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REVISED RULES OF PROCEDURE IN ADMINISTRATIVE INVESTIGATION OF GSIS OFFICIALS AND EMPLOYEES

GSIS RESOLUTION NO. 54, May 30, 2005

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RESOLVED, to CONFIRM the revised PPG No. 178-04 on the Rules of Procedure in Administrative Investigation of GSIS Officials and Employees embodying the amendments introduced by the Board per Board Resolution No. 50 dated May 18, 2005, subject to revisions on matters of style.

The President and General Manager shall go over the revised PPG on the Rules of Procedure in Administrative Investigations of GSIS Officials and Employees.

The PPG shall take effect fifteen (15) calendar days from confirmation by the Board. Therein after, the revised rules shall govern all cases brought against GSIS personnel. They shall apply also to cases pending at the moment, except when in the opinion of the Board itself, or of the President and General Manager, with the concurrence of the Board, such application would not be feasible or would work an injustice, in which event the former rules shall apply.

It is understood that all existing policies and procedural guidelines which are inconsistent with this PPG are modified, superseded, or repealed accordingly.

A copy of the revised PPG is hereto attached and made an integral part of this resolution.

Adopted: 30 May 2005

RULES OF PROCEDURE IN ADMINISTRATIVE INVESTIGATIONS OF GSIS OFFICIALS AND EMPLOYEES
Policy and Procedural Guidelines No. 178-04, As Amended

RULE I
RATIONALE

Section 1. Employment in the GSIS is a public trust.-Section 1, Article XI of our Constitution provides that, "public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives." Throughout their employment, GSIS officials and employees must be worthy of the trust and confidence reposed in them.

Sec. 2. To ensure that GSIS officials and employees are faithful to their duties under the constitution and the laws, the system of merit and awards to promote responsiveness, productivity, honesty, and courtesy in public service must be accompanied by effective and prompt means of determining the truth in administrative cases.

Sec. 3. This PPG is adopted to promote good governance and safeguard public interest through the speedy investigation and punishment or removal of those proven unfit or unworthy to serve in GSIS.

RULE II

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OBJECTIVES

Section 1. To ensure that [properly administer] the investigation and resolution of administrative cases in the GSIS shall only be for just and legal causes and in accordance with law and existing rules and procedures;

Sec. 2. To provide clear guidelines in administrative investigations that GSIS officials and employees can easily understand and follow;

Sec. 3. To inform the public that GSIS requires from its officials and employees the highest ethical, courtesy and performance standards;

Sec. 4. To inform GSIS officials and employees of the consequences of administrative offenses and, thus, deter them from committing the same; and

Sec. 5. To help ensure the prompt determination of the truth in administrative investigations to the end that the innocent is exonerated and the guilty is punished.

RULE III
POLICIES

Section 1. Coverage.-This PPG shall apply to all officials and employees of the GSIS.

This PPG shall not apply to non-disciplinary administrative investigations, and to cases of sexual harassment which are governed by PPG No. 165-02 dated 16 May 2002.

Sec. 2. Basic principles.-Administrative investigations involving personnel of the GSIS shall be governed by the following basic principles that are cited in decisions of the Supreme Court and Civil Service Commission:

(a) The proceedings in administrative cases involving the enforcement of discipline are similar to judicial proceedings, but the rules of procedure are not as strict, rigid, formal, and technical as those observed in the courts;

(b) The purpose of an administrative investigation is to ascertain the truth;

(c) In administrative cases, the basic and essential requirements of due process, fairness, equity, and reasonableness must be observed;

(d) The acts of the investigator in an administrative case should not be measured with the same yardstick as that used for a judge in a court of law;

(e) Decisions in administrative cases must be based on substantial evidence, which is defined as "such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion;" and

(f) Administrative investigations, being summary in nature, must be completed promptly.

Sec. 3. Classification of offenses.-Administrative offenses with their corresponding penalties are classified into grave, less grave or light depending on their gravity, depravity of the offender, and effects of the offense on government service.

RULE IV
ADMINISTRATIVE OFFENSES AND THEIR PENALTIES

Section 1. The following are the administrative offenses and their corresponding penalties:

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OFFENSES

P E N A L T Y

1st Offense

2nd Offense

3rdOffense

I. GRAVE OFFENSES

a. Dishonesty

Dismissal

b. Gross Neglect of Duty

Dismissal

c. Grave Misconduct

Dismissal

d. Being Notoriously Undesirable.

Dismissal

e. Conviction of a crime involving moral turpitude

Dismissal

f. Falsification of official document

Dismissal

g. Immoral or vicious habits resulting in

physical or mental incapacity or disability

Dismissal

h. Engaging directly or indirectly in partisan political

activities by one holding non-political office

Dismissal

i. Receiving for personal benefit of a fee, gift or other

valuable thing in the course of official duties or in

connection therewith when such fee, gift or other valuable

thing is given by any person in the hope or expectation of

receiving a favor or better treatment from him than that

accorded to other persons, or committing acts punishable

under the anti-graft laws.

