorious, the Investigating Attorney shall prepare a report in which he shall recommend that no further action should be taken.

F. Conduct of Fact-finding

Upon approval of the action plan by the Manager of the Investigation Unit, the Investigating Attorney shall conduct fact-finding.

The Investigating Attorney shall conduct the fact-finding according to the action plan, but he may deviate from it when there are valid reasons to do so. The Investigating Attorney shall evaluate all the evidence gathered during the fact-finding to determine whether there is need to conduct a preliminary investigation.

Within twenty-five (25) working days after the fact-finding had been completed, the Investigating Attorney shall prepare a fact-finding report in which he will recommend either: the conduct of preliminary investigation or the termination of the investigation because of lack of evidence. The report shall be immediately submitted to the Manager. For valid reasons, the Manager may extend the period for the submission of the report.

G. Review of Fact-finding Report

The Manager shall review the fact-finding report and he shall either approve or disapprove the recommendation of the Investigating Attorney. Fact-finding reports shall be forwarded to the PGM.

If the Manager approves a recommendation for a preliminary investigation, the Investigating Attorney shall immediately proceed to conduct such investigation. If the Manager disapproves a recommendation for preliminary

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investigation, he may direct the Investigating Attorney to either dismiss the complaint or to conduct further fact-finding.

H. Motu Proprio Investigation

The Investigating Unit may motu proprio conduct a fact-finding of alleged illegal or irregular acts of GSIS officials or employees even without a complaint, or directive from the PGM, or referral or request from other units. The conduct of the fact-finding shall be in accordance with these guidelines.

I. Preliminary Investigation

A preliminary investigation involves the ex parte examination of records and documents submitted by the complainant and the Subject, as well as, documents readily available from other sources. During the investigation, the parties shall be given the opportunity to submit affidavits and counter-affidavits. When a Subject fails to submit his counter-affidavit or sworn comment within three (3) calendar days from receipt of the order, he shall be deemed to have waived his right to submit his counter-affidavit or sworn comment.

If necessary, the parties and witnesses may be called to a conference where the Investigating Attorney may ask questions that will help him ascertain the facts of the case.

The Investigating Attorney shall evaluate and assess all the evidence submitted to him, and determine whether there is a prima facie case that will justify the filing or issuance of a formal charge.

J. Duration of the Preliminary Investigation

The preliminary investigation shall start within five (5) working days from the receipt of the complaint by the Investigating Attorney or from the date of approval of the fact-finding report. The preliminary investigation shall be terminated within thirty (30) working days. The Investigating Attorney, through the Manager, shall submit to the PGM the preliminary investigation report and the draft of the formal charge, in appropriate cases, together with the complete records of the case.

K. Formal Charge

When the PGM finds the existence of a prima facie case, he, on behalf of the GSIS, shall issue the formal charge against the Respondent. The formal charge shall contain a specification of charges; a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any; sworn statements covering the testimony of witnesses, if any; a directive to answer the charge/s in writing under oath within three (3) to five (5) calendar days from receipt of the directive; an advice for the Respondent to state in his answer whether or not he desires formal investigation of the charge/s; and a notice that he is entitled to be assisted by a counsel of his own choice.

L. Service of the Formal Charge

The formal charge shall be personally served on the Respondent or through his supervisor, manager or vice-president, who must acknowledge receipt and report if the Respondent had duly received it. When necessary, the formal charge may be sent through registered mail or by messenger service.

M. Answer

Respondent's answer must be in writing and under oath. It must be specific and cite material facts and applicable laws, including documentary evidence, and sworn statements of witnesses. It must state whether or not he desires a formal investigation.

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If the Respondent had submitted his comments and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

N. Failure to File an Answer

If the Respondent fails or refuses to file his answer within five (5) calendar days from receipt of the formal charge, he shall be considered to have waived his right to file an answer and the formal investigation may immediately start.

