

REVISED RULES OF PROCEDURE

PCAGC RESOLUTION NO. R-0015-98, s. 1998, December 02, 1998

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WHEREAS, by virtue of Section 6 of Executive Order No. 151 as amended, series of 1994, the Presidential Commission Against Graft and Corruption, hereinafter referred to as Commission, is authorized to formulate and adopt rules of procedure to govern its investigation of cases filed before it;

WHEREAS, the Commission has recognized the need to revise the rules of procedure which it has adopted and which presently govern its investigation of cases filed before it;

WHEREAS, said revision has resulted in the drafting of the Revised Rules of Procedure, a true copy thereof hereto attached as an integral part of this Resolution;

WHEREAS, said Revised Rules of Procedure have been discussed and deliberated upon by the Commission;

NOW, THEREFORE, the Commission hereby resolves to approve, as it does hereby approve, said Revised Rules of Procedure and hereby directs the Executive Director to file with the University of the Philippines Law Center three (3) certified copies of said Revised Rules of Procedure pursuant to Book VII, Chapter 2, Section 3, of the Administrative Code of 1987.

After the expiry of fifteen (15) days from the date of the filing of the aforementioned copies with the University of the Philippines Law Center, said Revised Rules of Procedure shall take effect and shall thereupon govern all investigations conducted by the Commission.

Adopted: 2 Dec. 1998

(SGD.) EUFEMIO C. DOMINGO
Chairman

(SGD.) JAIME L. GUERRERO
Commissioner

(SGD.) LEONARDO M. RIVERA
Commissioner

By the Commission:

(SGD.) RODOLFO C. GENERAL
Executive Director

REVISED RULES OF PROCEDURE

Rule 1

Title and Construction

SECTION 1. Title of the Rules — These Rules shall be known and cited as the Revised Rules of Procedure of the

Presidential Commission Against Graft and Corruption.

SECTION 2. Construction — These Rules shall be liberally construed to carry out the objective of the accountability of public officers under Section 3 of Articles IXB and Section 1 of Article XI of the Constitution and to promote the objectives of the Charter of the Commission.

Rule 2

Commencement of Proceedings

SECTION 1. Entry of Complaints, etc. — All complaints, charges or reports received by the Commission shall be entered by the Receiving Section in its log book and assigned a permanent number and shall be referred within twenty-four (24) hours from receipt thereof to the Chairman of the Commission for notation and assignment.

SECTION 2. Governing Rules — Proceedings on verified complaints received by the Commission and on written charges by disciplining authorities whose investigation is taken over by the Commission pursuant to its charter, shall be governed by the Rules on Administrative Investigations, Part I hereof.

Proceedings on anonymous and unsworn complaints and other reports shall be governed by the Rules on Fact-Finding Inquiries, Part II hereof.

PART I

RULES ON ADMINISTRATIVE INVESTIGATIONS

Rule 3

Initiation and Evaluation of Administrative Complaints and Charges

SECTION 1. Administrative Charge, How Initiated — An administrative charge within the jurisdiction of the Commission may be initiated and prosecuted (a) by written complaint under oath accompanied by affidavits of witnesses and other evidences in support of the charge, or (b) upon written charge by the disciplining authority.

Except when initiated by the disciplining authority, no complaint shall be given due course unless the same is in writing and under oath.

SECTION 2. Preliminary Evaluation — The complaint or charge shall be forwarded to the Director of the Investigation Office of the Commission (hereafter called the Director) for preliminary evaluation and recommendation to the assigned Commissioner.

The docket number of complaints or charges referred to the Investigation Office shall, thereafter, bear and be identified as an administrative proceedings by the suffix “ADM”.

SECTION 3. Recommendation for Dismissal of Proceedings Where Prima Facie Case of Jurisdiction is not Established — If the subject matter of the case or the person of the respondent is not within the jurisdiction of the Commission, the Commissioner assigned shall submit, for adoption by the Commission, an order transmitting the records to the proper disciplining authority, copy furnished the President. And if, in his opinion, no prima facie case has been established, he shall submit for adoption by the Commission a Memorandum advising the President of the motu proprio dismissal of the proceedings.