Dismissal

j. Contracting loans of money or other property from

persons or entities with whom the office of the employee

has business relations

Dismissal

k. Soliciting or accepting directly or indirectly, any gift,

gratuity, favor, entertainment, loan or anything of

monetary value which in the course of his official duties or

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in connection with any operation being regulated by, or any

transaction which may be affected by the functions of his

office. The propriety or impropriety of the foregoing shall

be determined by its value, kinship, or relationship

between giver and receiver and the motivation. A thing of

monetary value is one which is evidently or manifestly

excessive by its very nature

Dismissal

l. Nepotism

Dismissal

m. Disloyalty to the Republic of the Philippines

and to the Filipino people

Dismissal

n. Oppression

Suspension from 6

Dismissal

months and 1 day

to 1 year

o. Disgraceful and immoral conduct

Suspension from 6

Dismissal

months and 1 day

to 1 year

p. Inefficiency and incompetence in the

performance of official duties

Suspension from 6

Dismissal

months and 1 day

to 1 year

q. Frequent unauthorized absences and tardiness in

reporting for duty, loafing or frequent unauthorized

absences from place of duty during regular office hours

Suspension from 6

Dismissal

months and 1 day

to 1 year

r. Refusal to perform official duty

Suspension from 6

Dismissal

months and 1 day

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to 1 year

s. Gross insubordination

Suspension from 6

Dismissal

months and 1 day

to 1 year

t. Conduct prejudicial to the best interest of the service

Suspension from 6

Dismissal

months and 1 day

to 1 year

u. Directly or indirectly having financial interest in any

transaction requiring the approval of his office. Financial

and material interest is defined as pecuniary or proprietary

interest by which a person will gain or lose something

Suspension from 6

Dismissal

months and 1 day

to 1 year

v. Owning, controlling, managing or accepting employment

as officer, employee, consultant, counsel, broker, agent,

trustee or nominee in any private enterprise regulated,

supervised or licensed by his office, unless expressly

allowed by law.

Suspension from 6

Dismissal

months and 1 day

to 1 year

w. Disclosing or misusing confidential or classified

information officially known to him by reason of his office

and not made available to the public, to further his private

interests or to give undue advantage to anyone, or to

prejudice the public interest

Suspension from 6

Dismissal

months and 1 day

to 1 year

x. Obtaining or using any statement filed under the Code

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of Conduct and Ethical Standards for Public Officials and

Employees for any purpose contrary to morals or public

policy or any commercial purpose other than by news and

communications media for dissemination to the general

public

Suspension from 6

Dismissal

months and 1 day

to 1 year

y. Recommending any person to any position in a private

enterprise which has a regular or pending official

transaction with his office, unless such recommendation or

referral is mandated by (1) law, or (2) international

agreements, commitment and obligation, or as part of the

function of his office

Suspension from 6

Dismissal

months and 1 day

to 1 year

II. LESS GRAVE OFFENSES

a. Simple Neglect of Duty

Suspension from 1

Dismissal

month and 1 day

to 6 months

b. Simple Misconduct

Suspension from 1

Dismissal

month and 1 day

to 6 months

c. Gross Discourtesy in the course of official duties

Suspension from 1

Dismissal

month and 1 day

to 6 months

d. Violation of existing Civil Service Law

and rules of serious nature

Suspension from 1

Dismissal

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month and 1 day

to 6 months

e. Insubordination

Suspension from 1

Dismissal

month and 1 day

to 6 months

f. Habitual Drunkenness

Suspension from 1

Dismissal

month and 1 day

to 6 months

g. Unfair discrimination in rendering public service

due to preference or party affiliation

Suspension from 1

Dismissal

month and 1 day

to 6 months

h. Failure to file sworn statement of assets and liabilities

and net Worth, and disclosure of business interest and

financial connections including those of their spouses and

unmarried children under 18 years of age living in their

households

Suspension from 1

Dismissal

month and 1 day

to 6 months

i. Failure to resign from his position in the private business

enterprise within thirty (30) days from assumption of public

office when conflict of interest arises, and/or failure to

divest himself of his shareholdings or interest in the

private business enterprises within sixty (60) days from the

assumption of public office when conflict of interest arises,

Provided, however, that for those who are already in the

service and a conflict of interest arises, the official or

employee must either resign or divest himself of said

interest within the periods hereinabove provided, reckoned

from the date when the conflict of interest had arisen.

Suspension from 1

Dismissal

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month and 1 day

to 6 months

III. LIGHT OFFENSES

a. Discourtesy in the course of official duties

Reprimand

Suspension from

Dismissal

1 to 30 days

b. Improper or unauthorized solicitation of contributions

from subordinate employees

Reprimand

Suspension from

Dismissal

1 to 30 days

c. Violation of reasonable office rules and regulations

Reprimand

Suspension from

Dismissal

1 to 30 days

d. Frequent unauthorized tardiness (Habitual Tardiness)

Reprimand

Suspension from

Dismissal

1 to 30 days

e. Gambling

Reprimand

Suspension from

Dismissal

1 to 30 days

f. Refusal to render overtime service

Reprimand

Suspension from

Dismissal

1 to 30 days

g. Disgraceful, immoral or dishonest conduct

prior to entering the service

Reprimand

Suspension from

Dismissal

1 to 30 days

h. Borrowing of money by superior officers from

subordinates through the use of undue influence or force

Reprimand

Suspension from

Dismissal

1 to 30 days

i. Willful failure to pay just debts or willful failure to

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pay taxes due to the government