O. Reply or Rejoinder

In proper cases, the Hearing Officer may issue an order requiring the Prosecuting Attorney to file his reply to the answer within three (3) calendar days from receipt of the order. The Respondent may file his rejoinder to the reply within three (3) calendar days from receipt of the order. When the Respondent fails to promptly file a rejoinder, he shall be deemed to have waived his right to file such rejoinder.

P. Preventive Suspension

Upon motion or request of the complainant or motu proprio, the PGM may issue to the Respondent an order of preventive suspension, which may be included in the formal charge, or which may be issued later, when there is reason to believe that the Respondent is guilty of the charges, which would warrant his removal from the service, and the charge/s involves:

1. Dishonesty;

2. Oppression;

3. Grave misconduct; and

4. Gross neglect in the performance of duty.

An order of preventive suspension may be issued to temporarily remove the Respondent from the scene of the acts or omissions of which he is charged; and to prevent him from exerting undue influence or pressure on the witnesses against him and from tampering with evidence.

Instead of preventive suspension, the PGM may reassign the Respondent to another unit of the office during the formal investigation.

Q. Duration of Preventive Suspension

The preventive suspension of a Respondent shall not be more than ninety (90) days, unless a special law provides a different period.

When the administrative case against a Respondent who is under preventive suspension is not finally decided within the period of the preventive suspension, he shall be automatically reinstated in the service subject to the following conditions:

1. When the delay in the disposition of the case is due to the fault, negligence, or petition of the Respondent, the period of delay shall not be included in the counting of the ninety (90) calendar-day period of preventive suspension; and

2. Should the Respondent be on a maternity or paternity leave, the preventive suspension shall be deferred or interrupted until such time that said leave had been fully enjoyed.

R. Remedies From the Order of Preventive Suspension

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If the Respondent desires to have an order of preventive suspension set aside, he may file a motion for reconsideration with the PGM or he may appeal to the Civil Service Commission within fifteen (15) calendar days from the receipt of the order.

S. Conduct of Formal Investigation

Even if the Respondent would not request a formal investigation, one shall be conducted when the Hearing Officer cannot judiciously decide the merits of the case by merely relying on the allegations in the formal charge, the answer of the Respondent and on the supporting documents of both parties.

The investigation shall start between five (5) and ten (10) working days from the receipt of the Respondent's answer. The investigation shall be completed within the periods set in Paragraphs U and V.

T. Pre-hearing Conference

At the start of the formal investigation, the Hearing Officer shall conduct a pre-hearing conference where the parties will appear to consider and agree on any or all, of the following:

1. Stipulation of facts;

2. Simplification of issues;

3. Identification and marking of evidence of the parties;

4. Waiver to objections to admissibility of evidence;

5. Limiting the number of witnesses and their names;

6. Dates of subsequent hearings; and

7. Such other matters that could help in the prompt and just resolution of the case.

The parties may submit position papers or memorandums and submit the administrative case for resolution based on the result of the pre-hearing conference without any further hearings.

U. Procedure for Light Offenses

Cases involving light offenses shall be resolved within thirty (30) working days from the Respondent's receipt of the formal charge.

Within five (5) working days from the pre-hearing conference, the parties shall submit their position papers. The matter shall then be deemed submitted for resolution, except when a formal investigation must be conducted.

V. Procedure for Grave and Less Grave Offenses

Cases involving grave and less grave offenses shall be resolved within sixty (60) working days, and forty five (45) working days, respectively. When there are joint hearings of cases or when a case involves two (2) or more parties, the Manager shall, upon the request of the Hearing Officer, grant an extension of not more than forty five (45) working days for the resolution of the case.

W. Continuous Hearings Until Investigation is Terminated

Hearings shall be conducted on the dates set by the Hearing Officer or as agreed upon during the pre-hearing conference.

After the pre-hearing conference, the parties, their counsel/s and witnesses, shall be notified of the date of the first

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hearing at least five (5) calendar days before such hearing. The notice shall specify the time, date, and place of the hearing and the particulars of subsequent hearings. The schedule of hearings previously set shall be followed without further notice.

Postponement of hearings shall be discouraged and allowed only when it is clearly justified.

