RULES AND PROCEDURES ON ADMINISTRATIVE DISCIPLINARY CASES

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Executive Order No. 26 dated October 7, 1992 of the President Fidel V. Ramos requires the adoption by all government agencies of certain procedures and sanctions enumerated therein not later than forty-five (45) days from the effectivity of said Executive Order E.O. 26 took effect on October 29, 1992 so the deadline for compliance therewith is on December 13, 1992. Nevertheless, adoption of said procedures and sanctions on December 17, 1992 may be considered sufficient compliance with E.O. 26.

Philguarantee has not formally formulated or adopted its Rules and Procedures on Administrative Disciplinary Cases. Thus, there is urgent need for adoption of said Rules based on the Civil Service Law and Rules, Administrative Code of 1987, other related laws and Executive Orders.

The Legal Department is proposing the formulation and/or adoption of the attached Rules and Procedures on Administrative Disciplinary Cases incorporating therein the additional procedures (period for deciding cases or incidents) and sanctions.

Adopted: 14 Dec. 1992

(SGD.) VICTOR C. MACALINCAG

Rules and Procedures on Administrative Disciplinary Cases

Rule I

SECTION 1.2 Disciplining Authority - Pursuant to Section 11 (d) of the Philguarantee Charter, the BOARD OF DIRECTORS has jurisdiction and power to investigate and decide matters involving administrative disciplinary cases against officers and employees of the Corporation. The Board hereby delegates to the President some of its power over such matters as hereinafter provided.

SECTION 1.2. Investigating Authority - The Board delegates to the Legal Department its power to conduct investigations on the aforesaid matters involving employees and officers up to the rank of Department Manager. Officers above the rank of Manager shall be investigated by the Board of Directors.

SECTION 1.3. Hearing Officer - Any lawyer of the Legal Department or qualified officer of the Corporation may be authorized and assigned by the President of the Corporation to conduct such investigation and hearing on administrative disciplinary pursuant to Civil Service Law and Rules. The rank/position of the Hearing Officer shall in all cases be equal or higher than that of the respondent.

Rule II

SECTION 2.1 Grounds for Disciplinary Cases - The grounds for disciplinary cases are those grounds enumerated in the Civil Service Law (Administrative Code of 1987, E.O. 292, Book V, Chapter 6, Section 46) and in the Code of Conduct and Ethical Standards for Public Officials and Employees, Republic Act No. 6713.

The ground/s must have been committed while still in the service.

The penalties/disciplinary measures to be imposed shall be in accordance with the Civil Service Law, the Code of Conduct and other laws.

Rule III
Rights of the Respondent

SECTION 3.1 The respondent's rights under the constitution and laws shall be respected. Furthermore, the respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witness and the production of documents through the compulsory process of subpoena or subpoena duces tecum.

Rule IV
Filing of Administrative Charges

SECTION 4.1 Commencement of Administrative Proceedings - An administrative Proceeding may be commenced against any officer or employee by the Corporation on its own initiative or upon the sworn written complaint of any other person.

SECTION 4.2. a) Administrative Proceedings Initiated by the Corporation - Administrative proceedings initiated by the Corporation against any officer or employee shall be referred to the Legal Department or to the Board of Directors, depending on the rank of the respondent for investigation and evaluation. If from the reports submitted or from the fact-finding investigation conducted, there exists a prima facie case to warrant the filing of charges, a formal specification of charges shall be prepared under the signature of the President in cases where the respondent is with the rank of Manager and below, and under the signature of the Chairman of the Board in cases where the respondent is with the rank of Senior Vice-President and above.