SECTION 4. Action Where Prima Facie Case and Jurisdiction are Established: Formal Charge; Recommendation for Preventive Suspension — If the Commissioner assigned finds that a prima facie has been established and the case is within the jurisdiction of the Commission, he shall cause the issuance of a formal charge on the basis of the complaint in accordance with Rule 5, Section 1 or, in case of charges filed by a disciplining authority of which the Commission has assumed jurisdiction, proceed with the investigation under these Rules.

In proper cases, the Commissioner assigned may submit, for adoption by the Commission, a recommendation to the Disciplining Authority for the preventive suspension of the respondent in accordance with the next succeeding Rule.

Rule 4

Preventive Suspension

SECTION 1. Recommendation for Preventive Suspension — (a) Pending administrative investigation, the Commission may recommend to the President the suspension, as provided by law, of a respondent against whom a formal charge has been issued.

(b) Where the administrative investigation against the respondent under preventive suspension is not completed within the period of suspension and the delay in the disposition of the case is due to the fault, negligence or request of the respondent, the Commission may recommend to the President the extension of the suspension for a period equivalent to the delay.

Rule 5

Formal Charge

SECTION 1. How Respondent Charged — Where a prima facie case is determined to have been established, the respondent shall be formally charged by the issuance of an Order notifying him of the charges against him, furnishing him with copies of the complaint, the sworn statements and other documents submitted by the complainant, and giving him an inextendible period of fifteen (15) days from receipt of the order to file his counter-affidavit/verified answer (not a Motion to Dismiss or Motion for Bill of Particulars) together with the affidavits of his witnesses and other documents in his defense and proof of service on the complainant.

Any motion to dismiss or for a bill of particulars that may be filed shall be considered expunged from the record, and the filing thereof shall not suspend the proceedings nor the period for the filing of the respondent's counter-affidavit/verified answer.

SECTION 2. Failure to File Response — The respondent's failure to file his counter-affidavit/verified answer within the period given shall be considered a waiver of his right to file the same and to present evidence in his behalf, and the Commissioner assigned shall recommend the appropriate action to the Commission, on the basis of the complaint and documents on record.

SECTION 3. Action After Respondent's Response — If, upon evaluation of the documents submitted by both parties, it should appear either that the charge has been satisfactorily traversed by the respondent in his counter-affidavit/verified answer, or that the counter-affidavit/verified answer does not tender a genuine issue, the Commissioner assigned shall forthwith, or after clarificatory hearing to ascertain the authenticity and/or significance of the relevant documents, submit for adoption by the Commission the appropriate recommendation to the President.

If in the opinion of the Commissioner assigned a genuine issue is presented by the documents submitted by both parties, he shall schedule the case for preliminary conference.

Rule 6

Preliminary Conference

SECTION 1. Order to Submit Position Paper and to Attend — (1) The Order setting the date of preliminary conference shall:

a. Direct the parties to appear before the Commission personally, or through counsel provided with a duly

notarized special power of attorney authorizing him, to consider the matters set forth in Section 2 of this Rules;

b. Require each party to file with the Commission and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of conference, his verified Position Paper which must include the following:

- i. A brief statement of facts supporting the party's charge or defense.
 - ii. A brief statement of the issues raised by the party.
 - iii. A brief discussion of the applicable laws and jurisprudence.
 - iv. The substance of the testimonies of the party's witnesses whose affidavits have previously been submitted to the Commission or which are attached to the Position Paper.
 - v. A list of witnesses whose testimonies will be procured through subpoena or deposition, with an abstract of their testimony.
 - vi. A list of the party's documentary evidence, copies of which have previously been submitted to the Commission or which are attached to the Position Paper, stating the purpose thereof.
 - vii. A list of the documents produced by the adverse party (as part of his complaint or counter-affidavit/verified answer) which are admitted as well as a separate list of those whose authenticity or genuineness is contested.
 - viii. A summary of admitted facts and a proposed stipulation of facts.
 - ix. An indication of the approximate number of hours that will be required for the cross-examination of the adverse party's witnesses, copies of whose affidavits have been furnished.
 - x. The available trial dates of party/counsel within a three month period from the date of the preliminary conference.
- c. Warn the parties of the consequences, pursuant to Section 4 of this rule, of the failure to file a Position Paper or to appear or to be properly represented at the preliminary conference.

