

RULES ON ADMINISTRATIVE DISCIPLINARY CASES AND ON PROTEST CASES

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In the interest of speedy, just and orderly disposition of administrative disciplinary cases and protest cases, the Commission En Banc, in a Resolution No. 89-779, hereby adopts and promulgates the hereinbelow Rules relative thereto, for strict compliance.

Adopted: 9 Oct. 1989

(SGD.) PATRICIA A. STO. TOMAS
Chairman

RESOLUTION NO. 89-779

WHEREAS, the Civil Service Commission, as the Central Personnel Agency of the Government, is mandated under the 1987 Constitution to adopt measures to promote morale, efficiency, integrity, courtesy and responsiveness in the Civil Service;

WHEREAS, pursuant to Section 6, Article IX-A of the 1987 Constitution, the Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices;

WHEREAS, pursuant to PD 807, otherwise known as the Civil Service Decree of the Philippines, the Commission shall prescribe, amend and enforce suitable rules and regulations for carrying into effect its functions;

WHEREAS, it is provided under RA 6713, An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and for Other Purposes, that public officials and employees shall simplify and systematize policy, rules and procedures and avoid red tape to better serve the public;

WHEREAS, the Commission, pursuant to its mandate and the provisions of law, finds a need to issue and promulgate a simplified rules of procedure on disciplinary and protest cases;

NOW, THEREFORE, the Commission RESOLVED, as it hereby RESOLVES to adopt, promulgate, and approve the herein below:

A. Rules on Administrative Disciplinary Cases; and B. Rules on Protest Cases.

Adopted: 9 Oct. 1989

(SGD.) PATRICIA A. STO. TOMAS
Chairman (SGD.) SAMILO N. BARLONGAY
Commissioner

(SGD.) MARIO D. YANCO

Commissioner (SGD.) MARIO D. YANCO
Commissioner

A. RULES ON ADMINISTRATIVE DISCIPLINARY CASES

Pursuant to the provisions of Section 6 of Article IX-A of the 1987 Constitution, the Civil Service Commission hereby adopts and promulgates the following rules governing pleadings, practice and procedure before it or before any of its offices.

RULE I

General Provisions

SECTION 1. Scope — These Rules shall apply to all proceedings before the Commission or before any of its Offices.

SECTION 2. Security of Tenure — No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.

SECTION 3. Original Disciplinary Jurisdiction — The Civil Service Commission (CSC) shall have original disciplinary jurisdiction over all its officials and employees and over all cases involving civil service examination anomalies or irregularities.

It may assume original jurisdiction on complaints directly filed before it against any other official or employee. For this purpose, it may deputize any officer of the department or agency to conduct the investigation and to receive the evidence. The results of the investigation together with the evidence adduced and recommendation shall be submitted to the Commission for decision.

SECTION 4. Final Authority — Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation, and suspension of all officers and employees in the career service who are non-presidential appointees and upon all matters relating to the conduct, discipline, and efficiency of such officers and employees.

SECTION 5. Like Penalties for Like Offenses — In meting out punishment, like penalties shall be imposed for like offenses and only one penalty shall be imposed in each case. A reprimand whether given by the Civil Service Commission or the head of Department or agency shall be considered a penalty. A warning or an admonition shall not be considered a penalty.

SECTION 6. Effect of Removal for Cause — Unless otherwise provided by law or indicated in the decision itself, the removal for cause of an officer or employee shall carry with it the cancellation of his civil service eligibility, the forfeiture of leave credits, retirement, and other money benefits, and disqualification for reemployment in the civil service.

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

RULE II

Grounds for Disciplinary Action

SECTION 1. Actionable Offenses — The following shall be grounds for disciplinary action:

(1) Dishonesty;