Reprimand

Suspension from

Dismissal

1 to 30 days

The term "just debts" shall apply only to:

1. Claims adjudicated by a court of law, or

2. Claims, the existence and justness of

which are admitted by the debtor

j. Lobbying for personal interest or gain in legislative

halls and offices without proper authority

Reprimand

Suspension from

Dismissal

1 to 30 days

k. Promoting the sale of tickets in behalf of private

enterprises that are not intended for charitable or

public welfare purposes and even in the latter

cases, if there is no prior authority

Reprimand

Suspension from

Dismissal

1 to 30 days

l. Failure to act promptly on letters and requests

within fifteen (15) days from receipt, except as

otherwise provided by law or other regulations

Reprimand

Suspension from

Dismissal

1 to 30 days

m. Failure to process documents and complete action

on documents and papers within a reasonable time

from preparation thereof, except as otherwise

provided by law or other regulations

Reprimand

Suspension from

Dismissal

1 to 30 days

n. Failure to attend to anyone who wants to avail

himself of the services of the office, or act promptly

and expeditiously on public transactions

Reprimand

Suspension from

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Dismissal

1 to 30 days

o. Engaging in the private practice of his profession

unless authorized by the Constitution, law or regulation:

Provided, that such practice will not conflict with his

official functions

Reprimand

Suspension from

Dismissal

1 to 30 days

p. Pursuit of private business, vocation[of] OR

profession without the permission required by

Civil Service rules and regulations

Reprimand

Suspension from

Dismissal

1 to 30 days

RULE V
IMPOSITION OF PENALTIES

SECTION 1. Mitigating, aggravating, or alternative circumstances. - In determining the penalties to be imposed, the following mitigating, aggravating, and alternative circumstances that attend the commission of the offense, shall be considered:

(a) Illness as would diminish the exercise of the will power of the offender without depriving him consciousness of his acts

(b) Good faith

(c) No intention to commit so grave a wrong

(d) Plea of guilty

(e) Taking undue advantage of official position

(f) Taking undue advantage of subordinate

(g) Undue disclosure of confidential information

(h) Use of government property in the commission of the offense

(i) Habituality

(j) Offense is committed within office hours and within the vicinity of the office or building;

(k) Use of fraudulent means to commit or conceal the offense

(l) Length of service in the government

(m) Education

(n) Offender is found guilty of more than one count of the same offense

(o) Other analogous circumstances

For these circumstances to be considered in the imposition of the proper penalty, the concerned party must invoke or plead them. In the interest of substantial justice, however, the PGM or the Board may, on his/its own initiative, consider these circumstances.

SEC. 2. Manner of imposing penalties. - When applicable, the proper penalty shall be imposed in the following manner:

(a) The minimum of the penalty shall be imposed when only mitigating and no aggravating circumstances are present.

(b) The medium of the penalty shall be imposed when no mitigating and aggravating circumstances are present.

(c) The maximum of the penalty shall be imposed when only aggravating and no mitigating circumstances are present.

(d) When both mitigating and aggravating circumstances are present, paragraph (1) shall be applied when there are more mitigating circumstances; paragraph (2) shall be applied when the circumstances equally offset each other; and paragraph (3) shall be applied where there are more aggravating circumstances.

(e) Instead of the penalty of suspension from one (1) day to any period up to one (1) year, the penalty of fine in an amount equal to one-half of the basic pay which would have been received by the employee concerned had he not been suspended may be imposed.

(f) Subject to Board confirmation, the penalty of demotion may be imposed by the PGM.

(g) In the best interest of the System, when an administrative case is filed against an employee, the PGM may exercise management prerogative and direct the transfer of the Respondent.

SEC. 3. Penalty for the most serious offense. - If the respondent is found guilty of two (2) or more offenses, the

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penalty to be imposed will be that corresponding to the most serious offense. Like penalties shall be imposed for like offenses and only one penalty shall be imposed for each case. "Each case" shall mean one administrative case which may involve one or more counts.

SEC. 4. Duration and effect of administrative penalties. - The following rules shall govern the imposition of administrative penalties:

(a) The penalty of dismissal shall result in the permanent separation from the service of the Offender without prejudice to criminal or civil liability.

(b) The penalty of demotion shall result in the reduction of the rank of the Offender.

(c) The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the suspension, the Offender shall not be entitled to all money benefits including leave credits.

The penalty of fine shall be in an amount not exceeding the salary of the offender for six months to be computed at the time the decision becomes final and executory.

(d) The penalty of reprimand or censure shall not carry any accessory penalty or temporary cessation of the work of the Offender.

(e) A warning or admonition is not a penalty.

SEC. 5. Administrative disabilities/accessories to administrative penalties. Subject to [Paragraph J] Section 6, RULE V, the following are the accessory penalties:

(a) Cancellation of eligibility;

(b) Forfeiture of retirement benefits;

(c) Disqualification from reinstatement or reemployment in the GSIS;

(d) Disqualification from promotion; and

(e) Disqualification from taking any civil service examination.

