

IMPLEMENTING GUIDELINES OF THE REVISED RULES ON ADMINISTRATIVE CASES (REVISED CIRCULAR NO. 12, SERIES OF 2008)

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The following 2013 Implementing Guidelines on the Revised Rules on Administrative Cases[1] are hereby prescribed:

RULE I. GENERAL PROVISIONS

Section 1. Title. These Guidelines shall be known as the 2013 Implementing Guidelines of the Revised Rules on Administrative Cases. (a)

Section 2. Coverage. These Guidelines shall apply to all disciplinary administrative cases brought before the Development Bank of the Philippines (“Bank”) against its officials and employees.

Sexual harassment cases shall be primarily governed by the Administrative Rules on Sexual Harassment Cases (DBP Circular No. 3, dated 27 March 2007). These Guidelines shall apply suppletorily to said cases.

Section 3. Initiation of Administrative Cases. Administrative proceedings may be initiated by the Disciplining Authority *motu proprio* or upon complaint of any other person, natural or juridical.

Section 4. Nature of Proceedings. The proceedings under these Rules shall be summary in nature and shall be conducted without necessarily adhering to the technical rules of procedure and evidence applicable to judicial proceedings. Records of administrative proceedings, as well as reports and recommendations to the Disciplining Authority, are strictly confidential. Personnel assigned to handle or assist in the handling of administrative cases are deemed to be performing highly confidential functions.

Section 5. Construction. These Guidelines shall be liberally construed in order to promote their objective in obtaining just, speedy, and inexpensive disposition of administrative cases.

RULE II. DEFINITION OF TERMS

Section 1. Adverse Report. An adverse report includes audit reports and other management reports of irregularities that may serve as a basis for disciplinary action.

Section 2. Agency. Agency refers to any bureau, office, commission, administration, board, committee, institute, corporation with original charter, whether performing governmental or proprietary functions, or any other unit of the national government as well as provincial, city or municipal government.

Section 3. Bank. Bank refers to the Development Bank of the Philippines. (n)

Section 4. Civil Service. Civil Service is the generic term which refers to all men and women in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.

Section 5. Complaint. Complaint is a sworn written statement filed by any person, natural or juridical, other than the Disciplining Authority against a Bank official or employee. (a)

Section 6. Contested Case. A case is deemed a contested case when the respondent in his or her answer to a formal charge or complaint elects a formal investigation.

Section 7. Disciplinary Action. A proceeding by which a Bank official or employee is made answerable for an act or omission in relation to Civil Service and Bank policies, laws, rules and regulations, consistent with due process and the right to security of tenure.

Section 8. Disciplining Authority. Disciplining Authority refers to the person body duly authorized to impose the penalty provided for by law or rules.

For purposes of these Guidelines, in accordance with Section 9 (f) and Section 10 (f) of Executive Order No. 81 dated 3 December 1986, as amended by Republic Act No. 8523 dated 14 February 1998, otherwise known as the “Revised Charter of DBP”, the Disciplining Authority in the Bank shall be as follows:

- For disciplinary cases involving officers from the rank of Vice President or its equivalent, and other more senior officer positions, the Disciplining Authority is the Board of Directors. By virtue of these Guidelines, this authority is hereby delegated to the President and Chief Executive Officer (CEO) of the Bank.
- For disciplinary cases involving officers and/or employees below the rank of Vice President or its equivalent, the Disciplining Authority is the President/ CEO of the Bank. The President/CEO may delegate this authority to a Committee to be composed of the Chief Financial Officer of the Bank as Chairperson, the next highest ranking Sector Head as Vice Chairperson, and the Chief Legal Counsel as Member. (a)

Section 9. Employee. Employee includes regular, temporary, coterminous, directly-hired, and casual rank and file employees and officers of the Bank, unless used in a more specific context. (a)

Section 10. Employee Complained of. An employee complained of refers to the employee who is the subject of an adverse report or complaint, including anonymous complaint, but who has not been formally charged or when the complaint has not been given due course by the Disciplining Authority through the issuance of Notice of Charge. (a)

Section 11. Formal Charge. A formal charge is a written specification of a charge or charges against an employee issued by the proper Disciplining Authority.

Section 12. Forum-Shopping. The term refers to the filing of several administrative actions or complaint either simultaneously or successively before another agency or any tribunal having jurisdiction over the case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and all raising substantially the same issues either pending in, or already resolved adversely by, some other tribunal or agency.

Section 13. Handling Officer/Mediator. Handling Officer/Mediator refers to the person authorized to facilitate settlement or mediation of an administrative case. (n)

Section 14. Hearing Officer/Panel. Hearing Officer/Panel refers to the officer authorized to conduct hearings under Rule VIII of this Circular. (a)

Section 15. Notice of Charge. Notice of Charge refers to a written charge issued by the Disciplining Authority giving due course to the complaint against the person complained of when the charge/s against the latter originated from a complaint initiated by any person, natural or juridical, other than the Disciplining Authority. (n)

Section 16. Party Adversely Affected. Party Adversely Affected refers to the respondent against whom a decision

in an administrative case has been rendered or to the disciplining authority in an appeal from a decision reversing or modifying the original decision.

Section 17. Prima Facie Case. A prima facie case exists when there is evidence sufficient to form a belief that an administrative offense has been committed and the employee complained of is probably guilty of it.

