DISCIPLINARY ACTION COMMITTEE

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Pursuant to the provisions of Rule XVIII of the Civil Service Rules, the provisions of Section 37 of P.D. No. 807, and Section 47 of Chapter 7, Book V of E.O. No. 292, the Administrative Code (AC) of 1987 the DBM Disciplinary Action Committee (DAC) constituted under DBM Office Order No. 199-87 dated September 22, 1987 to receive and investigate complaints against DBM officials and employees hereby adopts and promulgates the following Rules governing its investigation procedures of administrative cases.

Rule I
General Provisions

SECTION 1. Scope — These Rules shall apply to all proceedings/administrative investigations of cases of DBM officials/personnel conducted by the Disciplinary Action Committee (DAC) of the Department of Budget and Management (DBM).

SECTION 2. Security of Tenure — No officer or employee in the Civil Service under the DBM shall be suspended or dismissed except for cause as provided by law and after due process. (Sec. 36 (a)) of P.D. 807 and Sec. 46, Chapter 7, Book V, (AC)

SECTION 3. Disciplinary Jurisdiction — The DAC shall have disciplinary jurisdiction over all DBM officials and employees who commit violations of the Civil Service Rules and Regulations.

For this purpose, an investigation may be entrusted to any Lawyer/Regional Director of the DBM to conduct an investigation of a complaint or to receive the evidence in a fact-finding investigation. The results of such investigation together with the evidence adduced and recommendation made shall be submitted to the DAC for appropriate action and thereafter, the DAC shall make its recommendation to the DBM Secretary. (Sec. 47 (2) (3), Chapter 7, Book V, AC)

SECTION 4. Penalties — Like Penalties for Like Offenses - In meting out penalties, the same penalties shall be imposed for similar offenses and only one (1) penalty shall be imposed in each case. A reprimand shall be considered a penalty. A warning or an admonition shall not be considered a penalty. (Sec. 5, Rule I, Rules on Adm. Disciplinary Cases)

The disciplinary authority may impose the penalty of removal from the service, demotion in rank, suspension for not more than one year without pay, fine in an amount not exceeding six months' salary or reprimand. (Sec. 46 (d), Chapter 7, Book V, AC)

SECTION 5. Effect of Removal for Cause — Unless otherwise provided by law or indicated in the decision itself, the removal for cause of an employee shall carry with it the cancellation of his civil service eligibility, the forfeiture of leave credits, retirement and other money benefits, and disqualification for re-employment in the civil service. (Sec. 6, Rule I, Rules on Administrative Disciplinary Cases, CSC; Section 6, Rule XVIII, CS Rules)

SECTION 7. Interpretation of Rules — These rules shall be liberally construed for the purpose of ascertaining the truth in the most expeditious, just and fair manner without necessarily adhering to the technical rules of evidence

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and procedure applicable in judicial proceedings. (Sec. 7, Rule I, Rules on Adm. Disciplinary Cases)

Rule II
Grounds for Disciplinary Action

SECTION 1. Categorization of Grounds for Disciplinary Action — The grounds for disciplinary action are categorized with their corresponding penalties, as follows:

A. Grave Offenses – punishable by dismissal or forced resignation or suspension as the case may be, depending on the attendant aggravating or mitigating circumstances.

- Dishonesty;

- Gross Neglect of Duty;

- Grave Misconduct;

- Being notoriously undesirable;

- Conviction of a crime involving moral turpitude;

- Falsification of official document;

- Physical or mental incapacity or disability due to vicious habits;

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

- Receiving for personal use of fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift, 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, committing acts punishable under the anti-graft laws;

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

- 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;

- Disloyalty to the Republic of the Philippines and the Filipino people;

- Oppression;

- Disgraceful and immoral conduct;

- Inefficiency and incompetence in the performance;

- Frequent unauthorized absences or tardiness in reporting for duty loafing or frequent unauthorized absences from duty during regular office hours;

- Refusal to perform official duty;

- Gross insubordination;

- Conduct grossly prejudicial to the best interest of the service;

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- Directly or indirectly having financial and material 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;

- 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;

- 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;

- Disclosing or misusing confidential or classified information 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;

- 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. (CSC-MC No. 30, s. 1989).

B. Less Grave Offenses – punishable by suspension for the first offense and dismissal for the second offense:

- Simple neglect of duty;

- Simple misconduct;

- Gross discourtesy in the course of official duties;

- Gross violation of existing Civil Service Law and rules of serious nature;

- Insubordination;

- Habitual drunkenness;

- Nepotism as defined in Section 49 of Presidential Decree No. 807;

- 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;

- Unfair discrimination in rendering public service due to party affiliation or preference;

- 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 his 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 had arisen. (CSC MC No. 30, s. 1989)

C. Light Offenses – punishable by reprimand for the first offense, suspension for the second offense, and dismissal for the third offense:

- Neglect of duty;

- Discourtesy in the course of official duties;

- Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;

- Violation of reasonable office rules and regulations;

- Gambling prohibited by law;

- Refusal to render overtime service;

- Disgraceful, immoral or dishonest conduct prior to entering the service;

- Borrowing money by superior officers from subordinates to superior officers;

- Lending money at usurious rates of interest;

- Willful failure to pay just debts or willful failure to pay taxes due to the government;

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

- Lobbying for personal interest or gain in legislative halls and offices without authority;

- 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.