SEC. 6. Administrative disabilities inherent in certain penalties. - The following rules shall govern in the imposition of accessory penalties:

(a) The penalty of dismissal shall include the cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless the decision provides differently.

(b) The penalty of demotion shall include disqualification from promotion at the rate of two (2) months for every step; or one (1) month for every range of salary by which he was demoted, to be computed from the date of the actual implementation of the penalty.

(c) The penalty of suspension shall include disqualification from promotion during the period of suspension.

(d) The penalty of fine that is equivalent to the salary for a given period shall include disqualification from promotion for twice that period.

(e) The penalty of fine shall be paid to the GSIS, computed on the basis of [Respondent's] offender's salary at the time of the commission of the offense.

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The payment of fine shall be as follows:

(1) Fines shall be paid within one (1) year from the date the decision/resolution becomes final and executory.

(2) Fines may be paid in equal monthly installments subject to the following schedule of payment:

2.1 Fine equivalent to one (1) month's salary or less shall be paid in two (2) months;

2.2 Fine equivalent to two (2) months' salary shall be paid in four (4) months;

2.3 Fine equivalent to three (3) months' salary shall be paid in six (6) months;

2.4 Fine equivalent to four (4) months' salary shall be paid in eight (8) months;

2.5 Fine equivalent to five (5) months' salary shall be paid in ten (10) months;

2.6 Fine equivalent to six (6) months' salary shall be paid in twelve (12) months.

(f) When the Offender fails to fully pay the fine within the prescribed period, he shall be deemed to have failed to serve the penalty imposed. He shall, therefore, remain disqualified from promotion and receiving non-statutory benefits, until he has fully paid the fine.

(g) The penalty of reprimand shall not carry any accessory penalty.

RULE VI
EFFECT OF EXONERATION

Section 1. Effect of exoneration. - When the respondent is exonerated of the charges against him, the following rules shall apply:

(a) When the penalty is fine, the amount paid shall be refunded.

(b) When the penalty is demotion, he shall be restored to his former position without loss of seniority rights and benefits, and he shall be paid salary differentials.

(c) When there is demotion in rank or status, he shall be restored to his former rank or status.

(d) When the penalty is suspension, he shall be immediately reinstated to his former post without loss of seniority rights and with payment of back salaries.

(e) When the penalty is dismissal, he shall be immediately reinstated without loss of seniority rights and benefits and with payment of back salaries.

Mandatory leave benefits shall be charged against the respondent's leave credits.

The respondent who shall be exonerated by final judgment shall be entitled to the leave credits for the period he had been out of the service.

RULE VII
RECORDS OF THE CASE

Section 1. Safekeeping of records.-The complete records of each administrative case against any official or employee of the GSIS shall be filed and deposited with the Records Officer of the Investigation Unit for safekeeping and preservation. File copies of the complaint or charges and the decision and resolution in each case shall be furnished the Human Resources Department for inclusion in the personnel (201) file of the r(R) espondent.

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Sec. 2. Confidentiality of records.-Records of administrative cases are confidential in nature, and any information regarding the charges, allegations, or facts that were established may not be released; and such records may not be made available except to the proper authorities or, upon request, to the parties in interest or their authorized representatives. Except upon express approval of the PGM for each specific instance, the official publication of the cause for removal of any official or employee of the GSIS shall not be made in more specific terms than "for the good of the service."

Sec. 3. Record book for cases.-All administrative cases against personnel of the GSIS shall be entered and recorded in a Docket Book for Administrative Cases to be kept and maintained by the Investigation Unit.

Numbers shall be assigned to cases in accordance with the order or sequence they were received. Each page of the Docket Book shall be numbered and prepared for recording all the entries of each case. It shall contain a heading or caption of the case and its complete title. Below these shall be entered the date of each paper filed or issued, of each order, resolution, or decision rendered, and of each action taken in the case. Therefore, a page of the Docket Book shall show the history of a case.

Sec. 4. Suppletory effect.-The Uniform Rules on Administrative Cases in the Civil Service (URACCS) and the Rules of Court shall supplement this PPG.

RULE VIII
PROCEDURAL GUIDELINES

Section 1. Definition of terms

(a) Fact-finding. It is the gathering and evaluation of evidence and information to determine whether there is sufficient basis to refer a complaint for preliminary investigation.

(b) Subject. An official or employee who, during the fact-finding or preliminary investigation, is alleged to have committed an administrative offense.

(c) Respondent. The Subject who is formally charged with committing an administrative offense.

(d) Offender. A respondent found guilty of the offense charged.

(e) Complainant. A person who files the complaint or the Head of Unit where the referral or request originated from.

(f) Preliminary investigation. It is the examination and evaluation of evidence to determine whether there is a prima facie case against the concerned officials and employees.

(g) Prima facie case. A finding when the evidence shows that an administrative offense has been committed, and the Respondent has probably committed the offense.

(h) Ex parte. A proceeding heard and granted at the instance and for the benefit of the movant without notice to the adverse party.