(b) Complaints Filed by Other Persons - Complainants filing sworn written complaints against any officer or employee shall be required to submit his sworn statement and that of his witnesses together with their documentary evidence. The Legal Department/Board of Directors shall serve copies of the complaint, sworn statement/s and documentary evidence, if any, to the respondent and shall require the respondent to answer the same in writing within five (5) days from receipt thereof. Upon receipt of respondent's written answer, the Legal Department/Board of Directors shall evaluate the complaint and supporting papers, together with the written answer and supporting documents, if any, of the respondent. Where there is obvious truth and merit in the sworn complaint and supporting papers, the Corporation shall file administrative charges under the signature of the same authorized signatories prescribed under paragraph 4.2 (a) above. If the complaint and supporting papers are without merit, the same shall be dismissed subject to the approval of the President upon recommendation of the Chief Legal Counsel in cases where the respondent is with the rank of Manager and below, and subject to the approval of the Board of Directors in cases where respondent is with the rank of SVP and above.

Rule V
Notice and Answer

SECTION 5.1. Charges Filed by the Corporation - The Legal Department/Board of Directors shall serve copies of the charges in the form hereto attached as Annex "A"[*], sworn statements and documentary evidence, if any, to the respondent by personal delivery or registered mail and shall require the respondent to answer the same in writing, under oath, within five (5) days from receipt thereof. The order to answer shall also state that the respondent has a right to avail of the services of the counsel in the preparation of his answer or defense and that he shall be entitled to a formal investigation, if he so elects.

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SECTION 5.2 Complaint Filed by other Persons - In case there is doubt as to the truth of merit of the complaint against the respondent, the Legal Department/Board of Directors shall give written notice to the respondent in the form hereto attached as Annex "B"[*] to which shall be attached copies of complaint, sworn statements and other documents submitted by the complainant.

SECTION 5.3. Sworn Answer - The respondent shall be required to file his sworn written answer together with his affidavits and other documentary evidence within five (5) days from receipt of notice of charge/s

Rule 6
When Hearing Necessary

SECTION 6.1 When Hearing is Necessary - A hearing shall be conducted in the following cases:

a. when the respondent requests in writing for a hearing;

b. although the respondent does not request for a hearing;

(i)

in case of complaints filed by other parties, when from the allegations of the complaint and respondent's answer, including supporting documents, the merits of the case cannot be decided judiciously without conducting such hearing;

(ii)

in case of charges filed by the Corporation, when respondent's answer creates serious doubts.

SECTION 6.2. Notice of Hearing - The Haring Officer shall notify the respondent and the complainant, if any, and their respective witnesses/es and counsel, of the date, time and place of hearing which shall be conducted within five (5) days from receipt of respondent's answer.

SECTION 6.3 Procedure for Charges Filed by the Corporation - The Haring Officer shall state the Corporation's evidence against the respondent. In case the evidence for the Corporation includes affidavits, cross-examination of the affiants by the respondent shall be allowed.

The respondent shall then present his evidence supporting his defense. In case the evidence for the respondent includes affidavits, the Hearing Officer may call upon the affiants to answer such question as he may propound.

SECTION 6.4. Hearing Procedure for Complaints Filed by the Corporation/Other Persons - The hearing shall be conducted only for the purposes of ascertaining the truth and without necessarily adhering to technical rules applicable in judicial proceedings.

The direct evidence for the Corporation or complainant and the respondent shall consist of the sworn statements and documents submitted in support of the complaint or answer, as the case may be, without prejudice to the presentation of additional evidence deemed necessary but was unavailable at the time of the filing of the complaint or answer, upon which the cross-examination, by the respondent and the complainant, respectively, shall be based. Following cross-examination, there may be redirect and re-cross examinations after which the case shall be deemed submitted for decision.

SECTION 6.5. Postponement; Failure to Attend Hearing - When the respondent or counsel fails to attend without justifiable reasons (like illness of parties or counsel) a scheduled hearing despite due notice, the hearing may proceed without his presence at the discretion of the Hearing Officer.

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Postponement of hearing shall be discouraged but may, however in meritorious cases, be granted for a period not longer than three (3) days and not exceeding five (5) postponement for one (1) party.