- Failure to act promptly on letters of 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. (Sec. 5(a) of R.A. No. 6713);

- 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.

- Failure to attend to anyone who wants to avail himself of the services of the office, or act promptly and expeditiously on public transactions. (CSC MC No. 30, s. 1989)

Rule III
Procedures on Administrative
Cases: Filing of Charge/Complaint
and Answer

SECTION 1. Filing of Complaint — Except when initiated by the disciplining authority, no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant. (Sec. 46 (c), Chapter 7, Bk. V, RAC)

SECTION 2. Procedures in Administrative Cases Against Presidential/Non-Presidential Appointees —

1. Administrative proceedings may be commenced against an officer or employee by the Secretary motu propio or by complaint of any other person.

2. In the case of a complaint filed by any such other person, the complaint shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case. If a prima facie case exists, he shall notify the respondent in writing, of the charges against the latter, to which shall be attached copies of the complaint, sworn statements and other documents, and the respondent shall be allowed not less than seventy-two

hours after receipt of the complaint to answer the charges in writing under oath, together with supporting sworn statements and documents, in which he shall indicate whether or not he elects a formal investigation if his answer is not considered satisfactory. If the answer is found satisfactory, the disciplining authority shall dismiss the case.

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

4. The investigation shall be held not earlier than five days nor later than ten days from the date of receipt of respondent's answer by the disciplining authority, and shall be finished within thirty days from the filing of the charges, unless the period is extended by the Commission in meritorious cases. The decision shall be rendered by the disciplining authority within thirty days from the termination of the investigation or submission of the report of the investigator, which report shall be submitted within fifteen days from the conclusion of the investigation. (Sec. 48, Chapter 7, Book V, RAC)

SECTION 3. Anonymous Complaint — No action shall be taken on an anonymous complaint unless there is obvious truth or merit on such complaint, in which case the head of Department shall take the initiative in filing the charge against the officer or employee concerned and action shall be taken in accordance with procedures prescribed in these rules.

SECTION 4. Content of Complaints — The 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 office of employment; (c) specification of the charges; (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 testimonies of his witness.

SECTION 5. Action on the Complaint — If on the bases of the complaint and other supporting documents, a prima facie case is found not to exist, the DBM DAC shall dismiss the case. If a prima facie case exists, the respondent shall be notified of the charges against him, to which shall be attached copies of the complaint and other supporting documents.

SECTION 6. Answer — The respondents shall be allowed not less than seventy-two hours but not more than five (5) days after receipt of the complaint to answer the charges in writing and under oath, with supporting sworn statements and documents, indicating therein whether or not he elects a formal investigation if his answer is not considered satisfactory. If the answer is found satisfactory, the case shall be dismissed. Although a respondent does not request a formal investigation, one shall nevertheless be conducted when from the allegations of the complaint and the answer of the respondent, including the supporting documents, the merits of the case cannot be judiciously decided without such an investigation.

SECTION 7. Answer, How Filed — The answer may be filed personally or by registered mail, copy furnished the complainant. It shall be deemed filed on the date of receipt stamped on the answer, if filed personally, and on the date stamped on the envelope, if filed by registered mail. (Rule III, Rules on Adm. Disciplinary Cases)

Rule IV
Preventive Suspension

SECTION 1. Grounds for Preventive Suspension — The DBM Secretary, upon recommendation by the DAC, may preventively suspend any DBM official or employee under investigation, if the charge against such officer or employee involves (a) dishonesty; (b) oppression or grave misconduct; (c) neglect in the performance of duty; or (d) if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

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SECTION 2. Lifting of Preventive Suspension Pending Administrative Investigation — When the administrative case against the officer or employee under preventive suspension is not finally decided within the period of ninety (90) days after the date of suspension of the respondent, the latter 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 delay shall not be counted in computing the period of suspension herein provided. (Rule IV, Rules on Adm. Disciplinary Cases) (Sec. 42, P.D. No. 807)

Rule V
Pre-Hearing Conference

SECTION 1. Pre-Hearing Conference — After the respondent has filed his answer and a prima facie case is found to exist, the DAC may direct the complainants and parties to appear for a pre-hearing conference.