2. In setting the date of preliminary conference, the Order shall take into account the location of the residences or offices of the parties and shall schedule the conference on such date as shall facilitate the service by the parties of their Position Papers upon the Commission and the adverse party within the period indicated in this Rule.

SECTION 2. Agenda of Preliminary Conference — At the preliminary conference, the parties shall be directed to consider:

- a. The setting of advance dates of subsequent hearings within a three-month period from date of conference;
- b. The definition and simplification of the issues;
- c. Possible stipulations or admissions of facts and of documents to avoid unnecessary proof;
- d. The limitation of the number of witnesses, and the exclusion of witnesses whose testimonies will be merely corroborative.
- e. The advisability of the preliminary reference of technical issues to an expert or referee acceptable to both parties;
- f. The advisability of taking the deposition of witnesses with residences beyond the compulsory process of the commission.

- g. The authentication and marking of documentary evidence;
- h. Such other matters as may aid in the prompt and just disposition of the case.

SECTION 3. Minutes of Preliminary Conference — After the preliminary conference, the Commissioner assigned shall issue an order reciting in detail the matters taken up thereat, the action taken thereon, the facts stipulated, the evidence marked and the agreements or admissions made by the parties as to any of the matters considered. Such order shall explicitly define and limit the issues to be tried to those not disposed of by agreement or admission of the parties and shall control the subsequent course of the proceedings. The order may not be deviated from unless amended, on motion opportunely presented prior to the hearing, to prevent manifest injustice.

SECTION 4. Failure to File Position Paper or to Attend Preliminary Conference — (a) During the formal hearing, the direct evidence of a party who fails to file his Position Paper without justifiable reason shall be limited to the documents attached to, and to the testimony of the witnesses whose affidavits were submitted with, his Complaint or Counter Affidavit/verified Answer.

(b) A party who fails to attend or be properly represented at the preliminary conference, without justifiable reason, shall be considered to have waived his objections to documents whose authenticity and genuineness have been accepted by the Commissioner assigned. He shall also be bound by the dates of hearing fixed at such conference with the right however to move for the setting of additional dates available both in the calendar of the Commission and of the adverse party and within the three-month period from the date of the conference.

c. It shall be the duty of counsel, on whom the Order setting the date of preliminary conference is served, to notify the party represented by him thereof.

SECTION 5. Summary Resolution After Preliminary Conference — Should it be determined prior to the first hearing date, upon a consideration of the results of the preliminary conference, the pleadings, the affidavits and other evidences, and the position statements submitted by the parties, that the issues can be resolved without need of a formal hearing, submit, for adoption by the Commission, the appropriate recommendation to the President.

Rule 7

Formal Hearing

SECTION 1. Order of Hearing — Subject to the Order on the results of the preliminary conference, the order of hearing shall be as follows:

- a. The complainant shall produce his direct evidence on the charge;
- b. The respondent shall then offer his direct evidence in support of his defense.
- c. Unless otherwise directed by the Commissioner assigned and subject to his control, the parties may then respectively offer rebutting evidence.