Section 18. Respondent. Respondent refers to the person against whom a notice of charge or formal charge has been issued by the Disciplining Authority. (a)

RULE III. ACTION ON COMPLAINT, ANONYMOUS COMPLAINT AND ADVERSE REPORT

Section 1. Requisites of a Valid Complaint. Except when initiated by the Disciplining Authority or his/her authorized representative, no complaint against an employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant. In cases initiated by the proper Disciplining Authority or his/her authorized representative, a show-cause order is sufficient.

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

The complaint in triplicate copies shall be written in a clear, simple and concise language and in a systematic manner as to apprise the employee complained of, of the nature and cause of the accusation against him/her and to enable him/her to intelligently prepare his/her defense or answer/comment. However, should there be more than one employee complained of, the complainant is required to submit additional copies corresponding to the number of employees complained of.

The complaint shall contain the following:

- full name and address of the complainant;
- full name and address of the employee/s complained of as well as his/her position/s and office/s;
- a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and,
- certification or statement of non-forum shopping.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refile upon compliance with the above requirements.

Section 2. Docketing of Complaints, Adverse Reports, Formal Charges or Notice of Charges. Complaints, Adverse Reports, Formal Charges and Notice of Charges shall be forwarded to the Corporate Governance Office (CGO) for proper docketing, evaluation and appropriate action. (a)

Section 3. Withdrawal of the Complaint. The withdrawal of the complaint does not result in its outright dismissal nor discharge the employee complained of from any administrative liability. Where there are merits to the allegations in the complaint or the allegations are verifiable or where there is documentary evidence that would tend to prove the guilt of the employee/s complained of, the same shall be given due course.

Section 4. Action on the Complaint. Upon receipt of a complaint which is sufficient in form and substance, the Disciplining Authority shall require the employee/s complained of to submit a Counter-Affidavit/Comment under oath, within three (3) days from receipt of the order.

RULE IV. PRELIMINARY INVESTIGATION

Section 1. Preliminary Investigation; Definition. A Preliminary Investigation is a proceeding undertaken to determine whether a prima facie case exists to warrant the issuance of a formal charge or notice of charge. It involves a fact-finding investigation or an ex-parte examination of records and documents submitted by the complainant and the employee/s complained of, as well as documents readily available from other government offices.

Section 2. How conducted. Within five (5) days from receipt of the complaint sufficient in form and substance, the employee/s complained of shall be required to submit his/her counter-affidavit or comment. Where the complaint is initiated by the Disciplining Authority, the CGO Head shall issue a show-cause memorandum directing the employee/s complained of to explain why no administrative case should be filed against him/her. The latter's failure to submit the comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without his/her counteraffidavit/ comment.

If necessary, the parties may be summoned to a conference where the investigator may propound clarificatory and other relevant questions.

During the preliminary investigation, the parties may be given the opportunity to submit affidavits and counter-affidavits with supporting documents. CGO may interview witnesses and examine relevant records and documents submitted by the parties or supporting the adverse report. If the employee complained of has previously submitted comments or other documents in an earlier audit or investigation, the same may be considered in the evaluation of the adverse report or complaint. (a)

Section 3. Duration of the Investigation. Preliminary investigation shall commence not later than five (5) days from receipt of the complaint or adverse report by the CGO and shall be terminated within twenty (20) days thereafter.

Section 4. Investigation Report. Within five (5) days from the termination of the preliminary investigation, the CGO Head shall submit to the Disciplining Authority the Investigation Report together with the complete records of the case, which may recommend the closure of the report, dismissal of the complaint, issuance of formal charge or notice of charge against the employee complained of, or referral/indorsement of the case to appropriate quasi-judicial bodies or other agencies for proper disposition. (a)

Section 5. Decision or Resolution After Preliminary Investigation. The Disciplining Authority shall act on the Investigation Report, as follows:

- In case of adverse report or anonymous complaint, the Disciplining Authority shall issue a formal charge against the employee/s complained of where prima facie case exists, otherwise, the Disciplining Authority shall order the closure or dismissal of the same.
- In case of a complaint, the Disciplining Authority shall give due course to the complaint by issuing notice of charge/s against the employee complained of where prima facie case exists, otherwise, the Disciplining Authority shall dismiss the same.

The employee complained of shall be furnished with a copy of the complaint, together with the sworn statements of witnesses and other supporting documents, if available.

If the complaint is dismissed, the employee complained of shall also be notified in writing of the dismissal.

- In both cases, the Disciplining Authority may refer or indorse the case against the employee/s complained of to

quasi-judicial bodies or other agencies for appropriate action. (a)

RULE V. FORMAL AND NOTICE OF CHARGE

Section 1. Issuance of Formal Charge; Contents. After a finding of a prima facie case, the Disciplining Authority shall formally charge the employee complained of, who shall now be called respondent.

The formal charge shall contain the following:

- a)
specification of charge/s;
- b)
brief statement of material or relevant facts accompanied by certified true copies of the documentary evidence, if any;
- c)
sworn statements covering the testimony of witnesses;
- d)
directive to answer the charge/s in writing and under oath within five (5) days from receipt thereof;
- e)
advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and to invoke or plead mitigating circumstances; and
- f)
notice that he/she may opt to be assisted by a counsel of his/her choice. (a)

Section 2. Notice of Charge. In instances where the complaint was initiated by a person other than the Disciplining Authority, the Disciplining Authority may issue a written notice of the charge against the person complained of to which shall be attached copies of the complaint, sworn statements and other documents submitted.

