

ADOPTING THE CHR CLEARANCE SYSTEM

KNKP RESOLUTION CHR (III) NO. A2005-153, November 16, 2005

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WHEREAS, pursuant to Article XIII, Sec. 18(2) of the 1987 Constitution of the Philippines, the Commission on Human Rights (CHR) has the power to "Adopt its operational guidelines and rules of procedure xxx";

WHEREAS, there is an arrangement between the CHR and the Armed Forces of the Philippines (AFP) requiring the officers and personnel in uniform to submit themselves to the clearing process for no pending case of human rights violations before the Commission on Human Rights;

WHEREAS, further to the aforesaid arrangement, the April 4, 1991 Memorandum to the Chief of Staff, issued by the Office of the President thru then Presidential Assistant for Military Affairs Carlito Cunanan (Rear Admiral, AFP ret.) requires that for purposes of promotion of AFP officers, the recommendees should have no pending case/s for human rights violations with the CHR;

WHEREAS, Section 2 of Presidential Memorandum Order No. 259, dated 7 February 1995, mandates that "Successful completion of the appropriate human rights education and training courses shall be required for recruitment, promotion and transfer/reassignment of personnel in these departments, with priority given to personnel directly involved in arresting, investigating and detaining functions."

WHEREAS, it has been observed that officers/employees of other government agencies, who, for purposes of transfer of employment, promotion or confirmation of appointment, or in line with their official functions, are to attend conferences or undergo training, schooling or scholarship, local or abroad, are also required by their respective agency or by the Commission on Appointment, or by the local or foreign institution where they intend to undergo training or further education, or by the Embassy of the country to where they are travelling, to secure CHR clearance or certification of no pending case / complaint for human rights violations before the Commission on Human Rights.

WHEREAS, it has also been observed that private persons and other professionals from the private sector who are applying for employment or who are to undergo training or further studies, local or abroad, are likewise required to secure CHR Clearance or Certification by the prospective employer or by the training or educational institution, or by the Embassy of the country where they intend to travel;

WHEREAS, the processing of CHR clearance entails expenses on the part of the Commission in terms of supplies and communication;

WHEREAS, further review of the current procedures and practices in the processing and issuance of CHR clearance or certification show the need to adopt a CHR Clearance System to primarily install a sequentially methodical and cohesive system in expediting CHR clearance and certification to members of the Armed Forces of the Philippines, the Philippine National Police, and other uniformed men and women involved in law enforcement to include those from the National Bureau of Investigation, Philippine Center for Transnational Crimes, Bureau of Corrections/Correctional Institutes, Bureau of Jail Management and Penology, the Philippine Coast Guards; and officers and employees of other government agencies, local or national, as well as to private

persons and other professionals from the private sector;

WHEREAS, integral to the reform agenda being adopted by the Third Commission is that its clearance system and the implementation of the above-cited arrangement with the AFP, the April 4, 1991 Memorandum of the then Presidential Assistant for Military Affairs, Office of the President, and the provision of Memorandum Order No. 259 must find justification in evolving standards and essential safeguards to ensure implementation of a thorough and reliable procedures;

WHEREAS, the safeguards and procedures should be in keeping with the integrity of the Commission clearance or certification to be issued and to ensure ample protection to the applicant therefor;

NOW, THEREFORE, the Commission on Human Rights sitting En Banc, in the exercise of its authority embodied in Sec. 18 (2), Article XIII of the Constitution to adopt its operational guidelines and rules of procedures resolved, as it hereby resolves, to adopt the foregoing CHR Clearance System:

1. The Commission shall issue the required CHR Clearance or Certification to applicants from the military sector, police sector, the Philippine Coast Guard, and other law enforcement officers and personnel, to include those from the National Bureau of Investigation, the Philippine Center for Transnational Crimes, the Bureau of Corrections, the Bureau of Jail Management and Penology, the Bureau of Fire Protection; as well as to applicants from other government agencies, local or national. The Commission shall also issue CHR Clearance or Certification to applicants from the private sector or to other professionals from the private sector for purposes of local or foreign employment, scholarship, training/schooling.

2. Applicants for CHR clearance or certification shall fully accomplish, under oath, the official application form for CHR clearance/certification; and shall attached thereto the required records of employment service in the government.

