

REGULATIONS GOVERNING THE DISCHARGE OR SEPARATION BY ADMINISTRATIVE ACTION OF OFFICERS IN THE REGULAR FORCE AND RESERVE OFFICERS ON EXTENDED TOUR OF ACTIVE DUTY

EXECUTIVE ORDER NO. 302, May 05, 1958

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Pursuant to the authority conferred upon me by the Constitution and existing laws, I, Carlos P. Garcia, President of the Philippines, do hereby prescribe the following rules and regulations governing the discharge or separation by administrative action of officers in the Regular Force, Armed Forces of the Philippines, and Reserve Officers on extended tour of active duty for six months or more:

I. DISCHARGE OF SEPARATION FROM THE SERVICE

1. Officers of the Regular Force, Armed Forces of the Philippines, and Reserve Officers serving on extended tour of active duty for six months or more shall be administratively discharged or separated from the service only upon the approval of the President. Unless otherwise specifically provided by law, such discharge or separation shall be in accordance with the regulations and procedure set forth in this Order and implementing regulations not inconsistent therewith. Whenever used in this Order, the words “officer” and “officers” shall be understood to refer to an officer or officers of the Regular Force and to an officer or officers of the Reserve Force serving on extended tour of active duty for six months or more.

2. a. Whenever the Chief of Staff, Armed Forces of the Philippines, or the Commander of a Major Service believes that an officer under his command has failed to demonstrate satisfactory qualifications as an officer, his name and record shall be submitted to the appropriate Efficiency and Separation Board, as hereinafter provided, for the determination of his suitability or fitness for retention in the service.

b. The several Efficiency and Separation Boards shall annually review the personal records and efficiency of all officers assigned to the command to which the Boards pertain. They shall recommend for discharge or separation those whose qualifications and efficiency are unsatisfactory.

c. When an officer’s elimination from the Regular Force is made mandatory by operation of the provisions of Republic Act No. 291, as amended, his name and record shall be referred forthwith to the appropriate Efficiency and Separation Board. It shall be the sole function of the Board in such cases to determine whether the officer’s separation is due to his misconduct, willful failure, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits.

3. Any officer discharged or separated from the service for reasons other than his own misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, shall be entitled to such gratuity, pension, separation pay, or retirement benefits as may be authorized by law.

II. EFFICIENCY AND SEPARATION BOARDS

4. a. An Efficiency and Separation Board shall be and is hereby established for the General Headquarters, Armed Forces of the Philippines, and for each of the Major Services of the Armed Forces of the Philippines. The members of the several Boards shall be appointed by the Secretary of National Defense, who shall designate the

Chairman thereof.

b. The members of each Efficiency and Separation Board will serve for a term of one year, unless sooner relieved by the Secretary of National Defense. Before entering upon the discharge of their duties, the members shall take their oath of office.

5. Each Efficiency and Separation Board shall have jurisdiction to pass upon the discharge or separation of officers assigned to the Major Service to which the Board pertains. All general and flag officers, irrespective of their assignment, and officers assigned to the General Headquarters, Armed Forces of the Philippines, and units directly under it, shall fall under one jurisdiction of the Efficiency and Separation Board for the said General Headquarters.

6. a. An Efficiency and Separation Board shall be composed of not less than three nor more than seven officers who shall be appointed from among officers assigned to the command to which the Board pertains. As far as practicable, the voting members shall be senior in permanent grade to any officer being considered by the Board and shall not be below the permanent grade of Colonel.

b. The Chief of Staff, the Vice-Chief of Staff, the Deputy Chief of Staff, and the Assistant Chief of Staff for Personnel of the Armed Forces of the Philippines; and the Commander, Deputy or Vice-Commander, Chief of Staff and Assistant Chief of Staff for Personnel of any Major Service, shall not be a member of any Efficiency and Separation Board.

c. No member shall serve on the same Board more than twice consecutively.

7. The Commander of the command to which the Efficiency and Separation Board pertains shall provide such office supplies, clerical assistance, and office space as may be required by the Board. He shall designate an officer to serve, without vote, as its Secretary. The Board shall be furnished with the complete official records of the officers falling under its jurisdiction.

8. a. The proceedings and decisions of the Board shall be confidential. A majority of all the members of the Board shall constitute a quorum. All decisions shall be reached by a majority vote of the members present.

b. In determining the officer's suitability to remain in the service, the Board shall weigh his proficiency, experience, accomplishments, attitude, ability, and his character and general value to the service. Due weight shall be given to such findings and recommendations of a Selection Board, pursuant to Republic Act No. 291, as amended, as may have a bearing on the officer's present fitness for retention in the service. No weight shall attach to any political, social, financial, or any other factor not military in nature.

9. Any officer under consideration for separation pursuant to this Order shall be notified of such fact. He shall be permitted counsel of his own selection. The officer shall have the right to appear before the Board personally or through counsel, to present any fact, argument, or witness in his behalf or any other matter pertinent to his case. He shall be informed of all the evidence, charges, and reports against him and shall be given full opportunity to refute the same.