The notice of charge shall contain the following:

- a)
specification of the charge/s against the employee complained of with a statement that a prima facie case exists;
- b)
directive to answer the charge/s in writing and under oath within five (5) days from receipt thereof;
- c)
an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and to invoke or plead mitigating circumstances; and
- d)
notice that he/she may opt to be assisted by a counsel of his/her choice.

RULE VI. ANSWER

Section 1. Requisites and Contents. The answer, which is in writing and under oath, shall be specific and shall contain material facts and applicable laws including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of one's case. It shall also include a statement indicating whether or not the respondent elects a formal investigation of the charge.

The respondent, in his/her answer, shall specifically admit or deny under oath all the charges specified in the complaint or formal charge, including all supporting evidence. Failure of the respondent to deny or object to such charges and documents shall be deemed an admission of the charges or the genuineness and due execution of the documents. (a)

Section 2. Failure to File an Answer. In the event the respondent, despite due notice, fails or refuses to file his answer within the prescribed period, he shall be considered to have waived his right thereto and his case shall be resolved on the basis of the complaint or formal charge and supporting evidence.

Section 3. Prohibited Pleadings. No motion to dismiss or quash, request for clarification or bill of particulars, or any other motion which are obviously designed to delay the administrative proceedings, shall be entertained. Any such motion shall be considered as an answer and shall be evaluated and acted upon accordingly.

Section 4. Action of Disciplining Authority. The Disciplining Authority shall act on the answer as follows:

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If the answer is found to be satisfactory, the Disciplining Authority may dismiss the case.

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If the answer is not satisfactory, and the respondent does not elect a formal investigation, the Disciplining Authority shall render a decision accordingly.

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If the answer is not satisfactory, and the respondent elects a formal investigation, a formal investigation of the case shall be conducted.

RULE VII. PREVENTIVE SUSPENSION

Section 1. Preventive Suspension; Nature. Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the employee charged may be removed from the scene of his/her alleged misfeasance/ malfeasance/nonfeasance while the same is being investigated.

Section 2. When Issued; Grounds. Upon petition of the complainant or motu proprio, the Disciplining Authority may issue an order of preventive suspension upon service of the formal charge or notice of charge, or immediately thereafter to any subordinate officer or employee under his/her authority pending an investigation, if:

a) The charge involves:

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Dishonesty;

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Oppression;

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Grave Misconduct;

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Neglect in the Performance of Duty;

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Administrative offenses which are punishable by dismissal from the service on its second or third offense; or

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If there are reasons to believe that the respondent is guilty of charges which would warrant his/her removal from the service.

b) An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance, malfeasance or nonfeasance to preclude the possibility of:

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exerting undue influence or pressure on the witnesses against him/her; or,

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tampering with evidence that may be used against him/her.

c) In lieu of preventive suspension and for the same purpose cited in b) 1 and 2 above, the Disciplining Authority or head of office may reassign respondent to other unit of the Bank during the pendency of the administrative case. (a)

Section 3. Duration of Preventive Suspension. Unless otherwise provided for by law, the Disciplining Authority may place the respondent under preventive suspension for a maximum period of ninety (90) days. When the administrative case against an employee under preventive suspension is not finally decided by the Disciplining Authority within the period of preventive suspension, he/she shall be automatically reinstated in the service unless the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. Any period of delay caused by motions filed by the respondent shall be added to the period of preventive suspension. Provided, that where the order of preventive suspension is for a period less than the maximum period, the Disciplining Authority shall undertake to finish the formal investigation within the said period and shall be precluded from imposing another preventive suspension. Provided further, that should the respondent be on authorized leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully exhausted. (a)

Section 4. Remedies from the Order of Preventive Suspension. The respondent may file an appeal to the Civil Service Commission within fifteen (15) days from receipt thereof. Pending appeal, the same shall be executory. A motion for reconsideration from the order of preventive suspension issued by the Disciplining Authority shall not be allowed.

Section 5. Payment of Back Salaries During Preventive Suspension. The payment of back salaries during the period of suspension shall be governed by the following:

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A declaration by the Commission that an order of preventive suspension is null and void on its face entitles the

respondent official or employee to immediate reinstatement and payment of back salaries corresponding to the period of the unlawful preventive suspension without awaiting the outcome of the main case. The phrase “null and void on its face” in relation to a preventive suspension order, imports any of the following circumstances:

i)

The order was issued by one who is not authorized by law;

ii)

The order was not premised on any of the conditions under Section 2 (a and b) of Rule VII;

iii)

The order of preventive suspension was issued without a formal charge or notice of charge; or

iv)

While lawful in the sense that it is based on the enumerated grounds, the duration of the imposed preventive suspension has exceeded the prescribed periods, in which case the payment of back salaries shall correspond to the excess period only.

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A declaration of invalidity of a preventive suspension order not based on any of the reasons enumerated in Section 5 (a) of this Rule shall result in the reinstatement of the official or employee concerned. The payment of back salaries shall, however, await the final outcome of the principal case. If the official or employee is fully exonerated of the charge/s or when the penalty imposed in the principal case is reprimand, he or she shall be paid such back salaries. Otherwise, no back salaries shall be awarded.