- (2) Oppression;
- (3) Neglect of Duty;
- (4) Misconduct;
- (5) Disgraceful and Immoral Conduct;
- (6) Being Notoriously Undesirable;
- (7) Discourtesy in the course of official duties;
- (8) Inefficiency and incompetence in the performance of official duties;
- (9) Receiving for personal use of a gift, fee or other valuable thing in the course of official duties or in connection therewith when such gift, fee, or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded acts punishable under the anti-graft laws;
- (10) Conviction of a crime involving moral turpitude,
- (11) Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
- (12) Violation of existing Civil Service Law and rules or reasonable office regulations;
- (13) Falsification of official documents;
- (14) Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours;
- (15) Habitual drunkenness;
- (16) Gambling prohibited by law;
- (17) Refusal to perform official duty or render overtime service;
- (18) Disgraceful, immoral or dishonest conduct prior to entering the service;
- (19) Physical or mental incapacity or disability due to immoral or vicious habits;
- (20) Borrowing money by superior officers from subordinates or lending by subordinates to superior officers;
- (21) Lending money at usurious rates of interest;
- (22) Willful failure to pay just debts or willful failure to pay taxes due to the government;
- (23) Contracting loans of money or other property from persons with whom the office of the employee concerned has business relations;
- (24) Pursuit of private business, vocation, or profession without the permission required by Civil Service rules and regulations;
- (25) Insubordination;
- (26) Engaging directly or indirectly in partisan political activities by one holding non-political office;
- (27) Conduct prejudicial to the best interest of the service;
- (28) Lobbying for personal interest or gain in legislative halls and offices without authority;

(29) 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 case if there is no prior authority;

(30) Nepotism as defined under Civil Service Law and rules;

(31) Violation of RA 6713 and its implementing rules.

RULE III

Filing Of Charge/Complaint And Answer

SECTION 1. Filing of Complaint — Any person may file an administrative complaint with the Commission or any of its proper offices.

The head of department or agency may commence an administrative proceeding by filing a complaint against a subordinate officer or employee, which complaint need not be under oath.

SECTION 2. Complaint in Writing and Under Oath — A complaint filed by any person shall be in writing and under oath, otherwise it shall not be given due course.

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

SECTION 4. Form of Complaint — The complaint shall be written in clear, simple and concise language and to a systematic manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense.

SECTION 5. Contents of Complaint — The complaint shall contain (a) the full name and address of the complainant; (b) the full name and address of the respondent, as well as his position and office of employment; (c) specification of charges; (d) a brief statement of relevant and material facts, accompanied by certified true copies of the documentary evidence, if any, and sworn statements covering the testimonies of his witnesses.

SECTION 6. Effect of Withdrawal of Complaint — The withdrawal of the complaint does not necessarily discharge the respondent from any administrative liability. Where there is obvious truth or merit to the charges or complaint, the same should be given due course in accordance with these Rules.

SECTION 7. Action on the Complaint — If on the basis of the complaint and other supporting documents prescribed in Section 4 and 5 hereof, a prima facie case is found not to exist, the Commission or any of its relevant Offices, shall dismiss the case. If a prima facie case exists, the respondent shall be notified of the charges against him, to which shall be attached copies of the complaint and other supporting documents.

SECTION 8. Answer — The respondent shall be allowed not less than seventy-two hours but not more than five (5) days after receipt of the complaint to answer the charges in writing and under oath, with supporting sworn statements and documents, indicating therein whether or not he elects a formal investigation if his answers is not considered satisfactory. If his answer is found satisfactory, the case shall be dismissed.

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

SECTION 9. Answer, How Filed — The answer may be filed personally or by registered mail, copy furnished the complainant. It shall be deemed filed on the date of receipt stamped on the answer, if filed personally, and on the date stamped on the envelope, if filed by registered mail.

RULE IV

Preventive Suspension

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

SECTION 2. Lifting of Preventive Suspension Pending Administrative Investigation — When the administrative case against the officer or employee under preventive suspension is not finally decided by the Commission within the period of ninety (90) days after the date of suspension of the respondent, the latter shall be automatically reinstated in the service: Provided, That when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the period of suspension herein provided.

RULE V

Pre-Hearing Conference

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

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

- (a) Simplification of issues;
- (b) Stipulation of facts;
- (c) The number of witnesses;
- (d) Marking for identification of evidence of the parties;
- (e) Waiver of objections to admissibility of evidence;
- (f) Compromise and conciliation, in appropriate cases;
- (g) Such other matters as may aid in the prompt and just resolution of the case.

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

SECTION 4. Pre-Hearing Agreement Must be Signed — No agreement or admission made or entered into during the pre-hearing conference shall be used as evidence against the respondent unless reduced to writing and signed by him.

RULE VI

Judgment by Default

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

RULE VII

Hearing

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

SECTION 2. Request for Subpoena — If a party desires the attendance of a witness or the production of documents, he shall make a request for the issuance of the necessary subpoena or subpoena duces tecum, at least three (3) days before the scheduled hearing.