(i) Formal charge. A statement in writing signed by the PGM, charging an official or employee of GSIS with committing an administrative offense.

(j) Alternative circumstances. Circumstances, which must be taken into consideration as aggravating or mitigating according to the nature and effects of the offense and the other conditions attending the commission.

(k) Aggravating circumstances. Circumstances which, if attendant in the commission of the crime, serve to increase the penalty without, however, exceeding the maximum penalty provided by law for the offense.

(l) Mitigating circumstances. Circumstances which, if present in the commission of the offense, do not entirely free the Respondent from liability, but serve only to reduce the penalty.

Sec. 2. Start of investigation.-The Investigation Unit shall conduct an investigation on the basis of:

(a) a complaint filed; or

(b) a written directive from the PGM on his initiative or upon the request of the Board of Trustees or referral by an operating unit.

A complaint against a GSIS officer or employee shall be given due course only if it is in writing, signed and sworn to by the complainant.

An anonymous or unsworn complaint shall not be entertained, except when there are sufficient verifiable leads or when it is supported by documentary or object evidence. In such a situation, the Subject may be required to comment. All information in connection with the anonymous or unsworn complaint must be treated with utmost confidentiality.

The complaint should be written in clear, simple and concise language, and in a systematic manner to properly inform the Subject of the nature and cause of the allegations against him and to enable him to intelligently prepare his defense or answer.

Sec. 3. Complaint.-The complaint shall contain the following:

1. Full name and address of the complainant;

2. Full name and address of the Subject, his position and his unit/workplace;

3. A narration of the relevant and material facts, which show the acts or omission attributed to the Subject;

4. Certified true copies of documentary evidence and affidavits of the witnesses, if any; and

5. Certification or statement that the same or a similar complaint has not been filed with or referred to any other office, agency, or court.

Sec. 4. Where to file complaint.-An administrative complaint shall be filed with the Investigation Unit.

Sec. 5. Effect of withdrawal of the complaint.-The withdrawal of the complaint shall not result in its outright dismissal and shall not discharge the person complained of from any administrative liability. When there is obvious truth or merit to the allegation/s in the complaint or when there is documentary evidence that would tend to prove the guilt of the Subject, the complaint shall be given due course.

Sec. 6. Evaluation by Investigating Attorney.-The Investigating Attorney shall immediately evaluate the complaint or written directive he receives from the PGM.

(a) If initiated by complaint

If he receives a complaint, he shall determine if it is sufficient in form and substance. If so, he shall conduct a preliminary investigation.

If the complaint is not sufficient in form and substance, he may recommend to the Head of the Investigation Unit that the complaint be dismissed; or when, there are sufficient leads, he may conduct the necessary fact-finding as if the complaint was initiated by a directive from the PGM, or by referral or request for investigation from an operating unit as herein-below provided.

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(b) If initiated by a directive from the PGM or upon request of the Board of Trustees.

In case of a directive from the PGM, the Investigating Attorney shall determine if it is meritorious. If so, he shall, within three (3) working days from the receipt of such directive, formulate a fact-finding action plan, which shall include the following:

1. Initial determination of the administrative and criminal offenses that may have been committed;

2. The documents and evidence to be obtained and their sources;

3. The witnesses who shall be requested or required to give sworn statements;

4. The manner of securing all the necessary evidence;

5. The setting of timetables; and

6. The need for technical assistance.

If a directive for investigation appears to be not meritorious, the Investigating Attorney shall prepare a report in which he shall recommend that no further action should be taken.

RULE IX
FACT FINDING

Section 1. Conduct of fact-finding.-Upon approval of the action plan by the Head of the Investigation Unit, the Investigating Attorney shall proceed with the [conduct a] fact-finding.

The Investigating Attorney shall conduct the fact-finding in accordance with the action plan, but he may deviate from it when there are valid reasons to do so. The Investigating Attorney shall evaluate all the evidence gathered during the fact-finding to determine whether there is need to conduct a preliminary investigation.

Within twenty-five (25) working days after the fact-finding has been completed, the Investigating Attorney shall prepare a fact-finding report in which he will recommend either: the conduct of preliminary investigation or the termination of the investigation because of lack of evidence. The report shall be immediately submitted to the Head of the Investigation Unit. For valid reasons, the Head of the Investigation Unit may extend the period for the submission of the report.

Sec. 2. Review of fact-finding report.-The Head of the Investigation Unit shall review the fact-finding report and he shall either approve or disapprove the recommendation of the Investigating Attorney. Fact-finding reports shall be forwarded to the PGM.

If the Head of the Investigation Unit approves a recommendation for a preliminary investigation, the Investigating Attorney shall immediately proceed to conduct such investigation. If the Head of the Investigation Unit disapproves a recommendation for preliminary investigation, he may direct the Investigating Attorney to either dismiss the complaint or to conduct further fact-finding.

In case the recommendation of the Investigating Attorney is for the termination of the investigation because of lack of evidence, the Head of the Investigation Unit may either approve said termination of the case or direct the Investigating Attorney to conduct further fact-finding.