The phrase “full exoneration” contemplates a finding of not guilty for the offense/s charged. Downgrading of the charge to a lesser offense shall not be construed as “full exoneration” within the contemplation of these Guidelines.

Even if the respondent official or employee be eventually found innocent of the charge/s proffered against him/her, the same shall not give rise to payment of back salaries corresponding to the period of preventive suspension in the absence of any finding of its illegality.

When the preventive suspension order was issued by quasi-judicial agencies or bodies other than the Disciplining Authority, payment of back salaries shall be in accordance with the rules and procedures on preventive suspension of said quasi-judicial agencies or bodies. (n)

RULE VIII. FORMAL INVESTIGATION

Section 1. Conduct of Formal Investigation. If the respondent elects a formal investigation, it shall be held within ten (10) days from receipt of the respondent’s answer or upon the expiration of the period to answer and completed with thirty (30) days from receipt of the answer.

Although the respondent does not elect a formal investigation, one shall be conducted by the designated Hearing Officer if from the allegations of the complaint and the answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation.

Section 2. Single Hearing Officer Rule. Where the respondent is below the rank of Vice President, the formal

investigation shall be conducted by a single Hearing Officer designated by the CGO Head. (a)

Section 3. Hearing Officer Where Respondent is Vice President or Higher. Where Respondent is an officer with the rank of Vice President or higher, the Disciplining Authority shall designate a single Hearing Officer. However, the Disciplining Authority may designate a Hearing Panel consisting of at least three senior officers, specifying the presiding officer and members thereof.

Section 4. Consolidation of Proceedings. Where the case involves two or more respondents and at least one of them is an officer with the rank of Vice President or higher, the same shall be heard by a single Hearing Officer or a Hearing Panel designated in accordance with the preceding section.

Section 5. Submission of Position Paper/Memorandum. At any stage of the proceedings, the parties may, based on their mutual consent, submit position paper/memorandum and submit the case for resolution without any need for further hearings.

Section 6. Prosecuting Officer/s. In every case, the CGO Head shall designate a prosecuting officer or officers who shall present the evidence for the Bank. (a)

Section 7. Pre-Hearing Conference. At the commencement of the formal investigation, the Hearing Officer/Panel shall conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

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Stipulation of facts;

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Simplification of issues;

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Identification and marking of evidence of the parties;

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Waiver of objections to admissibility of evidence;

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Limiting the number of witnesses and their names;

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Dates of subsequent hearings; and,

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

The agreement entered into during the pre-hearing conference is binding on both parties. In the interest of justice, however, the Hearing Officer/Panel may allow a deviation from the same.

The conduct of a pre-hearing conference is mandatory. The failure of the respondent to attend the pre-hearing conference constitutes a waiver to participate in the pre-hearing conference but may still participate in the formal investigation upon appropriate motion.

The parties, without need for further hearings, may agree to submit the case for resolution based on the result of

the pre-hearing conference or upon submission of their respective memoranda. (a)

Section 8. Continuous Hearings Until Terminated. When hearings are deemed necessary, the schedule of hearings agreed upon during the preliminary conference or as set by the Hearing Officer/Panel shall be strictly followed and no further notice of such scheduled hearings need be served on the parties thereafter. No motion for postponement shall be allowed except in meritorious cases. In no instance shall either party be granted more than one postponement nor shall a postponement cancel more than one scheduled hearing.

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 evidence in his favor.

Section 9. Preliminary Matters. At the start of the hearing, the Hearing Officer/Panel shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right thereto.

Before taking the testimony of a witness, the Hearing Officer/Panel shall place him/her under oath and then take his/her name, address, civil status, age, and complete name and address of employment.

Sworn statement of the witness/es properly identified and affirmed shall constitute direct testimony, copy furnished the other party.

Clarificatory questions may also be asked.

Section 10. Appearance of Counsel. Any counsel who is a member of the Bar appearing before any hearing or investigation shall manifest orally or in writing, his/her appearance for either the respondent or complainant, stating his/her full name, Roll No., IBP receipt, PTR No. (if applicable), and complete address which should not be a P.O. box address where he/she can be served with notices and other pleadings. If the lawyer is a government employee, he/she shall be required to present an authority to practice profession which should come from the agency head or the agency head's authorized representative.

Section 11. Order of Hearing. Unless the Hearing Officer/Panel directs otherwise, the order of hearing may be as follows:

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The prosecution shall present its evidence;

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The respondent shall present evidence in support of his/her defense; and,

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There may be rebuttal or sur-rebuttal.

When the presentation of the witnesses has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After which, both 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. Failure to submit the same within the given period shall be considered a waiver thereof. (a)

Section 12. Rules on Evidence. The Hearing Officer/Panel shall accept all evidence deemed material and relevant to the case, taking into account the following:

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Documentary evidence may be received in the form of certified copies or excerpts, if the original is not readily available;

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In accordance with the Judicial Affidavit Rule[2], sworn statements of the witnesses submitted by either party shall constitute their respective direct testimony, subject to the right of cross-examination; and

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The Rules of Evidence under the Revised Rules of Court shall apply in a suppletory manner.