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

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

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

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

If a respondent appears without the aid of a counsel, the investigator shall inform him of his right to avail of the services of counsel.

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

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

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

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

- (a) The complainant shall produce the evidence for his part subject to the pre-hearing agreement;
- (b) The respondent shall then offer evidence in support of his defense subject to the pre-hearing agreement;
- (c) Cross-examination by either parties, when proper and allowed by the hearing officer or investigator;
- (d) When the presentation of evidence has been concluded, the parties may be given time to submit their

respective memoranda which in no case shall be beyond five (5) days after the termination of the investigation;

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

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

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

RULE VIII

Evidence

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

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

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

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

SECTION 5. Submission of Memorandum — Parties may be allowed to submit their respective memorandum[s] within five (5) days from the termination of the hearing. Failure to submit the same within the required period shall be considered as a waiver.

RULE IX

Report Of Investigation and Transmittal of Records

SECTION 1. Report of Investigator — The investigator shall submit to the Commission, a report containing a brief statement of the material facts and findings as well as his recommendation.

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

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

RULE X

Decision

SECTION 1. When Case is Decided — The Commission or its relevant Office shall render a decision within thirty

(30) days from the receipt of the complete records of the case. Decision of relevant Office of the Commission shall be immediately executory unless a motion for reconsideration is seasonably filed.

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

SECTION 3. Decisions are Executory — Decision of the Commission shall be immediately executory unless a motion for reconsideration is seasonably filed. If the decision of the Commission is brought to the Supreme Court on certiorari, the same shall still be executory unless a restraining order or preliminary injunction is issued by the High Court.

RULE XII

Motion For Reconsideration

SECTION 1. Motion for Reconsideration — A motion for reconsideration shall be filed within fifteen (15) days from receipt of the decision.

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

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

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

- (a) New evidence has been discovered which materially affects the decision rendered; or
- (b) The decision is not supported by the evidence on record; or
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the respondent.

Only one motion for reconsideration shall be entertained.

RULE XIII

Appeal

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

SECTION 2. Appeal Fee — A fee of at least One Hundred Pesos (P100.00) shall be paid for an appeal filed with the Merit Systems Protection Board, or with the Commission.

SECTION 3. Form and Content of Appeal — The appeal shall state distinctly and clearly the date the respondent received the decision and in case he filed a motion for reconsideration of the decision, the date he filed said motion and the date he received the resolution of his motion. Failure to do so may cause the dismissal of the appeal.

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

SECTION 4. Notice of Appeal; Appeal Memorandum — Where a notice of appeal is filed within the reglementary period, the appellant shall submit his appeal memorandum within ten (10) days from the date said notice is filed. The appeal memorandum shall comply with the required form and content under Section 3 of this Rule.

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

SECTION 5. Authority to Summon Parties — The proper appellate body shall have the authority to summon the parties in order to clarify matters, if based on the records submitted, no judicious decision can be arrived at.

RULE XIII

Miscellaneous Provisions

SECTION 1. Title of Case — The person filing the complaint shall be called the complainant while the official or employee against whom the complaint is filed shall be called the respondent.

SECTION 2. Computation of Time — In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday, or a legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, a Sunday, or a legal holiday.

SECTION 3. Non-Implementation of Decision or Ruling — The head of Department or Agency or any responsible official who wilfully and deliberately refuses or fails to implement or execute the final resolution or decision of the Commission to the prejudice of the party affected or the public in general, shall be made liable for the payment of salaries and other money benefits corresponding to the period of delay in the implementation of said decision, order or ruling.

The Commission may further employ or pursue such other civil, criminal and/or administrative sanctions as provided for under existing laws.

SECTION 4. Effectivity — These Rules shall take effect thirty (30) days after its publication in at least one (1) newspaper of general circulation.

B. RULES ON PROTEST CASES

RULE I

General Provisions

SECTION 1. Merit and Fitness — Appointments in the Civil Service, except as to those which are policy determining, primarily confidential or highly technical in nature shall be made only according to merit and fitness to be determined as far as practicable by competitive examination.

SECTION 2. Opportunity for Employment — Opportunity for government employment shall be open to all qualified citizens and positive efforts shall be exerted to attract the best qualified to enter the service. Employees shall be selected on the basis of fitness to perform the duties and assume the responsibilities of the positions.