RULE X
PRELIMINARY INVESTIGATION

Section 1. Preliminary investigation.-In preliminary investigation, the records and documents submitted by the

complainant and the (S)subject are evaluated as well as documents readily available from other sources. During the investigation, the parties shall be given the opportunity to submit affidavits and counter affidavits. When a [S] subject fails to submit his counter-affidavit or sworn statement within three (3) calendar days from receipt of the order, he shall be deemed to have waived his right to submit his counter-affidavit or sworn statement during the preliminary investigation.

If necessary, the parties and witnesses may be called to a conference where the Investigating Attorney may ask clarifying questions.

The Investigating Attorney shall evaluate and assess all the evidence submitted to him, and determine whether there is a prima facie case that will justify the filing or issuance of a formal charge.

Sec. 2. Duration of the preliminary investigation.-The preliminary investigation shall start within five (5) working days from the receipt of the complaint by the Investigating Attorney or from the date of approval of the fact-finding report. The preliminary investigation shall be terminated within thirty (30) working days. The Investigating Attorney, through the Head of the Investigation Unit, shall submit to the PGM the preliminary investigation report and the draft of the formal charge, in appropriate cases, together with the complete records of the case.

RULE XI
FORMAL CHARGE

Section 1. Formal charge.-When the PGM finds the existence of a prima facie case, he, on behalf of the GSIS, shall issue the formal charge against the respondent. The formal charge shall contain a brief description of the offense charged, and a directive to answer the charge/s in writing under oath within five (5) working days from receipt of the directive; and a notice that he is entitled to be assisted by a counsel of his own choice. the formal charge shall be accompanied by certified true copies of the documentary evidence and sworn statements covering the testimony of witnesses, if any.

The absence of the documentary evidence or sworn statement or the testimony of the witnesses for the prosecution shall not invalidate the formal charge. However, upon proper motion of the [R]respondent, he/she must be furnished copies of these documents within a reasonable period before filing an answer.

Sec. 2. Service of the formal charge.-The formal charge shall be personally served on the respondent or through his supervisor, or vice-president, who must acknowledge receipt and report if the respondent had duly received it. When necessary, the formal charge may be sent through registered mail or by messenger service to his last known address.

Sec. 3. Answer.-The answer of respondent must be in writing and under oath stating clearly his defense including the admissions and denials of the matters stated in the formal charge. The answer which must be filed within five (5) working days from receipt of the formal charge or the documentary evidence and/or sworn statements of the witnesses for the prosecution when requested. The answer must be accompanied with the documentary evidence and sworn statements covering the testimony of his witnesses, if any.

The absence of the documentary evidence or sworn statement/s of the testimony of the witnesses for the respondent shall not invalidate the answer. However, upon proper motion of the prosecution, the latter must be furnished copies of these documents within a reasonable period.

Sec. 4. Failure to file an answer.-If the respondent fails or refuses to file his answer within five (5) working days from receipt of the formal charge or the supporting evidence, when requested, he shall be considered to have

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waived his right to file an answer and the PGM or the Board of Trustees, in proper cases, shall render judgment as may be warranted by the facts and evidence submitted by the prosecution.

RULE XII
PREVENTIVE SUSPENSION

Section 1. Preventive suspension.-Upon motion or request of the complainant or motu proprio, the PGM may issue to the respondent an order of preventive suspension, upon service of the formal charge, or immediately thereafter, when the charge/s involves:

1. Dishonesty;

2. Oppression committed for the second time;

3. Grave misconduct;

4. Gross neglect in the performance of duty; and

5. Other offense which would warrant his removal from the service.

An order of preventive suspension is issued to temporarily remove the respondent from the scene of the acts or omissions with which he is charged; and to prevent him from exerting undue influence or pressure on the witnesses against him and from tampering with evidence.

Instead of preventive suspension, the PGM may reassign the respondent to another unit of the office during the formal investigation.

Sec. 2. Duration of preventive suspension.-The preventive suspension of a respondent shall not be more than ninety (90) days, unless a special law provides a different period.

When the administrative case against a respondent who is under preventive suspension is not finally decided within the period of the preventive suspension, he shall be automatically reinstated in the service subject to the following conditions:

1. When the delay in the disposition of the case is due to the fault, negligence, or petition of the respondent, the period of delay shall not be included in the counting of the ninety (90) calendar [-] day period of preventive suspension; and

2. Should the [R]respondent be on a maternity or paternity leave, the preventive suspension shall be deferred or interrupted until such time that said leave had been fully enjoyed.

Sec. 3. Remedies from the order of suspension.—If the respondent desires to have an order of suspension set aside, he may file a motion for reconsideration with the PGM within fifteen (15) working days from receipt of the order. The filing of the motion for reconsideration shall stay the implementation of the order. In the alternative, the respondent may also appeal to the Civil Service Commission within the same period of time from receipt of the order. However, the filing of the appeal will not stay the implementation of the order unless otherwise directed by the Civil Service Commission.

