GUIDELINES IN THE ADJUDICATION OF APPREHENSION CASES IN ALL LTO OFFICES

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Rule I
Declaration of Policy and Jurisdiction

SECTION 1: Declaration of Policy

It is a declared policy of the Land Transportation Office to protect the interest of the government, the transacting public, and the transportation industry.

SECTION 2: Jurisdiction

These rules are promulgated pursuant to the pertinent provisions of Republic Act 4136 as amended, Executive Order 125-A, Executive Order 266, Memorandum Circular 89-105, Department Order 93-693 and Memorandum Circular 515.

Rule II
Title and Construction

SECTION 1: Title

These rules shall be known as the Guidelines in the Adjudication of Apprehension Cases in all LTO offices.

SECTION 2: Construction

These rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, speedy, and inexpensive determination of every case or proceeding in the Traffic Adjudication Service (TAS), Central Office or LTO regional/district offices.

SECTION 3: Nature of Proceeding

Proceedings in the Traffic Adjudication Service, Central Office, or LTO regional/district offices shall be summary in nature. The technicalities obtaining in regular courts shall not be strictly applied provided that due process shall always be observed. The provisions of the Rules of Court shall be suppletory in character.

Rule III
Parties

SECTION 1: Complainant

The Apprehending Officer or the person issuing the Temporary Operators Permit (TOP) or Apprehension Report charging another for violation of land transportation laws, rules and regulations, or related issuances or any person filing the same shall be called the complainant.

SECTION 2: Respondent

The person against whom the complaint for violation of land transportation laws, rules, and regulations or related

issuances is filed by the issuance of Temporary Operators Permit (TOP) or apprehension report shall be called the respondent.

SECTION 3: Intervenor

Any person who claims an adverse right or interest to any apprehension case or confiscated item as a result of a violation of land transportation laws, rules, and regulations or other related issuances, other than the driver and/or operator shall be called the intervenor.

Rule IV
Classification of Apprehension Cases

SECTION 1: Litigable Apprehension Cases

Refers to violations cited in the Temporary Operator's Permit (TOP) or apprehension report which are contested by the respondent, and the determination of which cannot be resolved without a hearing in which all the parties, namely, the complainant, the respondent and or the intervenor, or their respective authorized representatives or counsels, shall be allowed to present their evidences, under oath. Said hearing shall be conducted by the Traffic Adjudication Service (TAS) Central Office, or in the case of the regional offices, by the regional directors, or their authorized representatives, respectively.

These proceedings shall be considered as administrative in nature, and partakes of the quasi judicial functions of the above-mentioned officials of LTO.

SECTION 2: Non-litigable Apprehension Cases

Non-litigable apprehension cases refer to apprehensions which are admitted by the violator. In all non-litigable apprehension cases, the adjudication officer shall compute the proper fines and penalties based on the citations in the TOP and the schedule of fines and penalties authorized by the Office.

SECTION 3: Classifications of Non-Litigable Offenses

a) Cases which are readily admitted by the respondent during office hours, under oath before the Hearing Officer;

b) Cases which can be determined or resolves by the mere presentation of original and authenticated documents or certified true copies of the original and authenticated documents or certified true copies of the same provided that the presentation is made under oath, during office hours, before the Hearing Officer;

c) Notations in the same TOP or Apprehension Report which are intended to describe any violation already mentioned therein;

d) Cases which are covered, included, absorbed, interrelated, component part or mere duplication of any other violation already mentioned in the same TOP or Apprehension Report, the determination of which needs no further proceeding.

Rule V

Commencement of Action, Contents of Top or Apprehension Report, Grounds for
Dismissal of an Apprehension Case, Duties of TAS Central Office, Administrative/
Records Officer or Responsible Personnel of the Regional/District Offices and Assignment
/Raffle of Cases and Service of Summons

SECTION 1: Commencement of Action

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An action in an apprehension case is deemed commenced upon receipt of a copy of the Top or Apprehension Report by the TAS or the regional/district office, and upon appearance of the respondent or his duly authorized representative or counsel before the designated hearing officer.

SECTION 2: Contents of Temporary Operator's Permit or Apprehension Report

a) Name and address of the respondent;
b) The violation/s charged against the respondent;
c) The motor vehicle plate number and license number of the driver;
d) The name and address/office of the apprehending officer where he may be served with summons;
e) Signature of the apprehending officer;
f) Other information/s necessary to clarify the violation/s charged against the respondent.