SECTION 3. Final Appellate Jurisdiction — The Civil Service Commission shall exercise final and exclusive appellate jurisdiction over all cases decided by the Merit Systems Protection Board and the Civil Service Regional Offices involving contested appointments or promotions.

RULE II

Scope And Definition Of Terms

SECTION 1. Scope — These Rules shall apply to the first level and second level of the career service.

SECTION 2. Definition of Terms — The following terms shall be construed as follows:

Promotion means the advancement of an employee from one position to another either from one Department or agency to another or from one organizational unit to another in the same Department or agency with an increase in duties and responsibilities as authorized by law, and usually accompanied by an increase in salary.

First Level Position shall include clerical, trades, crafts and custodial service positions which involve non-professional or sub-professional work in a non-supervisory or supervisory capacity requiring less than four years of college studies.

Second Level Position shall include professional, technical and scientific positions which involve professional, technical or scientific work in a non-supervisory or supervisory capacity requiring at least four years college work up to Division Chief level.

Next-in-Rank Position refers to a position which, by reason of the hierarchical arrangement of positions in the Department or agency in the government, is determined to be nearest in degree of relationship to a higher position, taking into account the following: (1) organization structure/s as reflected in the approved organization chart/s; (2) classification and/or functional relationships; (3) salary and/or range allocation; (4) geographical location. In no instance, however, shall a position in the first level be considered next-in-rank to a position in the second level.

Qualified Next-in-Rank refers to an employee appointed on a permanent basis to a position previously determined to be next-in-rank to the vacancy proposed to be filed and who meets the requisites for appointment thereto as previously determined by the appointing authority and approved by the Commission.

Department Head means the head of executive departments or entities having the category of a department, including the Legislative, Judiciary the Commission on Elections the Civil Service Commission and Commission on Audit who is authorized by law to make appointments in the Civil Service.

Agency Head means the head of any bureau, office, commission, administration, board, committee, institute, corporation, whether performing governmental or proprietary function with original charters or any other unit of the National Government who is authorized by law to make appointments in the Civil Service as well as provincial governors city or municipal mayors.

Commission refers to the Civil Service Commission.

RULE III

Procedure In Filling Vacancies

SECTION 1. Positions in the First Level — When a vacancy occurs in a position in the first level of the Career Service as herein defined, the employees in the department who occupy the next lower positions in the occupational group under which the vacant position is classified and in other functionally related occupational group who are competent and qualified and with appropriate civil service eligibility shall be considered for appointment to the vacancy.

SECTION 2. Positions in the Second Level — When a vacancy occurs in the second level of the Career Service as herein defined, the employees in the government service who occupy the next lower positions in the occupational group under which the vacant position is classified and in other functionally related occupational groups and who

are competent, qualified and with the appropriate civil service eligibility shall be considered for appointment to the vacancy.

SECTION 3. Common Provision — If the vacancy is not filled by promotion as provided in the foregoing sections, the same shall be filled by transfer of present employees in the government service, by reinstatement, by re-employment of persons separated through reduction in force, or by appointment of persons with the civil service eligibility appropriate to the position.

RULE IV

Procedure Governing Protest Cases

SECTION 1. Appointment/Promotion Which May Be the Subject of a Protest — The following appointments may be protested.

- (a) An appointment made in favor of another next-in-rank employee who is not qualified.
- (b) An appointment made in favor of one who is not next-in-rank;
- (c) An appointment made in favor of one who is appointed by transfer and not next-in-rank or by reinstatement or by original appointment if the employee making the protest is not satisfied with the written special reason or reasons given by the appointing authority for such appointment.

SECTION 2. Who May File a Protest — Only a qualified next-in-rank officer or employee who is not considered for promotion to the next higher position may file a protest with the head of the department or agency.

SECTION 3. Form and Content of Protest — The protest shall be written in clear simple and concise language and in a systematic manner and shall contain (a) the position contested including its item number and the salary per annum attached thereto; (b) the full name office position and salary per annum of both the protestant and the protestee; (c) the specifications of the protest; (d) the comparative qualification data of both the protestant and protestee showing their education and training, experience, outstanding accomplishments, civil service eligibility, their latest performance ratings for two rating periods, accompanied by a certified true copy of the approved organization chart/s of the department or agency where either or both belong as well as the updated Personal Data Sheets of the protestee and protestant.