RULE XIII
HEARING

Section 1. Pre-hearing conference.-Before conducting the trial, the Hearing Officer shall conduct a pre-hearing conference where the parties shall [will appear to] consider and/or agree on any or all, of the following:

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(a) Stipulation of facts;

(b) Simplification of issues;

(c) Identification and marking of evidence of the parties including the affidavits of witness/es;

(d) Limiting the number of witnesses and their names;

(e) Dates of subsequent hearings; and

(f) Such other matters that could help in the prompt and just resolution of the case.

The parties may submit position papers or memorandums and submit the administrative case for resolution based on the result of the pre-hearing conference without any further hearings.

Sec. 2. Procedure of hearing.-In case the issue/s agreed upon in the pre-hearing conference are solely legal issue/s or where such issue can be resolved based on the documents and evidence on record, the Hearing Officer shall issue an order directing the parties to simultaneously submit their respective memorandum, together with all supporting evidence. Upon the expiration of the period to submit the memorandum, the case is deemed submitted for resolution.

In case of a factual issue and there is a need for a trial, the affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed it. Witnesses who executed the affidavits may be cross-examined by the other party solely on material points upon proper motion. The motion must indicate the points or matters to be covered by the cross-examination. If no motion is filed by the party who is entitled to cross-examine, the same shall mean a waiver of his right to cross-examine the witness/es of the other party. [Redirect examination and re-cross examination shall be dispensed with.] If the witness notified to attend for cross examination fails to appear and testify during the scheduled hearing for no valid cause, his affidavit may be stricken off the record upon motion of the other party. Upon the termination of the cross-examination of both parties, and unless the Hearing Officer upon proper motion allows the submission of rebuttal evidence in affidavit form, the hearing shall be terminated. Thereafter, the Hearing Officer shall direct both parties to simultaneously submit their respective memorandum together with all their supporting evidence. Upon the expiration of the period to submit the memorandum, the case is deemed submitted for resolution.

Consistent with the summary nature of administrative investigations, no postponements shall be allowed by the hearing officer unless on justifiable grounds.

If the respondent fails or refuses to appear when ordered by the Hearing Officer [head office], the proceedings are deemed terminated and the parties shall forthwith submit their respective position papers.

Sec. 3. Preliminary matters.-At the start of the hearings, the Hearing Officer shall record the appearance of the parties and counsels, if any; and the Complainant shall proceed to present [its] his evidence.

If the respondent appears without a counsel for a non-justifiable reason, the hearing shall continue without prejudice to his right to the assistance of counsel on subsequent hearings/proceedings.

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

A sworn statement of a witness that is properly identified and affirmed shall be his direct testimony. A copy of the statement shall be given to the other party who shall cross-examine the witness on the basis of the statement.

Sec. 4. Appearance of counsel.-Any counsel appearing in any hearing or investigation shall manifest orally or in

writing, his appearance for either the [C] complainant or [R]respondent. He must state his full name, IBP receipt number and the exact address where he can be served with notices and other pleadings. Any pleading or appearance of a Counsel who had not complied with these requirements shall not be recognized.

Sec. 5. Markings.-All documentary evidence or exhibits of the [C]complainant shall be properly marked by letters (A, B, C, etc.). The evidence or exhibits of the respondent shall be marked by numbers (1, 2, 3, etc.). They shall form part of the records of the case.

Sec. 6. Request for subpoena.-A party may request the issuance of a subpoena ad testificandum for the attendance of a witness or a subpoena duces tecum for the production of documents or object evidence.

Sec. 7. Records of proceedings.-The rulings of the Hearing Officer, any testimony of a witness and the manifestations of the parties, and counsels during an investigation shall be taken in shorthand or stenotype and duly recorded.

A transcript of the records made by the official stenographer or stenotypist and certified as correct by him shall be a prima facie correct statement of such testimony and proceedings, except when the contrary is shown.

Sec. 8. Mode of service.-All motions, pleadings, orders and documents shall be served personally. If personal service is impractical or inconvenient, it shall be done by registered mail or messenger service.

Sec. 9. Filing of motions, petitions, appeals and other pleadings.-Any motion, petition, appeal, or other pleading that is sent by mail or messenger service shall be deemed filed on the date shown on the postmark or other marking on the envelope, which shall be attached to the records of the case. When the motion, petition, appeal, or other pleading is personally delivered, it shall be considered filed on the date stamped on such document.

Sec. 10. Prohibited pleadings.-The Hearing Officer shall not entertain requests for bills of particulars, demurrer to evidence, motion to dismiss or motion for reconsideration of interlocutory orders. When a motion to dismiss is nonetheless filed, the same shall be considered as an answer.

Sec. 11. Venue of administrative investigations.- Administrative investigations shall be held at the GSIS Main Office in Pasay City. The Prosecutor or the respondent may request the Head of the Investigation Unit in writing to change the venue when:

1. The respondent is assigned to a field office; or

2. The [C]complainant's or respondent's witnesses are assigned to the field offices.

Upon motion duly made and for valid reasons or in order to avoid miscarriage of justice, the Head of the Investigation Unit may order a change of venue.

When a case involves out-of-town hearings, the Head of the Investigation Unit may grant an extension of not more than forty-five (45) working days for the resolution of the case.

