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SECTION 1. Title — These Rules shall be known as the Rules of Procedure in the Conduct of Administrative Investigations in the Philippine Retirement Authority (PRA).

SECTION 2. Coverage — These Rules shall be applicable to all administrative disciplinary cases brought before the Authority.

SECTION 3. Who Shall Initiate Administrative Proceedings — Administrative proceedings may be initiated by the PRA Disciplining Authority against a subordinate officer or employee, or upon sworn written complaint by any other person. For purposes of these Rules of Procedure, the Disciplining Authority mentioned in any of the sections herein shall refer to the Chief Executive Officer and General Manager of PPA.

SECTION 4. Complaint in Writing and Under Oath — In case of a complaint filed against an employee of the Authority by a person other than the PRA Disciplining Authority, the said complaint shall not be given due course unless the same is in writing and under oath.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the PRA employee concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

The complaint shall also contain the following:

- (a) 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) a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the PRA employee.

The complainant shall also submit certified true copies of documentary evidence and affidavits of his witnesses, if any.

SECTION 5. Anonymous Complaint — No action shall be taken on an anonymous complaint, unless there is obvious truth or merit to the allegations thereof. No PRA employee shall be required to answer or comment on an anonymous complaint.

SECTION 6. Withdrawal of a Complaint — The withdrawal of a 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.

SECTION 7. Action on the Complaint — Upon receipt of a complaint which is sufficient in form and substance, the Disciplining Authority of PRA or his authorized representative shall evaluate the same and determine whether a preliminary or fact-finding investigation is needed or if the evidence submitted by the complainant warrants the immediate issuance of a formal charge, especially in cases where light offenses were alleged to have been committed.

SECTION 8. Fact-finding Investigation — Fact-finding investigation shall involve merely the ex-parte examination of records and documents submitted by the complainant, as well as documents readily available from

other government offices.

If the existence of a prima facie case has been established, a formal charge shall be immediately issued to the respondent.

SECTION 9. Preliminary Investigation — Preliminary investigation is an inquiry or proceeding whereby the complainant and the respondent are given the opportunity to submit their affidavits and counter-affidavits, as well as of their witnesses. Failure of the respondent to submit his counter-affidavit shall be construed as a waiver thereof.

During the inquiry or proceedings, the parties and their witnesses shall be asked to affirm their signatures on the said documents and the truthfulness of the statements contained therein. Under no circumstance shall cross-examination of the witnesses be allowed but the Hearing Officer may propound clarificatory questions.

SECTION 10. Failure to Affirm Signature and the Contents of the Affidavit — Failure of any of the parties or witnesses to affirm the signature on his affidavit and the contents thereof during the preliminary investigation shall render such affidavit without evidentiary value.

SECTION 11. Issuance of Subpoena — The Investigating Officer may issue subpoena duces tecum for the production of documents or materials needed in the determination of the existence of a prima facie case.

SECTION 12. Record of Proceedings — During the preliminary investigation, the Investigating Officer shall record in his own handwriting his clarificatory question to the parties and their witnesses and the answers given thereto. Such record and other notes made by the Hearing Officer shall form part of the records of the case.

SECTION 13. Duration of the Investigation — A fact-finding preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Disciplining Authority and shall be terminated within thirty (30) days thereafter.

SECTION 14. Investigation Report — Within five (5) days from the termination of the fact-finding or preliminary investigation, the Investigating Officer shall submit his Report of Investigation and the complete records of the proceedings to the Disciplining Authority or his authorized representative.

SECTION 15. Decision of Resolution After Preliminary Investigation — If a prima facie case is established during the investigation, a formal charge against the respondent employee shall be issued by the Disciplining Authority and a formal investigation shall follow unless the same is waived by the respondent employee.

In the event that no sufficient evidence was submitted or no prima facie case was found after the conduct of a preliminary investigation, the complaint shall be dismissed without prejudice to the filing of a motion for reconsideration.

SECTION 16. Formal Charge — When the Authority finds the existence of a prima facie case, the respondent shall be formally charged. He shall be furnished copies of the complaint, sworn statements and other documents submitted by the complainant, unless he has already received the same during the preliminary investigation. The respondent shall be given at least seventy-two (72) hours from receipt of said formal charge to submit his answer under oath, together with the affidavits of his witnesses and other evidence, and a statement indicating whether he elects a formal investigation or waives his right thereto. He shall also be informed of his right to the assistance of a counsel of his choice. If the respondent has already submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

SECTION 17. Conduct of Formal Investigation — A formal investigation shall be held after the respondent has filed his answer or after the period for filing an answer has expired. It shall be completed within thirty (30) days from the date of the service of the formal charge, unless the period is extended by the Disciplining Authority in meritorious cases.

Although the respondent did not elect a formal investigation, one shall nevertheless be conducted if upon

evaluation of the complaint, the answer and the documents in support thereof, the merits of the case can not be judiciously resolved without conducting such a formal investigation.

SECTION 18. Technical Rules in Administrative Investigations — Administrative investigation shall be conducted only for the purpose of ascertaining the truth and without necessarily adhering to the technical rules of procedure applicable in judicial proceedings.

SECTION 19. Who Shall Conduct Formal Investigation — Formal investigation shall be conducted by the PRA Disciplining Authority or by his duly authorized representatives.

SECTION 20. Failure to File An Answer — If respondent fails or refuses to file his answer, he shall be considered to have waived his right to file an answer to the charges and formal investigation may already commence.