In case of doubt, the Hearing Officer/Panel shall allow the admission of evidence taking note of the objection interposed against its admission. (a)

Section 13. Objections. Objections raised during the hearing shall be resolved orally by the Hearing Officer/Panel. The resolution of such objections is final and cannot be made subject of a motion for reconsideration or appeal. Objections that, in the sound discretion of the Hearing Officer/Panel, are not appropriate to be ruled upon during the hearing shall be duly noted. These shall be ruled upon in the decision of the Disciplining Authority.

Section 14. Markings. All documentary evidence or exhibits shall be properly marked by letters (A, B, C etc.) if presented by the prosecution and by numbers (1, 2, 3 etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 15. Attendance of Witnesses; Production of Records. The Hearing Officer/Panel shall have the power to require the attendance of witnesses or the production of books, papers, documents and other pertinent data, upon request of any party before or during the hearing provided there is a showing of general relevance and materiality.

If a party desires the attendance of a witness and/or the production of documents, he/she shall make a request for the issuance of the necessary subpoena ad testificandum and/or subpoena duces tecum, at least seven (7) days before the scheduled hearing. (a)

Section 16. Record of Proceedings. Record of the proceedings during the formal investigation may be taken in shorthand, stenotype or any other means of recording.

Section 17. Filing of Pleadings. All pleadings shall be filed with the CGO. Pleadings filed by the parties shall be copy furnished the other party with proof of service. Any pleadings sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case, and in case of personal delivery, the date stamped thereon by the CGO.

Electronic filing of pleadings and supporting documents, if any, may be accepted by CGO subject to the Rules on Electronic Evidence, and other applicable rules. Pleadings sent through electronic filing shall be deemed filed on the date it was sent as shown in the copy received by CGO. (n)

Section 18. Effects of the Pendency of an Administrative Case. Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions or from claiming maternity/paternity benefits.

The entitlement of respondent to government-mandated benefits shall be in accordance with the law providing for such benefit. As regards bank-mandated benefits, the effect of pending administrative case shall be as prescribed

in the Board resolution, circular or guidelines granting or implementing the benefit. (a)

For this purpose, a pending administrative case shall be construed as such when the Disciplining Authority has issued a formal charge or notice of charge to the respondent.

For cases filed by the Bank before quasi-judicial agencies and other bodies, pending administrative case shall be construed in accordance with their respective rules and procedures in administrative cases. (n)

Section 19. Termination of Formal Investigation. The formal investigation shall be terminated by agreement of the parties, submission of memoranda or upon completion of the presentation of evidence. Thereafter, the case shall be deemed submitted for resolution.

Section 20. 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 the evidence supporting said findings, as well as the recommendations, shall be submitted by the Hearing Officer/Panel to the Disciplining Authority.

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

RULE IX. RESOLUTION OF THE CASE

Section 1. Decision. The Disciplining Authority shall decide the case within thirty (30) days from receipt of the Formal Investigation Report. Every decision rendered by the Disciplining Authority shall be in writing and shall clearly and distinctly state its factual and legal bases. Among others, it shall include the specific charge or charges, the facts proved, the issues involved, the aggravating, mitigating or alternative circumstances, and the penalty imposed. (a)

Section 2. Finality of Decision. A decision rendered by the Disciplining Authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days or fine in an amount exceeding thirty (30) days salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed. (a)

Section 3. Report to the Board. All decisions involving Bank officers shall be reported to the Board of Directors of the Bank for notation.

RULE X. MOTION FOR RECONSIDERATION

Section 1. Filing. The party adversely affected by the decision may file a motion for reconsideration within fifteen (15) days from receipt of the decision. A motion for extension of time to file a motion for reconsideration is not allowed. (a)

Section 2. When deemed filed. A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the CGO. Motion for reconsideration sent through electronic filing shall be deemed filed on the date it was sent as shown in the copy received by CGO. (a)

Section 3. Grounds for Motion for Reconsideration. No motion for reconsideration shall be entertained unless it is based on any of the following:

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

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

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

Section 4. Limitation. Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under these Guidelines, the finality of action shall be reckoned from the denial of the first motion for reconsideration.

Section 5. Effect of Filing. The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

RULE XI. APPEAL

Section 1. Filing. Subject to Section 2, Rule IX of these Guidelines, decisions of the Disciplining Authority imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Civil Service Commission within a period of fifteen (15) days from receipt of the order of the Disciplining Authority denying the motion for reconsideration.

Penalties of demotion in rank or salary are also appealable to the Commission.

All decisions of the Disciplining Authority are immediately executory pending appeal before the Commission. (a)

Section 2. When deemed filed. An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 3. Appeal Fee. The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 4. Perfection of an Appeal. To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

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Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the Disciplining Authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.

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Proof of service of a copy of the appeal memorandum to the disciplining office;

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Proof of payment of the appeal fee; and

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A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of not more than ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its re-filing.

Section 5. Effect of Filing. An appeal shall not stop the decision from being executory. In case the penalty appealed from is suspension or removal and the respondent eventually wins the appeal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal, subject to the provisions of Section 11 (d and e), Rule XII hereof.

Section 6. When to Remand an Appealed Case to Agency of Origin. If on appeal, the Commission finds that the Disciplining Authority violated respondent-appellant's right to due process such as the failure to issue a formal charge, the Commission shall dismiss the appealed case and order the immediate reinstatement of the respondent with payment of back salaries and other benefits. However, the dismissal of the case shall be without prejudice on the part of the Disciplining Authority to re-file it in accordance with law.