In particular, the applicant shall indicate his/her full name (surname, given/first name, middle name). For married female applicant, she shall also indicate her maiden middle name and surname. The applicant shall also indicate his/her residential address as well as office or business address.

In case the applicant is from the military sector, he/she shall likewise state his/her serial number; current rank and official station or place of assignment; previous posts held and place of assignments; and records of appropriate human rights training or seminar completed. Except for the AFP serial number, the same requirements apply to applicants from the police sector and other law enforcement agencies, including those from the National Bureau of Investigation, the Bureau of Corrections, and the Bureau of Jail Management and Penology, the Bureau of Fire Protection, and the Philippine Coast Guard, who are likewise required to indicate in their Application for CHR Clearance their badge number or office identification number.

If the applicant is employed with government agency other than those specified in the immediately preceding paragraph, he/she shall comply with the applicable personal data requirements heretofore stated, and also indicate his/her office identification number in the official application form.

Applicant from the private sector shall also indicate his/her social security identification number; and for professionals from the private sector, to also indicate his/her professional license number.

Applicants shall also indicate in their application information/data on human rights education courses, training and seminars successfully completed.

3. The Application for CHR Clearance or Certification shall be filed before the CHR Regional Office located in the place/region where the applicant has his/her current official work station/assignment, or with the General

Records and Archives Division (GRAD), Office of the Commission Secretary, CHR Central Office, which offices shall forward the same to the Legal and Investigation Office for general records check/verification and processing by the Legal Division, and databank verification/retrieval by the Information Systems Management Office.

Initial records check/verification from the Regional Human Rights Case Docket, Records Section, shall be made by the regional records officer of the CHR Regional Office concerned where the application is filed, under the supervision and directive of the Regional Director concerned, to determine whether or not applicant is involved as respondent in any case for human rights violations filed before the Commission. The Regional Office may issue a certification pertaining to that particular region only and forward a copy of the application and certification to the Legal and Investigation Office, CHR Central Office for general records check/verification. For applications filed directly with GRAD-COMSEC, it shall be incumbent upon the Records Officer of said office to make initial records check/verification from case and clearance dockets available in said office, before transmitting the said applications together with all required documents to the Legal and Investigation Office. The said application shall be subject to final general records check/verification by the Records Officer of the Legal Division.

4. If the applicant is not involved as respondent in any complaint or case for human rights violations filed before or motu proprio acted upon by the Commission, as checked and verified in accordance with paragraph Number 3 hereof, a CHR Clearance shall be issued to him/her indicating therein that based on available records of the Commission, there is no human rights violation case/complaint filed or is pending with CHR against the applicant.

5. If the applicant is a respondent in any case or complaint for human rights violation/s motu proprio acted upon by or filed before the Commission, a certification of pending case instead of a Clearance shall be issued to him/her indicating therein the type of violation, the date and place of incident, including the status of the case.

6. The clearance or certification shall indicate whether or not the applicant has completed a human rights education course, training or seminar.

For this purpose, the Education and Research Office and other offices of the Commission tasked to implement human rights-international humanitarian law education and training programme shall keep a regular and updated roster of participants and provide copy thereof to the Legal and Investigation Office.

7. A clearance fee in the amount of One Hundred Pesos (P100.00) shall be collected from the applicant, subject, however, to existing laws, government rules and regulations.

8. Applicant for CHR clearance shall be required to affix documentary stamp in the amount of Fifteen pesos (P15.00) in the Clearance or Certification to be issued to him/her.

9. The official seal of the Commission shall be embossed in the clearance or certification to be issued.

10. The Chief of the Legal Division, Legal and Investigation Office, shall certify as to the completeness and accuracy of the records check/verification made by Legal Division and shall affix his signature therein after the same shall have been initialed by the Records Officer of Legal Division and the Chief of the General Records and Archives Division. On the basis thereof, the Director of the Legal and Investigation Office shall recommend approval of the clearance or certification by the final official signatory.

11. The CHR Clearance or Certification shall have the final approval of the following officials:

(a) The Chairperson or the Officer-In-Charge of the Commission. _ In case of Clearance or Certification to be issued to:

(a.1) Officers and personnel of the Armed Forces of the Philippines (AFP) who are based or assigned at the

General Headquarters of the Armed Forces of the Philippines, Camp Aguinaldo; or at the General Headquarters of the Philippine Army (PA), Fort Bonifacio; or at the General Headquarters of the Philippine Navy (PN), Manila; or at the General Headquarters of the Philippine Marines, Fort Bonifacio; or at the General Headquarters of the Philippine Air Force Headquarters, Villamor Airbase.