SECTION 3: Grounds for Dismissal of an Apprehension Case

The TAS Director, Central Office or Regional Director upon consideration of the contents of the Temporary Operators Permit (T.O.P.) or Apprehension Report may dismiss a violation on the following grounds:

a) When the respondent is able to present original and authentic pertinent documents controverting the violations cited;
b) Lack of jurisdiction;
c) Failure or refusal of the apprehending officer or designated prosecutor to prosecute traffic/moving violations;
d) Willful refusal of the apprehending officer or designated prosecutor to perform lawful order/s of the TAS Director, CO or Regional Director or duly designated hearing officer.

In case mentioned under items c and d, a report shall be made to the Assistant Secretary for appropriate disciplinary action.

If it appears on record that there is a previous violation which has remained unsettled after a reasonable lapse of time, the violator/respondent must be made to pay the corresponding prescribed penalty for such violation. The apprehension case, in this instance shall not be dismissed merely because the first (white) copy of the TOP can no longer be produced or it is stated that the driver who committed the violation is no longer employed by the operator/owner of vehicle. Further, in no case shall a violation be dismissed if the respondent is unable to comply with the 24-hour contestability period provided for under the implementing rules for smoke-belching violations.

SECTION 4: Duties of TAS, C.O. Administrative/Records Officer or Responsible Personnel of the Regional/District Office

The TAS C.O. Administrative/Records Officer shall perform the following functions:

a) To act as custodian of records of apprehension cases;
b) To assist in the preparation of decisions, resolutions or orders relative to apprehension cases submitted to the office for adjudication;
c) To ensure that the records of all apprehension cases are intact including all the pertinent documents;
d) To maintain a logbook for apprehension cases received, pending and resolved, for monitoring and retrieval purposes.

Similar functions shall likewise be performed by the duly designated personnel of the regional/district Offices.

SECTION 5: Assignment/Raffle of Cases

The administrative/record officer in the TAS C.O. shall conduct a raffle of apprehension cases before assigning the same to the hearing officers who shall immediately resolve an admitted and non litigable case or set for

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hearing a contested litigable case.

The same procedure shall be observed by the duly designated personnel of the regional/district offices.

SECTION 6: Service of Summons

Upon receipt of notice to contest a litigable apprehension case duly filed by the respondent or intervenor or authorized representative or counsel, the TAS C.O. Director or the Regional Director or the designated hearing officer shall set the case for hearing. Summons shall be prepared by the TAS C.O. administrative/records officer/stenographer. In the regional offices, the said function shall be performed by the duly designated personnel. The date of the hearing must not be less than three (3) days from receipt of notice to the parties.

The summons together with copies of the following documents shall be served to the apprehending officer, respondent and intervenor;

> a) Notice to contest an apprehension case or to intervene thereto prepared by the respondent or intervenor or their counsel, stating therein the legal and factual grounds for contesting the apprehension.
>
> b) Copy of TOP and/or Apprehension Report, if any; and
>
> c) Other pertinent document.

Service of summons shall be made to the parties in person or by leaving a copy thereof to a competent person of suitable age and discretion who appears to be in-charge of the residence or office of the addressee. If the addressee or his representative refuses to receive the summon, the same shall be considered effected by tendering or leaving a copy thereof in the residence or office on record of the addressee. Thereafter, the server shall execute an affidavit of service within two (2) days from service thereof. If personal service is impractical, summons may be served by registered mail.

The TAS C.O. Director or the Regional Director may in proper cases require any party in an apprehension case to file an answer, memorandum or any responsive pleading.

Rule VI
Requirement of Hearing, Compulsory Appearance of Respondent and Procedure in Contested Cases

SECTION 1: Requirement of Hearing

No decision, order or resolution shall be considered valid without a hearing conducted in accordance with these rules. In admitted apprehension cases, subject to the pertinent provisions of MC No. 515 all the fines for the violation mentioned in the TOP or Apprehension report must be paid and the accessory penalties must be complied with or served by the respondent. In contested cases, no violation/s mentioned in the TOP shall be dismissed without the approval by the TAS C.O. Director or the Regional Director. The submission of the minutes of the hearing, investigation report and other pertinent document/s by the duly designated hearing officer is mandatory.

SECTION 2: Compulsory Appearance of Respondent

No apprehension case shall be resolved or acted upon unless due notice is given to the respondent or his duly authorized representative or counsel. The person appearing must manifest his presence before the TAS C.O. Director/Regional Director or duly designated Hearing Officer.