If a formal charge has been issued by the Disciplining Authority has violated respondent-appellant's right to procedural due process, the Commission shall remand the appealed case to the agency of origin for further proceedings to be conducted within three (3) calendar months from the date of receipt of the case records, unless there is delay due to the fault, negligence or petition of the respondent, or an extension is granted by the Commission on meritorious grounds. The period of delay shall be excluded in the computation of the prescribed period. Within fifteen (15) days from the termination of the proceedings, the Disciplining Authority shall render his/her decision.

If at the end of the three-month period, the Disciplining Authority failed to conduct further proceedings, the Commission upon motion of the respondent-appellant shall vacate and set aside the appealed decision and declare the respondent-appellant exonerated of the charge/s. If the respondent-appellant is under preventive suspension, he/she shall be immediately reinstated and shall be entitled to back salaries and other benefits.

The Commission shall evaluate requests for extension of the three-month period and may grant the same on meritorious grounds guided by the principles of justice and fair play. All requests for extension shall not be for more than twenty (20) days.

RULE XII. CLASSIFICATION OF PENALTIES

Section 1. Classification of Offenses. Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

a. The following are grave offenses with their corresponding penalties:

First Offense

Second Offense

Third Offense

1. Serious Dishonesty Dismissal

Dismissal

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2. Gross Neglect of Duty

Dismissal

-

-

3. Grave Misconduct

Dismissal

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-

4. Being Notoriously Undesirable

Dismissal

-

-

5. Conviction of a crime involving moral turpitude

Dismissal

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-

6. Falsification of official document

Dismissal

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-

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

Dismissal

-

-

8. Receiving for personal use of a 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 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

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

Dismissal

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10. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her 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

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11. Nepotism

Dismissal

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12. Disloyalty to the Republic of the Philippines and to the Filipino People

Dismissal

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-

13. Less serious dishonesty

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

14. Oppression Suspension

(6 mos. & 1 day to 1 year)

Dismissal

-

15. Disgraceful and Immoral Conduct[3]

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

16. Inefficiency and Incompetence in the performance of official duties

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

17. Frequent unauthorized absences or tardiness in reporting for duty, loafing from duty during regular office hours

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

18. Refusal to perform official duty

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

19. Gross Insubordination

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

20. Conduct Prejudicial to the Best Interest of the Service[4]

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

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

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

22. 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/her office, unless

expressly allowed by law

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

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

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

24. 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 (6 mos. & 1 day to 1 year)

Dismissal

-

25. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his/her 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/her office

Suspension (6 mos. & 1 day to 1 year)

Dismissal

-

b.

The grave offense of Inefficiency and Incompetence in the performance of official duties is punishable by Demotion. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the agency. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary level.

c.

The following are less grave offenses with the corresponding penalties:

First Offense

Second Offense

Third Offense

1. Simple Neglect of Duty

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

2. Simple Misconduct

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

3. Discourtesy in the course of official duties

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

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

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

5. Insubordination

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

6. Habitual Drunkenness

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

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

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

8. Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

9. Failure to resign from his/her 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/herself of his/her shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises: Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself/herself of said interest within the periods hereinabove provided, reckoned from the date when the conflict of interest had arisen

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

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

Suspension (1 mo. & 1 day to 6 mos.)

Dismissal

-

11. Simple Dishonesty

Suspension (1 mo. & 1 day to 6 mos.)

Suspension (6 mos. & 1 day to 1 year)

Dismissal

d. The following are Light Offenses with corresponding penalties:

First Offense

Second Offense

Third Offense

1. Simple discourtesy in the course of official duties

Reprimand

Suspension (1 to 30 days)

Dismissal

2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children

Reprimand

Suspension (1 to 30 days)

Dismissal

3. Violation of Reasonable Office Rules and Regulations

Reprimand

Suspension (1 to 30 days)

Dismissal

4. Frequent Unauthorized Tardiness (Habitual Tardiness)

Reprimand

Suspension (1 to 30 days)

Dismissal

5. Gambling prohibited by law

Reprimand

Suspension (1 to 30 days)

Dismissal

6. Refusal to render overtime service

Reprimand

Suspension (1 to 30 days)

Dismissal

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

Reprimand

Suspension (1 to 30 days)

Dismissal

8. Borrowing money by superior officers from subordinates

Reprimand

Suspension (1 to 30 days)

Dismissal

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

a. Claims adjudicated by a court of law; or

b. Claims the existence and justness of which are admitted by the debtor (1 to 30 days)

Reprimand

Suspension (1 to 30 days)

Dismissal

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

Reprimand

Suspension (1 to 30 days)

Dismissal

11. 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 (1 to 30 days)

Dismissal

12. Failure to act promptly on letters and requests within fifteen (15) working 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 (1 to 30 days)

Dismissal

13. 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 (1 to 30 days)

Dismissal

14. Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions

Reprimand

Suspension (1 to 30 days)

Dismissal

15. Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions

Reprimand

Suspension (1 to 30 days)

Dismissal

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

Reprimand

Suspension (1 to 30 days)

Dismissal

Section 2. Penalty of Fine. The following are the guidelines for the penalty of fine:

-

Upon the request of the head of department or the concerned party and when supported by justifiable reason/s, the Disciplining Authority may allow payment of fine in place of suspension if any of the following circumstances are present:

- When the functions/ nature of the office is impressed with national interest such as those involved in maintenance of peace and order, health and safety, education; or
- When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and
- When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.

