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GUIDELINES FOR THE TEMPORARY DISQUALIFICATION OF A RESPONDENT IN A DISCIPLINARY ACTION CASE

POEA MEMORANDUM CIRCULAR NO. 14, S. 2005, November 17, 2005

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Pursuant to Sections 4 and 5, Rule I and Section 6 and 7, Rule III, Part VII, 2002 Rules and Regulations Governing the Recruitment and Employment of Landbased Workers and Sections 5 and 6, Rule II and Sections 4 and 5 Rule III, Part VI, 2003 POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers, the following guidelines are hereby issued for the information and guidance of all concerned:

A. Coverage

These guidelines shall apply to all Overseas Filipino Workers (OFWs), seafarers, foreign employers or principals who are respondents in a Disciplinary Action case under Part VII of the 2002 Rules and Regulations Governing the Recruitment and Employment of Landbased Workers and Part VI of the 2003 Rules and Regulations Governing the Recruitment and Employment of Seafarers.

B. Definition of Terms

1. Temporary Disqualification — Refers to the suspension of a worker, seafarer, foreign employer or principal from participation in the overseas employment program for failure to file an answer within the prescribed period despite proper service of summons.

2. Lifting of Temporary Disqualification — Refers to the lifting of the respondent's temporarily disqualification or suspension from participation in the overseas employment program due to respondent's (or his duly authorized representative's) filing of an answer or voluntary submission to the jurisdiction of POEA.

C. Procedure

1. Temporary Disqualification

a. Upon receipt of a complaint for disciplinary action, Overseas Employment Adjudicator (OEA) assigned to the case shall immediately prepare and serve summons to the respondent at the address indicated in the complaint. In the case of a foreign employer or principal, a copy of the summons shall be served at its official address and at the official address of its duly accredited or registered local agents.

b. Should the respondent fail to file an answer within the prescribed period despite the proper service of summons, the OEA, using the attached form (Annex "A" — Notice of Inclusion[*]) shall immediately notify the Docket and Enforcement Division, Adjudication Office that the respondent is temporarily disqualified from participation in the Overseas Employment Program. No notice of inclusion shall be issued unless there is proof of proper service of summons to the respondent.

c. Upon receipt of the Notice of Inclusion, the Docket and Enforcement Division shall immediately record and include the respondent in the list of individuals or entities temporarily disqualified or suspended from participation in the Overseas Employment Program.

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2. Lifting of Temporarily Disqualification

a. When the respondent or his duly authorized representative files an answer or voluntarily submits to the jurisdiction of POEA, the OEA assigned to the action case shall immediately notify the Docket and Enforcement Division of the lifting of respondent's temporary disqualification, using the attached form (Annex "B" — Notice for Delisting[*]).

b. Upon receipt of the Notice of Delisting, the Docket and Enforcement Division shall immediately delist or remove the respondent from the temporary disqualification list.

c. The Administrator in the exercise of her discretion in special circumstances may however, allow a respondent who has been temporarily disqualified under these guidelines to participate in the Overseas Employment Program.

The respondent's temporary disqualification under these guidelines and the lifting thereof shall be without prejudice to the final outcome of the investigation whereby the proper penalty, as provided under POEA Rules and Regulations, may be imposed.

All previous issuances inconsistent herewith are hereby modified or repealed accordingly.

For strict compliance.

(SGD.) ROSALINDA DIMAPILIS-BALDOZ
Administrator

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[*] Not Filed with ONAR.

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