SECTION 2. Testimonies and Documents Allowed in Evidence — (a) Subject to the Order on the results of the Preliminary Conference, only the following may be introduced during the presentation of a party's direct evidence:

1. Testimonies of witnesses whose affidavits have previously been submitted with the Complaint, Counter-Affidavit/verified Answer, or Position Papers, and those of other witnesses previously named in said pleadings as among those whose attendance would be procured through subpoena; and,
2. Depositions of witnesses listed in the Complaint, Counter-Affidavit/verified Answer and Position Papers, and documentary evidence previously submitted with said Complaint, Counter-Affidavit/verified Answer and Position

Papers.

b. Subject likewise to the Order on the results of the Preliminary Conference and to the general limitation that only evidence bearing on new matters raised by the adverse party may be presented, only the following may be introduced in evidence on rebuttal:

1. The testimonies and documents enumerated in the immediately preceding subsection (a) hereof; and
 2. Additional witnesses and documents provided that the witnesses' affidavits and copies of the documents have been filed with the Commission and served on the adverse party at least five (5) days before the date of the hearing at which the evidence is to be presented.
- c. Exceptions to the preceding subsections of this rule shall be permitted only on verified motion and for especially meritorious grounds.
- d. All documentary evidence presented and marked during the preliminary conference shall be offered in evidence and admitted or rejected at the initial hearing. Documents produced pursuant to subpoena and those produced and identified in the course of the testimony of a witness shall be offered in evidence and admitted or rejected during the same hearing at which they are produced.

SECTION 3. Direct Testimony and Cross-Examination of Witnesses — Affidavits submitted by witnesses shall constitute their direct testimonies and shall be the basis of their cross-examination.

SECTION 4. Calendar and Postponements — (a) The parties shall be prepared for continuous hearings. The schedule of hearings set in the Order on the results of the Preliminary Conference shall be strictly followed and after service of the Order no further notice of such scheduled hearings need be served on the parties.

b. Postponements shall not be allowed except in meritorious cases substantiated under oath and in no instance shall each party be granted more than one postponement nor shall a postponement cancel more than one scheduled hearing.

c. Except in meritorious cases substantiated under oath, either party who fails to appear during his turn to present evidence shall be deemed to have closed the presentation of his evidence in chief or rebuttal evidence, as the case may be. And if either party fails to appear during the presentation of the adverse party's evidence, the latter shall be allowed to present his evidence ex parte and the absent party shall be deemed to have waived his right to cross-examine the witnesses presented, and to object to the genuineness and authenticity of documents admitted, at such hearing.

SECTION 5. Requests for Subpoena — All Requests for the issuance of subpoenas for witnesses previously named in a party's Complaint, Counter-Affidavit or Position Paper as those whose attendance would require compulsory process, shall be made before the first date of hearing scheduled in the Order on the results of the Preliminary Conference. Requests for the issuance of subpoenas for other witnesses shall be made at least five (5) days before the date of hearing at which they will testify.

SECTION 6. Draft Decision in Lieu of Memorandum — In lieu of memoranda, the parties may submit draft decisions within an inextendible period of five (5) working days from the date of the last hearing, the submission thereof to be simultaneous for both parties. The case shall be deemed submitted for resolution upon the lapse of said period, with or without the submission by the parties of any draft decision.

Any portion of a draft decision which the Commission may adopt in its Resolution shall be so identified and reproduced with quotation marks.

Rule 8

Evidence

SECTION 1. Weight and Sufficiency of Evidence — The Commission shall decide on the basis of substantial evidence and shall admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs.

SECTION 2. When Excerpts or Copies Admissible — Copies or excerpts of documents offered by a party may be received in evidence if the original is not readily available and the original is in the custody of the adverse party or the custodian is an officer or employee in the Department, office or agency to which the adverse party belongs, subordinate in rank to the latter. Upon request, the adverse party shall be given an opportunity to compare the copy or excerpt with the original and to produce an authenticated or certified copy thereof in case of a discrepancy.

Rule 9

Suppletory Rules

SECTION 1. Suppletory Application of Rules of Court — In the administrative proceedings before the Commission, these rules of procedure promulgated by the Commission shall be primarily applied. The Commission shall not be bound by the strict technical rules of procedure and evidence contained in the Rules of Court but may adopt, in the absence of any applicable rule herein, such modes of proceedings consistent with the requirements of fair play and due process and conducive to the just, speedy and inexpensive disposition of cases. Where no alternative mode of procedure is so adopted, the Rules of Court may be applied in a suppletory character in instances not covered by these rules unless inconsistent with the spirit and purpose thereof.