SECTION 2. Subjects of Pre-Hearing Conference — In the pre-hearing conference presided by the DAC Chairman, the parties may consider and agree on any of the following:

- Simplification of issues;

- Stipulation of facts:

- The number of witnesses;

- Marking for identification of evidence of the parties;

- Waiver of objections to admissibility of evidence;

- Compromise and conciliation, in appropriate cases;

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

SECTION 3. Pre-Hearing Order — After the pre-hearing conference, the DAC shall issue an order reciting the action taken, the facts stipulated and such other matters agreed upon. Such order shall bind the parties. However, the parties may agree to submit the case for resolution based on the evidence submitted without any need for formal investigation.

SECTION 4. Pre-Hearing Agreement Must Be Signed — No agreement or admission made or entered into during the pre-hearing conference shall be used as evidence against the respondent unless reduced to writing and signed by him. (Rule V, Rules on Adm. Disciplinary Cases)

Rule VI
Judgment By Default

SECTION 1. Judgment by Default — If any of the parties duly notified to appear at any scheduled hearing or conference refuses or fails to appear without valid reason, he may be declared in default and the investigation may proceed without his presence and judgment shall be rendered based on the evidence adduced on record. (Rule VI, Rules on Adm. Disciplinary Cases)

Rule VII
Hearing

SECTION 1. Notice of Hearing — The parties and their witnesses shall be notified of the scheduled hearing at least five (5) days before the date, specifying the time, date and place of the hearing.

SECTION 2. Request for Subpoena or Notice — If a party desires the attendance of a witness or the production of

documents, he shall make a request for the issuance of the necessary subpoena ad testificandum or subpoena duces tecum, at least three (3) days before the scheduled hearing.

SECTION 3. Hearing When Conducted — The hearing shall be held not later than five (5) days from the date of the issuance of the pre-hearing order and shall be finished within thirty (30) days from the filing of the charges unless the period is extended by the Commission in meritorious cases.

SECTION 4. Continuous Hearing Until Termination; Postponement — Hearing once commenced shall continue from day to day as far as practicable until terminated. Postponements shall be discouraged and shall be allowed only in meritorious case, like illness of the parties or counsel or other similar cases. No investigator shall grant a postponement for more than five (5) days and in no case for more than ten (10) days except upon specific authority of the Civil Service Commission.

SECTION 5. Record of Proceedings — The testimony of each witness, the documentary evidence identified/marked and submitted and the manifestations of the investigator or DAC Chairman, as the case may be, parties and counsel shall be made of record.

SECTION 6. Preliminary Matters — At the start of the hearing, the DAC Chairman or Investigator shall ask for the appearances of the parties and inquire if the parties are ready to proceed with the reception of evidence.

If a respondent appears without the aid of a counsel, the DAC Chairman or Investigator shall inform him of his right to avail of the services of counsel.

Before taking the testimony of a witness, the DAC Chairman or Investigator shall place him under oath and then take his name, address, his civil status and age, and his position and place of employment.

SECTION 7. Appearance of Counsel — Any attorney appearing before any hearing or investigation conducted by the DBM DAC/Investigator shall manifest orally or in writing his appearance for a party, stating his name and exact address at which he may be served with copies of decisions and other communications. Any pleading signed by him without complying with the above requirements shall not be received. Neither shall he be allowed to prosecute or defend a case.

SECTION 8. Solemnity of the Proceedings — The investigation/formal hearing shall be conducted with solemnity and the investigator shall comfort himself with the impartiality and dignity befitting his position as an order of facts in a case involving the integrity or efficiency of a public officer or employee.

SECTION 9. Order of Hearing — Unless for special reasons, or the DAC/Investigator directs otherwise, the order of hearing shall be as follows:

- The complaint shall produce the evidence for his part subject to the pre-hearing agreement;

- The respondent shall then offer evidence in support of his defense subject to the pre-hearing requirement;

- Cross-examination by either parties, when proper and by the hearing officer of investigator;

- When the presentation of evidence has been concluded, the parties may be given time to submit their respective memoranda which in no case shall be beyond five (5) days after the termination of the investigation.

Nothing herein shall preclude the parties from presenting rebuttal or additional evidence deemed relevant and material which were then unavailable at the time of the filing of the complaint or answer or during the hearing. However, said evidence shall be presented before the submission of the concluding memoranda.

SECTION 10. Order of Examination — Following cross-examination there may be redirect and recross

examination.

SECTION 11. Demurrer to Evidence — When after the complainant has rested his case, the respondent filed a motion to dismiss the case on the ground of insufficiency of evidence, he is deemed to have waived the right to present evidence and to have submitted the case for decision on the basis of the evidence for the complainant. (Rule VII, Rules on Adm. Disciplinary Cases)

Rule VIII
Evidence

SECTION 1. Non-Technical Procedure — The hearing/investigation shall be conducted solely for the purpose of ascertaining the truth without necessarily adhering to technical rules applicable in judicial proceedings.