SECTION 3: Procedure/Order of Presentation of Evidence

The complainant/prosecutor shall present his evidence on direct examination, the respondent/counsel, cross

examines. Re-direct and re-cross follows. Thereafter, complainant makes formal offer.

The respondent shall then present his evidence on direct examination. The prosecutor/complainant cross examines. Re-direct and re-cross follows. Thereafter, Respondent makes his formal offer of evidence. Thereupon, the case is submitted for resolution.

Guided by the requisites of due process, the Hearing Officer may adopt a summary procedure in ascertaining the truth on the complaint and thus dispense justice in an expeditious, fair and unexpensive manner.

Rule VII
Designation of Prosecutors

SECTION 1: Ex Officio Chief Prosecutor

The Director of the Law Enforcement Service, C.O. is the ex officio Chief Prosecutor of all contested apprehension cases in the Central Office. He may designate his representative in writing. In the regional/district offices, the designation of prosecutors shall be made in writing by the Regional Director subject to the approval by the Assistant Secretary.

SECTION 2: Duty of the Prosecutor

The prosecutor shall have the direct supervision and control in the prosecution of all contested apprehension cases.

SECTION 3: Who May Be Designated Prosecutor

The designated prosecutor shall be chosen from among the ranks of the law enforcement officers. In no case shall the hearing officer act as prosecutor.

Rule VIII
Application of Violation/s with higher Penalty and List of Common Violations

SECTION 1: Application of Violation/s With Higher Penalty

In cases where violations are covered, included, absorbed, interrelated, accessory, component part or a mere duplication of another violation in the same TOP the penalty for the violation which carries the higher penalty shall be imposed, or collected from the respondent after proper determination of the case which shall be approved by TAS Director or the regional director or their duly authorized approving officer.

SECTION 2: List of Common Violation/s

Listed below are the common violations which are absorbed, covered, included, interrelated, accessory, component part or mere duplication of the former, so that both/all are treated as one violation only with the highest fine to be imposed.

a) Driving without License

- Driving with invalid, delinquent, suspended, ineffectual, or revoked driver's license
- Failure to surrender driver's license
- Failure to sign driver's license
- Driving with expired T.O.P. or T.C.T.

b) Using Fake Driver's License

- Driving with invalid, unsigned or without license and failure to carry driver's license

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c) Operating an Unregistered Motor Vehicle, Delinquent and Improperly Registered Motor Vehicle

- Operating an unregistered, substitute, or replacement engine block, or chassis
- Failure to carry OR and CR
- Allowing operation of MV with license plate not firmly attached or visible
- Dirty or uncared for plate/s
- No sticker showing current registration

d) Illegal Transfer of Plate/s or Sticker

- Operating an unregistered MV and all minor accessory or component part of the said violation mentioned under letter c) hereof.

If the illegally transferred plate or sticker was secured and attached to a motor vehicle to operate as a colorum or private motor vehicle as for hire, the violations of illegal transfer of plates/sticker and colorum should be treated and fined separately.

e) Overloading of Cargoes and Freight

- Top load of cargo or passenger
- Excess axle load

f) Out of Line

- Improper painting of panel route
- Fraudulent painting of panel route
- Illegal display of signboard/s

g) Colorum Operation

- Failure to carry CPC, expired CPC, or Provisional Authority
- Other violations of Public Service Law

h) Refusal to Convey Passenger

- Refusal to render public service
- Contracting passengers
- Breach of Franchise Conditions when the particular condition in the CPC which was violated is not specified in the TOP

i) Use of Fake Document/s or stickers in cases when more than one document is misrepresented, or found fake or spurious, the said violations may be consolidated into one violation but the fine to be imposed shall be in the maximum amount of 5,000.00 or 3,000.00.

- Fake C.P.C. or O.R. or C.R.
- Misrepresentation of documents before the TAS

j) Reckless Driving

- All kinds of obstruction, illegal parking and disregarding traffic sign.

k) Illegal Parking

- All kinds of obstruction

l) No Uniform

- Wearing slippers, short pants or t-shirt without collar

m) Fast, Tampered, Defective or Reconnected Taxi Meter

- Tampered, broken, joined, or reconnected sealing wire tampered, loose meter or triplex seal, cut wire, old meter or triplex seal, no meter seal and no taxi meter.

n) Flagged-up Meter

- Illegal display of signboard
- Contracting passengers

Rule IX
Decisions

SECTION 1: Decision, Orders or Resolutions

All decisions, orders or resolutions in apprehension cases shall be subject to the approval of the TAS C.O. Director, the Regional Director, or their duly designated representative.