SECTION 6.6. Termination of Hearing - The formal hearing shall be finished within thirty (30) days from the filing of the charges, unless the period is extended by the Hearing Officer in meritorious cases. The parties must be notified of the Termination of Hearing.

SECTION 6.7 Record of Proceedings - The proceedings may be taken in shorthand, directly typewritten of recorded on voice tape. A transcript of the proceedings made by the official stenographer or typist and duly certified by him shall be prima facie a correct statement of such proceedings.

SECTION 6.8. Compromise and Arbitration - To expedite administrative proceedings and obviate expensive litigations, the Corporation encourages the parties and their counsels to enter into amicable settlement, compromise and arbitration in accordance with Section 10, Chapter 3, Book VII of the Administrative Code of 1987.

SECTION 6.9. Preliminary Conference - The Hearing Officer may summon the parties and their counsel to a Preliminary Conference to consider the following matters:

a. whether the parties desire a formal investigation or are willing to submit the case for resolution on the bases of the evidence on record;

b. should the parties desire a formal investigation, to consider:

- The possibility of an amicable settlement or of a submission to arbitration;

- The simplification of the issues;

- The necessity or desirability of amendments to the pleadings;

- The possibility of obtaining stipulations or admissions of facts and of documents to avoid necessary proof;

- The limitation of the number of witnesses;

- The advisability of a preliminary reference of issues to a commissioner;

- Such other matters as may aid in the prompt disposition of the action;

SECTION 6.10 - Without the prejudice to Section 12, Chapter 3, Book III of the Administrative Code of 1987, (i) the use of affidavits in lieu of direct testimonies of parties and witnesses is mandatory; and (ii) the use of depositions is preferred whenever practicable and convenient.

Rule 7
Decision

SECTION 7.1 All administrative proceedings/cases shall be decided within thirty (30) days from date of submission for resolution pursuant to Section 14, Chapter 3, Book VII of the Administrative Code of 1987.

SECTION 7.2 An administrative proceeding/case is deemed submitted for resolution upon expiration of the period for filing the Memorandum, Position Paper or last pleading with a draft of the decision incorporated therein or annexed thereto.

SECTION 7.3. The parties are required to submit within ten (10) days from notice of the Termination of Hearing either a Memorandum, Position Paper, or last pleading with draft of judgment/decision prayed for. The requirement of incorporating or annexing a draft of the order/resolutions shall also be applied to motions or

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application for orders other than the final judgment/decision. The President or the Board of Directors, as the case may be, depending on the position of the respondent, may after considering and appreciating the applicable laws, rules and regulations and the evidence submitted, adopt, in whole or in part, either of the parties' draft decisions, or reject both.

SECTION 7.4. In administrative cases involving respondents with the rank of Manager and below, the hearing Officer, thru the Chief Legal Counsel or his absence, the Manager of the Legal Department, shall submit his findings and recommendation to the President within twenty (20) days from date of submission of the case for resolution. The President shall have ten (10) days from submission of the recommendation to decide the case.

SECTION 7.5 In case the respondent has the rank of Senior Vice-President and above, the Chairman of the Board shall submit a report of Findings and Recommendation for decision by the Board of Directors.

SECTION 7.6 The President who is charged with the resolution of administrative disciplinary cases shall submit to the Board of Directors within ten (10) days following the end of the month, a sworn Statement of Disposition of Cases (Annex "C"[*]) declaring that all cases or incidents submitted to him for resolution have been decided within the prescribed period.

Rule 8
Motion for Reconsideration

SECTION 8.1 Only one Motion for Reconsideration shall be allowed, which shall be decided within fifteen (15) days from date of submission for resolution. No other pleading shall be allowed other than the Motion for Reconsideration and opposition thereto.

SECTION 8.2 The respondent may file his Motion for Reconsideration with the proper Disciplining Authority (President or Board of Directors depending on the rank of the respondent) within fifteen (15) days from service to him of a copy of the decision or judgment by the Legal Department.