SECTION 4. Where to File Protest — A qualified next-in-rank officer or employee may file a protest against an appointment or promotion with the proper Department or Agency head.

SECTION 5. When to File Protest — The protest may be filed within fifteen (15) days from notice by the protestant of the issuance of the appointment or promotion.

For this purpose all appointments or promotions shall be duly announced and/or posted in bulletin boards or at other conspicuous places in the Department or Agency.

SECTION 6. Effect of Protest on the Appointment — A protest shall not render an appointment ineffective if the appointee assumes the duties of the position. The appointment may be approved if the appointee meets the qualification standards prescribed for the position, subject, however to the final outcome of the protest case.

SECTION 7. Effect of Withdrawal of Protest — A protest may be withdrawn at anytime as a matter of right. The withdrawal of the protest shall terminate the protest case.

SECTION 8. Appointment to Similar or Comparable Position — The acceptance of an appointment by the protestant to a similar or comparable position shall render his protest moot and academic.

SECTION 9. When Protest is Deemed Filed — A protest is deemed filed in case the same is sent by registered mail, on the date shown by the postmark on the envelope which shall be attached to the record of the case, and in case of personal delivery, on the date stamped by the Department or Agency as the case may be.

SECTION 10. Dismissal of Protest, Grounds — A protest shall be dismissed on the following grounds:

- (a) The protestant is not next-in-rank;
- (b) The protestant is next-in-rank but not qualified;
- (c) The protest is general, that is, it does not specify a particular protestee as when the protest is against "anyone who is appointed to the position" or there are two or more protestees;
- (d) The protest is not in accordance with the required form as provided in these Rules, such as telegram or radio message.

SECTION 11. Action on the Protest — Except as otherwise provided in the preceding section, the head of Department or agency shall within three (3) days from receipt of the protest, refer the same for comment to the proper appointing authority, which comment shall be filed with the former within five (5) days from the date of said referral.

In case of failure on the part of the appointing authority to file his comment within the said period, the case shall be decided on the basis of the records at hand as provided by these Rules.

SECTION 12. Hearing — When either one of the parties formally requests a hearing on meritorious grounds, the same shall be conducted for a period not exceeding five (5) days.

SECTION 13. Submission Of Memoranda — If on the bases of the protest and its supporting papers, as well as the comment of the appointing authority and other relevant documents, the protest case cannot be judiciously decided, the parties shall be required to submit their respective memoranda within ten (10) days from notice. Such notice shall be issued by the head of Department or agency within five (5) days from receipt of the comment of the appointing authority.

Failure of either party to submit within the said period his memorandum shall be construed as a waiver and the protest shall be decided on the basis of the available documents.

RULE V

Decision

SECTION 1. When Case is Decided — The head of Department or agency, the Merit Systems Protection Board or the Civil Service Regional Office shall decide a protest case within sixty (60) days from receipt of the protest.

SECTION 2. Contents of Decision — The decision shall contain the names of the parties, their office or offices, the contested position, its item number, and the salary per annum attached thereto, the nature of the appointment being protested, the prescribed qualification standards for the position. a comparative statement of the qualifications of the parties in terms of performance, education and training, experience and outstanding accomplishments, physical characteristics and personality traits, and potential, to include managership and leadership abilities in case of supervisory positions, and a statement of the material and relevant acts, findings, rulings and conclusion.

SECTION 3. Effect of Decision — In case the protest is finally decided in favor of the protestant, the appointment of the protestee shall be rendered ineffective and/or disapproved and shall be accordingly noted to the appropriate personnel records such as file 201 and service card. The protestee shall be reverted to his former position.

RULE VI

Motion For Reconsideration

SECTION 1. Period for Filing Motion for Reconsideration — Either party may, within fifteen (15) days without extension from receipt of decision, file with the head of Department or agency, the Merit System protection Board or the Civil Service Regional Office, as the case may be, a motion for reconsideration of the decision. Only one motion for reconsideration shall be entertained.

SECTION 2. When Motion for Reconsideration is Deemed Filed — The motion for reconsideration is deemed filed in case the same is sent by registered mail, on the date shown by the postmark on the envelope which shall be attached to the record of the case and in case of personal delivery on the date stamped by the Department or agency, the Merit Systems Protection Board or the Civil Service Regional Office on the motion.