SECTION 21. Preventive Suspension — The PRA Disciplining Authority may preventively suspend any subordinate officer or employee under his authority pending an investigation, if the charge against such officer or employee involves -

- a. dishonesty;
- b. oppression;
- c. grave misconduct;
- d. neglect in the performance of duty; or
- e. if there are reasons to believe that the respondent is guilty of the charges which would warrant his removal from the service.

The period within which the PRA officer or employee charged is placed under preventive suspension shall not be considered part of the actual penalty of suspension that may be imposed upon said employee, if found guilty after due proceedings.

SECTION 22. Duration of Preventive Suspension — The period within which the PRA officer or employee charged is placed under preventive suspension shall not exceed ninety (90) days.

When the administrative case against said PRA officer or employee under preventive suspension is not finally decided by the Disciplining Authority within the period of ninety (90) days after the date of the preventive suspension, he 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 should not be included in the counting of the ninety (90) calendar day period of preventive suspension.

SECTION 23. 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 duces tecum, at least three (3) days before the scheduled hearing.

SECTION 24. Continuous Hearing Until Terminated — Hearings shall be conducted on the hearing dates set by the Hearing Officer or as agreed upon by the parties. Postponements shall not be allowed except in meritorious cases, provided, that a party shall not be granted to have more than two (2) postponements.

The parties, their counsel and witnesses, if any, shall be given a notice at least five (5) days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice.

If the respondent fails or refuses to appear during the scheduled hearings, the investigation shall proceed ex parte and the respondent is deemed to have waived his right to be present and to submit evidence in his favor during the hearings.

SECTION 25. Preliminary Matters — At the start of the hearing, the Hearing Officer shall note the appearances of the parties and shall proceed with the reception of evidence for the prosecution.

If the respondent appears without the aid of a counsel, he shall be deemed to have waived his right thereto.

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

SECTION 26. Appearance of Counsel — Any counsel appearing before any hearing or investigation conducted by this Authority 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 stated requirements shall not be recognized. Neither shall he be allowed to prosecute or defend a case.

SECTION 27. Order of Hearing — Unless the Investigating Officer directs otherwise, the order of hearing shall be as follows:

- (a) The prosecution shall produce its evidence 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 party, when proper and allowed by the Hearing Officer or Investigator.
 - (d) Following cross examination, there may be redirect and re-cross examination.
 - (e) 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.
- SECTION 28. Objections — All objections raised during the hearing shall be resolved by the Hearing Officer.

The Investigating Officer shall accept all evidence deemed material and relevant to the case. In case of doubt, he should allow the admission of evidence subject to the objection interposed against its admission.

SECTION 29. Markings — All documentary evidences or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and by 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.

SECTION 30. Testimonies and Records of Proceedings — The sworn affidavits or statements of the parties or their witnesses shall constitute their direct testimonies. During the cross examination, the testimony of each witness shall be recorded by the Hearing Officer in his own handwriting taking only the important or significant statements. The records/notes of the Hearing Officer shall form part of the official records of the case. The proceedings may also be tape recorded by the parties. No official transcript of stenographic notes shall be required or prepared.

SECTION 31. Submission of Memorandum — Parties may submit their respective memoranda within five (5) days from termination of the hearing. Failure to submit the same within the given period shall be considered a waiver thereof.

SECTION 32. Report of Investigation — When the formal investigation is conducted by an authorized representative of the PRA Disciplining Authority, the former shall submit a Report of Investigation to the latter within fifteen (15) days after the termination of said investigation, which report shall contain a narration of the material facts duly established during the investigation as well as his finding and recommendation.

The complete records of the case shall be attached to the Report of Investigation.

SECTION 33. Decision — The decision shall be rendered by the PRA Disciplining Authority within thirty (30) days from the termination of the investigation or submission of the report of the investigation, together with the complete records of the case.

The PRA Disciplining Authority may impose the penalty of removal/dismissal from the service, suspension for

not more than one (1) year without pay, demotion in rank, fine in an amount not exceeding six (6) months salary, transfer or reprimand, in accordance with Rule XIV of the CSC Omnibus Rules Implementing Book V of the Administrative Code of 1987.

The decision of the PRA Disciplining Authority shall be final in case the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary.

The decision of the PRA Disciplining Authority shall be immediately executory unless a motion for reconsideration is seasonably filed.

SECTION 34. Motion for Reconsideration — A motion for reconsideration may be filed within fifteen (15) days from receipt of the decision.

SECTION 35. 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 of fifteen (15) days from receipt of the decision.

SECTION 36. Grounds for Motion for Reconsideration — The motion for reconsideration shall be based only on any of the following:

- 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 movant.

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

SECTION 37. Appeals — A decision of the PRA Disciplining Authority imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary may be appealed to the Civil Service Commission (CSC) En Banc within a period of fifteen (15) days from receipt of the said decision.

A notice of appeal shall be filed with the CSC. PRA shall be required to submit the records of the case together with its comment, if any, to the Commission within a period of fifteen (15) days from receipt thereof.

The Rules of Procedure of the CSC embodied in its Resolution No. 94-0521 dated January 25, 1994 shall be followed in appeals before CSC.

SECTION 38. Filing of Pleadings, Motions for Reconsideration and Other Documents — Any pleading, motion and other similar documents when sent by registered mail shall be deemed filed 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, the date stamped by the Authority.

SECTION 39. Effectivity — These Rules shall take effect fifteen (15) days from the date of the filing with the U.P. Law Center pursuant to Sections 3 and 4, Chapter 2, Title II, Book VII of Executive Order No. 292 (The Administrative Code of 1987) and from receipt thereof by all PRA officers and employees.

Adopted: 06 June 1997

(SGD.) VERNETTE UMALI-PACO
Chief Executive Officer and General Manager

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