SECTION 2: Recording and Custody

All decisions, orders or resolutions shall be kept and recorded by the administrative officer of the TAS C.O. or the duly designated personnel of the regional/district office.

SECTION 3: Finality

Decisions, resolutions and orders in apprehension cases shall become final, subject to the following:

a) Admitted traffic/moving violation cases shall become final immediately;
b) Contested cases shall become final five (5) days after receipt of copy of the decision, order or resolution by the apprehending officer or the complainant provided that no motion for reconsideration has been filed during the said period. During the said period, no fine shall be collected. The other parties to the case are also entitled to a copy of the decision, order or resolution.

In all cases, the guidelines and procedures in releasing confiscated driver's licenses, M.V. plates or impounded motor vehicles shall at all times be observed.

This rule shall be without prejudice to the authority of the Assistant Secretary to review and/or reverse the aforesaid decision, order or resolutions if evidence warrants, provided such authority is exercise within reas

onable time from discovery/knowledge of said order, decisions or resolution.

SECTION 4: Service of Decisions, Orders or Resolutions of Apprehension Cases

All the parties to an apprehension case shall be served with copies of the decision, order or resolution rendered by the TAS C.O. Director or the Regional Director. Service may be effected personally or by registered mail. The same is considered served upon actual receipt thereof by the addressee. When an adjudicated apprehension case involves violation/s of the Public Service Law, the chairman or the concerned Regional Managers in the case of region of the Land Transportation Franchising and Regulatory Board shall also be furnished a copy of the decision, order or resolution.

Rule X
Motion for Reconsideration and Appeal from Decision, Resolution or Order

SECTION 1: Motion for Reconsideration

In the period of five (5) days from the receipt of decision, order or resolution rendered by the TAS C.O. Director or the Regional Director any aggrieved party may file a motion for reconsideration based on the following grounds:

a) Serious errors of law or facts which would result to injustice if not corrected;
b) Newly discovered evidence.

Only one (1) motion for reconsideration shall be entertained.

SECTION 2: Appeal

Within ten (10) days from receipt of the order of denial of a motion for reconsideration, the aggrieved party may file an appeal to the L.T.O. Assistant Secretary based on any legal ground. Thereafter, the TAS Director C.O. or the Regional Director shall elevate all the records of the case to the L.T.O. Assistant Secretary. In case, where the decision, order or resolution of the Assistant Secretary is the subject of review, the records of the case shall be forwarded by the L.T.O. Assistant Secretary to the Secretary of the Department of Transportation and Communications within the period above stated. In both cases the decision, order or resolution which is the subject of an appeal or review shall be rendered within a reasonable time.

Rule XI
Disqualification of Hearing Officer and Grounds for Disqualification or inhibition

SECTION 1: Grounds for Disqualification

No Hearing Officer, TAS C.O. Director or Regional Director shall adjudicate an apprehension case on any of the following grounds:

- When he/she, or any relative within the fourth degree of consanguinity or affinity is interested in the outcome of an apprehension case; and

- On any just and valid ground, he/she may voluntarily inhibit himself/herself from adjudicating an apprehension case.

SECTION 2. Procedure for Disqualification and/or Inhibition by Hearing Officer, TAS C.O. Director or Regional Director

All motions for disqualification and/or inhibition of hearing officers shall be approved by the TAS C.O. Director or Regional Director.

Rule XII
Prohibited Pleadings

SECTION 1: Prohibited Pleadings

In the original proceedings of an apprehension case, the following pleadings shall not be given due course:

- Motion to extend validity of Temporary Operators Permit (T.O.P.);

- Motion for bill of particulars;

- Motion to lift or shorten the suspension period of driver's license, M.V. plates, M.V. Official Receipt of Registration or Certificate of Registration.

- Motion to reduce fine

- Motion to release confiscated plates, official receipt of registration and Certificate of Registration before the

correction of defects.

Rule XIII
Functions and Duties of TAS C.O./Regional/District Hearing Officers

SECTION 1: Functions

The TAS C.O./Regional Hearing Officers shall perform the following functions:

- To hear and decide cases relative to violation/s of land transportation laws, rules and regulations subject to the approval of the TAS C.O. Director or Regional Director.

- To issue subpoena ad testificandum and/or subpoena duces tecum to assure the attendance of the parties and witnesses in any apprehension case or proceeding to impose correct penalties for violation/s of land transportation laws, rules and regulations;

- To impose correct fines and penalties in any apprehension case;

- To act as a approving officer relative to apprehension cases when properly designated by the TAS C.O. Director or Regional Director.