RULE XIV
RESOLUTION OF THE CASE

Section 1. Running of the period for the resolution of the case.-Any reasonable delay in the proceedings that is beyond the control of the Hearing Officer shall toll the running of the period within which to resolve the case. The Hearing Officer shall report such delay to the [Manager] Head of the Investigation Unit and request additional time to resolve the case.

Sec. 2. Preparation of draft decision.- Within the time prescribed for the resolution of the case, [Paragraphs U and

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V] the Hearing Officer shall submit to the PGM, through the Head of the Investigation Unit, a draft decision and an executive summary.

The draft decision shall contain a narration of the material facts established during the investigation, the findings, and the evidence supporting such findings, as well as the recommendations. The complete records of the case shall be attached to the draft decision.

The executive summary shall contain a brief presentation of the matters in the draft decision.

The complete records shall be systematically and chronologically arranged, paged, and securely bound to prevent loss. A table of contents shall be prepared.

Sec. 3. Promulgation of Decision.-

Where the case involves a GSIS officer with the rank of salary grade 26 or higher and where the penalty imposed for the offense is more than 30 calendar days suspension or a fine of more than 30 days salary, the recommendation of the PGM shall be elevated to the Board for appropriate action. However, in any case where the imposed penalty for the offense is dismissal from service, or demotion, the recommendation of the PGM shall be elevated to the board for appropriate action.

All other cases shall be decided by the PGM and a list thereof submitted to the Board for its information. However, where the circumstances of a case are exceptional, the PGM's decision shall be elevated to the Board for confirmation.

Sec. 4. Finality of decisions.-A decision imposing a penalty of reprimand, suspension of not more than thirty (30) calendar days or a fine in an amount not exceeding thirty (30) days' salary, shall be final and executory, unless a motion for reconsideration is filed with the PGM.

When the decision imposes the penalty of dismissal or suspension for more than thirty (30) CALENDAR days, or fine in an amount exceeding thirty (30) days' salary, it shall be final and executory after the lapse of the period prescribed for the filing of a motion for reconsideration or an appeal, and no such pleading has been filed.

Sec. 5. Service of the decision.-The decision signed by the PGM or the decision of the Board of Trustees, shall be simultaneously served on the respondent and/or his counsel, the Complainant or the PGM, in the manner stated under [Paragraph FF] Section 8, RULE XIII [above].

RULE XV
MOTION FOR RECONSIDERATION

Section 1. Filing of motion for reconsideration.-The party adversely affected by the decision may file a motion for reconsideration within fifteen (15) [calendar] WORKING days from receipt of the decision.

SEC. 2. Grounds for motion for reconsideration.-A motion for reconsideration, copy of which must be furnished the adverse party, must be based only on any of the following grounds:

(a) There is newly-discovered evidence which materially affects the decision rendered;

(b) The decision is not supported by the evidence on record; or

(c) Errors of law or irregularities, which are prejudicial to the interests of the concerned party, had been committed.

Upon receipt of the copy of the motion for reconsideration, the adverse party may file his opposition thereto within ten (10) working days from receipt thereof and failure on his part to do shall be deemed waiver of the right

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to file the same. Thereafter, with or without such opposition, the motion shall be deemed submitted for resolution.

Sec. 3. Limitation.-Only one motion for reconsideration shall be entertained.

Sec. 4. Effect of filing a motion for reconsideration.-The filing of the motion for reconsideration within the prescribed period of fifteen (15) [calendar] working days shall suspend the execution of the decision sought to be reconsidered.

RULE XVI
APPEALS

Section 1. Filing of appeals.-Decisions imposing the penalty of dismissal, suspension of more than thirty (30) calendar days or fine in an amount exceeding the salary for thirty (30) days may be appealed to the Civil Service Commission within fifteen (15) working days from receipt of the decision.

A decision appealed to the Civil Service Commission shall be executory.

A notice of appeal including the appeal memorandum must be filed with the Civil Service Commission, copy furnished the PGM. The PGM, through the Investigation Unit, shall submit the records of the case to the Civil Service Commission within fifteen (15) working days from notice. The PGM may submit a comment on the appeal memorandum.

Sec. 2. When the penalty is dismissal or suspension for more than thirty (30) calendar days, and the decision is reversed by the Civil Service Commission which decision has become final and executory, the respondent shall be entitled to receive the salary and benefits due to him during the period that he was under suspension or while the appeal was pending.

RULE XVII
MISCELLANEOUS PROVISIONS

Section 1. Filing of related criminal action.-Any GSIS official, including the Head of the Investigation Unit and/or the PGM, may on their own initiate the filing of criminal complaints before the ombudsman, or cases before the courts, or other appropriate government agencies. However, criminal complaints filed in the name of the GSIS shall be instituted only upon Board approval.

Sec. 2. Effectivity clause.-These rules shall take effect 15 calendar days from confirmation by the board. They shall govern all cases brought after they take effect and proceedings in pending cases except when in the opinion of the PGM or the Board, in proper cases, their application would not be feasible or would work an injustice, in which event the former rules shall apply.

Sec. 3. Repealing Clause. All existing policies and procedural guidelines which are inconsistent with this PPG are modified, superseded, or repealed accordingly.

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