SECTION 2. Material and Relevant Evidence — The DAC/Investigator shall accept all evidence having materiality and relevance to the case. In case, of doubt the DAC/Investigator should resolve for the admission of evidence subject to the objection interposed against its admission.

SECTION 3. Markings — All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and the numbers (1,2,3, etc.) if presented by the respondent. These shall form part of the complete records of the case and shall be systematically and chronologically bound to prevent loss.

SECTION 4. Presentation of Evidence — The direct evidence of the complainant and the respondent shall consist of the sworn statements and documents submitted in support of the complaint or answer without prejudice to the presentation of additional evidence deemed material but unavailable at the time of the filing of the complaint or answer. This additional evidence is subject to any cross-examination by respondent or the complainant, as the case may be.

SECTION 5. Submission of Memorandum — Parties may be allowed to submit their respective memorandum within five (5) days from the termination of the hearing. Failure to submit the same within the required period shall be considered as a waiver. (Rule VIII, Rules on Adm. Disciplinary Cases)

Rule IX
Report of Investigation

SECTION 1. Report of the DAC — The DAC/Investigator shall submit a report containing a brief statement of the material facts and findings and recommendation as basis for the DBM Secretary’s decision.

The report shall be attached to the record of the case and shall be submitted within fifteen (15) days from the conclusion of the investigation/hearing.

SECTION 2. Case Numbers — All cases submitted to the DAC shall be assigned a docket number arranged consecutively in their order of receipt.

Rule X
Decision

SECTION 1. When Case is Decided — The DAC shall render a decision within thirty (30) days from the conclusion of its investigation/hearing of the case for approval of the DBM Secretary.

SECTION 2. Contents of Decision — The decision shall contain the charge, the number of the respondent and his office, a brief statement of the material and relevant facts, findings, offense committed and penalty imposed.

SECTION 3. Execution of Decisions — Decisions shall be final in case the penalty imposed is suspension for not

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more than thirty days or fine in an amount not exceeding thirty days salary. In case the decision rendered is appealable to the Commission, the same be appealed to the CSC and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the CSC.

An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins an appeal. (Sec. 47 (2) (4), Chapter 7, Book V, AC)

Rule XII
Motion for Reconsideration

SECTION 1. Motion for Reconsideration — Motion for Reconsideration shall be filed within fifteen (15) days from receipt of the DAC decision as approved by the DBM Secretary.

SECTION 2. Who May File a Motion for Reconsideration — A motion for reconsideration may be filed by the party adversely affected by the decision within the prescribed period. The motion for reconsideration shall be decided by the Secretary of DBM within ten (10) days from receipt thereof.

SECTION 3. When Motion for Reconsideration is Deemed Filed — The motion for Reconsideration is deemed filed in case the same is sent by registered mail on the date shown by the postmark on the envelope which shall be attached to the record of the case and in case of personal delivery, the date stamped by the Commission or its proper Office.

SECTION 4. Grounds for Motion for Reconsideration — The motion for reconsideration shall be based only on any of the following grounds:

- New evidence has been discovered which materially affects the decision rendered; or

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

- Errors of law or irregularities have been committed prejudicial to the interest of the respondent.

Only one motion for reconsideration shall be entertained. (Rule XII, Rules on Adm. Disciplinary Cases)

Rule XIII
Appeal

SECTION 1. With Whom Appeal is Filed — Decisions imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Merit System Protection Board within fifteen (15) days from receipt of a copy of a decision, and finally to the Civil Service Commission within the same period.

SECTION 2. Form and Content of Appeal — The appeal shall state distinctly and clearly the date the respondent received the decision and in case he filed, a motion for reconsideration of the decision, the date he filed said motion and the date he received the resolution of his motion. Failure to do so may cause the dismissal of the appeal.

The appellant shall likewise state distinctly the grounds of the appeal together with the arguments in support of each ground.

SECTION 3. Notice of Appeal; Appeal Memorandum — Where a notice of appeal is filed within the reglementary period, the appellant shall submit his appeal memorandum within ten (10) days from the date said notice is filed.

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The appeal memorandum shall comply with the required form and content under Section 3 of this Rule.

Failure to submit an appeal memorandum within the prescribed period of ten (10) days shall be construed as a waiver thereof.

SECTION 4. An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins an appeal. (Sec. 37(d), P.D. No. 807)

Rule XIV
Miscellaneous Provisions

SECTION 1. Computation of Time — In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, Sunday or a Legal Holiday. Sec. 2, Rule XII, Rules on Adm. Disciplinary Case)

SECTION 2. Effectivity — These Rules shall take effect immediately.

Adopted: 22 Sept. 1991

(SGD.) GUILLERMO N. CARAGUE
Secretary

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