If the Respondent fails or refuses, to appear during the scheduled hearings despite due notice, the proceedings shall proceed ex parte and the Respondent shall be deemed to have waived his right to be present and to submit evidence in his favor during those hearings.

X. Preliminary matters

At the start of the hearings, the Hearing Officer shall record the appearance of the parties and counsels, if any; and the Complainant shall proceed to present its evidence.

If the Respondent appears without a counsel, he shall be deemed to have waived his right to be assisted by a counsel.

The Hearing Officer shall, before taking the testimony of a witness, place him under oath, and then take his name, address, civil status, age, and place of employment.

A sworn statement of a witness that is properly identified and affirmed shall be his direct testimony. A copy of the statement shall be given to the other party who shall cross-examine the witness on the basis of the statement.

Y. Appearance of Counsel

Any counsel appearing in any hearing or investigation shall manifest orally or in writing, his appearance for either the Complainant or Respondent. He must state his full name, IBP receipt number and the exact address where he can be served with notices and other pleadings. Any pleading or appearance of a Counsel who had not complied with these requirements shall not be recognized.

Z. Order of Hearing

Unless the Hearing Officer directs otherwise, the order of hearing shall be:

1. The Complainant shall present its witnesses and evidence, subject to the pre-hearing agreement;

2. The Respondent's may cross-examine the Complainant's witnesses;

3. The Complainant may conduct a re-direct examination, and the Respondent may conduct a re-cross examination;

4. The Respondent shall present its witnesses and evidence;

5. The Complainant may cross-examine the Respondent's witnesses

6. The Respondent may conduct a re-direct examination, and the Complainant may conduct a re-cross examination; and

7. A party may present rebuttal evidence to disprove or counter the other party's evidence.

8. A party may present sur-rebuttal evidence to disprove or counter the other party's evidence rebuttal evidence.

After the presentation of the evidence, the parties shall formally offer their evidence either orally or in writing. Then, objections to the evidence may also be made orally or in writing. The parties may then be given time to submit their respective memorandum, which must be submitted within five (5) calendar days after the Respondent

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had rested his case or after the last pleading had been filed. A party who fails to promptly submit a memorandum shall be deemed to have waived his right to submit it.

AA. Objections

The Hearing Officer shall resolve all objections raised during the hearing. When the Hearing Officer cannot rule on some objections, he will note them, and they shall be included in the memorandum of the concerned party. The PGM shall rule on these objections.

The Hearing Officer shall accept all the evidence deemed material and relevant to the case. In case of doubt, he shall allow the admission of the evidence, subject to the objection against its admission.

BB. Markings

All documentary evidence or exhibits of the Complainant shall be properly marked by letters (A, B, C, etc.). The evidence or exhibits of the Respondent shall be marked by numbers (1, 2, 3, etc.). They shall form part of the records of the case.

CC. Request for Subpoena

A party must request the issuance of a subpoena ad testificandum for the attendance of a witness or a subpoena duces tecum for the production of documents or things.

DD. Issuance of Subpoena

The Hearing Officer may issue subpoena ad testificandum to compel the attendance of witnesses and subpoena duces tecum for the production of documents or things.

EE. Records of Proceedings

The rulings of the Hearing Officer, the testimony of each witness and the manifestations of the parties, and counsels during an investigation shall be taken in shorthand or stenotype and duly recorded.

A transcript of the records made by the official stenographer or stenotypist and certified as correct by him shall be a prima facie correct statement of such testimony and proceedings, except when the contrary is shown.

FF. Mode of Service

All motions, pleadings, orders and documents shall be served personally. If personal service is impractical or inconvenient, it shall be done by registered mail or messenger service.

GG. Filing of Motions, Petitions, Appeals and Other Pleadings

Any motion, petition, appeal, or other pleading that is sent by mail or messenger service shall be deemed filed on the date shown on the postmark or other marking on the envelope, which shall be attached to the records of the case. When the motion, petition, appeal, or other pleading is personally delivered, it shall be considered filed on the date stamped on such document.