(a.2) Officers and personnel of the Philippine National Police (PNP) based or assigned at the Philippine National Police Headquarters, Camp Crame, Quezon City;

(b) The Commissioner-in-Charge (CIC) or Assisting Commissioner-in-Charge (ACIC) for the Region concerned. In cases of clearance or certification to be issued to:

(b.1) Officers/members and civilian personnel of the Armed Forces of the Philippines; and officers/members and personnel of Philippine National Police whose work station or place of assignment, other than that mentioned in item numbers 11 (a.1) and 11 (a.2) above, is located within the area or region over which the Commissioner-in-Charge or Assisting Commissioner has supervision.

(b.2) Officers/members and personnel of other law enforcement agencies, to include the National Bureau of Investigation, Philippine Center for Transnational Crimes; officers and personnel of the Bureau of Corrections/National Penitentiaries, the Bureau of Jail Management and Penology; the Bureau of Fire Protection, and the Philippine Coast Guard, whose place of assignment or work station is located within the area or region over which the Commissioner-in-Charge concerned or Assisting Commissioner has supervision.

(b.3) Officers and personnel of other government agencies/offices, local or national, whose work assignment or station is located within the area or region over which the Commissioner-in-Charge concerned or Assisting Commissioner has supervision.

(b.4) Professionals from the private sector, as well as private citizens whose business address or work station and/or residential address is located within the place or region over which the Commissioner-in-Charge concerned or Assisting Commissioner has supervision.

12. CHR Clearance or Certification shall be expedited within five (5) working days from date of filing, provided, however, that the Applicant has complied with all the requirements therefor as of the time of filing of his/her application. In case the application is filed with the Regional Office, the same shall be expedited within seven (7) days from receipt thereof.

13. CHR Clearance or Certification shall be valid for a period of six (6) months from date of issuance and solely for the purpose stated therein, and renewable for the same purpose for which it was issued. Thus, a new CHR clearance is required for the specific purpose other than that stated in the previous clearance issued. In such case, the applicant shall have to go through the same requirements and processing.

14. The clearance or certification shall have a control number, the official receipt number and date of payment of the corresponding fee.

15. A Docket/Record Book for CHR Clearance and Certification shall be kept in the General Records and Archives Division wherein all applications received, all Clearance and Certification issued and released, official receipt number and date of payment of the corresponding fee shall be recorded.

16. A duplicate or certified copy of the clearance or certification issued shall be retained by the General Records and Archives Division, together with the applications and other relevant documents, and shall be kept as confidential files.

17. To uphold the integrity of the Commission as an independent national human rights institution, CHR clients

shall be accorded fair and equal attention with regards to the clearance transaction. Thus, no personal follow-up by CHR official or personnel, in behalf of the client, shall be tolerated. Likewise, asking, requesting, demanding, receiving/accepting any form of token from the client in connection with clearance transaction shall be strictly prohibited.

18. No CHR Officer authorized to administer oath shall affix his/her signature in the application for CHR clearance/certification without the applicant having appeared before him/her for the purpose. Neither shall he/she collect any amount of fee in connection with the administration of oath to the applicant.

19. The duties and functions of the Records Officer in the processing of the CHR clearance or certification cannot be delegated to other personnel, unless otherwise authorized in the exigency of the service.

20. The foregoing resolution shall take effect after fifteen (15) days from date of approval. The corresponding implementing rules shall thereafter be adopted. The Commission Secretary shall officially furnish three (3) copies of the foregoing resolution and its implementing rules to the University of the Philippines Law Center for publication and recording.

21. Repealing clause. _ This resolution repeals resolutions CHR (III) No. 2003-018 and CHR (III) No. 2005-097.

Adopted: 16 Nov. 2005

(SGD.) PURIFICACION C. VALERA QUISUMBING

Chairperson

(SGD.) ELIGIO P. MALLARI

(SGD.) DOMINADOR N. CALAMBA II

Commissioner

Commissioner

(SGD.) WILHELM D. SORIANO

(SGD.) QUINTIN B. CUETO III

Commissioner

Commissioner

Attested by:

(SGD.) HOMERO MATTHEW P. RUSIANA

Commission Secretary

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