PART II

RULES ON FACT-FINDING INQUIRIES

Rule 10

Evaluation of Anonymous and Unsworn Complaints and Other Reports

SECTION 1. Assignment of Complaints, etc. — Anonymous and unsworn complaints, and similar reports shall, after notation by the Chairman of the Commission, be forwarded to the head of the Fact Finding Section for a preliminary evaluation of the verifiability, significance and magnitude of the transactions and amounts involved.

The docket number of complaints or charges referred to the Fact Finding Section shall, thereafter, bear and be identified as a fact-finding inquiry by the suffix “FFI”.

Rule 11

Formal Fact Finding Inquiry

SECTION 1. When Formal Inquiry Initiated, Terminated; Scope of Inquiry — (a) If, upon review of the Evaluation Report, the Commissioner assigned believes that the events or transactions reported are verifiable and further inquiry into the complaint or report may uncover graft or corruption by a public officer within the jurisdiction of the Commission or may disclose serious deficiencies in the recording, implementation, monitoring and/or control procedures in the government unit or government-owned or controlled corporation involved, for which the Commission may recommend to the President measures to eradicate the opportunities and climate favorable to the commission of graft and corruption in the unit or corporation, he shall submit, for the approval of the Commission, an order so stating and directing the docketing of the complaint or report for Formal Inquiry. Otherwise, he shall submit, for the approval by the Commission, an order terminating further proceedings on the

complaint or report.

b) In the Formal Inquiry, the Commissioner assigned, assisted by the Chief of the Fact-Finding Section, shall receive, on invitation or on subpoena, such documents and testimonies of witnesses as may be relevant and material to the inquiry, and shall call and secure the assistance of any government unit as may be necessary. A public officer identified in an anonymous or unverified complaint or report as a participant in a questioned transaction, whose testimony may be material to the fact-finding inquiry, may be invited, if he so wishes, to give his comments, which need not be verified.

SECTION 2. Courses of Action Where Administrative Offense Uncovered —

a. If in the course of the Fact-Finding Inquiry, evidence is uncovered tending to prove the commission of an administrative offense by a public officer or employee, the Commission shall proceed, alternatively, as follows:

1. If the case is not within its jurisdiction, the Commission assigned shall submit, for adoption by the Commission, a Memorandum advising the President of the motu proprio dismissal thereof and the transmittal of the documents and other evidence to the proper disciplinary authority with its preliminary findings and recommendation;

2. If the case is within its jurisdiction, the Commission shall endorse the documents to the Director of the Investigation Office for further evaluation, who shall, if he finds the existence of a prima facie case, file a charge or a sworn Complaint in the name of the Investigation Office as nominal complainant. The charge or complaint shall be entered in the records of the Receiving Section under a new docket number which shall bear, and be identified as an administrative proceeding, by the suffix “ADM”.

3. If a complaint or charge against the public officer or employee is filed with the Commission pursuant to the provisions of the immediately preceding subsection (a) (2) the case shall thereafter proceed and be governed by the Rules on Administrative Investigations and thenceforth all evidence relating to the commission of the offense shall be excluded from the Fact-Finding Inquiry and presented in the administrative proceedings.

PART III

COMMON PROVISIONS

Rule 12

Assignment, Consolidation of Cases and Designation of Hearing Officers

SECTION 1. Assignment of Investigation/Fact-Finding Inquiry — (a) The investigation/fact-finding inquiry of complaints, charges or reports bearing odd docket numbers shall be assigned to the senior Commissioner and those bearing even docket numbers to the other. However, in the interest of distributing work load and for other justifiable reasons, the Chairman may assume jurisdiction over any case or assign the same to either of the Commissioners or order the same to be heard en banc.

The Commissioner assigned shall issue interlocutory orders that may be required in the course of an administrative investigation.