-

The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day fine; Provided, that in Grave Offenses where the penalty imposed is six (6) months and one (1) day suspension in view of the presence of mitigating circumstance, the conversion shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.

-

The maximum period to pay the fine shall not exceed one (1) year from the time the decision/resolution becomes final and executory. The conversion of suspension into fine is final and executory and, therefore, not subject of appeal or any other similar relief.

-

The failure of the respondent to pay the fine or part thereof shall cause the reversion to the original penalty of suspension. As such, respondent shall serve the original penalty of suspension imposed, irrespective of the amount he/she has already paid.

-

Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:

- Fine equivalent to one (1) month salary shall be paid within two (2) months;
- Fine equivalent to two (2) months salary shall be paid within four (4) months;
- Fine equivalent to three (3) months salary shall be paid within six (6) months;
- Fine equivalent to four (4) months salary shall be paid within eight (8) months;
- Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
- Fine equivalent to six (6) months salary shall be paid within twelve (12) months.

-

The fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory. (a)

Section 3. Alternative Penalties. The Disciplining Authority, in the exercise of sound discretion and taking into

account all the circumstances of each case, may impose an alternative penalty in lieu of the penalty prescribed under the classification of offenses and table of penalties enumerated in Section 1 of this Rule, as follows:

- The penalty of forced resignation may be imposed instead of dismissal.

-

The penalty of transfer or demotion may be imposed instead of suspension from one (1) month and one (1) day to one (1) year. The penalty of fine may be imposed instead of suspension from one (1) month and one (1) day to six (6) months. Fine as an alternative penalty shall not exceed the equivalent of six (6) months of the respondent's salary at the time the decision becomes final and executory.

-

The grave offense of Inefficiency and Incompetence in the performance of official duties may be punishable by Demotion instead of suspension of six (6) months and one (1) day to one (1) year for the first offense. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the Bank. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary level. (a)

Section 4. Mitigating, Aggravating or Alternative Circumstances. In the imposition of penalties, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered, particularly the following:

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Physical illness;

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Good faith;

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Malice;

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Time and place of offense;

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Taking undue advantage of official position;

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Taking undue advantage of subordinate;

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Undue disclosure of confidential information;

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Use of government property in the commission of the offense;

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Habituality;

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Offense is committed during office hours and within the premises of the office;

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Employment of fraudulent means to commit or conceal the offense;

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Length of service in the government;

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Education; or

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Other analogous circumstances.

The foregoing circumstances must be invoked or pleaded by the proper party, otherwise the same shall not be considered. However, the Disciplining Authority, in the exercise of sound discretion and when justified by the evidence on record, may consider circumstances that are not pleaded or invoked in the interest of fairness and substantial justice.

Section 5. Manner of Imposition. Unless Section 3 of this Rule applies, the imposition of the penalty shall be in accordance with the following:

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The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present;

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The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present or when both are present they equally offset each other;

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The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present;

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Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied where the circumstances equally offset each other; and paragraph [c] shall be applied where there are more aggravating circumstances.

Section 6. Penalty for Most Serious Offense. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

Section 7. Duration and Effect of Administrative Penalties. The following rules shall govern the imposition of administrative penalties:

-

The penalty of dismissal shall result in the permanent separation of the respondent from the service, with or without prejudice to criminal or civil liability;

-

The penalty of transfer shall carry with it the sanction that failure on the part of the respondent to seek transfer to another office within a period of not less than ninety (90) days, he shall be considered resigned. The penalty of transfer may be imposed with a condition that the respondent shall be barred from holding a position involving property or money responsibility;

-

The penalty of demotion shall include reduction in rank, or salary, or both;

-

The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year; Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all money benefits including leave credits.

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The penalty of fine shall be in an amount not exceeding six (6) months salary of respondent. The computation thereof shall be based on the salary rate of the respondent when the decision becomes final and executory;

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The penalty of reprimand or censure shall not carry with it any accessory penalty nor result in the temporary cessation of work.

Section 8. Administrative Disabilities; Accessories to Administrative Penalties. In case the penalty is dismissal from the service, the following administrative penalties and accessory penalties shall automatically be deemed imposed unless the decision provides otherwise:

- Cancellation of eligibility
- Forfeiture of retirement benefits
- Disqualification for reinstatement or reemployment
- Bar from taking any Civil Service examination

In case of suspension, the penalty of disqualification for promotion shall likewise be deemed automatically imposed in accordance with Paragraphs b, c and d of the immediately succeeding section.

Section 9. Administrative Disabilities Inherent in Certain Penalties.

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The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

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The penalty of demotion shall carry with it disqualification from promotion for one (1) year.

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The penalty of suspension shall carry with it disqualification from promotion corresponding to the period of suspension.

The accessory penalties inherent in the penalty of suspension provided in Section 7 (d), Rule XII of the Guidelines shall continue to apply when the penalty of fine is imposed in lieu of suspension.

Should the respondent fail to pay in full the fine within the prescribed period, he/she shall be deemed to have failed to serve the penalty imposed, hence, the disqualification for promotion shall remain in effect until such time that the fine is fully paid.