HH. Prohibited pleadings

The Hearing Officer shall not entertain requests for bills of particulars, demurrer to evidence, or motion for reconsideration of interlocutory orders. When a motion to dismiss is filed, the same shall be considered as an answer.

II

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Venue of Hearings

Hearings shall be held at the GSIS Main Office in Pasay City. The Prosecuting Attorney may request the Manager in writing to change the venue when:

1. The Respondent is assigned to a field office; or

2. The Complainant's witnesses are assigned to field offices.

The Respondent, for valid reasons, may request the Manager in writing for a change of venue.

When a case involves out-of-town hearings, the Manager shall grant an extension of not more than forty five (45) working days for the resolution of the case.

JJ. Running of the Period for the Resolution of the Case

Any reasonable delay in the proceedings that is beyond the control of the Hearing Officer shall suspend the running of the period stated in Paragraphs U and V above. The Hearing Officer shall report such delay to the Manager and request additional time to resolve the case.

KK. Resolution of the Case

Within the time prescribed for the resolution of the case in Paragraphs U and V, the Hearing Officer shall submit to the PGM, through the Manager, a draft decision and an executive summary. The PGM shall either approve or disapprove the draft decision.

The draft decision shall contain a narration of the material facts established during the investigation, the findings, and the evidence supporting such findings, as well as the recommendations. The complete records of the case shall be attached to the draft decision.

The executive summary shall contain a brief presentation of the matters in the draft decision.

The complete records shall be systematically and chronologically arranged, paged, and securely bound to prevent loss. A table of contents shall be prepared.

LL. Rendering of Decision

The PGM shall render a decision on the case in accordance with Sections 44 and 45 of Republic Act No. 8291 (GSIS Act of 1997).

MM. Finality of Decisions

A decision imposing a penalty of suspension of not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary, shall be final and executory.

When the decision imposes the penalty of removal or suspension for more than thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, it shall be final and executory after the lapse of the period prescribed for the filing a motion for reconsideration with the PGM or an appeal, and no such pleading has been filed.

NN. Service of the Decision

The decision, signed by the PGM and, in proper cases, confirmed by the Board of Trustees, shall be simultaneously served on the Respondent and his counsel, in the manner stated under Paragraph FF above.

OO. Filing of Motion for Reconsideration

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The party adversely affected by the decision may file a motion for reconsideration with the PGM within fifteen (15) calendar days from receipt of the decision.

PP. Grounds for Motion for Reconsideration

A motion for reconsideration must be based on any of the following:

1. There is newly-discovered evidence, which materially affects the decision rendered;

2. The decision is not supported by the evidence on record; or

3. Errors of law or irregularities had been committed, which are prejudicial to the interest of the concerned party.

QQ. Limitation

Only one motion for reconsideration shall be entertained.

RR. Effect of Filing

The filing of the motion for reconsideration within the prescribed period of fifteen (15) calendar days shall suspend the execution of the decision sought to be reconsidered.

SS. Filing of Appeals

Decisions imposing the penalty of suspension or more than thirty (30) days or fine in an amount exceeding the salary for thirty (30) days may be appealed to the Civil Service Commission within fifteen (15) calendar days from receipt of the decision.

A decision that may be appealed to the Civil Service Commission shall, nevertheless, be executory.

A notice of appeal including the appeal memorandum must be filed with the Civil Service Commission, copy furnished the PGM. The PGM, through the Investigation Unit, shall submit the records of the case to the CSC within fifteen (15) calendar days from notice. The PGM may submit a comment on the appeal memorandum.

TT. Effect of Filing

An appeal filed shall not stop the decision from being executory. When the penalty is suspension or removal and the Respondent wins the appeal, he shall be considered to have been under preventive suspension while the appeal had been pending.

All existing policies and procedural guidelines which are inconsistent with this PPG are modified, superseded, or repealed accordingly.

This PPG shall take effect immediately.

Adopted: 29 June 2004

(SGD.) Winston F. Garcia
President and General Manager

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