- To administer oath or affirmation of witnesses in any apprehension case handled by him; and

- To suspend or hold release of impounded motor vehicles, M.V. plates, driver's licenses, Official Receipt of Registration, Certificate of Registration or any confiscated part/s or accessories of a motor vehicle subject to the approval of TAS C.O. or Regional Director.

- To release Driver's License, License Plates, Impounded Motor Vehicles and other confiscated items upon final disposition of the case.

SECTION 2: Duties of Hearing Officer

- To submit daily report of adjudicated cases to the TAS C.O. Director or Regional Director as prescribed under TAS Form 002, Annex J of M-515;

- To receive evidences submitted to him/her by the parties in any apprehension case handles by him/her;

- To prepare and submit to the TAS C.O. Director or Regional Director the minutes of the hearing of apprehension cases and report of investigation including the pertinent document/s relative hereto;

- To prepare resolutions, decisions or orders and to submit the same to the TAS C.O. Director or Regional Director.

- To perform such order function/s as maybe assigned to him/her by the TAS C.O . Director or Regional Director.

Rule XIV
Qualifications of Hearing Officers

SECTION 1: Qualifications

- He/She must be at least a college graduate of a four (4) year course;

- He/She must occupy a position/item with at least a salary grade of fifteen (15);

- He must have at least two (2) years experience performing the functions at the L.T.O. relative to law enforcement or adjudication provided that if he is a full pledged lawyer, the requirement may be disregarded.

- He/She must be designated in writing as Hearing Officer by the TAS C.O. Director or Regional Director subject to the approval of the Assistant Secretary.

SECTION 2. Prohibition

The apprehending law enforcement officer (LEO) cannot be designated as hearing officer at the same time.

Rule XV
Prohibition Against LTO Officials and Employees Sanctions

SECTION 1: Prohibited Acts

No LTO official or employee shall interfere in the adjudication of an apprehension case.

SECTION 2: Sanctions

Any LTO official or employee found interfering or facilitating an apprehension case shall be subjected to an administrative or criminal action.

Rule XVI
Miscellaneous Provisions

SECTION 1: Requirements in Releasing Confiscated Driver's License, License Plates and Impounded Motor Vehicles

For Confiscated Driver's License:

- Copy of the TAS C.O. or Regional Office resolution duly signed by the TAS Director or Regional Director or authorized representative;

- Pink copy of the T.O.P. or driver's copy;

- Original copy of the seminar certificate issued by T.S.D;

- Other documents stated in the resolution;

- Any document which may identify the claimant;

- Proof of payment of fine/s.

For Impounded Motor Vehicle:

- Copy of TAS C.O. or Regional Office resolution duly signed and approved by the TAS Director or Regional Director or his authorized representative;

- Original copy of the M.V. impounding receipt or driver/operator's copy;

- Original/authenticated copy or the O.R./C.R showing payment of the current registration fee and ownership of the impounded motor vehicle;

- L.T.F.R.B. franchise verification;

- Stencil of motor and chassis numbers;

- Other document stated in the resolution, order or decision.

The above mentioned documents are required to be presented to the duly designated custodian, for the release of the impounded motor vehicle or any confiscated item. In case there is an accessory penalty and the license plate

needs to be detached, the impounding officer shall remove the plate/s and surrender the same to the plate custodian for safe keeping. The plate custodian shall acknowledge in the resolution that the plate/s has been received and subsequently, the driver/operator shall bring the release paper to the M.V. custodian for the release of the unit. In case the violation requires suspension of the driver's license, O.R./ C.R. and plates and suspension has already been served, a lifting order from the TAS or regional/district office duly signed and approved by TAS Director C.O. or Regional Director or their duly designated representative is required before the authorized custodian shall cause the lifting on the alarm of motor vehicle, driver's license or M.V. plates based on the order, resolution or decision of the TAS C.O. Director or Regional Office Director or duly designated representative.

SECTION 2: Repealing Clause

These rules repeal all previous issuances or parts thereof inconsistent herewith.

The pertinent provisions of R.A. No. 4136 and E.O. No. 125-A, and the guidelines set forth in Memorandum Circular No. 515 dated June 14, 2004 and other issuances are reproduced herein by reference and form as integral part hereof.

SECTION 3: Effectivity

This Memorandum Circular shall take effect immediately following the required notice and publication.

For Strict Compliance.

Adopted: 15 Sept. 2004

(SGD.) ANNELI R. LONTOC
Assistant Secretary

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