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The penalty of fine shall carry with it disqualification from promotion for the same period he/she was fined.

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The penalty of reprimand shall not carry with it any accessory penalties.

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A warning or admonition shall not be considered a penalty.

Section 10. Effect of Penalties on Bank-Mandated Benefits. The effect of penalties on Bank-mandated benefits shall be as prescribed in the Board resolution, circular or guideline granting or implementing the benefit.

Section 11. Effect of Exoneration on Certain Penalties. The exoneration of respondent shall have the following effects:

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In case the penalty imposed is a fine, the same shall be refunded.

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In case the penalty imposed is demotion, the exonerated employee shall be restored to his former position without loss of seniority rights with payment of salary differentials.

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In case the penalty imposed is transfer, he shall immediately be restored to his former post unless he decides otherwise. In case there is demotion in rank, salary or status, he shall be restored to his former rank, salary or status.

-

In case the penalty imposed is suspension, he shall immediately be reinstated to his former post without loss of seniority rights with payment of back salaries.

-

In case the penalty imposed is dismissal, he shall immediately be reinstated without loss of seniority rights with payment of back salaries.

-

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

Section 12. Reference to CSC Rules. The Hearing Officer/Panel shall further be guided by the CSC Manual on Definition of Administrative Offenses in the Civil Service, Sourcebook on Administrative Offenses, the Guidelines on Selected Offenses and such other related issuances in determining the appropriate offense and imposing the proper penalty. (a)

RULE XIII. SETTLEMENT IN ADMINISTRATIVE CASES

Section 1. Who may avail. In case of light offenses where the act is purely personal on the part of the private complainant and the person complained of and there is no apparent injury committed to the government, settlement of offenses may be considered. Provided that settlement can no longer be applied for the second offense of the same act committed by the person complained of.

Section 2. Guidelines. The following are the guidelines in the settlement of purely personal matters in administrative cases:

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Compromise settlement shall be allowed only for administrative light offenses where the act is purely personal between the private complainant and the person complained of and there is no apparent injury to the government.

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Upon filing of the complaint, the CGO shall determine whether the offense is purely personal or can be the subject of settlement;

The following cases may be the subject of settlement and/or compromise:

- Borrowing money by superior officers from subordinates;
- Willful failure to pay just debts;
- Simple Misconduct resulting from misunderstanding/fight between respondent and complainant provided that the act is not committed within office premises;
- Discourtesy in the course of official duties; and
- Other analogous circumstances/cases.

In these enumerated cases, compromise or settlement can no longer be applied for the second time the same act is committed. The grant of back salaries and other benefits may likewise be subject of settlement and/or compromise.

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If the offense can be the subject of settlement, the Handling Officer/Mediator assigned shall order the respondent to comment and to indicate therein whether he/she is willing to submit the case for settlement;

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If person complained of opted for settlement, the Handling Officer/Mediator assigned shall issue an order requiring the appearance of parties;

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If settlement succeeds, a compromise agreement shall be executed between the parties and attested by the Handling Officer/Mediator;

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The compromise agreement shall be binding on the parties and shall be considered a decision on the merits which cannot be impugned unless it is shown that there was duress on its execution on any of the parties;

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A decision shall be issued by the Disciplining Authority based on the Compromise Agreement;

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If during the settlement process, the parties failed to settle their differences, the Handling Officer/Mediator shall issue an order terminating the process and continue with the investigation of the case; and

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In case of non-compliance with the compromise agreement, the case may likewise be reopened for investigation until the final determination of the case.

Notwithstanding above, settlement in administrative cases shall be subject to implementing guidelines on Alternative Dispute Resolution to be issued by the Bank in accordance with Republic Act No. 9285. (n)

RULE XIV. MISCELLANEOUS PROVISIONS

Section 1. Computation of Period. In computing any period of time prescribed by these Guidelines, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday or a special nonworking day, in which case the period shall run until the end of the next working day which is neither a Saturday, a Sunday nor a legal holiday.

Copies of decisions and other communications shall be served on the counsel of record if one is represented by a counsel, if he/she has none, the same shall be served to the party concerned. The period to perfect a motion for reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, as the case may be

Section 2. Suppletory Application. For purposes of these Implementing Guidelines, the Revised Rules on Administrative Cases in the Civil Service (CSC Resolution No. 1101502) and other applicable rules shall have suppletory application. (n)

Section 3. Superseded Rules. This Circular supersedes Circular No. 12[5] dated 8 October 2008 and all other related issuances which are inconsistent herewith. (a)

Section 4. Separability Clause. If any part of this Circular is declared invalid or unconstitutional, the other parts shall not be affected. (n)

Section 5. Effectivity. These Implementing Guidelines shall take effect upon approval by the Bank's Board of Directors.

(SGD) GIL A. BUENAVENTURA
President & Chief Executive Officer

[1] CSC Resolution No. 1101502, published on 21 November 2011.

[2] A.M. No. 12-8-8-SC, effective 1 January 2013.

[3] See CSC MC No. 15, s. 2010

[4] See CSC MC No. 16, s. 2010 (Policy on Undertime)

[5] Superseded Circular No. 01 dated 19 January 2007, entitled “Implementing Guidelines of the Revised Uniform Rules on Administrative Cases and Issuance of Administrative Caveats” and all other related issuances.

Note: (a) amended (n) new

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