10. a. The Board shall recommend specifically in each case that the officer be retained or that the officer be separated from the active service, subject to the limitation in paragraph 2c of this Order. If retention is recommended and concurred in by the Commander of the command to which the Board pertains, the case shall be considered closed and the officer shall be notified thereof in writing. If the proper Commander does not concur in the recommendation for retention, the case shall be forwarded to the Board of Review for proceedings in accordance with Title III of this Order.

b. When separation from the service is recommended, the Efficiency and Separation Board shall submit a complete report of the case and the record of investigation to the Board of Review established under Title III of this Order.

c. Provided, That in cases arising under paragraph 2c of this Order, the Efficiency and Separation Board shall submit its report and the records of the case to the President through the Chief of Staff and the Secretary of National Defense. The report shall specify the particular provision of paragraph 2 of this Order under which the Board took cognizance of the case; whether the recommendation for separation is based on the officer's own misconduct, willful failure to perform his vicious or immoral habits; and such other matters as the Board may deem pertinent.

d. Should the Efficiency and Separation Boards determine that an officer's separation is not due to his own misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, and he is eligible for retirement, the Board shall recommend his retirement under the applicable provisions of Republic Act No. 340, as amended.

III. BOARD OF REVIEW

11. A Board of Review shall be and is hereby established to review each case in which an Efficiency and Separation Board has recommended the discharge or separation of an officer, and cases requiring review pursuant to paragraph 10a of this Order, including cases decided by an Efficiency and Separation Board pursuant to paragraph 2c of this Order.

12. a. The Board of Review shall consist of not less than three members to be appointed by the Secretary of National Defense, one of whom shall be an officer of the Judge Advocate General's Service. A Secretary without vote shall be appointed to assist the Board of Review.

b. The members, except the member belonging to The Judge Advocate General's Service, shall not be below the permanent grade of colonel or captain in the Navy. The most senior thereof shall be designated as the President of the Board.

c. No hearing or deliberation shall be conducted with less than three members present, or such larger number as constitutes a majority of those detailed expressly to hear a particular case: Provided, That the member belonging to The Judge Advocate General's Service must be present at all hearings and deliberations of the Board.

d. Before entering upon the discharge of their duties, the members of the Board of Review shall take an oath of office.

13. a. The officer concerned shall be given reasonable opportunity to prepare his case and to present it personally or by counsel before the Board of Review. Upon his request, the Board of Review will furnish him or his counsel a copy of the report of the Efficiency and Separation Board on his case.

b. The Board of Review will not receive evidence anew. Should the officer concerned request in writing that he be allowed to present additional evidence, and the Board of Review finds that such evidence (1) is material, (2) could not with reasonable diligence have been produced at the investigation by the Efficiency and Separation Board, and (3) would probably change the findings and recommendations in the case, the Board of Review shall remand the case to the same Efficiency and Separation Board that originally took action thereon or to the Board constituted at the time that remand is made in the event that the former, can not be convened for reasons of unavailability of at least the majority of the members thereof for the reception of such additional evidence and such other action as the evidence so adduced may warrant.

c. The Board of Review may also remand a case to the appropriate Efficiency and Separation Board for such further action or proceedings as, in the opinion of the Board of Review, is necessary for a full, fair, and impartial investigation.

14. a. The proceedings and decisions of the Board of Review shall be confidential. A majority of the members present must agree on every decision reached by the Board. Every decision on the merits of the case must be in writing and shall contain a rationale.

b. The Board of Review- shall decide in each case whether the officer concerned should be retained in the service or separated. If it decides that the officer should be retained, the case shall be considered closed and the officer shall be notified thereof in writing.

c. If the Board of Review decides that the officer should be separated from the service, its decision, together with the report of the Efficiency and Separation Board and the complete records of the case, shall be forwarded to the President through the Chief of Staff, Armed Forces of the Philippines, and the Secretary of National Defense.

d. In each case where the Board of Review decides on the separation of an officer, it shall make an express finding as to whether the officer's separation is attributable to his own misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits.

IV. MISCELLANEOUS

15. The Secretary of National Defense shall promulgate from time to time such rules and regulations, not inconsistent with the foregoing provisions, as may be necessary to carry out the purpose and intent of this Order.

16. Executive Order No. 169, dated October 15, 1938, is hereby repealed, except that cases already considered by the Efficiency and Separation Board under the said Order and awaiting final action by the President shall be governed by the provisions thereof.

Done in the City of Manila, this 5th day of May, in the year of Our Lord, nineteen hundred and fifty-eight, and of the Independence of the Philippines, the twelfth.

(Sgd.) CARLOS P. GARCIA
President of the Philippines

By the President:
(Sgd.) JUAN C. PAJO
Executive Secretary

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