SECTION 3. Ground for Motion for Reconsideration — The motion for reconsideration shall be based only on the following grounds:

- (a) The decision is not supported by the evidence on record; or
- (b) Errors of law and/or fact, or irregularities have been committed prejudicial to the interest of the movant.

SECTION 4. When Motion for Reconsideration is Decided — The head of Department or agency, the Merit Systems Protection Board or the Civil Service Regional Office shall decide a motion for reconsideration within five (5) days from receipt thereof.

RULE VII

Appeal

SECTION 1. Appeal Period; Where Filed — The official or employee who is not satisfied with the decision of the head of Department may initially appeal to the Merit Systems Protection Board and that of the local chief executive to the Civil Service Regional Office concerned within fifteen (15) days from notice or receipt of decision. Decisions of the Merit Systems Protection Board and the Civil Service Regional Offices may be finally appealed to the Commission within the same period.

The proper appellate body shall render a decision within thirty (30) days from the date the appealed case is submitted for decision.

The decision of the Commission is executory if no motion for reconsideration is filed within fifteen (15) days from receipt of the decision. Only one motion for reconsideration shall be entertained.

SECTION 2. Appeal Fee — An appeal fee of P100.00 shall be paid to the proper appellate body.

SECTION 3. When Appeal is Deemed Filed — The appeal is deemed filed in case the same is sent by registered mail, on the date shown by the postmark on the envelope which shall be attached to the record of the case, and in case of personal delivery, on the date stamped by the Board, Civil Service Regional Office, or by the Commission on the appeal.

SECTION 4. Effect of Decision — In case the protest is finally decided in favor of the protestant, the appointment of the protestee shall be rendered ineffective and/or disapproved which action shall be noted in the person file such as file 201 and service card. The protestee shall be reverted to his former position.

SECTION 5. Transmittal of Records — The head of Department or agency, the Merit Systems Protection Board or the Civil Service Regional Office shall, within five (5) days from the perfection of the appeal, forward the record of the case with his comment and recommendation to the proper appellate body or the Commission. The records

of the case shall be systematically and chronologically arranged, paged and securely bound to prevent loss, consisting of the following:

- (a) Appointment of the Protestee to the contested position; (original or machine copy duly authenticated or certified true copy)
- (b) Statement of Duties or Job Description of the contested position;
- (c) Approved organization chart indicating the positions determined to be next-in-rank and the positions held by the contestants;
- (d) Qualification Standard for the contested position;
- (e) Duly accomplished and updated Personal Data Sheets of the Parties with certified Statement of Service Records attached;
- (f) Certificates of Training Courses/Seminars/Commendations/Scholarship Grants, etc.;
- (g) List of Candidates for Promotion as certified to by the Personnel Selection Board;
- (h) Decision being appealed; and
 - Motion for reconsideration of said decision:
 - Resolution denying the motion for reconsideration;
- (i) Memorandum of Appeal.

To ensure the order transmittal of records, the same shall bear (1) table of contents indicating the corresponding pages, and (2) a certification that the records are complete including the number of pages of the same.

RULE VIII

Execution Of Decision

SECTION 1. Execution of Decision — The decision of the Commission in a protest case shall be executory, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance.

SECTION 2. Effect of Pendency of Certiorari with Supreme Court — The filing and pendency of an action for certiorari with the Supreme Court shall not stop the execution of the final decision of the Commission unless the Court issues a restraining order or an injunction.

SECTION 3. Non-Execution of Decision — A head of office or agency or his deputy who wilfully refuses or fails to implement the final resolution/decision, order or ruling of the Commission to the prejudice of the public service and the party affected, shall be personally liable for the payment of salaries and other money benefits corresponding to the delay in the execution thereof. For this purpose, the Commission shall issue the necessary order.

The Commission may also file and pursue disciplinary, civil, and/or criminal actions as provided for under existing laws.

RULE IX

Miscellaneous Provisions

SECTION 1. Computation of Time — In computing any period of time prescribed by these Rules, the first day

shall be excluded and the last day included unless it be a Saturday, a Sunday, or a legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, a Sunday or a legal holiday.

SECTION 2. Effectivity — These Rules shall take effect thirty (30) days after publication in a newspaper of general circulation.

Effective: 26 November 1989

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