SECTION 8.3. Grounds - The Motion for Reconsideration may be filed only on the following grounds:

a. New evidence has been discovered which materially affects the decision rendered;

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

c. Errors of law on irregularities have been committed prejudicial to the interest of the respondent.

SECTION 8.4 Disposition - If the Motion for Reconsideration is granted, the resolution of the motion shall discuss the basis therefor. If the Motion for Reconsideration is found to have been filed merely for the purpose of delay or is obviously without merit, the denial of the Motion for Reconsideration need go no further than to state such findings.

Rule 9
Appeal

SECTION 9.1 The decision of the President is appealable to the Board of Directors. The appeal shall be made by the party adversely affected by the decision by filing a Notice of Appeal with the President within fifteen (15) days from receipt of the decision unless a Motion for Reconsideration is seasonably filed, which Motion shall be decided within fifteen (15) days from date of filing thereof.

SECTION 9.2 The decision of the Board of directors shall be final and not appealable in case the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary. Such decision may, unless otherwise provided in the decision itself, be executed or implemented on the date of its

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approval by the Board of Directors notwithstanding the respondent's option to file a Motion for Reconsideration.

SECTION 9.3. In case the decision of the Board of Directors is appealable to the Merit System Protection Board, the appeal may be made by the party adversely affected by the decision by filing with the Board of Directors a Notice of appeal within fifteen (15) days from receipt of the decision unless a Motion For Reconsideration is seasonably filed, which motion shall be decided within fifteen (15) days from date of filing thereof.

SECTION 9.4 The Notice of Appeal shall specially state the date of the decision appealed from and the date of receipt thereof. It shall also specially set forth clearly the grounds relied upon for excepting from the decision.

SECTION 9.5 The disciplining authority (President of the Board of Directors) shall forward the records of the case, together with the Notice of Appeal, to the appellate authority within fifteen (15) days from the date of filing of the Notice of Appeal, with its comment, if any.

Rule 10
Records

SECTION 10.1 Custody of Records - The Legal Department shall keep the records of all administrative cases instituted against all personnel of the Corporation and shall furnish pertinent information thereof to the Administrative Department (HRPDD).

SECTION 10.2 Confidentiality of Records - Records in administrative cases are confidential in nature and any information as to the charge or accusation or facts adduced may not be available except to the proper authorities or, upon formal request of the parties in interest or their authorized representatives, with the prior approval of the President/Chairman of the Board depending on the rank of the respondent.

Except by the specific approval of the President/Chairman of the Board and in each specific instance, no officer or employee shall so construe the provisions of any law now in force as to authorize or require the official publication of the cause of removal of any personnel from the service of the Corporation in mor terms that "for the best interest of the service."

Rule 11
Applicability

SECTION 11.1 Applicability - The foregoing Rules and Procedures are not exclusive and shall be deemed as only suppletory to the Administrative Code of 1987, Civil Service Law, Code of Conduct and Ethical Standards and pertinent Rules. Hence, all other matters pertaining to discipline and/or administrative actions which are not covered by these Rules and Procedures shall continue to be governed by the applicable provisions of the Administrative Code of 1987, Civil Service Law, Code of Conduct and Ethical Standards, pertinent Rules and jurisprudence.

Rule 12
Effectivity

SECTION 12.1 These RULES AND PROCEDURES ON ADMINISTRATIVE DISCIPLINARY CASES shall be personally furnished to all officers and employees after approval thereof by the Board of Directors.

SECTION 12.2. The Record Officer shall furnish the University of the Philippines Law Center three (3) certified true copies of these Rules and Procedures as required under Sec. 3, Chapter 2, Book VII of the Administrative Code of 1987 upon effectivity of these Rules and Procedures.

SECTION 12.3 These Rules and Procedures shall take effect fifteen (15) days from date of receipt thereof by all

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incumbent officers and employees of the Corporation.

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[*] Not included here.

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