SECTION 2. Consolidation of Cases — Where there are two or more investigations/inquiries pending before different Commissioners involving the same parties, or the same or related issues, the later ones shall, whenever practicable, be consolidated with the first to avoid unnecessary inconvenience and delay and, after such consolidation, shall be disposed of and by the Commissioner to whom the first investigation/inquiry was assigned.

In case of any objection to the consolidation, the same shall be resolved by the Chairman of the Commission.

SECTION 3. Designation of Hearing Officer; Powers — The Chairman, in the interest of the expeditious completion of any investigation or inquiry may authorize any of the Commission's lawyers to preside, as Hearing Officer, over any hearing thereof upon the recommendation of the Commissioner assigned and subject to the latter's supervision and control. Such Hearing Officer shall have the power to administer oaths and affirmations, receive testimonies and documents submitted in the course of the hearing, mark exhibits, grant continuances, rule on motions, objections and other questions of procedure, and to issue all interlocutory orders which may be issued under these rules by the Commissioner assigned, and to recommend to the latter in proper cases the presentation, for adoption by the Commission, of appropriate recommendations and reports to the President.

A Hearing Officer in an administrative investigation shall, in addition, have the power to issue subpoenas and to rule on the admissibility of evidence.

SECTION 4. Scope of and Period for Preliminary Evaluation — (a) The preliminary evaluation of a complaint, charge or report shall include the examination of the records and documents submitted as well as of other relevant documents including those available in government offices and the validation and verification thereof by oath or certification.

On application by the Director of the Investigation Office or the head of the Fact-Finding Section, the Chairman or the Commissioner assigned may issue subpoena duces tecum for the production of documents or materials needed in the course of the preliminary evaluation.

b. The preliminary evaluation shall be completed, and the Evaluation Report submitted to the Commissioner assigned, within fifteen (15) days from receipt of the records by the Director or the head of the Fact Finding Section unless an extension is granted by the Chairman.

Rule 13

Record of Proceedings, Confidentiality of Recommendations and Enforcement of Subpoena

SECTION 1. Record of Proceedings — The proceedings of the Administrative Investigation and Fact-Finding Inquiry of the Commission are not required to be recorded by stenographers. In lieu of a transcript of stenographic notes, the record of the hearings shall consist of the written summary thereof made by the Commission, the Commissioner assigned or the Hearing Officer and incorporated in an Order issued after each hearing. The said summary shall include an abstract of the substance of the testimony of witnesses, an enumeration of the documents offered in evidence and the marking thereof, the significant rulings handed down, and other matters which the Commission, the Commissioner assigned, or the Hearing Officer may consider important and significant. The proceedings may be tape-recorded by the parties.

SECTION 2. Confidentiality of Recommendations — The reports and memoranda of the Commission to the Disciplining Authority embodying its findings and recommendations, together with any recommended Draft Resolution/Decision or issuances, as well as the preliminary drafts thereof, are classified as confidential and copies thereof may be released only by or on written instructions of the Disciplining Authority.

SECTION 3. Enforcement of Subpoena — Upon non-compliance without adequate cause with a subpoena issued by the Commission or by its authority, the Commission en banc, on motion or motu proprio, may undertake any or all of the following measures:

a. The filing of a charge for indirect contempt of court pursuant to the provisions of Book VII, Chapter 3, Section 13 in relation to Chapter 1, Section 2 (1), Book VII of the Administrative Code.

b. The filing of a complaint for violation of Article 231 of the Revised Penal Code.

c. In case the non-complying witness is a public officer or employee, the submission to the President of a recommendation, after formal charge and hearing, of the former's suspension or dismissal. The hearings on the charge shall not stay the proceedings of the case or investigation in which the subpoena was issued.

Rule 14

Publication and Effectivity

SECTION 1. Filing in UP Law Center; Effectivity — These rules shall be published by the filing of a copy thereof in the UP Law Center and shall be effective and shall govern all proceedings before the Commission upon the expiry of fifteen (15) days from the date of receipt of such copy by the Center.

Adopted: 2 Dec. 1998

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