GUIDELINES IN THE FILING AND DISPOSITION OF ADMINISTRATIVE CASES

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Pursuant to Section 8, paragraph (d) of Republic Act No. 6958, the following guidelines are hereby adopted to govern the procedure in the filing and disposition of administrative disciplinary cases:

Rule I. General Provisions

SEC. 1. Coverage and Definition of Terms - These rules shall apply to all administrative disciplinary cases brought before the Investigating Committee against all MCIAA officials and employees, whether permanent, casual or temporary, except where a special law provides otherwise.

The terms hereunder shall mean as follows:

a) MCIAA - Mactan-Cebu International Airport Authority;

b) Board - MCIAA Board of Directors;

c) Investigating Committee - the committee created by the disciplining authority vested with power and authority to investigate administrative disciplinary cases and recommend appropriate penalties;

d) Respondent - person who is formally charged with an administrative offense by the disciplining authority;

e) Person Complained Of - person who is subject of a complaint but who is not yet formally charged by the disciplining authority;

f) Disciplining Authority - MCIAA General Manager;

g) Commission - Civil Service Commission, Regional Office No. 7, Cebu City

SEC. 2. Technical Rules - The administrative proceedings conducted pursuant to these guidelines may not adhere strictly to the technical rules of procedure and evidence applicable to judicial proceedings.

Rule II - Complaint

SEC. 3. Complaint - a complaint against any MCIAA official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the disciplining authority, the complaint need not be under oath.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

SEC. 4. When and Where to File a Complaint - A complaint, in accordance with the abovementioned prescribed form, may be filed anytime with the disciplining authority.

SEC. 5. Withdrawal of the Complaint - The withdrawal of the complaint does not result in its outright dismissal nor discharge the person complained of from any administrative liability. Where there is obvious truth or merit to

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the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person complained of, the same shall be given due course.

SEC. 6. Action on the Complaint - Upon receipt of a complaint, the disciplining authority shall require the person complained of to submit a Counter-Affidavit/Comment under oath within seventy two (72) hours from receipt of the notice.

The disciplining authority or his duly authorized personnel shall conduct a preliminary investigation to determine whether a prima facie case exists to warrant the issuance of a formal charge.

Rule III - Preliminary Investigation

SEC. 7. Preliminary Investigation - A preliminary investigation involves the ex parte examination of records and documents submitted by the complainant and the person complained of. During said investigation, the parties are given the opportunity to submit affidavits and counter-affidavits. Failure of the person complained of to submit his counter-affidavit shall be considered as a waiver thereof.

SEC. 8. Duration of the Investigation - A preliminary investigation shall commence not later than three (3) days from receipt of the complaint by the disciplining authority and shall be terminated within fifteen (15) days thereafter.

SEC. 9. Decision or Resolution After Preliminary Investigation - If a prima facie case is established during the investigation, a formal charge shall be issued by the disciplining authority. In the absence of a prima facie case, the complaint shall be dismissed.

Rule IV - Formal Charge

SEC. 10. Formal Charge - After a finding of a prima facie case, the disciplining authority shall formally charge the person complained of. The formal charge shall contain the following:

a. Specification of charge(s);
b. 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;
c. A directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof;
d. An advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s); and
e. A notice that he is entitled to be assisted by a counsel of his choice.

If the respondent has submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence. The disciplining authority shall not entertain for clarification, bills of particulars or motion to dismiss which are obviously designed to delay the proceedings.

SEC. 11. Answer - The answer, which is in writing and under oath, shall be specific and contain material facts citing applicable laws including documentary evidence, sworn statements covering testimonies of the witnesses, if there be any, in support of his case. It shall also include a statement indicating whether or not he elects a formal investigation or to submit the case for decision based on the facts and evidence presented.

SEC. 12. Failure to File an Answer - If the respondent fails or refuses to file his answer within the reglementary period of seventy-two (72) hours from receipt thereof, he shall be considered to have waived his right to present evidence and formal investigation may commence.

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Rule V - Preventive Suspension

SEC. 13. Preventive Suspension - Upon petition of the complainant or motu propio, the disciplining authority may issue an order of preventive suspension upon service of the formal charge or immediately thereafter to the respondent pending investigation for commission of a grave offense.

In lieu of the preventive suspension, the disciplining authority may reassign the respondent to another department or division during the formal hearings.

SEC. 14. Duration of Preventive Suspension - Within the period of ninety (90) days after the date of his preventive suspension, he shall be automatically reinstated in the service. Provided, that should the respondent be on Maternity/Paternity leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully enjoyed.

SEC. 15. Remedies from the Order of Preventive Suspension - The respondent may file a motion for reconsideration with the disciplining authority or may elevate the same to the Commission by way of an appeal within fifteen (15) days from receipt thereof.

Rule V - Formal Investigation

SEC. 16. Conduct of Formal Investigation - The investigation shall be conducted by the Investigating Committee not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer. The investigation shall be completed within thirty (30) days from issuance of the formal charge or the receipt of the answer unless the period is extended by the Investigating Committee in meritorious cases.

SEC. 17. Pre-Hearing Conference - At the commencement of the formal investigation, the Investigating Committee may conduct a pre-hearing conference during which the parties may agree on the following:

a. stipulation of facts;
b. simplification of issues;
c. identification and marking of evidence of the parties;
d. waiver of objections to admissibility of evidence;
e. limiting the number of witnesses, and their names;
f. dates of subsequent hearings; and
g. such other matters as may aid in the prompt and just resolution of the case.

The parties may submit position paper/memoranda and submit the case for resolution based on the result of the pre-hearing conference without any need for further hearings.

SEC. 18. Continuous Hearing - Hearing shall be conducted on the hearing dates set by the Investigating Committee or as agreed during the pre-hearing conference. Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (5) days before the first scheduled hearing. Thereafter, the schedule of hearing previously set shall be strictly followed without further notice until the case is submitted for resolution.

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

SEC. 19. Postponement - A party shall be granted only two (2) postponements upon oral or written requests. A third postponement may be granted only upon written request subject to the discretion of the Investigating Committee.

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SEC. 20. Appearance of Counsel - If a party is represented by counsel, his counsel shall manifest orally or in writing his appearance before the Investigating Committee, stating his full name and exact address where he can be served with notices and other pleadings. Any pleading or appearance of a counsel without complying with the above stated requirements shall not be recognized.

SEC. 21. Records of Proceedings - Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.

SEC. 22. Non-applicability of the Rules of Court - The Rules of Court shall not be applicable except by analogy or in a suppletory character and whenever practicable and convenient.

SEC. 23. Formal Investigation Report - Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and evidence supporting said findings, as well as the recommendations, shall be submitted by the Investigating Committee to the disciplining authority. The complete records of the case shall be attached to the Report of Investigation.

SEC. 24. When Case is Decided - Within thirty (30) days from receipt of the Report of Investigation, the disciplining authority shall render his decision on the case upon approval of the Board.

SEC. 25. Finality of Decision - A decision shall become final and executory after the lapse of the 15-day reglementary period for filing a motion for reconsideration or an appeal to the Commission and no such pleading has been filed.

However, a decision imposing a penalty of suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary shall immediately become final and executory.

Rule VI - Final Provisions

SEC. 26. Investigating Committee - within fifteen (15) days from the effectivity of these guidelines, an Investigating Committee shall be created to be composed of at least three (3) members but not more than five (5) members.

SEC. 27. Effectivity - These guidelines shall take effect immediately.

Adopted: 13 Sept. 2004

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